

**MINUTES OF THE  
SENATE COMMITTEE ON COMMERCE AND LABOR**

**Seventy-third Session  
June 1, 2005**

The Senate Committee on Commerce and Labor was called to order by Chair Randolph J. Townsend at 8:06 a.m. on Wednesday, June 1, 2005, in Room 2135 of the Legislative Building, Carson City, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file at the Research Library of the Legislative Counsel Bureau.

**COMMITTEE MEMBERS PRESENT:**

Senator Randolph J. Townsend, Chair  
Senator Warren B. Hardy II, Vice Chair  
Senator Sandra J. Tiffany  
Senator Joe Heck  
Senator Michael Schneider  
Senator Maggie Carlton  
Senator John Lee

**STAFF MEMBERS PRESENT:**

Kelly Gregory, Committee Policy Analyst  
Shirley Parks, Committee Secretary  
Kevin Powers, Committee Counsel  
Scott Young, Committee Policy Analyst  
Donna Winter, Committee Secretary

**OTHERS PRESENT:**

Ivan R. Ashleman, Vice Chairman, State Public Works Board, Department of Administration  
Danny L. Thompson, Nevada State American Federation of Labor-Congress of Industrial Organizations  
Gary D. Wayne, PowerLight Corporation  
Joe L. Johnson, Independent Power Corporation; Toiyabe Chapter Sierra Club  
Irene E. Porter, Southern Nevada Home Builders Association  
Rebecca Wagner, Public Information Officer, Public Utilities Commission of Nevada  
Don Soderberg, Chairman, Public Utilities Commission of Nevada

Senate Committee on Commerce and Labor  
June 1, 2005  
Page 2

Judy Stokey, Nevada Power Company; Sierra Pacific Power Company  
Rose E. McKinney-James, Renewable Energy and Energy Conservation Task  
Force  
Jon B. Wellinghoff, MGM Mirage  
Michael J. Willden, Director, Department of Human Resources

CHAIR TOWNSEND:

I will open up the hearing on Senate Bill (S.B.) 153.

**SENATE BILL 153 (2nd Reprint)**: Revises provisions relating to management of common-interest communities. (BDR 10-830)

SENATOR HARDY MOVED TO CONCUR WITH AMENDMENT NO. 885  
TO S.B. 153.

SENATOR CARLTON SECONDED THE MOTION.

THE MOTION CARRIED. (SENATORS SCHNEIDER AND LEE WERE  
ABSENT FOR THE VOTE.)

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CHAIR TOWNSEND:

I will open the hearing on S.B. 434.

**SENATE BILL 434 (2nd Reprint)**: Revised provisions governing regulation of contractors. (BDR52-1103)

SENATOR HARDY:

This bill contains an increased lien on current pool contractors that is not warranted based on the work we did four or five Sessions ago.

Senate Committee on Commerce and Labor  
June 1, 2005  
Page 3

SENATOR HARDY MOVED TO NOT CONCUR WITH AMENDMENT  
NO. 1086 TO S.B. 434.

SENATOR HECK SECONDED THE MOTION.

THE MOTION CARRIED. (SENATORS SCHNEIDER AND LEE WERE  
ABSENT FOR THE VOTE.)

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CHAIR TOWNSEND:  
I will open the hearing on A.B. 385.

**ASSEMBLY BILL 385 (2nd Reprint)**: Revises provisions governing building and  
zoning and creates incentives and standards for green buildings.  
(BDR 22-730)

CHAIR TOWNSEND:  
Mr. Young, should the Committee have three mock-ups in front of them?

SCOTT YOUNG (Committee Policy Analyst):  
That is correct, Mr. Chairman. There are two mock-ups on A.B. 385. One was  
prepared at the request of Assemblywoman Giunchigliani ([Exhibit C](#)). The other  
one is based upon information that we got yesterday in Committee ([Exhibit D](#)).  
The third mock-up is for S.B. 188 ([Exhibit E](#)). This is the second reprint that was  
done in the Assembly and based upon recommendations from the Chair, there  
are a few changes we made in the mock-up. I will walk you through those  
changes when we get to the bill.

**SENATE BILL 188 (2nd Reprint)**: Makes various changes relating to energy.  
(BDR 58-364)

CHAIR TOWNSEND:  
Committee, let us take the two mock-ups for A.B. 385 and put them side by  
side and compare.

In section 3, subsection 1 and subsection 2 of the bill in both mock-ups, the word "silver" is removed and replaced with "base." There is additional language added to section 3, subsection 2 in [Exhibit C](#) only. It is shown in green.

In section 5, subsection 4 of [Exhibit D](#), "State" is replaced by "agency" whereas in [Exhibit C](#) "The State" remains and "governmental agency, or local governmental entity" has been added. This is the same intent so it would be up to the Legal Division to make a decision on that.

Section 6, subsection 1, line 22 of [Exhibit C](#) adds the words "new or remodeled." This is not a change in the Senate Committee on Commerce and Labor version, [Exhibit D](#).

In [Exhibit C](#), section 8.2, line 16, there is language that would have "apprentice photovoltaic (PV) installer" mean a person actually engaged "with the electrical connection and wiring," which is new language. [Exhibit D](#) would take out the "apprentice photovoltaic installer" and simply have "photovoltaic installer" mean a person directly engaged with the electric connection and wiring. Those are consistent with the addition of "directly" but it takes out the "apprentice." In subsection 3 of this same section in [Exhibit C](#), paragraphs (a) and (b) have been added. The language added under this same section in [Exhibit D](#), "Photovoltaic system project" means a project related to the installation or maintenance of a photovoltaic system in paragraph (a); less than 30 kilowatts (KW) in size in paragraph (b) and paragraph (c) commences same language.

"Individuals who have installed photovoltaic systems for commercial projects may apply to the Director and be issued a license" has been added to section 8.3 of [Exhibit C](#). In section 8.4, subsection 3, paragraph (a) of [Exhibit C](#), "Works as a photovoltaic installer" has been added. [Exhibit D](#) of the same section adds, "Acts as a photovoltaic installer."

Sections 8.6, 8.7 and 8.8 in [Exhibit C](#) have no changes. In [Exhibit D](#), the reference to "apprentice photovoltaic installer" in those sections has been removed.

The changes to sections 13 and 14 of both versions are the same. Section 15 stays the same in [Exhibit C](#). Sections 15, 16, 17 and 18.5 are removed in [Exhibit D](#).

The remainder of both mock-ups is consistent until you get to section 19.8. Section 19.8 of [Exhibit D](#) lines 3 through 5 are deleted and replaced with lines 5 through 10. This is what was intended in Assemblywoman Giunchigliani's amendment but the Commerce and Labor version better defines it. Assemblywoman Giunchigliani had a \$250,000 appropriation from the General Fund. Originally it was written correctly. When there was no General Fund appropriation, the Public Utilities Commission of Nevada (PUCN) tried to keep that trust fund going. They stepped forward to use the additional mill-tax money. It is better defined in [Exhibit D](#) section 19.8 for the fiscal years 2006 and 2007.

IVAN R. ASHLEMAN (Vice Chairman, State Public Works Board, Department of Administration):

In discussion with Assemblywoman Giunchigliani, we agreed that we would, where feasible, try to undertake demonstration projects at the silver level in state buildings as discussed in section 3, subsection 2 of [Exhibit C](#). The requirements are that they are feasible and workable for that particular building and if the client agency desires to do so. We have done two projects in the last biennium. It is valuable because it helps us start to develop a pool of contractors and subcontractors who are familiar with the requirements and with what can be done by the Leadership in Energy and Environmental Design (LEED). The State Public Works Board in two different Sessions has met and reviewed this carefully with the LEED. The Board feels that there are long-term advantages to the State of Nevada getting into the higher LEED's level. This would be because of the savings in energy and building better buildings in which people to work. Until we get some experience built up, we do not want to do it with everybody. This experimental approach is the one the Board had suggested. That is why we have changed "silver" to "base" in the other parts of the presentation.

SENATOR HARDY:

In section 3, subsection 2 of [Exhibit C](#), that language was added to the bill and I have a technical question. It states "the State will" so that is mandated, "implement ... subject to the following." Paragraph (b) seems to eliminate the need for the word "will" and replace it with the word "may." Perhaps, the intent is that if the conditions that are defined in paragraph (a) and paragraph (c) are present, we are going to mandate it. Is that the intent?

Senate Committee on Commerce and Labor  
June 1, 2005  
Page 6

MR. ASHLEMAN:  
Yes, that is our intent.

SENATOR HARDY:  
If you include paragraph (b), it then becomes permissive.

CHAIR TOWNSEND:  
That is the way it is written. I do not know if that is the intent.

SENATOR HARDY:  
If your intent is to mandate it, I think you need to remove paragraph (b), because there is no requirement for the user agency to be in agreement with the project. We could just say we do not want to do it and that eliminates the mandate.

MR. ASHLEMAN:  
User agencies usually come to the Board and ask that this be done. The mandate is if they ask that it be done and we have paragraphs (a) and (c) in place, then we will do it.

SENATOR HARDY:  
Our Legal Division will work it out. I just want to make sure we are clear on the policy. If paragraphs (a) and (c) are present, then we do want to mandate it.

CHAIRMAN TOWNSEND:  
This would only occur if the agency is in agreement.

MR. ASHLEMAN:  
Yes, only if the agency is in agreement. We do not want to force this on the agency.

SENATOR HARDY:  
This would get rid of the "will." We will leave that to the Legal Division. It sounds like you are saying two things. We want to mandate it if the agency agrees; well that is not a mandate.

CHAIR TOWNSEND:

Anyone could write it to where it would state if a user agency is in agreement with the project, the State will implement it if these other two things happen. That would cover it.

MR. ASHLEMAN:

Correct, that is where we are trying to go. We do not want to force this on the agencies. If they are not cost-effective investments and we do not have our rules to follow, we do not want to do these projects.

SENATOR HARDY:

I just want our Legal Division to be clear on the intent.

MR. ASHLEMAN:

I do not think we actually need paragraph (c) overall. The bill itself states that we do not have to have the regulations. These parts would not go in to effect until 2007.

CHAIR TOWNSEND:

Let us move over to section 5, subsection 4 where there is a change in both mock-up amendments. [Exhibit D](#) takes out the term "state" and puts in "agency." [Exhibit C](#) adds "government agency, or local governmental entity." Mr. Powers, is that just an issue of whatever you decide to use as appropriate language to make sure it is not only the State; other entities can utilize this?

KEVIN POWERS (Committee Counsel):

"That is correct Mr. Chairman. If you look up in subsection 3 of [Exhibit C](#), the term that is used is the agency of government which would probably be the more appropriate term in subsection 4 as well."

CHAIR TOWNSEND:

Let us go to section 6, subsection 1, line 22 of [Exhibit C](#) which has added "new or remodeled." Does anyone have a problem with adding that language?

SENATOR TIFFANY:

One of the problems we had by using the LEED standard is that it does not cover residential buildings. It does not cover remodeling. If we are going to expand this, then putting LEED into statute may not make sense. It would not be implemented until 2007. There are inconsistencies of broadening what we

wish to include for this green-building project if we stay with the LEED standards.

CHAIR TOWNSEND:

If this language were accepted for remodeling, what would be the standard that would be used since the LEED does not have a remodeling standard?

MR. ASHLEMAN:

My suggestion would be to use the language of the LEED or its equivalent in that section as we have done elsewhere. The Nevada State Office of Energy would be adopting those. They could then adopt what would be the equivalent for remodeling. Remodeling could also be left out. There would be a concern that you are talking about a major remodel because otherwise you would have some complicated regulations being put there by economic development.

SENATOR TIFFANY:

I think we should put remodeling and residential in the bill. We have multiple agencies involved with this. Do we even know which agency is going to develop the standards?

CHAIR TOWNSEND:

If you go to section 6, subsection 1 of the proposed amendments, it does state LEED or its equivalent as adopted by the director of the Office of Energy. That is the adopting agency.

SENATOR TIFFANY:

It looks like the licensing would be administered by the Division of Industrial Relations (DIR).

CHAIR TOWNSEND:

That is in another section. Has the Governor chosen a new director of the Office of Energy?

SENATOR TIFFANY:

The State Public Works Board would be the agency that would be administering the projects.



CHAIR TOWNSEND:

Can we come back to that? I do not want to ignore it, because it is a good debate. We do not need to take it up now.

SENATOR TIFFANY:

I like the idea of expanding. We need to get the agencies' responsibilities clearly understood.

SENATOR HARDY:

Mr. Thompson, would you like to speak to the change in section 8.2 of the bill?

DANNY L. THOMPSON (Nevada State American Federation of Labor-Congress of Industrial Organizations):

The genesis of this was what was happening in the PV industry in southern California. It was introduced to the public and the public was buying the systems. Some Pacific Gas and Electric Company (PG&E) workers were working on a line that they thought was dead. However, someone had a PV system that was hooked up to it and those workers were almost electrocuted. In southern California versus northern California, the difference was extreme. It did not flourish like it could. The intent was that we have a system that would ensure the workers who are installing the PV systems are trained to a level that is adequate to ensure that accidents like the PG&E incident are not going to happen.

SENATOR HARDY:

You indicated that there is a standard that could be adopted by all apprenticeship programs or craft-training programs that they could meet.

MR. THOMPSON:

I know there are people who are concerned with the word apprenticeship. Our State Apprenticeship Council approves the apprenticeships that come in there. They approve a program, training is done to that standard and those people get that certification. The DIR does that with asbestos workers. The North American Board of Certified Energy Practitioners has a training module that lays out what you should know to be qualified to work in this field.

SENATOR HARDY:

My concern was if we require them to complete a course in apprenticeship training, that can sometimes be a three- or four-year process. If we are able to

Senate Committee on Commerce and Labor  
June 1, 2005  
Page 10

provide that training as approved by the DIR or whomever, then it can be taught and certified through a craft-training course or something like that.

MR. THOMPSON:

That was the intent. You have journeyman-upgrade training where you send somebody back to learn.

SENATOR HARDY:

If you are a journeyman and never received training in PV, you would just go back to a journeyman upgrade.

MR. THOMPSON:

The only problem I have in all of that is if it is limited to less than 30 KW in size. If you want people to be trained, you want them to be trained. It does not matter what size is to be installed; it could still be done incorrectly. The only intent is that there is a standard and people are trained to that standard. People could have a mechanism to go back and get the training, get the certification and go to work.

SENATOR HARDY:

Now is that a definition of a PV-system project but not training? I agree with you that training is training.

MR. THOMPSON:

That ties into who gets that training.

SENATOR HARDY:

How can we fix that?

MR. THOMPSON:

If someone is going to work in PV, it does not matter what size it is; they are going to get this training so it should not matter. They should know what they are doing. If they are a master electrician and have never seen one of these PV systems before, the opportunity to burn down someone's house is there.

SENATOR HARDY:

Why did we have the discussion yesterday focusing on less than 30 KW in size?

GARY D. WAYNE (PowerLight Corporation):

I support adequate training and high standards. The industry benefits from trained workers. The issue is what constitutes training. The reason we first suggested 10 KW, and now 30 KW, as a fine limit is because with a small system, Assemblywoman Giunchigliani's interest was primarily regarding consumer protection. In the issue of a small system, it is probable that the consumer will meet a single person who will need to be skilled in the design, planning, construction, interconnection and wiring of the system. This would also include financial projection. In a course designed for proper consumer protection, that person should know how to build 20-year financial statements for the consumer. In the case of large systems, the installers do not do any of this work. The installers are responsible for the electrical connections and should be versed in electrical safety regarding that equipment. That is the distinction.

I am not familiar with the apprenticeship program. I think everyone should be trained. However, if it implies that anybody who is an installer needs three to four years of apprenticeship, it is going to slow down the PV industry.

SENATOR HARDY:

That was my point and Mr. Thompson agrees. I still have a question about the language concerning systems of less than 30 KW in size.

MR. WAYNE:

There are protections for larger systems. The people who design the 50 or 100 KW PV system and issue warranties to that work are not the installers. The engineering companies do that. If a training program distinguishes between electrical training in one category and a broad range of skills that you need to actually sell and service systems, then I have no problem with the 30-KW limit. Does a person who simply makes an electrical connection on a large system need to know how to create a financial assessment of the system?

MR. THOMPSON:

That is the part I did not get either, Senator Hardy. It has nothing to do with that. This states that a person engaged in that work and I think it is clear. The law should not state you need certification if you are going to do an installation of 30 KW or less, but if you are going to do a 32-KW installation, you do not need certification. It does not matter the size of the installation. Installers need to get the training, and then they can do the work. The incident in California did

set back the PV industry by having unskilled people do the work. The opportunity to do some serious damage is really there.

SENATOR HECK:

My recollection is the 30-KW limit had nothing to do with the training. It was thought to be the natural break. That is where the net metering that we have in statute was discussed and that is why we decided on that number.

CHAIR TOWNSEND:

The average home uses 3 to 10 KW.

MR. WAYNE:

In California, there are two areas of consumer protection. One has to do with electrical safety. Electrical workers get C-46 Solar Contract or technical training. Anyone who is handling the equipment is trained in all the safety. The other area concerns the design of the system and whether the financial promises made to the customer are reasonable. This is protected by requiring that the installer must provide a five-year warranty on the equipment. What I am trying to distinguish is if there is a technical aspect of consumer protection and broad training on the business consideration, those would come under the banner of consumer protection. Does every electrical worker who legitimately should be trained in electrical safety need to have the broad training? That is where the 30-KW limit comes into the picture.

SENATOR SCHNEIDER:

If you have these new systems, how do you train these people? Do you train them on the job? If you have a new project, do you take everybody to the job site and train them as you go and then import a foreman from California?

CHAIR TOWNSEND:

I had the opportunity to attend a training session at the International Brotherhood of Electrical Workers' apprentice training program in San Jose, California; it is surprising how complex and thorough it is. No, it is not on-the-job training. It is a regular school-like setting and the standards are very high. They have every conceivable type of new technology set up in the building on which to train. Whether installers are part of a union setting or nonunion setting, having them trained is crucial to the development of this industry.

SENATOR HARDY:

Senator Schneider's question goes to the heart of my concern. There are a couple of ways individuals are trained. The apprentices do have lab, classroom and on-the-job training. They are required by law when on the job to be under the direct supervision of a journeyman who has training in that area. If we now put in a requirement that anybody who does PV work has to have completed an apprenticeship program, that will leave out some of our journeyman.

The second way contractors are trained is through journeyman-worker-upgrade training which everybody provides. You could have been a journeyman worker for 25 years and every year you go back and get additional training. It is called upgrade training. If you add PV training to that, you could have a 25-year electrician go back and go through the course of PV. Now, he is not only certified and trained to do the work, he is certified and trained to oversee the apprentice. The apprentices can work on this if they are receiving that training.

MR. THOMPSON:

Chair Townsend was at the groundbreaking of our facility where we have installed these PV panels. They actually go out and dismantle the panels and put them back together.

SENATOR HARDY:

The way this bill was originally drafted, it stated that the journeyman worker would have to back through an apprenticeship program to be able to do it. That was my concern. The language that Mr. Thompson has agreed to now eliminates that. We can now go back to the standard where we provide the journeyman-worker-upgrade training and introduce it as an element of our apprenticeship program. My concern was that a 25-year veteran would have to go back and go through an apprenticeship program. By doing it this way, we have the ability to go back and the training will be provided because both training and licensing are required. The certification is obtained as a journeyman upgrade. This could take anywhere from six to eight weeks. Apprentices can then do the program on the job site under the supervision of the now-certified journeyman.

MR. THOMPSON:

Our apprenticeship program has adopted this standard as a training module. The module will be six weeks or less. It is something that people need to know how to do, including 25-year journeymen. It does not matter the size of the job, they

need to know. A master electrician has already completed a five-year program to be a master electrician.

CHAIR TOWNSEND:

Is section 8.2 in either one of the mock-up amendments drafted in a way that accommodates the dialogue you two have had regarding apprentice and journeyman training? Do we need to give a new direction to Mr. Powers to come up with language that better accommodates the realities of what we are trying to accomplish?

SENATOR HARDY:

The language written in section 8.2 of [Exhibit D](#) better resolves the issue. We can then go back in another section and talk about the training and the certification. As long as it is taught as a module and the apprentices complete it and work under a certified journeyman, the apprentices can still do the work as part of their training. It will come under all the other laws.

MR. THOMPSON:

I have concerns. The first one is that I had envisioned that the DIR would be the agency that issued the license. Currently, the DIR does this for asbestos workers. The reason we did that was because workers were protected from asbestos but the general public was not.

SENATOR HARDY:

I do not think section 8.2 speaks to that. Section 8.2 removes the language that installers are required to go through an apprenticeship program. The training is spoken to later.

CHAIR TOWNSEND:

Does section 8.3 reference the Division?

SENATOR HARDY:

Section 8.3 states "The Division shall issue a license to each qualified applicant for licensure as a photovoltaic installer."

MR. THOMPSON:

It does not identify which Division.

Senate Committee on Commerce and Labor  
June 1, 2005  
Page 15

MR. POWERS:

"It is incorporated in the *Nevada Revised Statutes* (NRS) chapter 618 where actually the term Division will be defined for the entire chapter. So, that term would have the meaning of DIR."

SENATOR HARDY:

There is an assumption that they will set up the licensure. They will develop the regulations for the test for licensure.

SENATOR TIFFANY:

If an electrician is going through an apprenticeship, can they also say they want to do PV training? Do you see this as a subset or a stand-alone program?

MR. THOMPSON:

I see it as a subset of an electrician's training. The PV installation involves taking direct current and connecting it to the grid. While this is part of electrical training, the grid is a unique thing. Installers have to know what they are doing.

SENATOR TIFFANY:

How many years is the apprentice program for an electrician?

MR. THOMPSON:

Our program is five years. However, programs vary from three to five years.

SENATOR TIFFANY:

Would the subset add more time to it or just be part of it?

MR. THOMPSON:

That is a good question. This module would probably add more time to it. For a journeyman who comes back, that would be additional time after they completed an apprenticeship program. The journeyman would have to come back and get the other certification to do the PV work.

SENATOR HARDY:

It is both a subset and stand-alone training. In the apprenticeship program, it is a subset. It would be six to eight weeks, as a module of the program. It would either extend the program or perhaps something could be deleted from the program that is no longer necessary because of technological advances. As a journeyman-worker upgrade, it would be stand-alone. What we do for the

journeyman-worker upgrade is pull the modules right out of the apprenticeship program. It can be stand-alone training as craft training. It would be a subset of the overall training as apprenticeship training. It could or could not add to the length of the training time, depending on whether something was removed from the program because it was obsolete. In our electrical apprenticeship program, it would be another six weeks.

CHAIR TOWNSEND:

Mr. Wayne, how does this affect your larger systems?

MR. WAYNE:

I was not aware of the technicalities of what apprenticeship means. If it required five years before anyone could do any work, that would be a problem. We support the California training. In fact, at the San Jose facility you visited, PowerLight provided the equipment. We are not against training but we want to make sure it is not a five-year delay.

CHAIR TOWNSEND:

Everybody has agreed that five years is too long. We do not want to lessen the component that has been discussed. We can wait six to eight weeks to make sure we have the right people trained to install the PV systems. I toured a home where the residents were both certified electrician journeymen. It was a zero-energy home using solar energy. You could see excess energy being generated and put back on the grid. You do not want these installations done by someone who thinks they are an electrician. When is your project with Southern Nevada Water Authority expected to be completed?

MR. WAYNE:

We are in construction right now and hope to have it online by December 31, 2005.

CHAIR TOWNSEND:

I would hope that you would notify the Committee and those here when it is completed so we could tour the facility.

JOE L. JOHNSON (Independent Power Corporation; Toiyabe Chapter Sierra Club):

I still have a concern and partially it has to do with the PV system. You have not proposed anything other than the 30 KW in size and that is taken care of with the contractor's requirements that are here in existing statute. There is the



problem of consistency and this is the penalty if a person engages in the installation of a PV system as defined here. The definition in the proposed amendment would include a solar calculator as a PV system. There should be some level here. If my volunteer who takes a PV panel to a classroom to demonstrate it, is this still included as a PV system; would they be subject to all the penalties and licensures?

CHAIR TOWNSEND:

If they take it to a classroom, they are not going to be installing it anywhere.

MR. JOHNSON:

I suppose that is true. I wanted to address the issue under section 8.3; what is a qualified applicant?

MR. POWERS:

"The reference to each qualified applicant goes to the qualification specified in section 8.5 that defines the qualifications to receive the license and that would be a qualified applicant."

CHAIR TOWNSEND:

As stated in section 8.5, subsection 3 of [Exhibit D](#), you have to "pass an examination approved or administered by the Division of Industrial Relations for a photovoltaic installer; if he is a contractor, provide proof to the Division ... ."

MR. JOHNSON:

It says successfully complete a course of training for an apprenticeship which incorporates PV installation.

MR. POWERS:

"And that subsection is being removed in the Senate Commerce and Labor version. Mr. Chairman, I take it there was agreement to remove the 30-KW language from those sections, correct?"

CHAIR TOWNSEND:

Yes, unless there is an objection from the Committee. Sections 15 through 17 are being removed in [Exhibit D](#). Is that no longer necessary?

MR. THOMPSON:

Sections 16 and 17 were an attempt by George Sterzinger, the executive director of the Renewable Energy Policy Project in Washington, D.C., and me to help a company from California that is developing Nanosolar technology. We attempted to help that company by providing an incentive for them to move into an enterprise zone in North Las Vegas and move their manufacturing. This company has developed thin-film technology that allows them to print PV material onto a surface. It will change our lives because it will impact our dependence on fossil fuel. I was told this provision violates the commerce clause because it states "in Nevada." If you cannot put "in Nevada," then sections 16 and 17 serve no purpose.

CHAIR TOWNSEND:

If they use section 6 of [Exhibit D](#), it would be a huge inducement for people to come to Nevada and provide those kinds of products. This would include relocation of companies which might build these products.

MR. THOMPSON:

We are working with Congress right now to try to help this company. Nevada should be on the cutting edge. If we cannot put in "in Nevada," I would suggest you delete sections 16 and 17 of [Exhibit D](#).

CHAIR TOWNSEND:

My suggestion is that we do delete those sections because we do not want to violate the commerce clause and have the bill thrown out. Committee, you need to physically visit these sites and read information on Nanosolar technology over the next two years. This technology is not 20 years away; it is here now. If nanotechnology evolves as quickly in the solar area as it has in some others, it will change the world.

MR. THOMPSON:

We would like to bring them to the Committee to discuss this, specifically with you, Mr. Chairman. The enterprise zone we are talking about happens to be in North Las Vegas. There is a lot of opportunity because of the location, geographically, of Las Vegas to the big markets.

CHAIR TOWNSEND:

Nevada has the opportunity to become energy independent. In section 6, [Exhibit D](#), Senator Tiffany brought up a question on the issue of the LEED being

a part of the standard which the State Office of Energy would use to draft the regulations. Apparently, the LEED does not have a standard for remodeling.

SENATOR TIFFANY:

The standards do not have to be implemented until 2007. There are other standards as well as the LEED that everybody wants to use. When you put something in statute that will not be effective until 2007 and it does not cover the full picture of where we want to go, I feel more comfortable in putting the LEED in regulations. We need to include anything in regulations that would apply to remodeling and residential. I am not objecting to the LEED but it is not a complete picture and I do not want to see it in statute. If the regulations are just implemented by the Office of Energy, then we can come back in two years. Materials, standards, scope and direction are going to change during these two years. At that point, if we think we need to put the LEED in statute, that would be fine. I would like it adopted by the Office of Energy.

MR. ASHLEMAN:

I understand Senator Tiffany's position. The "or its equivalent" helps there. You could certainly say "any nationally recognized standard such as ..." then put the LEED in or its equivalent so you had something definite. I believe you would then have what Senator Tiffany wants. If a different standard comes along that is national and looks better, we would have some flexibility. This would be a constructive suggestion and one that we hope the sponsor of the bill in the Assembly would be able to accept.

SENATOR TIFFANY:

Why can we not just say "national recognized standard?"

MR. ASHLEMAN:

The only concern would be what standard to choose. The LEED does have a certification process. We have people trained in certification with the LEED as a public works board now. This is not true of any other standard.

SENATOR TIFFANY:

We could make sure the Office of Energy recognizes that we want to use the LEED standard. We would use the LEED as a basis while we start out getting all our processes down. There are a couple of national standards.

SENATOR HARDY:

I do not disagree with Senator Tiffany. I would just submit this is a rare circumstance. We are responding to what the private sector is already doing, instead of us compelling the private sector to react. The private sector is training, learning, getting certified and studying the LEED. There needs to be some level of certainty among those who are getting involved in this. There needs to be some level of certainty about the standard for which they are spending thousands of dollars to adopt and adapt. I like Mr. Ashleman's language that says take a good look at the LEED and if there is a problem, let us adjust it.

SENATOR TIFFANY:

The argument would be whether you want to name the LEED in statute or regulations.

SENATOR HARDY:

I would like some kind of legislative intent that the LEED is the standard at which we would like them to take a strong look.

CHAIR TOWNSEND:

I will tell you that for every one of the boards and in some of the financial institution issues, including mortgage lending as well as a number of the others, we actually state "specific national standards" in the statute. If language is adopted in regulation, it can be removed. We do not know what will be the direction the Office of Energy without a director. They could go on record saying if you use the term "national standard" we are willing to use the LEED as the basic standard. The caveat that covers both sides is "or its equivalent." This is entirely up to the director and their regulators. After attending a workshop and finding out the LEED is not the right way for Nevada, they could use another national standard or come up with something of their own. This is entirely up to the Executive Branch.

SENATOR TIFFANY:

If we can go with Mr. Ashleman's suggestion which is "a national standard such as" and then the equivalent, that would be okay.

CHAIR TOWNSEND:

If Mr. Ashleman will discuss that first with the sponsor of the bill, I think it is fair.

Senate Committee on Commerce and Labor  
June 1, 2005  
Page 21

MR. ASHLEMAN:

I would be happy to discuss that with Assemblywoman Giunchigliani. We could add "or residential" which meets the Green Building Initiative (GBI) or similarly recognized national standards.

CHAIR TOWNSEND:

Senator Tiffany's statement is that it is not just about public or commercial buildings, but we also do have a concern about residential buildings.

IRENE E. PORTER (Southern Nevada Builders Association):

I would agree that in section 6, [Exhibit D](#), given the ability to have the tax abatement, it will be even further incentive to the residential community that we are dealing with now. They are trying to follow with the GBI. The rest of the sections you changed to "base level." But in section 6, you have "silver level or higher" of the LEED. If you are going to change the level, then would it be appropriate to change it to the base level of whatever all those standards are because we do not know what the levels are in the other standards?

CHAIR TOWNSEND:

It is a legitimate question. If you use the language proposed by Mr. Ashleman, then you are going to have to change the language. The purpose of using "silver level" and the LEED in this component is so you do not have the low-level investor coming in and they get a break. You have to make a real commitment to this component in order to qualify. This is for serious people who want to reduce peak load. Peak load is the problem in Nevada and especially in southern Nevada; it is the issue. If we do not reduce peak load, we are going to have deal with the same problems and issues this Committee has dealt with for 25 years.

MS. PORTER:

Would you like me to call my office in southern Nevada to get the appropriate equivalent level of GBI for the bill as well?

CHAIR TOWNSEND:

That would be great, we would have the language regarding the standards as well as the residential component. Ms. Wagner, you represent the PUCN and not the Office of Energy. Since this is a major component of the bill, I am surprised it did not raise more interest in the Assembly. The administration has

Senate Committee on Commerce and Labor  
June 1, 2005  
Page 22

to understand that the Office of Energy is entrusted with drafting some significant regulations. These are serious things for this section alone.

REBECCA WAGNER (Public Information Officer, Public Utilities Commission of Nevada):  
I will make sure that this is the area of concentration.

CHAIR TOWNSEND:  
This is asking the administration to draft some significant regulations. I just want to make sure they are in the loop.

MR. ASHLEMAN:  
I will be happy to check with the Governor's office while checking with the sponsor of the bill and others on this. I will also get the language from Ms. Porter.

CHAIR TOWNSEND:  
There is no intent to drag this on. We just want to get it right. I discussed this with Assemblywoman Giunchigliani. Because the bill had a fiscal note that came from the General Fund, the bill languished in the Assembly Committee on Ways and Means far too long. The Assembly could have spent more time on the policy issues.

MR. JOHNSON:  
I want to go on record. The Sierra Club, one of my clients, is supporting the inclusion of the residential standard. I believe your comments are appropriate to the "silver level" and I am not certain that the proposed residential program in southern Nevada would be equivalent to the "silver level."

CHAIR TOWNSEND:  
That is a good point and we will make sure when we revisit it this afternoon that we discuss it.

SENATOR LEE:  
The strength of your question had to do with remodeling also. Before these people left, I wanted to follow up and discuss remodeling.

CHAIR TOWNSEND:

Since the LEED does not provide a standard for remodeling, are there other national standards that deal with it, whether it is for public works, commercial or residential buildings?

MS. PORTER:

I know of no other national standards that deal with remodeling. I know the LEED, Green Global and GBI do not deal with remodeling at the present time. They may be working on them in the next two to four years.

CHAIR TOWNSEND:

This would be something under this current language that would be required to fit under the "or its equivalent" standard that they would actually have to craft.

MS. PORTER:

As I pointed out to Mr. Johnson in regard to residential and equivalency, the GBI program is the only residential program. Green Global and the LEED do not have one.

CHAIR TOWNSEND:

We need to find out where in that program there would be an equivalent for a "silver level" or a "base level."

SENATOR TIFFANY:

We need a way to word this to include residential with remodeling instead of saying equivalency. This refers back to the LEED which does not go into the remodeling or residential part. Is there another way to word that so we can make it inclusive for remodeling and for residency? We need to make sure that the regulations are directed to include remodeling and residential buildings too.

CHAIR TOWNSEND:

If we take in remodeling and residential buildings, then we will have to change the other language. We will have to change the LEED or its equivalent because we will not have a standard against which to base it.

SENATOR TIFFANY:

I want to see that broaden. I do not mind using the LEED because it is the standard but it is not inclusive enough. Also, do you put it in statute or not?

CHAIR TOWNSEND:

You know your assignment. Please have it done by mid-afternoon.

SENATOR SCHNEIDER:

The mayor is redeveloping downtown Las Vegas with some joint ventures. Can the mayor still put up some land in downtown Las Vegas where the developer can get some benefits under this language?

MR. ASHLEMAN:

There could be something you could abate, assuming the joint venture still had a tax, and ordinarily it would if it had a private component.

SENATOR SCHNEIDER:

If someone remodels their house that is 25 years old, where do my constituents go to get approval? How does the system work smoothly and how do they go about getting their tax break?

MR. ASHLEMAN:

That is going to be the difficulty with the regulations. They will have to be precisely descriptive. It remains to be seen if we can craft something in this Session that will work for remodeling a house. On the larger commercial remodeling projects, there may be enough of an analogy to work with the LEED. With the house remodeling we may or may not be able to do that. I will have to talk to the home-building industry and Green-Building representatives. I also need to speak with the sponsor of the bill to see how far this will work without having major difficulties in getting this legislation to move forward. I will bring back a report.

CHAIR TOWNSEND:

Senator Heck found on the Internet that the LEED has an existing-building (EB) program which would probably include remodeling. You would have to be brought up to EB standards, when you are talking about residential buildings. Can we talk to your person in southern Nevada who deals with this?

MS. PORTER:

She will probably have the same answer I do that we do not have a remodeling standard in the GBI. That is going to be the problem all the way through with residential building, the lack of a remodeling standard.



CHAIR TOWNSEND:

One of the problems we face is the Commission on Economic Development which are not exactly the experts in this area. We are going to have a rough time drafting regulations for residential buildings. When you talk about the expertise of the Bureau of Consumer Protection, Southern Nevada Home Builders Association, Mr. Ashleman's clients and a number of other people in the room, the Commission could be a little overwhelmed.

MS. PORTER:

It is going to be tough to figure out how to do regulations for residential buildings, especially for one or two homes as Senator Schneider pointed out. Homeowners are going to agree to upgrade to different levels within GBI. They will most likely upgrade to the level where they will get a tax rebate. It will be an interesting challenge to do the rebates for residential buildings.

CHAIR TOWNSEND:

It would be beneficial to this effort for a few members of this Committee from southern Nevada to meet with the interested parties who have participated for a workshop. The workshop should meet within the next two weeks after Session, meaning they will meet before it gets to the Commission on Economic Development. Thus there would be a framework from which the Commission could operate. The Commission would not have to spend a year trying to figure out what we were trying to accomplish.

MS. PORTER:

I agree with your idea, Senator Townsend. We will add our resources wherever appropriate for any such workshop.

SENATOR SCHNEIDER:

In my district, I have both new energy-efficient homes and 25-year-old homes. The older homes number more in my district and have single-pane windows and are not insulated well. There is an influx of people to the older neighborhoods because of the proximity to work on the Las Vegas Strip. These people are rehabilitating their houses. We could make a big impact in these neighborhoods.

CHAIR TOWNSEND:

I will close the hearing on A.B. 385 and will open the hearing on S.B. 188.

Committee, you have a mock-up amendment to S.B. 188 ([Exhibit E](#)) as done by the Assembly. This bill represented a year's worth of effort to include conservation and weatherization regarding their application to the Renewable Portfolio Standard (RPS). The Assembly had concerns that S.B. 188 would lessen the standard. In working with Nevada Power Company, Sierra Pacific Power Company and the regulators, the Assembly has come up with a change that seems to accommodate both sides. The change increases the RPS as shown on page 7, section 12, subsection 1, paragraphs (a) thru (f) of [Exhibit E](#).

DON SODERBERG (Chairman, Public Utilities Commission of Nevada):  
[Exhibit E](#) includes what was originally passed out of this Committee in S.B. 188 and the refinements that were agreed to in the Assembly. It sets a public policy for conservation. It does not dilute the RPS. As important to the renewable development community, it creates in statute the Temporary Renewable Energy Development Trust (TRED) mechanism, a mechanism by which many of our renewable developers will be getting financing. This is currently in the PUCN regulations but not in statute, which was very important to the financial community. The mock-up comports with what was done in the Assembly with one minor modification which we feel is a good modification.

CHAIR TOWNSEND:

The green colored language on page 11 of [Exhibit E](#) states that all administrative fines imposed and collected pursuant to this section must be deposited in the "State General Fund" and not the "Trust Fund for Renewable Energy and Energy Conservation" as stated originally in the bill. The purpose of putting it back in the "State General Fund" at my request was that we were able to fund the task force with \$125,000 a year, thanks to your generosity. There was a recommendation that these fines be used by the Task Force for purposes of giving out grants. I had two concerns in regard to the grants. The first one would be that you would have to have a policy discussion about grants. Secondly, is the funding of grants based on fines a legitimate way to fund them? If there are no fines, there are no grants.

MR. JOHNSON:

This is an amendment I presented to this Committee when it was originally heard. It was adopted and accepted in the Assembly where we offered it. I do not anticipate and hope that there is not any fund. It is the Task Force's function to issue grants for projects that encourage renewable energy. We have been looking for some funding for the Task Force and if this was available it

would be an appropriate designation. Concerning the issue of the PUCN assessing the fine, the Task Force is totally independent of the PUCN. Therefore, there would be no concern as we often have of agencies who would administer a program that they would try to increase fines. I would support retaining the State General Fund but I thought there was an opportunity to perhaps garner some funds for the Task Force.

CHAIR TOWNSEND:

I wish there was a way to fund grants that would be more consistent instead of relying on fines.

JUDY STOKEY (Nevada Power Company; Sierra Pacific Power Company):

I want to go on record that we did work with the Assembly Committee on Commerce and Labor and the other parties on this amendment. We do support it as submitted today with the change on page 11.

MR. YOUNG:

There is a change in the mock-up on page 3. There was a bill before this Committee, S.B. 123, that dealt with the universal energy charge (UEC) and a requested change from the Welfare Division in the way those funds were allocated.

**SENATE BILL 123 (1st Reprint)**: Revises provisions governing energy assistance.  
(BDR 58-238)

This mock-up reverses the Assembly amendment which incorporated some of the original provisions of S.B. 123. It is hard to see because it is just changing to a 3 from a 2 on line 4 and changing to a 3 from a 7 on line 16 of page 3. I wanted to make sure the Committee was aware of that.

MR. POWERS:

"Just for way of clarification, Mr. Chairman, if the Committee were to go with the changes in the mock-up, essentially 1.3 and 1.7 would not be included. In other words, existing law would be retained as is."

CHAIR TOWNSEND:

In order for the changes to occur, would they have to accept the bill that we sent out of here? Are you telling me that this does not change the law at all?

MR. POWERS:

If the Committee were to choose to accept the changes in the mock-up to sections 1.3 and 1.7, those sections would no longer be necessary because there would be no changes in the law. So, they would not be incorporated at all in A.B. 385, if that's how the Committee proceeded.

CHAIR TOWNSEND:

I will close the hearing on S.B. 188 and open the hearing on S.B. 431.

[SENATE BILL 431 \(2nd Reprint\)](#): Makes various changes to provisions governing financial institutions and related business entities. (BDR 55-361)

SENATOR LEE:

This bill better strengthens the background checking. It does nothing more than to make a better situation for them to make sure we have the right people getting licensed. I would concur with this amendment based upon my experience with this bill.

CHAIR TOWNSEND:

SENATOR LEE MOVED TO CONCUR WITH AMENDMENT NO. 1067 TO S.B. 431.

SENATOR HARDY SECOND THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

\* \* \* \* \*

I will open the hearing on A.B. 44.

[ASSEMBLY BILL 44 \(2nd Reprint\)](#): Revises provisions governing payment of overtime to certain employees. (BDR 53-761)

Senate Committee on Commerce and Labor  
June 1, 2005  
Page 29

SENATOR HARDY MOVED TO NOT RECEDE FROM AMENDMENT  
NO. 859 TO A.B. 44.

SENATOR HECK SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

\* \* \* \* \*

CHAIR TOWNSEND:

The meeting is recessed at 9:50 a.m. until this afternoon.

The meeting of the Senate Committee on Commerce and Labor is reconvened at 3:10 p.m.

I will reopen the hearing on A.B. 385. We asked Mr. Ashleman to try to get a resolution to the questions that were brought by the Committee earlier. If you use [Exhibit C](#) and [Exhibit D](#), it is easy to follow. The Committee did not have a problem with changing "silver" to "base" on page 1. The implementation of two demonstration projects at the silver level within the biennia incorporates the Office of Energy's rating system subject to some modifications. Senator Hardy had asked that the language be made clearer where we are going to mandate it, only if the project agrees to it. This would depend on the Legislative Counsel Bureau (LCB) and how they decide to rewrite it and meet the intent. This was acceptable.

For section 5, subsection 4 of the bill, our counsel recommended we use the term "the agency or an agency of government." This would cover local, state and other levels.

Section 6 brought the most debate. There was concern regarding the language and how it would affect the Commission on Economic Development's ability as well as the director of the Office of Energy to deal with this. Mr. Ashleman had suggested we change the language to use a "nationally accepted standard."

MR. ASHLEMAN:

On page 3, line 13 of [Exhibit D](#) after the word "with" and before the word "the," I would suggest adding "a nationally recognized standard such as" be inserted.

CHAIR TOWNSEND:

Mr. Ashleman and I received confirmation from Assemblywoman Giunchigliani that the change was acceptable. We wanted to add another statement regarding remodeling. We wanted to say that we would ask the Office of Energy to spend the interim pursuing standards for residential since there were no provisions in terms of remodeling. Is the other standard that is used only for residential units in the GBI?

MR. ASHLEMAN:  
That is correct.

CHAIR TOWNSEND:

Ms. Porter, were we going to make reference to the GBI in this bill for residential buildings? The GBI does not have a standard that equates to the silver level at the LEED so we were having difficulties.

MS. PORTER:

Currently, there are more than 30 different residential standards nationwide. Some have bronze and silver levels. Some have points and some do not have points. The Green Building program in California has no points and no levels. That is why the GBI is trying to do standardization with the National Association of Home Builders' (NAHB) model guidelines. The NAHB model guidelines, as a part of this Green Building program, do have the bronze and silver levels. Nevada is in its infancy, in the residential area, in getting this developed. We can move forward in the next few months as we are developing the program, since it is already in place to start. We will be able to do remodeling residential standards as a part of that program under the GBI. It might be wise to leave residential standards out of the abatement process at this time until this all gets put in place. I will commit to you that we will come back to this Committee next Session. We would notify you as to what needs to be done to further help residential standards when this is all in place.

CHAIR TOWNSEND:

Perhaps a statement of purpose in the bill would be helpful. The director of the Office of Energy would develop standards to be brought back to the Legislature in the next Legislative Session that would be used in residential buildings or residential remodeling.

MS. PORTER:

The Office of Energy is working with us. Since this is a private sector program, it would be more appropriate that the Office of Energy work with the private sector in the development of these regulations.

SENATOR LEE:

On page 3, line 22 of [Exhibit C](#), it states "new or remodeled." There is a difference. On a retrofitted job, most of the time you are bringing the building up to code. This means doing different things to the building than you would for a total remodel. How do you see the difference between retrofit and remodel? Do you see them as two different applications of construction?

MS. PORTER:

Where is the language "retrofit" in the mock-ups?

SENATOR LEE:

"Retrofit projects" is found on page 1, line 11 in both mock-ups.

MS. PORTER:

They are two different things. Retrofitting a project is taking it back and bringing it up to where it was and remodeling a project would be doing it all over again.

MR. ASHLEMAN:

A retrofit job typically is the replacement and/or upgrading of a system within a building. This is how it is normally referred to in the trade.

SENATOR LEE:

In this application, if someone wanted this partial abatement, they would retrofit their building to do these electrical replacements. They are not actually remodeling the building. Would they be able to use this abatement?

MR. ASHLEMAN:

As I read [Exhibit D](#), section 6, our language states, "a building or other structure that is certified at or meets the equivalent of the silver level or higher." The whole issue is not whether it is a remodel, retrofit or anything else; it is whether or not it meets the certificate level for silver by this system or some other system as modified by the director of the Office of Energy. The test is different for existing buildings than they are for building new under the LEED standards.

You would get your certificate and you should get your abatement if you do one or the other.

SENATOR LEE:

I just wanted to get on the record that we had discussed that because it may be pertinent one day.

CHAIR TOWNSEND:

In a high-rise building, there could be retail commercial at the base, a number of levels above that used for offices and then above there could be residential units. Would those properties under this section qualify if they met this silver or higher standard or its equivalent?

MR. ASHLEMAN:

That is my understanding because they are commercial buildings and they would fit the definition. Since we are going to have regulations, we can make that very clear in our process.

CHAIR TOWNSEND:

There are a small number of these high-rise buildings in Las Vegas that are currently under construction. I know of between 20 to 40 more that are in the developmental stages. Perhaps, the ones that have already started construction can still shift to meet those standards. They could qualify for this. The new ones that are still in the developmental stages could also try to qualify under this standard. Section 6 is implemented. Section 19 is on passage and approval.

MR. POWERS:

Mr. Chairman, section 6 falls into subsection 2 which it says sections 1, 2, 4 to 8 so section 6 falls in the 4 to 8. It becomes effective on passage and approval for carrying out regulations and performing preparatory administrative tasks on October 1, 2005, for all other purposes.

CHAIR TOWNSEND:

The regulations would need to be made known on passage and approval. It would become effective on October 1, 2005. The projects we just discussed could qualify if they met all the standards and came in front of the Commission on Economic Development.



MS. PORTER:

Multi-family housing structures that are over three stories are currently covered under the LEED for new commercial buildings. Those building would be built under the International Building Code (IBC) which is the commercial code. The single-family homes are under the International Residential Code (IRC).

CHAIR TOWNSEND:

Would it still have to reach silver level or higher?

MS. PORTER:

Yes, according to this.

CHAIR TOWNSEND:

It would also include anything the director of the Office of Energy adopts. According to the new language, it could be any national standard such as the LEED or its equivalent. This is about incentivizing people to build correctly for energy-efficiency purposes.

SENATOR SCHNEIDER:

Will local entities have any problems with this because the incentive is property taxes? We have kept property taxes down and now we are doing something else with them.

MR. ASHLEMAN:

During a two-year period, you are not going to see an enormous amount of these buildings built and certified to the silver level. The silver level is not easy to reach and it will cost some money to get there. The tax abatement is up to 50 percent of the taxes on real property. It does not have to be 50 percent, it can be whatever the PUCN feels is an appropriate percentage to encourage this. We will have to see.

CHAIR TOWNSEND:

Section 8.2 has been resolved with regard to the apprentice issue. We are going to remove all the apprentice references. Are we going to keep or remove 30 KW?

SENATOR HARDY:

We are going to remove 30 KW. It has to be removed for reasons unrelated to the apprenticeship. Everybody is in agreement with this section as it appears in [Exhibit D](#).

CHAIR TOWNSEND:

Section 8.3 is part of the agreement and makes reference to the Division being the entity who issues the license.

SENATOR HARDY:

It is referenced prior in the statute. It would be clear that the Division is actually the DIR. The licensure as an apprentice PV installer is removed throughout the remainder of the bill.

CHAIR TOWNSEND:

We use the language in sections 8.2, 8.3, 8.4, 8.5, 8.6, 8.7 and 8.8 in [Exhibit D](#). These sections, except 8.4, remove the language "an apprentice photovoltaic installer." Section 14 discusses the Renewable Energy Task Force and adds paragraph (h) to this section. This represents the interest of energy conservation and the efficient use of energy in this State. Is anyone present to speak on this?

ROSE E. MCKINNEY-JAMES (Renewable Energy Task Force):

I checked with Mr. Cooper and we believe paragraph (h) came from Mr. Burdette. This was a request from his office.

SENATOR HARDY:

We are adding that one member be appointed by the governing board of the Nevada State American Federation of Labor-Congress of Industrial Organizations (AFL-CIO). It might be appropriate to have one member of the open-shop construction industry since we are now talking about training. The open-shop construction industry has training and apprenticeship programs as well.

MR. JOHNSON:

Paragraph (h) was not something that I had proposed. I had been involved when Assemblywoman Giunchigliani discussed it. The reason was that S.B. 188 and all the energy-efficiency items that will come out of that. There was need on the Task Force for someone to represent those interests who would be fully

participating in potentially 25 percent of the portfolio. Ms. McKinney-James was correct that this was Mr. Burdette's idea.

CHAIR TOWNSEND:

I did not have a problem with it. I did not know if there was someone here that actually would like to go on the record and state what they thought their role might be. Is it a labor of love, and no one gets paid for it?

MS. MCKINNEY-JAMES:

Yes, that is correct.

CHAIR TOWNSEND:

The people who have volunteered to serve on the Task Force have given a great deal. They do not receive any pay and they deal with serious issues.

Sections 15, 16, 17, 18 and 18.5 were agreed upon to be stricken in [Exhibit D](#).

Let us take up S.B. 188. The essence of this bill when it left the Senate had to do with applying conservation to the renewable-energy portfolio standard. The Assembly made changes that allowed the portfolio standard to stay in place for renewables and apply the energy-efficiency standards and measurements against the portfolio standard. It did not water it down but still gave the incentive to the utility as well as others to reach out and become efficient and not affect the portfolio standard which was up by those percentages as read before. The final year, which was changed from 2013 to 2015, changed the percentage from 15 to 20 percent. Are we almost even with California?

JON B. WELLINGHOFF (MGM Mirage):

We are almost even with California. I believe California has gone to 20 percent in 2010. We have the same level of standard, but they are going to try to get there quicker.

CHAIR TOWNSEND:

We would like to get there. They can put the numbers where they want.

MR. WAYNE:

There is no effective compliance mechanism for the California RPS. It is a voluntary program and it will probably not be met.

CHAIR TOWNSEND:

I do not see anything else in the mock-up that is different. Page 11, section 14, subsection 6, states "All administrative fines imposed and collected pursuant to this section must be deposited." There was a reference in here to move it from the "Trust Fund" to the "State General Fund." I have made a statement about that to Senator Heck.

SENATOR HECK:

I would be pleased to see the money go back to the "Trust Fund." You are always under the impression that a grant is a finite amount of money that may not be there next year. Mr. Chairman, that was a concern you expressed, that we may not have money in future years since it is based on fines. That is the way grants work, it may be there one year but not the next year. The fact that the fines are being generated based on renewable energy and energy conservation may make it worthwhile to put it back in the grant process and try to encourage more energy conservation.

CHAIR TOWNSEND:

Committee, do you have any objections to changing it from the "State General Fund" to the "Trust Fund for Renewable Energy and Energy Conservation?"

SENATOR CARLTON:

I would have some concerns with the fining mechanism being used to support something like this. Typically, fines come to the State and then the State decides what to do with the fines. The last thing you want to do is either incentivize or disincentivize someone in fining. It should be a separate procedure and no one should benefit from directly earmarked fines. Numerous agencies have come to us and asked why the fines cannot come directly to them. The policy is that the fines come to the State because it was an offense to the State and the State ultimately makes the decision on how those monies get dispersed. The State can still make the decision that the money can go into this Task Force.

SENATOR HARDY:

To support Senator Carlton's notion, I am willing to be talked out of it. It takes a special set of circumstances to move away from that policy issue. I have always had those concerns as well. We have three people at the table tell us why these are special circumstances.

SENATOR HECK:

The administrative assessments that are collected by the courts go back to funding the courts. It is not that this is without precedent.

SENATOR TOWNSEND:

It is the PUCN that does the fining. The PUCN does not retain the fines. The fines would go to the Task Force for purposes of dealing with conservation and renewable energy. That was the original point that was apparently lost on me.

MR. SODERBERG:

We had discussed this issue after your morning meeting. The Renewable Energy Task Force does a number of things and is still growing and evolving. Our conversations with people on the Task Force indicated that this would put them in an odd position of advocating fines. They did not want to get involved in the RPS cases that we are doing. They felt it was more of a regulatory matter. I spoke with Mr. Johnson this morning and he expressed to me that it was not that he wanted it so much to go the Task Force but if there is going to be a fine, it should go to create conservation or create some renewable KWs. Senator Carlton is correct. Typically, any fines that the State levies, with a few exceptions, go into the General Fund. Therefore, nobody has an incentive to want to generate the fines. If you decide not to go with the General Fund and if a fine was ever applied, you may want those fines to go someplace that would put forward the policy initiative that the RPS was meant to pursue. We thought the Desert Research Institute (DRI) might be a place for them to go. They do have a program where they are actually installing renewable installations on public schools. This is funded by their money, the utility and the public who put extra money in their monthly utility bill. They directly put that into renewable KW throughout the State in buildings that we want it to be on, which are our schools.

MS. MCKINNEY-JAMES:

I have not had an opportunity to discuss this with other members of the Task Force. Senator Heck, we are grateful to you for realizing that we have been required to be frugal over this period of time. We have never had a designated source of funding. We are pleased with the arrangement that is in place in this bill that would give us the funding through the mill assessment. It would make all the stakeholders happier if the money went to the General Fund and then the policy decision was made by this body as the Task Force moves forward.

MR. JOHNSON:

I discussed this idea with the Chairman. It was part of what I thought would happen to this fund in issuing grants; that the DRI and their Green Power program would be a prime spot for them and I certainly would encourage your consideration of the DRI which is a unit of the university system.

CHAIR TOWNSEND:

A huge assumption is that the utility will not meet the standard and that there is going to be a fine. I do not want to mislead anybody. This utility has done everything it can, including working with the administration to draft the TRED program so they do not get fined. The goal in having the incentive is to get the utility to work as hard as they can to meet that standard. The PUCN has been very positive in finding ways to get the standards to where we want them to be under the Chairman's leadership.

Mr. Johnson:

I fully appreciate that. I preface my testimony on this issue here as I did in the Assembly that it is appropriate for the fund to go to the Green Power program in the schools. There are many other places in the environmental area where we assign their fines to the school fund. This would not go to the school fund but it would benefit the schools in some educational program.

CHAIR TOWNSEND:

Whatever the Committee wants to do; I do not care where it goes. I would like an explanation to accompany it that states the recipient should not rely on future funds. I do not want someone misled.

MR. WAYNE:

As someone who is familiar with the compliance mechanism because it was passed on to our company as part of a project that was approved, I do not have a strong opinion but as a general rule for fines, they should not be incentivized or disincentivized. The fine in a compliance mechanism could be as much as what it would have taken to implement a project. In the event of a major compliance issue, for example, one project not complying, this fund could be multi-millions of dollars. There may be an unintended consequence in this.

CHAIR TOWNSEND:

The Assembly was less than enamored of the bill the administration sponsored that came to this Committee and got changed substantially by our

subcommittee with regard to the UEC and the administrative cost used to implement that. The amendment they put into S.B. 188 incorporates the original bill. It states the PUCN is entitled to an administrative charge of not more than 3 percent and we left it at 2 percent. It states 75 percent of the money in the fund must be distributed to the Welfare Division. The Welfare Division may not use more than 3 percent which is what we had put in the bill. Those changes are requested by the administration to go back to 2 percent for the PUCN and 7 percent for the Welfare Division.

MR. YOUNG:

The PUCN is currently at 3 percent. This would reduce the PUCN to 2 percent.

MICHAEL J. WILLDEN (Director, Department of Human Resources):

The original version of S.B. 123 had the PUCN percentage decreasing from 3 to 2 percent and the Welfare Division percentage increasing from 3 to 7 percent.

CHAIR TOWNSEND:

You are aware that this Committee worked hard to make some substantial changes to that. Do you still feel strongly that you need more revenue to implement the Welfare Division's portion of this?

MR. WILLDEN:

Yes, Mr. Chairman.

CHAIR TOWNSEND:

Committee, what is your pleasure in regard to this?

SENATOR HARDY:

Are you looking for a discussion on that point or the entire bill?

CHAIR TOWNSEND:

Everyone is in agreement on the essence of S.B. 188. The only thing we have not solved is where the fine money would go and the issue of the administrative fee for the UEC.

SENATOR HARDY:

I will say on the administrative issue we did a good-faith effort to start the discussion about fixing a program that is broken. I am disappointed that we did not have an opportunity to continue and fix that program in conference

committee. I do not want to do anything that will further damage the program we have currently worsened. Those who are charged with administering these programs do have significant leeway to implement issues that this Committee discussed. If we are going to approve this change in administration cost, I would ask those who are responsible for administering the cost to take a serious look at what the Committee has done. The concerns were all legitimate. I am extremely reluctant to accept the administrative-cost changes but I will vote to take the administration of their word that this is necessary to keep the program from getting worse. Part of me wants to put an amendment in there to do away with the program.

CHAIR TOWNSEND:

This meeting is recessed at 4:01 p.m.

This meeting is reconvened at 4:43 p.m.

The Assembly has refused to concur on Amendment No. 1094 to A.B. 195.

ASSEMBLY BILL 195 (3rd Reprint): Makes various changes concerning purchasing prescription drugs from Canadian pharmacies and regulation of certain pharmacies located outside Nevada. (BDR 54-875)

SENATOR HARDY MOVED TO NOT RECEDE FROM AMENDMENT NO. 1094 TO A.B. 195.

SENATOR CARLTON SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR TIFFANY WAS ABSENT FOR THE VOTE.)

\* \* \* \* \*

CHAIR TOWNSEND:

The Assembly refused to concur on our Amendment No. 925 to A.B. 208.

ASSEMBLY BILL 208 (3rd Reprint): Makes various changes relating to physicians and medical research. (BDR 54-1108)



Senate Committee on Commerce and Labor  
June 1, 2005  
Page 41

SENATOR HARDY MOVED TO NOT RECEDE FROM AMENDMENT NO. 925 TO A.B. 208.

SENATOR CARLTON SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR TIFFANY WAS ABSENT FOR THE VOTE.)

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CHAIR TOWNSEND:

The Assembly did not concur on our Amendment No. 747 to A.B. 254.

ASSEMBLY BILL 254 (2nd Reprint): Revises provisions governing industrial insurance. (BDR 53-1080)

SENATOR HARDY MOVED TO RECEDE FROM AMENDMENT NO. 747 TO A.B. 254.

SENATOR SCHNEIDER SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR TOWNSEND:

The Assembly refused to concur on our Amendment No. 1048 to A.B. 260.

ASSEMBLY BILL 260 (4th Reprint): Revises provisions relating to environmental health specialists. (BDR 54-855)

SENATOR HECK MOVED TO NOT RECEDE FROM AMENDMENT NO. 1048 TO A.B. 260.

SENATOR TIFFANY SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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Senate Committee on Commerce and Labor  
June 1, 2005  
Page 42

CHAIR TOWNSEND:  
Committee let us proceed to A.B. 290.

ASSEMBLY BILL 290 (3rd Reprint): Makes various changes to provisions relating to common-interest communities. (BDR 10-951)

SENATOR SCHNEIDER MOVED TO NOT RECEDE FROM AMENDMENT NO. 1062 TO A.B. 290.

SENATOR HARDY SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR TOWNSEND:  
The last bill we need to take action on before Senator Lee leaves is A.B. 555.

ASSEMBLY BILL 555 (2nd Reprint): Makes various changes relating to provisions governing medical professionals. (BDR 54-570)

SENATOR HECK MOVED TO NOT RECEDE FROM AMENDMENT NO. 685 TO A.B. 555.

SENATOR HARDY SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

\* \* \* \* \*

CHAIR TOWNSEND:  
I will reopen the hearing on A.B. 385. We will take up the first issue which has to do with the potential for funds from a penalty and where they would be deposited.

SENATOR HARDY:  
I want to make sure I understand that whether it goes to the DRI or the Task Force, it is still not the individuals who are imposing the fines who are

Senate Committee on Commerce and Labor  
June 1, 2005  
Page 43

benefiting from it. I like the DRI option because it is preferred by the Task Force. Do you want to do these on individual motions?

CHAIR TOWNSEND:

I am putting them in the amendment depending on whether there is unanimity by the Committee. We would just place them in the BDR or in the amendment.

SENATOR TIFFANY:

How did it end up as the General Fund where the fines would go? Did it start out as the General Fund?

CHAIR TOWNSEND:

It has always been in the General Fund. Then there was some discussion because the Task Force actually has the authority to collect money for purposes of giving grants, as I remember when we wrote that. That is when the fines were transferred to the Task Force. Then there was a recommendation today that possibly because DRI does do energy efficiency and renewables on schools statewide, they might also be a recipient.

SENATOR TIFFANY:

It has always been in the General Fund. The people who drafted the bill must have thought that it was okay for it to be in the General Fund.

CHAIR TOWNSEND:

We put that in four years ago.

MR. YOUNG:

That is correct.

SENATOR TIFFANY:

Why would we change it now?

MR. YOUNG:

It was put into the second reprint of S.B. 188 in the Assembly. That is what we were discussing; whether to keep that version of S.B. 188 when we fold it into A.B. 385 or revert to the original General Fund language.

SENATOR TIFFANY:

At this point the General Fund is the most neutral of all situations to not create bounty hunting. Why do we want to change it if it was already in the General Fund?

CHAIR TOWNSEND:

The PUCN is the only one that can levy the fine and they are not the recipients of it.

SENATOR TIFFANY:

Mr. Chairman, can we hear from the commissioner since he has overseen this?

CHAIR TOWNSEND:

Have you imposed any of these fines yet?

MR. SODERBERG:

We have not yet utilized that portion of the statute that imposes a fine. It is everybody's hope that the situation does not come up and the utilities will meet the RPS. They will be in better shape to do so with this new round of request for proposals and the other portions of the former S.B. 188 that add conservation. The original bill in the 71st Legislative Session put the fine in the General Fund because it is typically state policy to not take fine money and give it to a designated recipient. My testimony prior to the break was that we believe that the General Fund is the most appropriate place for these fines to go. We do not want to incite bounty hunting. If the fines were going to someplace else besides the General Fund, we suggested the DRI. The DRI program directly builds KW and they do not get involved in these cases. It puts the Task Force in an odd position that people might want to push them into advocating fines even if there were worthwhile projects for those funds. The better policy is to keep it in the General Fund where most fines go now. Therefore, no one would have an incentive to advocate one way or the other. A possible compromise would be the DRI.

Senate Committee on Commerce and Labor  
June 1, 2005  
Page 45

SENATOR HARDY MOVED TO RETAIN THE GENERAL FUND AS RECIPIENT OF FINES LEVIED PURSUANT TO A.B. 385.

SENATOR CARLTON SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR LEE WAS ABSENT FOR THE VOTE.)

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SENATOR HARDY MOVED TO CHANGE THE ADMINISTRATIVE CHARGE TO 3 PERCENT AND 5 PERCENT FOR THE WELFARE DIVISION IN A.B. 385.

SENATOR SCHNEIDER SECONDED THE MOTION.

SENATOR TIFFANY:

I realize this came back from the Assembly. We should also look at adjusting the taxes down or look at the redistribution from the weatherization and welfare portion of it which we talked about. We have reached a reasonable compromise after a great deal of testimony.

CHAIR TOWNSEND:

I do not disagree with you. The administration will go on record to assure us that the efficiency of this program will substantially improve. The debate Senator Tiffany has asked for is an important one. We wanted to make sure that the money going into this program is a tax on ratepayers and was done in the right manner and would get the most money to the greatest number of people in need. I am willing to support the motion on the condition that the administration in working with the Welfare Division as well as the Housing Division comes back to us with a report on how to improve efficiency. How do you get it to people in need? That has to do with weatherization in mobile homes versus stick-built homes and all the things that this Committee has gone through in great lengths.

SENATOR TIFFANY:

Does that mean you do not wish to do anything more than adjust the administration percentage?

CHAIR TOWNSEND:

My concern is that I do not know if we will end up with a debate in the Assembly over that.

SENATOR TIFFANY:

Is it possible we could get a report thorough the Commission or the Interim Finance Committee (IFC) concerning the \$15 million sitting in reserve? The Welfare Division said they could spend it. I would like to get an update on this since we are not going to adjust that percentage. I would like to know how the administration has changed and get updates on the distribution channel, hiring people, how much has to go to the administration and how much is getting to the individuals. Also, have the Executive Branch analyze what they have done, how they have done it and justify it.

CHAIR TOWNSEND:

Your point is well taken. The administration of this program should be accountable to not only the IFC which may or may not have an interest but certainly to the Commission which does have an interest. We meet approximately every six weeks in the interim. We would like to see a status report to answer the question Senator Tiffany has posed.

SENATOR HARDY:

Can we put that in the motion?

CHAIR TOWNSEND:

Certainly

SENATOR HARDY:

The maker of the motion would certainly amend the motion to include the status report from the Legislative Commission upon their request.

CHAIR TOWNSEND:

Whenever the Commission meets, we would like an update.

Senate Committee on Commerce and Labor  
June 1, 2005  
Page 47

SENATOR HARDY MOVED TO AMEND HIS MOTION TO INCLUDE THE STATUS REPORT FROM THE LEGISLATIVE COMMISSION UPON REQUEST FROM THE COMMISSION TO A.B. 385.

SENATOR SCHNEIDER SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR LEE WAS ABSENT FOR THE VOTE.)

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CHAIR TOWNSEND:

One last issue in the nature of the wording is in section 6 of A.B. 385. It is because of the bill-drafting issue. Would you like to address that, Mr. Ashleman?

MR. ASHLEMAN:

I had given a suggested amendment to try and satisfy some of the concerns Senator Tiffany and others had. However, that would lead to a number of paragraphs as opposed to what I thought would be a simple fix. We are still trying to reach the point of trying to give flexibility to the director of the Office of Energy so he can select some other standard rather than the LEED standard if he saw fit. The way to do that, as suggested by members of your staff, is to go to section 11. This section establishes the process for the adoption of the guidelines. As part of the process, we could make the legislative intent clear that we had not suggested the adoption of the particular standard, just that it be a national standard and that we had flexibility in that area. An example of one such standard is the LEED. This would be the most legislatively economically way of expressing the intent of this body as I understand it.

CHAIR TOWNSEND:

Would that be because no matter what section of the bill you are referencing, you have to go to the director anyway?

MR. ASHLEMAN:

Correct.

Senate Committee on Commerce and Labor  
June 1, 2005  
Page 48

CHAIR TOWNSEND:

You would simply use section 11 to state the director, in consultation with the State Public Works Board and any other interested agency, shall, in cooperation with representatives of the building and development industry, adopt guidelines.

MR. POWERS:

Mr. Chairman, I have worked up some language as the Committee was processing the other bills, and I think this may help for the Committee to understand where we are going with this. Essentially, it would be a new subsection 5 in the section. It would read something like "in adopting a rating system pursuant to subsection 4, the Director is not required to adopt and is not limited to using the LEED's rating system but may adopt an equivalent rating system based on any other nationally recognized standards for Green Buildings or any combination of those standards."

CHAIR TOWNSEND:

Senator Tiffany, does that accomplish to what your questions have led us? Are you comfortable with it?

SENATOR TIFFANY:

Yes

CHAIR TOWNSEND:

We will use that version. Mr. Powers, Mr. Young, and Ms. Gregory, do you have what you need to draft an amendment so the Chair can take an amend and do pass on this bill?

MR. YOUNG:

I will defer to Mr. Powers but I think we are there, Senator Townsend.

MR. POWERS:

"I do have everything I believe, Senator, thank you."



Senate Committee on Commerce and Labor  
June 1, 2005  
Page 49

CHAIR TOWNSEND:

SENATOR HARDY MOVED TO AMEND AND DO PASS A.B. 385.

SENATOR SCHNEIDER SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR LEE WAS ABSENT FOR THE VOTE.)

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CHAIR TOWNSEND:

The meeting of the Senate Committee on Commerce and Labor is officially adjourned at 5:08 p.m.

RESPECTFULLY SUBMITTED:

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Donna Winter,  
Committee Secretary

APPROVED BY:

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Senator Randolph J. Townsend, Chair

DATE: \_\_\_\_\_