

**MINUTES OF THE MEETING  
OF THE  
ASSEMBLY COMMITTEE ON COMMERCE AND LABOR**

**Seventy-Fourth Session  
May 16, 2007**

The Committee on Commerce and Labor was called to order by Chair John Ocegüera at 1:15 p.m., on Wednesday, May 16, 2007, in Room 4100 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4406 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at [www.leg.state.nv.us/74th/committees/](http://www.leg.state.nv.us/74th/committees/). In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (email: [publications@lcb.state.nv.us](mailto:publications@lcb.state.nv.us); telephone: 775-684-6835).

**COMMITTEE MEMBERS PRESENT:**

Assemblyman John Ocegüera, Chair  
Assemblyman Marcus Conklin, Vice Chair  
Assemblywoman Francis Allen  
Assemblyman Bernie Anderson  
Assemblyman Morse Arberry Jr.  
Assemblywoman Barbara E. Buckley  
Assemblyman Chad Christensen  
Assemblywoman Heidi S. Gansert  
Assemblyman William Horne  
Assemblywoman Marilyn Kirkpatrick  
Assemblyman Garn Mabey  
Assemblyman Mark Manendo  
Assemblyman David R. Parks  
Assemblyman James Settelmeyer

**GUEST LEGISLATORS PRESENT:**

Assemblywoman Susan I. Gerhardt, Assembly District No. 29

Minutes ID: 1287



**STAFF MEMBERS PRESENT:**

Brenda Erdoes, Committee Counsel  
Dave Ziegler, Committee Policy Analyst  
Judith Coolbaugh, Committee Secretary  
Gillis Colgan, Committee Assistant

**OTHERS PRESENT:**

Robert L. Compan, representing Farmers Insurance  
Kenneth W. Cooley, representing State Farm Insurance Company  
Jim Spinello, representing Progressive Insurance  
Tom Roberts, Lieutenant, Internal Affairs Section, Las Vegas Metropolitan  
Police Department  
Tim Kuzanek, Washoe County Sheriff's Office  
Ben Graham, representing the Clark County District Attorney and the  
Nevada District Attorneys Association  
Wayne Frediani, representing the Nevada Franchised Auto Dealers  
Association  
Rocky Finseth, representing the Nevada Association of Realtors  
Gail J. Anderson, Administrator, Real Estate Division, Department of  
Business and Industry  
Teresa B. McKee, representing the Nevada Association of Realtors  
Clay Fitch, representing the Nevada Rural Electric Association  
Kyle Davis, representing the Nevada Conservation League  
Keith L. Lee, representing the Board of Medical Examiners  
Fred Schmidt, representing Ormat Nevada, Inc.  
Joseph (Joe) Johnson, representing the Toiyabe Chapter Sierra Club  
Dave Noble, representing the Public Utilities Commission of Nevada  
Judy Stokey, representing the Nevada Power Company and the Sierra  
Pacific Power Company

**Chair Ocegüera:**

[Roll called.] This hearing is called to order.

**Vice Chair Conklin:**

I am opening the hearing on Assembly Bill 619.

**Assembly Bill 619:** Creates the Nevada Automobile Theft Authority. (BDR 18-1503)

**Assemblyman John Ocegüera, Assembly District No. 16:**

This emergency measure is an aggressive response to address the State's new number one national ranking for vehicle thefts. This crime has a tremendous impact not only on the individual who owns the stolen car, but also on the insurance costs that we all have to pay. Individuals who have their cars stolen must deal with the financial loss and the paperwork required by law enforcement and the insurance company. They are also faced with the problem of finding alternative transportation for themselves and their families.

Statistics underscore the need for the State to take aggressive action now before the situation gets any worse. In April 2007, the National Insurance Crime Bureau announced that Clark County had the nation's highest rate of vehicle theft for 2006 with 22,441 vehicles stolen. That means 1,311 vehicles were stolen for every 100,000 residents. Las Vegas ranked second in the nation in vehicle thefts in 2005. Nationwide automobile thefts have declined in the last few years. In the first half of 2006, national rates were down about 2.3 percent. However, the vehicle theft rate in Nevada continued to rise.

The rates of our neighboring states, California and Arizona, have gradually fallen. This turnaround has been accomplished through aggressive, coordinated enforcement and tougher criminal penalties for habitual offenders. Because of the increased enforcement in our neighboring states, motor vehicle thieves and organizations now find Nevada an easy target.

Vehicle thefts have significantly impacted automobile insurance rates for Nevadans. Drivers in Nevada have the thirteenth highest average expenditures for automobile insurance in the nation and between 2000 and 2004, rates increased by 13.2 percent.

This legislation has been modeled after the law that was implemented in Arizona, which created the Arizona Automobile Theft Authority (AATA). Its mission is to deter motor vehicle theft through a cooperative effort which includes supporting law enforcement activities, increasing prosecutions, and increasing public awareness through community education programs. No General Fund money will be used to fund this entity or its work. The funds are generated by an assessment fee charged to the insurers who issue motor vehicle liability insurance. None of the funds will be diverted into the General Fund for any other purpose. The AATA can accept and make grants to further its mission. For more detail on its operation, I have submitted a copy of the Arizona Automobile Theft Authority 2006 Annual Report ([Exhibit C](#)). Some of the initiatives taken by the AATA are described on pages 16-19.

Some concerns might be raised because Arizona also has a high number of motor vehicle thefts. However, the statistics presented in this 2006 report indicate that Arizona's collaborative and aggressive approach is having an impact. On page 11 of the handout, the charts show the overall decrease in the vehicle theft rate over the past ten years, particularly since 2002. Further, the AATA has strong support from the insurance industry, and this has translated into a positive impact on vehicle insurance costs.

Section 1 specifies that these new provisions will be placed in Chapter 232 of the *Nevada Revised Statutes* (NRS). Sections 2-5 and Section 11 provide definitions for the terms used in the bill and the existing statutes. Section 6 creates the Nevada Automobile Theft Authority (NATA) within the Insurance Division. The 13-member authority includes representatives from the Department of Motor Vehicles, the Department of Public Safety, sheriffs, police chiefs, district attorneys, insurers, and the general public. In addition, the Insurance Commissioner serves as a nonvoting member.

Section 6 also provides for the election of a chairman, the frequency of the meetings, the terms of the members, and their compensation, which is limited to per diem and travel expenses within available resources. Subsection 8 states that members of the NATA who are public employees must be allowed to serve without taking annual leave or compensatory time. This language is similar to the existing statutory language for members of the Task Force on Prostate Cancer (NRS 457.320), and the Task Force on Cervical Cancer (NRS 457.370). Section 7 governs the removal of a member of the NATA.

Section 8 governs the administration and operation of the NATA. The Division of Insurance, to the extent of its available and existing resources, must provide administrative support, equipment, and office space as necessary for the NATA to carry out its duties. To the extent that funds are available from the fund created by this legislation, the NATA may provide for these items. It may also employ such staff members as determined necessary, including an executive director whose salary will be capped at \$75,000.

Section 8 states that the NATA may apply for and accept grants for use in carrying out its duties. It can also accept donations of goods and services for this limited purpose. Section 8, subsection 4 outlines the duties of the NATA. They include determining the scope of the motor vehicle problem in Nevada, analyzing methods for reducing such theft, developing and carrying out plans for automobile theft reduction, and funding of NATA's activities. Subsection 5 authorizes the NATA to award grants from the fund to public agencies for the purpose of establishing, maintaining, and supporting programs designed to prevent motor vehicle theft in Nevada. Section 8 also requires the

NATA to prepare an annual report concerning its activities and submit it to the Governor, the Secretary of State, the State Library and Archives Administrator, and the Director of the Legislative Counsel Bureau for transmittal to the Legislative Commission. Also, on or before February 15 during each regular session of the Legislature, the NATA must submit a consolidated report of its activities for the prior two fiscal years to the Director of the Legislative Counsel Bureau for posting on its website and for transmittal to Leadership, the Legislative Commission, and the Judiciary and Transportation Committees.

Section 9 creates the fund for the NATA and requires that all public and private money received for use by the NATA must be deposited into the fund. I would like to point out that in subsection 4 the language states that the fund money may be used only to pay for administrative expenses of the NATA, and to carry out the provisions in Sections 6-10 of this bill. To ensure the integrity of the fund, the Legislative Counsel Bureau's Audit Division must conduct an audit of the fund every two years. The audit report must be submitted to the Governor and the Legislative Commission.

Section 10 provides resources for the operation of the NATA. Each insurer must pay a semiannual fee of 50 cents for each vehicle insured under a policy of motor vehicle liability insurance issued by that insurer in Nevada. This amount, \$1 per year, may be passed on by the insurers to the policyholders, as is the practice in Arizona. The insurer must pay the NATA the amount due on or before January 31 and July 31 of each year, and the money will be deposited in the fund created by Section 9.

I want to cover Section 16 next because it relates to Section 10. The initial fees will be payable on or before July 31, 2008, and must cover all vehicles insured by the insurer during the period between January 1, 2008, to June 30, 2008. To ensure that this provision is clear, Section 17 specifically provides the authority for an insurer to begin collecting the fee from its policyholders on January 1, 2008. This delayed effective date for the legislation is necessary to allow time for the insurers to implement the necessary policies and procedures for collecting the fees from the policyholders.

Sections 12-25 prohibit probation or a suspended sentence for a person convicted of motor vehicle theft who has previously been convicted of this crime. In addition, Section 13 imposes a civil penalty of \$100 to be paid into the fund. Section 14 provides staggered expiration dates for the terms of the members first appointed to serve on the NATA. Members must be appointed as soon as practicable after July 1, 2008. We cannot wait another two years to address the problem of motor vehicle theft in Nevada. Arizona's vehicle theft

rate is gradually declining, which means Nevada's rate will be increasing. Automobile insurance rates are stabilizing in Arizona because of the more aggressive initiatives that state has taken to curb auto theft. It takes time to put the necessary funding for the NATA in place, but by acting this session we can provide the structure to allow law enforcement agencies and the insurance industry to work collaboratively to address the growing problem of auto theft in our State. I would be happy to answer any questions.

**Vice Chair Conklin:**

This bill would provide benefits for consumers on insurance policy rates, and it will help the insurance industry to be more competitive. Are there any questions?

**Assemblywoman Allen:**

On page 8, subsection b, the language provides for a civil penalty. Is that money to be collected from the person who committed the grand larceny?

**Assemblyman Ocegueda:**

Yes, that is correct.

**Assemblywoman Allen:**

Is that an unreasonable expectation?

**Assemblyman Ocegueda:**

It is just \$100.

**Assemblywoman Allen:**

Why do we not make it \$1,000 or \$10,000? That person stole the car.

**Assemblyman Ocegueda:**

In Arizona, the civil penalty is \$25. I thought that was too low, so \$100 was chosen. I would be amenable to incorporating whatever amount the Committee feels is necessary.

**Vice Chair Conklin:**

Ms. Allen, are you satisfied?

**Assemblywoman Allen:**

It is workable, but we need to work on the amount. It seems too low.

**Assemblywoman Kirkpatrick:**

How many people would serve on the board of the NATA?

**Assemblyman Ocegüera:**

The total would be 13.

**Assemblywoman Kirkpatrick:**

On page 2, line 22, it states, "The sheriff of a county whose population is 100,000...." By the next census more counties will meet that population figure. Is there room to add representatives from these counties when they reach that population benchmark?

**Assemblyman Ocegüera:**

At the organizational meeting for discussion of this bill's language, the group indicated that what happens in southern Nevada will eventually happen in northern Nevada about six months later. We wanted to ensure that representatives from all sections of the State would be included on the board of the NATA. We can work on that.

**Assemblywoman Kirkpatrick:**

Do you know how the 50 cents assessment fee would be listed on the policyholder's bill?

**Assemblyman Ocegüera:**

It could be left up to the individual insurance company. In Arizona, several different methods are used to identify the assessment fee. We can work on the specifics of the language through the Insurance Commissioner and through regulation.

**Assemblywoman Kirkpatrick:**

I would like to see the NATA fee clearly identified as a consumer protection fee.

**Assemblyman Ocegüera:**

Okay.

**Assemblyman Settelmeyer:**

The bill states only 10 percent of the fund can go to administrative expenses. Did Clark County recently pass a tax to fund more law enforcement officers? Is it possible that these additional police officers can help curb the auto thefts? If not, why not?

**Assemblyman Ocegüera:**

It will certainly help. The process in this bill is streamlined. A district attorney will be involved from the start. When a problem area for auto theft is identified, the NATA can direct funds to that particular region to curb the problem.

**Assemblyman Settelmeyer:**

I am concerned about the duplication of efforts. We would be establishing a new entity to do the same tasks as an established one already does.

**Assemblyman Ocegura:**

When the law enforcement personnel come up to testify, I will have them address that issue. They do joint task force operations for other criminal activities, and it is an effective method for curbing crime.

**Assemblyman Horne:**

Is there a section in the bill that gives the NATA the right to apply for federal grant money? The bill states the NATA can make grants to different jurisdictions.

**Assemblyman Ocegura:**

Section 8 allows the NATA to apply for and accept grants to use to carry out its duties.

**Assemblyman Horne:**

Are the current budgets of the different law enforcement agencies insufficient to carry out their duties?

**Assemblyman Ocegura:**

Law enforcement agencies have indicated that auto theft receives a lower funding priority because more serious criminal activities take precedence. The Department of Motor Vehicles requested six enforcement officers to work auto theft crimes, but they did not receive that budget request.

**Assemblyman Anderson:**

In Section 12, I am concerned about judicial discretion. On lines 25-29, the language says a person with a prior conviction of automobile theft cannot be released on probation or granted a suspended sentence. This type of language is partly responsible for prison overcrowding. There is a need for some discretion or additional options available to the sentencing judge. Do you consider this language to be essential?

**Assemblyman Ocegura:**

I am aware of your concerns about the growth in prison population and the overcrowding problems being created in the prison system. Ten percent of the criminals are committing 90 percent of the crimes. If we can take this 10 percent off the streets, we can significantly reduce auto theft crimes. A strict enforcement section in this bill is essential.



**Assemblyman Anderson:**

Does the language "must not be released" mean we do not trust the judges' ability to recognize the 10 percent of the criminals who are committing the most offenses? I want to make sure I am drawing the right conclusion. I do not doubt the statistics, or the trust you have in the people who have provided you with the information. My concern is the words "must not be released" for a second offense. That is a high standard.

**Assemblyman Ocegüera:**

Mr. Anderson, as always, I would be willing to work with you to develop language that would satisfy your needs and mine. I do believe that strict enforcement needs to be part of this legislation.

**Assemblyman Anderson:**

I, too, believe in strict enforcement. I would be happy to work on the language with you.

**Assemblyman Christensen:**

I have concerns about creating any kind of new bureaucracy. What amount of money for the NATA operating fund is expected from the policyholders' 50 cents assessment fees?

**Assemblyman Ocegüera:**

This bill does not create a new bureaucracy. It creates new cooperation. It forces all the concerned entities to work together. The NATA does not do the actual enforcement, but they provide funds to help local agencies get the criminals off the streets. Time lines are in the bill. It will take a while to collect the funds and hire necessary personnel. The assessment fee will raise about \$1.7 million. Ten percent of that amount is \$170,000, which is the maximum allowable for administration expenses. There is also a cap on the administrator's salary at \$75,000.

**Assemblyman Christensen:**

Are we already doing these activities to curb auto theft crimes through our existing law enforcement?

**Assemblyman Ocegüera:**

Yes, the different law enforcement agencies are working on preventing auto theft crime, but this legislation will give them an opportunity to make a unified and concerted effort. It is a cooperative team approach to the problem.

**Vice Chair Conklin:**

Are there any other questions? Are there others wishing to testify in support of the bill?

**Robert L. Compan, representing Farmers Insurance:**

We are in support of this bill. The creation of the NATA will address concerns not only in Clark County, but also in the rest of the State. Since this legislation is modeled on Arizona's, I would like to share some of their successes with you. For every dollar contributed to the Arizona Automobile Theft Authority (AATA) Task Force through their assessment fees, the AATA recovered \$12.37 in stolen automobiles. Arizona has experienced a 4 percent reduction in the rate of auto theft while at the same time they have experienced an increase in population. The Arizona Criminal Justice Commission said that the "Watch Your Car" program was the single most effective automobile theft deterrent system in the state. The AATA oversees this program.

To participate in the "Watch Your Car" program the car owner places a sticker on his car. If your car is spotted by law enforcement between the hours of 1:00 a.m. and 5:00 a.m., the sticker gives law enforcement automatic authorization to pull the car over. It is a voluntary program. Every seventh car stopped during this time period is a stolen vehicle. Eleven percent of the cars were stopped before the car owner realized his car had been stolen. The Vehicle Task Force recovered 2,707 cars in 2006. The AATA also coordinated other activities, such as Vehicle Identification Number (VIN) etching. The VIN is etched on the car glass. It deters "chop shop" thefts. There were 303 arrests last year for auto theft, and 41 "chop shops" were investigated by the AATA. Arizona also has a vertical prosecution program that is administered by the AATA. Prosecutors who specialize in auto theft cases receive grants from the AATA. These prosecutors filed 2,994 auto theft cases between 2001 and 2006. They obtained 2,184 convictions on these cases.

The operating budget for the AATA cannot exceed 10 percent of the assessment fees collected. The NATA will be a lean, mean, fighting machine. States that have funded Automobile Theft Authorities are three times more likely to see a decline in auto theft rates. Nevada is currently an open door to auto thieves. California and Arizona have Automobile Theft Authorities. I would be happy to answer any questions.

**Vice Chair Conklin:**

Are there any questions?

**Assemblyman Anderson:**

Did you say for every dollar invested in the Arizona program there was a return of \$12.37 in recovered property?

**Robert Compan:**

Yes, that is the figure.

**Assemblyman Anderson:**

What was the value of the automobiles recovered?

**Robert Compan:**

I do not have that figure.

**Assemblyman Anderson:**

I ask the question because I envision that some of these stolen vehicles were high-end. They would be the ones found in "chop shops." How does Arizona delineate between a vehicle that is stolen for "joy-riding," and one that is selected to be remarketed by "chop shops" or sold?

**Robert Compan:**

I will defer that question to law enforcement. To answer your question about the value of the stolen automobiles, the number one stolen car is a 1996 Honda Civic. I suspect the AATA is finding that the majority of stolen vehicles are common ones that can be sold or salvaged for parts.

[Vice Chair Conklin left and Assemblyman Anderson became the Acting Vice Chair for the hearing.]

**Acting Vice Chair Anderson:**

Does that mean Arizona does not delineate between someone who is stealing a car for "joy-riding" and someone who is committing grand theft auto?

**Robert Compan:**

I do not have that information, but I will get it for you.

**Assemblyman Settlemeyer:**

Are the insurance companies willing to guarantee that they will not pass the cost of the assessment fee on to the policyholders since they will be saving so much money from the recovery of stolen vehicles?

**Robert Compan:**

The insurance companies are not paying the fee. It is a pass-through assessment fee to the policyholder.

**Assemblyman Settlemeyer:**

If the insurance companies are going to save so much money, the language could be amended to have them pay the fee.

**Robert Compan:**

You will be addressing the whole realm of insurance costs. Stolen vehicles are one of many cost drivers for insurance rates. Insurance policies are made up of different sections. As required by Nevada law, liability insurance is part of the policy. That is probably the number one cost driver for insurance rates. There is also collision coverage on a vehicle, which is the second-largest portion of an insurance policy premium. The third section of a policy is comprehensive insurance, which covers numerous items such as theft, fire, and wind. While the assessment fee for the NATA is a cost driver, I cannot give you a guarantee that it will not affect the premium on an insurance policy. It will have to be actuarially measured to see how the program works, and how it affects the cost factor of the comprehensive section of an insurance policy. Amending language to place a "sunset" clause in the bill would make it possible for the State to revisit the program in the future. Then, the Legislature could evaluate the benefits of the program to both the consumers and the insurance companies. At that time, the Legislature can also look at how the program is affecting the cost of insurance policies for Nevadans.

**Assemblyman Horne:**

When did Arizona establish their AATA? The report we were given is dated 2006.

**Robert Compan:**

I would like to ask Mr. Cooley from State Farm to answer because he has more information on the creation of the AATA.

**Kenneth W. Cooley, representing State Farm Insurance Company:**

The AATA was originally established in 1992, but at that time it was a voluntary program. Funding was formalized in the late 1990s. Starting in 2002, there was increased enforcement of the AATA provisions. At this point the "Watch Your Car" program was initiated. The programs have proceeded by combining the elements of increased enforcement, prosecution, and public awareness. In 2002, the public awareness program of the AATA was dramatically ramped up throughout the state. When this happened, the AATA trend line for automobile thefts started to flatten out. It is also the year that Nevada's automobile theft statistics started to climb.

**Assemblyman Horne:**

Since 2002, has Arizona realized a decrease in automobile insurance premiums?

**Kenneth Cooley:**

As Mr. Compan explained, automobile theft is only a piece of the comprehensive part of the total insurance premium. Since 2002, the number of automobile thefts has stayed at the same level. The actuarial pressure for rate increases for comprehensive coverage in Arizona has declined. Premiums are set to meet anticipated losses, and the anticipated losses for automobile theft have slowed in Arizona.

**Assemblyman Horne:**

If the NATA is created with tax dollars, and there is a reduction in automobile theft, will constituents continue to ask why Nevada still has the highest automobile insurance premiums in the nation? I want to have a good explanation. In Arizona there has been a decrease in automobile thefts, but there has not been a corresponding decrease in automobile insurance premiums.

**Kenneth Cooley:**

The lion's share of an automobile insurance policy is the liability coverage. There is interest in this Committee to look at the cost-drivers that affect liability coverage. That would be a productive inquiry, and we strongly support it. In the 1980s, California began to see dramatic increases in liability coverage. That state evaluated a whole series of cost drivers that affected the liability coverage. Enforcement of seat belt laws affects liability coverage claims. In Nevada there is a high rate of compliance with the seat belt law, but typically young people do not buckle up at the same rate as the rest of the population. Therefore, a primary seat belt law would be a good method for lowering insurance premiums in this State. This bill addresses the cost of comprehensive coverage, which is a small part of the total insurance package. People who buy limited insurance policies in Nevada do not buy comprehensive coverage. If you pinpoint problem areas and find solutions for them, there will be a positive impact on insurance premiums. State Farm and the other insurance companies are willing to bring forth ideas that will help lower premiums.

**Acting Vice Chair Anderson:**

Are there other questions?

**Kenneth Cooley:**

Clearly, Nevada has a huge issue with automobile theft. As this Legislature finds ways to focus resources on the problem of automobile theft, it will turn the problem around. In March, the Insurance Commissioner presented statistics that show the rate of automobile theft in Nevada is climbing faster than the rate of population growth. The assessment fee in this bill is a pass-through amount of money. The civil penalty of \$100 will revert to the NATA fund. A "sunset" clause to prompt a review of the NATA would be a good idea, and we suggest

a date of December 31, 2013. That date would give the reviewers several years of data for evaluation.

**Acting Vice Chair Anderson:**

Are there other questions?

**Jim Spinello, representing Progressive Insurance:**

We support this bill. Clarification in Section 10 on how the actual fee of 50 cents is collected on a semi-annual basis could be handled through regulation. The amount could be collected by vehicle, by the policy, or by using a "count" day. I am willing to develop some suggested language for the Committee's consideration.

**Acting Vice Chair Anderson:**

We appreciate your input. Research will need that information as soon as possible.

**Tom Roberts, Lieutenant, Internal Affairs Section, Las Vegas Metropolitan Police Department:**

I will try to answer some of Mr. Settelmeyer's and Mr. Horne's concerns. Our Department recognizes that we have an automobile theft problem in Clark County. To combat vehicle theft, we have doubled the size of our auto theft detail within the last year. Through our own funding we have added a fleet of "bait" cars in cooperation with the insurance providers. We have "beefed" up our Vehicle Investigations Project for Enforcement and Recovery (VIPER) Task Force. We are doing a lot to combat the problem, but at this point it is not enough. We need increased punishment for habitual offenders. This bill will increase those penalties, and it will mandate a collaborative effort to combat automobile theft. The bill also will provide a funding source for education programs, enforcement, and prosecution.

**Acting Vice Chair Anderson:**

What is the recovery rate for stolen vehicles in Clark County?

**Tom Roberts:**

I do not have those figures available, but I can get them to you by this afternoon. I believe the recovery rate runs about 35 to 50 percent.

**Acting Vice Chair Anderson:**

What percentage of those recovered vehicles were used for "joy-riding," as opposed to people abandoning their vehicles then calling their insurance companies to report they were stolen?

**Tom Roberts:**

I do not have those figures; but this bill, through collaborative efforts with the insurance companies, will address fraud and other fraud issues. The part of the bill for criminal penalties addresses only the habitual offenders.

**Acting Vice Chair Anderson:**

How do you determine who is "joy-riding" versus someone who has stolen a vehicle for other purposes?

**Tom Roberts:**

The person who is apprehended is interviewed, and at that point you might be able to discern the purpose of the theft. If someone is caught twice taking a car for "joy-riding," maybe he will realize he made a poor choice.

**Acting Vice Chair Anderson:**

Are there any questions?

**Assemblyman Parks:**

During the period the State actively implemented the VIPER Task Force, I chaired a state budget subcommittee. For financial reasons, the State decided to drop that program. I opposed that decision, but I yielded to fiscal constraints. How will the VIPER Task Force and other organizations relate to the NATA?

**Tom Roberts:**

We resurrected the VIPER Task Force and "beefed" it up. We have increased prosecutions through the district attorney's office. Grants to purchase additional equipment and funding for further vertical prosecution could all fit into the VIPER Task Force program.

**Acting Vice Chair Anderson:**

Are there any questions?

**Tim Kuzanek, Washoe County Sheriff's Office:**

We support this bill. It is usual for the police in Washoe County to see a crime trend that has developed in Clark County move north. It usually takes 6 to 24 months. The automobile theft crime rate in Clark County is a significant concern to us. The Washoe County Sheriff's Office is involved in a number of task forces and cooperative efforts to work on specific crime areas. Those groups are the most effective means to make a difference.

**Acting Vice Chair Anderson:**

Are there any questions? What is the recovery rate in Washoe County for stolen vehicles?

**Tim Kuzanek:**

It is between 35 to 50 percent. The number of stolen vehicles on a yearly basis is trending upward, and has been doing so for the last three years.

**Acting Vice Chair Anderson:**

Is the increase in stolen vehicles linked to the increase in population?

**Tim Kuzanek:**

The problem is twofold. First, there is a direct connection with the increase in population. Second, there is an increase directly related to circumstances which evolve in the crime world. For example, in 2004 there was a run on stealing Saturns. The reason was the criminal element became familiar with a simple way to steal that particular car.

**Tom Roberts:**

I was not correct on our recovery rate for stolen vehicles in Clark County. It is a little better than what I said. It runs 75 to 80 percent. Twenty-five percent of that amount is "chop shop" recovered vehicles.

**Ben Graham, representing the Clark County District Attorney and the Nevada District Attorneys Association:**

We support this bill. We look forward to working with the NATA if it is established. It is not without precedent. We have a task force dealing with sexual offenses and crimes that also includes more prosecutorial involvement. We have specialized prosecution units for vehicular homicides and driving under the influence violations. We have a gun unit, which is federally funded. Having a harsh penalty for habitual offenders engaged in automobile theft is also not without precedent. For example, the Legislature has mandated that criminals with a prior burglary conviction should have constraints on probation. It is a policy decision. We look forward to working with this group and developing a statewide program that would help control automobile thefts.

**Acting Vice Chair Anderson:**

Are there any questions?

**Assemblyman Manendo:**

Auto theft is a huge issue. A former legislator has a "chop shop" across the street from his house. He has called the police several times about the activity, but the police do not respond. We are trying to encourage the public to become



involved. We suggest that people be nosey neighbors and join Neighborhood Watch programs. It is discouraging for the public to not see any response when a call is made to report suspicious circumstances. Clearly an opportunity is lost. What do we tell people who do not get a police response when they call them for action?

**Tom Roberts:**

That situation is unacceptable. When a citizen calls, there should be a police response. If you give me the address, I will look into the problem. I can assure you it will not happen again. We can fix those problems.

**Assemblyman Christensen:**

Do we need this new NATA? Is there anything else we can do with our existing resources?

**Tom Roberts:**

We have doubled the size of our auto theft detail. We have resurrected and improved the VIPER Task Force. We have added a fleet of "bait" cars. Also, we are working closely with the district attorney's office. We can always use extra help. It is a big problem, and establishing the NATA will give us another tool that we can use. The more people come together, the more solutions can be found for the problem. Funding and tougher prosecution will also help.

**Acting Vice Chair Anderson:**

Is there anyone else wishing to testify in support of the bill?

**Wayne Frediani, representing the Nevada Franchised Auto Dealers Association:**

We support A.B. 619. Las Vegas is "car town U.S.A." in terms of sales, registration, and dealership growth. There is no end in sight, and it represents more opportunities for auto theft criminals. A dealer's property and casualty insurance premiums are a large part of our overhead costs. Theft drives premium increases.

**Acting Vice Chair Anderson:**

Are there any questions? Is there any opposition to the bill? Does anyone wish to speak from a neutral position? Seeing none, I am closing the hearing on A.B. 619. I have a letter from Michael Geeser to submit for the record ([Exhibit D](#)).

[Chair Oceguela presided over the remainder of the hearing.]

**Chair Oceguela:**

I am opening the work session and Senate Bill 53 (1st Reprint).

**Senate Bill 53 (1st Reprint):** Provides that advertising or conducting a live musical performance or production through the use of a false, deceptive or misleading affiliation, connection or association between a performing group and a recording group constitutes a deceptive trade practice. (BDR 52-220)

**Dave Ziegler, Committee Policy Analyst:**

I have distributed the work session documents ([Exhibit E](#)). This bill was introduced by Senators Heck and Horsford. This bill states a person is engaging in a deceptive trade practice if he advertises or conducts a live musical performance through the use of a false, deceptive, or misleading affiliation, connection, or association with a recording group. There are five conditions under which no deceptive trade practice occurs. They are:

- The performing group owns the registered federal service mark for the recording group;
- At least one member of the performing group was a member of the recording group and has a legal right by virtue of use or operation under the group name;
- The performance is clearly identified as a salute or tribute and is not confusing or misleading to the public;
- The advertising does not relate to a live performance in Nevada; or
- The performance is expressly authorized by the recording group.

The Chairman requested and received comments on S.B. 53 (R1) from:

- Professor Mary LaFrance, William S. Boyd School of Law, University of Nevada, Las Vegas, Attachment 1 of ([Exhibit E](#)); and
- Mr. Mark G. Tratos, Managing Shareholder, Greenberg Traurig, LLP, Attachment 2 of ([Exhibit E](#)).

The Chairman also received responses to those comments from Darren B. Cohen, Reed Smith, LLP Attachments 3 and 4 of ([Exhibit E](#)). The Research Division has suggested three amendments Attachment 5 of ([Exhibit E](#)).

The Chairman asked to have all the information summarized. The summary page is located behind the front cover of your notebook. The Chairman asked if there were any logical amendments that could be distilled from that information. The suggested amendments are located in the mock-up proposed in Attachment 5.

**Chair Ocegüera:**

I suggested the additional research to provide more technical information on the bill. The amendments proposed would not substantially change the bill, but

they would make it better. Senators Heck and Horsford are in agreement. Are there any comments? Seeing none, I will accept a motion.

ASSEMBLYWOMAN KIRKPATRICK MOVED TO AMEND AND DO PASS AS AMENDED SENATE BILL 53 (1ST REPRINT) BY ADOPTING ATTACHMENT 5.

ASSEMBLYMAN ANDERSON SECONDED THE MOTION.

Is there any discussion? Seeing none, I will take the vote.

THE MOTION PASSED. (ASSEMBLYMEN ARBERRY, BUCKLEY AND CONKLIN WERE ABSENT FOR THE VOTE.)

Mr. Christensen will take the bill to the Floor. I am opening the hearing on Senate Bill 69 (1st Reprint).

**Senate Bill 69 (1st Reprint): Revises provisions related to real estate brokers, salesmen and qualified intermediaries. (BDR 54-457)**

**Dave Ziegler, Committee Policy Analyst:**

This bill was sponsored by Senator Schneider ([Exhibit E](#)). It revises duties and relationships of real estate licensees. It defines an agency relationship arising out of a brokerage agreement and excuses a licensee from presenting all offers to a client if the client waives that duty in writing. The Real Estate Division may take disciplinary action against a person who communicates directly with a client after negotiation of a sale, exchange, or lease but before closing if that person:

- Knows the client has a brokerage agreement in force with another broker; and
- Has not secured permission in writing from the other broker to communicate with the client.

Negotiating or communicating with written permission does not create an agency relationship between that person and the client of the other broker. There is a mock-up of the bill with proposed amendments in your notebook.

**Chair Oceguela:**

Do you know the specifics of Mr. Conklin's amendment?

**Dave Ziegler:**

I have reviewed it and compared it with the other proposed amendments. There may be other persons here who can better speak to those specifics.

**Rocky Finseth, representing the Nevada Association of Realtors:**

We do not have the May 14, 2007, mock-up of the bill, but we do have an earlier version. Mr. Conklin wanted to rearrange some components that were contained in the original draft of the bill. He also wanted to further define Section 1.7, which lists the duties that can be waived by a licensee, and he wanted to restructure Section 3 of *Nevada Revised Statutes* (NRS) 645.254.

**Chair Ocegüera:**

Have you been working with Mr. Conklin on this?

**Rocky Finseth:**

Yes, we have and we are in full agreement with his proposals.

**Gail J. Anderson, Administrator, Real Estate Division, Department of Business and Industry:**

Yes, we have worked with Mr. Conklin on the proposed amendments, and we agree with the suggested changes.

**Chair Ocegüera:**

Are there any questions?

**Assemblyman Horne:**

Are we accepting the amendments proposed by Michael Stoberski?

**Teresa B. McKee, representing the Nevada Association of Realtors:**

His amendments are not included in this mock-up bill. His suggested changes are independent of what was discussed with Mr. Conklin. The Association takes no position in opposition or support of his amendments.

**Chair Ocegüera:**

Mr. Ziegler can comment on that proposed amendment.

**Dave Ziegler:**

I compared the Stoberski amendment to the mock-up. There were only two parts that the Committee needs to consider. Section 3, subsection 3 (a), would add language that says, "seeking a sale, purchase option, rental, or lease of real property." This language would expand the existing language on page 2, line 14, of the mock-up bill. At the end of his mock-up bill, there is a suggested change to NRS 645.252 that is not in the other documents that the Committee received. It says, "A licensee does not have a duty to conduct an investigation of the condition of the property."

**Assemblyman Settlemeyer:**

I want to know if we accept all the suggested amendments to the bill, will they be in conflict with each other?

**Chair Oceguera:**

We will find out the answer.

**Assemblywoman Kirkpatrick:**

This is the bill that we discussed not putting the language in a separate chapter of NRS. In the mock-up bill, why are we changing Section 3, subsection 4, on the waiver? Also, in the mock-up bill on Section 4, lines 43-45, we were trying to rewrite that language, and in subsection 2, there is a large portion of the language omitted.

**Chair Oceguera:**

We will hold this bill until our Legal Counsel and Mr. Conklin arrive, and then we can get their input on all the questions posed. I am opening the hearing on Senate Bill 111.

**Senate Bill 111: Clarifies applicability of certain provisions to certain suppliers of utility services. (BDR 58-985)**

**Dave Ziegler, Committee Policy Analyst:**

This bill was sponsored by Senator McGinness. It clarifies that a cooperative association, nonprofit organization, or other supplier that provides utility services only to its own members is exempt from the Utility Environmental Protection Act (UEPA), which regulates the permitting process for construction of new utility facilities. We received two amendments on the day of the hearing. The proposed amendments are in your notebook ([Exhibit E](#)).

**Chair Oceguera:**

Are there any questions?

**Assemblyman Horne:**

Why are we exempting these providers? What was the rationale?

**Clay Fitch, representing the Nevada Rural Electric Association:**

The bill was not brought forward to avoid environmental review. If these associations are not exempt there is a duplication of process. They currently are required to go through a federal environmental review. Invariably, the places where we would build facilities are on public property, which requires federal oversight. However, if our facilities do not have to go through a federal review, we would go through a state environmental review.

**Kyle Davis, representing the Nevada Conservation League:**

Mr. Fitch has outlined why we came forward with the amendments.

**Chair Oceguela:**

Mr. Horne, are you satisfied? [Mr. Horne nodded in the affirmative.] If there are no other questions, I will accept a motion.

ASSEMBLYMAN SETTELMAYER MOVED TO AMEND AND DO  
PASS AS AMENDED SENATE BILL 111 BY ADOPTING THE  
MOCK-UP BILL.

ASSEMBLYWOMAN ALLEN SECONDED THE MOTION.

Is there any discussion?

**Assemblywoman Buckley:**

Does the amendment include all of the suggested amendments? The provisions would not apply if the utility is jointly owned with any other entity that is not a cooperative or nonprofit organization. Is that correct?

**Chair Oceguela:**

Yes, that is correct.

**Assemblyman Anderson:**

Are the Conservation League's amendments also included?

**Chair Oceguela:**

That is correct. Are there any other questions? Seeing none, I will take the vote.

THE MOTION PASSED UNANIMOUSLY.

Mr. Settelmeyer will take the bill to the Floor. I am opening the hearing on Senate Bill 113 (1st Reprint).

**Senate Bill 113 (1st Reprint): Requires certain policies of health insurance and health care plans to provide coverage for screenings for prostate cancer in certain circumstances. (BDR 57-333)**

**Dave Ziegler, Committee Policy Analyst:**

This bill was sponsored by Senator Coffin ([Exhibit E](#)). It will require health care plans and policies that provide coverage for prostate cancer treatment to also cover annual prostate cancer screenings in accordance with the guidelines of

the American Cancer Society or another nationally recognized professional organization. A policy or contract issued or renewed after October 1, 2007, is deemed to provide this coverage, and any provisions that conflict with the bill are void. Senate Bill 113 (R1) applies to:

- An individual health insurance policy;
- A group health insurance policy;
- A contract with a nonprofit medical service corporation;
- A health maintenance organization;
- A managed care organization;
- A self-insurance program of a local government agency; and
- The Public Employees' Benefits Program.

There were no amendments to the bill.

**Chair Ocegüera:**

Are there any questions?

**Assemblywoman Buckley:**

I support the bill, but I am concerned about the cervical cancer bill. These bills are separate. Senate Bill 409 (1st Reprint), the cervical cancer bill, appears later in today's agenda. There was reluctance to support women's health issues by some of the local governments, and that lack of support is unacceptable. We should combine the bills, and be supportive of both men's and women's health issues.

**Assemblyman Mabey:**

I am going to vote "no" on both of the bills. My rationale for this decision is last week the *New England Journal of Medicine* came out with some information regarding the cervical cancer vaccine and its effectiveness. It would be wise to wait another session to determine the efficacy of the vaccine. It will probably be effective for those women who have not become sexually active. For those women who are sexually active, there are concerns. Also, if either bill passes, it will affect only 25 to 30 percent of Nevadans because most of our health care plans are under ERISA (Employee Retirement Income Security Act), which makes them exempt from this bill. Further, when the Legislature mandates insurance coverage, it makes the cost of other health care policies go up. People do not want to buy a major medical insurance plan which has a large deductible. I do not want to vote for one of the bills without voting for the other, and at this point I have to hold on the cervical cancer vaccine bill.

**Assemblyman Settlemeyer:**

I was concerned about the fiscal impact on local governments for an unfunded mandate for prostate cancer screening. I suggest an amendment to the cervical cancer vaccine bill to limit the provision to women in the 11 to 26 age group where the vaccine has proven to be effective.

**Assemblywoman Buckley:**

I note a couple of items in the *Journal's* article. First, the bill does not mandate which vaccine will be used. Physicians and patients are the people who should be making this decision, and the State should not be involved in that process. Second, when more studies come out, physicians often change their minds about the effectiveness of drugs. Doctors are the people in charge of advising patients about what is proper for that person and for their families. This bill will make care available to a large group of people. These are mandates for prevention. The cost of having protection against these cancers versus the cost of treating them and the impact on our health care delivery system needs to be considered.

**Chair Ocegura:**

Are there other questions or comments?

**Assemblywoman Buckley:**

I would like to make a motion to Amend and Do Pass the combination of Senate Bill 113 (1st Reprint) and Senate Bill 409 (1st Reprint).

**Chair Ocegura:**

I have a motion.

ASSEMBLYWOMAN BUCKLEY MOVED TO AMEND AND DO PASS  
SENATE BILL 113 (1ST REPRINT) BY COMBINING  
SENATE BILL 113 (1ST REPRINT) with SENATE BILL 409  
(1ST REPRINT).

ASSEMBLYWOMAN KIRKPATRICK SECONDED THE MOTION.

Is there any discussion on the motion?

**Assemblyman Anderson:**

The sponsors of S.B. 409 (R1) should be included in the amended version of S.B. 113 (R1) if they agree with the combining of the bills.



**Assemblywoman Buckley:**

Yes, that would be part of the amendment. We also need to ensure that the provisions are consistent so the applicability is the same.

**Chair Ocegüera:**

Are there other comments? Seeing none, I will take the vote.

THE MOTION PASSED. (ASSEMBLYMEN CHRISTENSEN, MABEY,  
AND SETTELMAYER VOTED NO.)

Mr. Parks will handle the bills on the Floor. I am reopening the hearing on S.B. 69 (R1). Mr. Conklin, we had some questions on your mock-up bill. Would you walk us through the mock-up bill?

**Assemblyman Conklin:**

We will start on page 2 of the mock-up because the linear changes begin at that point. In what would be Section 3 of the bill, the language would clarify the ability of a client to waive the receipt of all offers presented on his property. This provision is the most complicated in the bill. Menu-driven services are a new business model in real estate agencies, which means for each service the agency provides there is a charge. One of the items essential to a menu-driven agency is the presentation or the receipt of offers. The United States Department of Justice called me to make sure we were not doing away with menu-driven services because the right to have them is constitutionally protected. Originally, the bill had a Section 3 with five subsections. We have decided to list these items individually to make it clear that all of the provisions in Section 3 are requirements for any real estate broker whether he has a menu-driven operation or not. With the exception of the fourth subsection, this provision can be waived only by the client. The person is not waiving the receipt of all offers. The client is waiving the provision of having the offers go to his real estate agent. He wants to receive the individual offers because he does not want to pay the agent to present the offers.

Under Section 1.3, subsection 2, you have a relationship whereby a real estate agent is representing a buyer and a seller because the seller did not want his agent to do it. The seller waived that optional service in writing. However, the seller is directly interacting with the broker's buyer. This provision will protect the buyer's broker from being liable for information communicated to the seller who has no representation. This type of communication and advice would be allowed only for the normal activity necessary to complete the sale. Some of the language on page 2 has been deleted because the language was moved to the front of the chapter.

**Chair Oceguera:**

Are there any questions?

**Assemblywoman Kirkpatrick:**

On Section 3, subsection 3, we removed the part that says, "promote the interests of the client" and we put in the word "shall." Does that mean the broker has to do it, or he may do it?

**Assemblyman Conklin:**

The original bill said, "...shall promote the interests of his client by...." Following the word "by" there was a listing of duties. We have changed the wording to read, "shall seek." We have a new subsection 4 that says, "You shall present all offers." Followed by a new subsection 5 which says, "You shall disclose to the client." We are strengthening the consumer protections, and clarifying that every real estate agent has the obligation to do all of these duties. The only item that can be waived by any broker is item 4, which says a client can choose to waive that duty by signing a waiver of duty on a form provided by the Real Estate Division. No other provisions can be waived.

**Assemblywoman Kirkpatrick:**

Does the form by the Real Estate Division contain only the waiver that states the broker does not receive the offers?

**Chair Oceguera:**

We will have Ms. Anderson clarify the language.

**Gail J. Anderson, Administrator, Real Estate Division, Department of Business and Industry:**

The form will have only this waiver on it. It will allow the buyer's broker to have direct contact with the client of another broker. The intention is to clarify for the consumer what duty he is waiving. The completed form will go into the real estate transaction file which is maintained by the real estate agency. If a complaint is ever filed against the real estate licensee, the waiving of the right can be documented.

**Assemblywoman Kirkpatrick:**

Would a person have the right to go back and rescind that waiver?

**Gail Anderson:**

If a consumer waives that service, it is waived for the life of that real estate listing. I do not know if the waiver can be amended. I have been informed that there is a provision that states the waiver may be revoked by the consumer in writing.

**Assemblyman Christensen:**

Is the provision for disciplinary action by the Real Estate Division to prevent an agent from circumventing the contract?

**Assemblyman Conklin:**

We are talking about a break from normal real estate conventions. The statute has a list of responsibilities that all real estate brokers and agents are required to do. We are making clear that menu-driven real estate services agencies can exist, but they must also abide by everything listed in the chapter except for the provisions that can be waived. In those circumstances where one party has a real estate licensee representing them and the other party does not, the licensee will have both parties talking through him even though he remains obligated to his own client.

**Assemblyman Christensen:**

That answers my question.

**Assemblyman Settlemeyer:**

Do any of the amendments conflict with each other?

**Chair Oceguera:**

Ms. Erdoes, can you determine if there will be any conflict?

**Brenda Erdoes, Committee Counsel:**

I will check.

**Chair Oceguera:**

Are there any other questions? We will hold this bill for a few minutes to permit Ms. Erdoes time to do the research. I am opening the hearing on Senate Bill 279 (1st Reprint).

**Senate Bill 279 (1st Reprint): Makes various changes concerning contractors and the State Contractors' Board. (BDR 54-624)**

**Assemblyman Conklin:**

The Chairman of Judiciary and the chair of the subcommittee discussed this bill with me ([Exhibit E](#)). We have been working with the parties involved with the amendment, and we have an agreement. We are waiting for drafting to provide us a copy to check to see if it expressly contains the language agreed to. I would like to request that we move the hearing on this bill to Friday.

**Assemblyman Conklin:**

Okay. I am opening the hearing on Senate Bill 280 (1st Reprint).

**Senate Bill 280 (1st Reprint): Revises provisions related to patients' bills.  
(BDR 54-303)**

**Dave Ziegler, Committee Policy Analyst:**

This bill was sponsored by the Senate Committee on Commerce and Labor on behalf of the Legislative Committee on Health Care. It requires a provider of health care, as defined in the bill, to provide a patient with an itemized bill within a 120-day period, beginning when the latest of these events occurs:

- The provider receives the correct billing information to contact the patient;
- The provider receives documentation of a final determination from the patient's health insurer regarding the extent of coverage, if any; or
- The provider determines the patient does not have coverage from a health insurer.

The bill exempts licensed hospitals from these requirements. There were no amendments ([Exhibit E](#)).

**Chair Oceguela:**

Mr. Zeigler, why were the hospitals exempt?

**Dave Ziegler:**

According to the minutes of the Senate discussions, there is a separate provision in statute that applies to hospitals. It requires hospitals to provide billings in a timely manner.

**Chair Oceguela:**

Are there any comments?

**Assemblyman Mabey:**

This bill should not be passed. I talked to my wife who does my doctor's office billing, and she said it would only cause more confusion. The hospitals were originally included in the bill, but they were exempt from the bill's provisions. Most doctors do bill patients in a timely fashion, but insurance companies deal with doctors in different ways. It is not clear when the insurance company determines a doctor can do his actual billing. Then, there is always a final determination of benefits. It is final until the insurance companies decide to change their final determination, which they do. This bill will create more problems.

**Chair Ocegüera:**

Are there other comments? Seeing none, I am closing the hearing on Senate Bill 280 (R1), and opening the hearing on Senate Bill 409 (1st Reprint).

**Senate Bill 409 (1st Reprint): Requires policies of health insurance and health plans to provide coverage for a vaccine to protect against cervical cancer. (BDR 57-1077)**

We are going to hold this bill because Ms. Erdoes has some information on S.B. 69 (R1). I am reopening the hearing on S.B. 69 (R1).

**Brenda Erdoes, Committee Counsel:**

I found one conflict with the amendments to this bill that could not be resolved in its drafting. It is in the definition of agency on both the first and second amendments. The difference is on line 6 where it says, "engaged to do certain acts" on the colored mock-up of the bill, and the wording on mock-up #3992 where it says, "on behalf of the principal in dealings with a third-party" for which a license or permit is required under this chapter. Substantively, the wording in those two statements is a little different. If you want to adopt all three amendments, you need to choose which wording you want, so the language will not be in conflict.

**Chair Ocegüera:**

Are there any suggestions?

**Assemblyman Anderson:**

I would suggest we choose the mock-up version dated May 14, 2007, as our language of choice, and Amend and Do Pass the bill. Ms. Erdoes, did you say we can also include the amendments from the other documents?

**Brenda Erdoes:**

If we choose to do what you suggested, you do not need to adopt the second amendment. Ms. Anderson's amendment is the one that conflicts with mock-up #3992.

**Assemblyman Anderson:**

The amendment from Michael Stoberski does not conflict with the other ones. Is that correct? [Ms. Erdoes nodded in the affirmative.] Since the agencies are in agreement, I move to Amend and Do Pass, adopting the amendments in mock-up #3992 and Michael Stoberski's amendment.

**Chair Ocegüera:**

I have a motion.

ASSEMBLYMAN ANDERSON MOVED TO AMEND AND DO PASS AS AMENDED SENATE BILL 69 (1ST REPRINT) BY ADOPTING MOCK-UP #3992 AND MICHAEL STOBERSKI'S AMENDMENT.

ASSEMBLYMAN CONKLIN SECONDED THE MOTION.

Is there any discussion?

**Assemblywoman Kirkpatrick:**

I thought we were going to use Ms. Anderson's amendment on the definition of agency. The suggestion is coming from the Real Estate Division, and it is for their regulations.

**Assemblyman Conklin:**

The Stoberski's amendment is covered in mock-up #3992. The differences are subtle, and I do not believe it adds anything of substance to the bill.

**Assemblywoman Kirkpatrick:**

Legal just said there was a conflict that could be addressed in drafting the bill. I am not going to support the bill without the Real Estate Division's definition of agency.

**Gail J. Anderson, Administrator, Real Estate Division, Department of Business and Industry:**

My intention in the amendment was to insert the new language but keep the words, "on behalf of the principal in dealings with a third-party." The additional words I am requesting are "certain acts for which a license or permit is required under this chapter." However, I am also satisfied with Mr. Anderson's motion. My language was just for clarification.

**Chair Oceguela:**

Mr. Anderson and Mrs. Kirkpatrick, are you satisfied? [They nodded in the affirmative.] Are there any other comments?

**Assemblyman Parks:**

I want to disclose that I hold a real estate license. I like the revised language. My earlier concerns have been addressed.

**Chair Oceguela:**

Are there further comments? Seeing none, I will take the vote.

THE MOTION PASSED. (ASSEMBLYWOMAN GANSERT WAS ABSENT FOR THE VOTE.)

Mr. Anderson will take the bill to the Floor. I am opening the hearing on Senate Bill 412 (1st Reprint).

**Senate Bill 412 (1st Reprint): Makes various changes regarding health care.  
(BDR 54-540)**

**Dave Ziegler, Committee Policy Analyst:**

This bill was sponsored by Senator Heck and others ([Exhibit E](#)). It requires the Governor, when making appointments to specified professional licensing boards, to solicit nominees from one or more applicable professional associations. However, the Governor may appoint any qualified person. The bill also:

- Authorizes Nevada's Board of Medical Examiners (BME) to issue a restricted license and the State Board of Osteopathic Medicine (BOM) to issue a special license to a graduate of a foreign medical school if the applicant meets certain qualifications;
- Authorizes the BME and the BOM to issue a license by endorsement to an applicant who meets specified criteria;
- Authorizes the Board of Dispensing Opticians to issue a special license to certain applicants;
- Permits a private, nonprofit medical school to operate with ownership or control shared by persons licensed and not licensed under *Nevada Revised Statute* (NRS) 630, to operate a clinic, and to retain all or part of the money generated by the clinic;
- Changes the requirements for hiring nursing instructors in schools;
- Adopts the Nurse Licensure Compact; and
- Makes changes regarding physician assistants.

This bill went to a subcommittee (Assemblymen Horne, Manendo, and Mabey), and they recommend the amendments shown in the attached mock-up. I reworked that mock-up, and the new version is attached. They appear to be essentially the same. There was a non-substantial typographical error in Senator Heck's mock-up of the bill.

**Chair Ocegüera:**

Mr. Horne, you chaired the subcommittee, do you have anything to add?

**Assemblyman Horne:**

Mr. Ziegler outlined it appropriately, and everything is in there.

**Assemblyman Anderson:**

I suggested a nominating board submit more than one qualified candidate to the Governor, so the Governor will have choices. Was that option considered?

**Assemblyman Horne:**

No, it was not.

**Assemblyman Anderson:**

That would mean the Governor's only choice is to accept or reject the nominee. In which case, the board would present a new nominee. Is that correct?

**Assemblyman Horne:**

We did not discuss the procedure, but that is how it would work.

**Chair Ocegura:**

We also have an amendment from Ms. Gerhardt which we will hear next.

**Assemblywoman Susan I. Gerhardt, Assembly District No. 29:**

I have distributed the proposed amendment to you ([Exhibit F](#)). I gave this amendment to Senator Heck. The original bill was Assembly Bill No. 120 of the 73rd Session. It mandated that doctors and osteopaths would report yearly to their respective licensing boards on the number of office-based surgeries they performed that were under the deepest levels of sedation. In addition, they were required to report on the type of surgery they performed and any unexpected occurrences involving the death or injury of a patient. All those reports were confidential. Prior to this bill, doctors and osteopaths were not required to report these events, even though they would have to do so if the surgery was performed in a hospital or surgical center.

While we are starting to get some information on these surgeries, compliance has been lacking in many respects. Actually that is an understatement. Many doctors do not submit the required reports on the forms mailed to them by their respective boards. The law requires physicians to file reports on the number and type of surgeries requiring the three deepest levels of sedation. However, neither the Board of Medical Examiners (BME) nor the Board of Osteopathic Medicine (BOM) has provided any information in its reports on these events to the Legislature. I have submitted a copy of the report we received from the BME ([Exhibit G](#)), and a copy of the report received from the BOM ([Exhibit H](#)). Not reporting sentinel events arising from in-office surgeries prevents us from pursuing our ultimate goal of improving patient care. This lack of accurate reporting prevents or reduces the likelihood of future adverse events being decreased, and it does not help in maintaining public confidence.

Therefore, the proposed amendment will make parallel changes to NRS 630 and 633. These changes do three things. First, they require doctors to report sentinel events arising from in-office surgeries, using the same forms that



hospitals and ambulatory surgical centers use. This will improve the rigorous reporting of sentinel events, and allow us to compare like procedures. The doctors affected should be familiar with these forms. Second, each physician must submit the annual reports on in-office surgeries whether they perform any surgeries or not. This language was in the original bill, but there was some confusion. If they fail to submit a report, the licensing board will impose a fine not to exceed \$500. This is the amount the Research Division came up with for like offenses in the NRS. For the reporting process to produce meaningful data and enhance patient safety, we need to have all physicians complete the reports. Third, the amendment clarifies that the licensing boards must report to the Governor and the Legislature biennially. This will allow us to evaluate the scope of the patient safety issues as they arise. The goal is to ensure that patients who choose in-office surgery can expect the same quality of care they would receive in a hospital or surgical center. I would be happy to answer any questions.

**Chair Ocegüera:**

Not following through with statute compliance is unacceptable. I received a similar letter saying the numbers of events were included, but there were no numbers. The data provided is valueless. In order to improve the quality of patient care Assembly Bill 555 of the 73rd Session was passed so we could find out necessary information. I assure you we will help.

**Assemblywoman Gerhardt:**

I have been talking to some of the interested parties trying to address this issue. I had a conversation with Keith Lee, and he indicated that the boards have some of this information on the types of surgeries. Apparently, they decided not to submit it. Sentinel events are serious occurrences. People have died, and they have lost limbs.

**Assemblyman Mabey:**

I have received this form, but I do not perform any surgeries. Can we make report compliance a requirement for relicensure?

**Assemblywoman Gerhardt:**

We did discuss that when the bill was brought forward last session. The boards and some of the members were concerned that a red flag would be raised indicating the boards might need to look further at a particular doctor. I did not agree with that objection. Why not look closely at a doctor if he is reporting a sentinel event?

**Assemblyman Mabey:**

I think a \$500 fine is excessive.

**Assemblywoman Gerhardt:**

It is up to \$500. I am flexible on the amount, but something has to be done. This is a serious situation. We looked for a penalty that would be comparable to like statutes, and that was the amount we came up with.

**Chair Ocegueda:**

Would you refresh our memories on the events being made public? We did not identify the hospitals reporting these events. How did that work? Does this bill change that?

**Assemblywoman Gerhardt:**

Hospitals and surgical centers already report sentinel events. The operations are the same that doctors are doing in-office. Because we did not have any regulations, the doctors doing in-office surgeries did not have to report any sentinel events. Unfortunately, we have some "bad actors." Some of these individuals may not have hospital privileges for one reason or another, so they are performing the operations in their offices. Doctors are entitled to administer anesthetic and perform procedures. However, we had heard of office managers watching the anesthetic equipment while the doctor performs the surgery. If something goes wrong, there is no plan in place, no crash cart available, and no one to help. People die and doctors were not required to report those events.

**Chair Ocegueda:**

What information is made public?

**Assemblywoman Gerhardt:**

This is not public information. The concern was it might red flag attorneys to file malpractice suits. All the information is confidential.

**Chair Ocegueda:**

I would like to know if a surgical center is reporting sentinel events.

**Assemblywoman Gerhardt:**

I misunderstood. In-office surgery information is not made public. There is some public notification of sentinel events occurring in hospitals and surgical centers. We did not go that far with this bill. We wanted to know what types of procedures were being performed in office-based surgeries, how many were completed, and how many times there were problems. With this data available, we can evaluate whether or not we need to regulate office-based surgeries. However, we did not get compliance, so we cannot draw any conclusions.

**Chair Ocegueda:**

This is a situation which leads me to believe we need regulation.

**Assemblywoman Gerhardt:**

I reviewed all the testimony from two years ago. One of the comments the boards made was to hold the bill, and they would develop the necessary regulations. They may tell us the same thing this time. I would like to see them put regulations together as opposed to having the Legislature impose the regulations.

**Chair Ocegüera:**

Are there any questions or comments? Mr. Lee, I will permit you to comment since this is a late amendment.

**Keith L. Lee, representing the Board of Medical Examiners:**

Ms. Gerhardt shared this information with me before she brought it to you. I cannot tell you why this board presented their information in summary fashion. I believe that is the way they read the statute. The board presented a summary of in-office surgeries regarding conscious sedation, deep sedation, general anesthesia, and sentinel events. There were 13 sentinel events reported in 2005, and in 2006, there were 9. We have a seven-page package that includes a letter of instruction, a copy of the statute, and the reporting forms that we send to the doctors. There was noncompliance by about 100 doctors in 2005, and 200 in 2006.

Mr. Clark, the Executive Director and Special Counsel for the Board of Medical Examiners, advised me that 90 percent of the compliance reports were missing because the Board could not locate the doctor. When the first letter was returned for a new address, they attempted to find another address in the phone books, but were unable to locate one. We do have an adequate reporting form. In that form, it does ask for the type of surgery performed. The Board did not report that figure in the summary report it submitted. I apologize. We have that information available. We can garner it from the reports we received in each year, and we can provide it to you. I suggest a better information gathering agency may be the Department of Health and Human Services. However, I have not checked with them. Ms. Gerhardt's suggestion to direct the boards to establish regulations may be a better solution than gathering information. The noncompliance reporting was not done intentionally or with any malice. However, we will attempt to comply with the Legislature's requests.

**Chair Ocegüera:**

Are there any questions?

**Assemblyman Mabey:**

I understand the wording for the fine says "not to exceed \$500," but I think the amount is excessive. A \$100 fine would be more reasonable.

**Assemblyman Horne:**

I am okay with the amount of the fine since it says "not to exceed \$500." It should be up to \$500 because here we are two years later trying to resolve the same problems. Perhaps the boards misunderstood our previous directions, so this amendment will make their responsibilities clearer.

**Chair Ocegura:**

Are there any other questions? Seeing none, I will accept a motion.

ASSEMBLYMAN HORNE MOVED TO AMEND AND DO PASS AS AMENDED SENATE BILL 412 (1ST REPRINT) BY ADOPTING THE AMENDMENTS OFFERED BY MR. LEE, THE SUBCOMMITTEE, AND MS. GERHARDT.

ASSEMBLYMAN CONKLIN SECONDED THE MOTION.

Is there any discussion?

**Assemblywoman Buckley:**

A lot of boards give a warning if a licensee fails to submit required reports. The boards provide an extended time period to finish or complete reports. They normally do not impose a fine for failure to file a report. We could add language to say that after the board contacts the person, and the report is still not submitted, then a fine could be imposed. That solution would address Mr. Mabey's concern, but still keep the fine for people who fail to comply. I would like to request a corrected report from the Board of Medical Examiners within the next week. We have waited two years for it.

[Mr. Lee answered in the affirmative from the audience.]

**Chair Ocegura:**

They can adopt the change in the penalty language by regulation.

**Assemblyman Mabey:**

The wording says "shall impose" and that language does not imply a warning. There does need to be some amount of fine in the bill's language. The words could read "may impose."

**Chair Ocegüera:**

They could build that language into regulation. For example, the regulation could say a letter requesting the report could be sent out 30 days prior to the due date. I suggest we add that language to the motion. Mr. Horne and Mr. Conklin, is that satisfactory to you? [Mr. Horne and Mr. Conklin nodded in the affirmative.] I am instructing Ms. Erdoes, Committee Counsel, to incorporate that language in the amendment to the bill. Are there any other concerns? Seeing none, I will take the vote.

THE MOTION PASSED. (ASSEMBLYWOMAN GANSERT WAS ABSENT FOR THE VOTE.)

Mr. Mabey will take the bill to the Floor. We need to consider some bills not on the agenda. I am opening the hearing on Senate Bill 95 (1st Reprint).

**Senate Bill 95 (1st Reprint): Revises provisions governing public utilities. (BDR 58-552)**

We had a motion on this bill to Amend and Do Pass. There was an issue with the bill, but the parties have met, conferred, and reached an agreement on the bill's language.

**Assemblyman Anderson:**

Do you need a motion to rescind the prior motion?

**Chair Ocegüera:**

First, we will hear the testimony on the issue resolution. Then we will decide on the motion procedure.

**Fred Schmidt, representing Ormat Nevada, Inc.:**

Ormat Nevada is a company headquartered in Reno. It is a geothermal plant developer, and it owns and operates nine geothermal plants in Nevada. Ormat is the most successful developer of renewable energy projects in the State. Since the beginning of this year, it has approved contracts to build three new plants in rural areas of Nevada. The plants will be in the 20- to 30-megawatt size range. Ormat presented its testimony in the Senate to support the amendment that would eliminate the Utility Environmental Protection Agency (UEPA) permitting requirement as an unnecessary and costly one for renewable energy projects. The way the UEPA process works there is no distinction between sizes of projects. A plant in our megawatt range has to file the same information and paperwork that a 1500-megawatt coal plant submits. The cost of doing that process spread over a smaller renewable project is a burden, and it increases the overall cost of the project.

We supported the Public Utilities Commission's (PUC) housekeeping bill, Senate Bill 95, which would eliminate that requirement for renewable energy projects. There was a hearing where several environmental groups testified they were concerned that a synthetic tire-burning plant and large wind farms would be removed from the UEPA requirement. I was concerned that an amendment was adopted that would limit the permitting requirement exemption to projects that were under one megawatt, which means the permitting exemption would apply only to small, solar photovoltaic installations that are being promoted under net-metering. We request reconsideration of the amendment to change the limiting requirement from 1 megawatt to 35 megawatts, so geothermal projects will not have to bear the extra cost. The permitting would add about \$50,000 to \$100,000 to a project's cost. It also creates an indefinite time delay for the beginning of project construction. Thirty-five megawatts was chosen as an acceptable number after conferring with the parties who offered the amendment. Mr. Johnson, on behalf of the Sierra Club, and Mr. Davis, on behalf of the Conservation League, have agreed to the 35 megawatts figure. I explained to them the synthetic tire-burning energy plant project must be permitted because it is not considered to be a renewable energy project under the law. The projected, large wind farm plant in Aurora would have to have a permit. We also discussed the matter with the PUC, which sponsored the original bill. It is amenable to changing the 1 megawatt figure to 35 megawatts. In addition, Sierra Pacific Power Company representatives also support the change. We request amending the language from 1 megawatt to 35 megawatts rather than removing the requirement entirely. I would be happy to answer any questions.

**Chair Oceguela:**

Are there any questions? Can we hear concurrence from the other concerned parties?

**Joseph (Joe) Johnson, representing the Toiyabe Chapter Sierra Club:**

We are a proponent of the amendment that was adopted by the Senate. We do concur with the 35 megawatts figure. Mr. Davis is in another hearing, but I can get him at your request.

**Dave Noble, representing the Public Utilities Commission of Nevada:**

The PUC concurs with the figure change in the proposed amendment.

**Judy Stokey, representing the Nevada Power Company and the Sierra Pacific Power Company:**

We are in agreement.

**Chair Oceguela:**

Mr. Settelmeyer, it was your motion on the bill. Can we reconsider the motion?

**Assemblyman Anderson:**

Can we further amend the bill to reflect the proposed change in megawatts?

**Assemblyman Settelmeyer:**

Since the bill has not reached the Floor, I will withdraw my motion.

**Chair Oceguela:**

The only problem is Mr. Christensen seconded the motion, and he is not here. Can we contact him and have him return to this hearing? We will hold on action on S.B. 95 (R1). I am opening the hearing on Senate Bill 3 (1st Reprint).

**Senate Bill 3 (1st Reprint):** Revises various provisions relating to the death benefits payable to surviving spouses of certain police officers and firefighters. (BDR 53-244)

Mr. Conklin has done some more work on this bill, which is [Exhibit I](#). Do you have any comments?

**Assemblyman Conklin:**

The mock-up bill reflects the agreement that Senator Heck and I have on the bill. I have not made any further changes to the bill, but the Committee members have had a chance to review it.

**Chair Oceguela:**

I will accept a motion.

[Assemblyman Christensen returned to the hearing.]

ASSEMBLYWOMAN KIRKPATRICK MOVED TO AMEND AND DO  
PASS AS AMENDED SENATE BILL 3 (1ST REPRINT).

ASSEMBLYMAN CONKLIN SECONDED THE MOTION.

Is there any discussion?

**Assemblyman Mabey:**

I will be in opposition to the bill. I do not believe it is appropriate to cover a police officer's or firefighter's survivor benefits if they did not die while actively employed in their occupation.

**Assemblyman Christensen:**

One of my concerns with the bill is the added cost the State will have to bear if the survivor benefits continue after a spouse remarries. It is my understanding that upon the demise of one of our first responders, the surviving spouse receives an annuity purchased by workers' compensation. The annuity payments continue for the lifetime of the spouse. It is a one-time purchase, so the cost is not linked to remarriage of the spouse. Is that correct?

**Chair Ocegüera:**

Yes, you are right.

**Assemblyman Christensen:**

I believe the remarriage provision should be removed because the money has already been paid. We do not want to discourage people from remarrying or demote family values. It was my understanding that the original intent of the bill was to remove the remarriage provision.

**Chair Ocegüera:**

Are there other comments or questions? Seeing none, I will take the vote.

THE MOTION PASSED. (ASSEMBLYMEN MABEY AND SETTELMAYER VOTED NO. ASSEMBLYWOMAN GANSERT WAS ABSENT FOR THE VOTE.)

I am reopening the hearing on S.B. 95 (R1). Mr. Settelmeyer, would you like to rescind your motion?

ASSEMBLYMAN SETTELMAYER MOVED TO RESCIND THE PREVIOUS ACTION TAKEN ON SENATE BILL 95 (1ST REPRINT).

ASSEMBLYMAN CHRISTENSEN SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYWOMAN GANSERT WAS ABSENT FOR THE VOTE.)

I will accept a new motion to amend the word "1" megawatt to "35" megawatts.



ASSEMBLYWOMAN KIRKPATRICK MOVED TO AMEND AND DO  
PASS AS AMENDED SENATE BILL 95 (1ST REPRINT) BY  
CHANGING 1 MEGAWATT TO 35 MEGAWATTS.

ASSEMBLYMAN CONKLIN SECONDED THE MOTION.

Is there any discussion? Seeing none, I will take the vote.

THE MOTION PASSED. (ASSEMBLYWOMAN GANSERT WAS  
ABSENT FOR THE VOTE.)

I will take S.B. 3 (R1) and S.B. 95 (R1) to the Floor. We will have a joint  
hearing on Friday, and we will also have a work session.

[The meeting was adjourned at 4:17 p.m.]

RESPECTFULLY SUBMITTED:

---

Judith Coolbaugh  
Committee Secretary

APPROVED BY:

---

Assemblyman John Ocegueda, Chair

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

**EXHIBITS**

**Committee Name:** Committee on Commerce and Labor

**Date:** May 16, 2007

**Time of Meeting:** 1:15 p.m.

<b>Bill</b>	<b>Exhibit</b>	<b>Witness / Agency</b>	<b>Description</b>
	A		Agenda
	B		Attendance Roster
AB 619	C	Assemblyman Ocegüera	Arizona Automobile Theft Authority 2006 Annual Report
AB 619	D	Michael Geeser, AAA Nevada	Letter of Support
SB 53 (R1) SB 69 (R1) SB 111 SB 113 (R1) SB 279 (R1) SB 280 (R1) SB 409 (R1) SB 412 (R1) SB 3 (R1)	E	Dave Ziegler, Committee Policy Analyst	Work Session Documents
SB 412 (R1)	F	Assemblywoman Gerhardt	Proposed Amendment
SB 412 (R1)	G	Assemblywoman Gerhardt	Board of Medical Examiners Report
SB 412 (R1)	H	Assemblywoman Gerhardt	Board of Osteopathic Medicine Report