

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

**Seventy-Fourth Session
June 1, 2007**

The Committee on Commerce and Labor was called to order by Chair John Ocegüera at 1:46 p.m., on Friday, June 1, 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/. In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (email: 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.
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

COMMITTEE MEMBERS ABSENT:

Assemblywoman Barbara E. Buckley (Excused)



GUEST LEGISLATORS PRESENT:

Assemblywoman RoseMary Womack, Assembly District No. 23
Senator Joseph J. Heck, Clark County Senatorial District No. 5
Senator Dina Titus, Clark County Senatorial District No. 7
Senator Randolph J. Townsend, Washoe County Senatorial District No. 4

STAFF MEMBERS PRESENT:

Kevin Powers, Committee Counsel
Dave Ziegler, Committee Policy Analyst
Patricia Blackburn, Committee Secretary
Gillis Colgan, Committee Assistant

OTHERS PRESENT:

Teresa Story-Turner, representing the Federation of Exchange Accommodators
Chris Barrett, representing the Federation of Exchange Accommodators
Judy Stokey, Director, Government Affairs, Nevada Power Company and Sierra Pacific Power Company
Rebecca Wagner, Commissioner, Public Utilities Commission of Nevada
Fred Schmidt, representing PowerLight Corporation
Scott Craigie, representing Arizona Public Service Energy Services Company
Don Soderberg, Chair, Public Utilities Commission of Nevada
Marta Stagliano, Acting Program Manager, Energy Assistance Program, Division of Welfare and Supportive Services, Department of Health and Human Services
Jon Sasser, representing Washoe Legal Services
Ed Allison, representing The 1031 Federation

[The roll was called and a quorum was present.]

Chair Oceguela:

We will open the hearing on Senate Bill 476 (2nd Reprint).

Senate Bill 476 (2nd Reprint): Makes various changes concerning business practices. (BDR 54-1389)

Senator Joseph J. Heck, Clark County Senatorial District No. 5:

The reason behind the bill was the recent fiasco that occurred with a qualified exchange intermediary in southern Nevada, the Southwest Exchange.

This company took money from real estate investments to hold until another similar real estate investment was found; but all of a sudden the money was gone. A number of people were left without the money from their previous real estate sales. The most compelling case was an elderly woman who sold her house, left \$60,000 in equity with the intermediary while she located another property, and lost her \$60,000.

In the past, the State registered qualified intermediaries. Based on these occurrences, we thought we should move forward with a more comprehensive regulatory scheme, and that is what is provided for in this bill. The provisions are based on a recently released draft of "best practice principles" from the National Organization of Qualified Intermediaries. We will be one of the first, if not the first state, to adopt the provisions, and we will be one of the first states to license qualified intermediaries. After hearing testimony on the bill, we tried to balance protections for the individual with the ability for entities to continue to carry out their business. We believe we accomplished that.

The bill moves the responsibility for qualified intermediaries from the Real Estate Division to the Division of Financial Institutions. Since there are now requirements for audits, we felt it would be better in that Division where there are trained individuals available to do those audits. The move was agreed to by both the Real Estate Division and the Division of Financial Institutions.

Other provisions requiring actual licensure will be in place. Among the requirements for licensure are that the individual or entity has a \$1 million per occurrence indemnity bond, as well as a \$250,000 errors and omissions insurance policy. Those requirements would provide some protection for people placing money with an intermediary. Someone questioned whether \$1 million per occurrence was enough insurance. It was the opinion of the Senate Commerce and Labor Committee that we are primarily trying to protect the individual who may only utilize a qualified intermediary to hold funds for them once in a lifetime. We needed to balance the cost of intermediaries doing business with the ability to protect those individuals most at risk. If we are looking at an entity, organization, or individual who utilizes these exchanges in the course of their business, he should be more sophisticated and savvy, and utilize an organization with the insurance and bonding he requires.

We are requiring dual signatures for disbursement of money. We are also requiring that the money be held similarly to the way money is held in escrow accounts and with no commingling of funds. There are additional safeguards put into place if the business is sold. The company in question was a stellar company for quite some time. Then the business was sold and problems arose after the new owner took over. This bill requires that before the entity can be

sold to a new owner, the new owner has to go through the licensing process to make sure that the individual is of such repute that he would be able to carry on the business without causing any problems.

Again, there are other provisions within the bill that outline the safeguards. I will not go through all of them unless you have specific questions. It is a consumer protection bill for those who may use the services of qualified intermediaries on a sporadic or once-in-a-lifetime basis.

Chair Ocegüera:

Are there any questions for Senator Heck?

Assemblyman Christensen:

Does this bill have any effect on 1035 exchanges or is it specific to 1031 exchanges? Do qualified intermediaries get involved in 1035 exchanges?

Senator Heck:

This bill has no impact on 1035 exchanges; it is specific to 1031 exchanges as outlined in the federal Internal Revenue Code. As to the second question, I do not know whether 1031-qualified intermediaries get involved with 1035 exchanges. We did not hear testimony on that issue. Perhaps there is someone here who could answer that question.

Teresa Story-Turner, representing the Federation of Exchange Accommodators:

The answer to your question, Assemblyman Christensen, is "no."

Assemblyman Christensen:

The 1031 exchanges are very different from 1035s. The 1035 exchange focuses on registered securities or financial instruments, and I just wanted to be sure that the focus on the 1031 exchanges would not somehow include 1035s. I do not want to be back here in two years having to address that issue.

Chair Ocegüera:

Are there further questions from the Committee? There are several pieces of legislation in the process through both Committees this session that had this affiliate language deleted. Would there be any objection to eliminating the affiliate language?

Senator Heck:

There would be no objection.

Chair Oceguera:

Are there further questions from the Committee? I see none.

Senator Heck:

I believe Assemblywoman Womack has a friendly amendment that we will accept.

Assemblywoman RoseMary Womack, Assembly District No. 23:

[Assemblywoman Womack distributed a proposed amendment ([Exhibit C](#)).]

On page 2 of the mock-up, we have eliminated numbers 2 and 3 in Section 8. Number 2 dealt with a corporation doing a 1031 exchange within its own corporation. By federal law there has to be a disinterested third party, and all this does is say that everyone has to register and abide by these laws so they are not excluded from the provisions of S.B. 476 (R2).

The other proposed amendment is on page 10 of the mock-up and it is the very last line. The language there read "guilty of a misdemeanor" and we changed it to "guilty of a gross misdemeanor." I felt a misdemeanor penalty was not strong enough in a case where someone is not registered and is handling thousands, maybe millions, of dollars of someone else's money. I felt it should have been a felony, but we agreed on a gross misdemeanor for a first-time offense.

Throughout the document you will find we changed the "time uncertain" to ten business days for reporting. If an intermediary leaves one company and goes to another, he must report to the Division of Financial Institutions within ten business days.

We are the first State to come up with regulatory rules for intermediaries and I thank the sponsors of the bill.

Chris Barrett, representing the Federation of Exchange Accommodators:

[Mr. Barrett made a presentation of a document entitled *Qualified Intermediaries & 1031 Exchanges* to Committee members ([Exhibit D](#)).]

Chair Oceguera:

Are there any questions? I see none. Are there others wishing to testify? I see none. We will close the hearing on S.B. 476 (R2) and take a five-minute recess [at 1:58 p.m.].

[Mr. Oceguera left the hearing and Vice Chair Conklin assumed the Chair.]

[The meeting was called back to order at 2:06 p.m. by Vice Chair Conklin]

Vice Chair Conklin:

We will open the work session on Senate Bill 437 (2nd Reprint).

Senate Bill 437 (2nd Reprint): Revises provisions concerning generation and consumption of energy. (BDR 58-232)

Committee members, you have been provided a copy of a proposed mock-up ([Exhibit E](#)). Mr. Powers will explain the mock-up for us.

Kevin Powers, Committee Counsel:

There are text boxes in several areas of the mock-up where proposed amendments are being made. In those boxes is an explanation of how this bill is being amended in relation to other bills that have either passed both Houses or have been passed out of the Assembly.

In Section 1 is an insertion of legislative findings and declarations. As this Committee knows, Assembly Bill 7 was passed to supersede the Nevada Supreme Court's holding with regard to the presumption of reasonableness or prudence. In this bill we are replacing the existing third energy accounting structure with a new quarterly rate adjustment and an annual deferred energy accounting. The purpose of this language is to ensure that the changes being made by S.B. 437 (R2) do not repeal A.B. 7, either expressly or by implication. The language provides that applications for outstanding deferred energy that are still pending would be subject to A.B. 7. The new deferred energy applications under the quarterly rate adjustment procedure language is being added to the statute so that the holding in the Nevada Supreme Court case still does not apply to those applications in the future. That is the purpose of the change. The corresponding language that is being added to Section 42 is identical to language that now exists in the law and applies to natural gas utilities. This will make the natural gas utilities and the electric utilities, which both use quarterly rate adjustments, subject to the same statutory language.

The solar program, which is an incentive program for solar energy systems, is codified throughout Sections 2 through 29 of the bill. At our last meeting, the Public Utilities Commission of Nevada (PUCN) brought forth some technical amendments and throughout Sections 2 through 29 those technical amendments are made.

The next major amendment of note is in Section 25. The proposed amendment revises Section 25 to conform to Section 11 of A.B. 186 (R3), which was passed by the Assembly on May 29, 2007. With regard to school districts

participating in the solar incentive program, it increases the allocation from 1,000 kilowatts to 2,000 kilowatts. In A.B. 186 (R3), it was stated in megawatts, which would have been from 1 megawatt to 2 megawatts, but the equivalent is 2,000 kilowatts, and this carries out that portion of A.B. 186 (R3). The language in subsection 3 that is being added on page 6 is also from A.B. 186 (R3) and promotes the installation of solar energy systems in as many school properties as possible.

The next significant change is from the PUCN and is on page 8. It provides that all portfolio energy credits issued under the solar energy incentive program will be assigned to and become the property of the utility administering the program so that utility can use those portfolio energy credits to satisfy the portfolio standard.

The next major changes are in Sections 33, 34, and 35. Those are significant policy changes and I will let the Vice Chair explain those.

Vice Chair Conklin:

Section 33, being deleted on page 10, was a policy change. This is the provision we discussed at length during the Committee hearing on the Universal Energy Charge (UEC) and the 50 percent allocation to the Housing Division. Initially, there was substantial concern by members of this Committee that the money would not be spent, and we prefer to see that fund used for its original intent. Therefore, that portion of the program is being deleted in Sections 33 through 35.

Kevin Powers:

The next major change will be in Section 42 on page 17. In S.B. 437 (R2), there was going to be a change in the statutory schedule for when electric utilities have to file their general rate applications; however, A.B. 103 (R1) of this session also made a change in that statutory schedule. Assembly Bill 103 (1st Reprint) has been signed by the Governor and enacted into law, so those changes are not necessary and are being removed in favor of the legal changes already made.

The next significant change in the mock-up is on page 21. We are still talking about *Nevada Revised Statutes* (NRS) 704.110. This is to conform the new quarterly rate adjustment procedure to the change made by A.B. 107 (R3) which was also enacted into law, signed by the Governor, and became effective on May 29, 2007. This is the specific language that makes it clear there is no presumption of reasonableness or prudence for any quarterly rate adjustment or the annual deferred energy accounting adjustment application, and that the utility has the burden of proving reasonableness and prudence. Again, this

language mirrors identical language that the natural gas utilities must follow when they are doing their quarterly rate adjustments.

Going ahead to page 24 of the mock-up, Sections 44, 45, 46, and 49 of S.B. 437 (R2) all change provisions relating to net metering in NRS Chapter 704. Provisions currently included in A.B. 178 (R3) are identical and that bill is now in a conference committee. Removal of these sections from S.B. 437 (R2) allows A.B. 178 (R3) to be the vehicle where the changes to net metering may occur.

The next significant change is on page 33 of the mock-up. The mock-up adds Sections 51.3 and 51.7, which are modeled on Sections 10.3 and 10.7 of A.B. 186 (R3), so those provisions are now being incorporated in the mock-up. They relate to partial abatements that are given by the Commission on Economic Development.

Throughout the next sections of the bill dealing with wind energy and water energy demonstration programs, there has been a change in terminology so the solar, wind, and water programs use similar terminology throughout. In the original water and wind programs the term "committee" was used to designate the Task Force for Renewable Energy and Energy Conservation. In the mock-up all we are doing is removing "committee" and using the clear, more straightforward term "Task Force." We are not changing any of the duties that were already set forth in this legislation.

A new Section 112.5 is added that is a carry-forward from A.B. 186 (R3) to make sure that the changes with regard to the Commission on Economic Development and partial abatements apply only to those agreements with partial abatements entered into on or after July 1, 2007.

Finally, in Section 113, there is one change to the effective date that has an impact. In an earlier section of the bill, Section 48 amends the portfolio standard to increase the requirement for solar energy from 5 percent to 6 percent. This provision says that change does not become effective until January 1, 2010.

Vice Chair, those are all the amendments included in the proposed mock-up.

Vice Chair Conklin:

I want to give people a chance to comment and ask questions, but I also want the Committee to do so, as well. I would like Senator Townsend, Ms. Stokey, and Commissioner Wagner to come forward and testify.

Senator Randolph Townsend, Washoe County Senatorial District No. 4:

This bill was a product of the utility working group during the interim. We had 14 meetings during which we addressed the main concerns in the State of Nevada, particularly in southern Nevada, with regard to rising costs of energy, particularly for peak power. Right now, in southern Nevada you have about 2,500 megawatts of base load that rises to approximately 6,000 megawatts during peak times. Anything above the 2,500-megawatt level is basically purchased on a long-term basis; the next group is middle-term and the last is spot price, which is the most expensive energy you can buy in the world today. Our efforts were aimed at trying to cut the cost of peak power, which is southern Nevada's biggest problem. There is a friendly amendment coming from Senator Titus, who worked with us on the bill. She also has a number of provisions in this bill that are important to her and deal directly with conservation, which is an important effort.

Vice Chair Conklin:

I have a proposed amendment here ([Exhibit F](#)) that deals with part of the resource plan. Is that the amendment from Senator Titus you are referring to?

Senator Townsend:

That is the amendment and I am in agreement with it; however, I have not spoken to anyone else.

We do not have any problems with the changes in Section 25 that have to do with solar, which were in A.B. 186 (R3). Our Committee looked at it and had our hearing this morning and we have no problem with those changes. The first part, dealing with incentives and accountability issues, was very well crafted and I appreciate what you did there. Given what we are trying to do to help the school districts manage their needs, I thought that was an excellent, good-faith effort. We will probably process that bill this afternoon so, depending on what your needs are, I will accommodate that in any way you would like.

Vice Chair Conklin:

We need to make it clear that it only applies to schools; we are not raising the whole cap, just the school portion of the cap.

Senator Townsend:

You worked with representatives of the utilities and I double checked with them. They agree that the two megawatts does not seem to be a problem. There are portions in here you have removed that I would like to address. I am not here to argue or plead for any one portion; I just want to give you some background. The language in Section 33 says that 50 percent of whatever is left over in the fund would go to the Housing Division. Many people on fixed

incomes and in particular our senior population who have older homes, really need weatherization more than they need a subsidy. Once you weatherize something, energy costs are reduced. That is where that thought process came from. That kind of expense is a one-time expense, and although it is greater than a subsidy for a utility bill, we think it is the best thing we can do for those people in need.

I appreciate the fact that you have Mr. Powers on your team. As you know, he was counsel to Senate Commerce and Labor for a number of years and we were very sad to have lost him to a bigger job, but I can assure you he did remarkable work for us.

All of the changes you have made in terms of accommodating dates seem to appear to follow the concept we had with regard to trying to make these rate adjustments in terms of deferred energy.

I do have one question and I know Senator Titus will want to address it, too. It relates to increasing the 5 percent solar component in the renewable standard to 6 percent. I do not understand the thinking on that.

Vice Chair Conklin:

Senator, I talked with Senator Titus about that and will try to explain what my concern is. The next rate filing takes place in December 2008. In that rate filing we will gain a substantial understanding of what the impact of the current 5 percent will be. I felt it might be good to have a legislative session in between for us to evaluate that program and understand it better before we continued to add to it. We might want to take a breath, and that is the reason for pushing it out one year. If you think that reasoning is faulty, I am not above reconsidering it, but that was the logic behind it.

Senator Townsend:

I thought my colleague would be able to defend the bill. I am probably more aggressive on these issues, but Senator Titus and I have stood together to fight for things like this. At the end of the day, the collective wisdom of this Body will prevail and the public will be well served, so I will leave it in the Committee's hands.

Vice Chair Conklin:

Do you want to address anything else that is in this mock-up? I know it is new to you. Do you want a chance to review it?

Senator Townsend:

I will review this mock-up later on. If there are any glaring problems, which there probably will not be, I will email my thoughts to you.

Vice Chair Conklin:

Do you have a moment for questions?

Senator Townsend:

Absolutely.

Assemblywoman Kirkpatrick:

I have concerns with the UEC money. I think it is a catch-22. You want to make their homes energy efficient rather than paying utility bills. You deleted Section 55, concerned with housing, in the Senate.

Senator Townsend:

We did that at the request of the Senate Finance Committee because of its potential impact on the Distributive School Account (DSA).

Assemblywoman Kirkpatrick:

I am confused as to how this would apply if we took the whole 50 percent. During our meetings, we talked about working with the realtors to do energy audits. I thought 50 percent was too much at the beginning and that we should start small and see if we could make it work. Assemblyman Conklin asked me about laws that had already passed and how that would work and I did not think we needed double standards. I think I did a fairly decent job of trying to defend a bill that you and I worked on throughout the session. I do not want you to think I let you down on this.

Senator Townsend:

I have a document ([Exhibit G](#)) that shows projections and justifies our decision to apply that money more efficiently. The money is just sitting in a bank and not going to individuals who really need our help.

It is important for you to look at that section. We were trying to give people one-shot money to increase the energy efficiency in their homes. This is the first time I have had a chance to work with Assemblywoman Kirkpatrick and we spent a great deal of time on this during the interim. I can assure you, this is one of the reasons this bill is the way it is and what it is, because we spent time during the interim working on it. If we want to make this process easier, we should get industries, groups, and different individuals together in the interim. This is a very workable process and it is bipartisan, which is crucial to our success here. These are complex issues. Had we started this debate at the

beginning of the session, you would not have a bill because it is too difficult to work through in our short time frame.

Vice Chair Conklin:

The Committee appreciates all of your hard work, as well as Assemblywoman Kirkpatrick's hard work. I think this is a fine piece of legislation.

Assemblywoman Gansert:

Looking at the UEC dollars last session, the numbers were significant. I support the reallocation of some of the money because I think it is important to try to help people move away from their reliance on power. If we have solar or geothermal available, the money would be well spent. It helps people reduce their bills, so I do support what was in Section 33.

Senator Townsend:

Do not read the bill incorrectly. We are not changing the 25 percent that goes to the Housing Division or the 75 percent that goes to the Division of Welfare. The money has built up because they cannot get it to people quickly enough. We are trying to get to people more quickly by splitting what is sitting in that account fifty-fifty. Once you spend it, it builds up again. It is just a good faith effort to try to address those who really need our help.

Judy Stokey, Director, Government Affairs, Nevada Power Company and Sierra Pacific Power Company:

Even though I did not personally participate in the working group, our company did, and we are in support of this mock-up. As Mr. Powers said, there are a couple of bills that have already passed that contain some of the same language. In regard to the friendly amendment from Senator Titus, we understand her concerns. We have quite a few residential programs, including a large air conditioning program in the south. We do support this amendment; however, if Senator Titus would consider changing the language to say the Commission "may" require, we would really like that, but I would like to talk to her about it first.

Vice Chair Conklin:

Ms. Stokey, have you had a chance to review the mock-up?

Judy Stokey:

Yes, I have.

Vice Chair Conklin:

I do not know how many of the changes affect you that are not already in statute. For example, A.B. 7 and A.B. 103 (R1) have already been signed by the Governor.

Judy Stokey:

We support all of that. I would like to be certain that the preamble to A.B. 7, the explanation of why it was done, is in this bill, as well.

Vice Chair Conklin:

Mr. Powers, is that problematic and is it necessary?

Kevin Powers:

First, the preamble that is included in the mock-up is based in large part on the preamble that is in A.B. 7. Second, the preamble that is in the mock-up specifically says that we are preserving A.B. 7 and that this bill shall not be interpreted as repealing A.B. 7, either expressly or by implication.

Rebecca Wagner, Commissioner, Public Utilities Commission of Nevada:

I see Chairman Soderberg in the audience in Las Vegas. If he needs to, he can jump in. I have had a chance to quickly review the mock-up and I do have two small technical issues in the section concerning water and wind. In keeping with Mr. Powers and his consistency, I can email those to you later. With regard to Senator Titus' amendment, the Commission has no opposition to that.

Vice Chair Conklin:

Are there any questions from the Committee for either Ms. Stokey or Ms. Wagner? I see none.

Senator Dina Titus, Clark County Senatorial District No. 7:

I am bringing you an amendment that addresses the basic theme of this bill, which is energy efficiency and conservation. This is not an amendment that was heard and rejected on the Senate side. This is new material, but it is in keeping with the same topic. We have recently removed a lot of incentives for residential customers, while many incentives remain for commercial customers. Also, as I understand it, when the power companies appeal to the Public Utilities Commission, they are in the position of having to ask for waivers because the 50-percent requirement for energy efficiency is not being met. I thought we could kill two birds with one stone. We would help residential customers and also help the utility meet its requirement and not have to ask for waivers. We would require that they do an energy efficiency program as part of their resource plan and figure a way to give incentives to residential customers to do things that reduce the consumption of energy, electricity, or fossil fuel.

That is what this amendment does. Mr. Fred Schmidt and Mr. Scott Young helped me write this amendment so that it would fit with the bill. You heard Senator Townsend say it was fine and the Public Utilities Commission said it was fine. The power companies would rather say "may"; but they "may" already, so I believe the language should read "shall." I ask for your consideration.

Also, I would respectfully ask you to reconsider going back to 2009 from 2010, because I believe we will have met that quota a year before with all the solar energy projects that are coming on line. I believe Mr. Schmidt has some information about rates and how they tie to those solar units coming on line.

Vice Chair Conklin:

I respect Senator Townsend wanting to be aggressive, but one of the concerns about having any standard, whether it is 5 percent, 7 percent, or 10 percent, is the more aggressive you are, the more advantage the supplier has in pricing, because they know you have to buy.

Fred Schmidt, representing PowerLight Corporation:

Senator Titus asked me about the time frame for this standard and initially wanted to put it at 2008. We talked to the utilities and one of the reasons we did not do that was probably for the same reason you were thinking, that it would require too much, too soon. Companies are required to file compliance plans each year indicating the amount they had already contracted for and the amount that had already impacted rates. Those projects will impact rates for the next several rate cases and are not changed at all by whether you change this percentage from 5 to 6 percent. The purpose of the change to 6 percent was that it became clear the utilities would not need to contract for or have any new projects before 2010 and in one instance 2011, unless the percentage was modified. Even if the 6 percent goes into effect at the beginning of 2009, utilities already have contracted for enough contracted credits to meet that 6 percent in 2009. Unless the utilities are going to go over that level, it is not going to impact rates in the rate case in the time frame you are discussing. It would, of course, impact rates in later years, but it would also require that the utilities begin to look at contracting for a project as soon as 2011 or 2012, where otherwise they might not have to do that.

I certainly understand and I am sympathetic to the impact and effect these projects have on rates, because solar power is more expensive, although the cost is coming down. The more recent projects are cheaper for the credits and/or the power than the older projects are.

Vice Chair Conklin:

Mr. Schmidt, I think most of us recognize that solar energy, particularly for our State, is really going to be the future of energy for us, but it is expensive. Its infrastructure is not cheap so there is an initial cost, but as we move into the 21st Century that cost is fixed for a long time, while the price of other fuel continues to go up. Sunshine is free, at least so far, until we figure out how to harness it. For the longest time water was free, too. I am sure we will figure something out; we are rather enterprising.

Are there any other questions at this time for Mr. Schmidt? I see none.

Senator Titus, I just want to go on record as saying I recognize that this is your amendment. You did a remarkably good job of making sure that everyone was on board before you brought it.

Mr. Craigie, this is not a hearing.

Scott Craigie, representing Arizona Public Service Energy Services Company:

Does that mean that I cannot comment on language that is in the mock-up?

Vice Chair Conklin:

You can have 30 seconds.

Scott Craigie:

We are concerned about the deletion of Section 45 on page 25. Critical language on lines 33 through 37 is the only piece of A.B. 178 (R3) left in the bill. Is this language being placed into A.B. 178 (R3)? If not, I would like to suggest doing that.

Vice Chair Conklin:

This Committee passed A.B. 178 (R3) and it is in a conference committee. I think we would like to separate out the issue of net metering and have that discussion in the conference committee.

Scott Craigie:

I am happy to do that.

Vice Chair Conklin:

Are there any other questions from the Committee? I see none. Since I have allowed one person to come up and talk, Mr. Soderberg in Las Vegas, do you have comments on this or has the Commissioner adequately represented the PUCN?

Don Soderberg, Chair, Public Utilities Commission of Nevada:

Commissioner Wagner has eloquently represented the PUCN's position on all aspects of this bill that are before you right now. She has volunteered to go to the conference committee on the bill because she has done such a good job.

Vice Chair Conklin:

Is there anyone in Las Vegas who wishes to get on the record on this? I see none. Is there anyone here in Carson City wishing to get on the record for the mock-up? I see none.

Assemblyman Horne:

I am fine; however, Section 33 gave me the most heartburn. I was going to propose that if we were going to have that money allocated, to take it down to a third instead of 50 percent. I did not know it would be deleted in its entirety.

Vice Chair Conklin:

Are there other Committee members with concerns? I talked with Mr. Sasser after the last meeting and had the sense that he was comfortable with it, because as the account goes to zero, it does not take away the primary purpose of the account, it only deals with funds that are left over. I believe it was his opinion that very soon the fund would not have much left over and that it would probably stay that way.

Assemblywoman Kirkpatrick:

I do not know how the process works. We talked about it, but I thought it was going to apply to Section 55 when we did the energy audits. I am more than happy to get with Senator Townsend before there is a conference committee to figure out how that works with the UEC money.

Vice Chair Conklin:

My concern is that it is Friday, it takes four floor sessions to have a conference committee, and I am not certain I want to put Senator Townsend's bill in jeopardy. Would it be better to allow you to work it out and bring back an amendment to the Committee?

Assemblywoman Kirkpatrick:

Whatever you want me to do, I will do.

Vice Chair Conklin:

I will take a one-minute recess to speak to a few people [at 2:55 p.m.].

[The meeting was called back to order at 3:02 p.m.]

Vice Chair Conklin:

I understand there is a representative from the Welfare Division. Could you please come forward? I hate to put you on the spot, but I have received a call from the Director wanting to make certain that the Division's position gets on the record concerning Sections 33 through 35 that have been deleted in this bill.

Marta Stagliano, Acting Program Manager, Energy Assistance Program, Division of Welfare and Supportive Services, Department of Health and Human Services:

The agency's stance on this is neutral. We are currently spending in excess of our revenue, and, in early 2009, we expect the reserve to be expended so there would be no effect.

Vice Chair Conklin:

Is this reserve a cyclical thing or the result of starting up the program?

Marta Stagliano:

The reserve was formed during the first year of the program when we were collecting the UEC but not spending any of the money. We are now trying to spend that reserve. Currently, we are spending in excess of the revenue that we are receiving.

Vice Chair Conklin:

The term "encumbered" means if you end a year and have applications on file that have not been approved yet, those would count toward the previous year. In that case, you do not give that money away to someone else. Would that be your interpretation?

Marta Stagliano:

That is true. Those applications would be considered encumbered.

Vice Chair Conklin:

Are there any UEC questions?

Assemblywoman Kirkpatrick:

Is the 50 percent used to weatherize homes, but not to pay their power bills?

Jon Sasser, representing Washoe Legal Services:

As Senator Townsend described, right now the money that comes into the UEC is divided 75 percent and 25 percent. The 25 percent goes to the Housing Division for weatherization programs. That money did not create a large reserve. I think there is probably a need for more funding in both programs.

Under current law, UEC funds are only spent on people with incomes under 150 percent of the poverty level. I think the bill upped that threshold for this carry-over money to people receiving up to 80 percent of median income.

Vice Chair Conklin:

Are there any further questions?

Assemblyman Parks:

I was looking at Section 50 of the bill and am somewhat concerned about the seller having an evaluation of energy consumption of his residential property performed. The seller and purchaser could agree to waive the requirement, but otherwise the requirement is there. Who would be doing the evaluation?

Kevin Powers:

Because that section is connected with Section 31, you have to read those sections in conjunction. Section 31 requires the Director of the Office of Energy to adopt regulations establishing a program for evaluating residential consumption. In the regulatory process, the Director of the Nevada State Office of Energy would be able to set forth the standards and procedures that would apply. One other thing, Section 50 does not become effective until January 1, 2011.

Vice Chair Conklin:

Are you satisfied, Assemblyman Parks?

Assemblyman Parks:

I think I am.

Vice Chair Conklin:

Are there any additional questions? I see none. Nine Committee members are present and three Washoe County members could be here shortly because I notified them that we are intending to move this bill.

[Chair Oceguela returned.]

We have one question remaining. Do we leave the UEC in or take it out as proposed in the mock-up? It does nothing unless there is money left over.

ASSEMBLYMAN OCEGUERA MOVED TO AMEND AND DO PASS
SENATE BILL 437 (2nd REPRINT), WITH THE PROPOSED
AMENDMENT 4263, WHICH IS THE MOCK-UP, AND THE
PROPOSED AMENDMENT TO CHAPTER 704.741 OF THE

NEVADA REVISED STATUTES, WHICH WAS SENATOR TITUS' AMENDMENT.

ASSEMBLYWOMAN KIRKPATRICK SECONDED THE MOTION.

Vice Chair Conklin:

Is there discussion on the motion?

Assemblyman Horne:

On Senator Titus' amendment, is going back to 2009 part of that amendment?

Vice Chair Conklin:

We can certainly discuss that. There are two portions in the bill and one is changing from 5 percent to 6 percent. I do not believe anyone thinks that is a bad idea. There are two financial concerns. Mr. Schmidt addressed the first one concerning the impact on the price of solar energy when the companies know it must be met. My overriding concern beyond that is this Legislature may chose to act on solar energy differently in 2009. I would rather have the opportunity to do so before a new standard goes into effect.

THE MOTION PASSED. (ASSEMBLYMEN ANDERSON, ARBERRY, BUCKLEY, GANSERT, AND SETTELMAYER WERE ABSENT FOR THE VOTE.)

[Assemblyman Ocegueda resumed the Chair.]

Chair Ocegueda:

I would like to go back to Senate Bill 476 (2nd Reprint). I would entertain a motion.

ASSEMBLYMAN HORNE MOVED TO AMEND AND DO PASS SENATE BILL 476 (2nd REPRINT) WITH THE AMENDMENT PROVIDED BY ASSEMBLYWOMAN WOMACK AND THE DELETION OF THE WORD "AFFILIATE" IN THE PROPER PLACES.

ASSEMBLYMAN PARKS SECONDED THE MOTION.

Chair Ocegueda:

Is there any discussion?

Assemblyman Christensen:

In Section 21, and elsewhere, a number of fees are mentioned. Are these new fees and is there going to be any objection to them?

Ed Allison, representing The 1031 Federation:

I can tell you that there was significant discussion to make sure that the fees covered the costs, and as far as I know from the Administration, there is no objection whatsoever.

Assemblyman Christensen:

Is it your understanding that the Governor is fine with these fees? It appears there are some large fees.

Ed Allison:

Ms. Elliott made it clear at the hearing in the Senate that the Administration had no problem with the fees.

Chris Barrett, representing the Federation of Exchange Accommodators:

That is accurate, it would be self-funding.

Chair Oceguela:

There is a motion on the floor, is there any further discussion? I see none.

THE MOTION PASSED. (ASSEMBLYMEN ANDERSON, ARBERRY,
BUCKLEY, GANSERT, AND SETTELMAYER WERE ABSENT FOR
THE VOTE.)

There being no further business to come before the Committee, we are adjourned [at 3:17 p.m.].

RESPECTFULLY SUBMITTED:

Patricia Blackburn
Committee Secretary

APPROVED BY:

Assemblyman John Oceguela, Chair

DATE: _____

EXHIBITS

Committee Name: Committee on Commerce and Labor

Date: June 1, 2007

Time of Meeting: 1:46 p.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
SB476(R2)	C	Assemblywoman Womack	Proposed Amendment
SB476(R2)	D	Chris Barrett, Federation of Exchange Accommodators	Presentation of <i>Qualified Intermediaries & 1031 Exchanges</i>
SB437(R2)	E	Senator Randolph Townsend	Proposed Amendment
SB437(R2)	F	Senator Titus	Proposed Amendment
SB437(R2)	G	Senator Townsend	Universal Energy Charge (UEC) History and Projections