

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

**Seventy-Fourth Session  
March 14, 2007**

The Committee on Commerce and Labor was called to order by Chair John Ocegüera at 1:38 p.m., on Wednesday, March 14, 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 Kathy McClain, District No. 15  
Assemblyman John Marvel, District No. 32



**STAFF MEMBERS PRESENT:**

Brenda Erdoes, Committee Counsel  
Dave Ziegler, Committee Policy Analyst  
Patricia Blackburn, Committee Secretary  
Gillis Colgan, Committee Assistant

**OTHERS PRESENT:**

Lawrence J. Weiss, Ph.D., Director Sanford Center for Aging, University of Nevada, Reno  
Lawrence P. Matheis, Executive Director, Nevada State Medical Association  
Debra Scott, MS, RN, APN, Executive Director, State Board of Nursing  
Betty Razor, RN, BSN, CWOCN, Razor Collaborative Nursing Services, Carson City, Nevada  
Susan Fisher, representing Chiropractic Physicians' Board of Nevada and State Board of Podiatry  
Denise Selleck Davis, CAE, Executive Director, Nevada Osteopathic Medical Association  
Christopher Heavey, Ph.D., President, Board of Psychological Examiners  
Neena Laxalt, representing Nevada League of Cities and Municipalities and also representing Board of Examiners for Marriage and Family Therapists  
Rosalind Tuana, Executive Director, Nevada Board of Examiners for Social Workers  
Ron Titus, Court Administrator and Director of the Administrative Office of the Courts  
Helen Foley, representing Nevada Board of Examiners for Marriage and Family Therapists  
Fred Hillerby, representing Nevada Optometric Association  
Alex Haartz, MPH, Administrator, Health Division, Department of Health and Human Services, Health Division  
Dennis T. Trexler, representing Nevada Geothermal Utility Company  
Rose McKinney-James, representing Barrick Gold Corporation  
Michael Brown, Vice President, Barrick Gold Corporation, Washington, D.C.  
F. Robert Reeder, representing Barrick Gold Corporation, Washington, D.C.  
Mark Chilton, President, Elko Heat Company, Nevada  
Judy Stokey, Director, Government Affairs, Nevada Power/Sierra Pacific  
Ellen Allman, Business Manager, Caithness Energy, LLC, Reno, Nevada  
Joe Johnson, representing the Sierra Club, Toiyabe Chapter, Nevada

Kyle Davis, Policy Director, Nevada Conservation League

Jon Sasser, Statewide Advocacy Coordinator, representing Washoe Legal Services, Nevada Legal Services, and the Washoe County Senior Law Project

James Vilt, representing Nevada Legal Services

Ryan Works, representing Southern Nevada Multi-Housing Association

Ernie Nielsen, representing Washoe County Senior Law Project, Nevada

Marshall Schultz, President of Residents Information Center, Inc., Reno, Nevada

Teresa McKee, Legal Counsel, the Nevada Association of Realtors

Judy Dosse, President, Nevada Association of Manufactured Home Owners

Sorin Speakmen, Executive Director, Urban Community Housing Affordable Scaled Eligibility, Las Vegas, Nevada

Renee Diamond, Administrator, Manufactured Housing Division, Department of Business and Industry

Joe Guild, representing Manufactured Housing Community Owners Association

James Campos, Commissioner, Division of Consumer Affairs, Department of Business and Industry

Kathleen Delaney, Senior Deputy Attorney General, Division of Consumer Affairs, Attorney General's Office

Shari O'Donnell, representing Signature Homes, Las Vegas, Nevada

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

**Chair Ocegüera:**

We will take the bills out of order, and take Ms. McClain's bill first. We will open the hearing on Assembly Bill 108.

**Assembly Bill 108: Requires training in geriatrics and gerontology for certain professions and occupations. (BDR 54-161)**

**Assemblywoman Kathy McClain, District No. 15:**

This bill will provide geriatric training for professional licensing. During the Interim, I was fortunate to become the coordinator of an inter-agency task force on senior issues. We had over 30 different agencies from across the valley in Las Vegas and we discussed many senior issues. We divided into six groups and covered issues such as:

- legal, crime, and fraud against seniors
- medical and mental health, wellness and nutrition
- in-home care and caregivers
- financial issues, workforce and housing

- transportation, and
- outreach advocacy and demographic group

When the groups were done with their individual work, we came together and ended up with ten basic recommendations that we presented at the Senior Forum last June. Present at the Forum were legislators, nonprofit directors, local elected officials, and anyone that had some control over funding or policies concerning senior citizens. Some of the recommendations were funding for 211 [call center], an investigation and prosecution unit through the Attorney General's Office for crimes against seniors, and starting an Elder Abuse Task Force in Southern Nevada. We are expanding the funding for in-home personal care for seniors, and we are requesting a legislative standing committee on seniors and veterans.

Another recommendation concerned the concept of geriatric training for professional licensing for anyone who deals with older people.

We conducted a survey through the University of Nevada at Las Vegas (UNLV) Survey Center. We contacted people 50 years of age and older and asked them 80 different questions, and we received some good information. Looking at the demographics of our State today, people aged 50 have increased almost 30 percent since the year 2000, while at the same time school aged children increased 23 percent. The senior group is outstripping our K-12 group. It is important that we deal with senior issues in a timely manner.

One of the fastest growing populations in that senior group, however, are those aged 85 plus and also the aged 100 plus group. There is a real need for people to understand the issues surrounding how a senior citizen actually develops and views life, the needs that they have and what we can do to provide for those needs.

The original concept of my bill was to require that six hours of training be included in the degree program. That has caused a lot of opposition. I was unaware that it would bring in doctors and nurses from other states. I have distributed a totally new bill ([Exhibit C](#)). The portion relating to prerequisites for licensing issues has been eliminated. The only thing left in the bill now is to require, as part of the licensing renewal, that a licensee be required to take some continuing education courses in geriatrics or gerontology, depending on the profession. For instance, a medical professional would be more into the physiology of aging. Other professions that deal with seniors, such as in-home personal care or the courts, or others, need to learn through sensitivity training how to interact with seniors. That is what this bill does. It leaves a large list of professions that are licensed and requires them to have some continuing

education units in order to be re-licensed within a certain period of time. The bill does not list a specific amount of time needed to be spent in continuing education. It should be up to the licensing boards to determine what would be appropriate for that particular profession.

One of the other problems we had with the bill was who would decide what the training curriculum would be. I spoke with Dr. Weiss from the Sanford Center for Aging at the University of Nevada, Reno (UNR). They have been dealing with these issues for years. I asked him if it were possible to come up with a curriculum that could be turned over to the licensing boards that they could approve and implement.

Doctors who practice in the field of Internal Medicine have geriatric patients totaling 80 percent of their practice. Geriatric patients make up 60 percent of the clientele for Family Practice physicians. I have heard remarks questioning why a pediatrician would have to learn this, but the need is there because of the number of grandparents who are raising their grandchildren. It is not just the physiology of the aging process; it is more how you deal with the social aspects and the psychology of senior citizens. It is not just the physical aspects. I would like to let Dr. Weiss speak about the White House Conference on Aging and how he views the curriculum possibility.

**Lawrence J. Weiss, Ph.D., Director, Sanford Center for Aging, University of Nevada, Reno:**

[Spoke from prepared testimony ([Exhibit D](#))].

[Distributed a handout entitled "Legislative Alert" ([Exhibit E](#))]. In reference to that handout, there are 393 pediatricians but only 59 geriatricians.

[Returned to prepared testimony.]

**Chair Ocegüera:**

Are there questions from the Committee?

**Assemblyman Settlemeyer:**

I greatly appreciate your bringing this bill forward. I live in a community that has a rising elderly population and a declining school population. I still have questions regarding Sections 49 and 52, dealing with judges. Are there currently courses in continuing legal education for them to qualify, or are we adding more restrictions? We presently have a deficit of judges and now have traveling judges to fill those vacancies. I question our adding more requirements unless it can be met by the continuing legal education courses now available.

**Assemblywoman McClain:**

It is my understanding that through the Judicial College there are some courses that judges can take. I hope that they can work with Dr. Weiss and develop some self-study or sensitivity training on how to deal with senior citizens. I do not think it is anything extra that they would have to do.

**Assemblyman Settlemeyer:**

It should become part of their requirements if offered. I wonder if there are courses that would qualify for that requirement.

**Assemblywoman McClain:**

I am counting on Dr. Weiss to work with them.

**Assemblyman Anderson:**

In light of the previous question, there may be some people who are confusing the senior judge program with traveling judges. Please do not confuse this issue with the requirements we make for masters, Justices of the Peace, and others. This sounds like a good piece of legislation.

**Assemblywoman McClain:**

I do not want to get this confused with the senior judge program. Perhaps we should refer to this bill as the geriatric and gerontology training for professions that deal with older persons.

**Assemblywoman Gansert:**

Dr. Weiss, you had mentioned that there is a threshold for how many patients you see who are senior before there is a required amount of continuing education. I do not see that in this bill.

**Assemblywoman McClain:**

I did not want to put that in the *Nevada Revised Statutes* (NRS). I hope that the licensing boards will understand that this is a requirement, but that they can set up the parameters. If the boards have specific problems with this, they could put their own percentages in their requirements.

**Assemblywoman Gansert:**

It leaves somewhat ambiguous so that the board may feel they have to have everyone go to some sort of continuing education. I know there are substantial requirements for the different types of professionals already. That would be a concern of mine.

**Assemblywoman McClain:**

I think it would be in our best interests to leave it up to the expertise of the licensing boards.

**Chair Ocegueda:**

Are there any other questions from the Committee? I do not see any. Ms. McClain, do you have an order of who should testify next?

**Assemblywoman McClain:**

I have no preference. I must return to my Committee.

**Chair Ocegueda:**

Anyone else wishing to testify in favor of the bill? I see none. Is there anyone wishing to testify in opposition? I have quite a number who have signed in; please keep your remarks to a minimum and avoid repeating.

**Lawrence P. Matheis, Executive Director, Nevada State Medical Association:**

[Spoke from prepared testimony ([Exhibit F](#)).] We have not seen the proposed amendment. My written testimony deals with the pre-training issue. We surveyed medical schools and osteopathic schools and no doctor would currently qualify upon licensure. I am glad that has been removed, but it shows that when you try to deal with complex issues with such a broad brush, sometimes you do not pick up the nuances of the differences in how each profession is educated and moves into practice.

I would like to focus on how physicians and physician assistants' licenses under *Nevada Revised Statutes* (NRS) 633 would be affected by this bill. In regards to the continuing education portion, it requires that currently licensed physicians receive education in geriatrics and gerontology as part of their continuing education. There has been a universally negative reaction to this. The reason is they have a clear understanding of the purpose of continuing medical education (CME). Every physician is committed to a professional lifetime of continuing education. It is essential so that they can incorporate the constantly changing information and technology associated with their specialty practices.

Nevada physicians are limited because of the time demands resulting from severe workforce shortages and the demands of managed care insurance rules. Maintaining their proficiency constantly competes with the everyday pressures of serving the needs of their patients.

Medical doctors are required to have 40 hours of Category 1 CMEs, the rules of which are set at the national level, as part of their biennial registration process. Doctors of Osteopathic Medicine are required to have 35 hours approved by the

Board, with at least 10 hours in Category 1A courses set by national criteria. Some physicians need additional and updated training in issues dealing with geriatric care. They seek and obtain that training. Others simply do not need it and use the few hours they have for additional training to learn more about their specialties. Some subjects are already mandated, limiting the flexibility that physicians can exercise to give priority to the issues they need. Underlying the physician opposition to mandated CME subjects is that each mandate encourages the adoption of additional "feel good" subjects. Nobody thinks it is a bad idea to be sensitive to senior issues and to seniors, or to children, or adolescents, or African-Americans, or immigrants, or a lot of groups where we could benefit from learning more about. We are talking now about what is necessary to maintain a physician workforce that is trained in what is necessary for their specialty at this point.

The temptation is to require licensed professionals to take two hours for this popular subject or four hours of that subject. Resisting that temptation is necessary so that the professionals can spend the little time they have learning more about the subjects they need for their patients.

[Continued with prepared testimony, page 3, second paragraph.]

We would be willing to work with the sponsor but for the two sections that deal with physicians. We recommend that it be looked at very carefully and reworked, or we will have to continue to oppose the bill.

**Chair Ocegura:**

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

**Debra Scott, MSN, RN, APN, Executive Director, State Board of Nursing:**

[Spoke from prepared testimony ([Exhibit G](#)).]

What Mr. Matheis has said pertains also to nurses in that nurses work in a variety of different settings. Nurses do educate themselves in their specialties, and research shows that when continuing education is mandated in certain areas the skill level does not increase. When nurses are encouraged to educate themselves regarding their specialties, those skill levels do increase.

Nurses educate themselves and stay up-to-date on information based on their expertises and their practices and it does not need to be mandated.

**Betty Razor, RN, BSN, CWOCN, Razor Collaborative Nursing Services:**

[Spoke from prepared testimony ([Exhibit H](#)).] As nurses, we are often lumped together as a group, but we are very specialized in our fields. We cannot



mandate something like this that will create a problem for someone who is a school nurse. In fact, I received an email from a school nurse who stated, "I feel as a school nurse my focus should be school-aged children and their health-related issues. For me to have to study geriatric care would not be helpful with my daily practice and would limit my ability to take continuing education courses that are pertinent to my field."

[Continued with prepared testimony.]

**Susan Fisher, representing Chiropractic Physicians' Board of Nevada and State Board of Podiatry:**

We are opposed to the bill as written. I have spoken with the bill's sponsor and we appreciate the intent of the bill and understand that we do have a growing population of seniors in this State; however, the sponsor commented earlier that this is a decision best left to the regulatory boards, and we agree. There are not a lot of continuing education courses specifically for geriatrics and gerontology. I have not seen the amendment, but look forward to seeing it.

**Denise Selleck Davis, CAE, Executive Director, Nevada Osteopathic Medical Association:**

I represent approximately 500 osteopathic physicians statewide. I suggested that this would be a grand encouragement for all of the boards to try to do this type of education. When meeting with the program committee for our annual convention that is held in Las Vegas, we discussed adding this to the curriculum. Our program committee has spent the last six months trying to put two hours of geriatric education into this program and have found it very difficult to do. There are a limited number of appropriate teachers of this subject. Gerontology is one of the areas where physicians are in short supply and finding education in this area has been almost impossible. We would like this to be done sometime to encourage the boards to require physicians to receive this training, but not as a mandate. Determinations must be made to see if this fits their patient population, if it is the best use of their time, and also the best use of their time out of their practice. When a physician is in continuing education, he is not in the office seeing patients and therefore patients go unseen.

**Assemblyman Manendo:**

I am not sure who could answer this, but I keep hearing there is a shortage of instructors in this area. Is that what you are saying?

**Denise Selleck Davis:**

I asked a physician why there is a shortage of gerontologists in the nation. His comment to me was that in all of medicine, it is one of the least reimbursed

areas of practice and yet one of the most time-consuming. The reimbursement levels are set by the federal government through Medicare. Given that this is one of the most time-consuming and one of the most heartbreaking portions of medicine, it is not unusual that physicians would be reluctant to go into that field as a specialty when they could, in fact, go into Internal Medicine and have a broader-based patient care and still see gerontology.

**Assemblyman Manendo:**

I just did a quick search on the computer, and the University of Nevada, Las Vegas (UNLV) Center for Aging has a certificate program. The University of Nevada, Reno, has courses in the Department of Health Promotion. There seem to be quite a few classes.

**Christopher Heavey, Ph.D., President, Board of Psychological Examiners:**

I would just like to echo the opposition that has been expressed by colleagues from other disciplines. The Board of Psychological Examiners is opposed to this requirement, and I would like to underline that it would be the only content area requirement that would exist in our continuing education regulations. We currently have no other specific content area requirements.

I am also a faculty member at UNLV in the Department of Psychology and just chaired a search for a gero-psychologist that we were trying to hire in order to bring this type of training into our Department. We recognize the tremendous need in this area. We had three qualified applicants from a national search, made one offer, and the person turned us down. We will be back at that task next year. It is very difficult to find qualified professionals even for educational institutions.

**Assemblyman Anderson:**

In light of the extensive hearings that have been held as outlined by Ms. McClain, why do you think that professional boards have not already done this?

**Christopher Heavey:**

This is an area of specialization. I do not think that the mechanisms that are being proposed in this bill will solve the problem of producing people who are qualified to practice in this area. It is something that needs to be addressed at a national level. The American Psychological Association has put a lot of effort into trying to encourage people to develop this type of specialized training, but it is something that requires a substantial course of study, and a continuing education requirement will not produce people who are qualified to practice in that area. I think it would be irrelevant for people who chose other areas of specialization.

**Assemblyman Anderson:**

If we do not set a mark for professional bodies to aim for based upon public need, how are we going to change the behavior so that schools begin to offer these courses?

**Christopher Heavey:**

I agree that there is a tremendous demand and the wave is coming. The faculty at UNLV Department of Psychology has recognized this, and we are trying to add this as an area of specialization in the training that we offer. There are people working to train additional people with these kinds of skills. I support all of those efforts; I do not think this bill will be effective.

**Assemblyman Anderson:**

I heard your answer, I am not sure I am willing to accept it.

**Neena Laxalt, representing Nevada League of Cities and Municipalities and also representing Nevada Marriage and Family Therapists Board:**

Originally, the Nevada League of Cities and Municipalities was very concerned with the language of the proposed bill because of the impact it would have on the courts and the fiscal impact to the cities. However, with the amendment, that fiscal impact has diminished quite a bit.

For the Marriage and Family Therapists Board, I will reiterate what the other boards have said. They are concerned that the mandate would take away the education requirements that the Marriage and Family Therapists currently have, and they would prefer that the boards be left to make the decision as to what requirements would be made for their licensees.

**Rosalind Tuana, Executive Director, Board of Examiners for Social Workers:**

I would like to comment on the fact that prior to being licensed, social workers are required to do a certain amount of work in the area of gerontology as well as other areas of human development. They have to spend an extensive period of time in this area because they tend to work with the most vulnerable. The initial requirement would have already been met by the social workers because of the requirements of the Board. Based on that, the Board has consistently encouraged our people to access themselves through the geriatric center at the University of Nevada School of Medicine. We have not seen many other quality courses that are available. I am concerned that the licensees are going to have an onerous responsibility with limited opportunity.

**Ron Titus, Court Administrator and Director of the Administrative Office of the Courts:**

I understand that an amendment has been offered, so I am willing to review and re-evaluate the amendment and possibly change our position; I wanted the Committee to know that we have already done some of this training. We have funds for judicial education and we monitor the issues that are before the courts constantly. There is training available on such issues as guardianship, probate, and elder abuse. We are concerned that the way the bill is currently written, it puts some onerous training on us although I understand it would be up to my office to define what that training will be.

**Assemblyman Anderson:**

I hear from most of the boards that they are afraid the Legislature will mandate rather than allow the professional boards to set the standards. With regard to the judiciary, what kind of success rate are you having with judges admitting that they have been trained in the programs that you currently offer in this area?

**Ron Titus:**

We can offer training, they can come to training, and sometimes it goes over their heads. What they actually absorb, we cannot be held responsible for. All we can be held responsible for is putting that information out there. There are judges that do not even remember they have attended such training. We do, however, keep very accurate records, and we know which judges have attended. For limited jurisdiction judges, we offer two conferences a year where subjects such as this are offered. The district judges have one conference a year. There are a number of special educational seminars. We have plans for various other areas. The courts are very proactive in providing these trainings and putting these issues before the court.

**Helen Foley, representing Board of Examiners for Marriage and Family Therapists:**

We echo the comments of all those others who have been very concerned about this legislation. I have one additional thought on this matter. On page 2 of the mock-up that deals with physician assistants and also similar language for the nurses, in subsection 3, encourages each holder of a license who treats or cares for persons over the age of 60 to receive education in geriatrics. That changes it from requiring such education. That seems far more reasonable to me than mandating that each and every one of these other health care professionals, regardless of whether or not they treat anyone over the age of 60, be mandated to take this type of continuing education.

The main concern is that when they take this education, they are not taking the education that they really need for the people they serve. We recognize that

there is a great need for attention to baby boomers, but these statutes do not all conform with each other and should restrict this continuing education to just those that are treating persons over 60 years of age.

**Fred Hillerby, representing Nevada Optometric Association:**

I wanted to add one thing that has not been said. In the practice of optometry, a lot of the continuing education is concerned with disease, and age does play a factor in that. When optometrists study glaucoma, they study its effect on young as well as older people. It is not as if they are not getting the education that focuses on aging; they are not separated out. They are getting age appropriate education. It is not identified as gerontology or geriatrics but it is a part of their ongoing training.

**Alex Haartz, MPH, Administrator, Health Division, Department of Health and Human Services:**

In looking at the amendments to Section 56, I think it effectively removes the fiscal note that would have been required under the prior language. I request that we have the ability to go back and take a look, just to make sure. In reviewing the mock-up, I note that in Section 56, line 37, there is a typographical error. The word should be "begins," it is currently listed as "beings." [Spoke from written testimony ([Exhibit I](#)).]

**Chair Ocegüera:**

Are there any further questions? Is there anyone else wishing to testify on this bill? I do not see anyone. We will close the hearing on A.B. 108.

We will open the hearing on Assembly Bill 1.

**Assembly Bill 1:** Provides that a geothermal energy system is a renewable energy system for the purposes of the portfolio standards established by the Public Utilities Commission of Nevada for certain providers of electric service. (BDR 58-115)

**Assemblyman John Marvel, District No. 32:**

This is a fairly straight-forward bill. It adds a section to *Nevada Revised Statutes* (NRS) 704.7815 that I introduced for people who are involved with the Nevada Geothermal Utility Company. The new language is in Section 1, subsection 3. Mr. Trexler from Nevada Geothermal Utility Company can further explain what the ramifications are. This bill has generated interest.

**Dennis T. Trexler, representing Nevada Geothermal Utility Company:**

I am a geologist and have over 30 years experience in geothermal energy and development. [Spoke from written testimony ([Exhibit J](#)).]

**Chair Ocegüera:**

Are there any questions from the Committee? I do not see any. Are there others wishing to testify in favor of the bill?

**Rose McKinney-James, representing Barrick Gold Corporation:**

I believe the members of the Committee have been provided with copies of proposed amendments from Michael Brown, Vice President of Barrick Gold Corporation ([Exhibit K](#)). The amendments are critical to Barrick because they provide the clarification that we believe is needed to allow them to comply with their status as a *Nevada Revised Statutes* Chapter 704B entity.

Nevada has established itself as a leader in the advancement of policy supporting renewable energy, energy efficiency, and conservation efforts. Over the course of almost two decades, this Legislature has approved measures which have established the policy framework for the advancement of these efforts. The Nevada Renewable Portfolio Standard was initially approved in 1997 and since then has become one of the most aggressive and helpful policy tools available for the deployment of these technologies.

Last session, this body added energy efficiency incentives to the statute, and at that time we hoped that the private sector would seize the opportunity to make the investments necessary to take advantage of these policies. Today, I am extremely pleased to be seated with two examples of private industry leaders willing to make the investment and to set the bar for others to follow. For those of us who fought hard for the passage of these measures, it is most gratifying to see a willingness to honor commitments and help move Nevada forward as a leader in the development of these important technologies. I would like to turn this over to Mr. Brown for his comments, followed by Mr. Chilton, and finally Mr. Reeder will walk through the amendments and at the conclusion of our testimony we will be happy to respond to any questions.

**Michael Brown, Vice President, Barrick Gold Corporation:**

[Spoke from prepared testimony ([Exhibit L](#)).]

In 2001, Mr. Reeder and I were here to ask you to give us the tools to help us make a contribution to resolving Nevada's energy crisis. You entrusted us with those tools, and I am pleased to tell you that we delivered on the promises we made in 2001.

[Continued with prepared testimony.]

Sunshine is free; converting sunshine to electricity is expensive.

[Continued with prepared testimony.]

I would be pleased to allow any member of the Committee to see the power plant. I would now like to turn to Mr. Chilton. His company, Elko Heat, provides heat and hot water and other resources for about 19 commercial buildings, including Elko's only skyscraper, the Henderson Bank Building. We will be joining him as one of his customers.

**Chair Ocegüera:**

Are there any questions from the Committee?

**Assemblyman Horne:**

In your first proposed amendment, it says to include geothermal energy no matter when constructed. That tells me that there was a provision that it had to be constructed by a certain date prior. There must have been a rationale as to why older models were excluded.

**Michael Brown:**

I would like to have Mr. Reeder address that point.

**F. Robert Reeder, representing Barrick Gold Corporation:**

The reason for that language is that when the portfolio standards were originally established, there was no "vintaging" of geothermal resources. Some of the subsequent amendments have "vintaged" other kinds of resources as they have come onto the system. Only new hydro facilities get portfolio energy credits (PEC), old ones do not. But, geothermal has not had that "vintaging" concept. The reason for the language is to make clear that not only existing, but new geothermal resources would be eligible for the portfolio energy credits. This is to be consistent across all geothermal resources, so that they would all be treated the same with respect to PECs.

**Assemblyman Horne:**

But are they the same?

**F. Robert Reeder:**

Yes. Geothermal resources that are used to generate electricity today are entitled to portfolio energy credits no matter when they were constructed. We are simply adding geothermal energy resources that are used for space heating, hot water, or laundries to make them eligible for PECs. We are treating geothermal resources used to generate electricity and geothermal resources used for space heating, water heating, or other direct heating purposes the same.

**Rose McKinney-James:**

If I could offer just one other distinction, and that is that during the last session, energy efficiency was added to the portfolio standard. We are talking primarily about energy efficiency. Geothermal that generates electricity has always been eligible for the portfolio standard and for credits. As Mr. Reeder is pointing out, there is a distinction now in terms of eligibility. That is why we are bringing this amendment forward. Does that help?

**Assemblyman Horne:**

A little. Your second amendment speaks of receiving the credits that are returned back to the grid. What size load are we talking about if this were all to be included? I assume that if this were to pass, there would be a lot of credit that would have to be paid back. What type of burden would that be?

**F. Robert Reeder:**

There is no money change. We are talking about the credits available to apply against the standard under which we are obligated. Last year, Barrick's obligation for credits was approximately 800,000 megawatt hours. That exceeded all the megawatt hours that would have been generated by Nevada Geothermal. We needed all they could generate, plus more, even at the Barrick level. The amendments as drafted preclude us from meeting our requirements by more than 25 percent from efficiency standards. That is, if we have 100 requirements, only 25 could come from efficiency standards. Efficiency standards will not supplant the other geothermal resources because of that 25 percent limitation. The 25 percent limitation is in existing law. We have imposed that on the efficiency measures that we would be eligible to use.

**Assemblywoman Kirkpatrick:**

Do you think that this would put everyone on a more level playing field?

**F. Robert Reeder:**

It is the intent of these amendments to give to Barrick and other customers of 704B providers the same opportunities to acquire portfolio credits that the utility enjoys. If we spend money, we would get the credit. When they spend money, they get the credit. With respect to geothermal resources, these amendments would also make geothermal resources that are used only for producing heat equal with geothermal resources that are used to produce electricity. We are getting as close as we can to equality.

**Mark Chilton, President, Elko Heat Company:**

Elko Heat Company started with three principal partners, the Stockman Hotel, the Vogue Laundry, and Chilton Engineering. In 1979 we took advantage of an



energy grant to drill a well on speculation. If we hit the resource we would conduct and complete the process of developing a geothermal heating system. We drilled the well and we hit the resource, after spending \$2 million. We experimented with geothermal to heat the buildings. The Stockman Hotel used it not only for culinary water, but swimming pool heat, and the laundry used it for space heat as well as washing clothes.

This process went on for a number of years, and we maintained the heat that we had developed at the outset which was 178° under 425 pounds pressure. We decided that we would apply to the Public Utility Commission for permission to be a public entity and utility. Now we enjoy a very impressive list of users that includes Bank of America, Commercial Hotel, Elko County Courthouse, Elko County Jail, Henderson Bank Building, the Newmont Office, Sierra Pacific Power Company, the United States Post Office, Wells Fargo Bank, and the Western Folk Life Center.

We delivered 126 million gallons of water last year at approximately 160°. The return flow on that water is approximately 130°. We took over the railroad yard as a brown field and are developing a geothermal industrial park where we are using the return flow, heating the buildings by putting pipes in concrete floors and constructing buildings. We have constructed a warehouse of 30,000 square feet for the tenancy of Sierra Power and have plans for another building. Our mission today is to inform you of what geothermal space heating does. In reality, we are a substitute for fossil fuels.

It is the intent of Nevada to try to develop solar and geothermal resources to replace our dependence on fossil fuels. The rates that we charge are approximately 50 percent less than natural gas. We also use the return flow for snow melt, and after cooling it, we use the water for irrigation, which will be a further conservation measure on the city's water supply.

Our chemistry meets drinking water standards, but our wells do not provide us with enough sanitation for drinking water quality.

We would appreciate your help in getting Elko Heat Company to benefit from the renewable energy credits so that we can fund improvements to our system such as monitoring and expansion, to offer it to more customers.

**Assemblywoman Kirkpatrick:**

Ms. McKinney-James, on your second amendment, Section 3, are you trying to clarify? The statute states who should get the money. Are you just trying to clarify by putting in "utility and the customer?"

**Rose McKinney-James:**

Mr. Reeder is probably the best person to answer that question. The short answer is that we are trying to clarify because of Barrick Gold Corporation's status as a 704B customer.

**Judy Stokey, Director, Government Affairs, Nevada Power/Sierra Pacific:**

We have spoken to the sponsor of this bill and to Barrick in response to their amendments, and we are in favor of both.

**Ellen Allman, Business Manager, Caithness Energy, LLC:**

I am here to support the bill, in a left-handed way, and I apologize in advance if I confuse matters. Caithness Energy has two geothermal plants in the State of Nevada. One delivers energy to Sierra Pacific, and one delivers energy directly into California. That plant has approximately 3 megawatts of parasitic load. We have a desire to sell that load, and ordinarily that would be qualified as a portfolio energy credit. There are people willing to buy those credits, but because we are not electrically interconnected, we do not qualify. That being said, I support the amendments that Barrick has put forth to the concept of allowing direct use geothermal heat to qualify on the energy efficiency portion. I would like the sponsor of the bill to consider an amendment which would add language to the renewable portion of the bill that would cover plants like mine. What you will hear in opposition, is the concern that if the bill stays as written, there might be a dilution of the renewable side because of direct use that is already in existence.

**Assemblyman Horne:**

Is it your proposition that you receive credit for energy that is sent directly into California?

**Ellen Allman:**

No, not at all. I am seeking to get credits for the energy that is created and consumed in the State of Nevada. Out of the 60 megawatt plant, perhaps 2-3 megawatts would be for credit.

**Chair Ocegüera:**

I encourage you to speak with the sponsor of the bill about the amendment. I am also concerned about commerce law issues. We appreciate the information and we will see what happens.

**Joe Johnson, representing the Sierra Club, Toiyabe Chapter:**

We are speaking in support of the bill and the amendments proposed by Barrick Gold Corporation. There are some questions that I have. On the first amendment proposed by Barrick concerning the language and change to

efficiency, I would like the legislative record to reflect that the technology known as ground source heat systems or ground source geothermal would be an allowable technology under the efficiency portion. I think it would be allowable under the original language of the bill. I have several other questions and comments about the second amendment in the energy efficiency area.

I thought it might be a mistake in the crafting of A.B. 3 of the 22nd Special Session that the regulated utilities are the only entities that can generate efficiency credits by subsidizing a program. It is problematic to measure and verify PECs on something that would be done otherwise. If I buy a fluorescent light bulb on my own, I would not get credit. If it is subsidized by the utility at any level, the credits are generated. Barrick is attempting in their amendment to allow 704B customers to be eligible. I think this is fair. I think you should have language that would allow other companies besides the regulated utility and the 704B providers to be eligible to receive efficiency credits. I do not have any particular language for that amendment. Chapter 704B providers, in their compliance reports, should have a higher standard of documentation of the measurement and verification of their efficiency credits.

The Sierra Club supports efficiency.

**Chair Ocegueda:**

Are there any questions from the Committee? I do not see any. Are there others wishing to testify?

**Kyle Davis, Policy Director, Nevada Conservation League:**

I think a lot of the issues have already been brought up. I want our organization to go on record as supporting the bill. We are also in general support of the amendments proposed by Barrick Gold Corporation. One thing I would like to point out is that we also support the use of efficiency credits.

**Chair Ocegueda:**

[Paul A. Thomsen, Public Policy Manager, Ormat Nevada, Inc. submitted written testimony in opposition to A.B. 1 ([Exhibit M](#)).]

We will close the hearing on Assembly Bill 1.

We will open the hearing on Assembly Bill 195.

**Assembly Bill 195: Makes various changes relating to residential landlords and tenants. (BDR 10-1127)**

**Jon Sasser, Statewide Advocacy Coordinator, representing Washoe Legal Services, Nevada Legal Services, and the Washoe County Senior Law Project:**

[Spoke from written testimony ([Exhibit N](#)) and distributed a proposed amendment ([Exhibit O](#)).]

I will not read from the written testimony but would like to go through the "high" points to explain the bill. I have testified on every tenant/landlord bill that has come before this Committee since the 1983 session. During the years 2005-2006, I had the privilege of serving on a committee assisting the Nevada Supreme Court's Pro Se Council, chaired by Chief Justice Rose, in developing model landlord-tenant court forms which have been adopted by the Court.

[Read from written testimony, page 1, paragraphs 3 and 4, and continued with prepared testimony explaining each section of the bill.]

There is one minor change reflected in the proposed amendment under Section 2. There are changes to the following sections in our proposed amendment, Sections 4, 5, 6, 7, and 8.

The only issue raised, which has not been addressed to the landlords' satisfaction, is their request that the tenants be required to secure payment prior to withholding rent. They suggested that either the tenant should post a bond or pay rent into an escrow account. We do not oppose that concept; we have not found a practical, working solution at the present time. Bonds tend to be beyond the means of low-income tenants. The only practical place where tenants could pay rent into an escrow account would be the Justice Court Clerk's Office. That Office has been resistant to that concept in the past. I have asked the landlords if there had been a problem with tenants withholding rent under the current law but they have not come forward with any. I remain open to working with them further, if you so direct.

I would be glad to answer any questions the Committee might have.

**Assemblywoman Kirkpatrick:**

I have a question on Section 4. When the words, building codes, are deleted and a building is converted to condominiums, there might be out-of-code problems that are so out-of-date that the consumer, who is the tenant, cannot possibly bring them up to code because the problem areas are perhaps 25 years old. I am curious why the realtors are opposing it. There are four other states that have addressed that problem.

**Jon Sasser:**

Again, this deals with the Nevada state statute definition of what is considered habitable. It gives the tenant of a building that does not meet that definition some remedies, such as rent withholding, breaking the lease, or suing for damages. This would not affect what local building codes require of the landlord. This addresses the tenant's remedies that building codes will not be included in the area of habitability. They are not in current law.

**Assemblywoman Kirkpatrick:**

Let us address, for instance, plumbing facilities. If you have a toilet that does not comply with the current standard of 1.6 flush, it would not be applicable to a 25 year old building. Is that considered what is best for the consumer? I would like to leave the word "building" in the bill.

**Jon Sasser:**

Under the current State statute, plumbing facilities which conform to applicable law when installed and are maintained in good working order would not require a change. Health codes and housing codes will apply.

**Assemblyman Anderson:**

My concerns are with the conversions. You talk about a landlord purchasing an older hotel or apartment complex, evicting everyone, remodeling, and then putting it up for condominium sale, thus avoiding the opportunity for the tenants to be the first bidders. If the landlord has made a sizeable investment back into the property, would you anticipate that those current tenants would have to purchase at the going rate or do you see them having a preferred rate?

**Jon Sasser:**

This bill does nothing to change the current law that you have already passed on condominium conversions. The current statute gives them the right to purchase, it does not specify price. The other thing that the tenants lose is the ability to remain for 120 days. The practice has been that the tenants were asked to leave within 3 days, even a senior who had lived there for 20 years. People were uprooted immediately and did not have their current statutory right to stay for 120 days. This bill tries to stop the evasion of current rights; it does not add any current rights.

**Assemblyman Anderson:**

We are not, I hope, going to end up with the scenario that one person would be able to remain and hold up the whole project.

**Jon Sasser:**

Again, current law gives them the right to remain 120 days if a building is being converted from one use to another. This bill tries to avoid the evasion of that right.

**Assemblywoman Buckley:**

On Section 8, regarding the additional definition of a nuisance, can you describe for me the intent of the amendment? Do you mean an extreme or dangerous one-time incident, or a persistent course of conduct which then would constitute an unreasonable obstruction that causes injury and damage?

**Jon Sasser:**

The amendment takes out one word, "persistent," which preceded conduct. It leaves in the remainder of the new language in terms of conditions, which I believe is ongoing. The realtors felt that there may be a one-time event that was so serious that it rose to the level of a nuisance, and they should be able to use that provision, not the breach-of-lease provision that requires a longer notice and an opportunity to cure.

**Assemblywoman Buckley:**

I wonder whether this language does that. The language modifies conduct and condition.

**Jon Sasser:**

The way it would read, after the amendment, "conduct, or an ongoing condition that constitutes an unreasonable obstruction."

**Assemblywoman Buckley:**

So, the "which constitutes," is referring to both the conduct and the condition?

**Jon Sasser:**

Yes.

**Assemblywoman Buckley:**

I wonder if it could be clearer. Maybe it is clear enough.

**Jon Sasser:**

I am open to any suggested language that would make it clearer.

**Chair Oceguela:**

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

**James Vilt, representing Nevada Legal Services:**

Nevada Legal Services is a statewide, nonprofit law center that provides legal assistance to low-income people. As part of our operation in Las Vegas, we have a self-help housing center component which, in 2006, assisted roughly 30,000 people, landlords and tenants alike, with housing related matters.

I do not want to be repetitive, but there are a couple of sections in this bill that necessitate some elaboration. Section 1, relates to condominium conversions. For awhile Las Vegas had the highest conversion rate in the country. It has cooled off a bit, but there is every reason to believe that it will happen again.

Surprising to me was the fact that a lot of the apartments and complexes being converted housed my clientele, low-income people. These were not just the nice apartment complexes that were being converted. A new owner would come in and do an "end around." That is, they would ignore the existing law requiring them to give 120 days notice to existing tenants, or the old owners would simply terminate the existing tenants' tenancies without cause.

If you do not have a current lease agreement, and you are paying your rent on a month-to-month basis, the landlord can serve you a 30-day written notice and terminate your tenancy. Many people in southern Nevada do not have current lease agreements. They initially enter into a lease agreement for a year, that lease expires and the tenant stays another 20 years. Technically, the tenant is month-to-month, and there is no obligation on the landlords' part to give that tenant more than 30 days notice in terminating their tenancy.

For a person living paycheck to paycheck, having to pick up and move in 30 days is very difficult. There is no provision for returning the security deposit within those 30 days. Indeed, landlords have no obligation to return that security deposit until 30 days after the tenant has vacated. This particular change to the existing law does not address that situation nor does it prevent the loss of affordable housing units from the market. In the context of condominium conversions, it shores the existing law up and prevents landlords from evading the intent, if not the stated words of the existing law in this regard.

Section 3 requires out-of-state landlords to designate a resident agent. Many of the landlords that we deal with are from out of state, and there are a number of situations that arise in which a tenant needs to provide the landlord with written notice or a lawsuit, which is difficult if that landlord is located outside of the State. For instance, we have situations that arise in which a tenant has been unlawfully locked out of his premises. We have a great State law that addresses that situation. A tenant can file a verified complaint in court, and it

will get him a hearing within three days. However, if he cannot serve his landlord, the court does not have personal jurisdiction over the landlord and can offer the tenant very little in the way of relief. Tenants can be locked out for fairly significant periods of time. For low-income tenants, trying to serve an out-of-state landlord with process becomes next to impossible. The law lets the tenants waive in-state service fees. What we are asking for is nothing more than that every corporation doing business in the State of Nevada must comply with designating someone to be a resident agent or just an address for service. There are services that do this for a small charge to the landlord. That cost will presumably be passed onto the tenant, but we think this is a worthwhile change.

Section 6, provides for withholding rent in habitability situations. Under current law, a tenant who has an issue relating to the habitability of property that does not rise to the level of an essential service, can give the landlord 14 days written notice. If the landlord fails to correct the deficiency or use his best efforts to do so, the tenant has two options. One, he could terminate his tenancy and could sue for damages, but that is a remedy that few of our clients get to enjoy. The alternative is to make the repairs themselves and deduct the cost of that from future rent. That would apply only if the cost of the repair is less than the amount of the monthly rental obligation. That becomes a difficult remedy for disabled or low-income tenants. More likely than not, they would remain in a situation where they are living in uninhabitable conditions. This section of the bill will give the tenants one of the best ways of getting their landlord's attention and removes the court from the equation.

As for the requirement that tenants post bond or put their rent in an escrow account, we have no problem if there were such a mechanism for tenants to do that. I do not think the court is in the position to do that at this point. Moreover, landlords do have recourse in these situations. We have one of the fastest eviction processes in the country. If the landlord contests the tenant's ability to withhold his rent, he can serve him with a 5-day notice to pay rent or quit, and apply for an eviction notice shortly thereafter.

The manner in which someone is evicted depends upon the grounds that the landlord is relying on for the eviction. For breach of lease, there is a 5-day notice followed by a 5-day unlawful retainer notice. In that 5-day breach of lease notice, the tenant is provided with a written opportunity to correct the breach. You specify what the tenant did to breach the lease. Often it relates to property damage which can be repaired. With a nuisance, it is a 3-day notice, followed by a 5-day unlawful retainer notice. It is the shortest period of time available to landlords short of nonpayment of rent situations. Landlords in southern Nevada are attempting to characterize what would otherwise be lease



violations as nuisances. The new language will not change the existing common law notion of what a nuisance is, it just clarifies it.

**Chair Oceguela:**

Are there questions from the Committee? I see none.

**Ryan Works, representing Southern Nevada Multi-Housing Association:**

I would like to thank Jon Sasser and his group for working with us so extensively on our concerns with the bill as it was originally drafted. With respect to the bill, our group has no opposition to any of the provisions or the amendments that have been given to the Committee. However, we would like to put on the record that we would like to see, at some point, a mechanism for depositing the rent that tenants can withhold from the landlord with the court. While that is an ongoing process, we do not have the solution at this time. We are conducting research as to what other states and jurisdictions are doing.

**Ernie Nielsen, representing Washoe County Senior Law Project:**

We see approximately 2,000 senior issues each year. About 576 last year were in the housing area. I will give you a few examples of how this has affected our clients.

One example of a change that occurred during the lease term and which materially affected the lease was when a complex posted a notice that essentially placed all responsibility for tenant loss onto the tenant. Those included the losses caused by landlord negligence. Clearly, what they wanted to have happen was to make the tenants get renters' insurance. We complained. Approximately one month later, the sprinkler system on one of the floors collapsed and flooded that floor, creating considerable damage to property. The management refused to compensate the tenants for their losses and we are working with the new management to rectify this. The rules were changed mid-stream in the lease.

Another situation is where the utilities have been shifted from the landlord to the tenant during the term of the lease.

I was going to explain some examples regarding the rent withholding, but Mr. Vilt covered that. I would like to say that seniors do not like to move, and seniors do not like to file lawsuits.

[Chair Oceguela left the meeting.]

**Vice Chair Conklin:**

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

**Marshall Schultz, President of Residents Information Center, Inc.:**

[Spoke from written testimony, ([Exhibit P](#)).]

I approve of all the suggested revisions. We have been battling those types of situations for years. I would like to see A.B. 195 be effective July 1, 2007, with a postponement of the penalty phase until January 1, 2008.

**Vice Chair Conklin:**

It appears you have some suggestions beyond the current proposed amendment. If you have some suggestions, please submit them in writing to the Committee Secretary.

**Marshall Schultz:**

I will do that.

**Vice Chair Conklin:**

Are there any questions of Mr. Schultz at this time? I see none. Are there others wishing to speak in favor of A.B. 195? I see none. We have lost the feed from Las Vegas. We are having some technical difficulties. I reserve the right to go back to Las Vegas for additional testimony in support of this bill.

Do we have any opposed to this bill?

**Teresa McKee, Legal Counsel, the Nevada Association of Realtors:**

While we are opposed to the bill as written, we have been working closely with Mr. Sasser on the amendments, and we are satisfied with them as presented.

**Vice Chair Conklin:**

Mr. Schultz mentioned the statute that requires a copy of the lease for mobile home tenants. Is that a problem for regular tenants? Is there a reason that is not currently in statute?

**Teresa McKee:**

I am not aware that would cause a problem. Our concerns with that particular provision would be applying it to the agreements already in place unless the landlord was requested to provide a copy. We did not want it to be an affirmative duty to provide one.

**Vice Chair Conklin:**

So, if there were an amendment to propose that all new contracts going forward would provide a copy at signing, that would not be a problem?

**Teresa McKee:**

It is not a problem for the realtors.

**Vice Chair Conklin:**

Are there any additional questions of Ms. McKee from the Committee? I see none. Mr. Sasser, did you have something to add?

**Jon Sasser:**

Just to clarify, the bill already requires a free copy of the lease. Mr. Schultz was referring to a \$25 penalty or the ability to sue for actual damages. That is not in the agreements we have to date with either the landlords or the realtors.

**Vice Chair Conklin:**

We will note that for the record. My concern was that they get the copy at the time of signing. The penalty, as I understand it, would be a civil penalty.

**Jon Sasser:**

The bill requires a copy at the time of signing and additional copies with a reasonable copying fee. Ms. McKee's original concern was that she did not want to have to give a new copy of old leases on that effective date. We made it clear to her that that is not the requirement.

**Vice Chair Conklin:**

Mr. Schultz, there is no need to come up at this time.

**Marshall Schultz:**

I want to add one clarification. We think, in my organization, that all tenants who do not now have a copy of their rental agreement should get one in the next six or seven months. We think that all tenants should have a copy.

**Vice Chair Conklin:**

For the Committee's information, we have lost our feed from Las Vegas. Are there others wishing to speak in the neutral position on A.B. 195? I see none. Is there any opposition? I see none.

For the record, we received [Exhibit O](#) from Judy Cook in support of the bill and the proposed amendments. We will close the hearing on A.B. 195.

We will open the hearing on Assembly Bill 216.

**Assembly Bill 216:** Provides additional requirements for closing or converting manufactured home parks. (BDR 10-141)

[Assemblyman Anderson took over the chair from Vice Chair Conklin.]

**Assemblyman Marcus Conklin, Assembly District No. 37:**

This bill is a result of the Legislative Commission Subcommittee on the Study on the Availability and Inventory of Affordable Housing, which I chaired during the most recent Interim. With me is Kelly Gregory of the Research Division of the Legislative Counsel Bureau. Ms. Gregory was the analyst assigned to assist the Subcommittee with its work and is here to answer any questions of a technical nature that you might have.

Among the issues the Subcommittee was interested in were the policies that would maintain or increase the supply of affordable housing in the State of Nevada. Former Assemblywoman Chris Giunchigliani and Assemblyman Mark Manendo were kind enough to appear before the Subcommittee and offer testimony on manufactured home parks as a form of affordable housing. They brought to the Subcommittee's attention that, since 2001, no new manufactured home parks have opened in the Las Vegas Valley. In fact, since 1999 a total of 19 parks have closed. These park closings have profound effects on displaced residents. In many cases displaced residents do not have the accumulated savings required to move into new residences. Apartment rents continue to increase as land prices rise, shrinking the supply of housing affordable to low-income Nevadans.

The problem is particularly acute for residents on fixed incomes or those who have owned their manufactured home for some time. The older a home is the more difficult it is to move to a new location. The bill before you, A.B. 216, requires the owner of a manufactured home park to provide a greater level of detail to a local zoning board, planning commission, or governing body before beginning the process of closing or converting a park to another use. The owner must provide, at a minimum, the names, addresses, and manufactured home identification numbers of all tenants in the park, an analysis of replacement housing needs or requirements for the tenants, and an analysis of any sites to which the homes of the tenants may be moved.

By requiring park owners to provide this information to the body determining whether a voluntary closing or conversion should be granted, all parties involved will have access to more information on how and where displaced park residents can be relocated before a final decision is made.

That concludes my introduction of the bill. I would be happy to answer any questions you might have, as would Ms. Gregory. Thank you for your consideration of this important piece of legislation.

[Chair Ocegüera returned.]

**Chair Ocegüera:**

Are there any questions for Mr. Conklin?

**Assemblyman Anderson:**

I want to thank Mr. Conklin for chairing the Interim study on this particular topic which was an issue that I had raised, and I appreciate the hard work and time you put into looking at these multiple problems.

**Assemblyman Conklin:**

I appreciate having had the opportunity to serve in that capacity. I think we have several fine pieces of legislation that help our State progress along the lines of making sure that there is affordable housing and inventory on the market available to our constituencies.

**Ernie Neilsen, Washoe County, Senior Law Project:**

I represent the Senior Law Project in this testimony and not any other group. We support this bill because this is a problem for seniors who are frequently displaced from mobile home parks. I note there is a requirement for an impact statement in this bill. There are not any necessary tools by which the jurisdiction can address a situation where there is a severe impact on affordable housing. I think this bill could be improved by adding some tool enabling the local jurisdictions to act if the situation is substantially exacerbated with respect to affordable housing when a mobile home park closes.

**Judy Dosse, President, Nevada Association of Manufactured Home Owners:**

[Read from prepared testimony ([Exhibit R](#)).]

**Assemblyman Settlemeyer:**

I appreciate the need for the bill. On page 2, line 4, where it says the names and addresses will be distributed, could we make this list private or somehow protect identities? The tenants may not want their name and address published to the county planning commission. Can we try to address this?

**Assemblyman Conklin:**

I am not certain of the implications. No one complained to the Subcommittee that this would potentially be a problem. I do understand your concerns. I do not know what happens to that information when it goes before the planning committee. It is important that the commission, or whoever the ruling body is, has some idea of exactly who needs help in getting State funds through the Mobile Home Trust Fund or some other agency if they are going to move forward with the termination of a park.

**Assemblyman Settlemeyer:**

What I am saying is, collect that information, but do not allow the county to publish the entire list to the public.

**Assemblyman Conklin:**

I am willing to look into that.

**Sorin Speakmen, Executive Director, Urban Community Housing Affordable Scaled Eligibility:**

[Spoke from prepared testimony ([Exhibit S](#)).]

**Renee Diamond, Administrator, Manufactured Housing Division, Department of Business and Industry:**

[Spoke from prepared testimony ([Exhibit T](#)).]

Currently, on July 1 of each year, the parks report the empty spaces to us, but they do not keep those up-to-date. Within a few weeks of receiving that data, it could be inaccurate. I was not notified that meetings of this Subcommittee were going on so I did not have any input.

[Continued with prepared testimony.]

Often when we quote statistics on park closure, they are not up-to-date. We never know exactly how many of the people during a park closure accept buyouts, have their homes moved, or have them destroyed. We would appreciate it if the sponsor of the bill would accept amendments.

**Assemblyman Conklin:**

I am fairly certain we complied with all of the open meeting law requirements, which we were not obligated to comply with, and publicly noticed these meetings, of which we had six. For the record, we noticed them far in advance. I do not want to belabor this bill, too much. I read Ms. Diamond's notes that she had distributed to the Committee. I do not have a problem with deleting the words "by regulation," but if you delete that word, then the items 1, 2, and 3 under Section 1 are open-ended, which means that now the Division can change or add or delete without any public notice or hearing. I think all parties involved would have issues with that.

If we delete "by regulation," then I think we need to codify that it cannot be changed other than the items that are already there. Or, we would need to add some language such as, "shall prescribe the following things," and then any additional item by regulation. So that there is some public hearing, and people

would have a chance to ask for things and argue for or against before anything is added to the form.

With respect to the second item about closing a park, the landlord must submit data; I have no opposition to that. I do not know who would have a problem with that information; it is the same as the Affordable Housing database in terms of collecting timely data.

**Renee Diamond:**

We certainly do not want to say that we would change anything because the requirements of the notice would be exactly as in the bill. Throughout *Nevada Revised Statutes* (NRS) 118B and the other section that we administer, NRS 489, we have requirements related to titling, sales agreements, and other things. All of those are on a form prescribed by the Division, and they go on to tell the Division what to put in the form. Furthermore, there is a cost when we have to adopt a regulation, depending on the number of people that have to be notified. In terms of 118B, we think there might be as many as 600 or 800 people. This would require an initial mailing, the two meetings, and then the mailing of the regulation after we adopt it. So that could come to several thousand dollars.

Throughout our statutes we have areas whereby the Division prescribes the form upon which things are created, and we would have no problem doing that. That would not cost us anything.

**Assemblyman Conklin:**

Just for a follow-up, which does not require a response, the only thing that I am saying is that if we delete "by regulation" then we have to consider, in line 3 on page 2, also deleting "without limitation" or moving that phrase to a section below, creating a new section and then having that by regulation. If we do not state "by regulation," whoever fills out the form can state "by regulation" plus anything else that they want. That is not the right precedent.

**Chair Ocegueda:**

I understand. Mr. Anderson?

**Assemblyman Anderson:**

Ms. Diamond, I was surprised to hear you say you had not heard about the Interim Committee. In terms of making landlords aware of the requirements of your Division, do you not normally, in the course of your operation, have to let the landlords know when you are doing the regulation process? That is already in your budget, is it not?

**Renee Diamond:**

We do, on an irregular basis, when we have to change regulations, have a hearing, but because this has a time certain, upon passage and approval, we do not change regulations in NRS 118B very often. We do not do it on a regular basis. In NRS 489 there are code issues that are on a regular basis. I could do it that way, but you need to know that it would have a cost. If we were to prescribe a form, it would be exactly to the requirements of this bill. We do not go any further; we do not develop things on our own. The answer is that we do not regularly change regulations; it is only on an as-needed basis. Everything else would be statutory.

**Assemblyman Anderson:**

The fact that this is not any different from any other legislative act, it would not cost anything out of the ordinary in terms of what your normal office practice is.

**Renee Diamond:**

I do not have a regular budgeted item for the adoption of regulations in NRS 118B. They are seldom changed. In NRS 489 I do have a regular budgeted item. It is not impossible, I just wanted this Committee to be aware of what the Division would have to do, and that we could accomplish the same thing without the "by regulation" issue.

**Assemblyman Anderson:**

Putting it in statute clearly makes a standard that the Division must hold to, rather than being able to fluctuate away from, in the future, at will.

**Renee Diamond:**

If it did not say "by regulation," the bill puts it in statute that every administrator, including myself, would still be required to provide this form. The regulation process adds layers of hearings. Since this bill is very specific as to what the form should contain, it is not a matter of commenting. You want specific things, and you have required them; that is a statutory imperative, and every administrator would follow that, whether that is by regulation or not. Mr. Conklin mentioned that a fourth number could be added that would say "if any further requirements are made." I assume that those would still have to be statutory, and that would require regulation.

It is my opinion that you are very specific here.

**Chair Ocegueda:**

That is my understanding too. Are there further questions from the Committee? I see none. Anyone else wishing to testify in favor of the bill? I see none. For



the record, there is a letter from Commissioner Chris Giunchigliani ([Exhibit U](#)), a former member of this body, in support of A.B. 216.

Is there anyone wishing to testify in opposition to this bill? Are there any neutral comments?

**Joe Guild, representing Manufactured Housing Community Owners Association:**

We support this bill, but I have some questions. There is an ambiguity which is glaring and needs some clarification. The sponsor of this bill correctly identified the problem. It is a supply-side problem. We know that. There has been some lack of leadership on this issue. This is a start of the correction process. There are policies in place which restrict the supply-side and make it difficult to open a new mobile home park which could help to alleviate the affordable housing problem. We support the idea of a residential impact statement.

We need clarification of the word "analysis." There are two aspects to this. First, when the bill asks for an analysis that would be given to the governing body, what is that form asking for? Is it an appraisal of the site, the rental comparisons, the location, the distance, the amenities, cost of moving, et cetera? I think some small clarification of what analysis means might be helpful to create a good and usable form.

Second, subsection 2 requires the landlord to analyze the replacement needs for requirements of every tenant in that mobile home park. Some of these tenants might be reluctant to even talk to the landlord. You are asking to put into law a requirement that the landlord give the zoning and policy-making body of the county or the city, some information which may not be available or possible to obtain. How is the landlord to determine what each individual tenant's needs and requirements are for replacement housing in this analysis? I need some clarification.

If there is a desire on the Committee's part to amend the bill, I will work with the sponsor to do that. I would make myself available at any time and talk to the bill drafters or do anything else I can to clear up these ambiguities.

**Chair Oceguera:**

Are there any questions for Mr. Guild?

**Assemblywoman Kirkpatrick:**

My concern is the fact that you have three committee members that are on this Committee that sat on the Affordable Housing Subcommittee. The biggest concern that we had was the desire for a data base. This bill is a step in the right direction to create some type of data base so that we can move further in

providing affordable housing and different types of housing. To hear people concerned now with the data base is very frustrating. We lost federal dollars because of the lack of this data base. What do you want us to do? The reason for the impact statement and the analysis was an attempt to create the data base.

**Joe Guild:**

I am not sure what the member is referring to, so I will not comment.

**Chair Ocegüera:**

Okay. Are there other questions for Mr. Guild?

**Assemblyman Anderson:**

Would the landlords not know about other comparable parks where a manufactured house could be moved? I am sure you are aware of the closing of a park in northern Nevada, where there were no places to move the older mobile homes. If there were comparable places within your association, you should be able to identify similar housing.

**Joe Guild:**

This is the problem. The leaders of the State have failed to address affordable housing in this State. Restrictions have been placed by zoning and regulations which have made it virtually impossible for an entrepreneur to develop this type of affordable housing. To answer your question, of course, by statute, the landlord is required to pay for the cost of moving within 50 miles to a new site, if there is one available, and would know of those sites. There is also a requirement in NRS 118B that the tenant make an election on what to do and how to do it. Before the tenant makes that election, the landlord cannot get involved. Once that election is made, either to move the mobile home or to be paid, the landlord becomes involved. I am at a loss as to what this analysis could be.

**Assemblywoman Gansert:**

Can the closure of a park be denied because of this analysis? You submit the analysis the best you can. Will that stop the planning commission or the governing body from allowing the closing of the park? Can that happen because of that analysis?

**Joe Guild:**

The answer is no. If you look at the statute, NRS 118B, there is an acknowledgment by the State that a landlord may close a mobile home park, may convert it to individual lots for sale, et cetera. There is a process, and if the landlord does not do certain things, the closing would be illegal and in

violation of NRS 118B. If all the statutory requirements are met, the closing or conversion could be done.

**Chair Ocegüera:**

Are there further questions for Mr. Guild? I see none. Are there others wishing to testify on this bill? I see none. I will close the hearing on A.B. 216.

We will open the hearing on Senate Bill 18.

**Senate Bill 18: Authorizes the imposition of a fine for engaging in a certain deceptive trade practice. (BDR 52-587)**

**James Campos, Commissioner, Division of Consumer Affairs:**

This bill is being requested to obtain additional authority for the enforcement of regulations previously enacted by the Legislature. In prior sessions the Legislature has imposed a requirement on certain industries to register and post a security with the Consumer Affairs Division before conducting any business in the State of Nevada. Consumer Affairs' current enforcement mechanism is an administrative remedy, providing administrative action in the form of an Order to Show Cause hearing or discontinuance. These administrative actions were intended for the purpose of deceptive trade practice violations which remain unresolved at the investigative level.

Once a non-registrant or non-renewal is identified, it can take as long as 90 days to bring this business into compliance. During this time, the business is still in operation, possibly allowing additional consumers to be harmed. Sitting on my right is Kathleen Delaney, who will further explain S.B. 18 in legal terms.

**Kathleen Delaney, Senior Deputy Attorney General, Division of Consumer Affairs, Attorney General's Office:**

I represent the Division of Consumer Affairs in their administrative proceedings and in other legal matters. We had great success moving this bill quickly through the Senate, and since we were already in Carson City, we wanted to be on the agenda today.

The Commissioner has already covered the bill in detail, and I want to flesh it out a little bit. The guts of the bill are in Sections 2 through 4. It gives a fining mechanism so that the Division can deal in real time with a particular violation. That violation concerns businesses that were previously held by this Legislature to need to register and post a security before they could ever conduct business in Nevada, but are not doing so. The ability to have a mechanism where that could be addressed in real time would help greatly. The fine is minimal, and there is already precedent in the Deceptive Trade Practice Act for this type of

fining mechanism in the areas of sellers of travel. This is narrowly tailored to address only businesses that should not be operating here at all because they have failed to comply with the Legislature's intent for them to register and post a security before doing business. This would allow us to bring the matter to the business' attention and resolve it quickly. The mechanism that currently exists for the Division to deal with this infraction is a fairly long-drawn out, time-consuming process, which is appropriate in a consumer complaint investigation context, but not necessarily appropriate or very useful in this context. The fines begin at \$100 and the maximum amount is \$500. The key component is the ability to deal with these violations in real time. I would be happy to answer any questions the Committee may have.

**Chair Oceguera:**

Are there any questions from the Committee?

**Assemblywoman Allen:**

These fines seem somewhat low. What do you do now as far as identifying deceptive trade practices and punishing those that you find at fault?

**Kathleen Delaney:**

What happens is similar to how the Better Business Bureau operates. There is a mediation effort. A letter goes out to the business to let them know what is going on, and then there is an opportunity to respond. If there is no response, there is a second or third and final letter, and if there is no compliance, the Division will proceed with its Order to Show Cause hearing. The Order to Show Cause hearing needs to be supported by an affidavit, so it requires the time of an investigator to put together an affidavit. Then the Order to Show Cause hearing takes place. There is a significant expense involved in that process. It requires the time of the staff and my office's staff to appear at those hearings, but the result is a Cease and Desist Order, which can be enforced in court if it is not complied with. It is a very good mechanism for a consumer complaint in which there may be two sides to an issue so that it needs to be investigated. It might be amicably resolved, but if not, then the investigation can result in a hearing. It is not the best use of staff and resources when you have someone who is not aware of the law, needs to be put on notice in real time, and dealt with.

We are asking for the fine in those amounts because that is what the fine was for the sellers of travel, but we strongly believe that we do not want to overburden businesses. We want to assume that they will comply when put on notice, and then we have that other mechanism when they do not. We want the ability to go out in real time, issue the citation, let them know about the violation, give them the opportunity to correct, and know that when we serve

the Order to Show Cause notices, in most cases, it does resolve. That is a "further down the road" process. I hope that answered your question.

**Assemblywoman Allen:**

Yes, it did. I just wondered if you were going to come back and ask us for an increase in these fines.

**Kathleen Delaney:**

It is hard to speculate what we might do in the future, but I think if we thought we wanted a higher fine, we would be doing it now. I think we would have an uphill battle if we came back to ask for an increase in fines. We are trying to be realistic, and perhaps that is why we have not had any opposition. We really want the ability to cite, not to make a profit from this. The belief is that the businesses are ignorant of the statute.

**Chair Ocegueda:**

Are there further questions from the Committee? I see none. Anyone else wishing to testify on S.B. 18? Anyone from Las Vegas?

**Shari O'Donnell, representing Signature Homes:**

We lost our feed here in Las Vegas; I wanted to speak on A.B. 195.

**Chair Ocegueda:**

Okay, we will continue with S.B. 18 and I will come back to you. Are there others wishing to testify on S.B. 18? I see none. We will close the hearing on S.B. 18.

We will reopen the hearing on Assembly Bill 195.

**Shari O'Donnell:**

I wanted to make sure that the Committee received the comments from the Common Interest Community Commission regarding our concerns on A.B. 195.

**Chair Ocegueda:**

Were they written comments?

**Shari O'Donnell:**

Yes, they were submitted by Chairman Michael Buckley.

**Chair Ocegueda:**

We do not have them. Do you have the written comments there?

**Shari O'Donnell:**

I am sorry, I do not. Would it be all right if I go back to my office and email them to you tonight?

**Chair Ocegüera:**

That would be just fine. We will include them for the record. [A two-page statement from Michael Buckley was received as ([Exhibit V](#)).]

We apologize for the communication problem. We will close the hearing on A.B. 195.

Committee members, thank you for your hard work. We have several long days ahead of us. We have three or four bills to be heard soon and March 23<sup>rd</sup> will be a work session, with about eight bills scheduled.

[The meeting was adjourned at 4:47 p.m.]

RESPECTFULLY SUBMITTED:

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Patricia Blackburn  
Committee Secretary

APPROVED BY:

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Assemblyman John Ocegüera, Chair

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

## EXHIBITS

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

**Date:** March 14, 2007

**Time of Meeting:** 1:38 p.m.

<b>Bill</b>	<b>Exhibit</b>	<b>Witness / Agency</b>	<b>Description</b>
	A		Agenda
	B		Attendance Roster
AB 108	C	Kathy McClain	Proposed Amendment
AB 108	D	Lawrence J. Weiss, Ph.D.	Prepared Testimony
AB 108	E	Lawrence J. Weiss, Ph.D.	Legislative Alert
AB 108	F	Lawrence Matheis	Prepared Testimony
AB 108	G	Debra Scott	Prepared Testimony
AB 108	H	Betty Razor	Prepared Testimony
AB 108	I	Alex Haartz	Prepared Testimony
AB 1	J	Dennis T. Trexler	Prepared Testimony
AB 1	K	Michael Brown	Proposed Amendment
AB 1	L	Michael Brown	Prepared Testimony
AB 1	M	Paul A. Thomsen	Prepared Testimony
AB 195	N	Jon L. Sasser	Prepared Testimony
AB 195	O	Jon L. Sasser	Proposed Amendment
AB 195	P	Marshall Schultz	Prepared Testimony
AB 195	Q	Judy Cook	Prepared Testimony
AB 216	R	Judy Dosse	Prepared Testimony
AB 216	S	Sorin Speakmen	Prepared Testimony
AB 216	T	Renee Diamond	Prepared Testimony
AB 216	U	Chris Giunchigliani	Written Statement
AB 195	V	Michael Buckley	Written Statement