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

Seventy-Fourth Session
April 6, 2007

The Committee on Commerce and Labor was called to order by Chair John Oceguera at 12:18 p.m., on Friday, April 6, 2007, in Room 4100 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4401 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 Oceguera, Chair
Assemblyman Marcus Conklin, Vice Chair
Assemblywoman Francis Allen
Assemblyman Bernie Anderson
Assemblyman Morse Arberry Jr.
Assemblywoman Barbara E. Buckley
Assemblywoman Heidi S. Gansert
Assemblywoman Marilyn Kirkpatrick
Assemblyman Garn R. Mabey
Assemblyman Mark A. Manendo
Assemblyman David R. Parks
Assemblyman James Settelmeyer

COMMITTEE MEMBERS ABSENT:

Assemblyman Chad Christensen (Excused)
Assemblyman William Horne (Excused)

GUEST LEGISLATORS PRESENT:

Assemblywoman Susan I. Gerhardt, Assembly District No. 29

Assemblywoman Debbie Smith, Assembly District No. 30
Assemblyman David P. Bobzien, Assembly District No. 24

STAFF MEMBERS PRESENT:

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

OTHERS PRESENT:

C. Joseph Guild, III, representing the Manufactured Housing Community Owners Association
Bob Varallo, Past President, Nevada Association of Manufactured Home Owners
Ernest K. Nielsen, representing the Washoe County Senior Law Project
Renee Diamond, Administrator, Manufactured Housing Division, Department of Business and Industry
Brad Spires, representing the Nevada Association of Realtors
Jon L. Sasser, representing Nevada Legal Services and Washoe Legal Services
David Stone, representing Nevada Legal Services
Don L. Soderberg, Chair, Public Utilities Commission of Nevada
Tim Rubald, Executive Director, Division of Economic Development, Commission on Economic Development
Tony F. Sanchez, representing Acciona Solar Power
Renny Ashleman, representing the Southern Nevada Home Builders Association
Judy Dosse, President, Nevada Association of Manufactured Home Owners
James Vilt, representing Nevada Legal Services
June Burton, Private Citizen, Reno, Nevada
Joshua Martinez, representing the Las Vegas Metropolitan Police Department
Keith L. Lee, representing the Nevada Board of Medical Examiners
Drennan A. Clark, Executive Director/Special Counsel, Board of Medical Examiners
Lawrence P. Matheis, representing the Nevada State Medical Association
Jeanette K. Belz, representing the Nevada Ophthalmologic Society and the Property Casualty Insurers Association of America
Charles A. Vannik, M.D., Private Citizen, Las Vegas, Nevada
Ed Rathje, Private Citizen, Carson City, Nevada

Michael D. Geeser, representing the American Automobile Association Nevada
Robert L. Compan, representing Farmers Insurance
Jim Spinello, representing Progressive Insurance
Liz Sorenson, representing the Communications Workers of America, Local 9413
John Doran, representing the Communications Workers of America
Kimberly M. Carrubba, Manager, Community and Government Affairs, Harley-Davidson Financial Services
Scott Watt, Private Citizen, Minden, Nevada
William J. Birkmann, representing the Nevada Alliance for Retired Americans
Rena Meyers-Dahlkamp, representing the Progressive Leadership Alliance of Nevada
Marsha Berkbigler, representing Charter Communications
Robert Gastonguay, representing the Nevada State Cable Telecommunications Association
William R. Uffelman, representing the Nevada Bankers Association
Chris MacKenzie, representing American Express
Brent Gunson, Associate General Counsel, Consolidated Resorts

Chair Oceguera:
[Roll called.] We are opening the hearing on Assembly Bill 304.

Assembly Bill 304: Makes various changes to provisions relating to manufactured home parks. (BDR 10-1119)

C. Joseph Guild, III, representing the Manufactured Housing Community Owners Association:
We are in support of this bill. I have submitted an amendment to A.B. 304, (Exhibit C). Several years ago, legislators who were working on mobile home bills brought tenants and landlords of the mobile home parks together for discussions. During the interim period, a consensus was created by the parties, and one bill was developed instead of having competing bills. The bill would make needed changes to *Nevada Revised Statutes* (NRS) 118B. The bill did not come from the bill drafters exactly the way the consensus group had recommended. This amendment is a result of some discussions with the group, and an agreed upon series of changes.

In Section 1, subsection 1, we are requesting a deletion of the proposed language, and an insertion of the amending language. The reason for this change is to clarify the intent of the language. In Section 2, the change will be the deletion of the words, "...life, health or safety...." As the bill language is

currently drafted, a person could not do repairs on their own mobile home. If it is necessary to have a certified repair person make the repairs, the proposed amendment would cover those circumstances.

In Section 3, we are requesting the deletion of lines 8-11, and replacing the language with the suggested amending language. The new language will solve the problem of adoption of rules and regulations in a manufactured home park better than the current language. It will better address the concerns of the consensus group. Section 4 of the bill has been a confusing provision since it was adopted several sessions ago. The concept of the Section is to permit a group of tenants to ask for a meeting with the landlord without the manager being present, unless the manager is the owner, because the manager is often the person the tenants have complaints about. We are suggesting that the entire section be deleted from the bill, and replaced with the one sentence shown in the amendment. The designated person, other than the manager, needs to have a working knowledge of the operations of the park, and the authority to make decisions.

On page 7 of the bill, lines 34-37, we are requesting a new subsection 7. This new subsection will cover the closing of mobile parks. It was agreed that the landlord will pay the costs associated with determining the fair market value of a manufactured home. The cost might involve paying for an appraisal, or obtaining a dealer's determination of value in accordance with subsection 6. It would require the landlord to pay the reasonable cost of removing and disposing of a manufactured home. This provision was agreed upon by the consensus group. On page 8, line 18, the amount of the lien a landlord may apply for nonpayment of rent may not exceed $5,000, as opposed to the $2,000 in the original language of the bill. The $2,000 amount has not been raised since 1981, and inflation has caused rates to increase.

[Chair Oceguera turned the hearing over to Vice Chair Conklin.]

Vice Chair Conklin:
Are there any questions? Since I came in a little late, I wanted to know if the amendments are provided in writing.

C. Joseph Guild:
Yes, they are.

Vice Chair Conklin:
Does anyone else wish to testify in support of A.B. 304?

Bob Varallo, Past President, Nevada Association of Manufactured Home Owners:
We are in support of this bill.

Vice Chair Conklin:
Is there anyone else wishing to testify in support? Anyone in opposition?

Ernest K. Nielsen, representing the Washoe County Senior Law Project:
We support this bill with the exception of Section 6, which is the increase in the amount of the landlord's lien. We attempted to negotiate with and contribute to the discussions with the park owners and the representatives of manufactured housing, but we were not able to work with them. We informed them we would be in opposition to this lien cap. We are opposed to the lien cap for two reasons. First, once the lien gets as high as $5,000, it becomes impossible for us to work with our clients and negotiate for them. With a $2,000 cap, we have the ability to negotiate in their behalf. Second, if you look at NRS 108.315, the only things that can be included in the lien are the rent and utilities. The most that is obtainable under a lien is about four months rent. Current rents average about $500 a month, so $2,000 is a reasonable amount. We do not see any justification for increasing the amount of the lien to $5,000, unless some other amounts have been included in the liens that we are unaware of. I have submitted a copy of my testimony for the record (Exhibit D).

Vice Chair Conklin:
Mr. Guild testified that the lien cap has not been changed since 1981. You are saying you will not support an increase to $5,000. Do you think that some increase is valid?

Ernest Nielsen:
Yes, but $5,000 is outside the range we would consider reasonable. I would be happy to sit down with Mr. Guild to find an acceptable amount.

Vice Chair Conklin:
Are there any questions? Is there anyone neutral?

Renee Diamond, Administrator, Manufactured Housing Division, Department of Business and Industry:
I have a small amendment (Exhibit E). The bill is fine as far as the Division is concerned. However, on page 3, line 42, the language used says, "...to be issued by a local jurisdiction...." That language needs to be deleted

because local jurisdictions have no authority over manufactured homes. The Division has the sole authority under NRS 489.

[Chair Oceguera resumed the Chair.]

Chair Oceguera:
Mr. Guild, do you have a comment?

C. Joseph Guild:
The amendment I proposed takes care of Ms. Diamond's concerns.

Brad Spires, representing the Nevada Association of Realtors:
We are requesting that Sections 7, 8, and 9 remain as they currently stand in the statute. We believe the existing language is working. We have spoken with Mr. Guild about our concerns, and he agrees with keeping the current language.

Chair Oceguera:
Mr. Guild, do you have a comment?

C. Joseph Guild:
That part of the bill was not considered during the consensus, so we do not have a particular problem with the realtors' request.

Chair Oceguera:
Did you say "yes" or "no"?

C. Joseph Guild:
"Yes," if it is in context.

Chair Oceguera:
Are there any questions? Are there others wishing to testify? I have an amendment (Exhibit F) submitted by Jenny Welsh. She chose not to testify. I am closing the hearing on A.B. 304, and opening the Work Session.

Dave Ziegler, Committee Policy Analyst:
The first bill is Assembly Bill 88. The Work Session Documents have been distributed (Exhibit G).

Assembly Bill 88: Revises provisions governing the collection of debts by collection agencies. (BDR 54-630)

This bill revises provisions governing the collection of debts by collection agencies. It applies to licensed collection agencies and registered foreign

collection agencies. It grants rights to debtors and collection agencies. It also places duties on collection agencies, in a manner similar to those specified in the federal Fair Debt Collection Practices Act (FDCPA). This bill was first heard on February 19, 2007, and no amendments were offered. The Chair directed the parties to work together, and report back to Mr. Horne. A mock-up of amendments has been prepared based on the recommendations of the parties. Also, there is an optional mock-up to the bill with a different option. It would include the adoption of the FDCPA rules by reference. There are two schools of thought on these matters. One is requesting a Nevada-specific, "home-grown" bill. The other is a bill to incorporate the tenets of the FDCPA by reference. On page 2 of the first mock-up, lines 16-20, the information to be included in a statement distributed to debtors is delineated. It is a warning to a debtor. This language was agreed on by the consensus group. On page 2, lines 33-36, this language is intended to be a standard for the verification of debt. There are a couple of details not in this mock-up that should be mentioned. On page 3, Section 4 is proposed to be deleted by amendment. The consensus group recommended that this bill should be limited to consumer debt. It was determined that Nevada does not distinguish types of debt under collection agencies' regulations. The second mock-up adopts two sections of the FDCPA by reference. This approach assures that "you are not getting a pig in a poke." The language is similar to the first mock-up. I hope that is clear.

Chair Oceguera:
Is there discussion on the proposed amendments?

Assemblywoman Gansert:
Can you point out the differences? Is there something that we want in the Nevada law that is not covered by the FDCPA?

Dave Ziegler:
The warning to consumers on page 2, lines 16-19, is one of the differences. The standard for verification of debt in lines 33-36 is not in the FDCPA.

Assemblywoman Buckley:
I would make a motion to Amend and Do Pass with the first version of the amendments because we had our Nevada people work through this language, and they reached a consensus.

Chair Oceguera:
Mr. Sasser and Mr. Stone, would you come forward?

Jon L. Sasser, representing Nevada Legal Services and Washoe Legal Services:
We would prefer the first mock-up amendment. In the ideal world, we may want to take the best of both amendments and meld them. Then, all parties could support the bill. I do not think incorporating the FDCPA by reference will hurt consumers or the agencies because it is the federal law. We can add the other two provisions that go above and beyond federal law that all the parties agreed on.

Chair Oceguera:
That sounds like a good idea. Mr. Stone, your comments?

David Stone, representing Nevada Legal Services:
We do not have a copy of the mock-up amendments. Our request is that if the FDCPA is included under the Nevada statute that it is done so by reference. We are bound by that statute. If we try to mimic the language, the agencies could be open to an incredible amount of litigation. If the FDCPA is not included by reference, there could be a conflict.

Chair Oceguera:
I think we are good to go by including the FDCPA by reference. I will accept a motion.

> ASSEMBLYWOMAN BUCKLEY MOVED TO AMEND AND DO PASS ASSEMBLY BILL 88 WITH THE PROPOSED AMENDMENT TO ADD THE FOLLOWING REFERENCES:
>
> - INCORPORATE THE FEDERAL FAIR DEBT COLLECTION PRACTICES ACT BY REFERENCE; AND
> - ADD THE TWO CONSUMER PROTECTIONS IN THE FIRST MOCK-UP AMENDMENT.
>
> ASSEMBLYMAN CONKLIN SECONDED THE MOTION.

Is there any discussion on the motion? Seeing none, we will take the vote.

> THE MOTION PASSED. (ASSEMBLYMEN CHRISTENSEN AND HORNE WERE ABSENT FOR THE VOTE.)

Mr. Horne will take the bill to the Floor. We are opening the hearing on Assembly Bill 103.

Assembly Bill 103: Revises provisions regarding general rate applications filed by public utilities. (BDR 58-564)

Dave Ziegler, Committee Policy Analyst:
This bill revises provisions for general rate applications filed by public utilities, and it will apply only to general rate cases. It changes the maximum period between general rate applications from 24 to 36 months. It allows a public utility to submit a statement with its application showing the annualized effects of all expected changes under the given circumstances. This bill will repeal the requirement for two required reports from the Public Utilities Commission (PUC) to the Legislative Commission. A number of amendments were submitted on February 26, 2007, and they are in the Work Session Documents (Exhibit G). Mr. Conklin proposed an amendment in mock-up form, it is also in your Documents.

Chair Oceguera:
Are there any comments or concerns?

Assemblyman Conklin:
After the hearing on this bill, I reviewed its provisions to some length. I would like to direct the Committee's attention to page 2 of the mock-up where Mr. Settelmeyer's concern is addressed. Mr. Anderson was concerned because he reads the reports put out by the PUC. He would be denied that opportunity if the requirement for the PUC to submit those reports is deleted. The language has been modified to say, "If requested the PUC must file the report in two days." On page 3, there were several requests to change the date to file the general rate application. The original bill used the date October 3. A second request was to have the application filed in December. In order to avoid continually changing the dates in statute, the language suggested would read, "...every three years from the first Monday in December."

The whole discussion on the Plan of Alternative Regulation (PAR) was not considered appropriate for inclusion in this bill. It is dealt with in other legislation, so changing it in this bill does not make sense. The entire language dealing with PAR carriers has been deleted. On page 4, subsection 4, the language applies to a natural gas utility supplier. They can file their general rate application, and then amend that filing for the first 210 days after filing "...with the Commission if such expected changes in circumstances are reasonably known and are measurable with reasonable accuracy." There is an enormous amount of controversy about what this language means. The terminology is convoluted, and sometimes, the process is called forecasting. The intent of the language is to say if there is a certain change that happens in the 210 days, or if we know it is going to happen with certainty, that change is acceptable. We are not forecasting some future amount. The new amending language to codify this definition is in green on page 4 of the amendment. Also, if the PUC is going to consider changes that take place under this definition, the additional

language which appears on lines 18-21 on page 4 is recommended. It tells the PUC that if they consider the change, they must also consider any offset to that change. If part of the change is an expense, there must also be a revenue change associated with it. Thus, the consumer is not paying for the expense without the benefit of the revenue that comes with it.

Chair Oceguera:
Mr. Soderberg, do you have any comments?

Don L. Soderberg, Chair, Public Utilities Commission of Nevada:
We think the modifications to the bill that were made by Mr. Conklin's amendment are all positive refinements. We urge their inclusion in this bill.

Chair Oceguera:
Are there any questions? I will accept a motion on the proposed mock-up.

> ASSEMBLYMAN ANDERSON MOVED TO AMEND AND DO PASS AS AMENDED ASSEMBLY BILL 103 INCORPORATING MR. CONKLIN'S MOCK-UP AMENDMENT.
>
> ASSEMBLYWOMAN BUCKLEY SECONDED THE MOTION.

Is there any discussion?

Assemblyman Settelmeyer:
Mr. Conklin's mock-up is incorporating the amendment presented by AT&T. Is that correct?

Assemblyman Conklin:
There are two mock-up amendments. The one presented deletes all discussion of the PAR. The other mock-up amendment includes all the references to the PAR, and all the provisions that AT&T recommended to the Committee. This amendment was not vetted with AT&T, but since the entire discussion of the PAR has been deleted there is no point in putting it in this bill. If this bill passes and the other one does not, then you would have a reference in this bill that makes no sense.

Chair Oceguera:
I have had informal discussions with AT&T on this point, and I believe they are fine with the deletion. The motion still stands to include only Mr. Conklin's mock-up amendment.

Assemblyman Anderson:
I understood we were just taking the first three pages of the mock-up amendment.

> THE MOTION PASSED. (ASSEMBLYMEN CHRISTENSEN AND HORNE WERE ABSENT FOR THE VOTE.)

Mr. Conklin will take the bill to the Floor. I am opening the hearing on Assembly Bill 186.

Assembly Bill 186: Revises various provisions relating to energy. (BDR 58-784)

Dave Ziegler, Committee Policy Analyst:
This bill revises various provisions relating to renewable energy. It amends the renewable portfolio standard in such a way that contracts between providers of electricity and new renewable energy projects must identify, and then deliver, the expected economic benefits to Nevada, in terms of jobs and purchasing of goods and services. The bill also amends Nevada's Solar Energy Systems Demonstration Program Act to promote installation of solar energy systems in as many schools as possible.

There have been two subcommittee hearings on this bill. The subcommittee recommended the attached amendment in your Work Session Documents with two clarifications (Exhibit G). One is the Executive Director of the Department of Taxation may redact those portions of the audit report considered to be a trade secret or similar confidential item, after consulting with the applicant. However, the final decision rests with the Executive Director. The other subcommittee recommendation is that the abatement agreement must include a specific statement saying the applicant agrees that any audit will be made public when all appeals to the Department of Taxation and the Tax Commission have been exhausted. Normally, Tax Commission audits are confidential, and this statement would allow a release of that information. On page 9 of the bill, line 39, and on page 10, lines 1 and 8, the subcommittee recommended changing "20 megawatts" to "2 megawatts" for the size of school installations. It is my understanding that the next amendment to the bill replaces Sections 1-7.

Chair Oceguera:
Mrs. Kirkpatrick, you chaired the subcommittee. Do you have any comments?

Assemblywoman Kirkpatrick:
Mr. Ziegler is correct in his analysis of the subcommittee's recommendations.

Assemblyman Conklin:
It has been reported correctly. There was another amendment provided that the subcommittee chose not to bring forward because they did not feel it had been fully vetted.

Chair Oceguera:
I will accept a motion.

> ASSEMBLYWOMAN KIRKPATRICK MOVED TO AMEND AND DO PASS AS AMENDED ASSEMBLY BILL 186.
>
> ASSEMBLYMAN CONKLIN SECONDED THE MOTION.

Chair Oceguera:
Is there any discussion?

Assemblywoman Gansert:
Did someone mention that Sections 6 through 9 were deleted?

Dave Ziegler:
My understanding is that in the original bill Sections 8 to 11 had the solar energy demonstrations remaining in the bill. The earlier sections will be replaced by the language in the Work Session Documents, so Sections 1 through 7 would be deleted.

Assemblywoman Buckley:
Were the terms "trade secret" or "confidential material" defined? Was defining them discussed, or would the Legal Division work on those definitions in preparing the formal amendment to the bill?

Assemblywoman Kirkpatrick:
I believe we discussed that. The initial agreement was it would be part of the original contract, and those definitions would be decided at that time.

Assemblywoman Buckley:
So they would not be defined in the bill. Is that correct?

Assemblywoman Kirkpatrick:
The Department of Taxation indicated there was other language that would be consistent, and could be used to define the terms.

Assemblyman Conklin:
The Director of the Tax Commission made two significant points at the subcommittee hearing. One was to ensure that the Executive Director makes the decision to make something public in conjunction with the person who brings the report forward. The other point was the items are not made public until the appeal is complete. On the contract itself, when the report is filed requesting abatements from the Commission on Economic Development, there will be a statement saying, "...by accepting the terms of this, you are willing to make the information public." If they want the abatements, they have to be willing to disclose the information.

Assemblywoman Buckley:
Does that include trade secrets?

Assemblyman Conklin:
They are to some extent. After the appeal is made, the findings are permanent.

Assemblywoman Kirkpatrick:
We discussed that because we did not want them to pick and choose what the trade secrets were. It would be transparent, so the Tax Commission felt comfortable with that provision.

Tim Rubald, Executive Director, Division of Economic Development, Commission on Economic Development:
When we speak of the audit that the Department of Taxation does on the abatements that the Commission on Economic Development provides, it is not an overreaching audit. It is an audit on the specific issues that the company agreed to in order to obtain the abatements. It would be rare to get into a situation that involved trade secrets. It is important to protect the taxpayer because the world is a competitive place. There are three issues considered in the audit report by the Department of Taxation. The issues are: the number of jobs created, the hourly wage those jobs paid, and the level of investment the company made. That is what would be reported to the public upon request and through the process that the Legislature has indicated.

Assemblywoman Buckley:
If the Executive Director may redact those portions of the audit report considered a trade secret or a confidential item, those terms should be defined. I think most people can agree on what constitutes a trade secret. The word "confidential" is broad. We have struggled with that term in the open meeting law issue. We discussed a definition to prevent someone from later claiming that the level of investment is confidential because they contend it is a business decision that should not be revealed. Do the terms need to be refined so

everyone knows what we are talking about? That way there will be no arguments in the future.

Tony F. Sanchez, representing Acciona Solar Power:
We agree with your concern. It is not our intent to leave an impression that any of the three areas that have to be provided would be deemed to be a trade secret or confidential in nature. These audits are very limited. They are generally done two years after the abatements are first utilized. It is simply a report to the Commission on Economic Development on whether or not the three threshold requirements were met. If it needs to be stated that the number of jobs created, the hourly wage that those jobs are paid, and the amount of investment are not trade secrets or confidential in nature, it would be appropriate. There is other information contained on the initial applications that is completely separate from this report. Those were the issues that were addressed by adding this language. We agree it could be read to be too broad.

Assemblywoman Buckley:
It will go through Legal to be drafted, so I would be willing to support the motion if Legal carefully looks at the language during the drafting process to ensure the language reflects the intent of the subcommittee.

[Committee Counsel Brenda Erdoes nodded in the affirmative.]

Chair Oceguera:
Are there any other questions? Seeing none, we will take the vote.

> THE MOTION PASSED. (ASSEMBLYMEN CHRISTENSEN AND HORNE WERE ABSENT FOR THE VOTE.)

Mr. Conklin will take the bill to the Floor. I am opening the hearing on Assembly Bill 216.

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

Dave Ziegler, Committee Policy Analyst:
This bill provides additional requirements for closing or converting manufactured home parks. Before a landlord begins to close or convert a manufactured home park, he would be required to submit a residential impact statement to the zoning board, planning commission, or governing body in a form prescribed by

the Manufactured Housing Division. The report must include, without limitation: (1) the names, addresses, and home identification numbers of all tenants, (2) an analysis of replacement housing needs or requirements, and (3) an analysis of sites to which homes may be moved. On the date of the hearing, Ms. Diamond requested an amendment to page 2, line 2, to delete the words "by regulation." Also, Mr. Settelmeyer suggested a conceptual amendment that would address any privacy concerns associated with the disclosure of names, addresses, and home identification numbers of all tenants (Exhibit G). That language is on page 2, lines 4 and 5. On April 3, 2007, the Committee received correspondence from Sean Gamble of the Rogich Communications Group recommending the deletion of the words "without limitation" on page 2, line 3 of the bill. There is no mock-up on these amendments. You will have to look at the bill as it was introduced.

The concern for privacy or risk of identity theft regarding the disclosure of names, addresses, and home identification numbers of all tenants was traced to the testimony at the interim subcommittee last year. It was a provision recommended in testimony from former Assemblywoman Giunchigliani. If it makes the Committee uncomfortable to have that disclosure in the law, there is no harm in just deleting that requirement from the law.

Chair Oceguera:
Is there any discussion?

Assemblyman Anderson:
I am in favor of the bill without the first recommendation. I do not feel that Ms. Diamond makes a strong argument about the increased responsibility for her organization to do this. It could be done within the scope of their authority.

Assemblywoman Buckley:
Can Ms. Erdoes, what does the deletion of the words "without limitation" actually do?

Brenda Erdoes, Committee Counsel:
It would confine you to the list that you have. The words "without limitation" are intended to say that the items listed are examples, but other things could be required. The Supreme Court has some specific case law that says without having the words "without limitation," you are limited to what is specified in the statute.

Assemblywoman Buckley:
I agree with Mr. Anderson's point that it would be better to do it through regulation because it allows people the opportunity to give input. I would like to

keep the words "without limitation" in the bill because in the regulation process there may be something similar that should be included. Closure of mobile home parks is a huge issue. People who own the mobile homes in those parks are forced to move. It can cost $8,000 to move one. You have to pay for the setup and the landscaping. There are no new parks opening up, so there may be no place to go. The subcommittee was right in recommending this provision. If there are some other items that the county commissioner or planning commission may feel are helpful in evaluating park closures, the language would allow inclusion of those items.

Assemblyman Settelmeyer:
For clarification, are we still talking about leaving in the names, addresses, and phone numbers, or are we just allowing them to be submitted upon request?

Chair Oceguera:
No one has commented on your amendment, Mr. Settelmeyer.

Assemblyman Conklin:
If we leave the words "without limitation" in the bill, the minimum items required in the report are the three listed. That is my only concern with Mr. Settelmeyer's suggestion. We could reduce the language to say there must be some identifier. Or, we could let the regulating authority figure it out, and let them put some acceptable standard in regulation. We do not want to release private personal information; but, at the same time, there are many agencies that need to know who is going to need help relocating.

Assemblywoman Buckley:
We know the address because they are all in the same mobile home park. We could make the language a little more generic. I do not know if we want to publicize someone's identification number on their mobile home. We could ask for the number of people who would be affected by the mobile home park closure. They could choose to disclose their names and other information. Legal could draft some language that would to protect the individual's private information, unless they consented to release it.

Assemblyman Settelmeyer:
The total number of lots at that address could be provided. The agencies would then have an idea of how many people would be impacted by the mobile home park closure, and who may need assistance to relocate. I would suggest leaving out their names.

Assemblywoman Kirkpatrick:
One of the problems brought up in the testimony given before the interim subcommittee was that agencies indicated mobile home park closures were being made, and they had no information to work with. The agencies were unable to assist people within the necessary time frame because they did not have the necessary identification information. We could put in the lot numbers, and identify the type of mobile home on it. It has to be enough information for the agencies to be able to help people.

Assemblywoman Gansert:
Is the identification number for a mobile home traceable to someone? Would a count of the number of homes and lots be enough information without identifying the people in those homes? Does the identification number indicate what type of mobile home it is?

Chair Oceguera:
Mr. Settelmeyer is primarily concerned with requiring the names. If we eliminated that requirement, would the rest be acceptable? I will accept a motion to not take out amendments 1 or 3. We will accept Mr. Settelmeyer's amendment to eliminate the name, but require the rest of the information.

> ASSEMBLYMAN MANENDO MOVED TO AMEND AND DO PASS AS AMENDED ASSEMBLY BILL 216.
>
> ASSEMBLYWOMAN ALLEN SECONDED THE MOTION.

Is there any discussion on the motion? Seeing none, we will take the vote.

> THE MOTION PASSED. (ASSEMBLYMEN CHRISTENSEN AND HORNE WERE ABSENT FOR THE VOTE.)

Mr. Manendo will take the bill to the Floor. I am opening the hearing on Assembly Bill 222.

Assembly Bill 222: Makes various changes relating to energy. (BDR 58-882)

Dave Ziegler, Committee Policy Analyst:
I have distributed an amendment (Exhibit H). The bill addresses various changes relating to energy and energy conservation. It places the Task Force for Renewable Energy and Energy Conservation under the Office of Energy. It requires the Director of the Office of Energy to hire a Deputy Director of Renewable Energy and Energy Conservation, in the unclassified service, and makes an appropriation for that position. The bill will require energy audits for

existing and new public buildings of local government, the State, and the Nevada System of Higher Education (NSHE) to be submitted to the Director of the Office of Energy. Conceptual amendments were offered on the day of the hearing (Exhibit G). Ms. Kirkpatrick has prepared the recommended amendments.

Assemblywoman Kirkpatrick:
I worked with the different entities to address what we needed in the bill. If a plan was in place within the first year, they would have five years to present their energy audits. Their plans would be posted on the website for the Office of Energy. The only problem is the number of members in the Task Force. It is not exactly the way we needed the language to appear, but conceptually it is correct. Originally, there were 11 people on the Task Force. Our Nevada Congressional Delegation has asked to be part of the Task Force. The number of people on the Task Force would go from 11 to 15, but we would have the entire State involved.

Assemblywoman Buckley:
Two of the members will be appointed by our Nevada Congressional Delegation, so you are assuming they will jointly agree on two people.

Assemblywoman Kirkpatrick:
It was not worded correctly. We recommended that Senators Reid and Ensign make the determination.

Chair Oceguera:
Are there further questions? This bill has a fiscal note on it, so I would accept a motion to Amend and Do Pass and Rerefer it to Assembly Ways and Means.

> ASSEMBLYMAN ANDERSON MOVED TO AMEND AND DO PASS AS AMENDED ASSEMBLY BILL 222 AND REREFER TO THE ASSEMBLY COMMITTEE ON WAYS AND MEANS.
>
> ASSEMBLYWOMAN ALLEN SECONDED THE MOTION.

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

> THE MOTION PASSED. (ASSEMBLYMEN CHRISTENSEN AND HORNE WERE ABSENT FOR THE VOTE.)

Assemblywoman Kirkpatrick will take the bill to the Floor. I am opening the hearing on Assembly Bill 295.

Assembly Bill 295: Makes various changes regarding the Green Building Rating System of the Director of the Office of Energy. (BDR 58-945)

Dave Ziegler, Committee Policy Analyst:
This bill requires the Director of the State Energy Office to adopt a "green" building rating program including, without limitation, the Leadership in Energy and Environmental Design (LEED) Green Building Rating System and the Green Globes Version One Rating System. Other equivalent rating systems may be added to the program. This bill requires the Director to establish a process for adopting additional, equivalent rating systems as part of the program. Such systems must be based on nationally recognized standards.

On the day of the hearing, Mr. Graves offered various amendments (Exhibit G). Two witnesses representing the Southern Nevada Home Builders Association offered conceptual amendments that were not in writing. The amendments would add the Southern Nevada Green Building Partnership to the rating program. Written amendments have not been delivered to the Committee.

Renny Ashleman, representing the Southern Nevada Home Builders Association:
I apologize for not providing the amendments in writing. I was working on language that would not establish a rating system by programs, but it would establish a standard that was to be achieved. I received the language for the amendment, but I have not been able to prepare it to distribute to you today.

Assemblywoman Buckley:
I would make a motion to Rerefer this bill to the Assembly Committee on Ways and Means. There is some discussion about taking a more uniform approach to establishing a Green Building Rating System, especially with the abatements. To assure this bill stays alive, I suggest we Amend and Rerefer it.

Chair Oceguera:
I have a motion from Ms. Buckley.

> ASSEMBLYWOMAN BUCKLEY MOVED TO AMEND AND DO PASS AND REREFER ASSEMBLY BILL 295 TO THE ASSEMBLY COMMITTEE ON WAYS AND MEANS.
>
> ASSEMBLYMAN ARBERRY SECONDED THE MOTION.

Is there any discussion on the motion?

Assemblyman Conklin:
Are we referring only to the amendment in the Work Session Documents?

Chair Oceguera:
Yes, that is correct. Seeing no further discussion, we will take the vote.

> THE MOTION PASSED. (ASSEMBLYMEN CHRISTENSEN AND HORNE WERE ABSENT FOR THE VOTE.)

Mr. Conklin will take the bill to the Floor. I am opening the hearing on Assembly Bill 303.

Assembly Bill 303: Adds provisions relating to insurers who require medical examinations before issuing, renewing, reinstating or reevaluating policies of insurance. (BDR 57-919)

Dave Ziegler, Committee Policy Analyst:
This bill relates to contracts of insurance. If an insurer requires a medical examination before issuing, renewing, or reinstating an insurance policy or annuity contract, the insurer must notify the applicant within 30 days of any serious medical condition detected. These provisions do not apply to workers' compensation policies. On the day of the hearing, Mr. Hillerby offered an amendment. It is in your Work Session Documents (Exhibit G).

Chair Oceguera:
Are there any questions?

Assemblyman Settelmeyer:
I would like to make a motion to Amend and Do Pass A.B. 303.

Chair Oceguera:
We have a motion on the table.

> ASSEMBLYMAN SETTELMEYER MOVED TO AMEND AND DO PASS AS AMENDED ASSEMBLY BILL 303.
>
> ASSEMBLYMAN MABEY SECONDED THE MOTION.

Assemblywoman Buckley:
At the hearing, our Legal Counsel noted we might want to include the words, "if any" after the primary care physician because some people may not have one. Would the motion include that clarification?

Chair Oceguera:
Yes, it would.

Assemblyman Conklin:
I was going to comment on the same point. It would force the health insurer to ask that question.

Chair Oceguera:
Is there further discussion? Seeing none, we will take the vote.

> THE MOTION PASSED. (ASSEMBLYMEN CHRISTENSEN AND HORNE WERE ABSENT FOR THE VOTE.)

This was Assemblyman Stewart's bill, so we will notify him to take it to the Floor.

Assemblywoman Buckley:
Would the Committee be willing to reconsider the motion on Assembly Bill 295? Can we rerefer this bill to Ways and Means without an amendment? Mr. Ashleman has amendments to the bill. It would save Legal drafting time to have all the material at once. I would make a motion to rescind the previous action.

Chair Oceguera:
I have a motion to Rescind the action.

> ASSEMBLYWOMAN BUCKLEY MOVED TO RESCIND THE PREVIOUS ACTION TAKEN ON ASSEMBLY BILL 295.
>
> ASSEMBLYMAN ANDERSON SECONDED THE MOTION.

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

> THE MOTION PASSED. (ASSEMBLYMEN CHRISTENSEN AND HORNE WERE ABSENT FOR THE VOTE.)

Assemblywoman Buckley:
I will make a motion to Rerefer A.B. 295 to Ways and Means.

Chair Oceguera:
I have a motion.

ASSEMBLYWOMAN BUCKLEY MOVED TO REREFER ASSEMBLY BILL 295 TO THE ASSEMBLY COMMITTEE ON WAYS AND MEANS.

ASSEMBLYWOMAN GANSERT SECONDED THE MOTION.

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

THE MOTION PASSED. (ASSEMBLYMEN CHRISTENSEN AND HORNE WERE ABSENT FOR THE VOTE.)

I am opening the hearing on Assembly Bill 477.

Assembly Bill 477: Revises certain provisions governing manufactured home parks. (BDR 10-428)

Assemblyman Mark A. Manendo, Assembly District No. 18:
I ask for your support of A.B. 477. The Nevada Association of Manufactured Home Owners (NAMH) has asked me to sponsor this legislation. I am a 17-year member of the NAMH. This organization is not a stranger to residents in manufactured home communities. Ted Holsworth founded NAMH in 1973. This gentleman recognized the total absence of laws to protect homeowners living in these communities. I have had meetings with Ms. Dosse and Mr. Varallo, and have attended meetings with residents in their own communities. Former Assemblywoman Giunchigliani, who was part of our working group, could not be here to testify, but she is in support of this bill. Time is critical on these issues.

Chair Oceguera:
Are there any questions? Are there others wishing to testify?

Judy Dosse, President, Nevada Association of Manufactured Home Owners:
I represent the residents of over 400 manufactured home communities in Nevada. The majority of the issues addressed in this bill are those that have been discussed in the two years since the last session. The proposals in this bill were generated by the board of our association, and by members who mandated that we present their concerns. I have submitted a copy of my testimony for the record (Exhibit I). We support this bill.

The general purpose of A.B. 477 is to provide protection under the law to homeowners in manufactured home communities. On page 2, lines 3-9, we are defining the meaning of the word "appurtenance." By having an established definition, we hope to avoid needless disputes such as occurred in Clark County. There was disparity and inconsistency in interpreting the Nevada Revised Statue (NRS) requirement for the landlord to move appurtenances along with the manufactured home. Some landlords were liberal, while other landlords refused to pay for moving sheds, ramps to assist the handicapped, skirting, et cetera. A homeowner who is moved involuntarily should be placed "in whole" in a comparable situation. On page 2, lines 10-24, the language is to establish an inexpensive remedy for what can be termed "bait and switch" tactics used by landlords. These tactics result in the inability of tenants to pursue legitimate complaints. A decision to move one's home into a manufactured home community is prohibitively expensive to undo. This provision should be in the bill to allow the recovery of attorney's fees and damages. This is an equitable solution for the instances where a tenant is promised something that is not delivered.

On page 3, lines 8-19, and page 4, lines 21-22, the purpose of this language in Section 5 is to add four requirements to the disclosure list. We are asking for basic contractual information. It is in the interest of all parties to share information for the purposes of comparison shopping. A person should expect to have information before purchasing a manufactured home, or committing to living in a manufactured home community. Similar laws exist in other states. Illinois has more comprehensive requirements, and Delaware recently enacted such consumer protection laws.

On page 3, line 17, we want to add the words, "lot infrastructure," as it represents a different category. It is necessary for the tenant and the landlord to understand these responsibilities. There is little agreement about who pays for driveways, patios, utility lines, and other similar items when they fail. This bill does not address the "72 hours to review" language, nor does it address the approved applicant, prospective tenant language that is covered in Assembly Bill 304. We support removing any reference to 72 hours. We support making information available to prospective tenants before they are charged application fees.

On page 4, lines 44-45, and on page 5, lines 1-3, although NRS 118B does not regulate escrow agents, this language will clarify their duties when a manufactured home park is sold. We do not support the suggested amendment from the Manufactured Housing Division to remove this language. The language on page 5, lines 17-21, will make the responsibility for coordinating a move clear. The landlord is the one who has the resources,

contacts, negotiating leverage, and skill to handle what can be an overwhelming task for the tenants. When large mobile home parks are closed, the landlord needs to create a workable schedule. These same arguments apply to the language on page 8, lines 3-6; page 10, lines 25-30; and page 12, lines 3-7. We have several sections in NRS 118B that address converting and closing a manufactured home park.

On page 5, lines 22-32, there is a proposal to extend the distance, from 50 to 100 miles, that a landlord is required to move the home when a park closes. The Board of NAMH believes these proposals have universal application in Nevada. In the case of the mileage limitation, we are finding many manufactured home communities have their own restrictions against accepting older homes, and the 50-mile provision is too limiting. As more manufactured home parks close, the choices will be further diminished.

On page 5, lines 33-37, we are asking the Legislature to expand NRS 1118B.130 to include this language, which is the same as found in other sections of the bill. On page 7, lines 7-8, this language will provide proof of payment. A landlord is in the business of leasing lots, not collecting late fees. While we recognize the efficacy of charging late fees to encourage timely payment, there is no justification for tacking on additional charges when the tenant makes a timely good-faith payment. Some communities do not have resident managers, and some residents spend months out of state. It is unconscionable to allow a manager to refuse to accept a rent payment because of a postal delay, and to charge additional fees for the delay.

On page 8, lines 19-24, the language is to help homeowners with moving costs that are incurred by involuntarily having to vacate their current premises. During the 2004-2005 mobile home park closures in Clark County, some displaced residents ended up living in temporary housing for two or more months waiting for a certificate of occupancy. During this time, they had to pay for storage of household goods, pet care, motel costs, and other expenses. We encourage all parties to move expeditiously to minimize the disruption to individual lives. We consider these reparations a cost of doing business for the owner who is closing the community. In fact, the recently closed El Capitan Mobile Home Park voluntarily assumed these obligations. Developers have assured me it is in their interests to treat the tenants fairly.

On page 8, lines 25-30, this provision recognizes that a perfectly serviceable out-building may not be moveable. This provision will place an acceptable value on the shed. In lines 36-39, we have a proposed amendment to delete the words, "...less the reasonable cost of removing and disposing of the manufactured home." We request the addition of the words, "or $5,000,

whichever is greater." We request the same change on page 6, lines 5-8. It has been recognized by all stakeholders that the cost of disposing of the manufactured home can be about $2,500 per segment. The expense can easily leave the homeowner with nothing or even "upside-down" on his investment. The homeowner is doubly disadvantaged in not being able to set the price for his home, and in not having control over the disposal costs. The ability to manipulate both sides of the transaction can easily result in an unconscionable, unfair, and unjust taking of property value from people who have little or nothing to begin with. On page 8, lines 42-45, and page 9, lines 1-11, this language will benefit all stakeholders by increasing the time allowed by notice to close the park. For large communities, it is unlikely that the process can be completed before the 270-day time frame expires. We have a proposed amendment. On page 9, lines 7-10, we agree with the Manufactured Housing Division the language should be deleted because NRS 118B is for homeowners, and NRS 118A covers renters. We hope you will pass A.B. 477 as amended.

Chair Oceguera:
Are there any questions?

Bob Varallo, Past President, Nevada Association of Manufactured Home Owners:
These are burning issues that need to be addressed. They have been mandated by the homeowners and the NAMH Board. We thank you for your support and consideration.

Chair Oceguera:
Are there any questions? Are there others wishing to testify in support of A.B. 477?

Ernest K. Nielsen, representing the Washoe County Senior Law Project:
We provide legal services for many seniors, and we deal with a lot of mobile home cases. There have been 15 mobile home park closures in Washoe County in the last 5 years. The issue of park closure with no place for these people to relocate is a major problem. Also, it impacts the continuing loss of affordable housing. We support this bill both generally and specifically. We are pleased that this bill would establish a minimum amount that a tenant will receive if they cannot move their mobile home. This way they will have some funds to get a new start in life. There has been some discussion in other bills about the cost of disposing of mobile homes that cannot be moved. I urge the Committee to support a minimum amount payable to a tenant who will be losing their home. This is an example of a shared-savings program, in which the tenants who do not have the ability to take their home will get something for their investment in the mobile home that they are losing.

Chair Oceguera:
Are there any questions? Are there others wishing to testify?

James Vilt, representing Nevada Legal Services:
We are a statewide, non-profit organization that provides legal assistance to lower-income Nevadans. In that capacity, I have represented and consulted with dozens of mobile home tenants. I am pleased to see the Legislature addressing mobile home park closures. The current law has not been kind to my clientele who typically live in older mobile homes. Because these homes cannot be moved and they usually are not in great shape, their market value is fairly low. People who have lived in their mobile home for many years assume that if all else goes bad, they will still have a roof over their heads. These people can end up losing their home, and receiving nothing for it. Many of my clients are elderly or disabled, and they live on fixed incomes. They are stunned to learn that a mobile home park owner in this State can sell the land out from under them, and provide them with an inadequate amount of compensation. They can potentially end up owing the park money. The measure of compensation set forth in this bill is fair, but can hardly be considered a windfall. The $5,000 minimum amount they would receive is only a couple of months rent. If this bill does persuade any mobile home park owners to reconsider closing or selling their park because of costs involved in that process, it would be beneficial. These mobile home parks are the last bastion of affordable housing in this State. When they close, substitute affordable housing does not spring into existence.

Chair Oceguera:
Are there any questions?

June Burton, Private Citizen, Reno, Nevada:
In the 1980s, Thelma Clark and I sat at witness tables testifying numerous times for renters' rights. This bill is wonderful. We need this legislation. When seniors are required to move out of their older mobile homes, part of the pressure put on them is packing up their belongings. It is devastating to them. We need this bill on behalf of renters.

Chair Oceguera:
Are there any questions? Is there any opposition?

C. Joseph Guild, III, representing the Manufactured Housing Community Owners Association:
I represent mobile home community owners statewide. We are opposing this bill, although we are sympathetic to the issues facing the tenants when mobile home parks close. Our opposition is for different reasons. I have represented

an elderly couple in Reno who had to close down their mobile home park for health reasons. They, too, have problems. There is no easy solution in this law, but they have been able to comply with the laws that presently exist. They did help move the tenants who were in compliance with the statute. It has cost these people a considerable amount of money in legal fees to just exercise their rights under the statutes. I would like to address some specific items in the bill.

We are not in opposition to the provisions on page 2 of the bill. Everything you add as a requirement under NRS 118B increases the burdens on people who have to implement those things. Sometimes this accumulation of laws and regulations is a negative because it increases their cost of doing business. We have no particular problems with Section 5 of the bill. On page 5, Section 7, subsection 3, the bill says, "A landlord shall arrange to move...." What does "arrange to move" mean? Is it to enter into the complete negotiations and contractual relationships that would be required on behalf of the tenant to move their mobile home? Would the tenant give the permission required under the law for the landlord to do this? If there was a dispute, would the landlord be required to defend himself? The choice of words is problematic.

Our Association does not disagree with the 100-mile provision in subsection 4. On page 5, subsection 5, the $250 value placed on a shed is an arbitrary amount, and we do not agree with it. We strongly disagree with subsection 6 on page 5, which says "the landlord shall reimburse the homeowner for temporary housing and other items." The landlord is already going to considerable expense to close down the mobile home park and move the homes. This is an additional cost the landlord should not be paying. On page 6, line 7, we consider the $5,000 amount to be arbitrary. The law would require the landlord to pay the tenant the fair market value or $5,000, whichever is greater. I cannot reconcile that amount with any kind of logic.

On page 7, line 7, this bill would be establishing a standard of proof for timely payment. A tenant could put nothing in an envelope and mail it. The tenant could then tell the landlord that the postmark proves the payment was made. The burden of proof would then be on the landlord. On page 8, line 39, the $5,000 amount is arbitrary. Some mobile homes are worth nothing. They have not been kept up, and the tenant has taken no pride of ownership, but the tenant would still realize $5,000 under this provision. Another tenant may have kept their property up, and they may be told their mobile home is only worth $6,500.

Chair Oceguera:
We understand your opposition. Can you summarize your remaining comments?

C. Joseph Guild:
I would be happy to answer any questions.

Assemblywoman Buckley:
Did you talk to the sponsor of the bill about your concerns?

C. Joseph Guild:
Unfortunately, I did not.

Assemblywoman Buckley:
That would have been a good thing to do. My reaction to your testimony is that some of the items you have brought forward could have been worked out before the drafting of the bill. The driver behind this bill is the southern Nevada real estate market. Some people have lived in their mobile homes all their lives. If there is no long-term lease, the owner of a mobile home park can sell the property, and they have the right to cash in their investment. However, we need to be fair to people, especially seniors, who see their mobile homes as their life investments. Providing notice makes sense, so do the provisions to make it clear how the mobile homes and people will be moved. The rationale for picking a $5,000 amount is to help people replace their home or move somewhere else. They will need some money to do this.

If I have a $1,000 "junker" car that I have to replace, I am not going to be able to replace it for $1,000. Similarly, if I own a home and have very little or no funds, how am I going to go out in this real estate market and buy a replacement home? Even though the fair market value for an older mobile home may be negligible, a person is not going to be able to replace it without some money. Your organization in the past has tried to work with the different parties to balance out everyone's needs. I am surprised you would come in and oppose this bill without talking to the sponsor, or looking at some solutions to the problems. I have six mobile home parks in my district. If they were to close, and we did nothing to try and address the problems, the homeowners would come back to this Legislature and say, "Why did you not try to balance our rights?"

C. Joseph Guild:
To be fair, I did not talk to the sponsor about this bill. These items were part of interim discussions with tenant organizations, but the parties could not agree. I do appreciate your comments, and I do apologize for not conferring with the bill's sponsor. None of this is easy.

Chair Oceguera:
Are there further questions?

Assemblyman Settelmeyer:
I understand the sale of a mobile home park can create harm to tenants who have to rearrange their lives. What if the closure is not the landlord's decision? What if it is an eminent domain decision of a municipality to close the park? Should the burden then be shifted to the municipality? In the eminent domain process, the actual funds received by the landowner do not reflect the true market value of the property. They do not get the amount of money they should receive.

Assemblywoman Buckley:
We corrected that problem in 1995. Prior to that, a tenant had no rights. Only the landowner was entitled to the fair market value at the time of the condemnation or the use of eminent domain. We changed the law to reflect the Federal Uniform Relocation Act, so the tenant would also be compensated.

Assemblyman Mabey:
Are any new manufactured home parks opening in Nevada?

C. Joseph Guild:
No, there are none. Ms. Kirkpatrick and others spent a lot of time during the interim looking at the affordable housing picture in this State. I could have told you as far back as 1985 that this State was headed for a problem in affordable housing. There is no one factor that contributes to the problem. The amount of federal land holdings in this State does limit the amount of area available for development. It would help to try and find resolution at the federal level.

Assemblywoman Kirkpatrick:
That is true. During the interim, we did find that Clark County is working on a pilot program for new manufactured homes. The data is important in trying to make assessments of the situation. The people being dislocated need to be able to go somewhere else.

Chair Oceguera:
Are there any questions? Are there others in opposition to A.B. 477? Is there anyone here to speak from a neutral position? Seeing none, I am closing the hearing on A.B. 477, and opening the hearing on Assembly Bill 352.

Assembly Bill 352: Prohibits the issuance of certain work cards to persons who have been convicted of certain crimes. (BDR 10-708)

Assemblywoman Susan I. Gerhardt, Assembly District No. 29:
This bill enhances a law enacted during the 72nd Session to protect Nevada seniors. That measure provided that a landlord, whose property was intended for and operated exclusively for persons over 55 years of age, may not employ a person who will work more than 36 hours per week without a work card obtained from the sheriff. Also, the landlord cannot employ a person who will have access to all dwelling units, or perform work on the premises unless the person has a work card issued by the sheriff of the county in which the dwelling units are located. The work card must be renewed every five years. Also, it must be renewed whenever the person changes his place of employment.

This bill specifies that a work card will not be issued to any applicant who has been convicted of certain crimes, including sexual offenses, battery, theft, substance abuse, and crimes against the elderly. The bill is intended to reduce the incidences of convicted criminals having access to the elderly and vulnerable in our communities. According to the National Adult Protective Services Association, each year 500,000 seniors report abuse, neglect, or exploitation. It is estimated that only 1 in 14 elder abuse crimes are actually reported. Those persons with unfettered access to the homes of the elderly or otherwise vulnerable persons should be held to a higher standard of conduct. This is particularly true when the risk of physical abuse, burglary, or identity theft faced by those individuals is considered. Passage of this bill will help protect members of our communities who are most likely to be homebound, and susceptible to crimes perpetrated in the home. We request your consideration of this bill.

Chair Oceguera:
At some point, people will say, "You have done the time for the crime." How do we employ people who have "done their time"?

Assemblywoman Gerhardt:
This is not new legislation. This bill is just adding the exclusionary language. When ex-offenders apply for work cards, we will know the offenses that can permit denial of the work card. I would say in response to your statement that we have to protect those people who are vulnerable.

Assemblyman Anderson:
I recognize the need for having a registration process. My concern is language that is exclusionary and not informative. We are now going to be categorically excluding people because they have a felony record. Does this mean I should

not employ anyone to do, for example yard work, because they have a criminal history? As I read this language, I will not be able to hire them because they will not have a work card. Is that your intent? I want to make sure I understand the language.

Assemblywoman Gerhardt:
If someone was coming to my house to mow my lawn, I am fully capable of supervising the activity, and protecting myself. I am concerned about seniors who are more vulnerable. I want to provide more protection for people who cannot protect themselves.

Chair Oceguera:
This bill would apply only if they have access to the dwelling. In the mowing of the lawn example, they do not have access to the home. In Section 4, it talks about a Class E felony conviction. Can you clarify that language?

Assemblywoman Gerhardt:
I defer the answer to our police representative.

Joshua Martinez, representing the Las Vegas Metropolitan Police Department:
Currently, the law requires people to have a work card if they work in establishments for people 55 years or older, and have access to the dwelling. When applicants are applying for a work card, investigators are using their "professional discretion" to grant the cards to people who would normally be denied. This bill will specify the offenses for a work card denial. If someone came back to us on a denial, we can say you met the codified requirements for denial.

Chair Oceguera:
I do not know if that answers my question on a Class E felony. I agree with you it is probably better to have the requirements listed in statute.

Joshua Martinez:
If we said a Class E felony is grounds for denial, that would probably suffice.

Chair Oceguera:
My point was that all felonies would be included. Do we want to include Class E probation felonies?

Assemblywoman Gerhardt:
I do not have a problem with that change.

Joshua Martinez:
I do not see any problem with that change. It would capture the harder felony offenders that we are trying to address.

Assemblyman Anderson:
Are we suggesting eliminating Section 1, subsection 4(a)? Convicted of a felony is such a broad term. Where are we drawing the line?

Chair Oceguera:
Ms. Erdoes, can you help us? Can you delineate the types of crimes?

Brenda Erdoes, Committee Counsel:
I would suggest that you characterize the crimes by the type of violence that might be involved, or the need to have the offender "off the street." Or, you could consider crimes that are likely to reoccur.

Chair Oceguera:
This is not a penalty portion of the bill. We are trying to determine which class of crimes should be grounds for denial of work cards.

Assemblyman Anderson:
I have no problem with someone being denied a work card because of a sexual offense, or if criminal activity has already been directed at older individuals. In Section 1, subsection 4(d), denials could be for a battery punishable as a gross misdemeanor, which could be a bar fight that got out of hand. There are certain kinds of low-paying jobs, even in senior centers, that you need to have someone to do them. This language would exclude people who might need to have employment.

Chair Oceguera:
If we just used Section 1, subsection 4(a),(b), and (c), you would capture the crimes that we are concerned about.

Assemblywoman Gerhardt:
That is fine with me. There is a process in which you can appeal a denied work card, and be considered.

Assemblyman Mabey:
If someone applies for a work card, and it turns out they had a criminal offense, what happens?

Joshua Martinez:
They would be denied. We would use our "professional judgment" to deny the work card because of public safety issues.

Assemblyman Mabey:
You need to have these requirements codified.

Joshua Martinez:
We need to get the offenses in the law because it will allow us the ability to fight the denials. Right now, we just have our opinion to aid us in the denial process.

Assemblyman Mabey:
The appeal cases are heard before the city council or the county commissioners?

Joshua Martinez:
Yes. Our investigators that work in the Special Investigations Division would present our case when someone appeals a denial.

Assemblyman Mabey:
If it is in the law, will there be some "wiggle room"? If the crime is not on this list, we cannot deny the work card.

Joshua Martinez:
If we put the requirements in law, we would not have the "wiggle room." The way it is written in this bill, if you had a felony conviction the work card would be denied. If we go to the suggestion of just using subsection 4(a) and 4(b) felonies, the other crimes are addressed. Theft situations and crimes against the elderly are already addressed. To get a gross misdemeanor battery charge, you had to have done something very substantial to someone, or it may have been plea-bargained down during the court process. Simple battery is usually the bar fight type of situation.

Assemblyman Anderson:
People who work more than 36 hours would not be subject to the requirements. On page 2, line 27, I note that the sheriff may submit the fingerprints to the Central Repository. The language says "may" instead of "shall." Why is that?

Assemblywoman Gerhardt:
That is existing law, but we can certainly correct that while we are here.

Assemblyman Anderson:
My other concern is once a person meets the requirements, and receives a work card, they should not have to get a new one every time they change a job.

Joshua Martinez:
A work card is a work card, but when we are dealing with these types of work cards we like to have them site specific. Every time that person moves we would like to have them reapply because during that period they could have committed another crime that would disqualify them from obtaining a work card. All work cards are displayed on officers' computer screens when they check a person's background.

Assemblyman Anderson:
If you already have this person in the system, and if they subsequently commit a crime, it seems to me it should have come to someone's attention. I am thinking about the growing number of female offenders who are convicted of substance abuse, but they are trying to turn their lives around. What if they cannot find a job?

Joshua Martinez:
I understand your concerns in trying not to restrict someone's employment because they have already done the time. Once they fall in these categories, there is not much they can do. It is just like other crimes people are convicted of where they lose the right to work in certain jobs. That is for the protection of everyone.

Chair Oceguera:
Let us move forward. Are we going to change the word "may" to "shall"?

Assemblywoman Buckley:
Are work cards on appeal covered under ordinance?

Joshua Martinez:
I would have to look into that, but I know they do the appeals. I am not sure if it is under an ordinance.

Assemblywoman Buckley:
I want to look it up.

Assemblywoman Kirkpatrick:
It is in the city charter for Las Vegas. The appeal goes through a process.

Assemblywoman Buckley:
It is not an ordinance; it is in the city charter. Is that correct?

Assemblywoman Kirkpatrick:
Yes, that is correct.

Chair Oceguera:
Are there others wishing to testify in favor of A.B. 352? Are there those opposed? Is anyone neutral on this bill? Would the Committee be comfortable with a conceptual amendment on the types of felonies?

Assemblyman Anderson:
On page 2, line 27, I suggest changing the word "may" to "shall." I would also like to see the inclusion of language that states there is an opportunity to appeal a denial of a work card. With those additions, I would be more comfortable with the amendment.

Chair Oceguera:
If you think that is a proper change, it makes sense to me. Will it create a cost?

Assemblyman Anderson:
It will create a cost to the applicant. To get the work card, an applicant has to pay for the costs associated with fingerprinting and processing.

Chair Oceguera:
The applicant is already paying the fingerprinting fee, so there is no extra fee. Would the Central Repository then say there is an additional cost because they are processing more fingerprints? Clark County is saying they do it already.

Assemblyman Anderson:
It is possible.

Chair Oceguera:
We will ask our Legal Counsel.

Brenda Erdoes, Committee Counsel:
It is not clear in the language of the bill who pays the fee and who collects it. Usually the fee collected is given to the Central Repository to cover their costs. There should not be an additional cost that would require a fiscal note. Generally, when you refer to felonies and you list them by class, you need to include language that addresses equivalent felonies from another state. Do you wish to have that language in here?

Chair Oceguera:
Yes, I think we want it here. Are we okay with changing the word "may" to "shall," and listing the felonies as Class A, B, and C?

Assemblyman Anderson:
Do we need the language about the appeal process to be statutorily stated, or is it already understood in another statute?

Brenda Erdoes, Committee Counsel:
I just did a basic search, and did not find that language anywhere in the statute. If you wish to put it in the statute, we can have it included in this bill. I can do a more exhaustive search, and if it is already in the law, we will not put it in this bill.

Chair Oceguera:
That is perfect. I will accept a motion on this bill.

> ASSEMBLYMAN ANDERSON MOVED TO DO PASS ASSEMBLY BILL 352 WITH THE PROPOSED AMENDMENT TO ADD THE FOLLOWING REFERENCES:
>
> - CHANGE SUBSECTION 4(A) TO AN A, B, OR C CLASS FELONY OR EQUIVALENT FROM ANOTHER STATE; AND
> - CHANGE LINE 27 WORD "MAY" TO "SHALL."
>
> ASSEMBLYMAN CONKLIN SECONDED THE MOTION.

Is there any discussion on the motion? Seeing none, we will take the vote.

> THE MOTION PASSED. (ASSEMBLYMEN CHRISTENSEN AND HORNE WERE ABSENT FOR THE VOTE.)

I am opening the hearing on Assembly Bill 385.

Assembly Bill 385: Makes various changes concerning the practice of medicine. (BDR 54-356)
Assemblyman R. Garn Mabey, Jr., M.D., Assembly District No. 2:
The Nevada Board of Medical Examiners will present this bill.

Keith L. Lee, representing the Nevada Board of Medical Examiners:
We are in the unusual and uncomfortable position of having to amend our own bill. I have submitted the amendment to you (Exhibit J). Our amendment would change Section 4 on page 3 to make it clear that it is the intention of the Board of Medical Examiners that medical service in connection with laser or

intense pulsed light therapy will be performed only by someone who is licensed pursuant to *Nevada Revised Statute* (NRS) 630. We have added similar provisions to NRS 633, which is the osteopathic physician's licensing act, and that has been done at the request of the executive director of the Osteopathic Medical Association. I will ask our Executive Director, Mr. Clark, to walk us through this bill.

Drennan A. Clark, Executive Director/Special Counsel, Board of Medical Examiners:
This bill makes some cleanup changes to various provisions in NRS 630, and adds a couple of sections to Chapters 630, 630A, and 633. We are requesting the existing statutes have the term "physician assistant" added to those medical providers which are identified in those statutes. Section 3 is a new provision in the statute. We found ourselves in the position where we do not have the authority to grant a medical license to an individual who is educated and trained outside the continental United States. The Cancer Research Center in Las Vegas and the medical school at the University of Nevada, Las Vegas are looking for foreign experts to do research and clinical work within their programs. We cannot grant them a medical license without amending NRS 630. Section 3 will allow the Board of Medical Examiners to grant a license to an eminently qualified physician who has been trained in a foreign country. They will be permitted to work in the designated program only on a restricted medical license. When they leave the program, the license is terminated.

Section 5 would require a physician to be present or supervise the injection of any chemotherapeutic substance, such as Botox. The term "supervise" means the physician would have to be on the premises, and within 15 minutes be available at the location of the technician who is administering the drug. Section 7 adds Section 3 of this act to NRS 630.130, which is the licensing statute.

Chair Oceguera:
We need to interrupt you for a question.

Assemblywoman Buckley:
Under current law, who is allowed to administer these injections? Is there a licensing procedure for this? Is it prudent to have a physician handy?

Drennan A. Clark:
It is advisable to have a physician available. Other than licensed physicians, no one else is allowed to do the procedure. We are seeing people who are

unlicensed and untrained administering these injections. For public protection, we are requesting a physician be available to assist a technician.

Assemblywoman Buckley:
Who gives Botox in our State?

Drennan A. Clark:
Cosmeticians are one example. We do not have enough protection for the public. Some oversight is required.

Assemblywoman Buckley:
This amendment would require the technician to be licensed to perform the procedure. Is that correct?

Drennan A. Clark:
Yes, that is correct.

Assemblywoman Buckley:
So the public would have double protection.

Drennan A. Clark:
Yes, there would be double coverage. Sections 8 and 9 require address changes in writing, so the Board can track the location of its licensees. Section 10 covers a special volunteer medical license. We have a number of retired physicians in this State. They do not choose to have a clinical practice, but they do not want to lose their capability to assist. This would be a special license for physicians who want to help the indigent. There would be no charge for the license, and they cannot charge for their services. They would be utilizing their expertise for the public's benefit. In Section 11, subsection 4, we are deleting the words, "...and the Board." We have medical doctors in residency. This Section was requiring the head of the residency program and the Board to approve a resident doctor's right to "moonlight" on weekends in a hospital to gain practical experience. The Board does not need to be involved in this process. It is the responsibility of the resident director.

Section 13 requires minor disciplinary actions that happened in other jurisdictions or states be reported to the Board. Section 15 requests peer reviewers and the employees or volunteers of a diversion program be granted limited immunity from any civil liability. It also defines a "diversion program."

Chair Oceguera:
Are there any questions? Mr. Lee, do you have a comment?

Keith L. Lee:
I have talked to other interested parties, and there is a question about whether or not the language I proposed would preclude dentists from using laser or laser applications when cleaning teeth. We are working on that particular issue to see if we need to modify the suggested language to allow dentists to use a laser procedure when cleaning teeth. Also, I have visited with the Executive Director of the State Board of Cosmetology about the new requirement for administering Botox injections. He was satisfied they would not be responsible for regulation.

Drennan A. Clark:
One other observation on page 10, line 42, we are requesting new language, but it is not clear. We are working with the Nevada State Medical Association to modify that language. It will establish when it is appropriate to have an informed consent for certain therapies and certain surgical medical procedures.

Chair Oceguera:
Are there any questions? Are you planning on working these issues out soon since we have a Friday deadline?

Keith L. Lee:
Yes, we will.

Chair Oceguera:
Are there others wishing to testify in favor of A.B. 385?

Lawrence P. Matheis, representing the Nevada State Medical Association:
Mr. Clark specified the two issues we have with this bill. One is on page 3, Section 5, subsection 3. We are requesting the language be clarified about what "supervision" means. We will be able to get back to you on Monday with agreed-upon language. We could ask the Board of Medical Examiners to adopt regulations and implement training workshops. The other item is on page 10, Section 14, subsection 6; the language suggested will significantly change the consent process. The original reasoning behind this language was to have informed consent if a doctor was using therapy or procedures that are considered experimental. The language will expand that informed consent to cover other procedures. It is not possible to have informed consent for every procedure.

Chair Oceguera:
We will need that new language by Monday at noon.

Lawrence P. Matheis:
If we cannot agree, we have an amendment that will combine the two amendments.

Chair Oceguera:
We will need to get the drafts to Legal, so they can start working on the amendments.

Jeanette K. Belz, representing the Nevada Ophthalmologic Society and the Property Casualty Insurers Association of America:
We do not want any amendments to the bill. In Section 4, we like the way the language is written. We were concerned about the wording in subsection 1 requiring only physicians to do the laser therapy and procedures. We requested subsection 2, and the Board of Medical Examiners accommodated us.

Chair Oceguera:
Are there any questions? Is there anyone else wishing to testify?

Charles A. Vannick, M.D., Private Citizen, Las Vegas, Nevada:
I was a practicing plastic surgeon in Las Vegas for over 30 years. I started doing collagen injections about 20 years ago. After I trained my nurse to administer the injections, I realized she did a much better job than I. She is still doing cosmetic injections, but she works under medical supervision at the clinic. The doctors supervising the procedures are readily available. The people who do the Botox injections are typically trained by company representatives. The problem is itinerant people who are giving the injections without medical supervision. It is appropriate for the Board to be concerned. There are plastic surgeons in Las Vegas who have trained people to give the injections, but they are not certified by anyone. These people are medical assistants trained by the medical doctors. The doctors' offices might be in a remote area, or the doctors could be doing surgery elsewhere, but the medical assistants are still administering the injections. However, the physician is taking the ultimate responsibility.

I have one housekeeping concern. On page 12, line 18, the words "physician assistant" are italicized, but are not capitalized. They should be, because a Physician Assistant is a specific, certified occupation. On page 3, the references to supervision of a Physician's Assistant are unclear. Before there was a specific occupational title Physician Assistant, a physician's

assistant was someone the doctor trained. The wording needs to be changed to "medical assistant," or other similar occupational title. Any words other than "Physician Assistant" would be appropriate. Do you understand what I am saying?

Chair Oceguera:
Yes, I understand.

Charles A. Vannick:
The original bill draft requested a doctor to physically supervise or administer the injections. That language would be impossible to implement, and it is not current accepted practice.

Chair Oceguera:
Are there any questions?

Assemblywoman Buckley:
In Section 5, it says a person cannot do the injection unless they are licensed or certified pursuant to this title. The title is in NRS 630. Does that mean a person has to be a doctor?

Drennan A. Clark:
That is not our intent. Our intent is to establish that a physician must be on the premises to be responsible for the actions of a medical assistant whom the physician has trained.

Keith L. Lee:
Chapter 630 includes all professionals in the medical profession.

Assemblywoman Buckley:
Do the specific chapter and the title authorize a nurse to inject Botox? Is a medical assistant authorized? Because the procedure is new, I am wondering if it is in the scope of anyone's medical practice. You may want to revise the language to make the intent clear.

Drennan A. Clark:
Nurses are specifically authorized.

Assemblywoman Buckley:
What about a medical assistant trained by the doctor?

Drennan A. Clark:
Medical assistants are not licensed, so they would not be under this title. The physician is licensed and does the training. He ensures that the person giving the injections is properly trained, and he is responsible for their actions.

Assemblywoman Buckley:
That is not what this language says.

Drennan A. Clark:
We will fix it.

Chair Oceguera:
Is there any more testimony on this bill? Seeing none, I am closing the hearing on A.B. 385, and opening the hearing on Assembly Bill 404.

Assembly Bill 404: Revises provisions governing the use of credit information by insurers. (BDR 57-1335)

Assemblywoman Debbie Smith, Assembly District No. 30:
Prior to the start of the session, I was contacted by a constituent who expressed his concern and frustration about his inability to achieve the best rate on his car insurance premiums because of the way he uses his credit. I contacted the Research Division, and found that during the hearing on Senate Bill No. 319 of the 72nd Session the credit scoring issue received considerable debate. However, the bill did pass. As a compromise, the bill placed restrictions on the use of credit information as a basis for making certain decisions concerning policies for personal lines of insurance.

In this bill there are many restrictions clearly defined to govern how credit scores can be used, but this whole rating process is not clear. It is complicated to understand, and it is difficult to follow. The way credit scores and the information provided is used is complex. When we were looking at ways to resolve my constituent's particular issue, it was decided that being specific about his issue would be the best solution. On page 3, lines 35-36, the language added to the existing statute will read, "The number of times that the applicant or policyholder opens or closes credit accounts during any specific period." This language will prevent credit information from being used as a negative factor in any insurance scoring methodology, or being used for the purpose of underwriting or rating a policy.

My constituent received a postcard in the mail from his insurance company inviting him to apply for better rates because he was a long-term, reliable customer. He applied. He received a letter with the Fair Credit Reporting Act

notice saying his credit rating denied him the better rates for the following reasons. One category said the average time his accounts had been open was 24 to 35 months. The report said an average time of 144 months or more is best. Another category said you have opened 8 or more accounts in the past 36 months, and 0 to 5 is best. It has been less than six months since you made a request for credit. Eighteen months or more with no request is best in this category. You have opened 4 or more installment accounts in the last 36 months, and 0 is best in this category. The credit rating does not take into consideration the accounts that had been opened, paid, and subsequently closed. It is difficult to determine how a consumer can best manage his credit to get the best insurance premiums. The insurance company representatives here today will say all their practices and studies tell them using this type of methodology applies the higher insurance rates to those people who are the greatest risk.

My constituent who was denied the better rates has not filed a claim in 46 years. Yet, he was denied the best insurance rates possible because he opened and closed credit accounts. Furthermore, it appears that the methodologies employed by the insurance companies concern proprietary information. A consumer cannot know ahead of time how to achieve the best premium rates possible. Is this a fair way for the insurance companies to be conducting business? My constituent had planned to be here to testify, but he received a threatening phone call last night. He no longer felt comfortable coming here to testify because he feared adverse action.

Because he cannot be here, I would like to summarize the testimony that he prepared for his presentation today. He is a decorated, disabled, combat veteran. One document he included is the information he obtained from the Division of Insurance when he started investigating the problems with his credit rating scores. It is nearly impossible to figure out how to interpret the information. It contains two pages of small print, and it has many columns. These practices discriminate because they punish people in the financial or credit arena by score or category, and not by their individual actions. My constituent felt these practices were discriminatory since all drivers are not required to submit to credit checks. Companies and businesses do not have to have their employees checked. Their insurance ratings are based on entirely different information.

He continues by noting that people have insurance to protect themselves, and most Americans never receive a single benefit or return from having insurance coverage. He states insurance premiums should not be tied to credit ratings because the insured pays in advance. There is no payment plan or credit extended. If you do not pay, you do not receive insurance. You can be

cancelled without a grace period. People who can least afford it are the ones who are paying the most. Drivers should be rated on their own merit and their driving record. A nonsensical scale or graph should not be used to determine insurance premiums. The insurance companies and credit bureaus cannot or will not produce unbiased, independent collaboration of their facts. They will not make the material consumer-friendly for ease of understanding. I will answer any questions.

[Chair Oceguera turned the hearing over to Vice Chair Conklin.]

Vice Chair Conklin:
Are there any questions? Does anyone else wish to testify?

Ed Rathje, Private Citizen, Carson City, Nevada:
I have been abused by insurance boards' scoring practices. The problem with insurance board scoring as opposed to credit scoring is credit reports can be corrected with difficulty, but insurance board scores cannot be corrected. The Fair Credit Reporting Act (FCRA) allows consumers to review their credit reports at least once a year for free. These credit reports are fraught with errors.

When I was first adversely affected by the Insurance Board Score (IBS) premium determination, I was with Amica Insurance Company. I had been a policyholder for over 40 years, maintained an excellent driving record and had minimum claims. Amica began to use the Fair Isaac InScore system, and they increased my premium by $70. After two years of trying, I managed to have an error corrected on my credit report that had generated the premium increase. The following year, my premium had a $128 surcharge applied. This increase was caused by a mortgage I assumed on a piece of land, even though it was the only mortgage I had at the time. Also, they stated a second credit card I opened for gas for my plane, which I had just purchased for $100,000 in cash, negatively impacted my credit score. The Fair Isaac InScore system Amica used put me in the bottom quartile of insurance risk. The IBS system is outside of the FCRA, and you are denied access to the facts. I have submitted a complete copy of my testimony for the record (Exhibit K). I will answer any questions.

Vice Chair Conklin:
Are there any questions? Insurance companies apply to the Insurance Commissioner for their rate approval. Contained in the rate determination information are the trade secrets for what items they will use for rating; how they will quantify those items; and what percent of those items will be used to create a risk pool. A person's credit score may be a predictor of

their willingness or ability to pay a bill, but it is not a predictor of whether or not you will be involved in an accident. There is no correlation.

Ed Rathje:
You are actually penalized in credit reports for being a shrewd and economical consumer.

Vice Chair Conklin:
Are there other questions? Do you have any final comments, Ms. Smith?

Assemblywoman Smith:
Everywhere you go and listen to people talk about this issue, you find they are shocked to find out how these insurance companies determine policy premiums. I appreciate your consideration of this bill.

Vice Chair Conklin:
Are there others in support of this bill? Is there any opposition testimony to A.B. 404?

Michael D. Geeser, representing the American Automobile Association Nevada:
I did submit a letter listing the American Automobile Association's (AAAs) concerns (Exhibit L). I met with Ms. Smith and discussed the bill. I gave her some information that was not mentioned that I would like the record to reflect. Inquiries generated as a result of mortgage and automobile loans, regardless of how many of them are made, are only evaluated as a single inquiry when figuring an insurance quotation. In addition, inquiries generated as a result of insurance quotes or applications are not factored into insurance premium ratings. Also, inquiries that are generated by anyone other than the consumers themselves are not factored into determining insurance rates.

Assemblywoman Kirkpatrick:
Why do insurance companies need to have this information? What does this information have to do with someone's driving record?

Michael D. Geeser:
We are trying to determine what it is going to cost us to operate our business. That is all this data is used for. We have actuarial data that proves this information is a good determiner of operating costs.

Assemblywoman Kirkpatrick:
I am in business, and I have to look at operation costs. There are several factors that people use to determine business costs. Why is my credit information instrumental to an insurance company to determine their business

costs? I can understand my driving record being used as a factor in determining my insurance premium.

Michael D. Geeser:
It is simply one element. It is one of several predictors that we use to determine operating costs.

Assemblywoman Buckley:
I cannot disagree more. You are not talking about negative experiences, such as a person opening up a credit account and not paying it. Although I do not believe that example has anything to do with driving, it would be a factor in determining someone's credit worthiness. All this bill does is state you cannot use the number of times a person opens and closes a credit account during a specific period to determine insurance premiums. You can consider if someone is delinquent on their accounts. Mr. Rathje said it very well. If I am a smart consumer who opens an account and pays it off, I should not be penalized for that action in determining my automobile insurance premiums.

Michael D. Geeser:
Actuarial data supports using that information. It is complicated and difficult to understand, but the data is a predictor of operating costs.

Vice Chair Conklin:
Are there other questions?

Robert L. Compan, representing Farmers Insurance:
We are in opposition to this bill. As with any industry, we are always looking at providing better service to our customers. We are always looking for ways to put a price on risk based on the chance of future loss. Credit scores are an accurate predictor of a consumer's likelihood of incurring future losses. Credit scores predict a likelihood of claims. This means people with a lower risk of future loss will pay less for their insurance coverage. We are still in the process of compiling statistical data from our product management department to identify the impact of the provisions of Section 1, subsection 8(f). A number of creditor predictors are used to keep insurance companies competitive. Farmers Insurance uses "compare logic," which is supported by Nevada statute. It means once a company runs a client's credit report, we cannot take an adverse action upon policy renewal. The number of times an applicant or policyholder opens and closes credit accounts will affect several of the predictors in our credit scoring model. Farmers Insurance is the largest writer of automobile insurance in Nevada. This bill will affect all Nevada policyholders. There will be a 56 percent possibility that Farmers Insurance's Nevada

customers will be negatively affected by having this provision in the bill. I will answer any questions.

Vice Chair Conklin:
I have a question. Let us suppose there is no credit scoring. Would the insurance industry not exist?

Robert L. Compan:
The insurance industry will exist, but the risk evaluation we currently do using credit scores would have to be done using other factors. It would spread the risk among all Nevadans.

Vice Chair Conklin:
That is a convoluted statement because the risk is already spread among all Nevadans. Insurance companies already have a risk pool made up of data showing frequency of accidents and their severity. This is only one item that insurance companies use to evaluate which customers might file a claim. It is the filing of a claim, not getting into an accident that is considered. Some people may get into an accident and not file a claim. This is especially true for people who are worried about their credit, or do not wish to have their insurance premiums raised. The insurance business does not cease to exist because they cannot use credit scores to determine premium rates. The industry would just find a different set of data to determine which customers they will or will not approve for coverage. Is that correct? Are there any questions?

Assemblyman Anderson:
Do you mean people who are employed in low-paying jobs are poorer drivers than those who are employed in professional occupations?

Robert L. Compan:
Predictability and responsibility are the key elements in credit scoring. It is difficult to say, but people with poor credit scores are more likely to be involved in an accident and submit a claim. Farmers Insurance offers a "good driver" discount. We also offer a "good student" discount. Statistically, it has been shown that "A" students have a lower likelihood of being involved in an accident. It is a proven fact. We do not know why this is true, but it is another element we use in predicting our costs.

Assemblyman Anderson:
Since you are insuring a young driver, their insurance premium cost is already higher. Age is only a determining factor. Reducing the premium for being a "good" student only will lower it to what it might have been, since the

premium is already increased because the driver is young. Young male drivers are also charged more than female ones.

Robert L. Compan:
The bottom line is credit scores are a predictor of an insurance company's risk of experiencing a loss. I can provide the Committee with some detailed reports that support the reasoning for using credit scoring in determining insurance premiums. Eliminating credit scores from rate determination will spread the costs among all Nevadans, rather than having those most likely to suffer a loss pay the higher premium.

Vice Chair Conklin:
Are there any other questions?

Jeanette K. Belz, representing the Nevada Ophthalmologic Society and the Property Casualty Insurers Association of America:
Many of our points have been covered in previous testimony. I want to reiterate the fact that the risk must be spread. By eliminating or rearranging the determining factors, the risk will be spread differently. I pulled the credit report that the Insurance Commissioner did subsequent to the 72nd Session. I would like to paraphrase those comments about market conduct examinations. If a pattern of material violations is detected, the Commissioner talks to the Division of Insurance's investigators about including that in their market conduct examinations. They also do a detailed analysis of the situation. There is recourse for a consumer through the Division of Insurance. I have submitted my comments for the record (Exhibit M).

Vice Chair Conklin:
Your clarification is appreciated. The insurance industry is making the assumption that their costs will increase if this provision is in the bill. Cost does not go up. It is the way the risk is distributed that changes.

Jeanette K. Belz:
Yes, that is correct.

Vice Chair Conklin:
This sponsor of the bill is suggesting that using this method to spread risk is unfair.

Jeanette K. Belz:
I understand that. It is difficult to understand when a model is used for determination. There have been plenty of studies that show a correlation between credit scores and chances of filing a claim or being in an accident.

Vice Chair Conklin:
Are there any questions?

Jim Spinello, representing Progressive Insurance:
We are in opposition to this bill for the same reasons you heard in previous testimony. I have submitted my testimony for the record (Exhibit N). We have about 115,000 policyholders on 62,000 policies. If you entirely removed credit scoring as a factor in determining insurance premiums, some people's premiums would decrease; others would increase. Progressive Insurance estimates that more than half of their policyholders' premiums would increase. If you just consider the new language on page 3, lines 35-36, it is estimated that 75 percent of our policyholders would be affected.

Vice Chair Conklin:
What you just said is an exact illustration of what Ms. Belz was talking about. Current customers' premiums would go up, or they would go elsewhere to buy insurance. Given your model, new customers would come in at a lower price. Those that left would go to a company that uses different factors, and they would also find a lower premium price. The cost of doing business has not changed. Only the criteria you use to choose your customer has changed.

Jim Spinello:
If 90 percent of insurance companies are using this current credit score factor, people will not be happy with their premium rate choices.

Vice Chair Conklin:
Are there any questions?

Assemblywoman Kirkpatrick:
I have both Progressive and Farmers Insurance. Are late payments factored in as well as credit scores when insurance policy premiums are determined?

Jim Spinello:
I can meet with you and go over the rates. I cannot tell you if a late payment would specifically raise an insurance premium.

Assemblywoman Kirkpatrick:
I just want to know if late payments are considered in determining insurance rate premiums.

Jim Spinello:
Yes, payment history is a factor.

Vice Chair Conklin:
Are there any questions? Does anyone else wish to testify in opposition? Is there anyone neutral who wishes to testify? Seeing none, I am closing the hearing on A.B. 404. I will accept a motion.

> ASSEMBLYWOMAN BUCKLEY MOVED TO DO PASS ASSEMBLY BILL 404.
>
> ASSEMBLYWOMAN KIRKPATRICK SECONDED THE MOTION.

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

> THE MOTION PASSED. (ASSEMBLYMEN ARBERRY, CHRISTENSEN, HORNE AND OCEGUERA WERE ABSENT FOR THE VOTE.)

I am opening the hearing on Assembly Bill 422.

Assembly Bill 422: Requires disclosure of certain information by customer sales and service call centers. (BDR 52-1278)

Assemblyman David P. Bobzien, Assembly District No. 24:
This bill would require call centers to disclose their location. The bill is important to protect the rights of consumers to know where a call is originating, and who is talking to the consumer. Frequently when people make phone calls, they experience problems dealing with call centers. The location of call centers may be related to the type of services consumers can receive. For example, a call center in a foreign country may not have the authority to change a consumer's account information. There are also concerns about the increase in identity theft. Consumers should know the location of a person to whom they are supplying credit card information, Social Security numbers, and other sensitive personal information. The location of a call center makes it easier for a consumer to make a case for redress or remedy from the party responsible for action. For example, there could be a subsequent call, and a consumer has to say "so-and-so" told me this. If you do not know the location of that person, it can be difficult to determine the information source. When a consumer is informed, they are able to make more efficient and safer choices. I will answer any questions.

Vice Chair Conklin:
Are there any questions?

Assemblyman Settelmeyer:
I support the concept of the bill. I am wondering if this disclosure is to be made upon request, or will it be done automatically?

Assemblyman Bobzien:
It will be an automatic disclosure. The call center operator has a set script, and this requirement would include only the addition of a few more words.

Assemblyman Settelmeyer:
How is this going to work? How do we tell someone they must make this disclosure? If they do not make the disclosure, is there any penalty?

Assemblyman Bobzien:
The requirement to do this would have to be communicated to the call centers. As indicated in the bill, failure to make a disclosure falls under the definition of a "deceptive trade practice." The Consumer Affairs Division in the Department of Business and Industry would be responsible for enforcement.

Assemblyman Settelmeyer:
Do you know what the penalty is?

Assemblyman Bobzien:
I do not know what the penalty would be.

Assemblywoman Allen:
How many other states have similar legislation?

Assemblyman Bobzien:
I am not aware of any other states that have passed this type of legislation. However, a number of states have considered it.

Assemblywoman Allen:
If you had a call center in Omaha that places calls nationwide, Nevada would be the only state with this requirement.

Assemblyman Bobzien:
Yes, that would be true.

Vice Chair Conklin:
Nevada has the "do not call" registry. When companies place calls from out of state, they are required to know what Nevada law requires. It is a regulated practice, and they have to abide by Nevada law. This would be no different in that regard.

Assemblywoman Kirkpatrick:
I have an example. The other day I called Cingular on their help line, and I asked the operator questions about operating my phone. I asked where my nearest service center store was, and the operator told me she could not help me. I said, "Why not?" She said she was in Canada, and had no idea where the nearest store would be in Nevada. In these types of instances, it would help the consumer to know the location of the call center. That knowledge is important to maintain good customer service.

Assemblyman Mabey:
If you make a phone call for service, a call center in India might pick it up. Is the call center operator required to identify himself by name and location?

Assemblyman Bobzien:
Yes, he is.

Vice Chair Conklin:
Are there any questions? On line 5 of the bill it says, "...shall disclose the city, state and country...." Can we just say city and state if it is in the United States, and city and country for everywhere else?

Brenda Erdoes, Committee Counsel:
Actually that would be the implication of the bill's language. If you are in a foreign country, this language would be read to come as close as possible to these locations' designations. The only option might be just to include the word, "location."

Vice Chair Conklin:
That answers my questions. Are there any other questions?

Assemblywoman Gansert:
I have asked call center operators for their location, and they have always told me where they are. From a business standpoint, call centers are in different localities because it costs less money to have them there. Those savings are passed on to our consumers.

Vice Chair Conklin:
Is there anyone else in support of this bill?

Liz Sorenson, representing the Communications Workers of America, Local 9413:
I am here in support of this bill. We represent many workers who are employed in various industries as call center operators. I have worked in a call center

environment. When your job is primarily meeting the needs of your customers over the phone, it is important that you provide the customer with the information they are asking for, and any additional information that will help. It becomes a priority during that call. Most employers already require call center operators to give their name. We also think a customer has the right to know where the call center is located. Some people have asked why not make this disclosure available upon request. It is easier to just require call center operators to give the information than to educate all consumers to ask for the information. That is why the language does not say "upon request."

Vice Chair Conklin:
Are there any questions?

John Doran, representing the Communications Workers of America:
I am the international representative for the Communications Workers of America. Also, I am a Senior Vice President for the American Federation of Labor and Congress of Industrial Organizations (AFL-CIO). We support this bill. It will help to restore confidence in the booming call center market, and it will provide a measure of protection for telephone consumer transactions. In today's economy, consumers increasingly use the telephone to buy goods and services, to inquire about transactions, pay their bills, obtain technical support, or get other information. It is estimated that more than 70 percent of consumer transactions occur in call centers.

Most telephone and Internet-based customer service transactions are handled by customer service and sales representatives located in centralized call centers. Many corporations no longer maintain their own customer service or sales operations, but contract with a third-party call center to provide these services. Consumers should have the right to know where they are calling and with whom they are talking. We represent over 700,000 communications workers. Call center employees are instructed to answer calls using the brand name they are selling or servicing. Consumers are increasingly complaining about not knowing where they are calling when they place a call. This bill requires the call center operator to identify the city, state, and country they are located in. This bill will protect consumers.

Vice Chair Conklin:
Are there any questions?

Assemblyman Settelmeyer:
The first offense of this law would count as a misdemeanor. The second offense is a gross misdemeanor. Subsequent offenses count as a Category B

felony. I am in favor of the law, but how do you enforce these penalties when perpetrators may be located in a foreign country? [No answer was provided.]

Vice Chair Conklin:
Are there any questions?

Kimberly M. Carrubba, Manager, Community and Government Affairs, Harley-Davidson Financial Services:
We operate a call center in Carson City. We support the general concept of the bill, and agree that customers have the right to know where they are calling. Our call center operators answer customer service questions and sell motorcycle insurance products. We also do our own collections. That is where we are concerned. If you are disclosing your collection call location, you create a security and safety issue for your employees. We had an incident when a customer had his motorcycle repossessed. He came across the country to break into our building and get to the collection agent. When you are located in a smaller city like Carson City, with a population of 50,000, everyone will be able to find your location. We would request deleting the city from the identification information.

Vice Chair Conklin:
Are there any questions?

Scott Watt, Private Citizen, Minden, Nevada:
The call center operators know who I am and where I live. I am here to ensure the consumer receives the same rights that the call center operators have. This bill will not represent a cost to any governing body. I recently received three calls from telemarketers. I asked one of the callers where they were located, and they said, "Why?" I said I want to file a complaint. The caller hung up. I would be happy if Nevada is the first state to put these requirements into law.

Vice Chair Conklin:
Are there any questions?

William J. Birkmann, representing the Nevada Alliance for Retired Americans:
Many of the people I represent ask me why they are treated as "nonpersons." I urge your support of A.B. 422.

Vice Chair Conklin:
Is there anyone else who wishes to testify in support?

Rena Meyers-Dahlkamp, representing the Progressive Leadership Alliance of Nevada:
We support this bill, and the public's right to know the location of a call center.

Vice Chair Conklin:
Is there anyone else in support? Is there anyone in opposition to this bill?

Marsha Berkbigler, representing Charter Communications:
We are in opposition to the bill. We are not opposed to the concept if the language requires a customer to ask for the call center's location. It is a rule at Charter Communications if a person asks for the location of the call center, the operator is to inform them of the location. We do not have a call center in Nevada. We do have call centers located around the country and in foreign countries. Charter contracts with call centers in Canada, Mexico, and India. All of our call centers are networked and interconnected. Each call center handles a different phase of customer service. How do you resolve the identification of location situation when a customer's call is repeatedly transferred to different call centers? It becomes confusing for the customer. We have a concern about Section 1, subsection 2, line 10, language that says, "...or other telecommunications and information technology." You can communicate over the television. How would you be able to comply with the law using a television as a method of communication? That technology is not currently available in northern Nevada.

Vice Chair Conklin:
Communicating over the television is a static form of communication because it is one-way. If you could communicate both ways using a television, then identification is possible.

Marsha Berkbigler:
Perhaps, you could, but it would depend on the type of two-way communications coming in. It may not be verbal communication; it could be written. What is included in the term, "other telecommunications and information technology"? [No answer was provided.]

Vice Chair Conklin:
Are there any questions?

Robert Gastonguay, representing the Nevada State Cable Telecommunications Association:
I have submitted a letter (Exhibit O) from one of my clients. The cable television industry opposes this bill. We could not reach agreement with the proponents of this legislation. We ask that we maintain our current procedure,

which is to have a call center operator identify where they are when they are asked for that information.

Vice Chair Conklin:
Are there any questions?

William R. Uffelman, representing the Nevada Bankers Association:
Call centers are located everywhere to take advantage of time zones, to control costs, and to balance workloads. Technology is available to divert calls to any location at any given time. We agree with location identification if a customer asks for it. As noted by the Harley-Davidson witness, safety and security issues are raised, especially with collections, when specific locations are revealed. Giving location information does not add to the communication.

Vice Chair Conklin:
Are there any questions?

Chris MacKenzie, representing American Express:
We are in opposition to A.B. 422. American Express takes pride in its customer service and its respect for consumers. American Express is a worldwide organization, and our operation requires that selective information be made available in different locations. If each state has different standards, it will cause inefficiencies, and eventually higher consumer costs.

Vice Chair Conklin:
Are there any questions?

Brent Gunson, Associate General Counsel, Consolidated Resorts:
We are headquartered in Las Vegas, but we operate multiple call centers. We have call centers outside of the State. We are opposed to this bill. The free market system should dictate whether or not location should be disclosed if a customer does not ask. If a company is offering poor customer service over the phone, then the consumer has the right to go to a different company. Disclosing location does not change customer service. We have a problem with the way the statute is written. It can be interpreted to include call centers that are calling from Nevada to other states. In such a case, it would discriminate against Nevada companies because every company calling from Nevada to another state would have to make the location disclosure. Companies calling from other states into Nevada would not have to give the location information. The definition of a call center is too broad. I work at a call center, but I do not make outbound calls to customers. I do make calls to other attorneys and vendors. The language in the statute would require me to identify my location, which makes no sense. These provisions would be unenforceable, especially

when the third offense is considered a felony. The penalty seems too harsh for the crime.

Vice Chair Conklin:
Are there any questions?

Jeanette K. Belz, representing the Nevada Ophthalmologic Society and the Property Casualty Insurers Association of America:
When you have companies that have nationwide and international operations, it is impossible to triage phone calls to determine if the customer is calling from Nevada. The process would be difficult and cumbersome. I have submitted a copy of my testimony for the record (Exhibit P).

Vice Chair Conklin:
Are there any questions? Is there anyone else wishing to speak in opposition? I am closing the hearing on A.B. 422. Is there anyone wishing to make a public comment? Seeing none, I will adjourn the meeting.

[The meeting was adjourned at 4:34 p.m.]

RESPECTFULLY SUBMITTED:

_____
Judith Coolbaugh
Committee Secretary

APPROVED BY:

_____
Assemblyman John Oceguera, Chair

DATE:_____

EXHIBITS

Committee Name: Committee on Commerce and Labor

Date: April 6, 2007 **Time of Meeting: 12:18 p.m.**

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
AB 304	C	C. Joseph Guild, III, Manufactured Housing Community Owners Association	Proposed Amendment
AB 304	D	Ernest K. Nielsen, Washoe County Senior Law Project	Testimony
AB 304	E	Renee Diamond, Administrator, Manufactured Housing Division	Proposed Amendment
AB 304	F	Jenny Welsh, Nevada Association of Realtors	Proposed Amendment
AB 88 AB 103 AB 186 AB 216 AB 222 AB 295 AB 303	G	Dave Ziegler, Committee Policy Analyst	Work Session Documents
AB 222	H	Dave Ziegler, Committee Policy Analyst	Proposed Amendment
AB 477	I	Judy Dosse, Nevada Association of Manufactured Home Owners	Testimony
AB 385	J	Keith L. Lee, Nevada Board of Medical Examiners	Proposed Amendment
AB 404	K	Ed Rathje, Private Citizen	Testimony
AB 404	L	Michael D. Geeser, AAA Nevada	Letter
AB 404	M	Jeanette K. Belz, Nevada Ophthalmologic Society and Property Casualty Insurers Association of America	Testimony

AB 404	N	Jim Spinello, Progressive Insurance	Testimony
AB 422	O	Robert Gastonguay, Nevada State Cable Telecommunications Association	Letter
AB 422	P	Jeanette K. Belz, Nevada Ophthalmologic Society and Property Casualty Insurers Association of America	Testimony