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

Seventy-Fourth Session
April 9, 2007

The Committee on Commerce and Labor was called to order by Vice Chair Marcus Conklin at 1:13 p.m., on Monday, April 9, 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
Assemblyman Chad Christensen
Assemblywoman Heidi S. Gansert
Assemblyman William Horne
Assemblywoman Marilyn Kirkpatrick
Assemblyman Garn Mabey
Assemblyman Mark Manendo
Assemblyman David R. Parks
Assemblyman James Settelmeyer

GUEST LEGISLATORS PRESENT:

Assemblywoman Sheila Leslie, Assembly District No. 27
Assemblyman Jerry D. Claborn, Assembly District No. 19

STAFF MEMBERS PRESENT:

Brenda Erdoes, Committee Counsel
David Ziegler, Committee Policy Analyst
Earlene Miller, Committee Secretary
Gillis Colgan, Committee Assistant

OTHERS PRESENT:

Steve Grierson, President Board of Examiners for Alcohol, Drug and Gambling Counselors
Kevin Quint, member, Board of Examiners for Alcohol, Drug and Gambling Counselors
Frank Parenti, Executive Director, Nevada Alliance for Addictive Disorders, Advocacy, Prevention and Treatment Services (AADAPTS)
Stephanie Shoen, representing the Governor's Council on Developmental Disabilities
Patricia A. Marcos, Private Citizen, Las Vegas, Nevada
Marie A. Wakefield, President, American Counseling Association
Beth Powell, Director of Public Policy and Professional Issues, American Mental Health Counselors' Association
Louise Sutherland, representing the National Board for Counselor Certification
Eric Shoen, Professional Counselor, Fallon, Nevada
Helen Foley, representing the Nevada Association for Marriage and Family Therapy
Capa Casale, President, Nevada Association for Marriage and Family Therapy
Don Huggins, Licensed Marriage and Family Therapist, Reno, Nevada
Gerald Weeks, Chair, Department of Marriage and Family Therapy, University of Nevada, Las Vegas (UNLV)
Katherine Hertlein, Private Citizen, Las Vegas, Nevada
Colleen Peterson, Private Citizen, Las Vegas, Nevada
Gary Waters, Licensed Clinical Social Worker, Las Vegas, Nevada
Patrick Smith, representing the International Association of Rehabilitation Professionals
Dean Hardy, Private Citizen, Las Vegas, Nevada
Michael T. Coleman, Administrator, Rehabilitation Division, Department of Employment, Training and Rehabilitation
Robert Ostrovsky, representing Employer's Holding, Employer's Insurance, Incorporated, and the Nevada Resort Association
Rose McKinney-James, representing Clark County School District

Ira Spector, President, International Association of Rehabilitation Professionals
David Oakden, Operations Manager, S and C Claim Builders Insurance Company
Larry Bradley, State President, Nevada Self Insured Association
Harold Stevens, Private Citizen, Las Vegas, Nevada
Alice Molasky-Arman, Commissioner, Division of Insurance
Brett Barratt, Insurance Counsel, Division of Insurance
Samuel P. McMullen, representing LensCrafters
Tim Rubald, Executive Director, Division of Economic Development
Danny Thompson, representing Nevada State AFL-CIO
Eric Meyers, Private Citizen, Las Vegas, Nevada
Mike Shore, Private Citizen, Las Vegas, Nevada
Richard Daly, representing Laborers International Union of North America #169
John E. Jeffrey, representing the Southern Nevada Building and Construction Trades Council
Raymond L. Badger, Jr., representing Nevada Trial Lawyers Association
George Ross, representing Nevada Self Insurers Association
Jim Fry, Deputy Risk Manager, Risk Management Division
Nicole Lovec, representing Nevada Motor Transport Association; Nevada Retail Association; Nevada Auto Deals Association; and, the Builders Association of Western Nevada
Gary Milliken, representing the Associated General Contractors, Las Vegas Chapter; Builders Insurance Company; Southern Nevada Chapter of Laborers, Employers, Cooperative Education Trust
Kate Diehl, representing Property Casualty Insurers Association of America
Troy Oglesbee, Private Citizen, Las Vegas, Nevada
Tim Crowley, representing Nevada Subcontractors Association
Craig A. Marquiz, Counsel, Nevada Subcontractors Association
Richard Peel, representing Mechanical Contractors Association; National Electrical Contractors Association of Southern Nevada; and Sheet Metal and Air Conditioning Contractors' National Association of Southern Nevada
James L. Wadhams, representing the Southern Nevada Home Builders Association
Steve Holloway, Executive Vice President, Associated General Contractors of Southern Nevada
Patrick Sanderson, representing Laborers International Union, Local #872
Jeanette K. Belz, representing the Association General Contractors, Nevada Chapter

Vice Chair Conklin:
[Roll was called.] We will open the hearing on Assembly Bill 424.

Assembly Bill 424: Revises provisions relating to the licensure of counselors. (BDR 54-1294)

Assemblywoman Sheila Leslie, Assembly District No. 27:
Assembly Bill 424 is about the licensure of licensed professional counselors and an advanced licensure for addiction specialists. It is the result of eight recommendations from the interim subcommittee that I chaired on substance abuse prevention and treatment. We wanted to create a credential category for Licensed Professional Counselors (LPC). Nevada is one of only two states that does not have this credential. In the interim subcommittee, we heard testimony about the prevalence of co-occurring disorders, substance abuse and mental illness, and the problems that many of our citizens have when they need to visit more than one counselor to have all of their needs met. This bill gives us two options of professional licensure to address this issue. It provides for the LPC and advances the scope of practice for licensed alcohol and drug counselors. I suggest that we expand the jurisdiction of the Board of Examiners for Marriage and Family Therapists to address licensure of the LPCs. The severity of addiction varies widely and therefore treatment has to use a multi-faceted approach. We need more professionals adequately trained in substance abuse and mental health issues. We have a workforce shortage, especially in the rural areas. We have reduced mental health counselors by 28 positions this session because we have not been able to fill them. This bill fills a need. There will be a variety of amendments put forth.

Vice Chair Conklin:
Have you seen the amendments?

Assemblywoman Leslie:
I do not know if I have seen them all.

Vice Chair Conklin:
Are there any questions? [There were none.]

Steve Grierson, President, Board of Examiners for Alcohol, Drug and Gambling Counselors:
I am a licensed alcohol and drug counselor as well as a licensed marriage and family therapist. There has been a perception that the addiction industry does not certify and license to the degree they need. I believe A.B. 424 brings this vision for alcohol and drug counselors to fruition. It provides for the establishment of the LCP, advances the scope of practice of the alcohol and

drug counselor to address co-occurring disorders, and provides the mechanism for LPCs to govern their profession. This bill attempts to promote all groups of licensure rather than create provisions that may unintentionally impact existing scopes of practice, eliminate current boards, or create confusion regarding implementation. Knowing that I wanted to be part of the helping profession, I entered graduate school at the University of Nevada, Las Vegas in 1992. As I proceeded through school, my options for licensure to practice were limited to either marriage and family therapy or social work. Assembly Bill 424 allows for graduate students to examine multiple counseling tracks and to pick one that fits their personality and vision for themselves as practitioners. Licensed professional counseling tracks will provide a great addition to the field through broad areas of training and practice which will result in greater individualized preferences earlier in counseling training. The advanced licensed alcohol and drug counselor program will provide a track that rewards those who are drawn to the difficult specialty of the complex treatment of co-occurring disorders by giving them proper scope of practice. Allowing for multiple types of licensure is good for our communities, and provides increased choices and access for those seeking help. It gives new therapists more opportunities to carve out their niche, to establish small businesses through private practices, and it is good for government systems attempting to recruit those willing to serve and intervene on some of our most difficult cases. Assembly Bill 424 will provide Nevada's mental health care consumers a wide range of options for therapy. Consumers will have therapists who have chosen their licensure track instead of being limited to licensure by default. Consumers with co-occurring disorders will no longer have to be referred away for more complex disorders such as depression and anxiety. Adding two new licensure tracks provides the Nevada consumers more choice, greater competition, and puts pressure on marketplace pricing. Assembly Bill 424 represents a great start to advanced licensure in Nevada and I encourage this Committee's support.

Vice Chair Conklin:
Are there any questions of the Committee for Mr. Grierson?

Assemblyman Anderson:
How would school counselors be affected by the bill?

Steve Grierson:
I do not think they would be covered by this bill.

Kevin Quint, member, Board of Examiners for Alcohol, Drug and Gambling Counselors:
I have been a clinician in Nevada since 1985 and am here to speak in favor of A.B. 424. [Submitted prepared testimony (Exhibit C).] The Board of Examiners

for Alcohol, Drug and Gambling Counselors agrees with the contents of this bill and agrees with Mr. Grierson's testimony. The bill addresses many of the issues of workforce development that the board faces by creating an advanced licensed alcohol-drug counselor and a licensed professional counselor. It creates a career track for students. The average age of our clinicians is well over 40 years and there are a lot of people who are not coming into our field. This will create an opportunity for more people to come into our field. By creating an advanced licensed alcohol and drug counselor, A.B. 424 addresses the fact that the addictions field is a profession with a distinguished past and present. This is the biggest opportunity we have for certain qualified addiction counselors to be able to do the work in which they are trained and in which they are experts. If A.B. 424 is passed, it will result in an improved addiction workforce who will ultimately serve the public more effectively and efficiently.

Vice Chair Conklin:
Are there others to speak in favor of A.B. 424?

Frank Parenti, Executive Director, Nevada Alliance for Addictive Disorders, Advocacy, Prevention and Treatment Services (AADAPTS):
We represent 25 substance abuse prevention and treatment agencies throughout Nevada. I agree with the statements of Mr. Grierson and Mr. Quint. We have people in this field with advanced degrees who have been part of specialized federal training through the Substance Abuse Mental Health Service Administration for evidence-based practices. That is one of the reasons we have been so effective in treating co-occurring disorders in this State. Our biggest issue is the workforce development issue. We have people who are excluded and told they have to enter into a degree track or a licensing track in which they have no interest. This bill will allow for the workforce development to occur.

Stephanie Schoen, representing the Governor's Council on Developmental Disabilities:
From the perspective of the deficit of mental health practitioners in the State of Nevada, our Council is in full support of this bill.

Patricia A. Marcos, Private Citizen, Las Vegas, Nevada:
I am here today as a professional counselor, counselor educator, and private citizen in support of A.B. 424. I would like to speak to the education program in terms of rigor. A master's degree in community mental health counseling is an equally rigorous academic program as the marriage and family therapy program. The program at the University of Nevada, Las Vegas, requires completing 60 credits, a 900-hour internship while in the program, as well as 3,000 post-master's degree hours in order to become a professional counselor.

The course work for professional counseling is exactly the same as in other states in terms of the core areas as well as the specialty courses in mental health counseling.

Marie A. Wakefield, President, American Counseling Association:
I am providing testimony for three national organizations: the American Counseling Association, the American Mental Health Counselor's Association, and the National Board of Certified Counselors. Our three organizations strongly endorse A.B. 424 and urge this Committee to approve this bill. Counseling is a well-established and mature profession. Counselors are licensed as master's level behavioral health service professionals in 48 states and the District of Columbia. They meet education, training, and examination requirements on par with those of the other two widely recognized mental health professions of clinical social work and marriage and family therapy which are licensed in our State. There are more than 103,000 licensed professional counselors across the country, which is over double the number of licensed marriage and family therapists. More than half of the nation's licensed marriage and family therapists are in California. The profession of counseling is distinct from social work, and marriage and family therapy and the three professions differ in their historical emphasis and orientation. Clinical social workers typically receive training in assisting clients and navigating social support systems and agencies while marriage and family therapists are trained to approach their client's problems through the lens of family relationships.

Counselors' training is centered on assisting the client through counseling interventions. Although graduate degrees and counseling may focus on providing services in a particular setting, mental health counselors' training establishes competency in providing client-focused therapy addressing the client's particular mental health or behavioral disorders and issues. Nevadans need increased access to qualified mental health professionals and the State currently suffers from a shortage of such providers. According to the Office of Suicide Prevention, Nevada's overall suicide rate is tied for second highest in the nation and is almost double the national average. The 2003 Southern Nevada Community survey, conducted by the Nevada Community Foundation and the United Way of southern Nevada, found that one in five surveyed respondents said that anxiety, stress, or depression had been an issue in their household in the past year; and one in three indicated that alcohol and drug abuse occurred in their household. Nevada's relatively poor mental health status can be at least partially attributed to not having established licensure of professional counselors. Nationwide, there is one licensed professional counselor, licensed clinical social worker, or marriage and family therapist for every 956 United States residents. In Nevada, the ratio of the state residents to licensed clinical social workers or marriage and family therapists is more than 1,500 to 1. Along

with their colleagues in the field of psychiatry and psychology, master's level mental health professionals form a key part of the mental health system. By joining the rest of the nation in establishing licensure of professional counselors, Nevada can expand its pool of qualified mental health professionals available to help meet residents' treatment needs. We acknowledge there are 31 of 49 jurisdictions in which counselors are licensed as a part of a composite board which oversees both the practice of counseling and one or more of the professions of marriage and family therapy and clinical social work. Licensure of professional counselors is not a scary, dangerous idea, but an overdue, common sense step that Nevada can take to help protect its citizens and increase access to the mental health services necessary to respond to the challenges facing our schools, our families, and our communities.

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

Chair Oceguera:
Are there any questions from the Committee? [There were none.]

Beth Powell, Director of Public Policy and Professional Issues, American Mental Health Counselors' Association:
I am here today to reiterate that the American Mental Health Counselors' Association strongly supports A.B. 424 and is hopeful the Committee will pass this bill during this session.

Patricia A. Marcos:
We are in support of a comparable board because our educational requirements and rigor are equal.

Louise Sutherland, representing the National Board for Counselor Certification:
I am a mental health counselor who specializes in addictions. The National Board for Counselor Certification administers exams to LPCs in 48 states and Washington, D. C. We strongly support A.B. 424 and encourage your support.

Chair Oceguera:
Are there any questions from the Committee? [There were none.]

Eric Shoen, Professional Counselor, Fallon, Nevada:
Nevada is losing the war on mental health treatment. Nevada is at or near the bottom of every mental health index. The good news is that there are approximately 250 professional counselors in Nevada who would be able to provide much needed services to Nevadans if A.B. 424 passes. This bill serves the largest public good and safety by ensuring that as many Nevadans as possible will have access to quality mental health care by having all available

disciplines ready, willing, and able to help. We will further jeopardize public safety if we maintain the status quo because of untreated people unnecessarily utilizing valuable emergency room beds and the law enforcement system. We are in favor of this bill and would like to have the board be equitably representative of licensed professional counselors and licensed marriage and family therapists. The people on the street need the services and are waiting for the providers.

Chair Oceguera:
Are there others wishing to testify in favor of the bill? [There were none.] Are there any in opposition?

Helen Foley, representing the Nevada Association for Marriage and Family Therapy:
We are neutral and so much more. We believe that if we are going to license additional professionals they should be licensed appropriately and have the highest standards of education and training. We have proposed amendments to this bill (Exhibit D). In Section 3, subsection 2, we would like to add (c) so the term does not include assessment and treatment of couples and families. It has been clearly stated by the professional counselors that they do not practice in the same line as marriage and family therapists. In Section 5, subsection 4, we have a grave concern about (b) that currently says "a graduate degree in counseling in a program approved by the Council for Accreditation of Counseling and Related Educational Programs of the American Counseling Association;" they approve and accredit all types of counselors. We would prefer it to say "a graduate degree in an accredited program recognized as a mental health counseling program." Then the board could determine the appropriateness.

Chair Oceguera:
Have you spoken to Assemblywoman Leslie about these amendments?

Helen Foley:
We developed these after the hearing this morning. We will go through all of them with her. We have discussed each of these individual issues with her, but have not given them to her yet. Section 5 states one year of postgraduate experience in professional counseling. We would like to change both the licensed professional counselors and the marriage and family therapists to two years of postgraduate experience, in professional counseling and 3,000 hours in supervised experience of which 1,500 hours are in direct client contact. The change makes it much clearer that they would have that type of experience. In Section 6, subsection 2 on line 30, we would like to delete "National Counselor Examinations or the" and only have it be qualified applicant on the National Clinical Mental Health Counselor Examination because every counselor is not a

mental health counselor. On line 13, we want to make sure it says a graduate degree, not just in counseling, but a graduate degree in an accredited program recognized as a mental health counseling program. In Section 19, we want to change the required hours for the marriage and family therapists and put that in statute.

In Section 31, which is about alcohol and drug abuse counselors, we feel it would be better to say they should have a degree that contains comprehensive clinical mental health coursework that includes the diagnosis of mental health disorders. We realize that in the beginning there will be no advanced alcohol and drug abuse counselors and there will be no one to license them. If we say the supervision must be provided by a licensed mental health professional, one of the other disciplines could supervise them until they develop a pool large enough to supervise themselves. In Section 32, we would like to take a careful look at interns and internship versus licensing and make some modifications in those areas. On line 35 of page 13, we want to say that this does not include psychosis. Sections 35 and 36 are confusing. If someone practices counseling for alcohol and drug abuse, it says they can do some other things with mentally ill persons. We want to make sure that is the advanced practice of counseling alcohol and drug abusers. We want to make sure that when and if the LPCs become part of the Association of Marriage and Family Therapists, they are respected and given all of the opportunities to practice their profession in Nevada as they are in many other states. We think that one board can manage two distinct professions appropriately.

Chair Oceguera:
I have sent the amendments to Assemblywoman Leslie and her committee. Are there any questions from the Committee?

Assemblyman Anderson:
Ms. Foley, are you under the impression that a school counselor is nothing more than a person who fills out college applications?

Helen Foley:
Absolutely not, I meant they may not have the coursework in mental health counseling and may not be working in any scope of practice.

Assemblyman Anderson:
School counselors at the high school and middle school levels do much of what is stated in Section 3 of the bill. I am concerned when you exclude them as a matter of fact.

Helen Foley:
I did not mean to denigrate their field of practice in any way. I think that it might be more appropriate for some of the educators in these areas to determine whether those individuals might be qualified to become mental health professionals.

Assemblywoman Allen:
Your amendment in Section 32 is a very dramatic change. It changes from a high school diploma to a mandatory master's degree or doctorate.

Capa Casale, President, Nevada Association for Marriage and Family Therapy:
Yes, it is. It is our understanding that this intern position would only be an intern position for advanced substance abuse counselors. We felt the precursors to that should be the same as in any mental health position in the State in that all interns for marriage and family therapist (MFT) and licensed clinical social workers have to have completed their master's level work before they begin an internship in their field.

Don Huggins, Licensed Marriage and Family Therapist, Reno, Nevada:
I have a doctorate in Marriage and Family Therapy and am also licensed as an alcohol and drug counselor. I am an approved supervisor in both areas. I am also an educator in those areas and in school counseling. It is possible that school counselors could fall under the category of licensed professional counselors because they are trained in a similar manner.

I am concerned about blurring the lines between the mental health professions in Nevada and would like to avoid opening up couples and family counseling to practitioners who have not been adequately trained. I would like to protect consumers by ensuring couples counseling and family therapy are performed by licensed MFTs who are specifically trained in that area. I am suggesting that the scope of practice for the licensed professional counselor (LPC) be limited and that couples, marriage, and family counseling be excluded. The training and practice of marriage and family therapy is unique among the mental health professions and is different from that of the LPC. Our association has approved national standards for marriage and family therapy training coursework to the extent of seven to nine courses which focus on systemic family relational topics. The community counseling programs typically have two courses that could be taught by a non-marriage and family therapist without the systemic orientation. There is a fundamental difference between marriage and family therapy and the LPC. I am not opposed to the bill, but would urge that the scope of practice be limited.

Chair Oceguera:
Are there any questions? [There were none.]

Gerald Weeks, Chair, Department of Marriage and Family Therapy, University of Nevada, Las Vegas (UNLV):
I have overseen the training of addiction counselors, professional counselors, and marriage and family therapists. Our Department has sent you a letter (Exhibit E) detailing the fact that we support A.B. 424. Other states have clearly separated the professions in regard to training, scopes of practice, and codes of ethics. The training requirements of different professionals are vague in regard to internship hours and inconsistent where the number of hours is not specified for counselors or MFTs. The most important point I would like to make is that some professional counselors have no training, but the scope of practice in this bill allows them to do couples and family therapy and they do couples and family therapy in their internship. This is a violation of the American Counseling Association Code of Ethics. The bill should include a statement that only professional counselors who have taken an accredited program can do couples and family counseling. The same would be true for addiction counselors. This provision would not include psychologists or social workers who have their own standards of training. The bill makes contradictory statements about whether a drug and alcohol counselor can treat a mental illness. It does not specify whether they have completed a program in marriage and family therapy, counseling with a track in marriage and family therapy, or an equivalent training program. The certification of drug and alcohol counselors and problem gambling counselors is mentioned without any elaboration regarding the criteria for certification. The standards for the national accrediting bodies are not used. The language in this bill is so vague that it is possible that school counselors could be licensed as professional counselors. At UNLV, the school counseling students take a core curriculum that meets the Council for Accreditation of Counseling and Related Educational Programs (CACREP) requirements. If they pursue an internship, they could become LPCs.

Katherine Hertlein, Private Citizen, Las Vegas, Nevada:
I am a faculty member in the Department of Marriage and Family Therapy at UNLV. I am speaking as a professional in the field of marriage and family therapy, as a private citizen and on behalf of Dr. Steven Fife, a faculty member from UNLV, who could not be here. Our concerns about this bill center on public welfare and the integrity of the mental health professions and professionals who serve the public. The way the bill is written, it is unclear whether the license in the bill is generic or if a specific license will be issued for each discipline. If a specific licensure is granted, there needs to be some clarification on what basis clients will be able to distinguish training and qualifications when specific requirements are left to the discretion of a

composite board. The education and clinical training requirements for counselors are not specified and need to be. The bill refers to "advanced licensed alcohol and drug counselors." The use of the term advanced is a nonclinical and nonprofessional term without precedence in other states that license alcohol and drug counselors. It is also inconsistent with other mental health professions licensed in Nevada with a similar level of education. This might confuse the public into assuming that drug and alcohol counselors have training that is superior to the other professions. The bill indicates that a licensed alcohol and drug counselor must complete certain hours of supervised counseling, but it does not specify the qualifications of the supervisor. The supervisor must be licensed to treat people with mental illness and alcohol and drug abuse, and have a minimum of two years post-license experience. The bill indicates that licensed alcohol and drug counselors might supervise, license, and certify interns, but we would like the amendment to say that they must have two years post-license experience. The bill should also include language prohibiting alcohol and drug counselors from performing marital and family therapy without having completed the requirements of a program accredited by CACREP, the marriage and family therapy counseling requirements in programs accredited by CACREP, or its equivalent from an accredited university. Our commitment has always been to curriculum, qualification, and ethics.

Chair Oceguera:
Are there any questions from the Committee? Are there others to testify in opposition?

Colleen Peterson, Private Citizen, Las Vegas, Nevada:
I am an assistant professor in residence in the Marriage and Family Therapy Department at UNLV. I am representing myself as a licensed MFT. Clearly, Nevada needs to address the issue of mental health services. The addition of professional counselors in Nevada is one step in meeting those needs. Addressing funding for mental health services and reimbursement for mental health professionals providing those services will be the next step. I am neutral on A.B. 424 and support the amendments addressed by my colleagues. I want to encourage the Committee not to misinterpret the objections and reservations of marriage and family therapists as being a turf battle. As mental health professionals, we are all trained in ethics related to our profession. One specific aspect of that ethical training is in regard to the scope of our practice. All ethical codes mandate that mental health professionals practice within the realm of their education and training. To practice outside of one's education and training is unethical because of the potential threat of harm to clients. Although scopes of practice are directly related to the distinct professions being discussed in the bill, I am sure the Committee can appreciate our professional dedication and commitment to upholding our ethical requirements and the

resulting attention to particulars within a specific bill that are contrary to professionals maintaining those ethical standards and protecting the often vulnerable populations we serve.

Chair Oceguera:
Are there questions from the Committee? [There were none.] Are there others wishing to testify in opposition or from a neutral position?

Gary Waters, Licensed Clinical Social Worker, Las Vegas, Nevada:
I caution the enactment of any legislation which creates a new mental health subgroup or regulatory structure. I have served as a member on three Nevada regulatory professional boards including those that regulate professional practice and those that regulate private postsecondary educational institutions. I have three Nevada and one California mental health licenses as well as one national mental health certification. All of these qualify me to practice as a professional counselor. I have 35 years of professional mental health practice experience in Nevada. My concern exists in the deferment of professional standards in counseling and mental health services to any national group. The proposed legislation stipulates the use of a national organization's criteria as the gateway standard for Nevada licensure. As a regulator, I currently sit on the Nevada Commission on Postsecondary Education; I believe that provision is dangerous. Allowing out-of-state organizations to control professional licensing standards is highly inappropriate. It is dangerous to defer such a power or authority to any national organization over a profession that is licensed in our State. While some programs may be equivalent in terms of their training and experience, not all of them are.

My regulatory experience tells me that equivalent training is not a guarantee that it will exist. Quality academic training is not universal among individuals or institutions. Excluding persons titled professional counselor by regulation does not include or increase the number of those people in this State. It is highly inappropriate for any single group to have sanction over the term "professional counselor" or "mental health counselor." Many other licensed Nevada mental health professionals are by definition and practice professional counselors. Any licensing law that excludes the training and experience of existing mental health professionals from identification as a professional and a counselor is unethical and deceptive to the public. [Submitted written testimony (Exhibit F).]

Chair Oceguera:
Are there any questions from the Committee? [There were none.] We will refer the bill back to Assemblywoman Leslie. Is there anyone else wishing to testify on this bill? [There was none.]

[Mark Nichols, Executive Director of the National Association of Social Workers, Nevada Chapter submitted a written statement (Exhibit G).]

I will close the hearing on A.B. 424.

[Chair Oceguera turns over the gavel to Vice Chair Conklin.]

Vice Chair Conklin:
We will open the hearing on Assembly Bill 207.

Assembly Bill 207: Provides for the payment of a cash benefit to certain injured workers unable to return to the positions that they held at the time of injury. (BDR 53-546)

Patrick Smith, representing the International Association of Rehabilitation Professionals:
We had some concern with the original bill. We have worked with Mr. Hardy to address his concerns.

Dean Hardy, Private Citizen, Las Vegas, Nevada:
I presented this bill some time ago. I have met with the rehabilitation counselors and have come up with some amendments that have changed the entirety of the bill. They were agreed to by the people I represented. I think the bill, with its amendments, is something that we can pursue.

Vice Chair Conklin:
Would one of you be willing to take us through the bill?

Patrick Smith:
I have submitted a list of recommendations and considerations (Exhibit H). The first proposal in the bill would be to eliminate the prohibition of vocational rehabilitation services outside of the State of Nevada. The second would be to prohibit the listed activities by the rehabilitation counselor. The third proposal is to take the vocational rehabilitation counselor out of the whole lump sum offer process by creating a mechanism where the lump sum buyout offer is made to the employee and/or his representative. The fourth proposal is our commitment to work with the Department of Industrial Relations to create a document to let the injured worker know what the process is and what rights and responsibilities they have. The last item creates a peer review committee throughout the International Association of Rehabilitation Professionals in the Nevada Chapters to review complaints and follow up on discipline.

Assemblyman John Oceguera, Assembly District No. 16:
The first three provisions would be in statute and the fourth and fifth would be issues which the parties would work out amongst themselves.

Vice Chair Conklin:
Are there any questions from the Committee regarding the bill or the amendment?

Assemblywoman Kirkpatrick:
Are we taking out the whole bill and replacing it with the proposed amendments?

Patrick Smith:
That is correct.

Assemblyman Mabey:
Section 7, subsections 6 and 7 will not be in the bill. Is that correct?

Patrick Smith:
That is correct.

Vice Chair Conklin:
Are there other questions from the Committee? [There were none.] Are there others to speak in support of A.B. 207? Are there any to speak against the bill?

Michael T. Coleman, Administrator, Rehabilitation Division, Department of Employment, Training and Rehabilitation:
We have concerns about the bill and do not know how the amendments will impact us.

Vice Chair Conklin:
The amendment replaces the entire bill with something new. The parties have agreed to that. I want to have testimony to the proposal at hand.

Robert Ostrovsky, representing Employer's Holding and Employer's Insurance, Inc.:
We have two concerns about the amended version of the bill. We oppose the first recommendation to eliminate the prohibition against receiving vocational rehabilitation services outside of Nevada. *Nevada Revised Statutes* 616C.580 tries to control out-of-state costs. In the last legislative session we added language which allowed people who lived within 50 miles of the border to avail themselves of the statute relative to vocational rehabilitation services within the State. We had problems in the past with people leaving the State with the

intention of going to school. There were uncontrollable costs. We set up a statutory scheme where they could be paid up to $20,000 in lump sum benefits if they were leaving the State or coming back to get services in the State. I did not hear any justification for that change. I would be happy to talk to the parties involved. We oppose in the second recommendation that the insurer may be subject to penalties for the actions of the rehabilitation counselor. We need to clearly identify that if insurers take an action and are wrong, they are subject to a penalty, but if the vocational rehabilitation counselor does something, they should be penalized. We have no problem in supporting the other changes. We will be happy to meet with the parties.

Assemblyman Oceguera:
What about the person who is injured and needs to move to be near their support system while they rehabilitate? I think this bill was written because there appeared to be people who were working for the insurance companies and the people who hire them need to be responsible.

Robert Ostrovsky:
The assumption of vocational rehabilitation is that the person is stable and ratable at that point. Their medical condition is complete. If they are under the care of someone else, they should be totally disabled. This assumes that the person is medically fit to be rehabilitated because they cannot go back to their prior job. I suggest that the $20,000 potential payment be considered. It seems easier for the insurance companies to make a settlement in these cases than to manage something from a long distance.

Assemblyman Oceguera:
In that regard, you could be severely injured, but you could do something else.

Robert Ostrovsky:
I understand. You would be trained for another suitable job.

Assemblyman Oceguera:
What about during your rehabilitation time?

Robert Ostrovsky:
We have had many problems managing these claims long distance. I believe we are responsible for the people we hire. Those people are supposed to be professionals and do a professional job. I would be happy to meet with the authors of this amendment to be sure we understand clearly what it is we are responsible for doing.

Vice Chair Conklin:
Are there any additional questions from the Committee? [There were none.]

Michael Coleman:
It appears that our impact has been reduced by the amendments, but we need to assess it further. We would be willing to work with Mr. Hardy to get a better understanding. Our potential fiscal note is an issue.

Vice Chair Conklin:
Are there further questions for Mr. Coleman? [There were none.]

Rose McKinney-James, representing Clark County School District:
I would appreciate the opportunity to speak with the authors of the amendment and to check with the claims division of the School District before I make any comments.

Vice Chair Conklin:
Is there anyone to testify against A.B. 207?

Ira Spector, President, International Association of Rehabilitation Professionals:
We opposed the original depiction of this bill, but feel confident that the amendments will solve most of our concerns.

David Oakden, Operations Manager, S and C Claim Builders Insurance Company:
We are the third-party administrator for Builders Insurance Company. We have not seen the proposed changes. The original bill would have been quite egregious in increasing claims cost. We have the same concerns which were addressed by Mr. Ostrovsky. Out-of-state services are complex and we would like to bring injured workers back to the State where we have control of the training and the ability for the employer to be involved. The big concern is the cost associated with excluding employer involvement and the opportunity to return injured workers to work.

Larry Bradley, State President, Nevada Self Insured Association:
We opposed this bill in its original form, and support Mr. Ostrovsky's opinions. We would like the opportunity to work with the sponsors and review the proposed amendments.

Harold Stevens, Private Citizen, Las Vegas, Nevada:
Unfortunately, I have been in a rehabilitation program twice, but I have benefited greatly. Anything less would not be right for anyone else who is injured. I support the amended portion of the bill.

Vice Chair Conklin:
Are there others to testify against the bill? [There were none.] Are there any to speak neutrally on the bill? [There were none.] We will close the hearing on A.B. 207.

[Chair Oceguera assumed the chair.]

Chair Oceguera:
Mr. Hardy and Mr. Smith, will you please make sure you talk to the people who have concerns and get back to us by Wednesday. We will open the work session.

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

David Ziegler, Committee Policy Analyst:
[Distributed work session document (Exhibit I).]
Assembly Bill 1 was introduced by Assemblyman Marvel. It provides that a geothermal energy system that reduces consumption of electricity or fossil fuel adds that type of system to the types of renewable energy systems covered by the portfolio standard. The portfolio standard is the amount of electricity a provider must generate, acquire, or save from renewable energy or energy efficiency. At the hearing, Rose McKinney-James and Michael Brown, representing Barrick Gold, proposed two amendments which are attached. The first amendment would include a geothermal energy system, including a heated-fluid transfer system that reduces consumption of electricity or fossil fuel no matter when constructed, within the energy efficiency portion of the portfolio standard. It is my understanding that would replace Section 1 of the bill.

The second amendment would: (1) relieve a provider of new electric resources under Chapter 704B of the *Nevada Revised Statutes* (NRS) from the requirement that at least 50 percent of any energy savings used to comply with the portfolio standard must be from measures installed at the location of their residential customers, and (2) allow providers to get credit under the portfolio standard for solar energy systems their customers have paid for, in whole or in part.

Chair Oceguera:
Are there any questions, concerns, or comments from the Committee? [There were none.]

ASSEMBLYWOMAN ALLEN MOVED TO AMEND AND DO PASS ASSEMBLY BILL 1.

ASSEMBLYMAN CONKLIN SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Assembly Bill 115: Enacts provisions governing mines with the potential to emit mercury. (BDR 46-858)

David Ziegler, Committee Policy Analyst:
[Distributed work session document (Exhibit J).]
This bill was introduced by Assemblywoman Leslie. It enacts provisions governing mines with a potential to emit mercury. The bill has been amended and there is a mock-up. The first section of the mock-up is an amendment to *Nevada Revised Statutes* Chapter 512 and is a revision of language in the original bill. Most of the remainder of the bill is deleted by amendment. There will be two new sections with transitory language. The first directs the administrator of the Division of Industrial Relations to review and revise the existing regulations for mine health and safety, pursuant to Section 1, no later than two years from the effective date. The second would direct the State Department of Conservation and Natural Resources to propose and the State Environmental Commission to adopt by regulation fees to be imposed on a mine that has the potential to emit mercury. The fees shall be sufficient to support the addition of two full-time compliance personnel in the Nevada Mercury Air Emissions Control Program under NRS 445B. Those fees should be adopted not later than December 31, 2007.

The sponsor and the Nevada Division of Environmental Protection have checked this mock-up and I have discussed it with Fiscal. They all seem to feel it is acceptable.

Chair Oceguera:
Are there questions from the Committee?

Assemblyman Christensen:
Are we going to have issues with the Governor regarding the change of the fees to the mines?

David Ziegler:
I do not know the answer to that.

Assemblywoman Buckley:
The mining industry worked extensively on this bill with Assemblywoman Leslie and they support the fee increase. It should satisfy the Governor, but we should decide for ourselves what is right for the State.

Chair Oceguera:
Are there other questions? [There were none.]

ASSEMBLYWOMAN BUCKLEY MOVED TO AMEND AND DO PASS ASSEMBLY BILL 115.

ASSEMBLYWOMAN KIRKPATRICK SECONDED THE MOTION

THE MOTION PASSED UNANIMOUSLY.

Assembly Bill 161: Revises various provisions governing insurance. (BDR 57-586)

David Ziegler, Committee Policy Analyst:
[Distributed work session document (Exhibit K).]
This bill revises provisions governing insurance. It makes a number of changes to the statutes governing insurance. It addresses licensing of producers, insurance fraud, administrative assessments, prepaid funeral and cemetery contracts, service contracts, captive insurers, motor clubs, receiverships, and other subjects.

On March 21, 2007, Alice A. Molasky-Arman, Commissioner of Insurance, submitted two sets of proposed amendments, one representing recommendations of the Division of Insurance, and one representing recommendations from the insurance industry. This Committee, through the Chair, requested a mock-up of the proposed amendments and they have been provided. You will find at the end of the mock-up language that is still in the form submitted on the day of the hearing. That is because they are new sections of the *Nevada Revised Statutes* that were not in the original bill. We included them verbatim.

Chair Oceguera:
Mr. Conklin, can you update us on this bill?

Assemblyman Conklin:
I have a couple areas of concern in the mock-up. The new section in the beginning appears to be acceptable. In Sections 4, 5, and 6, the section the Commissioner put in on fraud, the situation with insurance fraud and its totality

need to be addressed. This is merely a "Band-Aid." I would prefer to remove all three sections. It puts the accounting of fraud back on the insurer and not in the hands of the Attorney General and the Insurance Commissioner where I believe it belongs. The amendments to Section 7 are reasonable. Page 14 of the mock-up under Section 17 was convoluted and it would appear that the Insurance Commissioner is trying to separate people who are third-party insurers for a manufactured home from the insurers for the structure of the home. I am concerned the third party insurers are unregulated and there may need to be a companion section to this which puts it into NRS 690B, which is the home-warranty statute, or we may need to remove the section from the bill.

Assemblywoman Buckley:
What are we accomplishing here?

Assemblyman Conklin:
I think we need the Insurance Commissioner to testify. The term "service contract" does not include a contract to indemnify or reimburse the holder for cost, repairs, or replacements of the physical structure of a manufactured home when it is not the manufacturer who is selling the contract.

Amendment 3 states that any third-party administrators may do their own accounting and have it reviewed by a certified public accountant.

Chair Oceguera:
Would the Insurance Commissioner please comment?

Alice Molasky-Arman, Commissioner, Division of Insurance:
We are not trying to avoid the burden that belongs to the Commissioner or the Attorney General to prosecute fraud. We are attempting to ensure that every insurer has an objective written program to identify fraud. Currently, we relent in the investigations of fraud by members of the public as opposed to fraud by insurers. We are reliant on the reports that we receive. That is how the cases commence in the Office of the Attorney General. In some instances there are subjective and arbitrary criteria established to identify fraud.

Assemblywoman Buckley:
What are we doing with the service contracts?

Brett Barratt, Insurance Counsel, Division of Insurance:
There are two separate sections: NRS 690B, which governs home warranties, and NRS 690C, which governs service contracts. Service contracts are not considered insurance. We had an insurer or a service contract provider attempt to cover structural elements of a manufactured home under a service contract

instead of home protection insurance which is where we feel it belongs. The Commissioner's amendment is directed at clarifying that a service contract is only for things like an appliance, not the structural elements of a manufactured house. Part of the problems in this was the definition of goods. It is clear that real property is not goods; however, there is some gray area as to when a manufactured or mobile home is no longer goods. We are trying to clarify that structural elements of a manufactured home should not be governed by a service contract, but under home insurance.

Assemblywoman Buckley:
So the intent of this is to have both stick-built homes and manufactured homes fall under NRS 690B?

Brett Barratt:
Yes, the structural elements of both.

Assemblywoman Buckley:
I thought service contracts were insurance.

Brett Barratt:
Nevada Revised Statutes 690C specifically indicates that service contracts are not insurance. The section lists applicable provisions of the Insurance Code to service contracts. The service contracts are not considered insurance and there is no premium tax on it. The capital requirements on service contracts are less, and the Commission's oversight is less.

Assemblywoman Gansert:
Regarding the financial statements, I thought we previously had a problem with an administrator who went bankrupt or defaulted and that is why we wanted an audit.

Alice Molasky-Arman:
It was not a problem insofar as the third-party administrator's own financial statement. The problem was in fiduciary funds the third-party administrator maintained for other principals such as public entities and other insurers. That is where the questionable activities arose. There were also activities where false claims were filed and paid to an employee. None of those would have been determined from the third-party administrator's own financial statement. The financial statement does, in effect, state whether or not that third-party administrator is solvent. It represents the third-party administrator's own business assets, liabilities, and net worth. Fiduciary and trust monies cannot be represented on the financial statement. We found that through the investigative process.

Assemblywoman Gansert:
On page 14 of the mock-up, there are increases in the amounts of surpluses and capital between 200 and 250 percent. Why are they increased and do you believe that we will have fewer insurers in the market by doing that?

Alice Molasky-Arman:
It does not represent an increase; it is a combination with a repeal on page 24 of NRS 694C.260, which is the other component. This combines capital and surplus. It remains the same.

Chair Oceguera:
Are there other concerns from the Committee? Is there a motion?

Assemblywoman Kirkpatrick:
I would like to reserve my right to change my vote on the Floor.

Assemblyman Conklin:
I would propose to Amend and Do Pass accepting the mock-up version deleting mock-up Sections 4, 5, and 6. If we accept the language on page 14, subsection 2, lines 11-18, there should be a trailer statement in NRS 690B so we do not lose any regulatory authority over those entities.

Brenda Erdoes, Committee Counsel:
Who would you want to regulate those service contracts or would you like the Division of Insurance to continue to regulate it?

Assemblyman Conklin:
I think NRS 690B is still under the purview of the Division of Insurance. By putting it in NRS 690B, the Insurance Commissioner is reaffirming that these are home warranties and must abide by the home warranty statutes. We will also accept the amendments at the back of the work session document in their entirety.

Chair Oceguera:
I will accept a motion.

> ASSEMBLYMAN CONKLIN MOVED TO AMEND AND DO PASS ASSEMBLY BILL 161.
>
> ASSEMBLYMAN HORNE SECONDED THE MOTION.
>
> THE MOTION PASSED UNANIMOUSLY.

Assembly Bill 238: Provides for the regulation of tanning establishments by the State Board of Cosmetology. (BDR 54-969)

David Ziegler, Committee Policy Analyst:
[Distributed work session document (Exhibit L).]
This bill provides for the regulation of tanning establishments. It directs the State Board of Cosmetology to license operators of tanning establishments and inspect such establishments. It creates the Tanning Establishment Advisory Committee and adds one operator of a tanning establishment to the State Board of Cosmetology. The bill was sponsored by Assemblywoman Koivisto. There were amendments submitted jointly on the day of the hearing from the State Board of Cosmetology and the Indoor Tanning Association. They are attached.

Chair Oceguera:
Are there questions from the Committee?

Assemblywoman Gansert:
Are we still requiring that parents sign off on a form?

Chair Oceguera:
I believe it was once a year.

Assemblyman Settelmeyer:
I have a disclosure. My wife is a cosmetologist; however, I do feel that this will affect her differently than other cosmetologists. She does not have, nor does she wish to have tanning beds.

Chair Oceguera:
Are there more questions or concerns? [There were none.]

> ASSEMBLYMAN CONKLIN MOVED TO AMEND AND DO PASS ASSEMBLY BILL 238.
>
> ASSEMBLYMAN PARKS SECONDED THE MOTION.
>
> THE MOTION PASSED. (ASSEMBLYMEN ALLEN, BUCKLEY, CHRISTENSEN, GANSERT, MABEY, AND SETTELMEYER VOTED NO.)

Assemblyman Anderson:
I am going to reserve my right on the Floor. I am concerned about the issue. I thought the most compelling part of this was the fact that there were people who were doing this who wanted to step into the regulation.

Chair Oceguera:
I agree. There was no opposition and I was surprised that the people who were in the industry wanted to be regulated.

Assembly Bill 249: Revises provisions relating to dispensing opticians. (BDR 54-547)

David Ziegler, Committee Policy Analyst:
[Distributed work session document (Exhibit M).]
This bill relates to dispensing opticians. Assembly Bill 249 was introduced by this Committee on behalf of the Board of Dispensing Opticians. It directs the board to adopt regulations on minimum standards for lenses, frames, and other devices. It authorizes the board to subpoena the productions of books, papers, and documents. It allows reinstatement of a delinquent license within two years of the license's expiration. It directs the board to adopt regulations on continuing education requirements. It makes dispensing a lens, frame, or device that does not satisfy minimum standards ground for discipline. It allows the board to impose an administrative fine on a person who is engaging in unlicensed activity whether or not the person complies with a cease and desist order. There were amendments proposed by Mr. Samuel P. McMullen, representing LensCrafters. There is also a new amendment from Mr. McMullen (Exhibit N).

Chair Oceguera:
Can you address this, Mr. McMullen?

Samuel P. McMullen, representing LensCrafters:
The changes have been agreed to by all of us. Number 1 in the original amendment is the same as proposed and adds that these are the national standards. The change in number 2 is that there was one other section that dealt with current continuing education standards and the amendment retains that. Number 3 deletes the word "willfully" and changes the language to create a more objective standard for proof for a disciplinary proceeding. Number 4 was deleted because it was already in the board's statutes. The changes are for clarification or for meeting the board's restatement of the standard that they wanted.

Chair Oceguera:
I do not see any questions and I will accept a motion.

ASSEMBLYWOMAN BUCKLEY MOVED TO AMEND AND DO PASS ASSEMBLY BILL 249.

ASSEMBLYMAN ANDERSON SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Assembly Bill 277: Makes changes concerning the abatement of property taxes. (BDR 32-948)

David Ziegler, Committee Policy Analyst:
[Distributed work session document (Exhibit O).]
This bill was sponsored by Assemblyman Carpenter. It makes changes concerning the abatement of property taxes. It includes geothermal energy within the definition of "renewable energy" for purposes of a partial abatement of property taxes approved by the Commission on Economic Development for a facility that generates electricity from renewable energy. There were no amendments on the day of the hearing. The bill is eligible for an exemption from the provisions of the joint standing rule on bill action deadlines. There is a possible fiscal impact. On April 2, 2007, Assemblywoman Buckley and the Committee asked the staff to work with the executive director of the Commission on Economic Development to obtain background information on the economic impacts of projects that apply for tax abatements.

Chair Oceguera:
Can you briefly summarize the results of Assemblywoman Buckley's request?

Tim Rubald, Executive Director, Division of Economic Development:
We provide an annual report to the Legislature. We also provide some additional in-depth information of what the Commission does over a period of time to the money committees.

Chair Oceguera:
Because we do not know the economic impacts and fiscal issues and because it is exempt, I think we should move this to the Ways and Means Committee.

ASSEMBLYWOMAN BUCKLEY MOVED TO DO PASS AND REREFER ASSEMBLY BILL 277 TO THE WAYS AND MEANS COMMITTEE.

ASSEMBLYMAN CONKLIN SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

We will recess [at 3:12 p.m.].

Chair Oceguera:
The meeting is reconvened [at 3:36 p.m.]. The two amendments are on bills we previously passed and are presented for the Committee's information. Assembly Bill 128 and Amendment No. 140 is the first one. The bill required the wholesaler or manufacturer of prescription drugs to file an annual report with the Attorney General, which has been amended to the State Board of Pharmacy, on the value and purpose of the economic benefit provided to physicians and pharmacists. Assembly Bill 294 and Amendment No. 151 is the second. This is the bill that says a coroner or medical examiner or their employer who may have been exposed to a communicable disease may petition the court to require the testing of the decedent. If you have any problem with the language in these amendments, inform me.

We will open the hearing on Assembly Bill 494.

Assembly Bill 494: Makes various changes relating to unemployment compensation. (BDR 53-1199)

Danny Thompson, representing Nevada State AFL-CIO:
Last year in Las Vegas, we had a situation where hundreds of workers were denied unemployment benefits when their union was negotiating with Medco. In the course of negotiations, there was no agreement in seven months. The employer notified the employees by letter that if they did not agree to the contract, they would be locked out on a specified date from their place of employment. When the date came, the union was still in negotiations with the company and the workers were locked out. When the people applied for unemployment benefits, they were denied. There was no reason for this to be deemed a labor dispute because it had not risen to that yet. They were still in negotiations. I will let Eric Meyers who was the attorney in the case, discuss this further.

Eric Meyers, Private Citizen, Las Vegas, Nevada:
I am an attorney with the firm of McCracken, Stemerman, Bowen, and Holsberry in Las Vegas. I am here to speak in favor of A.B. 494 with certain amendments. The purpose of the bill, with the amendments we are proposing is to clarify that employees who are locked out are not disqualified from receiving unemployment compensation benefits during lockout. It is an important clarification to the law. *Nevada Revised Statutes* (NRS) 612.395 is often referred to as the labor dispute disqualification. It states that a person is disqualified for benefits for any week which the administrator determines that his total or partial unemployment is due to a labor dispute in active progress.

These labor dispute disqualifications were originally enacted in most states' unemployment compensation laws and have been amended in the majority of states to exclude lockouts. I speak to you today based on my experience as an attorney representing Medco workers in Las Vegas. The claims for benefits for those workers were denied by the Employment Security Division in 2006. On April 5, 2006, Medco caused the unemployment when it locked out its workers. For about six weeks, Medco would not permit employees to work although they were ready, willing, and able to do so. Medco took this action to pressure the employees' unions to give in to their demands regarding health benefits and other bargaining issues. The union and employees did not strike. Medco locked out the employees. It was an extremely difficult time for these workers and their families. Many Medco workers live paycheck to paycheck. The loss of their wages caused immediate financial hardship. Medco stopped their health insurance. If they wanted to maintain their family health coverage, they had to pay Consolidated Omnibus Budget Reconciliation Act premiums. They suffered the kind of economic dislocation that Nevada's unemployment compensation system is designed to alleviate. The Division denied their claims and ruled that a lockout is a kind of a labor dispute for the purposes of NRS 612.395. The Division reached that conclusion based on its readings of certain decisions of the Nevada Supreme Court. We believe the Division misapplied those holdings and we are appealing to the courts, but this is an ideal time for the Legislature to clarify if employees who are locked out by their employers should be considered ineligible for unemployment benefits. I urge you to vote in favor of this bill. Passage of the bill will put Nevada in the column of the majority of states who do not punish workers by denying them benefits while their employers lock them out. There are approximately 38 states that treat locked-out employees differently than striking employees for the purpose of eligibility benefits. This bill promotes Nevada's policy of providing temporary help to workers and their dependents who are involuntarily unemployed. In 1937, when the Legislature enacted this law, it stated the policy as follows: Economic insecurity due to unemployment is a serious menace to the health, welfare, and laurels of the people of this State. Involuntary unemployment is therefore a subject of general interest and concern which requires appropriate action by the Legislature to prevent its spread and lighten its burden which now so often falls with crushing force upon the unemployed worker and his family. That policy of protecting workers and dependents against involuntary unemployment is defeated when the State denies benefits to the workers who are involuntarily locked out. The case of Medco is illustrative. They were willing to work at all times, but Medco chose to render them unemployed as part of a bargaining strategy.

The second reason to favor passage of this bill is that Nevada should encourage peaceful collective bargaining. This bill will assure that the State remains

neutral in labor management relations. It will create incentives for employers and unions to bargain peacefully, rather than using their weapons of economic warfare. Under Nevada law, when workers strike, they do not qualify for unemployment benefits. The State of Nevada has declined to support striking workers and strikes in general by not granting economic support that could alleviate the economic pain of going out on strike. Making it easier to strike could make strikes longer and cause greater injury to employers. This bill ensures that the State does not subsidize the employers who choose to lock out employees to gain bargaining concessions. Denying benefits to locked-out workers encourages employers to lock out. The unavailability of unemployment benefits increases the economic injury of the lockout. It makes the lockout a more coercive weapon and a more attractive temptation for employers. The State's denial of benefits subsidizes the employer's lockout weapon while making the workers and their dependents bear the brunt of their involuntary unemployment. It is legal for employers to lockout and for employees to strike, but the State should remain neutral. This bill will ensure that Nevada provides the necessary support for involuntarily unemployed workers who are facing economic hardship. It will encourage employers to stay at the table and advance Nevada's policy of peaceful collective bargaining without lockouts and strikes. This bill is good public policy and I urge that it be enacted with the amendments.

Chair Oceguera:
I need to temporarily close the hearing on A.B. 494 and return to the work session.

We previously voted on A.B. 186 and Mr. Conklin asked if there were any other amendments to come forward. We had an amendment that we overlooked. I would like to have the motion rescinded.

> ASSEMBLYWOMAN KIRKPATRICK MOVED TO RESCIND THE PREVIOUS ACTION TAKEN ON ASSEMBLY BILL 186.
>
> ASSEMBLYMAN CONKLIN SECONDED THE MOTION.
>
> THE MOTION PASSED UNANIMOUSLY.

Assemblyman Conklin:
Amendment No. 281 takes out the cost driver of the original amendment and is better because it provides the lowest cost provider for solar energy and challenges businesses and government to get involved to create a base for people to participate and creates a lower cost provider of renewable energy. I think it is a good amendment.

ASSEMBLYMAN CONKLIN MOVED TO AMEND AND DO PASS ASSEMBLY BILL 186 AND REREFER TO WAYS AND MEANS.

ASSEMBLYMAN PARKS SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Chair Oceguera:
We will reopen the hearing on A.B. 494.

Eric Meyers:
The proposed amendments and supporting documents have been distributed (Exhibit P). The amendment strikes the language in Section 3 and replaces it with the proposed language to make clear when the employer chooses to lock out workers as part of a bargaining strategy, they can, but it is going to have to build in the expense of paying unemployment. Several states have adopted this wording. The supporting documents are documents that Medco distributed to workers in advance of the lock-out. They sent packets to workers explaining that they would not be permitted to work and they should make financial arrangements for the inevitable hardship that it would cause. They also told them their health coverage would be terminated. The March 25, 2006, letter was sent to the Medco employees' homes making it clear that their job security was at risk unless they convinced their union to agree to Medco's bargaining position. This bill makes sure that employers understand that the lockout weapon is powerful and causes great economic injury to workers. Employers have the right to threaten and deprive workers of wages and benefits during bargaining, but they should not receive the assistance of the State in doing so.

The second proposed amendment clarifies that changes to NRS 612.395 should apply to any cases that are still in the process of administrative or judicial review.

Assemblyman Settelmeyer:
Do you want us to pass legislation that would affect a case that is already in the appellate process?

Eric Meyers:
We want the Legislature to pass a good law regardless of whether it applies retroactively or not. It is important for Nevada's working families to know that if they are locked out, they will not be deprived of the economic assistance for which other workers who are involuntarily unemployed qualify.

Chair Oceguera:
Is there further testimony?

Mike Shore, Private Citizen, Las Vegas, Nevada:
I am an employee at Medco and want to give you a human aspect of what went on after we were locked out on April 5, 2006. Two to four weeks prior to the lockout the employees were being told that this lockout was going to happen and it caused mental anguish for some of the employees. We were doing a lot of overtime and our attendance was up prior to the warning. When the lockout occurred, people were confused as to when they would be locked out. They were barred from the facility. They walked the picket line for about six and a half weeks. Many went through undue financial hardship. My wife worried about our financial future and my job prospects at age 54. This caused a very stressful situation with my family. We had resources, but it caused extreme financial hardship and mental stress on our family. We were willing to work, but were denied access to the facility. Some of the employees are still affected by the lockout. We tried to get other employment, but because we were in a limbo situation, applications were denied by other employers. We were denied unemployment benefits because it was a labor dispute.

Chair Oceguera:
Are there questions from the Committee?

Danny Thompson:
In the past, lockouts have not been viewed as labor disputes. There was no labor dispute at Medco. Medco and the union were in negotiations that had been going on for eight months. The administrator decided that this was a labor dispute. There was no plan to strike. This bill is designed to provide clarification by the Legislature that the administrator was wrong in making that decision.

Assemblyman Mabey:
If you get unemployment benefits when you are locked out, would this not give you the advantage?

Danny Thompson:
You do not get unemployment benefits when you are on strike. The employer makes the decision to lock out the employees. In this case, they were selective who they locked out. They used the law for their benefit. Workers walked the picket line because they were locked out; they never were on strike.

Eric Meyers:
None of them were on strike.

Chair Oceguera:
Are there others wishing to testify in favor of A.B. 494?

Richard Daly, representing Laborers International Union of North America #169:
This bill supports the underlying policy of unemployment which says if you are willing to work and are unemployed through no fault of your own, you should be eligible for benefits. In a lockout, it is the employer's choice.

John E. Jeffrey, representing the Southern Nevada Building and Construction Trades Council:
The point that cannot be stressed too strongly is when the union decides to go on strike, it is their decision. The employees have no say in a lockout. It is strictly an economic tool used by the employer who generally has the economic advantage. The employer knows that the employee works from paycheck to paycheck and six weeks' loss in pay can cause them to lose their house, their car, and maybe even their family. Unemployment benefits are not a lot of money, but it may pay the rent and put food on the table. This is a good bill and should be passed.

Chair Oceguera:
Are there others wishing to testify in favor of the bill? Is there anyone wishing to oppose the bill? Is there anyone wishing to speak neutrally on the bill? [There were none.] I will close the hearing on A.B. 494 and open the hearing on Assembly Bill 419.

Assembly Bill 419: Revises various provisions governing workers' compensation. (BDR 53-154)

Assemblyman Jerry Claborn, Assembly District No. 19:
I bring before you today A.B. 419. This bill is related to workers' compensation: revising provisions regarding employees leasing companies; clarifying provisions related to certain medical examinations; revising provisions related to permanent partial disability; clarifying provisions regarding the payment of benefits penalties; and providing other matters properly relating thereto.

Chair Oceguera:
Are there questions for Mr. Claborn? [There were none.]

Danny Thompson, representing Nevada State AFL-CIO:
This issue has had a lengthy history in this Committee. In 1993, the Legislature did an overhaul of workers' compensation in the State of Nevada to the detriment of workers in the State. At the time, there was an "alleged unfunded

mandate" to the State that resulted in the changes. In 1995, a bill was passed to abolish bad faith actions. The Legislature enacted benefits penalties that would be enforced by the Department of Industrial Insurance Regulations. In 2000, workers' compensation went from being a state fund to complete privatization of workers' compensation. At that time, the Assembly reinstated about half of the benefits that workers lost in the 1993 changes. Today, we find ourselves with the original company that was the old State Industrial Insurance System and is very profitable. We would like to address some of those benefits workers lost.

Raymond L. Badger, Jr., representing Nevada Trial Lawyers Association:
I am going to go through the bill in chronological order. The first topic in Section 1 of A.B. 419 would require employee leasing companies to have a Nevada office that would maintain information as to who is their current workers' compensation insurer and how you contact them. Employee leasing companies are new to Nevada in the workers' compensation field, but are becoming more prevalent. You cannot get anything more than emergency medical treatment if you do not know who your insurance company is. This would require the employer to have a record in a Nevada office so that a person can tell a provider who the insurance company is. We have had problems with employees not being able to identify the insurance because they do not work at the location of the employee leasing company.

Sections 2 and 3 are a clarification. We have workers' compensation hearing officers and appeal officers appointed by the Governor. This bill makes clear that a second opinion being requested by the hearing officers in a contested case is not limited by contracts with an insurance company. The third provision is a follow-up to an issue last session when the Legislature authorized reopening a claim where the injured worker could show that they should have received a permanent disability award when their claim was opened but it was not offered. For example, Nevada would allow compensation for a lost finger even if you could return to your former employment. Unrepresented employees do not know that a permanent disability award may be available. There is a mechanism for them to recoup what they did not originally receive. By law, the injured worker would have to prove that the insurance company also violated a provision in *Nevada Revised Statutes* 616D.120 when they chose to not set up the medical evaluation at the end of the claim. That section requires that you show that the insurance company intentionally kept a benefit from an injured worker. Intent is difficult to prove. This present provision allows ignorance of the law to be a defense. Section 4 of the bill takes out the requirement.

The fourth provision is in Section 5, and is a significant financial issue. Permanent partial disability payments are in lieu of pain and suffering and

include the right of a jury to award someone for the loss of their ability to perform an occupation or do certain activities of daily living. There is a limited benefit in the workers' compensation law if there is a permanent injury such as the loss of a hand, or back surgery. The amount of the award is based on the wage at the time of the injury, the worker's age, and a multiplier built into the law. The multiplier at 0.006 has been unchanged on average since 1981. This amendment would raise that multiplier to 0.008, which is a monetary increase in the awards. Another item is in Sections 6 and 7. Since 1995, a workers' compensation insurer cannot be sued even if they withheld benefits intentionally. In lieu of that, we have benefits penalties. The Department of Industrial Relations can accept a complaint, review a file, and assess a financial penalty against an insurer. Before they can appeal, the insurer will have to file a motion in front of a workers' compensation judge who will hear the case. They must show that they have a good chance to win or that they will be irreparably harmed, or they will have to pay. If they are not granted the motion for a stay, then they have to make the benefit payment.

Assemblyman Conklin:
What is the circumstance that you are trying to get at with this?

Raymond Badger, Jr.:
We have seen a recurring problem. When an employee is injured and does not know the insurance provider, the medical treatment grinds to a halt. It happens more often in the employee leasing concept.

Assemblyman Conklin:
I am not sure that this is going to solve your problem. If an employee leasing company is established in this State, it has to keep those records because they are technically an employer. When someone uses an employee leasing company, they are usually a small business and have no employees of their own. Could we require them to post that information where the employee works?

Assemblywoman Gansert:
In the section where you propose to increase the multiplier to 0.008, can you give us an example of how that would work?

Raymond Badger, Jr.:
The calculation would depend on the person's age. The amount it would be in each case is affected by the age and wage. I have a chart in my office and will send you more information. I have been working in this field since 1979 and the statutes in the State of Nevada have always given a larger award to the

younger worker. I assume it is because they have a longer work history that might be affected. Older workers are critical of this.

Chair Oceguera:
Are there any questions? Are there others who want to testify in favor of the bill? Are there any who wish to oppose A.B. 419?

Robert Ostrovsky, representing Employer's Insurance, Inc. and the Nevada Resort Association:
In regard to Section 1, you cannot make the injured worker responsible to identify their insurer. There is a method within the Department of Industrial Relations to identify which insurers are attached to which employers. The injured worker does have to know who their employer is. Any way we can make it easier for injured workers to understand who is responsible for the payment and the decision-making on a claim is good for workers. In Sections 2 and 3, the statute now says a judge can send someone for an independent medical evaluation to a provider of the judge's choice. The treatment is another matter. I am not sure if we need to clarify the language. This only involves an independent evaluation for a judge. Section 4 has to do with the right to reopen a claim for the purposes of determining if the person should be permanently rated. When this language was adopted last session, we put in a high standard in order to reopen a claim. I argue that we are revisiting a section we changed last session and now we want more. We want to avoid the opportunity for people to fish through files looking for an opportunity to reopen claims. I rely on the good faith testimony given the last legislative session and ask that you not change this section.

On behalf of the Nevada Resort Association, you are increasing the benefits by one third in Section 5. This would be tens of millions of dollars in additional payments by employers to employees. Age is a factor in a complicated formula, but this Legislature has chosen, in past sessions, to reject the concept of fixed rate. We oppose this section on the basis of cost. In Section 6, if you appeal the decision of the Division of Industrial Insurance to an appeals officer and you are found guilty, the insurer does not have to pay those penalties. We do have to pay those penalties under current law if we chose to take that matter to district court or beyond. The penalty is due at the time the appeals judge makes the final decision. This would change that and make it due earlier. This is not the situation you heard that the insurer is required to make the payment to a claimant of a benefit due or on a contested benefit request. These are penalties which are in addition to any benefits that they would normally have received under law. This is a question if they should receive additional payment to penalize the insurer for a bad act. We argue that withholding that penalty payment is not egregious to the beneficiary if they prevail. Section 7

clarifies when and how that payment will be made. I urge you to reject these requests.

[Chair Oceguera turns the meeting over to Vice Chair Conklin.]

Vice Chair Conklin:
Did you say the cost increase was 50 percent?

Robert Ostrovsky:
It is a one-third increase.

Assemblywoman Buckley:
Since 1993, with the workers' compensation cuts, the State has taken a long time to recover and create a balance. Many of the bills we hear each session attempt to regain some of the ground that was lost when the State had financial trouble. Is there room to work with the injured workers' representatives on some of these ideas which might yield some further discussion?

Robert Ostrovsky:
Over the years, the parties involved have been able to slowly recover from a very bad financial situation that the State was in. From the perspective of the insurance industry, benefits are simple. If the Legislature chooses to raise benefits, we will raise the premiums and pay the added benefits. There are areas where we can make improvements that would assist injured workers that will be acceptable to employers if they solve real problems. There are injured workers who are not being treated appropriately. I am willing to sit with the parties concerned. Increasing the award may not be the best place to spend the money. Increasing temporary total disability benefits may be better. There are people who have more contact with these people than I do whom I could bring to the table. I would be happy to resolve these issues because there will be other bills and I will continue to have objections.

Assemblywoman Buckley:
I appreciate your response and would love to see that happen. I frequently get letters from injured workers including some who were injured when we had financial problems. There are complaints about how they were being treated initially or payment levels not being raised. There were cases involving dead spouses, or being killed in the line of duty. It breaks your heart because it is a matter of us coming up with funding. We think we have come up with solutions for some of the older claims, so I see us making incremental progress and it would be nice to see that continue within our limitations.

Robert Ostrovsky:
I have spoken to some members of labor regarding their willingness to sit down and try to put a package together that makes sense for injured workers, employers, and insurers, to see if we can make Nevada the right place to work. I know good employers want to do that.

Vice Chair Conklin:
I believe that was a positive charge to do so. Are there any additional questions from the Committee for Mr. Ostrovsky?

Assemblyman Horne:
You made a statement about testimony as to some problematic claimants. I am curious about this three-prong test. If a claimant was never scheduled for an evaluation and they demonstrated a preponderance of evidence, that seems to be enough to reopen a claim. *Nevada Revised Statutes* 616D.120 alone should be enough to reopen.

Robert Ostrovsky:
It would seem that way. When a claim is closed, there are certain reopening rights which are outlined in NRS 616C.390. There are ways for a person to reopen a claim under normal circumstances. I call the provisions in NRS 616C.392 abnormal circumstances. In testimony, we were told that there was a case where a "bad actor" had been punished under the provisions of NRS 616D.120. The injured worker still was not able to access the rights to a permanent partial disability rating. As a result, we created this concept. If it is the determination of this Committee that anyone who is wronged should have this right and that Section C is unreasonable, then the Committee should remove that from the law.

[Chair Oceguera returns to the meeting.]

Chair Oceguera:
Has Mr. Ostrovsky taken care of the Committee's concerns?

George Ross, representing Nevada Self Insurers Association:
I would like to ask my client, Larry Bradley, President of the Nevada Self Insurers Association, and Vice President, Sandra Simon, to answer that question.

Chair Oceguera:
We will record that you are in agreement with Mr. Ostrovsky.

Dave Oakden, representing S and C Claim Builders Insurance Company:
The permanent partial disability benefit by statute is paid until age 70. Therefore, someone who is 20 years old gets 50 years of benefits versus someone who is 50 years old who gets benefits for 20 years. If the injured worker has the same level of impairment and the same wage, the younger person would get the benefits longer. That is why the age factor is important. The dollar value with regard to the 33 percent increase affects the average permanent partial disability the most. The maximum average monthly wage is $4,000. Premiums that insurers may charge have a cap of $36,000 for each employee. If we have an increase in benefits, we will have to get a commensurate increase in premiums. The insurers need some lead time to adequately fund that. The ability to fund old cases is also an issue and there should be an effective date based on the date of the injury. These factors need to be considered to keep the insurers solvent. For our company, there would be a significant rate increase for the contractors. Nevada benefits are at least three times higher than California, Utah, and New Mexico.

Larry Bradley, State President, Nevada Self Insurers Association:
We will work with Mr. Ostrovsky.

Jim Fry, Deputy Risk Manager, Risk Management Division:
I am here to speak neutrally, but this raises the permanent partial disability award by 33 percent, which is an estimated, unbudgeted, $1.1 million increase. In 2003, the fifth edition of the American Medical Association guidelines were adopted, which raised the permanent partial disability awards by approximately 9 percent.

Nicole Lovec, representing Nevada Motor Transport Association, Nevada Retail Association, Nevada Auto Dealers Association, and the Builders Association of Western Nevada:
We oppose this bill and would like to work with the sponsors.

Chair Oceguera:
I will close the hearing on A.B. 419 and open the hearing on Assembly Bill 420.

Assembly Bill 420: Makes various changes relating to workers' compensation. (BDR 53-155)

Assemblyman Jerry D. Claborn, Assembly District No.19:
I bring before you today Assembly Bill 420, an act relating to workers' compensation. This bill: enacts provisions relating to the calculation of the average monthly wage; enacts provisions relating to injured employees who are discharged for misconduct unrelated to their injuries; revises provisions

regarding injured employees who accept lump sum settlements in lieu of vocational rehabilitation services; revises provisions governing administrative fines and benefits penalties; provides for the withdrawal of the certification or authorization of insurers and third-party administrators that commit certain violations; and provides other matters properly relating thereto.

Raymond L. Badger, Jr., representing Nevada Trial Lawyers Association:
I have distributed a handout (Exhibit Q). There are two Supreme Court cases that involve these proposals and there are some proposals regarding Section 3. The first proposal comes in Sections 2, 4, and 5. When a worker is going to miss work, the insurance company has to compute the average monthly wage the worker was earning on the day of injury. If they are off work, they receive a tax-free payment of two-thirds of that amount. That wage determination can affect other financial payments our most seriously injured workers receive. The insurer gets information from the employer and sends a letter to the injured worker stating what they were earning. The worker has 70 days to challenge that decision. If the worker does not challenge that number, it is final even if there was a mistake or fraud. That is the law and has been consistent until the case of *Ayala vs. Caesars Palace*, 119 Nev. 232, 235, 71 P. 3d 490, 491-92 (2003). In that case, the insurer decided more than two years after the date of injury that they had calculated the wage too high and proceeded to issue a new letter and lower the rate. The injured worker's attorney argued that everybody is bound by the 70-day rule. The Supreme Court disagreed because the statute that allows appeals addresses somebody who is aggrieved by an insurance company's decision. Because the insurer was not listed in those, the case allows the insurer to recalculate the wage for the lifetime of a claim. It does not apply to the employee or the employer. This amendment attempts to level the playing field. If there is going to be no 70-day time limit, then the rules should be the same for all parties.

Section 3 might be the most important proposal in this law. Workers' compensation is a no-fault system. We pay much reduced benefits versus what a tort victim can recover. We have an insidious defense that has become more prevalent. It is the termination of employment defense. Our workers' compensation judges have no guidelines from the Legislature on how to rule. The case of *Hudson vs. the Horseshoe Club Operating Company*, 112 Nev. 446, 457, 916 P.2d 786, 792 (1996) involved a casino employee who, as part of a collective bargaining agreement, had agreed not to do employment in conflict with that casino. They were terminated because they did so. Therefore, the insurer said they did not get help in finding a new job that you would otherwise get under Nevada law. Now, if you get hurt on the job and go in for surgery, your employer may terminate you and tell the insurance company that they terminated for cause. When the employee's physician limits the employee's

activities, the insurance company will cut off all lost wage benefits and say that the employee's employment was terminated for cause and therefore they could not offer light-duty employment. There is no guidance for our workers' compensation judges in that case. The *Hudson* case said that if the reason you were unemployed is due to injury, you receive lost wage payments. If it is due to other economic reasons such as a termination for misconduct, you are not. This bill tries to bring sense and parity and give direction to our workers' compensation judges. It is modeled after the unemployment law. Section 3 of the bill makes the defendant have the burden of proof. They would have to prove the misconduct or they could not stop the lost wage benefits. This bill requires that if a person is injured, is subsequently determined by the doctors to be unable to do his job, and is then terminated, there must be a hearing before his benefit payments may be stopped.

In Sections 6 and 7, the next proposal sets the minimum amount a worker may receive to waive vocational rehabilitation. The provision does not change this item as a negotiable item; it sets a minimum amount that that right can be sold for. Our law provides maximum lengths of vocational rehabilitation of 9 months, 12 months, or 18 months. Our proposal would say that the monetary amount you would get in lost wage payments during those periods is minimally 50 percent of the maximum.

Sections 8 and 9 of this bill address that there are some insurers who repeatedly violate injured workers rights and pay the fines. To our knowledge, there has never been a workers' compensation insurer who has had their license suspended or revoked no matter what their record is. This bill says there must be a limit and provides that three serious proven violations within 180 days warrants state action.

Chair Oceguera:
Are there any questions for Mr. Badger? [There were none.] Are there others in support of this bill? [There were none.] Are there any in opposition?

Robert Ostrovsky, representing Employer's Insurance, Inc.:
With regard to the recalculation of wages and the 70-day rule to appeal the decision, the proposed change in the statute would give someone unlimited rights to come back and request a recalculation. If an insurance company makes a mistake, they can make a correction, but can only go back 30 days to collect overpayments. It is a question of overpayments versus underpayments and the appropriate amount of time someone should have to know that. The intent is to get the right rate as quickly as possible. Regarding Sections 3 and 4, insurance companies pay benefits for the injuries; they do not adjudicate why an individual may or may not have been terminated for misconduct. I believe

the insurers should pay all or any of the benefits that are due. If there is a matter of a termination, the insurance company would have to appeal to the hearing or administrative officer. They would become the judge in an employment case. The proposed standard is the standard in the unemployment compensation provisions of Nevada law which were created to favor the employee. Section 6 has to do with lump sums. We object to the 50 percent minimum payment based on the fact that the vocational rehabilitation benefits are voluntary in terms of settlement. There is no requirement for either party to agree to a settlement. There is language in the law that tells us that the insurer must provide information to the claimant about their right to representation. We question who has the advantage here. Not everybody takes the settlement; 35 to 38 percent of people who are eligible for vocational rehabilitation take it and the remainder take a settlement and they are entitled to representation.

Section 9 deals with the withdrawal of certificate. The problem is that the bigger the insurer, the more likely they are to have penalties assessed against them. Insurance companies make human errors. Last year, our company forgot to pay a medical bill for a small amount that we were ordered to pay. In another case we were ordered to pay a permanent total disability award of $30,000. We sent a check that did not have the correct signatures, but within the allowed time frame. We were penalized for both incidents. It does not take a whole lot to accumulate a number of penalties in a short period of time. Under the proposal, your certificate to provide insurance would be withdrawn even with an appeal. Those fines would put most large insurance companies out of business in this State. We do not think it is appropriate as it is proposed.

Chair Oceguera:
Are there any questions for Mr. Ostrovsky? [There were none.]

Gary Milliken, representing the Associated General Contractors, Las Vegas Chapter and Builders Insurance Company:
I want to reiterate what Mr. Ostrovsky said about Section 2 and the 70 days. The Builders Insurance Company last year paid out about $1.2 million in buyouts. Under Section 6, we would double that. Section 9 does not allow for any due process procedure.

George Ross, representing Nevada Self Insurers Association:
My client, Mr. Bradley, and I agree that, "discretion is the better part of valor."

Kate Diehl, representing Property Casualty Insurers Association of America:
Our points have been thoroughly made.

Nicole Lovec, representing Nevada Motor Transport Association, Nevada Retail Association, Nevada Auto Dealers Association, and the Builders Association of Western Nevada:
We oppose the bill and I would be happy to work with the sponsor on the bill.

David Oakden, representing S and C Claim Builders Insurance Company:
The issue on Section 3 is that we would pay benefits to somebody as proposed until we proved that they were terminated correctly. When we start applying the state disability rules to workers' compensation, the parameters are vague. Appeals officers have the discretion to extend the benefits if they think the employer did not have a good reason for termination. They have those prerogatives.

Chair Oceguera:
Are there others wishing to oppose A.B. 420? [There were none.] Are there others to speak neutrally? [There were none.]

I will close the hearing on A.B. 420.

We will recess [at 5:26 p.m.].

Chair Oceguera:
I will reopen the Assembly Committee on Commerce and Labor [at 5:48 p.m.].

Assembly Bill 363: Provides that certain theatrical or stage performers are covered by workers' compensation benefits. (BDR 53-1058)

Assemblyman William Horne, Assembly District No. 34:
Assembly Bill 363 provides that certain theatrical or stage performers who participate in a long-running entertainment production are covered by workers' compensation benefits. The law currently states that independent contractors do not fall under workers' compensation provisions. I ask this Committee to consider whether or not it is good public policy to require anyone who receives compensation as a performer in one of these acts to be covered under workers' compensation laws. Is it good public policy for the Nevada taxpayers to pay when these performers are injured and have no means to pay for their medical care? In 2004, Robert Nzovi, a performer at Aladdin's Desert Passage, fell from the top of a five-man pyramid and was injured. He died in July of 2006. Between the date of his injury and his death, his long-term care cost Nevada taxpayers approximately $1.3 million. There will be opposition to this bill. I expect that certain employers will not want to pay the workers' compensation insurance premiums for these performers. They may feel the performers should pay for their own insurance and it is a contract issue and the State should not

interfere. This is a public policy issue and things have changed since the law went into effect in 1947. The bill is simplistic. Section 1 identifies that the theatrical or stage performers who participate in long-running entertainment should be covered under workers' compensation coverage under *Nevada Revised Statutes* 616A through 616D. Paragraph 2 defines long-running entertainment production.

Assemblywoman Gansert:
Why did you choose seven days?

Assemblyman Horne:
That was flexible. Some of these performances are not long-running and we wanted to make sure we encompass most of the performers who are compensated for these performances, including small performances which change locales for periods of time. Another issue is that this is a contractual issue and the employers can still contract with these "independent contractors" and provide in their contract negotiations payments into workers' compensation insurance. They should not be exempt from protecting their workers while they are extending a benefit to the employer. They cannot allow the employee to not have the insurance.

Chair Oceguera:
Are there others wishing to support the bill?

Troy Oglesbee, Private Citizen, Las Vegas, Nevada:
I represent the Church of God Seventh Day Youth Group and the Robert Nzovi and Family Foundation. Robert Nzovi, who was raised in a grass shack with clay floors, thought he had hit the jackpot. He worked for five years as an acrobat traveling the world and performing. In his show in Las Vegas, he fell off a human pyramid and was left completely paralyzed and unable to breathe. Clark County spent $40.8 million on indigent care for the fiscal year ending July 30, 2005. While most entertainers are covered with health insurance or workers' compensation, specialty acts often are not. Some performers are pleased with the arrangement because there are no deductions from their pay. In addition to these performers not being insured, the Nevada Occupational Safety and Health Review Board and the Office of State Labor Commissioner have no jurisdiction to investigate incidents such as that involving Robert Nzovi. His family did not sue the promoter or venue because local attorneys either declined to take the case or were too expensive. Without insurance, Robert got no rehabilitation. The law currently exempts any person engaging as a theatrical or stage performer in any type of exhibition. Some promoters classify the performers as independent contractors. The bill will sew up the loophole by including all performers whether or not the person would be considered an

independent contractor. Robert's brother quit performing because he felt that if he got seriously injured, there would be no one there to help him. The church continues to be in close contact with Robert's family. The promoter continues to bring acrobats from Kenya and around the world to perform around America.

Chair Oceguera:
Are there questions from the Committee? [There were none.] Is there anyone else in support of the bill? [There was none.] Is there anyone to oppose the bill?

Robert Ostrovsky, representing the Nevada Resort Association:
This issue goes to the heart of what an employer is under the law. There is a definition of an employee under NRS 616A.105, and 616A.110 defines excluded persons. The question becomes who is responsible for buying and providing for a workers' compensation policy. In this case, you had an uncovered individual who was injured on the job. Who was the employer and did they have an obligation to purchase workers' compensation insurance under the statute? If they were obligated and did not buy it, then the individual would have been eligible to receive payment from a special fund which is assessed against employers at the Division of Industrial Relations. There are a whole series of people who are not insured. In almost all of the production shows on the Las Vegas Strip, the performers are employees and are insured. Short-term performers who are contracted should be covered by the contractor. If the employee is truly an independent contractor, buying a policy under the statute is optional. Real estate agents do not have to have a policy because they are independent contractors. There are many different circumstances in the Las Vegas entertainment world. The hotel may put on their own show, or they may share the production. In a four-wall situation, they rent the facility to someone. There are a variety of different deals.

Assemblywoman Buckley:
From a public policy point of view, it is important for these performers to have workers' compensation insurance. They are engaging in risky work. We know the cost benefit analysis on workers' compensation. Giving up the employee's right to sue in exchange for a certain level of benefits was good for our State. Maybe we could look at a two-prong system. Either the company makes them an employee or the contracting company pays for or requires evidence of coverage. The resort would merely require the proof of coverage. Either they are an employee or they have proof of coverage. If we went with a system like that, we could do this.

Robert Ostrovsky:
I agree. It would help if we had a clear system that told people if you are going to contract in Nevada, you are required to supply the venue with an appropriate certificate of workers' compensation insurance. It gets sticky with the traveling band concept. I agree that it might work if the venue owner decided to cover them or required a certificate from the performer. I do not like the language as proposed in the bill.

Assemblywoman Buckley:
Whoever the employer is needs to be responsible and get the coverage.

Robert Ostrovsky:
When we draft that, we need to think about the fact that we have a lot of independent contractors working in this State. We need a clear line about what an independent contractor is and what an employee is? If you are an employee, someone is your employer and that someone needs to buy a policy.

Nicole Lovec, representing Nevada Retail Association:
We are neutral on the bill and would like to help with the wording on the bill.

Chair Oceguera:
Are there others wishing to speak on the bill? [There were none.] We will close the hearing on A.B. 363 and open the hearing on Assembly Bill 511.

Assembly Bill 511: Makes certain changes regarding contractors. (BDR 54-1398)

Tim Crowley, representing the Nevada Subcontractors Association:
We are here to support Assembly Bill 511. It is a simple bill. It outlaws the provisions in construction that allow home builders and general contractors to require the subcontractor to indemnify them against any mishaps in the project and carry full liability for the project. In other words, the subcontractors share responsibility and hold the home builder harmless. We strive to spread the liability equally to all of the parties in a construction contract. Currently, with shared liability, you have all the subcontractors liable for anything that goes wrong. With this bill, subcontractors will only be liable for their own projects. We have support from everybody in the industry on the concept of this bill. It is easy for us all to support equity. The Southern Nevada Home Builders Association, the Association of General Contractors, and the subcontractors support the concept. When you push for equity, you also create a shift in liability and issues arise. This issue is also being addressed in Senate Bill 181. We refined our language and submitted an amendment (Exhibit R). There are concerns that without a waiver of insurance on this bill, the insurance industry

will not insure a construction project in Nevada. We have exercised due diligence on the issue of insurance in the State of Nevada and insurance providers will not be impacted. Another issue with an insurance waiver was mentioned because Nevada is a contributory negligence state, but Nevada is not a contributory negligence state, so it is not an issue. There are two additional amendments. One is from Southwest Gas and exempts them from the bill. The third amendment is from Clark County and exempts them from the bill. There are no arguments against those amendments.

Chair Oceguera:
Are there any questions for Mr. Crowley?

Assemblywoman Allen:
If Nevada is not a contributory negligence state, does it only become an issue during jury verdicts?

Craig A. Marquiz, Counsel, Nevada Subcontractors Association:
Subcontractors in Nevada employ hundreds of thousands of Nevadans whose lives are directly impacted by construction-related legislation and its interpretation. Nevada's subcontractors have experienced the impact that construction-related legislation and insurance, which has been dwindling in the marketplace over the past several years, have had on their ability to remain viable. The subcontractors advocate A.B. 511 and the proposed amendments. It levels the playing field amongst the participants in construction litigation arenas. Subcontractors cannot continue to bear the burden they have been required to in the area of indemnification. There are three forms of indemnification. Type 1 indemnity requires a subcontractor to indemnify the owner, the developer, or the general contractor for everything that occurs on a particular project whether or not it is the handiwork of the subcontractor. Type 2 requires the subcontractor to indemnify, defend, and hold harmless everyone on the project that is a higher-tiered party for everything except the gross or willful negligence on the part of one of the higher-tiered parties. In reality, those scenarios never exist. We are asking for something that most states have enacted with anti-indemnity statutes in a Type 3 or limited indemnity provision. Type 3 indemnity makes it clear that a subcontractor is only responsible to the extent that that subcontractor's work causes damage or results in injury to a particular project. They are not responsible for any other subcontractor, any higher-tiered contractor, or the owners' own negligence or misconduct. This would only hold the subcontractors responsible for their work and their scopes of work.

Over the past several years, the construction trades have seen fewer insurance carriers writing policies for commercial general liability insurance within the

marketplace. There are carriers who still write those policies. I believe that in the event the statute is in place, you will see an increase in the number of carriers that are writing policies to subcontractors because they will no longer be responsible for everyone on a project. They will only be assigned the risk for their scopes of work. A provision in this bill would enable contractors to contract around the statute which is being put in place. With an owner-controlled insurance program, every year they obtain a commercial general liability policy of insurance which covers whatever work they are going to do during a given year. The subcontractors have insurance that does not cover them in a contractor's project. Builders, developers, and owners require the subcontractors to pay a contribution percentage. Each trade is assigned a percentage which funds the owner's insurance. So subcontractors pay twice for insurance. If a claim is filed, there are deductibles to be paid. This system results in a profit for these owner-controlled programs. Most of these policies are underfunded and they require the subcontractors to indemnify the builder for any shortfall.

Nevada Revised Statutes (NRS) 41.141 states that in an action to recover damages, in which comparative negligence is asserted as a defense, the comparative negligence of the plaintiff does not bar recovery if that negligence is not greater than the negligence of the parties to the action against whom recovery is sought. The Nevada Supreme Court has addressed this issue and specifically the concept of comparative negligence being the relative standard for the purposes of negligence issues and for the apportionment default. Assembly Bill 511 with its amendments accomplishes a sharing of the risks among all the parties to this process. It ensures that subcontractors and higher-tiered contractors are only held accountable to the extent that work causes damage. In construction defect litigation, there is a process whereby individual subcontractors are held hostage in the process. Subcontractors have the absolute right to repair and there is no release mechanism for them to get out. The process holds subcontractors captive. They cannot and should not bear this burden. This bill ensures that each party to the process is only looked at to the extent of any wrongdoing.

Chair Oceguera:
Are there questions from the Committee?

Assemblywoman Buckley:
What are we really talking about in terms of indemnity?

Craig Marquiz:
Most of the subcontractor agreements that are in the current industry have Type 1 indemnity that requires subcontractors to indemnify, defend, and hold harmless the higher-tiered contractor and their representatives from anything that happens on the project, unless that particular damage is the sole negligence of the party that caused it. It includes everything the builder and all of the subcontractors do. Most of the claims say there are problems in a certain group of homes and each of the subcontractors is required to participate in the entirety of the process even if their work is not implicated.

Assemblywoman Buckley:
Is the reason for that because many of these claims are not clear-cut?

Craig Marquiz:
I do not see that as being the issue. NRS Chapter 40 requires a notice to be provided of what problems exist within a home. There are specific requirements under NRS 645 that mandate certain notice be provided, the specific location of the problem, the causes, and the specifics of the problems. This bill is attempting to only hold subcontractors and contractors accountable for their respective scopes of work.

Assemblyman Anderson:
What happens in a small development when you have similar problems and more than one aspect of the building becomes involved as a result?

Craig Marquiz:
It would likely involve a commercial general liability policy that would also apply to any resulting damage. In a wrap policy, it is all subsumed within the existence of the one policy. All of the subcontractors participate in that program.

Assemblyman Anderson:
When a claim is made and someone goes onto the property to fix the problem, they lose their insurance because that is admitting fault. Would this affect the admission of guilt in any way?

Craig Marquiz:
This bill is a contractual issue that deals with the relationship between the builder and the subcontractors. There is no admission of guilt. The purpose of Senate Bill 141 was to allow that process. There is a pre-litigation process by which all participants come together to assess what issues exist. If they exercise their right to repair, it then becomes an issue of whether or not they

are going to be released from any further proceedings if the process continues. It is not a function of guilt or fault unless the issue becomes unresolved in mediation. Then it becomes a contested issue during litigation. If there is a claim made under an insurance policy, it would not be "your work." It would cover any resulting damage.

Assemblyman Anderson:
My concern is the home owner who is going to buy the house through the developer. How will this bill help fix his problem? How does the subcontractor know that he is not being held responsible for collateral damage?

Craig Marquiz:
I do not think it will affect the home owner. The issue is what the process becomes. If Types 1 and 2 indemnities are declared illegal and void as a matter of public policy, then any contract that would contain that particular language would be rendered null and void. A subcontractor in the future would only be held accountable for their scope or extent of the work. If there is a problem, the builder will place the subcontractor on notice. Nevada contractors have no problem being held accountable for their work. This type of legislation would encourage subcontractors to be more proactive in making repairs and expediting the process so they would no longer be involved. I think the subcontractors would resolve the problems and expedite the Chapter 40 proceedings.

Tim Crowley:
This bill pertains to NRS 624, which regulates contractual agreements, and should have no impact on Chapter 40.

Chair Oceguera:
Are there others wishing to testify in favor of A.B. 511?

Richard Peel, representing Mechanical Contractors Association, National Electrical Contractors Association of Southern Nevada, and Sheet Metal and Air Conditioning Contractors' National Association of Southern Nevada:
We are in support of A.B. 511. There is a drastic problem where lower-tiered trades are required to indemnify and to defend and hold harmless higher-tiered parties with respect to the higher-tiered parties own negligence. That is not something for which the lower-tiered parties can obtain insurance. They have enough of a problem obtaining insurance, let alone insurance that will cover someone else's negligence. I have two caveats. The statute already provides to exempt public bodies from the auspices of the right-to-work statute. That language does not need to be there. Regarding the amendment from Southwest Gas, there are concerns by the Nevada Underground Utility Contractors that

they will be left out of the protections that this bill would give them in work they do with utility projects. We would ask that any exemption for Southwest Gas be carefully considered.

Chair Oceguera:
Are there any questions? [There were none.] Are there others to testify in favor of A.B. 511? [There were none.] Are there any to oppose the bill?

James L. Wadhams, representing the Southern Nevada Home Builders Association:
We have worked with the subcontractors and the Associated General Contractors to develop language. We have some language we thought would allow proportionate liability with an exemption for insurance contracts similar to that which exists in 32 of the 38 states that have anti-indemnity statutes. I do not know what the insurance industry would do. I am certain that very few of the "household name" companies will write this kind of insurance anymore. It is a fragile market and you are never quite sure what will happen until after the fact. Our housing market in southern Nevada is in dire straits and we are concerned about this legislation. The breadth of the complaint originally issued in NRS Chapter 40 litigation is extremely broad. The law requires the general contractor to name all parties who may have participated in the array of defects alleged which brings to the table virtually all of the subcontractors. The issue that keeps them involved is the scope of the complaint, not any underlying indemnity agreements. We will be happy to consider the proposed amendment, but the notion of avoiding liability is substantially different than proportionate liability. We are not concerned with contributory negligence because that is not the standard in Nevada.

Assemblywoman Buckley:
I am not sure how the insurance market would be affected, because it really does not change the insurance company's analysis of risk. Is it not a matter of who pays?

James Wadhams:
I only wish it were that simple. The insurance market is not susceptible to quite that simple an analysis. If they feel the circumstances are not fair to the issue they have, they may not write a policy at all. The licensed insurance companies are generally not writing this kind of insurance. The optimum outcome would be a re-pricing of insurance. That raises the problem in NRS Chapter 40 proceedings that the allocation of fault is rarely done on a proportionate basis. These issues are generally resolved by a settlement in which the insurance companies that have exclusive control of the litigation will make an economic decision. Whatever they spend to get out of the litigation

will be allocated back to the insured anyway. I am not sure the re-pricing is a direct answer.

Assemblywoman Buckley:
Why is it fair to have a subcontractor indemnify a contractor for work that is outside their scope of work?

James Wadhams:
I do not believe it is. All of us in the construction industry have worked toward proportionate liability. It is fair that the subcontractor not be required to cover the general contractor when only the general contractor is negligent. That is what is difficult in drafting the bill.

Assemblywoman Buckley:
Is that what they were trying to draft in the bill?

James Wadhams:
I have a problem with the wording on page 4, line 13, which says "arising from the negligence of the higher-tiered contractor...." The allegation will almost certainly be made that the general contractor was in some way negligent. That renders the indemnity agreement void and against public policy.

Assemblywoman Buckley:
If it was not the subcontractor's behavior, why is that a bad thing?

James Wadhams:
If the contractor did no work on the project and it was done completely by subcontractors, to void the indemnity agreements, it places the entire responsibility for the actual construction on the person who did none of the construction. The purpose of the indemnification agreement is to make sure that the general contractor has the ability to reach the individual who performed the work and seek the indemnification. If the allegation is that the general contractor was negligent in hiring the subcontractor, and therefore the indemnification agreement is void, then the entire purpose of apportioning the liability is thwarted.

Assemblyman Horne:
If the insurance is written so every person is responsible for their own conduct, the premiums of the contractors may increase. If you take away the proportional amounts of the insurance and we adopt this legislation, then insurance companies will look at the higher tiers and consider them higher risks. If the subcontractors are only liable for their own conduct, they may get some

relief on their insurance. That does not seem to be a complicated insurance risk analysis scheme.

James Wadhams:
I think that is how the system currently sorts itself out. If there is no risk ultimately allocated and no damage paid, then it is not apportioned back to the contractor. I am not sure how it changes the premium. The cost of the settlement to the insurance company is what is going to be apportioned back to the risk. I do not see how the pricing will change. The issue is not in the pricing, but the availability of insurance.

Assemblyman Horne:
If it is not the subcontractor's issue, they are less likely to be included in the lawsuit.

James Wadhams:
What brings them into the lawsuit is not whether they did anything wrong, but the breadth of the complaint filed in court. If it is broad enough to encompass aspects of the house in which the subcontractor participated, he will be named in the lawsuit. Their insurance company will defend them and at the end of that process will probably settle the claim for some amount of money. The allegations are broad and, therefore, many subcontractors are involved in the lawsuits.

Chair Oceguera:
Are there other questions? [There were none.]

Steve Holloway, Executive Vice President Associated General Contractors of Southern Nevada:
Approximately a year ago, the Associated General Contractors, the American Building Contractors Association, the Southern Nevada Home Builders, and others agreed to bring forward a bill addressing these indemnification issues and we have worked diligently. We have concerns with the amendments, also.

Chair Oceguera:
Are there any questions? [There were none.] Are there others to testify against A.B. 511? [There were none.] Are there any to speak neutrally? [There were none.] I will close the hearing on A.B. 511 and move to Assembly Bill 592.

Assembly Bill 592: Provides for contracting licenses for the abatement or removal of asbestos. (BDR 54-1200)

Richard Daly, representing Laborers International Union of North America #169:
We had a problem which relates to Assembly Bill 592. We had a roofing contractor on a school district project who was abating asbestos in connection with the replacement of a roof. We made some inquiries to the contractor's board which said the abatement was incidental to the roofing project. All of the workers were licensed to do the abatement, but people who do asbestos abatement have different insurance requirements.

Chair Oceguera:
Is there no specialty license for asbestos abatement? How is it regulated?

Richard Daly:
In the administrative code there is a requirement for the contractor to have an asbestos abatement license. We filed a complaint with the contractor's board because the roofing contractor on the school district job did not have a license to abate asbestos. They determined that it was incidental work and they did not have to be licensed. The workers were trained and licensed, but the contractor did not have to be licensed. They just had to follow the safety regulations. It is an unfair advantage because of the difference in insurance required to do the abatement. We feel the contractor should have to be licensed like other contractors who abate asbestos. All of these scopes of work are in regulation. This would affect flooring contractors, sheet metal contractors, and drywall contractors, with limits to exclude small amounts of asbestos. I submitted a proposed amendment (Exhibit S) to add lead and mold as other hazardous materials to be addressed.

Chair Oceguera:
Are there questions from the Committee?

Assemblyman Mabey:
Why would you want to limit the amount of asbestos?

Richard Daly:
I was not aiming at a contractor who is working with a limited scope like changing a light switch. Truly, incidental amounts should not be included for the requirement for licensing. Currently there is no limit.

Patrick Sanderson, representing Laborers' International Union, Local #872:
According to the Occupational Safety and Health Administration (OSHA), the limit is about ten square feet. The Environmental Protection Agency has

another limit. We believe the bill is important for the safety of the people and the workers. In regard to the proposed amendment, currently there is no license for lead or mold abatement.

Richard Daly:
People who abate lead are licensed, but there is no license for mold or hazardous waste abatement.

Assemblyman Settelmeyer:
Are we talking about lead paint or lead pipes?

Richard Daly:
Generally, we are talking about lead paint and anything that can be airborne during the process of removal.

Gary Milliken, representing the Southern Nevada Chapter of Laborers, Employers, Cooperative Education Trust:
We are in favor of A.B. 592 as it is written.

Chair Oceguera:
Are there any questions? Is there anyone else to testify in favor of the bill? Is there anyone in opposition?

Jeanette K. Belz, representing the Associated General Contractors, Nevada Chapter:
I think the addition of mold to the bill is extremely complicated, so we oppose that amendment.

Chair Oceguera:
Are there others wishing to testify against A.B. 592?

Assemblywoman Buckley:
I think that the addition of mold will endanger your bill. It is also dangerous, but asbestos protocols are more easily established and there is less concern on how it is done.

Richard Daly:
We will leave the bill with just asbestos.

Chair Oceguera:
Does the Committee want to pass A.B. 592 as written?

ASSEMBLYMAN ANDERSON MOVED TO AMEND AND DO PASS ASSEMBLY BILL 592.

ASSEMBLYMAN HORNE SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMAN ARBERRY WAS ABSENT FOR THE VOTE.)

The meeting is adjourned [at 7:20 p.m.].

RESPECTFULLY SUBMITTED:

Earlene Miller
Committee Secretary

APPROVED BY:

Assemblyman John Oceguera, Chair

DATE:

EXHIBITS

Committee Name: Committee on Commerce and Labor

Date: April 9, 2007 **Time of Meeting: 1:13 p.m.**

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
A.B. 424	C	Kevin Quint	Written Testimony
A.B. 424	D	Helen Foley	Proposed Amendments
A.B. 424	E	Gerald Weeks	Letter and Proposed Amendments
A.B. 424	F	Gary Waters	Prepared Testimony
A.B. 424	G	Mark Nichols	Prepared Testimony
A.B. 207	H	Patrick Smith	Proposed Amendments
A.B. 1	I	David Ziegler	Work Session Document
A.B. 115	J	David Ziegler	Work Session Document
A.B. 161	K	David Ziegler	Work Session Document
A.B. 238	L	David Ziegler	Work Session Document
A.B. 249	M	David Ziegler	Work Session Document
A.B. 249	N	Samuel P. McMullen	Proposed Amendments
A.B. 277	O	David Ziegler	Work Session Document
A.B. 494	P	Eric Meyers	Proposed Amendments
A.B. 420	Q	Raymond L. Badger, Jr.	Supportive Documents
A.B. 511	R	Tim Crowley	Proposed Amendment
A.B. 592	S	Richard Daly	Proposed Amendment