

**MINUTES OF THE
SENATE COMMITTEE ON COMMERCE AND LABOR**

**Seventy-fourth Session
May 25, 2007**

The Senate Committee on Commerce and Labor was called to order by Chair Randolph J. Townsend at 8:08 a.m. on Friday, May 25, 2007, in Room 2135 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to the Grant Sawyer State Office Building, Room 4412E, 555 East Washington Avenue, Las Vegas, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Randolph J. Townsend, Chair
Senator Warren B. Hardy II, Vice Chair
Senator Joseph J. Heck
Senator Michael A. Schneider
Senator Maggie Carlton

GUEST LEGISLATORS PRESENT:

Assemblyman Marcus Conklin, Assembly District No. 37

STAFF MEMBERS PRESENT:

Kelly S. Gregory, Committee Policy Analyst
Wil Keane, Committee Counsel
Scott Young, Committee Policy Analyst
Jeanine Wittenberg, Committee Secretary
Laura Adler, Committee Secretary

OTHERS PRESENT:

Keith L. Lee, State Contractors' Board
Robert A. Ostrovsky, Employers Insurance
Rocky Finseth, Carrara Nevada; Pharmaceutical Research Manufacturers of America
Barry Gold, Director, Government Relations, AARP Nevada
Robert L. Crowell, Nevada Association of Mortgage Professionals

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John P. Sande III, Nevada Bankers Association
Alfredo Alonso, HSBC North America
Gail Burks, President, Chief Executive Officer, Nevada Fair Housing Center
Peter Dustin, Fraud Detail, Las Vegas Metropolitan Police Department
Cheryl Blomstrom, Nevada Consumer Financial Association
George Ross, Bank of America/ TX1-492-15-14
William R. Uffelman, Nevada Bankers Association
Mark Brewer
James Wadhams, Nevada Mortgage Bankers Association
Pamela Vilkin, President, U.S. Green Building Council
Rose E. McKinney-James, Clark County School District

CHAIR TOWNSEND:

The first bill we will open is Senate Bill (S.B.) 53. This is the intellectual property bill for live musical performance or production and has been amended.

SENATE BILL 53 (2nd Reprint): Provides that advertising or conducting a live musical performance or production through the use of a false, deceptive or misleading affiliation, connection or association between a performing group and a recording group constitutes a deceptive trade practice. (BDR 52-220)

SENATOR HECK:

The amendment that was placed in the Assembly was a consensus amendment with the parties involved and the New York City attorneys representing them.

SENATOR HECK MOVED TO CONCUR WITH AMENDMENT NO. 917 TO S.B. 53.

SENATOR CARLTON SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR TOWNSEND:

The next bill is S.B. 111. Mr. Young, would you like to address the amendment?

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SENATE BILL 111 (1st Reprint): Clarifies applicability of certain provisions to certain suppliers of utility services. (BDR 58-985)

SCOTT YOUNG (Committee Policy Analyst):

I believe all it does is clarify that if it is just one of the co-ops, and they are doing a project that even if they are not subject to UEPA that they still have to follow the NEPA. But if they do a project in connection with a third party; then they would still have to meet UEPA standards.

CHAIR TOWNSEND:

It does not increase or decrease the standard. It clarifies the standard.

MR. YOUNG:

"It clarifies the relationship of the co-ops to the UEPA."

CHAIR TOWNSEND:

Okay. This is more about the co-ops than about anything else.

SENATOR HARDY MOVED TO CONCUR WITH AMENDMENT NO. 915 TO S.B. 111.

SENATOR CARLTON SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR TOWNSEND:

The next one is S.B. 279 with Assembly Amendment No. 912.

SENATE BILL 279 (2nd Reprint): Makes various changes concerning contractors and the State Contractors' Board. (BDR 54-624)

Senator Carlton, have you seen this?

SENATOR CARLTON:

No, I have not. Senator Hardy also needs to see it.

SENATOR HARDY:

Everything I have heard about it sounds okay, but I want to make sure.

KEITH L. LEE (State Contractors' Board):

We worked with the Assembly to add the additional language that we believe makes it perfectly clear that the State Contractors' Board can only disseminate information regarding a complaint after disciplinary action has been initiated or commenced; that is after the executive director or someone in her stead signs the disciplinary action to commence. Anything short of that remains confidential.

SENATOR HARDY:

Would you mind putting on the record the process to get to the point that a complaint is formerly made nonconfidential?

MR. LEE:

If a complaint, small "c" if you will, is received from a home owner or someone else regarding the conduct of a licensed contractor, that complaint is sent to the contractor who is given 15 to 20 days in which to try to resolve the complaint with the complainant. If that is not successful, then the matter is turned over to investigating division of the State Contractors' Board to commence the investigation. Generally speaking, if it is with respect to some issue on the construction, a job site visit is made by all parties. If the matter is not resolved, either informally or if the investigative people decide there is not any violation or probable violation of State Contractors' law, then the matter is closed. If, however, there is a probability that a violation of the State Contractors' law has occurred, then the matter is sent to the lawyers who prepare the formal disciplinary action and submit to the executive director for signing. At that point when the executive director signs, that is when it becomes a matter of public record.

SENATOR HARDY:

I appreciate those who worked on this, because that is what we wanted to accomplish. There is an actual finding. First of all, the person who is filing the complaint actually did business with the contractor. There is some process of vetting to find out whether there is a probability of a problem or a violation. I do not see where it is in the bill. Is it in the amendment?

MR. LEE:

I do not have it front of me.

CHAIR TOWNSEND:

The only thing I see is in the amendment in section 11.5. It adds the term, "the existence of and the personally identifying information in" a complaint filed with the Board. Then in section 11.7, subsection 2, the new language is, "The Board shall, within 2 years after the date on which the complaint is filed, initiate disciplinary action against the licensee or dismiss the complaint."

MR. LEE:

I should speak to that. That restates what we all believe the present law to be under the *Nevada Revised Statute* (NRS) 11.190.

SENATOR HARDY:

There are no other changes in the document we have. The only changes made by the Assembly are in sections 11.5 and 11.7.

MR. LEE:

That is correct. I believe that satisfies it. If you read the section we amended with the personal identifier, that keeps it confidential. The following section, which is presently in law, makes clear that it becomes a matter of public record once disciplinary action is initiated.

SENATOR CARLTON:

My question is coming from the consumer point of view. As a consumer, when I call the Contractors' Board to make sure that pool contractor has not been misbehaving and I end up with a hole in the ground and a hole in my checkbook, what information will you be able to share with me, as a consumer, so I can make a decision on whether this is a good contractor or not?

MR. LEE:

Yes, any information on which a disciplinary action has been commenced. A formal complaint is filed by the executive director and forwarded to the contractor. At that point, we can tell you what has been initiated. As long as a disciplinary action has been initiated, then it is matter of public record. The fact a complaint has been lodged against someone and there has not been a finding of a probability of a violation of law still remains confidential.

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SENATOR CARLTON:

I would like to clarify. You said filing a complaint could take 15 to 20 days to rectify, then a follow-up investigation. That contractor could be out there for 30 to 45 days doing things. A number of people could call within that time frame and you would not be able to share this information with them.

MR. LEE:

That is correct.

SENATOR HARDY:

The approach we are taking here is saying until that point, it is not public record. Once it is public record, the Board can do anything they want with it. Alright, I get it.

SENATOR HARDY MOVED TO CONCUR WITH AMENDMENT NO. 912
TO S.B. 279.

SENATOR SCHNEIDER SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR CARLTON VOTED NO.)

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CHAIR TOWNSEND:

We will now take up the amendment to S.B. 3.

SENATE BILL 3 (2nd Reprint): Revises various provisions relating to the death benefits payable to surviving spouses of certain police officers and firefighters. (BDR 53-244)

ROBERT A. OSTROVSKY (Employers Insurance):

Originally, we had considered S.B. 3 as a vehicle for some compromise language between the parties; that being the Trial Lawyers Association, representatives of organized labor and the industry. We have determined after speaking to the parties involved in this bill, the matter of concur or not concur should not be held up for that purpose. We have a different vehicle selected if we can reach agreement. Therefore, I would encourage the Committee to take its concur or not concur vote. For the purposes of that, the amendments added

in the Assembly were agreeable to the parties. It cleans up the issue relative to the rural areas where there is a question about whether or not we could provide two position names in the rural area. We solved that problem by putting in a mileage rule. It makes another technical change where we found an error in the way the bill was originally drafted relative to references to other sections.

CHAIR TOWNSEND:

Excuse me, but I think you are referencing a different bill as S.B. 3 has to do with spouses.

MR. OSTROVSKY:

I am sorry. Senate Bill 3 has to do with spouses of firefighters and policemen who might die in the line of duty. We concurred in all those amendments on the other side; they are compromise amendments. Again, I would not hold that bill for the purposes of seeking a vehicle; we have different vehicles selected.

CHAIR TOWNSEND:

Committee, take a moment to review this. They made a substantial change on page 3 of the amendment. It broadens the scope of who qualifies with regard to removing the death penalty benefit for a surviving spouse. They clarified it in subsection 1, of section 1. They have included police and firefighter and then broaden it to include sections of NRS 617, which is the occupational disease section. They further qualified it in section 1, subsection 2, paragraphs (a) and (b), which have been added.

SENATOR HECK:

When we first processed the bill, I had concern about including the occupational diseases, because those are things that follow the individual even after they retire. The idea of somebody retiring today then having a heart attack 20 years after retirement be considered for their marriage penalty caused me concern. Now, the way it is worded, which is well done, it includes the occupational diseases while the individual is actively employed. Only into retirement, if they actually succumb to the disease that manifested while they were actively employed and the cause of death was proximate to that, it balances bringing in the occupational disease section with the possibility of somebody making a claim well after retirement. I think by using the term "actively employed" as a police or firefighter, it helps clarify "line of duty" versus "non-line of duty." I would recommend that the Committee concur.

SENATOR CARLTON:

I understand what we are trying to do with this, but still have concerns. We are taking a workers' compensation system that applies the benefit and dividing that pie up many times. I am concerned about taking a benefit that is supposed to be equally applied across the board and deciding who can and cannot access it. I go back to the original testimony when they asked, how are they going to explain it to the different people. We could potentially have the position of telling one spouse one thing and the other spouse something else. This is one of the few bills in my career that has bothered me to my fiber. I have a problem with treating people differently in this way when they have been through this type of loss.

SENATOR HARDY:

This bill is about the marriage penalty. I hate marriage penalties. They are adding another horrific decision for somebody who is trying to move on with their life. I am going to support this, but as previously indicated, I want to gather information on the actuarials to see if there is no fiscal impact on this. I want to do that work during the interim. If I can conclude, to my satisfaction, there is no fiscal impact because of the way the actuarials are done; I will bring a bill to eliminate the marriage penalty for all workers in these circumstances. I intend to do my due diligence during the interim, because in this case, I agree with my colleague as it relates to a marriage penalty. I do not like anything that places that kind of a difficult decision in front of somebody trying to get on with their life regardless of how their spouse was killed.

SENATOR CARLTON:

Just to remind the Committee, Mr. Fry appeared here and said that actuarially they project out on the basis that every surviving spouse will never remarry. To me, that means there is no fiscal impact. When they lose someone, they put it in the matrix and project the expected actuarial lifespan, so it is fully funded.

CHAIR TOWNSEND:

This does bring up the broader policy question and we do need to deal with it.

SENATOR HECK MOVED TO CONCUR WITH AMENDMENT NO. 918 TO
S.B. 3.

SENATOR SCHNEIDER SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR CARLTON VOTED NO.)

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CHAIR TOWNSEND:

We will open the hearing on Assembly Bill (A.B.) 128.

ASSEMBLY BILL 128 (2nd Reprint): Revises provisions relating to prescription drugs. (BDR 54-108)

ASSEMBLYMAN MARCUS CONKLIN (Assembly District No. 37):

The second reprint of this bill represents significant hard work with two interested parties. You may recall A.B. No. 66 of the 73rd Session, which everybody tried to work out but could not. The bill before you now is a compromise bill that probably makes no one happy, but makes no one unhappy.

To refresh the Committee's memory, we are talking about the sales and marketing processes of the pharmaceutical industry with respect to doctors. This bill states that wholesalers and manufacturers employing persons to sell or market drugs, medicines, chemical devices or appliances in this State are to adopt a marketing code of conduct. It requires that a wholesaler or manufacturer adopt a training program or policies and procedures to train people in that code of conduct; that they identify a compliance officer, conduct annual audits and submit an annual report to the State Board of Pharmacy on their compliance with that marketing code of conduct.

ROCKY FINSETH (Carrara Nevada; Pharmaceutical Research Manufacturers of America):

We are in support of A.B. 128.

BARRY GOLD (Director, Government Relations, AARP Nevada):

This bill is a compromise representing a step in providing the public with knowledge that their pharmaceutical industry has a code of conduct and their accountability to that code of conduct and provides information on their compliance. We support the bill.

SENATOR HARDY:

How do you audit the maintenance of effective lines of communication for employees to report noncompliance?

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ASSEMBLYMAN CONKLIN:

This language, in an effort to work a compromise, is what the Pharmaceutical Research Manufacturers of America brought to us. We are seeking to not publicly disclose market or business-secret type related information, but at the same time assure the public the code of conduct is being followed.

SENATOR HARDY:

Presumably a training program would be evidence there is an effective line of communication with employees.

MR. FINSETH:

That is correct.

SENATOR HARDY:

I am always nervous about requiring business to do something they have no way of doing, or worse, it creates a circumstance where an employee can make the case that they did not do that. I want to make sure we are all right and not creating a circumstance where the employers or employees are going to be in harm's way.

CHAIR TOWNSEND:

We will close the hearing on A.B. 128 and open the hearing on A.B. 440. We have a mock-up amendment 4165 from the sponsor ([Exhibit C](#)).

ASSEMBLY BILL 440 (2nd Reprint): Makes various changes concerning loans secured by a mortgage or other lien on residential real property. (BDR 52-879)

This Committee processed A.B. 375 on mortgages. If there are portions that overlap or have a conflict, it would be helpful to know. Unless counsel tells us otherwise, the second reprint of A.B. 440 is still stamped exempt, that would mean this mock-up is also exempt.

ASSEMBLY BILL 375 (2nd Reprint): Revises certain provisions governing mortgages. (BDR 54-393)

ASSEMBLYMAN CONKLIN:

I believe it would remain exempt.

I have asked for a couple of documents to be distributed. One is a fact sheet on mortgage lending fraud ([Exhibit D](#)). So I would not have to go into tireless detail on the bill, I asked research to produce an abstract section by section of the bill and what is in the sections ([Exhibit E](#)).

I have worked with people from the banking industry. The bill seeks to deal with two issues. The first half of the bill is mortgage fraud. You may have seen a news report last week that Nevada has vaulted to one of the top ten states in the nation for mortgage lending fraud transactions and we are on the rise. Unfortunately, these transactions have a tendency to rob people of their most precious asset, their house. It is an unfortunate practice that we have not adequately addressed as of yet.

In my opinion, it is exacerbated by a fantastic home market for many years. Now, that market has flattened out and created a lot of anxiety. Also, within that anxiety, when market conditions change, it allows for certain predatory actions to take place by taking advantage of people who might have been caught in the transition of the market. This bill seeks to address that condition.

The second half of the bill seeks to address the issue of foreclosure. There is no doubt that Nevada ranks number one in home foreclosures of any state in the nation. When I did this bill in the Assembly Committee on Commerce and Labor, it was 1 foreclosure for every 120 households. Reviewing the numbers 2 days ago, it is now at 1 out of every 75 households. It is outrageous. Do we seek to stop foreclosures? No, but we seek to make sure our constituencies have certain protections and certain rights and their foreclosures are done justly for them, that what assets they do have are protected inasmuch as they can be. That is what this bill seeks to do.

The language in the second half of the bill, starting in section 7, is all model language pulled from other states that already have these statutes in place.

The language in the front of the bill dealing with mortgage fraud is all new language that we created for Nevada.

When we finished this bill in committee, there were still issues to be discussed. The banking industry had concerns and I made a promise that I would continue to work with them and find adequate compromise. Sometimes, deadlines do not allow you to get those things done. We all felt this bill has an enormous amount

of merit. It is a matter of making certain that the language is just right. The bill before you is what we believe to be the final compromise in getting us to where we are all happy. We have the opportunity to get at the bad actors in mortgage-lending fraud transactions and make sure there are protections.

One of the concerns the banking industry had, which is true, is in many cases the fraud is not conducted by the actual bank, it is conducted by the third party that negotiates the loan. There has to be a protection that runs both ways against those types of transactions, because the bank may have, on good faith, made the transaction not knowing the conduct of the party making that transaction.

On page 1 of the mock-up, we are making changes to the unfair lending practice and we want to make certain a reverse mortgage is not caught up in section 2, subsection 1, paragraph (b). We use the term "home loan," but generally, in a reverse mortgage, you have somebody who is actually selling their house back to the bank for a payment; literally, it is a reverse loan. This piece does not have a practical application to that product or service.

Because the original bill seeks to give protection under the unfair lending practices to all home loans, it was necessary to make certain, because not all home loans fall within the guidelines of section 2, subsection 1, paragraph (b), we clarify this so that all home loan products can fall under all the protections of the unfair lending practice. We have deleted lines 3 and 4 on page 2 and said the bank or lender has an absolute obligation to determine a person has the ability to repay the loan they are about to negotiate.

On page 2, at the bottom, starts a new section under which banks and lenders have protection against fraud on their own behalf. Originally, they wanted to put this into the mortgage lending fraud, which is a consumer protection piece. As part of a compromise, we pulled out their statute and added "other lenders" to make certain that as the market continues to change, new types of lenders, like private money lenders, have recourse under this statute, which protects their business interest. That section goes on to page 5.

The final issue to resolve is on page 5, section 3, and subsection 4. This was the hardest one. You can put five lawyers in a room and pull out the term "voidable" and get five different answers on what it means and that was a problem. What we chose to do is take out "voidable" and use the term

"rescind," which had plenty of case law behind it; it makes all parties whole. If someone has been dealt with fraudulently, the transaction may be rescinded. That rescission can come only at the request of the borrower. They have six months from the time of conviction with which to rescind that action. That gives the borrower plenty of time to rescind and get a new loan so they are not out of their house and be made fully whole in the transaction, if that loan damaged them in any way.

SENATOR CARLTON:

I have had occasion to discuss home loans with the people where I work. It amazes me that another coworker who is a single mother, and I have a good idea about how much she makes, can afford a \$500,000 loan as a single mother and a waitress. How does this bill allow someone who has the financial capability to use some of these processes and still protect that single-mother waitress who really should not have been sold that home? I would like to understand how those two components are going to work for those two different groups of people?

ASSEMBLYMAN CONKLIN:

I would like someone from the banking industry to answer. I fully understand and we are not trying to take anything off the market. The products you are talking about were never covered under unfair lending practice and they had no protection. What we are doing is rolling them all under unfair lending practice and adjusting the unfair lending practice in a small way, so those products can continue to exist, but that the consumer will have protection. I think the better answer can come from the banking industry in the sense that they can reassure you those products will continue to exist because that is also important.

ASSEMBLY BILL 440 (2nd Reprint): Makes various changes concerning loans secured by a mortgage or other lien on residential real property. (BDR 52-879)

ROBERT L. CROWELL (Nevada Association of Mortgage Professionals):

I believe you raised a similar concern about another bill on nonstandard disclosure requirements. At that time you asked what that bill did in terms of the disclosure requirements and enforcement in letting people know they should not be getting into these loans if they cannot repay. I believe I said you are going to be seeing other legislation that will address that. This legislation attempts to do that. It does what Assemblyman Conklin said, that on the

one hand you are going have the disclosure requirements that absolutely require people to be made aware of the risks and benefits of the loan transaction they are entering into. This will say, if they are not made aware of that in a proper manner, they have the right under the unfair lending practice to undo the transaction if they have been defrauded. This is one of the tools to address that.

On the other hand, part of what we are doing and part of what is going on, is we did not want to take a tool out of the home owner's too box either, and say that the only thing you had left in the world was your home and you are being foreclosed upon. We want you to still have the ability to use your home to get a subsequent or bridge loan in order to protect your rights and go forward. That is what this bill does, and that is one of the side effects.

SENATOR CARLTON:

I am glad you put it that way, because that was a concern. We can disclose all we want, but people are still not going to understand they actually cannot afford it. It seems nobody is willing to look the potential buyer in the face and ask them if they are sure they can afford the monthly mortgage.

MR. CROWELL:

That is a legitimate concern. That concern can be resolved in disclosure. This Committee amended and passed A.B. 375 that for the mortgage brokers speaks to the education requirements they have to have in order to be licensed. Part of those education requirements are how you deal with people and how to properly disclose so they know what they are getting into. That is another aspect of what we are talking about.

ASSEMBLY BILL 375 (1st Reprint): Revises certain provisions governing mortgages. (BDR 54-393)

SENATOR HARDY:

On page 5, section 3, Exhibit C, it says if the lender is convicted, the borrower has six months to rescind the loan. It seems to me there is not any nexus between that right and the fact that your loan was part of the fraud. In other words, it could provide an opportunity for somebody to get out of a loan for whatever reason. There is no nexus that says if your loan was part of the fraud or if your loan was fraudulently given, then you could rescind it. Lender "A" makes 200 loans and on one he does something fraudulent and is convicted, then the other 199 people can get out of their loan.

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ASSEMBLYMAN CONKLIN:

The intent of this provision is if someone commits mortgage lending fraud and is found guilty against you or you are affected, generally speaking that is the case, then you have recourse to rescind that loan and get a different loan or have access to your money.

SENATOR HARDY:

Is this broader than that?

ASSEMBLYMAN CONKLIN:

I do not believe so, but I would ask legal counsel to make certain.

SENATOR HARDY:

I do not see where it limits it.

WIL KEANE (Committee Counsel):

I see what you are saying. This could definitely be clarified. I believe the drafter felt that by saying 'the' mortgage lending transaction, that that would be the mortgage transaction, which the violation was committed with regard to, but that could definitely be clarified.

ASSEMBLYMAN CONKLIN:

I have no objection. I think it could be put right where Mr. Keane suggested; you could put "the mortgage lending transactions affected."

SENATOR HARDY:

That could cause a ripple effect for a company where there is one bad actor in the company. Now you have a ripple effect that buries a company and everybody else that is not a bad actor. Maybe it is sufficient to clarify it on the record.

ASSEMBLYMAN CONKLIN:

I would agree with you that that is the intent.

SENATOR HARDY:

Okay, great.

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JOHN P. SANDE III (Nevada Bankers Association):

We worked carefully with Assemblyman Conklin and are in support of the bill as proposed in the mock-up.

MR. CROWELL:

We also worked closely with Assemblyman Conklin in drafting this amendment, and we also support this bill.

ALFREDO ALONSO (HSBC North America):

We too have worked with Assemblyman Conklin and support the bill. We also agree with Senator Hardy to tighten it up; that makes sense. Senator Carlton's comment with respect to having lenders give out loans willy-nilly, I think what you do, to some degree, is tighten that up. There will be cases where you probably have individuals trying to get that \$500,000 loan and the lender saying they cannot afford more than \$300,000. I think you will get more of that because they will have something behind them. The consequence is the lenders may be more responsible.

SENATOR CARLTON:

I would like to disclose that my daughter works for HSBC North America.

ASSEMBLYMAN CONKLIN:

Mr. Chair, you asked if there were any conflicts in A.B. 375. When the bill was last in my possession, there were no conflicts, but there are two things. First, I understand the Assembly Majority Leader has significantly amended his bill in this House, and I am not aware of all those amendments.

I have added a provision to this bill starting on page 2, section 2.3. That provision may also be, I am not sure and rather than go without saying no, I would rather point attention to that one area I would be concerned with that might appear in both bills. I have not had a chance to look at it. *Nevada Revised Statute* 11.190 is an administrative statute that could appear anywhere.

CHAIR TOWNSEND:

The Legislative Counsel will catch those. We will get a conflict amendment if something does occur. What you have done is at the heart of the matter and that is crucial to state.

GAIL BURKS (President, Chief Executive Officer, Nevada Fair Housing Center):

We serve consumers on many financial and housing issues and we support A.B. 440. This bill addresses the foreclosure consultant issue and a lot of the foreclosures that are occurring. Most of the practices, over 83 percent, are not committed by financial institutions and that needs to be said for the record. The issue is so prevalent that the Federal Reserve System and the Federal Deposit Insurance Corporation are holding a meeting in Las Vegas on June 7 on this issue, so it is a timely bill.

PETER DUSTIN (Fraud Detail, Las Vegas Metropolitan Police Department):

I thank Assemblyman Conklin for his diligence on this bill and support the bill. I will finally have a tool, if the bill goes forward, that I can use in order to protect the consumers and the bankers.

SENATOR SCHNEIDER:

Ms. Burks, you stated the banking industry is not doing these fraudulent loans. Who is doing these loans?

MS. BURKS:

The way the process works is the mortgage profession is quite diverse. Banks use brokers a lot to do loans. Over 83 percent of loans are brokers who sell the loans to the lending institutions. When lenders purchase those loans, they do not look at each loan. They are required to do due diligence by doing a sampling before it goes into an investment pool, but they do not look at every loan, so they are not officially originating the loans.

CHERYL BLOMSTROM (Nevada Consumer Financial Association):

Assemblyman Conklin has balanced the interest of the capital market in Nevada for lenders and borrowers through this bill.

MR. GOLD:

I have submitted my written comments in support of A.B. 440 ([Exhibit F](#)).

GEORGE ROSS (Bank of America/ TX1-492-15-14):

We have concern with the bill because the definition of loans is broadened to include prime loans. We are particularly concerned about an area which might inadvertently slow down the process for a small businessman or home owner who would otherwise quickly and easily qualify for a prime-level loan. I am only

talking about prime loans to a small businessman who would borrow against the equity in his home to finance his business.

In particular, on page 2, lines 5 to 7, we would like to move the phrase "from any source" and place it after the word "determining," so it would read, "without determining from any source that the borrower has the ability to repay the home loan." That may not seem like much, but it makes it clear the criteria for deciding whether to grant the loan, rather than do a search as to whether the applicant has exact sources from which the loan could be repaid. For example, if a person had a good Fair Isaac Corporation (FICO) credit score, that would be enough to grant the loan. If the applicant brought his brokerage account and bank accounts to show the assets, that would be enough to grant the loan without having to do any other work, because you would know the person has a good credit rating. That is why we would like to do that.

CHAIR TOWNSEND:

Assemblyman Conklin, have you had an opportunity to see this and consider it?

ASSEMBLYMAN CONKLIN:

I have seen this. For once, I decided to be fair to myself and not change my amendment, because I had an agreement with everybody. Sometimes, when these get back to lawyers who have had nights to think about them, that is what you get. Everyone I talked to indicated there is no substantive change with the moving of those words. I am sure you are aware this is frustrating, because I thought I had a tight bill.

SENATOR SCHNEIDER:

You are proposing that if a business person wants a loan and has either great credit, a good financial statement or some of his income may be down this year, you can make the loan even though all the boxes are not properly checked. Is that what you are proposing?

MR. ROSS:

What I am proposing is to facilitate the speed in which that decision can be made. If that person had a good score, they could go through any one of six or seven different things you might want to look at. Experience has shown the bank that, typically, people with those particular criteria do well on returning their loans. They would meet the criteria for a prime loan, that is what I am

talking about, rather than having to go through all eight or ten requirements. For a businessman, time is money and this gets the person the money faster.

SENATOR SCHNEIDER:
I would agree with that.

ASSEMBLYMAN CONKLIN:
The only thing we have done is lifted "from any source," which could be moved any place in the sentence and still mean the same thing without "determining from any source"; without determining that the borrower has the ability to repay "from any source"; without determining the borrower has the ability to pay the home loan "from any source." "From any source" could be moved anywhere in the sentence and probably mean exactly the same thing.

WILLIAM R. UFFELMAN (Nevada Bankers Association):
I think Mr. Ross is trying to say that he can determine by any means. I can look at your FICO score, your bank statement, your financial statement or whatever. I can determine by "any means" that you, in fact, have the ability to repay the home loan from any source of money. It may be income, savings, equity or all these other things. Whether the amendment is accepted or not, the record should reflect that is the kind of thing I believe Assemblyman Conklin is doing with the language. What Mr. Ross is trying to do with his language is state that the borrower has money from somewhere to pay a loan, and I can use any mechanism my lending standards require to determine that person does, in fact, have the ability to repay the loan.

SENATOR SCHNEIDER:
I am in this type of business and my income can fluctuate from year to year. I would agree with Mr. Ross, if that is what he is after. I know not everyone, especially businesspeople, fits the exact mold of a school teacher or fireman who gets the same predictable paycheck every month, or where entrepreneurs may not have a steady income. Many of these businesspeople who have a relationship with the banker know the loan will be paid, even though they know he would not be borrowing if he did not need help right now.

If our legal counsel says this works, I would be in support of that amendment.

ASSEMBLY BILL 440 (2nd Reprint): Makes various changes concerning loans secured by a mortgage or other lien on residential real property. (BDR 52-879)

CHAIR TOWNSEND:

Mr. Keane, in your opinion, does the change make any difference by where the words are placed?

MR. KEANE:

I think that the suggestion from Mr. Uffelman is a very good one. It clarifies what I believe Mr. Ross is intending, which is that they can use any reasonable means to determine that the person may repay the loan as opposed to examining all of the assets of the borrower.

CHAIR TOWNSEND:

Now I am confused. There is a difference between using any means and the ability to repay the loan "from any source." "Means" and "source" are two different components of this.

MR. UFFELMAN:

I was leaving "any source" where it is. That is the money to repay the loan. The determination "by any means;" you could use the word "mechanism" or "any standard" or whatever the lender determines the borrower's ability is to pay. It could be a high credit score, a large deposit or whatever. I looked at something and satisfied myself that the borrower has the ability to pay by using "any source" of funds they have.

CHAIR TOWNSEND:

Assemblyman Conklin, under this language, and we have to read this in a manner that makes sense to distill it, it is an unfair lending practice for a lender to knowingly or intentionally make a home loan to a borrower without determining that the borrower has the ability to repay the home loan from "any source." That language, perhaps, excludes the ability of the lender to say this person's FICO is so high that, obviously, money comes in at different times and they pay it. There is not a steady stream. Did you intend to exclude using FICO as a means to determine making loans?

ASSEMBLYMAN CONKLIN:

It is my opinion and the opinion of the industry I have been working with that this does not exclude that. This simply says you have an obligation to determine they have the ability to repay the home loan. "From any source" is clarification that you can use anything that is reasonably accessible to you to make that determination, whether it is a FICO score, or instead of a pay stub, you want to use a revenue stream. Some people get paid on Internal Revenue Service (IRS) Form 1099s and they have irregular flows and maybe you want to use some other way, but affirmatively, you have the obligation to determine that a person can repay the loan that you are about to confirm.

SENATOR SCHNEIDER:

Most loans where someone is getting a home loan and is a businessperson and you are lending outside the normal parameters, normally these loans are pretty high. Do they not go to a loan committee or board of directors for approval?

MR. UFFELMAN:

The loan committee would be a classic example within a bank. The underwriting process within a broker/mortgage bank is not a one-person decision. This covers all home loans that are secured by real property, so it could be a home-equity line of credit. Is the equity there and do you have a FICO score and evidence of ability to pay? All of that is encompassed in those three lines. The process within the institution will vary depending on the amount of the loan and the institution itself. If it is an entity that quickly moves the mortgage off to the secondary market and does not retain them, it may have a different process than somebody at a community bank, who can look at your house every day because it is across the street, and know whether you are making it or not.

SENATOR SCHNEIDER:

The testimony from Las Vegas was that is where some of the bad loans are going. I do know in that business, they are packaging loans put out by Nevada State Bank, Bank of America and others, and they will represent several institutions. They have a portfolio of mortgages to select from for the person sitting in front of them based on their income to match it up. How are things going wrong? Are the banks not checking and some of their people are slamming things together?

MR. CROWELL:

I think you are right that some of the mortgage bankers and brokers do that. I guess part of it is education on the part of brokers to make sure they understand the nature of the transaction they are suggesting and the nature of the underwriting requirements in this bill. When you talk about mortgage fraud, it takes two people to do mortgage fraud. That is either the mortgage broker in conjunction with the borrower or the mortgage broker in conjunction with a private lender to commit fraud. There are two prongs to this; one is the education of the mortgage broker, and the other is fraud where you have an active agreement between people to defraud someone else. This bill gets at both of those along with the other bills you have processed. It is a problem in the industry and that is why we are here suggesting this is a good bill, as are the other bills.

MARK BREWER:

I want to bring to the Committee's attention that the state of Ohio has passed a similar bill with similar language and intent. That came out of the 126th General Assembly, S.B. 185, regarding their statute, *Ohio Revised Code* 1349.31. As a result, I have seen a major player pulled from their marketplace.

My concern, depending on this language, is what would happen if the lenders saw this bill as so onerous as the possibility of having to replace loans from their consumers, because bad things do happen to good people. They may decide to take it out on the mortgage banker, broker or whoever holds the note.

There is the potential of lenders pulling out of Nevada as an area in which they do not want to lend as a result of your decision. The consequences could be great. I am hypothesizing against what I am seeing in the legislation. I am concerned that if we have a pullout from the lending market, there is going to be a more limited amount of loans available, creating additional cost to the consumer and eventually depressing the values of real estate within Nevada.

Assembly Bill 329 was passed by this Committee and signed by the Governor around May 14. It addresses several of these issues as far as due diligence and layered underwriting, not just IRS W-2s and pay stubs, but also taking into account mitigating factors for stated income, no income documentation, etc. Under A.B. 329, it discusses guidance of nontraditional mortgage products and risks. From that committee, on a federal level that gives the Attorney General and the commissioner of the Division of Mortgage Lending, Department of

Business and Industry, the authority to move forward and do their job effectively to protect the consumer.

ASSEMBLY BILL 329: Requires adoption of regulations concerning nontraditional mortgage loans and lending practices. (BDR 55-1044)

I am concerned this is taking it one step beyond what A.B. 329 has done and could force an exodus of lending institutions, both portfolio and traditional, and removing the opportunity for business owners to own their own home as well as be self-employed.

JAMES WADHAMS (Nevada Mortgage Bankers Association):

We support A.B. 440. One of the first issues we brought to Assemblyman Conklin's attention was a potential risk to the secondary market, and we think this bill has addressed that. It does not jeopardize the secondary market, yet accomplishes Assemblyman Conklin's purpose of clarifying what is fraud; basically, fraud in the inducement end of the mortgage. The risk of losing lenders is minimized.

ASSEMBLYMAN CONKLIN:

When the state of Ohio's initial law was passed, I believe, but I am not 1,000 percent certain, Georgia had a similar provision that these loans could be rescinded and voidable. That is not a problem when the loan is originally made; it is a problem when the loan is purchased, because the company purchasing the loan is not involved in the actual transaction, they are buying the loan wholesale and in big groups. That is the reason this created a problem in Ohio. When I originally met with the banking industry, it was one of the first changes we made. It appears at the bottom of page 5, line 44 of the mock-up and says, "A mortgage lending transaction may 'not be rescinded' pursuant to this subsection 'if' the lender has transferred the mortgage to a bona fide purchaser." Beginning on line 6, page 6, it explains a bona fide purchaser is somebody in the secondary market who had no knowledge of the mortgage lending fraud. That is strictly for the purpose of resolving the problem that all parties involved have agreed with that language. That language was pulled from the state of New York that also had the wisdom to address that issue. I believe that adequately resolves the problem.

CHAIR TOWNSEND:

We will close the hearing on A.B. 440 and open the hearing on A.B. 621.

ASSEMBLY BILL 621: Makes various changes in the provision of tax abatements and exemptions based upon the use of energy and repeals certain prospective energy requirements for public buildings. (BDR 58-1512)

We have an enlarged aerial photo of the Las Vegas Strip where you can see where some of these projects are located. That is important for context so everyone who reads in the newspaper or hears from someone about this laundry list of projects that could be affected, you can see where they are and better understand the geographic impact.

Ms. Vilkin brought the actual new construction checklist for Leadership in Energy and Environmental Design (LEED) ([Exhibit G](#)). She calls it the LEED on steroids. Regarding the bill, it is my understanding the testimony before this Committee 2 days ago was compelling enough on that portion of the LEED list that if you look under the heading of "Energy and Atmosphere," it has a total of 17 components, of which the first 3 components are required. Those first three you have to meet or you do not get the LEED at all. After that, there is Optimize Energy Performance which is 1 to 10 points; On-Site Renewable Energy is 1 to 3 points; Enhanced Commissioning is 1 point; Enhanced Refrigerant Management is 1 point; Measurement & Verification is 1 point; and Green Power is 1 point.

The reason for highlighting that is because we are likely to see it in the bill, based on the testimony of two days ago, that Assemblywoman Kirkpatrick had emphasized in the bill to add two points. We cleared up that it was not going to be in addition to the 33 basis points. It was going to be required to have two points out of the non-required portion of that; that was going to be the minimum standard.

As the debate continued, it was adjusted, I think, to three points or two points for silver, five points for gold, in order to qualify and eight points for platinum, in that area, which means you have to focus on energy efficiency in order to get your qualification. That is a threshold issue for us. I think that is what we are going to see coming from the Assembly, but I am not holding them to that. It

does, in fact, shift some of your current standards, with the heavier emphasis on energy efficiency in Nevada.

SENATOR HARDY:

I should disclose that Jeff Vilkin is on the board directors for the Associated Builders and Contractors who graciously gave me a job. Ms. Vilkin's husband is one of my bosses.

CHAIR TOWNSEND:

I would like to make a point. We tend to get building claustrophobia during the Session. We all get so focused on the issues in front of us that become so important to us. At times the public is not as aware of what goes on in this building as they could be and we do the best we can under the circumstances. For those of you who have ever visited another jurisdiction's common legislative process, we should all be thankful we live in a state where you can call someone, meet with them most of the time and stop by their office. If you could, and many of you get upset that things might not be going your way, I can assure you that the people who work in this building and all of my colleagues do everything they can to do the right thing to keep the public in mind for broad public purposes. More importantly, we should be thankful that we can easily speak with and work with one another, not just during the legislative process, but also during the interim for purposes of getting to better know issues.

I remind everyone that we are part-time legislators and not full-time people and are doing the best we can to understand complex issues. Without the input of the public into their own process, we could never get better at what we do. For those of you who have never tried to reach us or have dialogue with us, it is easy and we want to keep it that way. Maybe that is my statement on not going to a full-time legislature, but I like it when I fill up my car with gas and someone recognizes me and I get a chance to talk to them, because that is what it is all about.

PAMELA VILKIN (President, U.S. Green Building Council):

I would like to share a little about myself. I own a construction company with about 300 employees and also own a plumbing company. I have a sustainability consultant company and I specialize in corporate social responsibility and green buildings.

The hat I wear today is as president of the U.S. Green Building Council (USGBC). Our construction company built the regional animal campus in southern Nevada. It was a \$17 million project. We were striving for LEED platinum and it is not yet certified, but we will be at LEED gold when all is said and done. We have 30 kilowatts of photovoltaics.

CHAIR TOWNSEND:

The facility has been recognized in publications worldwide, and I encourage all of you to visit it.

MS. VILKIN:

The project was visionary at the time and we are going through a major market transformation now. When we started, we were the only ones doing a LEED project. It was difficult because we did not have the infrastructure, and we still do not have the infrastructure we need to build green buildings with ease in Nevada.

We learned a lot on that project. We would go to lumber yards and nobody knew about FSC wood (Forest Stewardship Council certified wood). We had a blackwater system, a living machine, where we were treating all the wastewater and the building inspectors wondered what we were doing. It has been difficult.

Other projects came online and it is becoming easier, but it is not with ease at this point in time.

I do have testimony, but think the best use of my time and yours, is to clarify points coming up on a regular basis with the LEED for New Construction (NC) and the LEED for Existing Buildings (EB) and the process of LEED.

CHAIR TOWNSEND:

I tried to identify, in my opening remarks, the change or some version of that change. Could you address that on its implication relative to what you know is the total package of the LEED standards?

MS. VILKIN:

The LEED is consensus based and our USGBC is consensus based. On May 14, all USGBC members received an e-mail stating that in accordance with direction from its board of directors and the LEED steering committee, they will

immediately increase the LEED rebuilding rating-systems impact on reducing building energy related to greenhouse-gas emissions.

All LEED projects will be required to achieve two optimized energy performance points. The two-point additional requirement goes into effect for all LEED projects registering two weeks after the date of the USGBC member approval once we all vote. It will go into effect around June 26 for those projects that register two weeks later. They are mandating that.

On the LEED list, look under Energy & Atmosphere, Credit 1, Optimize Energy Performance; it would get you to 14 percent above baseline, which would be the American Society of Heating, Refrigerating and Air-Conditioning Engineers 90.1-2004. This is part of actual credits, not the prerequisite. On optimized energy performance, you have the option on a prescriptive measure and then an intent. I will try to simplify. On the energy-performance part, what the USGBC has realized with all their members is maybe we did not put enough emphasis on energy. What we are doing now as it is constantly evolving with this market transformation, is stating that it will be mandated that you must achieve 2 of those 10 points and that would bring you to 14 percent.

CHAIR TOWNSEND:

Let us look at the potential impact on what is coming from the Assembly. That is going to be about two weeks after you adopt this sometime in June. That would be above and beyond what they are recommending as well.

ASSEMBLY BILL 621: Makes various changes in the provision of tax abatements and exemptions based upon the use of energy and repeals certain prospective energy requirements for public buildings. (BDR 58-1512)

MS. VILKIN:

Are you saying they would want another two points, which would take you to four points?

CHAIR TOWNSEND:

Yes.

MS. VILKIN:

Under these guidelines, under platinum, if you are saying eight points, you are really saying ten points; you would get all ten of those points.

CHAIR TOWNSEND:

Do I hear you saying there is going to be a mandated two points for greenhouse emissions; is that correct?

MS. VILKIN:

It is. The two points is when you finally submit that you cannot slide through on energy and have any less than you should. At some point in time, we should be achieving ten points.

There is a wonderful architect, Edward Mazria, who put forth the 2030 challenge, which states that all buildings by 2030 will be carbon neutral. We are trying to achieve that, but it takes steps along the way. This is a major milestone to say this is now mandated that when you submit your project, you have to have two points. People strive for more than that, but at least it is saying that is now the baseline instead of one or zero.

CHAIR TOWNSEND:

It is our understanding that some of the largest consumers of the energy commodity are those commonly referred to as "strip malls" or small commercial, just by the type of building and the cost issues. Is that still your understanding, particularly in southern Nevada where there is a dramatic heat factor during the summer?

MS. VILKIN:

I think all buildings are very responsible for carbon dioxide CO₂ emissions, whatever kind of building that might be, whether a strip mall, a regional mall, an office building or a hotel. Personally, I think they all go into that same pot.

Every year, buildings are responsible for 39 percent of the U.S. CO₂ emissions and 70 percent of U.S. electricity consumption. They use 15 trillion gallons of water and consume about 40 percent of raw materials globally. When you look at the LEED, it is a holistic approach that deals with all of those component parts. Green buildings use an average of 36 percent less energy than a conventional building with a corresponding reduction in CO₂ emissions. If all the U.S. construction were built to that standard, it would be the equivalent of

taking more than one million cars off the road every year. I think it is really important to stay focused that this is a very integrated approach, but it has far-reaching effects in other parts of the market as well.

CHAIR TOWNSEND:

Has your organization looked at it in terms of how many fewer power plants would be needed if 50 percent of the new construction of buildings were actually constructed to this standard?

MS. VILKIN:

That is a very good question and I do not have it in my head, but I think I sent that information to Mr. Young. Studies have been done to figure that out.

CHAIR TOWNSEND:

I want to remind the Committee that one of the concerns worked on during the interim was a proposal by Nevada Power Company, currently in the Public Utilities Commission of Nevada's regulatory process under the Utility Resource Planning Act, for approximately 3,000 megawatts to be built in eastern Nevada to meet the growing demand in southern Nevada. In fact, they will be coal-fired plants to the best of our understanding. That is not the issue. The issue is if they are constructed, they will still not meet southern Nevada's needs, and in this case, Nevada Power Company's service territory needs. While people can debate whether we ought to build coal-fired power plants, a legitimate debate, the company ought to spend that much money and all the things that go with it, transmission lines, siting issues, permitting, etc. The fact is, if they do those, they are still going to be short, which means you only have two options. One option is to continue to buy long-term, short-term and spot-market contracts. The other is to try to shave your peak, which has been the debate all along. It is not a sexy debate and not everybody wants to pay attention to it, but it is the fact of life. We need to continue that debate. This cannot happen in a vacuum; everyone has to see the bigger, larger component and appreciate the context you have put this in.

MS. VILKIN:

It was a while ago that I sent Mr. Young information on a national answer to your question.

CHAIR TOWNSEND:

We also have to remember we remain, and always have been for the last 20 years, the fastest-growing state in the country, so our consumption will keep climbing dramatically, and that has to go into the mix as well.

MS. VILKIN:

In the Assembly hearing, I stated that LEED would be changing, and I think it is important to recognize that LEED will be changing. It is still going to be a Mustang, to use an analogy of a car, it is just going to be a newer version. It will become more regionalized, which is important, because we are different from New Jersey, Connecticut and Mississippi.

It is important to realize that LEED came about in 2000 and was specifically based in public office buildings. We have evolved; the private sector has caught on and we now have a long list of the LEEDs. There is the LEED for retail, for core and shell, for commercial interiors, LEED-NC and LEED-EB. It becomes difficult walking around with all your reference guides trying to figure out what to follow as your road map.

What the USGBC has decided to do is to say let us simplify this. Let us put them all together and pick those points/credits that are applicable to our region and just be the LEED for all the different LEED programs. This will be beneficial for us all. Now, the LEED for neighborhood developments (ND) will not be a part of the overall LEED, because it is in partnership with another group, so LEED-ND will always be LEED-ND, at least for the next "X" amount of years.

All the people who have registered and will continue to register, probably for the next year and a half, will go under LEED-NC or EB or one of those. I want to make that clear.

CHAIR TOWNSEND:

Perhaps you can be helpful relative to this aerial photo. To help us, could you point out the projects with which you are familiar? The reason I want to do this is for all of you to see how quickly people responded to this and the condensed nature of it.

We have representatives from the MGM City Center project here. For everyone who has a project, I try to read all your materials and your public materials in

terms of your marketing and promotions. There are people present from Echelon who have not yet started their public advertising.

With regard to City Center, the unique nature of your presentations, public advertising and the smallness of the double-trucks in *The Wall Street Journal* and others have caught the imagination of the world, as will Echelon, Winn and some of these other projects. I believe the one identified by the building community and environmental community is the Molasky Group project, because it is almost ready to open. That sends such a positive message to the world about our State, our community and our community leadership, as well as our public-sector leadership, including the Southern Nevada Water Authority.

We narrowed it down to a hard-cost figure to the water bill customer. It is approximately 38 percent that comes from electricity. This is not just about turning on the electricity; this is also about using water in your home and your business. That is an important component of the message we want to send to the world about this state being a great place in which to work, live and recreate. The term "quality of life" has been so overused, but I think it is part of that.

When you walk into one of these buildings, you feel good about it because you know the right thing has been done and you are proud. I have people calling from all over the country now about this with lots of questions. It is exciting.

Ms. Vilkin, are most of your people volunteers with the USGBC?

MS. VILKIN:

Everyone is a volunteer, but it is important to be on the right side of history.

I would like to play off something you mentioned. When the USGBC had their national conference in Denver, Colorado, in November, one of the slides in the presentation stated that before the incentives, we had about 1.5-million square feet of registered projects. After the incentive was put in place, we had over 30-million square feet. That is quite substantial. Often, people make fun of Nevada, especially Las Vegas, but now that we have 85 registered projects, I know that square footage has gone up dramatically.

CHAIR TOWNSEND:

You say you met in Denver. Do you meet every year?

MS. VILKIN:

We meet every year in November. We have about 13,000 people. The USGBC just reached 9,000 member companies, which is enormous. There are about 36,000 LEED-accredited professionals around the country.

CHAIR TOWNSEND:

Have you now encouraged them to look forward to holding one of their meetings at one of our new projects here when they open?

MS. VILKIN:

Absolutely. Next year the meeting is in Boston, but we are pushing to host a western conference. We have about 85 registered projects, and in the country there are about 850 certified projects and around 6,500 projects actually registered. There has been an enormous increase since we started in 2000, and the growth has been incredible.

I started working on this concept many years ago when A.B. No. 385 of the 73rd Session and Assemblywoman Giunchigliani started working on this before it became A.B. No. 3 of the 22nd Special Session. At the USGBC, we started gathering the information and the necessary language for her Assembly bill. In A.B. No. 385 of the 73rd Session, it was stipulated it would be LEED-NC and major renovations. It is important to note that LEED-NC has always included high-rise residential condominiums, because there has been a lot of debate that this is not for residential, only for commercial, but the LEED-NC specifically states anything over four-stories; so a residential high-rise absolutely fits into the LEED-NC. There are certified projects already in the country that are high-rise condominium projects.

CHAIR TOWNSEND:

We know your company provides consulting services all over the country. Could we enlist you for this Committee, its staff and the Assembly's committee to tap into your expertise, because you have a better understanding of this than anybody we have met and it is important? Anyone who thinks this Session will end this debate probably has not been around very long.

One thing I was not sure about in the LEED standard was the actual check-off list relative to infrastructure, data, video and voice, although there is a component about energy efficiency. Is there anything in there from which you

get a benefit if you do things the right way relative to wiring and the type of hardware used?

Ms. VILKIN:

To monitor your systems that you have installed?

CHAIR TOWNSEND:

Not only to monitor, but the type used. There are mainframes the size of this building, then chips that are millimeters in size. Also, the value in doing things that are sustainable.

Ms. VILKIN:

Yes, when you look at innovation and design which is part of the LEED process.

CHAIR TOWNSEND:

In my private-sector life, when we built our building, the communication system for this large building looks like three cable boxes. That is the entire communication system that provides voice, data and video. This is much simpler than what I grew up with.

ROSE E. MCKINNEY-JAMES (Clark County School District):

The Clark County School District had requested an analysis be conducted with respect to the implications of A.B. No. 3 of the 22nd Special Session ([Exhibit H](#)).

CHAIR TOWNSEND:

My apologies, but we are running out of time. Can we take this up again on Monday?

Ms. MCKINNEY-JAMES:

That would be perfect. We wanted you to have the benefit of that analysis.

CHAIR TOWNSEND:

Our staff has analyzed it and produced some documents. I have not wanted to distribute those to interfere with what the Assembly is doing, because it is pointless to have certain things unless you know what the bill is about. I presume there is a building coalition with regard to protecting the Distributive School Account and the school districts that is starting to be the underpinning of a result and seeing this analysis could be helpful.

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MS. MCKINNEY-JAMES:

That was our intent to provide you with a resource. It is my understanding that the statewide numbers developed by your staff are fairly consistent. We were pleasantly surprised to see that consistency.

CHAIR TOWNSEND:

What you have done is positive and matches some of our stuff and is helpful to us. It also shows when Nevada decides to do something substantial, people respond.

We will close the workshop on A.B. 621 and take it up again on Monday. This meeting of the Senate Committee on Commerce and Labor is adjourned at 10:49 a.m.

RESPECTFULLY SUBMITTED:

Laura Adler,
Committee Secretary

APPROVED BY:

Senator Randolph J. Townsend, Chair

DATE: _____