

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

**Seventy-fourth Session
May 28, 2007**

The Senate Committee on Commerce and Labor was called to order by Chair Randolph J. Townsend at 8:17 a.m. on Monday, May 28, 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

STAFF MEMBERS PRESENT:

Kelly S. Gregory, Committee Policy Analyst
Lynn Hendricks, Committee Secretary
Wil Keane, Committee Counsel
Scott Young, Committee Policy Analyst
Gloria Gaillard-Powell, Committee Secretary

OTHERS PRESENT:

Robert Tretiak, Ph.D., International Energy Conservation
Tom Warden, The Howard Hughes Corporation
Renny Ashleman, City of Henderson; Urban Consortium
Rose E. McKinney-James, Clark County School District
Michael R. Alastuey, Clark County
Marvin A. Leavitt, Urban Consortium
Trevor Hayes, Molasky Companies
Scott Scherer, PowerLight Corporation
Dino DiCianno, Executive Director, Department of Taxation
Terry Hickman, Nevada State Education Association

Senate Committee on Commerce and Labor
May 28, 2007
Page 2

Tim Crowley, MGM Mirage
Cindy Ortega, MGM Mirage
Robert L. Crowell, Boyd Gaming Corporation
Terry K. Graves, World Jewelry Center
Ray Bacon, Nevada Manufacturers Association
John C. Sagebiel, Ph.D.
Kyle Davis, Nevada Conservation League
Rocky Finseth, Nevada Association of Realtors

CHAIR TOWNSEND:

I will open the hearing on Assembly Bill (A.B.) 621.

ASSEMBLY BILL 621 (1st Reprint): 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)

CHAIR TOWNSEND:

We will start with section 2, line 6, " ... the eligibility of a building or other structures for a tax abatement" My concern is the removal of land for purposes of establishing the tax abatement. There are more changes in subsection 2. There is a component of Senate Bill (S.B.) 437 that we processed and then ultimately took out due to the fiscal impact.

SENATE BILL 437: Revises provisions concerning economic and energy development. (BDR 58-232)

There are three standards that must be met in order to qualify for the tax abatement, then you can receive additional points. You would have to get at least three points of energy conservation in order to qualify for Leadership in Energy and Environmental Design (LEED) silver, five for gold and eight for platinum. Section 2, subsection 2 addresses homes. Homes are buildings or other structures used as a residential dwelling for not more than four families. My notes reflect that is an attempt to exclude condominiums that are in some of these structures. I have not gotten a clear definition. We processed A.B. 431 that dealt with condominium hotels, so I do not know if they mean condominiums only. We will have to get the intent of the Assembly as well as our legal definition. The LEED testimony on these issues in this Committee

included high-rise residential units inside of LEED. There may be one more exception and we will have to get clarity.

ASSEMBLY BILL 431: Establishes provisions governing condominium hotels.
(BDR 10-1056)

CHAIR TOWNSEND:

Section 3 states the director of the Nevada State Office of Energy shall grant a partial abatement from the portion of taxes imposed under chapter 361 of NRS, other than any taxes imposed for public education on a building or other structure that is determined to meet the equivalent of the silver level or higher. Upon discussion with our legal counsel, the reason this portion did not get changed was we needed to make sure there was direction to our tax and energy departments. It apparently was written to include all portions of the ad valorem tax for schools. Our local school support tax (LSST) is dependent on our ad valorem sales tax. In my understanding it is 55 cents for debt and 3 cents for operating. The State provides a 25-cent guarantee. If the month comes in at the ad valorem level locally, it is fine and if it is not, we make it up. That has given great concern to the Fiscal Analysis Division. That language was left broad enough to include all of the above.

Private activity bonds must not be considered funding provided by a government entity.

The owner of the property submits an application for partial abatement to the director of the Office of Energy. An application is submitted for the project while it is under construction. The date of submission on the application must be amended if there is a change in the scope of the project. That is different from the original proposed language.

Within 48 months after applying for a partial abatement, the property owner needs to provide to the director proof that the building or other structures meet the equivalent of the silver level or higher. That was increased from 36 months because the projects have become much larger and they could not be completed in that time. For a good reason, the director may extend the period for providing such proof. This gives flexibility to the project and the burden is on them to prove it. The director shall forward the notice of the receipt of the application which is then forwarded to the Department of Taxation, county assessor, county treasurer and the Commission on Economic Development. With the

required application and proof, the director shall determine whether the building or other structure is eligible for the abatement and then forward a certificate of eligibility. A partial abatement must be for not more than ten years and goes through the percentages for the various levels.

CHAIR TOWNSEND:

Redevelopment districts that are providing other abatements must make a choice; you cannot have both. Partial abatements are terminated by the director of the Office of Energy if the building or other structure has ceased to meet silver level or higher. The director shall provide the notice of such determination to the various departments. The director shall adopt regulations establishing the qualifications and methods to determine eligibility for the abatement; prescribing such forms as will ensure that all information and other documentation necessary to make an appropriate determination is filed with the director. That is one of the weaknesses we found in the last system. There was not a consistent form everyone could follow for an appropriate paper trail. When you are talking about changes in scope there has to be a prescribed criteria on which you are going to fill out a form to provide to the Office of Energy. The definition of building or other structure is listed. The definition of taxes is listed in the bill on page 5. This covers the bonding requirements and the operational requirements for ad valorem tax. There are no changes in sections 4, 5, 6 and 7. We have had testimony on all of these sections. Hopefully, I have outlined the entire bill correctly.

ROBERT TRETIK, Ph.D. (International Energy Conservation):

We generally support this bill. We worked with Assemblywomen Kirkpatrick and Smith. We certainly commend and appreciate their efforts and those of Chair Townsend of this Committee. We have a few concerns. I have generated a submission ([Exhibit C](#)).

Many of the larger projects that are being done are 100 to 150 times larger than some of our smaller projects. We feel small projects are just as important in reducing fossil fuel consumption. Existing buildings generally cost about 20 percent more to retrofit with energy-efficiency measures and should be noted. We have concerns regarding this bill being taken as gospel. If someone tries to achieve LEED silver, gold or platinum on existing buildings, it is a 9- 12-month process by the time one gets certification from LEED. It seems unfair to change the rules in midstream. On page 16, section 15, subsection 4, that is what this bill does. I do not think there are that many people who are

affected on an ongoing basis but on a retrospective basis, people who are down the pipeline working on meeting that level are going to be penalized. We feel this will shake the confidence if incentives can be changed at any time. That is our main concern.

CHAIR TOWNSEND:

I do not disagree with you, but when I get to the floor, I will be making a statement regarding the integrity of the State in the eyes of the financial markets. That is why I would not support a repeal of A.B. No. 3 of the 22nd Special Session. If I had to vote, I would still support it in its entirety. I appreciate you getting this on the record. The challenge this Legislature faces is if you go to that portion of our Constitution as well as the statutes, this Session cannot bind another Session. I appreciate your position on this. The Legislative Counsel Bureau has done a good job in providing guidance.

TOM WARDEN (The Howard Hughes Corporation):

We're the master planner and developer of Summerlin Community. Specific to this discussion, we are building a 107-acre regional retail and mixed-use site that we hope will reach LEED silver, if not LEED gold. The issue I wanted to touch on today, for that reason, is CS, core and shell, because that would be the way we will develop phase one of that project which is all retail and all office —just wanted to put on the record that there is so much of that kind of development going on in southern Nevada right now that it would be an opportunity we wouldn't want to miss for green building incentives like this. In the original bill, that language had been five years for the wait period for a LEED certified category, now it is reduced to two. I'm still waiting on some clarification on exactly how that works, but it seems that would work for us because our project, which is already moving dirt, will be complete in '09 and LEED core and shell, which is the category we are talking about, was approved last year in July so that would be July '08 it would be approved. I'm therefore hoping to be able to establish that means that if we build to LEED level silver or gold that we will be able to take advantage of the incentives upon completion of the project. So, that said, it seems there is so much office and retail development going on right now that it would be a critical element to the final legislative action and we very much appreciate that that was tended to in the language we are looking

at today. In general, we want to thank the Committee and you, Mr. Chairman, for all the good work you have done. It is challenging to say the least.

Everybody wants clean bills, nobody wants to see debilitating impacts to revenue, though. So it's been a long hard slog, but it seems we have gotten to a good place for us as long as the core and shell issue is squared away for us. Again, thank you for your work.

CHAIR TOWNSEND:

The portion of the bill on line 17 on page 2 was moved from five to two years. This was done to accommodate core and shell which came in the middle of 2006. I think your analysis of it is good. Senator Schneider has found something that should go on record, a national publication that said something good about us. He found on the Internet this morning an analysis of the top ten green cities. Las Vegas was rated third of the cities that are green. Someone is paying attention to what you are trying to do, and we appreciate that very much.

RENNY ASHLEMAN (City of Henderson; Urban Consortium):

Let me very quickly take up something that the Chair mentioned at the beginning. The southern Nevada home builders, we didn't draft this language. As I understand the language you are referring to at the top of page 3, sub 3 of section 2, home means a building etcetera, etcetera. I do not believe that that language would make the exclusion that we find on line 17, or thereabouts, apply to condo hotels. We're not trying to have them excluded by the discussion we've had on residential standards in the state of market penetration and so on. I don't think that language causes that problem. I certainly will bow to anybody that has a different opinion, but if we want the intent of what the people that were the proponents for that situation were, that might be of some help on the record.

Putting on my other hat and turning to the City of Henderson and the Urban Consortium, we're required in various places to, from the local governments to furnish some fiscal notes. We're asking to be part of the group that gets notified at each of these stages so that

we have the information; we got the notice we need that we can prepare the fiscal notes. We also would need that notice for our own planning for budgets that are required by law, etcetera, etcetera, because the fact that it goes to the assessor or the treasurer is not going to help us out. My draft ([Exhibit D](#)) omits at least one place, Mr. Chairman, and I do apologize, it is not as important but on page 6, line 16, the partial abatements that are discussed in that section, you are notifying the county assessor. We probably also want to add the affected local government there. I don't think I missed any others, but I think it will be clear from my proposed amendment as to what we are trying to fix. Let me point out, because the fine former professor of English that I am married to and Mr. Leavitt have both pointed out to me that probably we should say the affected local governments, make it plural everywhere where we've got singular. I will leave that in the hands of Counsel Bureau which I am sure can resolve that issue. That's the only comments that I have, unless you've got any questions, Mr. Chairman.

SENATOR HARDY:

Your concern is with the definition of home, the last portion that says, "use is as a residential dwelling for not more than four families."

MR. ASHLEMAN:

I am not concerned with the bill as it is currently written. I think it properly defines the element that we were after and I was really just trying to put on the record something to help with the Chairman's question about the meaning and how it affected residential hotels. This language is satisfactory to the people I represent.

CHAIR TOWNSEND:

We are going to the heart of issues for the testimony, but at the end we are going back through the effective date sections which start at section 12 to make sure we fully understand their implications.

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

I wanted to follow up, Mr. Chairman, on a document that we shared with you on Friday. That document was prepared on behalf

of the school district in an effort to amplify the potential impact of the implementation of A.B. 3 from the Special Session on the Clark County School District. It is a document that indicates over a period of 15 years what

CHAIR TOWNSEND:

We are not talking about A.B. No. 3 of the 22nd Special Session any more, so what are you talking about? Where are you going with this?

MS. MCKINNEY-JAMES:

I understand that. Just as I indicated on Friday, if there are any questions on this document, you in your introductory remarks specifically referenced potential implications for the LSST and the like. In that regard, because I know my own limitations, I did ask Ms. Vilardo to be available if you had questions, because she is the expert, and then to say very briefly how much we appreciate the language that now appears in A.B. 621 which would hold the schools harmless with respect to fiscal impact and that was pretty much it.

CHAIR TOWNSEND:

Could you make those available to us?

MS. MCKINNEY-JAMES:

Yes, happily. I worked with your staff to have those copies available, and I will check with Marie on that. But again, only if you have questions, we simply wanted, for the record, to make sure you knew we had taken the time to prepare it and do appreciate the fact that section 3 of the bill now begins with the hold harmless clause for school districts.

SENATOR SCHNEIDER:

Are you saying regardless of the benefit the green builders get, the school district will still be made whole from the state?

MS. MCKINNEY-JAMES:

Basically, the way the language is written, those aspects of either the sales tax or the ad valorem tax, which are crucial to the school

districts' budgets going forward, would not be affected based on how these abatements are structured. So they are —

SENATOR SCHNEIDER:

Would that also pertain to the local money coming in?

MS. MCKINNEY-JAMES:

"The local school support tax and the ad valorem."

CHAIR TOWNSEND:

I think it backs into it and starts with the ad valorem tax and goes to the locals first, the LSST and then goes back to pick up the State's responsibility based on the way it is written. We guarantee that extra 25 cents. You may get it because the assessments go up. But if you do not, we guarantee it to meet the Nevada formula.

MS. MCKINNEY-JAMES:

"As I understand the Nevada Plan, if there is a shortfall, it is the State's requirement to pick up that shortfall."

CHAIR TOWNSEND:

In 2003, the Governor made a presentation regarding the return of \$300 million in taxes just before the budget went to print. Clark County said we have more money than we are allowed to have, so we did not have to put the amount of money in we thought we would and that is why we had the excess.

I think it is important, Paul Gerner, who is the superintendent of facilities, has a chance to meet with the members from southern Nevada to see his short-term and long-term plans based on some of the other bills that have been processed here to see how you are attempting to control your costs through energy savings. I think working with Mr. Gerner, in addition to your background in energy, is a real testament to Nevada's ability to deal with problems. It is important to state you are still the second largest user of energy in southern Nevada.

MS. MCKINNEY-JAMES:

"Thank you Mr. Chairman, we appreciate that recognition, but I give the credit to Mr. Gerner for his forward thinking. They are very proactive, and I am just happy to have the opportunity to represent him."

CHAIR TOWNSEND:

I was very impressed when I heard his presentation in the interim about what he intends to do.

MICHAEL R. ALASTUEY (Clark County):

Before you, you have a brief handout ([Exhibit E](#)) and we appreciate the Committee's orientation to a brief, succinct session this morning to get to the facts and to try to give some treatment toward expeditious processing of a bill. First of all, I want to say we acknowledge that a bill is needed this Session in order to contain the abatements from the open-ended status that they obtained under Assembly Bill 3. We acknowledge the work of Assemblywomen Smith and Kirkpatrick and you, Mr. Chairman, and your Committee in this regard. That said, however, even if the bill before you has some technical features in it, that have a tendency to contain both the sales tax and property tax liability or stem the bleeding of revenue if you will, we do still have some significant concerns. First of all, in the protection of schools as it were, what the State has done in protecting schools is essentially protected itself from the effects of the guarantee. We know that you have to protect the schools as a constitutional and statutory responsibility, but by the same token, there are significant local portions of the property tax that are left exposed to these abatements. Whether these abatement percentages are greater or smaller, the proportion or disproportion is still the same. If you could turn to the first page of our handout. The collection and disbursement of property taxes to local level is not without a specific structure.

CHAIR TOWNSEND:

Did you make this presentation to the Assembly?

MR. ALASTUEY:

A similar presentation. Every levy that you see here, and this is a Clark County, unincorporated Clark County example, where the total at the lower right is \$2.92 per \$100 assessed valuation. You'll notice there is not just one giant levy for local use, however, you'll notice there are under various statutes, voter approved and specific statutory authorizations, levies are all earmarked to a

specific purpose. This is the array of levies that is governed by local board voters and directed by the Legislature. You'll see in actuality that about a third, a third, a third local governing board voters and Legislature has control and direction of property taxes to its benefit. If you turn the page, if you sort these levies into those property tax levies that remain exposed to the abatement loss in A.B. 621 and those that are protected from abatement loss, you'll see, at the top of the sheet, the school levies, the 75-cent operating levy and the 55-cent, which varies from county to county, but in Clark County it is 55 cents. Toward the right, you will see columns indicating that this constitutes 44 and a half percent of the levy yet bears none of the abatement and we understand the protection of schools, however, all the other levies are exposed and by the time you add up all of the county levies and the state levy and look at the exposure, whatever level of abatement you select, whether it is a gargantuan abatement or a very small one look, is borne 90 percent by the local government. Now if you could start with the school levies and drop down one bracket, what services would be affected? Metropolitan Police voter approved, 28 cents, emergency 911, voter approved 5 cents, long-term county fund to debt service 2 and a half cents, fire district and library both voter approved for debt and also they have an operating levy as well. Others, courts. We are struggling with the number of district judges to allocate to the Eighth District in Las Vegas. This levy helps the county pay for those costs. Should that levy be affected? Medical indigent, county capital, town and county operating rates and then there are some very small rates that are state governed for only about one percent. In all, 88.54 percent of the abatement at whatever level you select will be locally borne. For example, everybody is talking about fiscal impact and because of, I guess some need for study and some significant doubt in analyzing the effects of A.B. 3, the only thing I could go back to is information that you as Legislators have received from a very reliable consultant earlier in the Session.

MR. ALASTUEY:

Let's start with \$1 billion on page 3 of building value that could be subject to abatement. In the county, that \$1 billion of building value would be divided by \$100 assessed at 35 percent and when

you apply the tax rate, that building, for the building alone, land excluded, would pay about \$10.25 million in property taxes. The nonschool tax due would be about \$5.7 million, \$5.68. The county levies due would be a little over \$5 million, the state levies due about \$600,000. Per billion, the county would forgo almost \$1.8 billion in revenue at the lower right; the State would forgo about \$200,000 in its debt service fund. Now, we have talked about billions. Just as a hypothetical for example, of the \$19 billion in projects that were thought to be likely candidates, although the legal status of each has to be sorted out, I think there is some that feel surer than others, of the \$19 billion quote in the pipe, major projects in Clark County, almost all of which are situated in urban unincorporated Clark, if you multiple this billion dollar figure by 19 you have a potential impact of something in excess of \$30 million a year. That is a lot of park bonds, that's a lot of services. I submit to you that it's not a situation where ... this bill is without impact. We do acknowledge there needs to be a bill to bring some containment to the abatement process to bring greater definition, if you will, to the standards under which abatements are allowed, but nonetheless, looking forward, what kinds of policy questions do we have. First of all, an argument could be made that the tax levies that would forgo, in effect, a portion of their revenue earning capability. These tax levies were never originally intended to fund green buildings or support green buildings or subsidize them.

MR. ALASTUEY:

The balance, the delicate balance between the effects of growth and the availability of revenue for growth we believe has been tipped, perhaps placed slightly out of whack. Lessons learned with A.B. 3, no question, but when you go to a 90/10 distribution of fiscal responsibility, county versus state, you then have a situation where the state is able to respond to growth and local governments may not be able to respond to growth with the same ability. There are significant service responsibilities that overlap state and local, and that is always part of the tug-of-war in every session. Health care, there are lots of statutory responsibilities for certain populations that counties have with health care whether they have a county hospital or not and everybody knows how UMC is financially and what it does to the community financially and

what it does to the community as far as support of health care for those who cannot otherwise pay, significant. Other than health care, justice and law enforcement; we are always talking about sentencing policy, where prisoners go, where they are tried, at the cost of courts, states versus local, human services, significance. Should it be paid for by Medicaid, should it be paid for by county indigent levy? The county levy as you see here is exposed.

MR. ALASTUEY:

At some point into the future, and appreciate the Chairman's comments, especially in this context about term-limits, at some point in the future, if the imbalance is systemic, if it remains in place for a long time, that bill that is customarily taken care of by local governing boards, local governing boards that do not, historically, have a habit of coming to you for fiscal relief, recall in '03 when the State felt a very strong need to increase taxes. Local governing boards were not here trying to increase taxes. Those who are old enough to recall in '91 when there was a significant change in the tax structure of the state, local governments were not here asking for money. They made it through during the same recessions during which the Legislature found it necessary to increase taxes. Now if that balance is upset, we do see some concerns on the horizon. What, again, we need a bill to fix this. The question is what do we do going forward. A program like this, if embedded forever, essentially makes a statement that you, the Legislature, want to see a program of abatements. That we want these abatements and by every scenario we have run, these abatements are generous. We want the local governments, not the state, to be the primary fiscal responsible party for these abatements and we want this to continue for the foreseeable future. It is not a sunset on new applications, we understand why, but going forward, policy considerations, you have typically not had local budget issues visit this building. That is a possibility in the future. I leave that for your consideration. For the record we want to register our concerns not with the fact that this attempts very valiantly to fix a lot of the things that were wrong with A.B. 3, but going forward, the balance once tipped, I think may be a problem for you and your successors in the future. Thank you very much.

SENATOR SCHNEIDER:

I keep bringing up the school budget because it is well over 50 percent of what the State spends. Will locals still put their share into the school budget?

MR. ALASTUEY:

That's correct. The abatement, in effect, for the tax-paying developer, the abatement carves out that abatement that would otherwise be due to the school districts. In other words, the abatement only applies to those rates that are not applicable to the schools.

SENATOR SCHNEIDER:

Some of the school district's money is taken off the top and put into schools. Are you cutting other things short after that?

MR. ALASTUEY:

Well, by dividing the abatements into those that are so-called protected and those that remain exposed, yea, you change the balance if you include the schools. You have virtually 45 percent of the total levy right there and if the schools did not have particular statutory or constitutional protection, then the schools would bear that, all along just like other entities, and, in effect, would forgo 45 percent of the tax revenue that would otherwise be paid and the developer would enjoy an abatement on each of the rates that that developer pays.

SENATOR SCHNEIDER:

What sort of sunset would the locals like to see?

MR. ALASTUEY:

Well, I guess in hindsight, perhaps a sunset could have been considered before the 2005 Session, but with A.B. 3 having passed, I know the Assembly bill did have what I believe to be a two-year window on new applications, although I do not have that language before me. Those kinds of things are the sorts of things we might consider and I know that as a matter of tax policy generally, exemptions and abatements probably should not be promised or coded, if you will, or codified indefinitely. We do understand that there are issues as far as the pace of development,

the time frame of development that would pose issues and give you great pause as far as implementing a sunset here, but nonetheless, as a matter of general tax policy, sunsets are not unreasonable to consider.

MARVIN A. LEAVITT (Urban Consortium):

I think Mr. Alastuey has very adequately explained the local government situation in this bill. The effects on the local government revenues and proportion of the total abatement so it will be borne by local governments. I do not propose to duplicate what he has said, simply indicate my agreement with it and express our concern for the very same things that he has previously expressed.

CHAIR TOWNSEND:

I am really anxious to hear what you have to say after Mr. Alastuey's excellent presentation on the fiscal impacts of local government.

TREVOR HAYES (Molasky Companies):

I will skirt that issue and talk about a wholly different subject rather than show my ignorance to the board. First off, I want to say how A.B. 3 has been more successful than anyone ever imagined and there's obviously been brought to our attention from this Legislature that there were some concerns with some unintended consequences with it. We have worked closely with the folks on the other side, on the Assembly, to try to both protect those companies such as ours that were early adopters of this technology and jumped in with both feet to be energy and water efficient, build sustainable buildings while protecting the interests that were unintendedly damaged. However, we have worked closely with the folks over there and feel we have come to a compromise that will allow both those early adopters such as ourselves and the schools and others to be protected. However, in some of the language in section 15.5 which begins on page 17, which protects the early adopters, those who jumped right in at the beginning who took the risks, who had the added expense of learning this whole new technology of teaching the contractors, the designers and everyone else about these LEED standards. This kind of protects some of that group by grandfathering in some of

the parts of A.B. 3 rather than the going forward language in the other part of the bill. On subsection 6 on page 18, starting at line 40, it seems to grandfather in the percentage of tax abatement minus the school's portion for the silver standard buildings. However, those of us such as the Molasky Corporation which has decided to go for the gold, does not seem to have their same percentage protected in there. Because the number of gold projects are miniscule and the size of them is significantly smaller than those that are going for silver such as many of our friends down the strip couldn't even dream of going to gold and the Molasky project that I represent is about a \$100 million, \$107 million actually, restoring those percentages that had originally been there in A.B. 3 for the early adopters is something we would ask you to do. Our project under A.B. 3 was expecting about \$1 million in tax abatements, taking, as this bill does, takes out the land portion of that which is somewhere between 15 and 25 percent of our total property value, then taking out the 44 percent for schools and then lowering us from the 50 percent that gold was to get under A.B. 3 down to 35 means our million dollar property tax abatement goes down to, my math is going to be a little off, roughly \$200,000. We're not expecting any sort of windfall, the Molasky project spent about \$8 million extra to obtain gold, was expecting under A.B. 3 about \$4 million in abatement back to help offset those costs about half of what it cost to go to the gold, and this would take almost 25 percent of what we were expecting off right away and leave almost nothing in the property tax portion.

CHAIR TOWNSEND:

Did you discuss this section with the Assembly?

MR. HAYES:

I discussed in concept, however, when we got the bill that morning, prior to the bill's release, I discussed this in concept with the Assemblywomen and believed their intent was to grandfather in at the same rates the projects that silver and gold, however, when we got the bill that morning I did not notice this in time to address it before they moved the bill out. I had left word with them that I was going to make this request of you.

CHAIR TOWNSEND:

Is your contention that the grandfathering in section 15.5 is silent on everything above 35-percent silver?

MR. HAYES:

It does not specify gold or silver in here, but in sub 6 it just puts a cap or actually spells out exactly what the abatement should be under sub 6, sub (a), what the abatement should be in 35 percent is what silver was under A.B. 3 and gold had been 50 percent. I have not heard back from the Assemblywomen when I left word this morning for clarification that indeed is what they intended.

SENATOR SCHNEIDER:

I know the Molasky family was doing energy efficiency or attempting early on, about 25 to 28 years ago, when they copied houses from Santa Fe. They had thick windows that were filled with Styrofoam peas. You did not mention they are learning this technology and have to pay for learning. They have been at the forefront on this for three decades now.

MR. HAYES:

They have been at the forefront of energy-efficient building, however, the LEED standards was something very new to them. When A.B. 3 passed they had them looking at other ways to build energy efficient for the Molasky Corporate Center downtown. When A.B. 3 passed, which they did not have any involvement with, they saw this LEED standard and went out and brought in experts flown around the country learning about it and had to go through a process of teaching contractors and others, the designers, how to comply with these LEED standards. It is a wholly different set of standards that they have ever built with before. So there is an added cost of just the learning process that goes into that.

CHAIR TOWNSEND:

We will work with you to find out if that question has been adequately answered because their intent may have been a 35-percent cap across the board.

We will have another hearing on this and I will attempt to put all of these concerns into one document.

SENATOR HECK:

If I heard Mr. Hayes correctly, you said at the 35 percent with all the other carve-outs, that would only bring your tax abatement down about \$200,000 a year. What were you expecting, close to \$1 million?

MR. HAYES:

On the property tax portion. On the sales tax portion would have been about three-quarters of what we expected overall. My math may be a little fuzzy. I don't pretend to be as fine with the numbers as the gentleman who preceded me. But, it would be roughly there as \$1 million.

SENATOR HECK:

So the \$1 million included the property tax and the sales tax?

MR. HAYES:

"No, that was just property. The sales tax they expect would be about \$3 million."

SENATOR HECK:

I find it interesting even if we put it back up to 50 percent as gold; it only increases you to about \$285,000. It still does not make you whole from what you expected.

MR. HAYES:

One of the anomalies with our project is the Southern Nevada Water Authority has bought half of it and will be buying portions of it over the next 20 years. So, they are tax exempt and there will be no property taxes paid. So the amount of property taxes that were to get even decreases each year to many of the projects that are in

the pipeline for LEED will get a greater abatement through the property rather than the sales tax. Ours is kind of the opposite. I did just want to address something that Chairman Townsend said. I want to make it clear I am not purporting to say that is what the Assemblywomen intended, that was my understanding. I have asked, left word, I would like clarification. So when I do have that I will let you know.

CHAIR TOWNSEND:

You had a handout ([Exhibit F](#)) that goes to the heart of Senator Heck's question on how your tenant will slowly phase in to ownership of this project. You might want to get a copy of that for all the Committee members because it is so different and important from any other project and its impact on local government as well as the school district. I remember you provided information and it would be important for the Committee to see the materials. It is an important way to finance these projects and ultimately have the government entity. I believe it was the Senator Bryan Building for the State Department of Conservation and Natural Resources and other state entities that we have and was originally done as a private-sector building which we lease and will own after time. Under the previous administration, that became an important financial component to getting our buildings built.

SCOTT SCHERER, PowerLight Corporation

PowerLight was in front of the Committee earlier in Session and described to you their Nellis project. They are building the largest photovoltaic plant in the United States, possibly in the world, depending on timing of some other projects around the world. This is a project that is very important to the Department of Defense from an energy independence standpoint. It will give the base an alternative source of energy in case of any disaster or other event that might affect the grid generally and will still allow them to respond. I think it is something they are looking at as having strategic importance and it may spread to other bases going forward. I am not here to talk too much about the project itself. It is not a LEED project, but I did want to talk about the incentives that are in this bill or the sections of statutes that are in this bill that PowerLight used in being able to finance the project in the first place. There were other incentives that made the financing possible including the exemption for qualified system

CHAIR TOWNSEND:

The attempt by the Assembly was to bring all the abatements and tax opportunities that we have designed over the last 20 years for various programs: solar, geothermal and wind, and bring them all together in one section of the law under a regulatory scheme that is more understandable.

MR. SCHERER:

That is correct Mr. Chairman, thank you for that. Under 361.079 the current statute there is an exemption for qualified systems that generate renewable energy. We met with Director DiCianno at the Department of Taxation. He verbally agreed after we presented to him the project that he felt that was in fact a qualified system that met the standards but referred us to the Clark County Assessors since the project was in Clark County. We also met with and discussed with the Clark County Assessors Office the project, gave them information about the project. They also agreed that it met the standards for the exemption and in fact gave us a letter to that effect so we could have something we could rely on in financing the project. As you, Mr. Chairman, and this Committee know well, solar projects are very front-loaded in terms of their costs so they are financed based on the stream of revenues over time in order to pay for its up-front costs. We also obtained approval of a sales tax abatement from the Nevada Commission on Economic Development and have a contract that was entered into. The letter from the assessor's office was in October, the approval by NCD was also in October. In November, the PowerLight entered into a purchase power agreement.

CHAIR TOWNSEND:

Did you say October?

MR. SCHERER:

I am sorry, October of 2006. Thank you for that clarification. In November of 2006, PowerLight entered into a purchase power agreement with Nevada Power. That agreement was ultimately approved by the PUC in March of 2007. The pricing in that agreement reflects the incentives. It was a competitive process and those incentives are actually being passed along to the consumer in bringing down the cost of solar energy. That project has

subsequently been financed. Ground breaking has occurred. It occurred in April. Our concern now, of course, going forward, is that the budget that we put together and we used to finance the project included the exemption and the abatement that exists. Our only concern is relatively minor. Section 16 repeals 361.079 as you mentioned in order to bring everything together under one chapter. There is a new section 6 that is being adopted as part of that new chapter and the only difference between section 6 and the existing 361.079 is that the Nevada Tax Commission has given the authority to adopt regulations and that is in section 6, subsections 2 and 3 that appears on page 8. The authority should adopt the regulations, lines 7 through 9, and then down on lines 21 and 22, to be a qualified system it has to be in compliance with the tax commission's regulations. Our only concern would be if the tax commission were to adopt regulations or to change the definition from what we have been assured by the Clark County Assessor and the Department of Taxation in the past that our project is a qualified system. That's our concern in that regulation drafting process that the definition not be changed at least for projects that have already been financed and already underway. In our particular case, because this is on federal land on a military installation, it's actually being built on a landfill. There would be no tax at all if not for the project. With the project, the exemptions and abatements reduce the tax but there still will be some tax on the value of the lease hold that PowerLight has and on certain other equipment that it purchases that are not directly related to the qualified system.

With that, I would be happy to answer any questions you might have.

CHAIR TOWNSEND:

Mr. DiCianno, apparently Mr. Scherer is reflecting on the record that you have had conversations with him about his concern regarding the repeal of certain sections of the law and then subsequently giving you the authority to draft regulation with his hopefulness of the definition to be consistent for those projects that are prior to the passage of this bill and that those could be continued in terms of the definition on into the regulation for purposes of this project.

DINO DICIANNO (Executive Director, Department of Taxation):

"I believe you stated it correctly. I do not foresee that the commission would in any way not honor a prior commitment."

CHAIR TOWNSEND:

We appreciate that and this is such a unique project because of its nature of the relationship with the federal government and our national defense policy and the ability of these financial requirements in order to get the project financed. That has been the stumbling block over the last 20 years when we first started talking about this. I appreciate your understanding of the issue.

TERRY HICKMAN (Nevada State Education Association):

This is a Committee that we don't testify before many times, but this question before the Committee. This policy question is a fundamental question that the State needs to answer. The question before this Committee is certainly complex, but we also believe that the question, at least in A.B. 621, is that schools are held harmless with any tax abatement and we believe that is the policy that this State should adopt from this day forward. We know that public funding for education will be made whole by the State. But as we have looked towards the future by previous testimony, what happens on that day when the General Fund money is not there. What happens when we either raise taxes or cut programs? That choice will be an unfortunate one, and we believe that if A.B. 621 is not passed as it is currently held in committee now, that day will come quicker. We believe that schools fundamentally need to be held harmless. We all share in the solution for funding for public education and we believe, as written, A.B. 621 is certainly moving towards that solution and we all share that responsibility. When thousands of new employees and thousands of new students are coming to our schools, who is going to build them, who is going to pay for it, and to give away that ability for the schools and the State to react. We think it is unwise and an unsound policy and therefore we support that the public schools are held harmless from any abatement in this bill and, we hope, all future bills.

CHAIR TOWNSEND:

You should come before us more often because of what you just said, public funding for public education. We are the Committee that tries to generate good

commercial policy so that lots of revenue can be generated to support that. You might want to come in and see when people are trying to get in the way of good commercial policy that might interfere with the growth of our commercial sector. If they get in the way of that, it ends up hurting your interest and I think, ultimately the interest of teachers and kids.

MR. HICKMAN:

"Thank you Mr. Chairman, I have been here, this is my fourth day so I am becoming a regular."

TIM CROWLEY (MGM Mirage)

I simply want to commend you for tackling this complex issue and striving to find balance between the cost and benefits of this important environmental program. With me today is Cindy Ortega. Cindy is the senior vice president of energy and environmental services for MGM Mirage and she would like to make another statement.

CINDY ORTEGA (MGM Mirage):

Thank you, Senators, and thank you for having the hearing and inviting us today. We will be relatively brief. Really we support this bill for three reasons. The first of those reasons is that it addresses the policy and framework that was used to administrate the program in A.B. 3. We think that it's wise policy by this Legislature to take a look at that and look at the processes that were required by the participants in the program and make sure that they are organized and in proper step order. We think that this has been done through this bill and we appreciate the efforts of the Office of Energy actually to step up, take on more responsibility administrating this program. I think it is a benefit both to the State and the applicants that this has been done.

The second reason we support the bill is that we think it continues Nevada's policy of supporting environmental responsibility and in supporting the conservation of our natural resources, both water and electricity. I think this bill did continue that support. We are pleased that on a going forward basis we continue to incent and to encourage energy conservation measures, LEED certification and so on. I think they did a good job with that.

The third reason that we support this bill is that we think it recognizes the substantial efforts in time and resources that have gone in for many parties who embraced A.B. 3 and moved forward the policies of A.B. 3. We understand that there is a difficult balance in this State of the different things we want to do right in the State. Those are education and environmental responsibility, and we that think this bill, in a very difficult process to get to the end, but we do believe that we balanced those interests and that's important. I appreciate the ongoing effort that you make on energy conservation. I think that the costs of energy use are as system-wide cost that few people recognize really, what that costs southern Nevada to everybody on the system and I appreciate the long-term and on-going efforts on that. That's our comments. Thank you very much.

CHAIR TOWNSEND:

I appreciate the time you and your company have put in on this, not only for your project but in working with the state to craft some policy that works for everyone. Energy and the environment will not have a session off the next 10 to 20 years. It will be a major component of what we do, and it should be. We have an opportunity as a relatively small state to make significant impacts. We should take advantage of that and not see it as some kind of negative challenge, but a great opportunity. We are excited there are a lot of visionaries in this room and in our community who are doing this. We will show the world we are not a bunch of country bumpkins and are sensitive to what is going on. I am hoping it is written that Nevada did not talk about it but did something.

SENATOR SCHNEIDER:

Every member of this Committee is extremely green and we would probably be thrown out of some states because we have pushed the green. Our problem is we have the lowest gaming tax in the world, no corporate tax, no income tax, and no warehousing tax. We are trying to balance this and at the same time we are low on money. We are last in the nation in funding education. If we are not collecting taxes and now are starting to give stuff away, it comes down to what we have to do. We are really stuck. We are down to the point now in education funding where we will get sued. There will be a parent that sues us. Then we will get a federal judge out of San Francisco telling us how to fund education, what taxes we will put in place and we will have no choice. We are trying to help you and the State to be energy efficient, but we do not have a lot to give

away. We are giving you more and you are asking for more. We are squeezing blood from a turnip. The businesses need to step up and really decide what they want to do. You have a lot of benefits now. So do we have to give you millions of dollars of tax benefits to have you build green? That is a decision you have to make. Regardless, you will save money on power down the road.

MS. ORTEGA:

I appreciate your comments and I have been a resident of Nevada for most of my life. I have children in the school district, so I can appreciate that. I also am sympathetic, extremely, to the high cost of living in southern Nevada with gas costs, grocery costs and so on. I am thankful for the fact southern Nevada does have a vibrant economy and that of the gaming districts around the United States, it is one of the few, if you look at the other gaming districts, you don't see that type of vibrant economy that you do in southern Nevada. I don't think it should be placed in the framework though, and I agree with you completely, that we shouldn't take away at the expense of the schools and we did make a significant compromise on that in the real property taxes and I believe that these costs in Las Vegas and the fact that we want to have the best, the number one school system in Las Vegas is where we should be going. I am completely with you on this. I think that as we decrease the summer peak in Nevada, those decreases do impact everybody that uses electricity, which I think is everybody in southern Nevada. So, I think it's a difficult choice and I understand it's difficult to balance taxes versus community and public services in southern Nevada and I am hoping that part of that balance is the fuel in the economy, the jobs, the people who come in from out-of-state and out-of-town and leave their money here, and I do appreciate your issue though, and I do appreciate your bringing it up.

ROBERT L. CROWELL (Boyd Gaming Echelon Resorts):

We would like to thank you for the opportunity to work on this bill and on this very important topic. It has been somewhat of an arduous road but we believe at the end of the day it is a pretty good road that we have a pretty good path we have blazed. We had three criteria when we entered into this, these discussions. One was to ensure the protection of school funding, two was the

continuation of the LEED program and three was for us obviously was the ability to reasonably participate in the LEED project. We believe this bill goes a long way, in fact does do that and so we are here to support that. We would ask and we have talked to the Assembly one clarification issue and then I would direct your attention to page 18 of the bill, line 41. It speaks to the partial abatement for property taxes that applies to the early adopters. The current language says must be for a duration of not more than ten years. It's our understanding in talking with the members of the other House that the intent of this section was to create an abatement for those early adopters for a duration of ten years period. We would ask for that clarification be made as the bill goes forward, if not we would just like to make sure that is clear on the record. That is our understanding what the Assembly was intending to do there. Both me, Mr. Sullivan and I, would be happy to answer any questions any of you may have regarding either our business or our comments here today.

CHAIR TOWNSEND:

Mr. Crowell has been a school board member for a lot of years. It is a real commitment and a labor of love.

Mr. Sullivan, the more you can share regarding your project in terms of design and what is going on it would be really helpful. The impact of your project in location and the potential impact to drive development north is substantial. The public is not aware of the global perspective. The entire area north of Spring Mountain Road to Sahara Avenue is the next evolving part of The Strip area. If you could keep everyone informed on your project, it would be very helpful for them to appreciate the impact.

I will show you the area of development on the maps we are talking about. Probably the next big challenge for Clark County is the permitting of an application that will come forward on the corner of Flamingo Road and Las Vegas Boulevard. There are approximately 100 acres owned by Harrah's Entertainment which will be one of the next big developments.

TERRY K. GRAVES (World Jewelry Center)

On behalf of my clients, I would like to echo the compliments that have been paid to the Committees on both sides of the House. We

recognize the hard work done by the Assembly to formulate this bill and we also recognize this Committee's efforts in working this bill out. The only concern, or one of the few concerns we have is expressed by Tom Warden and that is with the core and shell aspect. We think that will work itself out. Beyond that, I would just like to say the World Jewelry Center I think is a wonderful opportunity for redevelopment in downtown Las Vegas. I personally am impressed with the quality of the developers behind this project and it will be a very high quality project that will add a lot to downtown and raise the evaluations down there also.

CHAIR TOWNSEND:

Based on where the Furniture Mart is, where is it in context to that?

MR. GRAVES:

"I am going to say it is right adjacent to it and probably a little bit east, is my understanding."

CHAIR TOWNSEND:

Approximately how many stories is the building?

MR. GRAVES:

I think, if you had not asked me I could have told you. It is a high-rise and part of it is shell and core. There is going to be retail in there and part of that retail is going to generate a huge amount of sales tax. It is going to bring more people into that area on a daily basis in the Furniture Mart so it's just a wonderful project for that area.

RAY BACON (Nevada Manufacturers Association):

You should have some written comments that I did early this morning ([Exhibit G](#)). Dr. Tretiak addressed the first one in his comments earlier this morning and that's the issue of the retrofits are kind of left out in the modification of this bill. The second issue I think is one that, at least in testimony, you may want to address and that is the nature of the property right of the tax abatement on the thing. Right now section 3, sub 3, (c) is the only thing that addresses that issue and how this thing moves and whether you wind up with a fully LEED-qualified facility on one corner of a piece

of property and then something which is other than that on another corner of the property is something that probably needs to be resolved or at least needs to be decided somehow so that we don't wind up with that issue winding up being litigated in court at some point in the future. It is just a matter of let's keep this stuff out of court if we possibly can to keep the confusion out.

CHAIR TOWNSEND:

Could you go back to your statement about section 3, subsection 3, paragraph (c)?

MR. BACON:

"It is the only place it addresses where the director can basically cut off

I've got the amendment that I was working on but it terminates upon any determination by the director that the building or other structure cease"

CHAIR TOWNSEND:

That is subsection 4, paragraph (c) in this bill on line 33. Terminates upon any determination the building or other structures cease to meet the equivalent.

MR. BACON:

That is the only place where it addresses this issue. As you well know, in the LEED standard some of that results to what you do to the land and the property around the actual structure. So consequently, if somebody goes and monkey with the land, they could really monkey with the certification. I don't know how you clean it up, but somehow you know at least, at least when you think about it and maybe it gets cleaned up next Session or whatever because that will be soon enough but at some point in time it needs to probably be addressed so we don't end up going down a court and put this whole process into the courts.

JOHN G. SAGEBIEL, Ph D.

I am the environmental affairs manager for the University of Nevada, Reno campus; however, I am here speaking as myself. I am also a LEED-accredited professional so I have some expertise in the LEED system. I would like to submit my concerns ([Exhibit H](#)).

I would like to mention very briefly that I am very pleased to see that under this bill, Nevada is going to remain a leader promoting and advocating green building and I congratulate you and all the work that has been done here and in the Assembly for that. I am also very pleased to see the emphasis being placed on energy efficiency in this bill. A fairly unique aspect that Nevada is taking here is using the point system, using the system that the U.S. Green Building Council set up in LEED to really recognize exemplary performance, particularly in energy. I took a look for the Committee's information. I was concerned about the limiting to something that had been in LEED for two years. I took a look particularly and focused on energy because this does make a significant difference because if you look back two years, you're under what was then called LEED version 2.1 and it referenced a different baseline energy standard than the current one does. That different baseline energy standard is according to only one study I was able to locate; between about 5 percent and 15 percent less efficient than the current one. However, the point structure has shifted enough to make this almost a wash. In other words, under the version 2.1 to obtain 3 credits, 3 point credits under that you had to be 25 percent below the previous standard. Under the current version, 2.2 of LEED, you have to be only 17.5 percent below the updated standard. The two of them, it's hard to say, but they almost wash. So, while I have some reservations that the two-year limitation might limit your options in adopting new energy codes, newer model energy codes, I think at least under the current set it appears to kind of wash out and you are near the same. Thank you very much.

CHAIR TOWNSEND:

You actually got to the heart of my question. The portion of the bill in section 2 concerns any standard that has not been included in a LEED energy and environmental design green building rating system for at least two years. I understand and respect why that was done. In reviewing the bill in total, everything has to be done through the energy office and the regulatory process which ultimately comes back to the Legislative Commission for either acceptance or rejection. Does there need to be a two-year term because we are going to regulation, workshop, draft regulations, hearing, and adoption?

DR. SAGEBIEL:

I can comment on that. My understanding from listening to the previously testimony, the two-year limit was put in there because there was some fear that we were going to be adopting something that maybe hasn't been properly vetted. I think that the process as described and the way this bill is structured to allow the energy office, the director of the energy office and their staff and onward to look closely at what is applicable and what you want to adopt structuring on the LEED program which I believe is a very good one. I don't think that two-year waiting period, if you will; to adopt a new option under this sort of a rating system is necessary because you have these other protections. If I could just make one little point in that. Among the other areas and I also as you are well aware focus very much on energy, but there are other points and in those there are credits you can obtain under LEED. For example, for providing preferred parking for energy efficient vehicles. Under the previous version 2.1 that did not include what are now very popular hybrid vehicles. Because frankly, they weren't very well, they were not out there a lot when this was adopted. Under the 2.2 that was added to that list of vehicles. It is reflecting and recognizing the reality of what is out there and again trying to promote energy efficiency. That is sort of an indirect way of promoting energy efficiency under LEED but I think again is something that the state could look at and say yes we want to encourage the use of hybrid vehicles so we will permit people to obtain credit, a point, under the system for providing preferred parking for those vehicles. So that is just an example of how I think that it is not necessary to wait for a two-year period. That and I will add the fact that the U.S. Green Building Council really is a rigorous process by which they vet their own programs and I think they are good.

CHAIR TOWNSEND:

There needs to be clarity on this issue. The Assembly has made a remarkable effort. They have worked day and night on this bill.

KYLE DAVIS (Nevada Conservation League):

I just want to go on record, we are in support of the bill as it is written. We are pleased to see that a lot of our recommendations

were incorporated into this bill to make it to where we are really focusing on energy efficiency which you know, I know you understand the importance of that so we are pleased to see that happen. Just a little bit of brief background of discussion we were just having about the two-year standard. I think where that came from, it originally said five years and the worry was that there would be things adopted that the State may not want to go along with in terms of LEED and they wanted that kind of waiting period. We had recommended two years and it is kind of a compromise number so that it would always be sure to come before the Legislature but I would support what has been said here as well where there is a pretty rigorous process to the Green Building Council and also through the regulatory process and the Legislative Commission. We would support removing that as well, but either way is fine with us.

CHAIR TOWNSEND:

We will take this up again in the morning. If you want to come by my office after 4 p.m., I will have outlined the concerns that have been brought forward. If you think there is something we missed on the list, please feel free to add to it but make sure our staff knows. We will bring an updated list for discussion in the morning.

We will close the hearing on A.B. 621. We will take a short recess.

We will reconvene the meeting. We have a number of bills to consider. We will start with S.B. 19.

SENATE BILL 19 (2nd Reprint): Revises provisions relating to the Chiropractic Physicians' Board of Nevada. (BDR 54-573)

SENATOR HARDY MOVED TO NOT CONCUR WITH AMENDMENT NO. 955 TO S.B. 19.

SENATOR CARLTON SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

* * * * *

Senate Committee on Commerce and Labor
May 28, 2007
Page 32

CHAIR TOWNSEND:

We will next consider S.B. 95. The Assembly passed S.B. 95 with one change to the version the Senate passed earlier in the Session. The change is in section 6.

SENATE BILL 95 (2nd Reprint): Revises provisions governing public utilities. (BDR 58-552)

SENATOR SCHNEIDER MOVED TO CONCUR WITH AMENDMENT NO. 954 TO S.B. 95.

SENATOR HARDY SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

* * * * *

CHAIR TOWNSEND:

We will take up S.B. 409.

SENATE BILL 409 (2nd Reprint): Revises provisions governing insurance coverage for a vaccine to protect against cervical cancer and screenings for prostate cancer. (BDR 57-1077)

SENATOR SCHNEIDER MOVED TO CONCUR WITH AMENDMENT NO. 924 TO S.B. 409.

SENATOR CARLTON SECONDED THE MOTION.

THE MOTION CARRIED. (SENATORS HARDY AND HECK VOTED NO.)

* * * * *

CHAIR TOWNSEND:

The Assembly amended S.B. 403.

SENATE BILL 403 (2nd Reprint): Revises provisions relating to group health insurance. (BDR 57-778)

SENATOR HECK:

Even though the Assembly is dropping the number to 200 and having a smaller risk pool, that may result in higher premiums. Having a smaller risk pool with higher premiums is still better than having no health insurance at all, and that is the individual and association members' decision to decide whether they want to pay the higher premium for health insurance. It allows them to decide as a group whether they want to move ahead with insurance.

SENATOR HECK MOVED TO CONCUR WITH AMENDMENT NO. 725 TO
S.B. 403.

SENATOR HARDY SECONDED THE MOTION.

SENATOR CARLTON:

I would disagree on the grounds that we are starting something new. One of the things that made us comfortable is it was going to be larger associations who were going to do this and blaze the trail. I believe part of this discussion was, in the future, to open it up to smaller associations. I am afraid some of these smaller associations might get involved and not really understand what it entails and could end up with more problems. I think 200 members is too small.

CHAIR TOWNSEND:

Mr. Finseth, were you in the hearing when they decided to lower the number? Would you care to comment?

ROCKY FINSETH (Nevada Association of Realtors):

The Assembly felt that by lowering the number from 500 to 200 more groups could participate. I think there is a concern regarding the risk and the premiums.

We have over 20,000 Realtors statewide. We are obviously fine with the 500 threshold.

CHAIR TOWNSEND:

Do you know how many people specialize in commercial versus residential? Could a segment of the Realtors spin themselves off?

SENATOR HECK:

I would just remind the Committee that we have an approximately 21-percent uninsured rate in Nevada, one of the highest in the country. This is an option

Senate Committee on Commerce and Labor
May 28, 2007
Page 34

and is not mandated. It does provide more options to provide health insurance for individuals.

THE MOTION CARRIED. (SENATOR CARLTON VOTED NO.)

* * * * *

CHAIR TOWNSEND:
We will discuss S.B. 69.

[SENATE BILL 69 \(2nd Reprint\)](#): Revises provisions related to real estate brokers, salesmen and qualified intermediaries. (BDR 54-457)

MR. FINSETH:
We were comfortable with the changes that were made in the Assembly.

SENATOR CARLTON:
Did this include Senator Care's language from the other bill we promised we would try and incorporate?

MR. FINSETH:
It included the components that we agreed upon.

SENATOR SCHNEIDER:
Mr. Finseth, please tell the Committee about the people from Washington that called and were listening during my testimony in the Assembly.

MR. FINSETH:
The U.S. Department of Justice has taken a keen interest in this piece of legislation. They are actually watching this issue across the nation in terms of how legislators are dealing with the business model of minimum service brokerages. They listened to the hearing in the Assembly. They called the vice chair of the committee and they were happy with what was emerging.

SENATOR HECK MOVED TO CONCUR WITH AMENDMENT NO. 938 TO S.B. 69.

SENATOR CARLTON SECONDED THE MOTION.

Senate Committee on Commerce and Labor
May 28, 2007
Page 35

THE MOTION CARRIED UNANIMOUSLY.

* * * * *

CHAIR TOWNSEND:
We will bring take up S.B. 310.

SENATE BILL 310 (2nd Reprint): Makes various changes relating to professions and occupations. (BDR 54-131)

SENATOR CARLTON:
There was a misperception regarding the board which did not need to come to the Legislature to change its fees so why were there fees in the bill. We had to make sure we clarified those particular boards that could charge incidental fees and it was not for licensing fees.

SENATOR HECK MOVED TO CONCUR WITH AMENDMENT NO. 700 TO S.B. 310.

SENATOR SCHNEIDER SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

* * * * *

CHAIR TOWNSEND:
Our last bill is S.B. 432.

SENATE BILL 432 (2nd Reprint): Directs the Legislative Committee on Health Care to appoint a subcommittee to conduct a review concerning alternative and complementary integrative medicine, homeopathic medicine and nonembryonic stem cells and eliminates the Nevada Institutional Review Board. (BDR 54-694)

SENATOR SCHNEIDER MOVED TO NOT CONCUR WITH AMENDMENT NO. 723 TO S.B. 432.

SENATOR CARLTON SECONDED THE MOTION.

Senate Committee on Commerce and Labor
May 28, 2007
Page 36

THE MOTION CARRIED UNANIMOUSLY.

* * * * *

The hearing of the Senate Committee on Commerce and Labor is officially
adjourned at 11:43 a.m.

RESPECTFULLY SUBMITTED:

Gloria Gaillard-Powell,
Committee Secretary

APPROVED BY:

Senator Randolph J. Townsend, Chair

DATE: _____