MINUTES OF THE
SENATE COMMITTEE ON COMMERCE AND LABOR

Seventy-fifth Session
April 8, 2009

The Senate Committee on Commerce and Labor was called to order by Chair Maggie Carlton at 1:52 p.m. on Wednesday, April 8, 2009, in Room 2135 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to the Grant Sawyer State Office Building, Room 4412, 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 Maggie Carlton, Chair
Senator Michael A. Schneider, Vice Chair
Senator David R. Parks
Senator Allison Copening
Senator Dean A. Rhoads
Senator Warren B. Hardy II

COMMITTEE MEMBERS ABSENT:

Senator Mark E. Amodei (Excused)

GUEST LEGISLATORS PRESENT:

Senator Dennis Nolan, Clark County Senatorial District No. 9

STAFF MEMBERS PRESENT:

Kelly S. Gregory, Committee Policy Analyst
Daniel Peinado, Committee Counsel
Carol Allen, Committee Secretary

OTHERS PRESENT:

Viki A. Windfeldt, Executive Director, Nevada State Board of Accountancy
Ken L. Bishop, Senior Vice President, National Association of State Boards of Accountancy

Patrick M. Thorne, CPA, President, Nevada State Board of Accountancy
Kim Wallin, CPA
Ed Finger, President, Nevada Society of Certified Public Accountants; Comptroller, Clark County
Mark Nichols, Executive Director, National Association of Social Workers, Nevada Chapter
Rosalind Tuana, Executive Director, Board of Examiners for Social Workers
Denise Selleck Davis, Executive Director, Nevada Osteopathic Medical Association
Lynn O'Mara, M.B.A., Health Planning Program Manager, Bureau of Health Statistics, Planning and Emergency Response, Health Division, Department of Health and Human Services
Paul J. Kalekas, D.O., State Board of Osteopathic Medicine
Keith Munro, First Assistant Attorney General, Office of the Attorney General
Keith L. Lee, Board of Medical Examiners
Elizabeth Neighbors, Ph.D., ABPP, Board of Psychological Examiners
Titus Roberson, Intern to Senator Maggie Carlton; Undergraduate Student, University of Nevada, Reno
Kyle Davis, Policy Director, Nevada Conservation League
Betty Hicks
Peter Krueger, Nevada Petroleum Marketers and Convenience Store Association
Lea Tauchen, Director of Government Affairs, Grocery and General Merchandise, Retail Association of Nevada
Bill Ebeck, Director of Sales, Advanced Polybag, Inc.
Ray Bacon, Nevada Manufacturers Association
Tray Abney, Director, Government Relations, Reno-Sparks Chamber of Commerce
Tim Shestek, Director, Western Region State Affairs and Grassroots, American Chemistry Council
Daren Winkelman, Health Division, Department of Health and Human Services
Dino DiCianno, Executive Director, Department of Taxation
Raymond Badger, Attorney
Jack Mallory, Assistant Business Manager/Secretary-Treasurer, Director of Government Affairs, International Union of Painters and Allied Trades, District Council 15
Pilar Weiss, Culinary Workers' Union, Local 226
John F. Wiles, Division Counsel, Division of Industrial Relations, Department of Business and Industry
Samuel P. McMullen, Nevada Self-Insurers Association

Robert A. Ostrovsky, Employers Insurance Group; Nevada Resort Association
Karen Caterino, M.B.A., Risk Manager, Risk Management Division, Department of Administration
Bryan Wachter, Deputy Director, Retail Association of Nevada
Jennifer Gomez, Director, Associated Risk Management, Inc.
Daniel Markels, National Federation of Business
Joan Backman, Benefits Manager, City of North Las Vegas
Helen A. Foley, National Association of Employee Leasing Companies
Scott J. Kipper, Commissioner of Insurance, Division of Insurance, Department of Business and Industry
James Wadhams, Nevada Association of Underwriters
Brett Barratt, Insurance Counsel, Division of Insurance, Department of Business and Industry

CHAIR CARLTON:
We will open the meeting with Senate Bill (S.B.) 335.

SENATE BILL 335: Revises provisions regarding regulation of accountants. (BDR 54-191)

VIKI A. WINDFELDT (Executive Director, Nevada State Board of Accountancy):
We are here to present our bill, S.B. 335.

KEN L. BISHOP (Senior Vice President, National Association of State Boards of Accountancy):
I represent the National Association of State Boards of Accountancy. This legislation is part of the national Uniform Accountancy Act. Accounting has now become global in practice. Uniform accountancy started in Ohio; they had 20 years' experience. Then in 2007, four states passed this legislation. Today, similar legislation has passed in 38 states. It allows consumers the mobility to use the certified public accountant (CPA) they know and trust, from state to state. Old accounting laws did not allow a person to purchase property in one state and use their CPA from their home state. Problems would arise when their CPA would try to assist them and, upon rare occasion, put someone in harm's way. In Nevada, the Nevada State Board of Accountancy would not have jurisdiction over the practice because the person was not a licensee.

This bill does two major things. It allows consumers to use the CPA they know and trust, and, if they are put in harm's way, they can go to their state board of

accountancy for jurisdiction and be made whole. By the end of 2009, we expect 46 states will have passed this legislation. We hope you will give it strong consideration.

PATRICK M. THORNE (CPA, President, Nevada State Board of Accountancy):
We strongly support this bill; we believe it finally gives us jurisdiction over those practitioners entering our State.

MS. WINDFELDT:
We did some cleanup in the bill. The first section is the disciplinary action; it is being amended to give the Board authority to either refuse to grant a certificate or discipline a licensee for acts committed outside the definition of public accounting. Right now, we can only discipline a licensee if the act is committed in public accounting. An example is if a CPA murdered a complainant, we could not discipline him. The second section gives the Board authority to establish educational requirements for the examination. The third section gives the Board approval over who the examination provider is. Currently the American Institute of Certified Public Accountants is the only provider and if that changes, we would need the ability to change that in our regulations. The last section governs record retention. Nevada law requires record retention for seven years and we would like to change that to the nationally recognized five years (**Exhibit C** and **Exhibit D**, original is on file in Research Library).

SENATOR SCHNEIDER:
If I use an accountant in Denver, can he do my accounting here in Nevada?

MR. BISHOP:
Currently, he would need the same education and licensing as a Nevada CPA. Under the new legislation, you can expect the same level of quality service, and if something goes wrong, you have the ability to refer to the local state board of accountancy and request an investigation of the CPA by the home state.

SENATOR SCHNEIDER:
Does the CPA from Colorado have to register here in advance?

MR. BISHOP:
It would depend on the engagement. If they came in to do a tax return, that can be done electronically so they would not have to register or relicense. They would have to be licensed in their home state and submit to jurisdiction. In

S.B. 335, if the CPA was to do a higher level of engagement, they could come in individually without a license, but they would have to do the engagement through a firm licensed in Nevada.

SENATOR SCHNEIDER:
So a family trust, tax shelters, etc. would require a Nevada license?

MR. BISHOP:
You described a broad scenario, but provided there is reliance and it falls under the definition of the bill, of the financial statements and a test, that would require a license. Even without the license, they still have to submit themselves fully to your jurisdiction and the Nevada Board could do everything punitive to that CPA that they could do to an in-state CPA, including revoking the practice or privilege, and impose remedial actions or fines. You could also give that complaint to the Colorado board for additional disciplinary action in their home state.

SENATOR HARDY:
I am doing my due diligence as a member of the Senate Committee on Finance; I assume the fiscal note on this relates to Board fees. Is there no General Fund money in this at all?

MS. WINDFELDT:
Correct, it is all just licensing fees.

KIM WALLIN (CPA):
I am a member of the Nevada Society of Certified Public Accountants and I am in support of the bill to improve the practice of public accounting in this State.

ED FINGER (President, Nevada Society of Certified Public Accountants):

> For the record, I am here today on behalf on the Society to express our support for S.B. 335, which we believe takes important steps towards improvements in practice privilege for CPAs while at the same time maintaining the important authority and oversight of the State Board of Accountancy to protect the public interest. This bill is a result of years of effort of multiple stakeholder groups, including the State Board, The Nevada Society of CPAs, the American Institute of Certified Public Accountants and the National Association of State Boards of Accountancy to allow CPAs to

realize consistent professional mobility and to uniformly replace the patchwork system of rules and regs regarding licensing and practice privilege between the states. The Society thanks the Board of Accountancy for their efforts to bring this bill forward, for their collaboration, and we look forward to continuing joint efforts to fully realize these goals. In conclusion, we support this bill. We believe it improves the profession of certified public accounting and it also protects the very important interest of the public.

VICE CHAIR SCHNEIDER:
We will close the hearing on S.B. 335.

CHAIR CARLTON:
We will open the hearing on S.B. 364.

SENATE BILL 364: Revises provisions relating to professional licensing boards and professional licenses. (BDR 54-220)

MARK NICHOLS (Executive Director, National Association of Social Workers, Nevada Chapter):
We support the bill, but want to offer amendments to section 18 addressing the endorsement of out-of-state social workers (**Exhibit E**, **Exhibit F** and **Exhibit G**). Our first concern is section 18, subsection 1, paragraph (b). We would like to add: "Has engaged a minimum of 0.75 FTE in social work ..." or 30 hours per week of some level of active engagement in social work. We also want it stated that it be the five most recent years. We are concerned someone may have practiced social work in another state 20 years ago, still maintained their license but has not done any social work since then.

The second area is disciplinary action. We want to make sure they have not had their social worker or any other professional license revoked, suspended or voluntarily surrendered in lieu of disciplinary action. They could have been working in another state as a licensed marriage and family therapist.

Section 18, subsection 1, paragraphs (i) and (j), would require a bachelor's degree for a licensed social worker or a master's degree for a licensed clinical social worker or independent social worker's license, plus pass the prescribed state exam. A new section 19 could create a new category, a licensed masters social worker or MSW, with a graduate degree. It allows them to do limited

clinical work under the supervision of a clinical social worker while trying to obtain all of their licensing requirements or for those not planning on going any further in their careers due to challenges in finding intern sites. This would address the lack of mental health professionals we have in the State.

CHAIR CARLTON:
On page two of Rosalind Tuana's letter concerning proposed amendments (**Exhibit H**) the words "... for an average of not less than 30 hours per week ..." is that language still included?

MR. NICHOLS:
My amendment says "a minimum of 0.75 FTE," it is basically the same.

CHAIR CARLTON:
Then we will have this conversation with the Board of Examiners for Social Workers, because if someone misses it by three or four hours in one year, due to unforeseen circumstances, I would hate to see these qualifications eliminate that person.

MR. NICHOLS:
My concern is that they have some active participation in social work. The language is flexible.

CHAIR CARLTON:
Does actively practicing not quite cover it? Do you want to make it a little more?

MR. NICHOLS:
To some standard, yes.

CHAIR CARLTON:
I do not want to eliminate someone.

ROSALIND TUANA (Executive Director, Board of Examiners for Social Workers):
We support adding the MSW degree because there is a severe need for mental health professionals. By adding this amendment, we can allow some basic clinical work under supervision and allow the more advanced clinical workers and mental health professionals to deal with more demanding issues. We think this is one way to get some of these waiting lists cut down.

Another section I would like to address is section 5 of S.B. 364, on unlicensed practitioners. People practice unlawfully and the maximum penalty is a $75 misdemeanor. This bill will expand the authority of the Board and allow us to deal with this problem. The only thing I would add is the protection of titles such as psychotherapists and therapists, to be regulated by the Board.

Then under section 18, subsection 1, paragraph (h), it is not clear if we can take action based on Federal Bureau of Investigation fingerprints, so we would like that clarified. Finally, we support the portion pertaining to hiring an attorney in section 1, we agree with the necessity for a college degree in social work and the requirements to pass a state examination, **Exhibit H**.

CHAIR CARLTON:
Is there a way to deal with this actively practicing issue without splitting the time frame?

MS. TUANA:
I believe we can work it out through regulation. We could use the wording "with good cause." I like the idea of the recent history.

DENISE SELLECK DAVIS (Executive Director, Nevada Osteopathic Medical Association):
We are in support of this bill with two minor amendments; one is in section 12, pages 7 and 8 of S.B. 364 concerning *Nevada Revised Statutes* (NRS) 633. Currently Nevada has the highest requirements of post-doctorate education for osteopathic licensure in the country, and while we understand there is a shortage of physicians throughout the State, we would like to ensure the educational standards remain that high. Many other states allow as little as one year of post-doctorate education, so we would like to add a line stating they must meet the education requirements set forth in NRS 633.311(**Exhibit I**).

CHAIR CARLTON:
Could you point out exactly where we are?

MS. DAVIS:
On page 8, line 15, paragraph (h) of S.B. 364; we ask that you add one more subsection for education standards. This will not be a hardship as very few training programs are less than three years and NRS 633 has a grandfather

provision for those who graduated prior to 1995. This will provide the highest education level possible from this day forward.

CHAIR CARLTON:
You answered my question before I asked it. As long as we make sure we do not eliminate the folks who did not have the opportunity to get the education.

MS. DAVIS:
We would not want to do that because they have years and years of valuable training behind them and we want to make use of that. The other issue we have with this bill is on page 9, section 14, subsection 2, starting in line 15, concerning physicians' assistants. The use of a physician's assistant (PA) as physicians' extenders was designed for treatment of routine medical ailments, rechecks and follow-ups. We would like to see the supervision of PAs continue. When this section was originally written, it was designed so a physician would not have three PAs working for him, with four locations and no waiting.

Patients need the ability to see the physician, particularly when they have acute problems or, despite treatment, have not been getting better. They need access to the physician's training, knowledge and care. The primary relationship is between the patient and the physician; the PA is an extender. Although this wording allows supervision by telephone, it now allows review of charts by telecommunication devices and individual practices. For that reason, we do not want a change made.

CHAIR CARLTON:
I believe you are talking about line 27 on page 9 of S.B. 364, crossing out "may" and reinstituting "shall not."

MS. DAVIS:
Correct.

CHAIR CARLTON:
I went back through my notes and remember during the 2008 interim committee, Senator Heck brought up the rural component of implementing this and I think we need it readdressed. I do not want to limit service to the rurals, but I do not want an osteopath to have six offices full of PAs and one osteopath trying to cover them all.

MS. DAVIS:
Research shows 20 percent of PAs in the United States work in rural and under-served areas. The other 80 percent work in urban or metropolitan areas. We suggest subsection 3 of section 14 have a carve-out on a population basis. We would suggest about a 10,000 population; for example Fallon is 9,000-plus, it would qualify as rural. This would allow for treatment in areas such as Battle Mountain, Austin or Winnemucca. That is the appropriate use, as long as the physician is still available to the patient. We do not want to set up mini-clinics all over the State.

CHAIR CARLTON:
Senator Rhoads, you are our rural Senator, is there a number you suggest? We do not want to use fewer than 400,000 as it eliminates Clark County, and we also want to deal with Washoe County. We need to make sure we get the rural areas taken care of.

SENATOR RHOADS:
I believe fewer than 100,000 people; Elko is about 50,000.

MS. DAVIS:
Currently, there are about nine physicians working in Elko. That is just the osteopaths, not including MDs. This approach has been taken in other states. In Missouri they tried it and the smaller surrounding towns around Kansas City became hubs for those types of practices.

CHAIR CARLTON:
Senator Rhoads, we need to figure out what number we are trying to get at.

SENATOR RHOADS:
I will work on that.

LYNN O'MARA (M.B.A., Health Planning Program Manager, Bureau of Health Statistics, Planning and Emergency Response, Health Division, Department of Health and Human Services):
You might want to consider using the federal designation for Health Professional Shortage Area, which includes counts for PAs. We have 51 throughout the State, including several in Elko County.

CHAIR CARLTON:
That is good, but their count can change and they are nestled in amongst Clark County, so I think there would be some confusion in using the Health Professional Shortage Area numbers. I think population would be easier to understand.

PAUL J. KALEKAS, D.O. (State Board of Osteopathic Medicine):
I support the bill as written; I have no opinion about the amendment.

KEITH MUNRO (First Assistant Attorney General, Office of the Attorney General):
I am here with a proposed amendment for S.B. 364, section 1 (**Exhibit J**). There are ramifications to this provision that need to be considered. Our office represents almost all boards and commissions in some form, over 200 of them. Many of these clients are hourly paid and many are cost-allocated within the Attorney General's cost-allocation plan. This bill will affect our cost-allocation plan being considered by the State Legislature this Session. In representing all of these clients, we have developed the expertise in handling all issues arising before boards and commissions, ensuring administrative procedures remain consistent. It also helps ensure Nevada keeps a group of attorneys that understand the boards' and commissions' process. The boards and commissions are a diverse group, made up of many points of view, with people having no experience in government and not knowing what it means to carry out duties on behalf of the State.

An example of what it means to have attorneys who understand the process would be last year with the hepatitis C scare. The Board of Medical Examiners, who have their own well-paid counsel, needed our help. When the crisis hit, the Office of the Attorney General needed to step in and obtain an injunction against the doctors in question. We could have only done so because we had the expertise and the attorneys who could get it done.

If you scatter all these boards to the wind, you will lose that expertise. You will also lose a check and balance to the system. If a board is able to hire its own counsel, who serves at its pleasure, the pressure upon that counsel is great to carry out whatever legal action is requested by the board. There is no independent legal judgment offered, no counsel offered to a board that has built up a head of steam toward a particular result.

Who will train these board lawyers? If you pass section 1 of S.B. 364, you risk losing attorneys inside the Attorney General's Office. When they are gone, they take their expertise with them. What about the liability? Does section 1 remove the board that chooses to hire outside counsel from the tort claims fund? One misstep by a board could cause serious repercussions to the administration of that fund and result in General Fund dollars being spent to pay the price of legal errors. During the past interim, our office reviewed how boards and commissions operate. We are providing a copy of our Blue Ribbon Panel on Boards and Commissions report for the Committee (**Exhibit K**). We are studying the delivery of legal services, how investigations are conducted and billing issues, so we can better serve these boards. Our working group brought forward a piece of legislation, S.B. 76.

SENATE BILL 76: Revises provisions governing the administrative procedures for the summary suspension of licenses issued by certain state agencies. (BDR 18-263)

Section 1 of S.B. 364 has a lot of risks this Committee needs to give close attention. The Attorney General believes the best way to handle the issues of representation for boards and commissions is to continue to allow us to study this issue, work with boards and continue to consult with the Legislative body.

SENATOR SCHNEIDER:
You indicated the Attorney General's Office had to get involved in the hepatitis C scare in Las Vegas. Did you have to help private-industry attorneys?

MR. MUNRO:
No, we helped the attorneys for the Board of Medical Examiners. We got a preliminary injunction against a couple doctors.

SENATOR HARDY:
We dealt with this issue in the Senate Committee on Government Affairs a couple of sessions ago. There was a board that had its own counsel and it appeared the counsel attempted to provide legal advice fitting the interpretation of the board. At that time I remember thinking very strongly, the Attorney General's Office is a source to which we can look for consistency on how they interpret things like the Open Meeting Law, or other laws to which every board is required to adhere. I have grave concerns with this part of the bill.

CHAIR CARLTON:
This was presented to the Legislative Committee on Health Care. We had a subcommittee and this was one of the issues brought up as an issue of fairness; some boards are allowed to have their own counsel. Other boards wondered if they had the financial capacity and willingness to take it on, could their board have independent counsel as well. We have fairness issues to consider.

SENATOR HARDY:
I agree, this is the opposite direction. Whether or not we eliminate the ability of boards to hire outside counsel, or we ask the Attorney General to adopt policies that board attorneys have to adhere to, we cannot have different interpretations of Open Meeting Laws, etc. I really think this needs some interim study.

CHAIR CARLTON:
Mr. Munro, could the Attorney General set up criteria for evaluating boards with private attorneys and boards who may want to hire their own attorneys?

MR. MUNRO:
That is an excellent idea. I will provide an amendment by the end of the day.

SENATOR HARDY:
There are occasions when it is necessary for outside counsel, I support that, but this is too broad. I welcome the opportunity to take this on as a special project.

KEITH L. LEE (Board of Medical Examiners):
We are in opposition of section 8; the rest of S.B. 364 is fine with us. First, I would like to defend the Board of Medical Examiners. During the hepatitis C crisis, we went to the deputy attorney general for assistance in preparing the court case that had to be filed in Clark County District Court to obtain two restraining orders. Our legal counsels are specialists in licensure and board discipline. Like any large law firm, we have specialists, and we viewed the deputy attorney general as a specialist in filing litigation. We rely heavily on the Attorney General's Office for open meeting matters.

Now I would like to address the Board's objection to section 8 of the bill. Last week, the Senate Committee on Commerce and Labor held a hearing on S.B. 269, the Board's comprehensive bill revising licensing and disciplinary proceedings.

SENATE BILL 269: Makes various changes to provisions governing physicians and certain related professions. (BDR 54-757)

We discussed section 27 that amends NRS 630.1605, the licensure by endorsement statute. It was said that in the 74th Legislative Session, in an effort to make the endorsement licensure statute more lenient, the unintended consequences of what was done made it more difficult for the Board to issue licenses by endorsement. Prior to that change, we were able to process the applications for endorsement rather rapidly. We are asking that we go back to the old law, reversing all the changes we made last Session. It grants discretion to the Board in reviewing qualifications of applicants.

I am offering amendments to section 8 of S.B. 364, should this Committee still choose to move forward (**Exhibit L**). We request in subsection 1, paragraph (a), that we add "current," and "nonrestricted" as definitions to the license to practice medicine. In subsection 1, I requested language "Except as otherwise provided in subsection 2 the ...." Then you will see in paragraph (a) of subsection 1, we add as qualifications to the license the applicant have a current, nonrestricted license to practice medicine issued by another state or territory of the United States, or the District of Columbia. In paragraph (c) the language assures that the applicant is a full-time practicing physician at the time they submit their application.

SENATOR HARDY:
I have an ongoing concern with the wording "subject to any disciplinary action." What does that mean? I am uncomfortable with anything short of having the case adjudicated or finding some case of guilt.

MR. LEE:
We would verify through the National Practitioner Data Bank whether any adverse action has been taken against the licensee. Information is submitted to them only after a disciplinary action has been taken, not just an allegation.

SENATOR HARDY:
Just so we add "has had a reportable event to National Practitioner Data Bank" or something similar.

MR. LEE:
I understand. We are also requesting a new paragraph (f) in subsection 1 that the person has not had any malpractice judgment or settlement in the last five years.

CHAIR CARLTON:
Settlement; just because someone decides to settle, rather than go through a court case, why would we hold that against them?

MR. LEE:
The reason physicians settle is because they have committed malpractice and want to avoid a judgment. Our concern is, even more so than disciplinary matters, judging the quality of an applicant for a position. We are suggesting we do not open the door more than we already have in S.B. 269, but if we do, we need safeguards allowing us to look beyond the application and into other matters. Malpractice settlements can have qualifications.

CHAIR CARLTON:
The only comfort level I see is the fact that they can only look at the physician's behavior in the last five years.

SENATOR HARDY:
Would you agree there is no requirement on the Board to settle? Being able to report something before there is a finding of guilt is problematic.

MR. LEE:
Paragraph (j), subparagraphs (1) through (4), asks you to reimpose the rules from the 2005 Legislative Session. Maybe this provides some satisfaction to the Committee. In subsection 2, we suggest granting the Board discretion in waiving one or more of the above conditions, or in refusing to issue a license if all the conditions are not met. We also requested S.B. 269 authorize the Board executive director or president authority to issue licenses between quarterly meetings.

CHAIR CARLTON:
Mr. Lee, you have a problem with basic credentialing language because you feel the Board of Medical Examiners should have more discretion than what we discussed with other professions. Is that fair to say?

MR. LEE:
Yes, without the ability to exercise discretion and look beyond the application itself.

CHAIR CARLTON:
And the problem we have is the discretion.

MR. LEE:
I understand that. The Board is charged with making sure physicians meet Nevada licensing qualifications. We are taking steps away from our stringent post-doctorate educational standards when we allow physicians from other states, who have not met our licensing requirements, to practice here.

CHAIR CARLTON:
My feeling over last two years is that we still have problems in this State, even under your high standard.

MR. LEE:
And we always will. If we are referring to the hepatitis C problem, that had to do with greed, and there is no way you can test for greed.

CHAIR CARLTON:
That is true. I suggest we set this issue aside to cool off and come back to it later.

MR. LEE:
"Just for the record, I withdraw my amendment to section 9 of the bill."

SENATOR HARDY:
Is anything coming over from the Assembly where we might be able to build this path for alternate licensure?

CHAIR CARLTON:
The Board has its own bill, S.B. 269; it is not exempt and it needs to be passed. We can discuss off-line how we want to proceed before the deadline.

ELIZABETH NEIGHBORS (Ph.D., ABPP, Board of Psychological Examiners):
We are in support of facilitating psychologists wishing to come here from other states, but we have some concerns about section 16 and section 17 of S.B. 364 as noted in my letter with enclosures (**Exhibit M**, **Exhibit N** and **Exhibit O**).

CHAIR CARLTON:
Do you have problems with the credentialing language in the bill?

DR. NEIGHBORS:
Yes, there are specific things I can point out. First, this bill creates a two-tiered licensing system for psychologists coming from other states as opposed to those trained in Nevada. We do not want to discourage local Ph.D.s from graduating, but it is a different path. Those coming from other states have already practiced for five years; still, we do not want to hold them to a lesser standard. Additionally, the bill does not require out-of-state applicants to complete a jurisprudence examination. They would not be required to learn Nevada's mental health laws.

CHAIR CARLTON:
I do not believe we meant to eliminate that. In the credentialing language of other sections, it does not replace what is called the blue book exam, this is an alternate path. They would still have to comply with the other portion. Are we talking about the same exam, the blue book exam on Nevada State law?

DR. NEIGHBORS:
It would be in our State exam we administer orally. We have several means to become licensed through reciprocity, where they would only have to do that portion. We could offer an amendment to take care of it.

CHAIR CARLTON:
If you are currently doing reciprocity, I am uncomfortable with that; we do credentialing.

DR. NEIGHBORS:
Perhaps I used the wrong language, we do credential the applicants. Sometimes we refer to certain steps of it as reciprocity. We are also concerned this dismantles our temporary-license process, which allows someone moving to Nevada to send us their credentials and be issued a temporary license to

practice while they complete the licensing process. This has been in place for some time and can be done quickly. This bill would eliminate that availability.

CHAIR CARLTON:
This is in addition to any licensing procedures you already have; it is not to replace any.

DR. NEIGHBORS:
Do I understand the Board could require the individuals to have a temporary license?

CHAIR CARLTON:
No, this would not allow it, but the individual licensee would have an option. If they were here in the State, they would pick the State path. If they are coming from out of state, they could pick the temporary license or the credentialing. If they had only practiced for four years, they would have to go with the temporary license. This is an additional requirement, not a replacement of any.

DR. NEIGHBORS:
Okay, what I understand is the temporary license would most likely apply to those who have practiced less than five years.

CHAIR CARLTON:
The whole idea behind it is, years ago, if they were practicing in another state, doing a good job for five years, this was a way to entice professionals to come here without having to repeat all the examinations.

DR. NEIGHBORS:
We support the concept. There is some reservation in regard to the training they may have had, even with five years or more of practice. Also, this does not seem clear that it does not allow master's level psychologists from other states, as our statutes have never allowed licensing psychologists at the master's level. It would be helpful to clarify the intent of the law.

Just to review, we have a number of pathways to allow individuals to practice here with minimal burden. We accept the Certificate of Professional Qualification in Psychology, a national program supported by the Association of State and Provincial Psychology Boards. Also, the National Register of Health Service Providers in Psychology is a repository where psychologists can submit

their credentials and move easily from state to state if they meet the requirements. Anyone practicing more than 20 years with no discipline on their record can submit 3 letters of recommendation and be licensed upon verification of good standing. If we relax our requirements, we may have problems keeping our agreements with these agencies.

CHAIR CARLTON:
How many psychologists are currently licensed in Nevada?

DR. NEIGHBORS:
There are 353, with 17 ready for the next test.

CHAIR CARLTON:
Where do we rank compared to other states in accessibility to psychology?

DR. NEIGHBORS:
Very low on the totem pole, maybe 12 per 100,000 people, or more. The rural issue is a big problem.

CHAIR CARLTON:
I believe Nevada ranks in the lower forties, almost at the bottom of the list. We need more psychologists in the State.

DR. NEIGHBORS:
We are not disputing that. We would like to help streamline the process however we can.

CHAIR CARLTON:
We will close the hearing on S.B. 364.

VICE CHAIR SCHNEIDER:
We will now open the hearing on S.B. 397.

SENATE BILL 397: Establishes provisions relating to the use of certain plastic bags. (BDR 52-1143)

SENATOR MAGGIE CARLTON (Clark County Senatorial District No. 2):
I am submitting an amendment to S.B. 397 (**Exhibit P**). This is an environmentally friendly piece of legislation meant to clean up the mess from

ten years of using plastic bags and to stop perpetuating the environmental damage caused by their use. My intern, Titus Roberson, has a presentation for the Committee.

TITUS ROBERSON (Intern to Senator Maggie Carlton; Undergraduate Student, University of Nevada, Reno):
There are many environmental problems associated with plastic bags used in retail and grocery stores. Approximately 380 billion plastic bags are used in the United States every year. Of those, only 1 percent to 3 percent are recycled annually. They have an inability to degrade, they add significant waste to our landfills and they are able to travel great distances in the wind.

Polyethylene bags are littered throughout ecological habitats in Nevada, presenting many hazards to wildlife. Animals can suffer through ingestion, entanglement and suffocation. The bags are unsightly and can float on water for long periods of time before sinking.

Approximately 4,190,000 tons of plastic were used in the United States to make bags and wraps in 2007. Waste managing is a major concern since they can take up to a thousand years to degrade and they can break down into petro polymer pellets, which are toxic and can contaminate the soil. Biodegradable and compostable bags are cellulose-based alternatives; so are paper bags and they are fully biodegradable. Reusable bags would be the best alternative to plastic since they can be made of recycled materials or fabric, and can last for multiple trips to the store (**Exhibit Q**).

SENATOR CARLTON:
The most significant section of the proposed amendment is section 4; the fee is 10 cents per bag. The retailer keeps 10 percent, and then 90 percent gets forwarded to a solid-waste management fund. A lot needs to happen to get rid of the plastic bags already out there. The fee would be for the next two years; after that, we would stop using the thousand-year bags and begin using the biodegradable and compostable bags. We would not be eliminating plastic bags completely, just getting rid of the thousand-year bags. There are some concerns about costs but when there is a demand, the cost goes down. My goal is people will start taking their own bags to the store.

KYLE DAVIS (Policy Director, Nevada Conservation League):
I am pleased to be here in support of this bill. I would like to point out the amount of petroleum used in making these bags. Anything we can do to reduce dependence on petroleum is another benefit in addition to reducing the unsightly bags that litter our cities and will not biodegrade.

BETTY HICKS:
I am a private citizen who visited Vancouver, British Columbia, where they charge 10 cents for grocery bags. Most people gladly carry their own bags and support the charge. It is not an issue up there.

VICE CHAIR SCHNEIDER:
Where do you live?

MS. HICKS:
I live in east Washoe Valley and those bags are everywhere. They are in our water, on the landscape; they blow from who knows what county or what state. It litters the entire valley.

PETER KRUEGER (Nevada Petroleum Marketers and Convenience Store Association):
We are in opposition of the bill. Convenience stores are not like other retailers. People do not usually plan their stops in advance, bringing their own recyclable bags. There is a problem with liquor sales. Some jurisdictions require liquor be taken from stores in bags. They could use paper bags but paper costs more than plastic. This exact issue came up about six months ago in Reno and they chose to look at options other than a ban on plastic bags.

Auditing is another problem area. The Department of Taxation would audit our transactions. How do they trail the dime that is collected sometimes, sometimes not, how many bags are used, etc.? I would be happy to work with you on this bill.

SENATOR COPENING:
As you research this, I encourage you to take the same amount of groceries and pack them in plastic, and then in paper; you will probably find the paper bags hold more items. Maybe that could balance the cost.

MR. KRUEGER:
I will take on that task.

LEA TAUCHEN (Director of Government Affairs, Grocery and General Merchandise, Retail Association of Nevada):
Our members are opposed to implementing a fee or ban on plastic bags; however, our members are committed to being environmentally responsible. They are engaged in multiple efforts to encourage recycling, bag reuse and decreased reliance on plastic shopping bags. For the past 30 years or so, they have offered customers a choice, paper or plastic, but in the past several years, retailers have voluntarily responded to consumer demand and extended that tradition of social responsibility by providing reusable bags for sale in their stores, as well as recycling receptacles for used plastic bags. In addition, they offer 3- to 5-cent rebates when customers bring in bags. They are training employees to fill plastic bags fuller and minimize double bagging.

With the recycling that is done in the stores, there is a growing market for recycled plastic, presenting a viable opportunity for sustainability with the retailer and the environment. In addition, consumer demand for reusable bags is changing and consumer behavior is changing. Our retailers are also noticing a theft issue with the consumers bringing their own bags. This is a matter of changing consumer behavior and we believe the market is already moving in that direction.

BILL EBECK (Director of Sales, Advanced Polybag, Inc.):
We manufacture plastic retail bags with 110 employees at our North Las Vegas facility. This bill would have significant impact on our ability to retain those employees. Ensuring our products are recycled and disposed of properly is an issue our company takes seriously. Our industry has worked with state and local governments, retailers, public agencies and other stakeholders, to create and enhance plastic-bag recycling opportunities around the country. We recommend what was done in Reno; bring retailers together to support a recycling program, while other industries work with retailers in recycling, bag-reduction initiatives and in-house training so bags are used properly. Turnover at the front of checkout lanes is high, so we offer training to support the three Rs: reuse, reduce, recycle.

RAY BACON (Nevada Manufacturers Association):
We cannot support a ban on plastic shopping bags or even a substantial fee on their use. Plastic bags are far and away the more economical and energy-responsible product for consumers. Literally all the grocery retailers in the State have collection bins for recycling the product into other products. The Trex decking plant in Fernley is a huge consumer of recycled plastic, using about 3 million pounds of bags and shrink-wrap annually. They particularly like shrink-wrap because it does not have direct contact with food. Trex and a few competitors have drastically reduced the annual redwood forest harvest in the past decade.

Our State and our Nation does not do a good job of recycling or even educating the public on what recycling possibilities are available to reduce, recycle, reuse, reprocess and compost most of what currently goes into our waste system today. The State could and should take action to pressure disposal companies to set landfill reduction policies. Recently, the American Chemistry Council sent this Committee data showing plastic bags are the best option for grocery stores and general shopping carryout bags. We know there is a trash and appearance issue, but believe a strong recycling message can drastically reduce that problem area (**Exhibit R**).

SENATOR HARDY:
One of the provisions of this bill would outlaw thousand-year plastic bags in 2011. Is the industry headed towards phasing these out, or are the bags going to be made biodegradable?

MR. BACON:
At this stage of the game, it is a mixed message. Some communities have gone into wholesale bans like San Francisco, whose waste stream has actually increased since they went into the wholesale ban. You end up with a higher percentage of products going into the recycling process every year. The American Chemistry Council's latest statists say about the 12 percent gets recycled. That number should be 50 percent to 60 percent in a few years.

One key point is paper bags go back through energy-intensive operations to be recycled but the fiber gets shorter and shorter every time you do that. Consequently, paper bags may be good for only three recycling processes before they become like mush. It does not matter how many times you recycle plastic bags, they last forever.

SENATOR HARDY:
It would behoove the industry to figure out what direction they want to go.

MR. BACON:
Tim Shestek is here from the American Chemistry Council and they have the take on what is happening throughout the nation.

TRAY ABNEY (Director, Government Relations, Reno-Sparks Chamber of Commerce):
My organization participated in the City of Reno's efforts to roundtable a plan for recycling, and I organized a meeting with Trex and the Washoe County School District to get kids involved in recycling. We are opposed to this bill. It is a fundamental consumer-choice issue, but we think we need to do a better job of education in recycling.

TIM SHESTEK (Director, Western Region State Affairs and Grassroots, American Chemistry Council):
We are a national trade association representing several retail plastic bag manufacturers. Our industry is extremely active in promoting recycling programs. We have been active throughout California, New York, Phoenix and Tucson. We think that is where the answer lies; enhancing public education and awareness as well as enhancing infrastructure so these bags can be used for other purposes. The question of compostable bags keeps coming up. Compostable bags are emerging on the marketplace, but they do not compost if littered or in landfills, they degrade in industrial composting facilities. The infrastructure is limited in terms of those facilities, so suggestions that you can move over to a compostable bag and have benefits for the environment is questionable.

Prohibiting the use of plastic bags will invariably increase the use of paper bags. In San Francisco, more people are using paper bags, increasing the cost to consumers and retailers, and impacting the environment. Plastic bags require 70 percent less energy to manufacture than paper, generate 50 percent less greenhouse gasses, and for every seven trucks needed to deliver paper bags, only one truck is needed to deliver plastic bags. This helps save energy and reduces air emissions and traffic on the roads. We encourage the Committee to oppose the bill as it is currently drafted. Our industry is very active and interested in working with Nevada to enhance infrastructure and public education programs (**Exhibit S**).

VICE CHAIR SCHNEIDER:
Are the California coastal cities starting to outlaw plastic bags?

MR. SHESTEK:
San Francisco is the only city that has a law in place. A legal suit has been brought against a couple jurisdictions to comply with California's Environmental Quality Act. A case has been made that a ban on plastic will cause an increased use of paper, thereby increasing the environmental impact in those local communities, so they have not implemented their bans yet.

VICE CHAIR SCHNEIDER:
Was it your organization that filed the lawsuit?

MR. SHESTEK:
No, but they were California organizations.

VICE CHAIR SCHNEIDER:
Nevada is small and usually follows California's lead. Do you see plastic bags being used less?

MR. SHESTEK:
I am not certain it is the trend for the future; the number of individuals using reusable bags is on the rise. California was the first state in the nation to enact a plastic-bag-recycling statute that our industry was involved in, requiring retailers to place recycling bins at the front of their stores. Much of that is already being done voluntarily here in Nevada. The trend is to enhance and promote recycling as well as the use of reusable bags. I am not certain it makes sense for everyone to use reusable bags, like those using public transportation. There are concerns associated with a straight-out ban on plastic bags.

DAREN WINKELMAN (Health Division, Department of Health and Human Services):
The Health Division is neutral but we want the Committee to understand there is a fiscal note for our Division should this bill pass. We will be responsible for the inspections once a year in the rural areas. Currently, we do not have enough staff to conduct those inspections.

DINO DICIANNO (Executive Director, Department of Taxation):
We respectfully request authority to file a fiscal note if this bill moves forward.

SENATOR CARLTON:
We should be able to find money for your Department in the 10 cents collected from the sale of each bag.

MR. ROBERSON:
In rebuttal, I would like to say this is meant to be a conversion to compostable bags. Compostable and biodegradable bags could both be used at convenience stores, even paper bags. If I go to a convenience store and do not bring my own bag, I accept the fact that the cost will be higher.

Regarding the bag-return rebates, it is not a very well known program and does not justify a small reduction in plastic bag use. Another point is recycling centers can use bottles and other plastic materials to manufacture decks and other items. The U.S. Environmental Protection Agency estimates no more than 5 percent of plastic bags throughout the Nation get recycled every year; it is just not working.

VICE CHAIR SCHNEIDER:
I see so many people bringing their bags into stores and recycling on their own. I encourage people to use cloth bags. We will close the hearing on S.B. 397.

An explanation of biodegradable and compostable plastic by Ryan Leary was submitted (**Exhibit T**).

CHAIR CARLTON:
We will readdress the language Mr. Munro sent back for S.B. 364 (**Exhibit U**).

SENATOR HARDY:
I think in standard practice, you would go through the lead attorney to hire outside counsel and if that is how this exhibit reads, it makes good sense.

CHAIR CARLTON:
It reads:

> A regulatory body may, as necessary for the discharge of its duties, and subject to the approval of the Attorney General, employ or retain attorneys other than the Attorney General and his deputies. Attorneys employed or retained pursuant to this section shall be subject to the performance standards and training established by the Attorney General.

CHAIR CARLTON:
This closes S.B. 364. We will now open the hearing on S.B. 366.

SENATE BILL 366: Revises provisions relating to workers' compensation. (BDR 53-590)

In reviewing this bill we realized there were problems, so we have issued an amendment (**Exhibit V**). Originally, the Committee heard testimony from people who had been hurt at work and felt they had to prove it had been a work accident. We were trying to make it easier for them to fill out a form that would place the burden of proof on the employer, not the employee. That will not work as written, so we went back to the original ideas discussed and amended the bill, adding language to NRS 616A.

We are going back to language that was used years ago, adding:

> The provisions of this title shall be construed broadly and liberally, as a humanitarian measure, to protect the interest of the injured worker and his dependents. A reasonable, liberal and practical construction is preferable to a narrow one.

A lot of the issues on workers' compensation can be guided by this statement. What is important is to take care of the worker, not put them through so many challenges and get them back to work as soon as possible.

RAYMOND BADGER (Attorney):
I practice workers' compensation law. Prior to 1993, the Supreme Court of Nevada followed common-law cases from other states. The law said the workers' compensation should be construed liberally in favor of the injured worker because they had given up their right to sue as part of the workers' compensation law and they were provided a lesser monetary benefit than a negligence case would be. This law was upheld by the Nevada Supreme Court from the 1940s until 1993.

In 1993 we had a State Industrial Insurance System (SIIS) that insured most of our employers. There was a huge fiscal crisis and the Legislature feared if they went under, the State would be obligated to make up for their deficiencies. One of the changes made was the present version of NRS 616A.010. The most pertinent provision is section 4 of that statute, which says the provisions must not be interpreted or misconstrued in favor of the employee who was injured or

disabled or in a manner to favor the rights or interest of the employer. When I looked at your original bill, I thought the idea made sense, but it had the wrong remedy. I think this amendment is closer to what you need.

CHAIR CARLTON:
For those of you just receiving the amendment, you will have time to review it before we act upon it.

JACK MALLORY (Assistant Business Manager/Secretary-Treasurer, Director of Government Affairs, International Union of Painters and Allied Trades, District Council 15):
We really liked the original bill and support the amendment with the understanding that the intent is to provide quick care to injured workers and move through the system in a timely manner.

PILAR WEISS (Culinary Workers' Union, Local 226):
We would also like to support the bill conceptually. We support the discussions this Committee has had over the last several weeks regarding returning to the original intent of workers' compensation. We want to focus on maintaining the system that protects the worker with the care they need and gets them back to work.

JOHN F. WILES (Division Counsel, Division of Industrial Relations, Department of Business and Industry):
We have no concerns with the bill as amended.

SAMUEL P. MCMULLEN (Nevada Self-Insurers Association):
I would like to address the history of NRS 616A.010, section 4. In 1993 it was highly regarded legislation and we do not think it needs to be changed now. We had a lot of problems with the SIIS crisis in terms of solvency and other issues, especially whether or not words in the laws actually meant what they said. This was a battle fought over plain meaning. It was to say the law of statute, which is extensive, means something and is there to be followed. There were issues that could be argued on either side. Right now we are in the same situation, where people are feeling it is being interpreted incorrectly. That is what the hearing and appeal process is about.

We tried to work for the most balanced statement of exactly where we were at the time and what we thought. It has been our impression that it did not change

the level of sensitivity or benefits offered to people. We still have the same concerns. We would like you to look at the language you are trying to change and understand it was exactly what it is, a statement of real balance that is supposed to be about the laws and what they mean. That is our concern. The change would start new interpretation and litigation. It would take all the structure, practicality and concerns that are already there and say it needs to be changed. It is important to us to keep the language already there and not throw it into disarray.

CHAIR CARLTON:
When those words were crafted, we were under a State system that was under stress. That is no longer true, it is now a private insurance model, it is a business and the State's intent always was to make sure the injured worker got taken care of. We would agree on that.

MR. MCMULLEN:
I will agree to that and I will go beyond that and say the Nevada self-insurers are in the situation where the claimant is also the employee. Every employee to them is a representative to the rest of the employees of how they are going to be treated. To us, it is an important issue.

ROBERT A. OSTROVSKY (Employers Insurance Group; Nevada Resort Association):
I signed in today on behalf of the Nevada Resort Association because the language of the bill was directed at employers. Insurance companies can pay any benefit that this Legislature chooses to authorize. It just creates a certain amount of premium. Instead, I am here on behalf of Employers Insurance Group to discuss how they would administer claims. We would like time to read the new amendment to S.B. 366, and could probably respond to you by tomorrow.

We think the current statute provides balance between employers' and employees' rights in a no-fault system. Where the employers trade here, is to have to pay all claims regardless of whether the injured worker was at fault or not. That is part of the bargain we make to get certain rights. We are concerned this might create an imbalance; we will have to think it through. In the days prior to this language being put into the statute, we had unpredictable times for employers about where the system was going and what it would cost next year.

Under the old Nevada Industrial Insurance Commission, before SIIS, the court system would process claims under the old methodology of liberal construction

and that caused extreme premium increases and wide swings in policy. When a new claim came up, a new decision would be made, affecting all other claims, which we did not anticipate by reading the plain meaning of the language. I would second what Mr. McMullen previously stated. Whatever we do, we do not want to find ourselves in the situation we were in prior to 1991 and 1993, where we created the couple billion dollars of deficit. We need a system we can all fund and afford as employers, that leans towards the employees in terms of getting them medically well, getting them back to work and controlling costs, but giving first priority to the injured worker. If we cannot get the worker back to 100 percent, then find some system of compensating him for his loss. I will get you a more specific response after we have had a few hours to digest this amendment.

KAREN CATERINO (M.B.A., Risk Manager, Risk Management Division, Department of Administration):
When I initially signed in, I was in opposition to the bill as originally proposed. Not necessarily for most of the language, it had to do with the "preponderance of evidence" shifting to the employers. With the new proposal, I no longer have any opposition. I would like to bring a couple things to your attention. One provision added in the initial bill had to do with the insurer "shall not limit or deny coverage until a claim determination has been made." The State's practice is always to pay up until the date of denial of the letter. Less than 1 percent of claims were denied in 2008. The State incurred over $95,000 in "first-stop" costs until claim denials. The additional provisions in the original bill were appealing because those were monies the State would have been able to recover. As amended, I have no issues except to point out if you eliminate the 30 days of acceptance or denial, then there are no appeal rights for either party.

CHAIR CARLTON:
You said you had a 1-percent denial rate?

MS. CATERINO:
Yes, in 2008 our claims denial rate was less than 1 percent.

BRYAN WACHTER (Deputy Director, Retail Association of Nevada):
I did not get a copy of the amendment but I wanted to say businesses are facing a tremendous increase in the cost of doing business: the cost of new employees with the minimum-wage standards, a decrease in consumer spending, a rising cost in health care and then a potential increase in workers'

compensation benefits. The employers of the Retail Association of Nevada are finding it harder and harder to hire employees to begin with. That being said, we have always felt that getting injured employees back on the job is of paramount importance. Employees are what make businesses profitable. We would appreciate the ability to work with the interested parties and get you an exact figure on what this new amendment would do to our costs.

MR. ABNEY:
We appreciate the amendment. We are always concerned with anything that has the potential to increase the cost of doing business. In this Session, we are dealing with various workers' compensation bills, insurance mandate bills, medical malpractice bills and tax packages. Our members, especially small businesses, are worried that they cannot take much more. I urge this committee to consider the cumulative effects of all the bills on our current business and the effect on our economic development efforts.

CHAIR CARLTON:
We realize workers' compensation is a responsibility. I understand all those other things are really outside the umbrella of workers' compensation law.

JENNIFER GOMEZ (Director, Associated Risk Management, Inc.):
In addition to Associated Risk Management, I am also representing Nevada Transportation Network Self-Insured Group, Nevada Auto Network Self-Insured Group, Nevada Retail Network Self-Insured Group, Builders' Association of Western Nevada Self-Insured Group and Nevada Agriculture Self-Insured Group. Originally we signed in as opposed to the bill. With this amendment, we request time to consult with our clients and determine if that is still a position we would like to take. We would like to respond to you in writing.

CHAIR CARLTON:
We will not process this bill today.

DANIEL MARKELS (National Federation of Business):
We represent over 1,300 Nevada small businesses, and we too, were signed in to oppose this bill, especially the provision of burden of proof to the employer. We partner with state funds in several states, like Montana, where we act as an agent, selling insurance for the state. We work with our members to get good safety records because it is imperative they have safe workplaces. Most have small staffs and cannot afford to have workers injured. Small businesses are

facing an economic recession and increases in costs are putting burdens on them. Many have had to lay off people, or go out of business. We support a workers' compensation system that is balanced, that legitimately processes and moves workers smoothly through the system and back to work while preventing abuses on both sides. We would like to take a look at the amendment and get back to the Committee.

ED FINGER (Comptroller, Clark County):
Clark County is a self-insured employer. I had the opportunity to read the amendment. The word balanced has been used repeatedly by people testifying here today and I think it is an appropriate word. Upon initial read of the language that has been stricken and replaced, the County does not interpret the language to keep the balance we think existed in the original language. The County does acknowledge that the rights of the worker are very important. Clark County is a service-based organization, as are all local governments in the State. We do have long-term employees and we are interested in getting them healthy and returned to work. We acknowledge that not all employers or insurers are created equal, but we do know that even Clark County is often maligned by stories that are anecdotal, understandably emotional and not always evidence-based. When we have conversations like this about balance and about systems, it is challenging because those anecdotal stories are often told on one side and insurers and employers are restricted in reciprocating with evidence that might be contrary or evidence of the other side of the coin. This shows the opportunity for abuse or fraud and liberal construction in favor of the employee. The County, upon initial reading of this, expresses opposition and does believe in balance. Evidence provided by the Department of Business and Industry, Division of Industrial Relations, demonstrates from 2003 forward, approximately 92 percent to 93 percent of all claims each year are accepted. It would be out of balance to exist in a world where 100 percent of all claims were accepted. There are claims submitted that should not be handled as occupational injuries.

CHAIR CARLTON:
What is your denial rate?

MR. FINGER:
Our acceptance rate is approximately 90 percent-plus. I will get the exact figures and send them to you.

JOAN BACKMAN (Benefits Manager, City of North Las Vegas):
Like the previous speakers, we were opposed to the bill prior to the amendment, as it was a dramatic change to a long-standing law. We appreciate the amendment as proposed and agree to the importance of getting the injured worker back to work soon so they can become a productive member of society.

CHAIR CARLTON:
Numerous letters of opposition to S.B. 366 were submitted: Victoria J. Robinson, M.B.A. SPHR, Manager, Insurance Services, City of Las Vegas (**Exhibit W**); Tom Marshall, Risk Manager, Washoe County School District (**Exhibit X**); Wayne Carlson, Executive Director, Public Agency Compensation Trust (**Exhibit Y**). Plus we received one analysis of the bill by Maggie Karpuk, National Council on Compensation Insurance, Inc. (**Exhibit Z**).

CHAIR CARLTON:
We will close the hearing on S.B. 366 and open the hearing on S.B. 254.

SENATE BILL 254: Makes various changes relating to ethical standards in real estate transactions. (BDR 1-31)

CHAIR CARLTON:
Senator Amodei had concerns about S.B. 254. Since he is absent, our Committee Counsel may be able to help.

DANIEL PEINADO (Committee Counsel):
Senator Amodei and I have not spoken yet about his concerns regarding the discipline of attorneys who must comply with the rules of real estate, but I did look into the legal ramifications and found no conflict. The attorneys would still be disciplined by the judicial system and we have case law to support that if Senator Amodei cares to review it.

SENATOR DENNIS NOLAN (Clark County Senatorial District No. 9):
Do I understand you are not formally in a work session?

CHAIR CARLTON:
No, but we can go into a work session right now if the Committee is ready.

SENATOR NOLAN:
There has been no opposition registered to me or the attorneys.

SENATOR HARDY MOVED TO DO PASS S.B. 254.

SENATOR COPENING SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR SCHNEIDER WAS ABSENT FOR THE VOTE.)

* * * * *

CHAIR CARLTON:
Senator Parks, do you have an amendment to S.B. 252 for discussion?

SENATE BILL 252: Revises provisions relating to solicitations of charitable donations. (BDR 52-843)

SENATOR PARKS:
I have a mock-up proposed amendment for S.B. 252, the bill on solicitation, and legal counsel has been assisting us in repairing the conflict over the compelled speech argument (**Exhibit AA**).

MR. PEINADO:
We have had ongoing discussions with the American Civil Liberties Union (ACLU), regarding their concerns on compelled speech. In advance of the last hearing, we drafted a mock-up we believed would have been in full compliance with the First Amendment as the ruling was provided by the U.S. Supreme Court in *Riley v. National Federation of the Blind* brought to our attention. However, we created an additional mock-up which would further mitigate the required speech that is permissible.

So we have two alternatives, the least intrusive alternative being that if an organization were asked about the percentage of contributions remaining in state for the particular charity, the solicitor could be required to disclose that amount. That is only in response to an inquiry by the person who is being solicited. Under a more robust disclosure requirement, even unsolicited, they would have to disclose they were employed by a professional solicitation company. They may have to provide the address and, if requested, provide the

percentage of the dollar amount of the contribution going to the charity. Either of these alternatives will work. The ACLU continues to express their objection to any type of compelled disclosure at all.

SENATOR PARKS:
We could go with either mock-up; I prefer proposed Amendment 4401 because it puts a greater requirement on the solicitor.

CHAIR CARLTON:
Which amendment are you referring to? We only have one in front of us, mock-up Amendment 4101.

SENATOR HARDY:
What is the penalty if they fail to disclose and how do they prove they disclosed?

MR. PEINADO:
This is under chapter 598 of NRS, having to do with deceptive-trade practices.

SENATOR HARDY:
I think this is too broad-reaching. If someone intentionally misleads the public, I do not have a problem, but this puts an obligation on the nonprofit. This would not apply to my organization, because we do not solicit this way. I think we need better language addressing complaints and establishing deceptive-trade practices. It puts too much burden on everybody else.

SENATOR PARKS:
Would Senator Hardy prefer a little less restriction?

SENATOR HARDY:
I would have to get help from our Committee Counsel. We are trying to get to one group that is abusing the process and misrepresenting themselves. It is probably already in the deceptive-trade practices language. We should not put the burden on everybody. As I read it, that only applies to solicitors saying they are representing law enforcement officers or professional firefighters; everyone else is under section 1, subsection 1, paragraphs (a) through (d) of proposed Amendment 4101. If the person purports to be benefitting law enforcement or firefighters, and is asked, that is just dealing with the percentage of total contribution. The other would put additional requirements on the March of

Dimes, etc. Is it a violation of the deceptive-trades practice to misrepresent yourself?

CHAIR CARLTON:
How do you know unless you can ask those questions?

SENATOR HARDY:
When they call, I ask them very specific questions. When I determine they are misrepresenting themselves, I hang up on them. You do not have to contribute if the questions you ask are not answered satisfactorily.

MR. PEINADO:
If someone engages in an act that is fraudulent, we can find a provision to prohibit and punish them.

SENATOR HARDY:
Maybe we could make it specific under deceptive-trade practices, instead of putting these requirements into this bill.

SENATOR COPENING:
I was looking up the definition of solicitation. I had thought this was solely for the purpose of phone conversations, in which case I think we need to address all the fraud that takes place over the phone. This type of dictated language would cover that, but after looking at section 1, subsection 2, paragraph (d), subparagraph (4), it includes a face-to-face meeting. I work with nonprofits and I would be unable to have a casual conversation soliciting for those nonprofits without stating their full legal name, the state they were formed in, the purpose of the organization, etc. We may want to narrow what solicitation means so there are not unintended consequences. The problems are happening with the phone solicitations and I do think they need to be addressed.

CHAIR CARLTON:
That was discussed in the original hearing. We could make this apply just to phone solicitation. I do not believe that would be prohibited.

SENATOR HARDY:
That would help. If we need to say specifically this kind of falsification is a violation of deceptive-trade practices, I am comfortable with that. When you

phone someone, you should have to say I am representing XYZ nonprofit, out of Minnesota, and what we do is .... Would that take care of it Senator Parks?

SENATOR PARKS:
Certainly.

CHAIR CARLTON:
So it would read beginning in section 1, subsection 1, "a person representing that he is conducting or executing a phone solicitation for or on behalf ..." or would we need to do something else?

MR. PEINADO:
We already have chapter 599B of NRS applying to solicitation by telephone, so we will just drop this provision into that chapter or another section already applicable.

SENATOR HARDY:
Would it still be a violation of deceptive-trade practices?

MR. PEINADO:
I would have to take a look at exactly what the violation would be termed, but that would be the appropriate path.

CHAIR CARLTON:
So it will move from NRS 598.1305 to NRS 599B?

MR. PEINADO:
Correct, and without further confusing the issue, I will note that within this existing section there is already a definition of solicitation, which includes telephones. There are also provisions prohibiting misrepresenting one's self.

SENATOR HARDY:
This would require you to identify yourself, and most of the legitimate ones already do.

CHAIR CARLTON:
Mr. Peinado, with you understanding what this amend and do pass will actually encompass, we will not have to repeat anything discussed. Senator Parks, are we fine with this?

SENATOR PARKS:
Yes.

SENATOR HARDY MOVED TO AMEND AND DO PASS AS AMENDED S.B. 252.

SENATOR COPENING SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR CARLTON:
Next we will discuss S.B. 228.

SENATE BILL 228: Revises provisions governing the ownership or operation of a dental office or clinic. (BDR 54-651)

CHAIR CARLTON:
This is the only dental bill that had no opposition. This was the ownership of a dental office in concert with a nonprofit; it was supported by the proponents, the Board of Dental Examiners of Nevada and the Nevada Dental Association.

SENATOR COPENING MOVED TO DO PASS S.B. 228.

SENATOR RHOADS SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR CARLTON:
Senator Parks, we are only missing one member of the Committee; we will proceed with S.B. 283.

SENATE BILL 283: Revises provisions governing the rights of domestic partners. (BDR 11-1100)

SENATOR PARKS:
I have two handouts for the Committee: a proposed mock-up Amendment 3676 to S.B. 283 (**Exhibit BB**) and a proposed amendment replacing section 8 of S.B. 283 (**Exhibit CC**). On Friday, February 27, we saw a roomful of individuals who wanted Nevada State law to recognize them and their feelings for each other. This bill establishes domestic partnerships for all individuals who are not married or cannot qualify. Today's amendment, **Exhibit CC**, deals with section 8 of S.B. 283 and three subsections. The revision reduces the amendment down to two subsections, not three. Subsection 1 says, "The provisions of this chapter do not require a public employer in this State to provide health care benefits to or for the domestic partner of an officer or employee." Subsection 2 says:

> Subsection 1 does not prohibit any public or private employer from voluntarily providing health care benefits to or for the domestic partner of an officer or employee upon such terms and conditions as the affected parties may deem appropriate.

Section 8 takes all fiscal notes out of the bill.

SENATOR SCHNEIDER:
You provided a list of domestic partner benefits in other states. Is it optional in other states like your amendment proposes here?

SENATOR PARKS:
Many states handle it differently. When they initially established their statutes, they had a provision saying if domestic partners wanted benefits, it would be at their expense. Some states have moved beyond that and found the benefits are minimal in costs. It is not prohibitive for the states to provide.

> SENATOR SCHNEIDER MOVED TO AMEND AND DO PASS AS AMENDED S.B. 283.
>
> SENATOR COPENING SECONDED THE MOTION.
>
> THE MOTION CARRIED. (SENATORS RHOADS AND HARDY VOTED NO.)

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CHAIR CARLTON:
We will open the hearing on S.B. 361.

SENATE BILL 361: Revises provisions relating to employee leasing companies. (BDR 53-1125)

CHAIR CARLTON:
The concern we had was if an employee is injured on the job, who should be notified. Ms. Foley said she would address that issue in an amendment.

HELEN A. FOLEY (National Association of Employee Leasing Companies):
We believe we did address that on page 12 of the amendment. We gave the employee the choice to notify his immediate supervisor on the job or to notify the leasing company. The amendment states, "A leased employee's claim is not barred if he gives notice to his client company supervisor, rather than to his leasing company supervisor" (**Exhibit DD**).

CHAIR CARLTON:
I believe that addresses the issue.

MR. WILES:
We have been working with Ms. Foley to resolve our concerns and one of the concerns we had was identifying the employer in this scenario. It is important because our finding authority in NRS 616D.120 stems from the defined categories, one of which is employer. Because the bill introduced some ambiguity for workers' compensation purposes and could call our finding authority into question, Ms. Foley has agreed to revise NRS 616D.120 to add employee leasing companies into that statute. We believe that will take care of any future ambiguities that might arise from bad actors who might try to circumvent the regulatory scheme by contending we are not really an employer because of the way this bill is structured. We would like to recommend that for the Committee's consideration.

One other concern we are looking at is the master policy. We have been assured we will be able to verify coverage, but we have never used a master policy before.

CHAIR CARLTON:
Do you have anything to propose in writing?

MR. WILES:
I can provide a revision to NRS 616D.120 by adding in the employee leasing companies in the appropriate areas. I will have it for you by tomorrow.

CHAIR CARLTON:
We can do it verbally and look at the language later as long as we all understand and are in agreement.

MS. FOLEY:
We agree to that amendment.

SENATOR PARKS:
On page 12 of the proposed amendment, lines 38 through 40, what would be considered fail-safe protection for the employee?

MS. FOLEY:
What will happen now is the employee leasing company will make sure they notify in clear language, in a very conspicuous place, how the employee should handle a job injury. They will know that they can notify their job supervisor and can, but do not have to, notify the leasing company.

SENATOR RHOADS MOVED TO AMEND AND DO PASS AS AMENDED S.B. 361.

SENATOR SCHNEIDER SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

* * * * *

CHAIR CARLTON:
We will open the hearing on S.B. 388.

SENATE BILL 388: Revises provisions relating to insurance. (BDR 57-1131)

SCOTT J. KIPPER (Commissioner of Insurance, Division of Insurance, Department of Business and Industry):
You have the latest mock-up proposed Amendment 3889 for S.B. 388 in front of you (**Exhibit EE**, original is on file in the Research Library). Starting in

section 3.3, there is a change, as requested by Mr. Wadhams and his clients, which would make the license disclosure the same for resident licensees as nonresident licensees.

CHAIR CARLTON:
I think the Committee was comfortable with that.

MR. KIPPER:
Under section 3.5, discussing surplus lines, this amendment will allow a posting of surplus line brokers on the Division of Insurances' Website. Section 4.5 increases the coverage provisions under the guarantee association from $100,000 to $250,000 for beneficiary's present cash values for annuities. We think this is a reasonable amendment to reflect current values. Section 10.5 is amended to address, under viatical settlements, the fact that a trust shall not cause to be procured or hold an insurance contract upon the life of a beneficiary. This gets away from stranger-originated life insurance and creates a better viatical structure program for the State, **Exhibit EE**.

CHAIR CARLTON:
Are the same safeguards built-in?

MR. KIPPER:
Yes they are. Section 11.5 is amended to delete the garnishment of proceeds paid from an annuity. This excellent program suggested by Mr. Wadhams protects the consumer against bankruptcy or similar programs.

SENATOR HARDY:
Does this include the language of S.B. 112?

SENATE BILL 112: Revises provisions relating to the provision of health benefits by employee leasing companies. (BDR 53-622)

MR. KIPPER:
We are not to that point yet, but our bill does include language that is comparable to, but not exactly, S.B. 112. Under section 21, the proposed amendment makes it the purchaser's responsibility for payment of premiums and costs if the insured returns to health. If an insured has been diagnosed to be terminally ill but returns to good health, those premiums and costs are still the responsibility of the purchaser of that policy. Section 25 says the broker of

a viatical settlement shall not knowingly solicit an offer from those controlled by viatical settlements. Section 28 is a clarification; the original draft said certificates of authority were issued which is actually a license, not a certificate.

Section 33 addresses the definition of purchaser of viatical settlements; we removed the provision allowing a trust to own a viatical. We have seen problems in other states where the trust was the originator; it must be a real person.

CHAIR CARLTON:
Do we allow trusts to buy other insurance?

MR. KIPPER:
There are times a trust is used for estate planning; if there is an insurable interest, then they are allowed.

Section 43 covers contractual agreements between the provider and purchaser of viatical settlements. These are disclosure issues to consumers. The existence of an affiliation, the identity of the purchaser and other issues in the section must be disclosed for consumer protection. In section 59, subsection 5 was struck. It said group health insurance policies must contain a provision paying benefits for the treatment of alcohol and drugs; this is picked up elsewhere. These were in reference to federal mandates we are required to adopt to maintain our ability to oversee Health Insurance Portability and Accountability Act (HIPAA) policies.

Section 65 says the Commissioner of Insurance is no longer personally responsible for examining title companies; he may designate one of his representatives. Section 66 has been deleted by the proposed amendment. Section 68, subsection 3, was deleted in reference to the federal mandates and picked up later. Section 68, subsection 7, addresses the same issue. Section 71, subsection 5, is about benefits that might be subject to garnishment. The life insurance proceeds cap has been struck. This has been discussed with Mr. Wadhams.

Section 77, subsection 5, addressed the State negotiating policies through licensed insurance agents domiciled in Nevada, in regard to a counter-signature issue. The State risk manager agreed to add this language back into the bill so negotiations still must be done through a Nevada agent.

SENATOR HARDY:
We are adding the provisions of S.B. 112 and I have stated for the record that I am happy to consider any amendments to close any perceived regulatory loopholes we may have created by allowing employee leasing agencies to provide this insurance, but I do not want to remove the ability for them to do it. This is similar to what the union programs have and it should be available to small businesses as well. I will not support the bill if that portion is included. If we remove the ability for small businesses to access health insurance, we will not be able to provide the type of insurance President Obama envisions for small businesses in Nevada.

MR. KIPPER:
If the Committee wants to use S.B. 112 as the vehicle for this language, we ask that you delete the references to that language out of S.B. 388 and use S.B. 112 instead. In regard to allowing employee leasing companies to have a single employer plan, as was amended in the 74th Legislative Session, we are in favor of S.B. 112 removing that provision. The federal government has stated the single employer plans for employee leasing companies are not in compliance with Multiple Employer Welfare Arrangement (MEWA). We would not have oversight. The regulatory framework, as envisioned by the U.S. Congress, gives states the ability to have oversight on MEWA programs that are used by employee leasing companies, but each employer must hold an individual policy. We will work with Senator Hardy on developing a program to assist small businesses in obtaining insurance. States around the country are looking for solutions.

SENATOR HARDY:
If we are unable to do that because of federal laws, that is one thing, but I have asked for details and information on why the public is more exposed here due to oversight than they would be under one of the union programs, and no one has responded to me.

CHAIR CARLTON:
I think it is hard to compare these plans with a union plan. I believe the language being addressed here protects the people of Nevada by making sure any plan they have is functioning properly.

SENATOR HARDY:
The union plans are very fine programs and I want to be able to provide that kind of coverage, but the protections are not there, any more than they are in these plans, even though federally watched. I have difficulty removing this option for small businesses and will vote accordingly.

MS. FOLEY:
I have discussed this with the insurance commissioner and while the employee leasing companies I represent support S.B. 112 and what your intention was, we do not like the language in S.B. 388, section 78, because it inadvertently defeats the purpose of what we just accomplished in S.B. 361. You just allowed us to let some of these groups bring in their own workers' compensation insurance policies, and now this says the employee leasing company is responsible for sponsoring and maintaining workers' compensation insurance. That would defeat one of the things we just sponsored. We would prefer you use the identical language that you have in S.B. 112.

CHAIR CARLTON:
You mentioned section 78. I do not see a section 78.

MS. FOLEY:
It was not included in this mock-up. I do not think he meant to exclude it; he was just going over the changes that were made.

CHAIR CARLTON:
Mr. Kipper, I do not want to put your bill in an awkward position as far as dealing with these issues. What would the Committee like to do? I have no problem with the commissioner's language.

MR. KIPPER:
We will entertain a change to mirror the exact language of S.B. 112 in the appropriate section of S.B. 388.

CHAIR CARLTON:
I am sure Senator Hardy will still be opposed.

SENATOR HARDY:
I would prefer to pull it out of this bill and deal with it as a policy matter in S.B. 112, but I do not want us to be in violation of federal rules and regulations.

I still have not received satisfactory answers as to why the public is more vulnerable to these insurance plans than they are to others that are currently available.

CHAIR CARLTON:
Commissioner Kipper, can you get that information for Senator Hardy?

MR. KIPPER:
I will attempt to.

SENATOR HARDY:
I hate to hold up the commissioner's bill as there are important points in there, so I will just indicate for the record that I suggest we pull that section out and deal with them in S.B. 112.

CHAIR CARLTON:
I would prefer to deal with it in this bill, just so we can keep it moving.

MS. FOLEY:
As employee leasing companies nationally, we will say for the record that we would very much like this bill to pass. Right now, we believe Nevada law is very unclear. The U.S. Department of Labor says Nevada employee leasing companies are MEWAs, not Employee Retirement Income Security Act plans, and what happened in the 74th Legislative Session was incorrect. They said we should not have such a nebulous law; we should set it back to the way it originally was.

CHAIR CARLTON:
I would like to remove the insurance commissioner's language dealing with this, take the language from S.B. 112 and insert it into S.B. 388, and pass the bill that way. Are there any questions?

JAMES WADHAMS (Nevada Association of Underwriters):
This morning my clients saw a problem that could be addressed in this bill. I discussed it with the staff and the commissioner, and would like to submit a one-line amendment (**Exhibit FF**).

MR. KIPPER:
I have no objection.

MR. WADHAMS:
Only one or two of the Committee members were present shortly after the U.S. Congress passed HIPAA. Pursuant to that, Nevada processed through this Committee, and the counterpart committee, the language that you see on these two sections. One is individual health insurance, NRS 689A, and the other is small group insurance, NRS 689C. The purpose of the HIPAA was that anyone who applies to be in a small group must be issued the insurance. We call it guaranteed issue. It was a very important move in its time; we may see more of that in this administration. The issue in subsection 3 of NRS 689A.710 was designed to prevent insurance companies from attempting to steer the business that might be less attractive away from their company, so they could focus on the more attractive businesses. It was contrary to the purpose of HIPAA.

There are two sentences in the existing law and the staff at the Division of Insurance feels there could be some variations that could slip between those two sentences. The line I have added to my exhibit is, "Any agreement that does not reflect the full risk underwritten by the carrier shall be deemed void." It is consistent with the concept of prohibiting insurance companies from entering into agreements with brokers that would steer the business they do not want, away from them. It should be guaranteed issue, and to work fairly, any company you apply to must issue that insurance.

MR. KIPPER:
I concur with the suggestions made by Mr. Wadhams and the Nevada Association of Underwriters. It does level the playing field as far as commissions are concerned and it addresses the issue of potentially steering less desirable business to a particular carrier. We support this amendment.

I was requested by the Nevada Justice Association to submit their written amendment to section 6 of S.B. 388 (**Exhibit GG**). This addresses the make-whole doctrine, and more clearly represents the concept of the make-whole, making sure the rights of the insured are not subrogated until the benefits are paid and the insured has been reimbursed for his economic loss. Sometimes, if there is a third party involved, the consumer may be held hostage while the two insurance companies squabble over the balance due. This clearly defines that role. We concur with the clarity this amendment brings.

CHAIR CARLTON:
Does this substantially change the policy that was in here?

MR. KIPPER:
I would say that this does not change it, but it clarifies the original intent of the language.

SENATOR PARKS:
Reading section 68 of the original bill, I would like a fuller explanation of NRS 694C.310.

MR. KIPPER:
This provision was a package of small amendments we wanted in the bill to enhance corporate governments. Subsection 3 of section 68 talks about a person serving as a member shall not transact business or provide service for a fee or other compensation to the captive insurer. Since this language was originally drafted in 2008, the Division has had numerous discussions with members of the captive industry and there was a suggestion to address this via a regulation. We have had significant discussions on that regulation and are close to having some agreement with the captive industry to put this concept into a regulation. If we do come to agreement, we will ask to drop this language.

CHAIR CARLTON:
Do you have a time frame?

MR. KIPPER:
We are waiting for a formality, perhaps as early as tomorrow.

MR. PEINADO:
I have to go back to the Nevada Justice Association amendment. They are asking to bring in the concept of economic losses. In legal terms, that can extend well beyond the types of things that would ordinarily be covered under health coverage and health insurance. I wanted to understand the scope of reimbursement being contemplated. Are we talking about wages, lost profits or some other economic losses?

BRETT BARRATT (Insurance Counsel, Division of Insurance, Department of Business and Industry):
Mr. Peinado, you are correct. The intent here is that the insured be made whole, not to include noneconomic damages, such as punitive damages, pain and

suffering, items of that nature. We are talking about out-of-pocket medical expenses.

MR. PEINADO:
I will incorporate that in the amendment.

CHAIR CARLTON:
Committee, with all the discussion we have had on this bill, I would prefer to move the bill now.

SENATOR SCHNEIDER MOVED TO AMEND AND DO PASS AS AMENDED S.B. 388.

SENATOR COPENING SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR HARDY VOTED NO.)

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SENATOR HARDY:
I will continue to try to find a way to make insurance affordable for small businesses. I saw this as an opportunity to bring this within people's reach.

SENATE BILL 193: Revises provisions governing dealers in antiques. (BDR 54-1069)

CHAIR CARLTON:
There were no proposed amendments to S.B. 193. The City of Reno has withdrawn its concerns. Senator Mathews wore them down.

SENATOR COPENING MOVED TO DO PASS S.B. 193.

SENATOR PARKS SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR RHOADS WAS ABSENT FOR THE VOTE.)

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CHAIR CARLTON:
We will now go to S.B. 363.

SENATE BILL 363: Revises provisions relating to death benefits paid to surviving spouses under industrial insurance. (BDR 53-1130)

CHAIR CARLTON:
An amendment was brought forth to clarify what date this benefit would start (**Exhibit HH**). The intent was, on the date the police and firefighters received this benefit, everyone else would receive the benefit as well. It will go back to the original date.

KELLY S. GREGORY (Committee Policy Analyst):
The bill stipulated the benefits would not begin until October 1, 2007.

CHAIR CARLTON:
So this bill will reflect the same.

SENATOR HARDY:
Does this go back and pick up everybody going forward?

CHAIR CARLTON:
Whatever happened after October 1, 2007, will be encapsulated in this legislation.

SENATOR HARDY MOVED TO AMEND AND DO PASS AS AMENDED S.B. 363.

SENATOR SCHNEIDER SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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SENATOR HARDY MOVED TO AMEND AND DO PASS AS AMENDED S.B. 335.

SENATOR SCHNEIDER SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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There being no further business, the Senate Committee on Commerce and Labor meeting is adjourned at 6:09 p.m.

RESPECTFULLY SUBMITTED:

_____
Carol Allen,
Committee Secretary

APPROVED BY:

_____
Senator Maggie Carlton, Chair

DATE:_____