

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

**Seventy-Sixth Session
March 16, 2011**

The Committee on Commerce and Labor was called to order by Chair Kelvin Atkinson at 1:33 p.m. on Wednesday, March 16, 2011, in Room 4100 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4401 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at www.leg.state.nv.us/76th2011/committees/. In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (email: publications@lcb.state.nv.us; telephone: 775-684-6835).

COMMITTEE MEMBERS PRESENT:

Assemblyman Kelvin Atkinson, Chair
Assemblyman Marcus Conklin, Vice Chair
Assemblywoman Irene Bustamante Adams
Assemblywoman Maggie Carlton
Assemblyman Richard (Skip) Daly
Assemblyman John Ellison
Assemblyman Ed A. Goedhart
Assemblyman Tom Grady
Assemblyman Crescent Hardy
Assemblyman Pat Hickey
Assemblyman William C. Horne
Assemblywoman Marilyn K. Kirkpatrick
Assemblyman Kelly Kite
Assemblyman James Ohrenschall
Assemblyman Tick Segerblom

COMMITTEE MEMBERS ABSENT:

Assemblyman John Ocegüera (excused)

GUEST LEGISLATORS PRESENT:

None

STAFF MEMBERS PRESENT:

Marji Paslov Thomas, Committee Policy Analyst
Sara Partida, Committee Counsel
Andrew Diss, Committee Manager
Earlene Miller, Committee Secretary
Sally Stone, Committee Assistant

OTHERS PRESENT:

Donald E. Jayne, Administrator, Division of Industrial Relations,
Department of Business and Industry
Steve Coffield, Chief Administrative Officer, Occupational Safety and
Health Administration, Division of Industrial Relations, Department
of Business and Industry
Debi Koehler-Fergen, Private Citizen, Las Vegas, Nevada
Marychris Rodriguez, Private Citizen, Las Vegas, Nevada
Danny L. Thompson, Executive Secretary-Treasurer, Nevada AFL-CIO
Jack Mallory, representing International Union of Painters and Allied
Trades District Council 15 and Southern Nevada Building and
Construction Trades Council
Randy A. Soltero, representing Sheet Metal Workers Local Union No. 88
Robert A. Ostrovsky, representing Nevada Resort Association
Paul McKenzie, representing Building and Construction Trades Council of
Northern Nevada
Greg Esposito, representing Plumbers, Pipefitters, and HVACR
Technicians Local 525 in Las Vegas and Local 350 in Reno
David Kersh, Government Affairs Representative, Carpenters/Contractors
Cooperation Committee
Mandi Lindsay, representing Las Vegas Chapter, Associated General
Contractors of America
Billy Naylor, Divisional Safety Director, McCarthy Building Companies,
Las Vegas, Nevada
Tyson Hollis, Safety Director, Martin Harris Construction, Las Vegas,
Nevada
Jason Carll, Member, Local Safety Committee, Nevada Chapter,
Associated General Contractors of America
Dave Backman, Member, Nevada Chapter, Associated General
Contractors of America

Lee Phillips, Safety Manager, PENTA Building Group, Las Vegas, Nevada
Frank Goettlich, Safety Manager, New-Com, Inc., Las Vegas, Nevada
Paul Cracknell, Director of Safety, WestCor Companies, Las Vegas,
Nevada

Tray Abney, representing Reno Sparks Chamber of Commerce
Pat Sanderson, representing Laborers International Union Local 872
Samuel P. McMullen, representing Las Vegas Chamber of Commerce
Shan Davis, Attorney, Duane Morris, LLP, Las Vegas, Nevada

Chair Atkinson:

[The roll was taken, and a quorum was present.] We have three bills, [Assembly Bill 253](#), [Assembly Bill 254](#), and [Assembly Bill 255](#), which will all be presented by Assemblywoman Carlton.

Assemblywoman Maggie Carlton, Clark County District No. 14:

I will go through all three bills, address the different changes, give the Committee members the information they need, and answer their questions.

Chair Atkinson:

I will open the hearings on [Assembly Bill 253](#), [Assembly Bill 254](#), and [Assembly Bill 255](#).

[Assembly Bill 253](#): Makes various changes concerning fines and settlement agreements relating to occupational safety and health. (BDR 53-100)

[Assembly Bill 254](#): Revises provisions relating to the issuance of a citation for certain occupational safety and health violations. (BDR 53-101)

[Assembly Bill 255](#): Revises procedures relating to certain accidents occurring in the course of employment. (BDR 53-102)

Assemblywoman Carlton:

Thank you for hearing these three bills together. The bills are on behalf of the Legislative Commission's Subcommittee to Review the United States Department of Labor's Report on the Nevada Occupational Safety and Health Program. I would like to have Mr. Jayne give the Committee a brief historical overview of what has happened in the past couple of years, so you can frame where this support came from and understand the issues being addressed. The executive summary ([Exhibit C](#)) and the work session document from the Subcommittee ([Exhibit D](#)) are before you, so you can gain perspective on all of the different issues addressed through the three meetings of the Subcommittee.

Donald E. Jayne, Administrator, Division of Industrial Relations, Department of Business and Industry:

One of the responsibilities of our Division is the Occupational Safety and Health Administration (OSHA) state program. We are also responsible for workers' compensation enforcement, the Safety Consultation and Training Section (SCATS), and mining safety and training. Today we are focused on OSHA in Nevada. I was approached by federal OSHA officials who wanted to take a new approach as to how they oversee and interact with their state plans. About 26 of the states and territories have a state plan, as opposed to a state-federal OSHA plan. Nevada went through an extensive process to adopt a state plan. It put the State of Nevada in some control of the direction we take and allows us to make decisions on a local basis. As long as we are as effective as the federal program, the state programs can operate on their own. The federal agency is desirous of increasing and changing its oversight.

Region 9, which is our federal region, approached us about doing a special study in lieu of its statistical review. I agreed to that because it would give me an opportunity to have outsiders with expertise in OSHA look at our operations to see how we were doing. The special study was conducted and completed in about July 2009. Steve Coffield, the Chief Administrative Officer for Nevada OSHA accepted the leadership role in September 2009. We have been trying to get the recommendations in the special study resolved. We have been trying to change some of the dynamics within OSHA, and we believe we are making progress. The report was a very laborious document to review. There were 57 recommendations in the special study for Nevada OSHA. All but eight of them have been resolved. In the resolved category monitoring, we meet with federal OSHA at regional meetings quarterly to conduct reviews. We monitor our programs with our own quality assurance to be sure they stay consistent. The items that are not resolved are either long-term in nature, such as long-term training approaches, or recommendations about the adequacy of the pay scale. There are some long-term issues that we will continue to work on. For instance, there are three issues about the proper construction of our investigation files.

We have come a long way in resolving those issues that need to be monitored, and we feel the State of Nevada took an aggressive approach to responding to the federal study. Part of Nevada's approach was to meet with the Legislative Subcommittee that then-Senator Carlton chaired. Assemblyman Conklin and Senator Washington were also on that Committee. We reviewed our status on the findings several times. Those meetings became a forum for more than just the special study, and I compliment the Chair for encouraging it and being open to those hearings. We were allowed to have other interested parties attend and heard testimony on a variety of subjects.

Some of the results of that Subcommittee are embodied in the bills before you today. Not everything in the bills came from the special study; much came from the Subcommittee which exercised oversight of the testimony and information brought forth at that time. The original threshold would probably be the very visible series of deaths on the Las Vegas Strip, but it was not only on the Strip. There was a multitude of major projects going up in southern Nevada during an unprecedented boom in building. It was a precursor to having many people on job sites 24 hours per day, seven days per week that resulted in some of the breakdowns and in the very visible deaths. That is why we originally attracted some attention from federal OSHA.

Assemblywoman Carlton:

These are all good bills, but they are not perfect. Due to time constraints, rather than sending them to be redrafted, I will address the issues that are encapsulated in the bills about which we may need more debate. We are not sure how some of the issues came about, and how some of the things came out of drafting.

In Assembly Bill 253 an issue was brought forward in the discussions. The management of the settlement agreements revealed there was no real enforcement other than going to district court. One of the recommendations that resulted from the work session document was to allow that to be a fineable offense. If you agree to a settlement agreement and do not follow through on it, it can be a fineable offense. That is what section 1 of the bill does. Section 4 addresses fines for employers of more than 25 employees and employers of 25 or fewer employees. I do not believe that was ever a topic of discussion in our recommendations. I assume this compares with other language in other provisions and is the reason it was inserted there. I am not sure how it came about, but it is one of the issues that will need work.

Chair Atkinson:

Please go through all three bills.

Assemblywoman Carlton:

There was a question about the fine amounts; I believe those are fines that had been proposed in federal legislation and were taken from there.

Assembly Bill 254 arose from conversations about being able to have a safety violation when an employee is not in imminent danger. An example of this is if there is a hole in the decking that is not cordoned off, and the employee does not know it is there, he could fall through the hole for two or three floors onto a concrete slab. Whether there is an employee there or not, there is still a hole in the floor and someone could get hurt. Being able to address the issue, whether

or not there are employees present, it is a hazard, and we are trying to have that hazard be a violation so that the employees will be protected. In section 1 of the bill, on line 18 of page 2, it says, "A citation issued under this section may be based upon: (a) The observation of a violation by the Administrator or the Administrator's authorized representative during an inspection," and it goes on about the "depositions of witnesses, interviews or and other reasonable evidence." I believe one of the concerns is that this would be totally retrospective and go back into history and allow possibly unsubstantiated claims. That is not the intent. The intent is upon an enforcement activity or during an inspection. It is not to allow a person to go back a year or two. I believe that, under the operations manual an agency uses, they have a period of about six months to work on violations and citations. We want to make sure, if there is a hazard that could be a violation, that it is remedied so no one gets hurt. That is the intent of this bill, and we realize that some changes in the language are needed on page 2 in lines 21 through 26.

Assemblyman Conklin:

Under section 1, which is *Nevada Revised Statutes* (NRS) 618.465, when you say "language changes," are you talking about the first or second section?

Assemblywoman Carlton:

I am talking about lines 21 through 26 in subsection 2(b). The language we had discussed with interested parties was "direct observation of a violation during an enforcement activity." We are not sure and still have to do some investigation with Legal.

Assemblyman Conklin:

I asked because I think others may have problems with that. I wonder if there needs to be some amending in section 1 where it says "believes." If that were tightened, you could fix both the prospective and retrospective view so there is a concrete reason for a person to chose to investigate. I offer that as a potential change.

Donald Jayne:

As Assemblywoman Carlton said, we know we do not have perfect language here, but we know our intent. Our intent is when we directly observe a hazard. Maybe we need to address the word "believe" or some of the new language in the new section. I want to continue to work with the Subcommittee to create some language that gives us better response when we see a situation, but also to provide the employers protection so this cannot be used to create, in retrospect, a situation which no longer exists. Section 1, subsection 2(b) was meant to support the new language in subsection 2(a). It would define how we would exercise that observation by having interviews and depositions. We need

to marry that language properly to firewall this nuisance. It is intended to get hazards removed, have a safe workplace, and to be able to issue a citation.

Chair Atkinson:

Are there any questions from the Committee?

Assemblyman Grady:

What will this bill do that you cannot do now?

Assemblywoman Carlton:

I will use the example of the hole in the decking. It has no barriers or safety net. There may not be an employee on the floor at that moment, but there are employees working around it or below it who may encounter that hole. This will allow an inspector, upon inspection of that property, to say that even without an employee present, there is a violation because there is a hole with no warnings or netting. Currently, if an employee is not in imminent danger, the inspector cannot address the problem. This will allow an issue to be addressed on the site even if an employee is not directly involved but could possibly be exposed and hurt.

Assemblyman Grady:

If an OSHA inspector is on a job site and sees a violation, he cannot cite for that violation if an employee is not present?

Assemblywoman Carlton:

He cannot. Mr. Coffield will address the regulations he must follow when he encounters something like that.

Steve Coffield, Chief Administrative Officer, Occupational Safety and Health Administration, Division of Industrial Relations, Department of Business and Industry:

Under the existing federal regulations in the federal operations manual, which we use with some minor changes, we have to have immediate employee access to a hazard before we can address it. In the construction field, at which this is primarily directed, we play games. We have to have an opening conference with the employer, and by the time we get to the areas being inspected, everyone is on a break and there is no one around because they know we have to have that kind of exposure in order to cite the employer. We point out to him that it is a violation, but you will not find someone who will admit that he was just working next to the hazard. This will help us to address those situations.

Chair Atkinson:

Are there any questions from the Committee?

Assemblyman Hardy:

As a construction business owner, I have full-time safety personnel. They have quoted somewhere in our resource manuals that the employee has the obligation and the authority to address anything that is unsafe within the business. Why do the inspectors not have the authority to address the issue? This seems to be throwing the onus back on the employer when the employees have the same responsibility to look out for those issues.

Assemblywoman Carlton:

Is that in your employee handbook?

Assemblyman Hardy:

That is in the employment manuals that come from the state.

Steve Coffield:

We would agree with you, and that is how we would prefer to see the process work—employees working with their supervisors to identify things in their continually changing environment. The only people who will be aware of what is going on in an immediate area are the people who are working in that area. That is how a good program works. We are talking about programs that may be less than adequate and where some people are playing the game of keeping the OSHA inspector and his ability to cite, away from the hazard.

Assemblyman Hardy:

We completed a bridge about eight months ago. During the process, we had good safety records and responsibility. What is there to protect a contractor from other contractors who regularly turn them in to OSHA for violations? For example, we were reported for pouring concrete without proper equipment such as safety glasses, and we had not even poured concrete the whole week. Your people were very supportive of it, but it is a waste of your time when people in competition use these complaints to create additional issues. Some of these things continue to stack up against the business owner.

Assemblywoman Carlton:

I understand what you are talking about. Those types of things happen. We do not make the rules for the good guys; we make the rules for the bad guys. I disagree that anyone should use a regulatory body to get even with another entity. That is not why regulatory bodies are there. They are there to protect the public, contractors and workers alike. They should not be misused like that and we have tried to address that in the past. Unfortunately, no matter how many laws we make, we still have people breaking them.

Assemblyman Daly:

Will the bill address a situation where people are working in a ditch that is not properly shored, or does not have access ladders, and the inspector can tell someone has been working there in unsafe conditions, but everyone is out of the ditch when he arrives? Would this bill, with this language, allow the inspector to write a citation?

Assemblywoman Carlton:

That would be my intent and the intent of the Subcommittee.

Assemblyman Daly:

That is what this language is intending to do. Thank you. It is my understanding that it is the employer's responsibility to provide a safe workplace for his employees. Employees work under a competent person with experience and knowledge and the ability to recognize a hazard and who has the authority to stop the work on the project. Not every employee has that authority. It is the employer's responsibility and does not carry to the employee unless you have that competent person.

Steve Coffield:

You are correct. Not every construction task requires the use of a competent person, but trenching, excavation work, and scaffolding do require a competent person.

Assemblyman Ellison:

Under the OSHA 30 training courses that employers have had to take, the instructors say it is mandatory that whenever an OSHA inspector arrives, you must have a plan at every job site and have staging, braces, barriers, and everything in place, or you will be fined. Is this not in direct conflict with your training under OSHA 30?

Steve Coffield:

We have to contend with the legal issues to make sure we have completed our due diligence and that the due process for the employer is intact. Although it says that and it is the intent, we still have to prove that a hazard existed and an employee had immediate access to the hazard.

Chair Atkinson:

Are there any questions from the Committee?

Assemblywoman Carlton:

Assembly Bill 255 was not intended to address injuries, but was intended to address fatalities. Last session, we had two comprehensive bills. We had

Assemblyman Ocegüera's bill, Assembly Bill No. 148 of the 75th Session, which addressed many training issues, and Senate Bill No. 288 of the 75th Session, which allowed for notification of family members. This is a passionate issue. Some people want to be involved with the process of the investigation of what happened to their loved one. This bill addresses some of those issues. This is a true balancing act because some families want a voice and to have access to what is going on. This bill tries to address those concerns. It has been said that if you involve the family, the employer may not attend. They have the opportunity to not participate now and bypass the informal conference. This was my humble attempt to help individuals who had lost a family member have access to the process that deals with the death.

Chair Atkinson:

Are there any questions from the Committee? I see none.

Donald Jayne:

This is an area where we have a difference of opinion from the Subcommittee. I will be willing to work with the individuals involved.

Chair Atkinson:

You could not do that before today?

Donald Jayne:

We have not been able to work that out but will continue to work on it.

Assemblywoman Carlton:

I would like to reiterate that it is only for fatalities. We have others to speak in support of A.B. 255. I have not seen the other amendments, so I reserve comments on them.

Chair Atkinson:

Did anyone speak to you about the amendments, particularly the ones proposed by the Associated General Contractors of America (AGC)?

Assemblywoman Carlton:

I had a conversation with the AGC during the interim, but I have not spoken to them since and have not seen the amendments. I hope they are close to what we tried to address in these bills. I have two mothers who were impacted by some of these issues to testify.

Chair Atkinson:

We will hear from the proponents of A.B. 255.

Debi Koehler-Fergen, Private Citizen, Las Vegas, Nevada:

I am here today as a mother to speak on my son's behalf and in his memory. I am here for Nevada's workers as well as families from around the country that have suffered the loss of a loved one due to a preventable workplace accident.

[Continued to read from prepared testimony ([Exhibit E](#)).]

To say that an increase in the amount of fines would be bad business is simply not true on a measureable scale. Companies are not going to close their doors the day the fines increase. In my opinion it is a lie and an exaggeration. I think it is a scare tactic, but that is my opinion.

Assembly Bill 254 has been addressed. I was a construction site administrator. I saw a lot of things and I knew a lot of things. As soon as anybody knew that OSHA was coming on site, everyone left their job site, because they knew that OSHA could not do anything unless there was a clear hazard present. That bill will be a tremendous help to stop that from happening. I know a mom whose son worked at the Palms. His foreman sent him to work on another floor. He left and never came back. He was found several floors down after he fell through one of those holes that was not guarded.

[Continued to read from prepared testimony.]

I respectfully ask each of you to please give very careful consideration to those things that are being asked in these bills, the changes that are being asked to be made, and especially the family portion.

Chair Atkinson:

Thank you for your testimony, and we are sorry for your loss. Are there any questions from the Committee? I see none.

Marychris Rodriguez, Private Citizen, Las Vegas, Nevada:

I am the mother of 20-year-old Vicente Rodriguez, who fell to his untimely death at the Hollywood Theatre at the MGM Grand in Las Vegas on May 20, 2009. He fell from a totally insane wooden plank system suspended by cables which masqueraded as a proper catwalk. This was an in-house fix coming from a multibillion-dollar company aided by an incompetent and negligent veteran superior who was the first to break every OSHA rule and regulation. Assembly Bill 255 is personal to me because in any other fatality that occurs outside of the workplace, family members are interviewed and included in the investigation. We were not even contacted through a proper channel. We had to learn about the death by gossip hours after it occurred. In a workplace, the death remains in the shadows, and based upon my experience, the family is

excluded from any information or participation. Family members could provide a wealth of information to the investigator, because it is natural for a worker to converse at home about his job, including the good and the not-so-good aspects of it.

Currently, questions are asked and statements are taken only from people with financial ties to the company. This is unreliable since the motivation is to protect the employer and one's job. In theory, one should not get fired for shining an unflattering light on the company by telling the truth. The reality is something else altogether. This is strictly controversial and one-sided to me. Most often, it is a pattern that is repeated and not corrected by management. In my son's case, various family members work in the same field and, based on that, we knew that the rules were thrown out the window. Every job has certain procedures, so we were familiar with those. The nearest lifeline to my son was 52 inches out of reach. My son was instructed to balance on a rounded top rail with 33 inches of false ceiling beneath him. The only witness to the incident stated in two reports, the coroner's report and the OSHA report, that he pointed to where Vicente should hook up, and when he turned there was a hole where the decedent should have been. This was immediate. This was the direction from someone that when asked why he sent Vicente out there, said he wanted to take him under his wing.

Vicente was not hired to perform the duties of a high rigger, but to remain on the ground to load out the Tom Jones show. The superior took it upon himself to take the worker to a location where he had never been, with minimal lighting, and had him balance on a rounded top rail. Five seconds out of this man's life would have saved my son's life. He was the one who had worked there for eight years and knew exactly where everything was. Even all of those amazing acrobatic performers who are in the best physical shape do not go to the apex of the theater and hook themselves up. They have riggers to help them. By this man's own account, he was not wearing a harness and jumped across the plank. By whose authority was this person in a position to give directions? These are not the actions of a prudent person, to place a person in a dangerous situation. The vigilance was nonexistent. I am more concerned that this is how they always did it. Since my son was working for a subcontractor and was to work on the ground, not as a high rigger, this man decided to apply a hypocritical code of safety so that Vicente would not be able to come home to tell the family over breakfast the next day, "You have no idea what I was asked to do at the MGM last night almost 40 feet up in the air. They had me jump across a false ceiling to land on a 9-inch wooden plank which was suspended by cables and held down by a clamp over the pit of doom. It is crazy, huh, Mom?"

This is precisely why I support and strongly urge all of you to support this bill. Another important point is that the fines and settlements currently in place would be laughable if they were not connected to something as fatal as a death. The Federal Communication Commission gives \$325,000 fines for indecent content in radio broadcasts, and you have a death with a ridiculously low fine. I can speak only of my personal anguish, but this death was created by a lack of state safety standards that most likely went unnoticed or ignored and was totally preventable.

Chair Atkinson:

Thank you and again, we are sorry for your loss. Are there any questions from the Committee? I see none. Are there others to testify in favor of these bills?

Danny L. Thompson, Executive Secretary-Treasurer, Nevada AFL-CIO:

We are in support of these bills and understand that they did not come out of drafting exactly like they came out of the Subcommittee. Before this Subcommittee was set up, we had unprecedented growth on the Las Vegas Strip and an unprecedented number of fatalities in a short period of time. They were not exclusive to City Center. The cases you have heard from the mothers who testified were very unfortunate situations that were totally preventable. A lot has been done since that time. There has been a very critical report by the federal OSHA. I served in this Legislature when we had federal OSHA in Nevada and did not have the state plan. Nevada did a lot of work to get the state plan in place. We served a probationary period and were finally turned over to our state plan, and the federal government was not involved. It required that the state have the minimum requirements of the federal OSHA. No one wants to go back to those days when we had the federal government doing our state plan.

As a result of the fatalities and the cases you just heard, the federal government did an audit of our system and wrote a very critical report. The federal government can take over our plan if we do not comply or if they do not believe that we are complying with the law. It is either yes or no. I serve on the OSHA Advisory Board and the Labor Management Board that works with the Division. Since these things happened, we have changed the OSHA Administrator, and Mr. Coffield is doing an outstanding job in my estimation. We have changed the administrator of the Division and there have been some major changes made there. We do not want the federal government to take over our state plan. We are in support of these bills and think these are minimal steps. We would be happy to work to make the changes needed for these bills. These are good bills that are not going to hurt anyone or close anyone down because they are written to address the people who are breaking the law.

Chair Atkinson:

Are there any questions from the Committee? I see none.

Jack Mallory, representing International Union of Painters and Allied Trades District Council 15 and Southern Nevada Building and Construction Trades Council:

I share Mr. Thompson's compliments of Nevada OSHA and the change they have made. They have been very open and honest with us and very helpful with our organization, particularly in addressing some specific issues related to one of our contractors. I sent an email with four pictures attached to the Committee members.

[Read from prepared testimony ([Exhibit F](#)).]

I would like to bring attention to the four pictures which are attached to my email ([Exhibit G](#), [Exhibit H](#), [Exhibit I](#), and [Exhibit J](#)). Each of these four pictures shows something that, if an inspector sees it, is a violation. If the one employee is not standing on top of the buckets when the inspector arrives, it is not a violation. There is clear evidence that a violation was happening. The man standing on the single scaffold plank that is on an extension ladder with the other end on a window sill is a violation if the OSHA inspector sees it, but if the worker is not up there and the inspector walks through that facility, there is no citation issued because it is not a violation under current law. The state's OSHA investigators need additional tools to be sure workers on job sites in Nevada are safe.

[Continued to read from prepared testimony.]

An active safety program, with real-world training specific to the worksite or tasks being performed, and employees having the ability to ask that safety issues be addressed, without fear of retribution, is important to changing the safety culture in the state.

Chair Atkinson:

Are there any questions from the Committee?

Assemblyman Horne:

After looking at your photos, I am concerned about scenarios such as the man standing on the paint buckets. If the employer provided a ladder and the employee did not use it, the way the bill is written, the employer is penalized. I am not opposed to increased fines for employers who are not providing the proper equipment and training. I understand that all of them are going through

OSHA training. If that is not the case, the employer is being penalized for the conduct of an employee.

Jack Mallory:

It is ironic that you point out this picture because if you look in the foreground you will see a three-step horse-type ladder that was available to the worker. Assemblyman Hardy made a good point earlier when he spoke about having a safety program with specific documents that are issued to employees. When you go beyond that with specific training, you can potentially address these issues and will not have people standing on buckets to do their work when a ladder is readily available. Regarding your question about A.B. 253, it is specifically for willful and repeated violations. This picture does not depict a scenario that is a willful or repeated violation. Unfortunately, under current federal law, the employer is ultimately responsible for the safety and conditions on the job site. If I were the employer, I would fire this employee.

Assemblyman Horne:

Would repeated violations be the same type of violation or multiple violations of different types?

Jack Mallory:

There are a number of different examples of repeated violations. One of the other pictures is a man using a T-shirt instead of a proper respirator.

Steve Coffield:

A repeated violation occurs when the same standard has been violated more than one time and has been upheld through the appeal process within the past five years.

Chair Atkinson:

I am going to appoint a subcommittee to address some energy bills. The first meeting of the subcommittee will be on March 23 at 4:30 p.m. in Room 4100. The subcommittee will consist of Assemblywoman Kirkpatrick, Assemblywoman Bustamante Adams, Assemblyman Hickey, Assemblyman Goedhart, and me, with Assemblywoman Kirkpatrick chairing the subcommittee.

We will go back to the testimony on these bills.

Randy A. Soltero, representing Sheet Metal Workers Local Union No. 88:

We are in complete support of all three of these bills with the proposed changes. We see this as finishing the job that was started two years ago. We feel that is very important and that some of the things that were not passed last session could be passed this session.

Robert A. Ostrovsky, representing Nevada Resort Association:

I am the Chairman of the Advisory Committee over OSHA and serve on the Advisory Council to the Division of Industrial Relations. I am also a trustee on the Stagehands Local 20's training trust and know about high rigging. I think Mr. Coffield has done an admirable job stepping into a difficult situation with the support of Don Jayne, the Administrator. I have concerns about these bills, but they are not insurmountable concerns.

Chair Atkinson:

Are you in support of these bills or do you want some things fixed first?

Robert A. Ostrovsky:

I need some things fixed.

Chair Atkinson:

We will finish with the support for these bills first.

Paul McKenzie, representing Building and Construction Trades Council of Northern Nevada:

Our builders are in support of this legislation. We believe that safety on the job sites is important, and giving OSHA the tools it needs is a major concern for us. I also serve on the Advisory Council to the Division of Industrial Relations and have seen Nevada OSHA make major strides to meet the demands placed on it by the federal report.

Chair Atkinson:

Are there any questions from the Committee?

Assemblyman Ohrenschaal:

One of the witnesses talked about the culture of safety and how he has built the culture of safety. Several years ago, I had a friend who worked for a general contractor on one of the large projects in Las Vegas. He told me that before they even started that they projected ten workers would die on the project. Do you think if these bills passed, it might change the culture with that protection?

Paul McKenzie:

If a contractor starts a project with that mind-set, they do not have the culture of safety. I worked for several contractors, and every one of them felt that every man who showed up on the job was going to go home in the same condition as he arrived in that morning, except tired. That is the culture of safety I enjoyed working in when I worked in the construction industry. I hope that all construction companies have that culture of safety and apply it.

The reason this legislation is needed is because the employer may contract out to someone who feels that losing 10 people on the job over a five-year period is an acceptable loss. I do not think one life is worth any job that could be done in the state.

Assemblyman Ohrenschall:

I could not agree with you more.

Chair Atkinson:

Are there any questions from the Committee? I see none.

Greg Esposito, representing Plumbers, Pipefitters, and HVACR Technicians Local 525 in Las Vegas and Local 350 in Reno:

We are in support of these bills. I am fortunate to work for and with contractors that take their safety records and programs very seriously. Unfortunately, I have worked for a few contractors that do not care about the safety of the workers. They care about the production, and I have the scars to prove it. These bills will increase the awareness of safety on the jobs because if the contractors understand that they may be hit in the pocketbook, they will pay closer attention to their practices. We are in support of these bills. As Assemblywoman Carlton said, let us not let something that is not perfect prevent something that is good from passing.

Chair Atkinson:

Are there any questions from the Committee? I see none. Is there anyone else to testify in favor of these bills?

David Kersh, Government Affairs Representative, Carpenters/Contractors Cooperation Committee:

We are here to show our support for the three bills, and I want to echo the comments made by the representatives of the other organizations. These bills will promote safer construction job sites. Each bill addresses parts of the OSHA law that need to be modified to ensure a vigorous compliance and a more efficient enforcement process. These are not job-killer bills that will hurt business or send workers to the unemployment lines. They are needed to make sure that the jobs that are available are safe jobs.

Chair Atkinson:

Are there any questions from the Committee? I see none. We will move to the opposition.

Mandi Lindsay, representing Las Vegas Chapter, Associated General Contractors of America:

I am here to express the Associated General Contractors of America (AGC) opposition to A.B. 253, A.B. 254, and A.B. 255 as written and to ask you to entertain AGC's proposed amendments for each bill respectively ([Exhibit K](#), [Exhibit L](#), [Exhibit M](#)). I would like to thank the sponsors of these bills for their underlying desire to improve safety in Nevada's workplaces. It is very admirable. I would like to apologize to Assemblywoman Carlton for her not having seen our amendments prior to this hearing. We have shared our amendments with Nevada OSHA.

Chair Atkinson:

Are you going to go over these amendments one by one? Is AGC in support of the bills with your amendments?

Mandi Lindsay:

We would support all three of the bills with our amendments. Two years ago, AGC represented more than 700 member companies and conservatively represented 50,000 employees working in the greater Clark County area. Today AGC represents 500 member companies and less than 20,000 employees. As you know, the construction industry has absorbed 90,000 of the 180,000-plus jobs shed in Nevada to date. As individuals with the fingers on the pulse of issues plaguing Nevada, I do not need to tell you that Nevada's once second-largest industry is on its back. I am here to convey that resource-intensive regulations will not accelerate the construction industry's recovery, and therefore, will not decrease Nevada's staggering unemployment numbers any time soon.

To address AGC's proposed amendments, I have several safety directors, one from a large general contractor, one from a commercial general contractor, and one from a smaller residential company, to talk about some of their concerns. Assembly Bill 253 as written raises penalties. Under section 2, AGC is proposing ([Exhibit K](#)) to leave the current fine structure of not less than \$5,000 and not more than \$70,000 for willful or repeated violations. The increase proposed by the bill would be a 71 percent increase in maximum penalty by going from \$70,000 to \$120,000 and is not sustainable. If this passes unamended, more companies will go out of business and lawmakers can expect more construction workers to become unemployed. A few of my members are here to give some specific examples. You will notice that AGC left section 4's proposed penalty increases unchanged. The Associated General Contractors and its safety-minded companies agree to an increase in penalties for employers who are willful in the death of an employee.

Assembly Bill 254 as written authorizes OSHA to issue a citation for a violation that relies on depositions of witnesses and interviews, or other reasonable evidence, in the absence of the observation of a violation. Our amendment ([Exhibit L](#)) removes section 1, subsection 2(b) in its entirety and adds the word "direct" to subsection 2(a). The recommended new language should be "The direct observation of a violation by the Administrator or the Administrator's authorized representative during an inspection." If this language passes as currently written, employer costs will skyrocket because businesses will be forced to defend themselves against violations issued by way of false accusation and hearsay when an imminent hazard was never observed. This is problematic for us.

Assembly Bill 255 restructures the current OSHA participation process for families of the injured or deceased. One of our primary concerns ([Exhibit M](#)) in this bill was the inclusion of the term "injured employees." That was never intended to be included in this bill. If that is removed, it will eliminate our concern. We have proposed in our amendment to clean up the steps that are being proposed. We feel that section 1, subsection 1(b) as written would impede what should be an unbiased fact-finding process needed to conduct an investigation. We propose to amend subsection 1, paragraph (b), subparagraphs (2), (3), and (4) by elimination as well as section 3, subsection 2 in its entirety.

I would like to close by saying A.B. 253, A.B. 254, and A.B. 255 all alter the way OSHA oversees employers in an effort to increase safety. These bills do not just impact construction employers, however. The construction industry and AGC in particular would like to remind the Committee of its unwavering support in 2009 in passing Assembly Bill No. 148 of the 75th Session, which is the bill that required OSHA 10 and OSHA 30 training every five years as a condition of employment in the construction industry. We would like to ask this Committee to allow that training requirement an opportunity to prove itself before adding more regulation. We are willing and ready to work with the sponsors of this bill and would appreciate the Chair's direction on how to move forward with finding some amenable language.

Chair Atkinson:

You can work with Assemblywoman Carlton on these issues. Are there any questions from the Committee?

Assemblyman Conklin:

Why did you choose to delete the language in A.B. 254 in section 1, subsection 2(b)? If you are going to delete that, you may as well delete subsection 2, because subsection 2(a) is implied in subsection 1. I am not

saying the language in subsection 2(b) is exactly correct, and I understand the concerns of having an aggressive competitor filing a false claim. The choice makes the bill moot. For example, an investigator, during a random investigation, has just cause to ask a question. You are suggesting, by deleting this language, that he has no right to ask that question; he must observe the violation or be done with it. The investigator has no authority to ask a question. I think we can write something that suggests there needs to be just cause. This deletion is precarious and you might as well say the bill cannot be fixed.

Mandi Lindsay:

Our biggest concern in subsection 2(b) is in the absence of the observation of the violation by the Administrator or the Administrator's authorized representative. There is something that could be worked out on this language that would be amendable to our group. The main issue is in the absence of observation. Your and our concerns could be worked out.

Assemblyman Conklin:

We should talk about it. There are going to be some things where you do not have a direct observation and we have to accept that. Because we do not have a direct observation of the absolute violation does not mean that it is not happening. If you are a company that is more concerned about the bottom line because the cost of the violation is so low and the cost of following the law is perceived as greater than the violation, there needs to be a reasonable way for an investigator to prevent a death. Watching a violation is too late to prevent a death. Do you agree?

Mandi Lindsay:

I would agree.

Assemblyman Conklin:

There has to be a middle ground that provides fair protection for the contractor to be unhindered in the ordinary course of his business, but also provides fair protection for employers and the company to find a violation when the company has an employee who is not paying attention. I would be eager to work with you and the Chairwoman of the Subcommittee to work on that language. It is important or we might as well leave it out.

Mandi Lindsay:

I think some middle ground could be achieved.

Chair Atkinson:

Are there any questions from the Committee? I see none. Is there anyone else to testify?

Billy Naylor, Divisional Safety Director, McCarthy Building Companies, Las Vegas, Nevada:

I oversee all the safety operations throughout the State of Nevada and Utah for our company. We feel that these are reactionary laws to particular incidents which occurred and are not a fair assessment of our industry as a whole. Our company takes great pride in our safety program. We empower our employees through education, onsite training, and the OSHA 10 and OSHA 30 training, which gives them the education level to be able to identify hazards. We support them in any manner to set down any work where there is a hazard and bring it to our attention so it can be fixed. In A.B. 254, my biggest concern is whether a disgruntled employee takes the opportunity to revolt against the company and give untrue information when an OSHA inspector is on the job.

As a company, we are forced to spend more time and money to prove something that is not true. This is why the OSHA investigator must observe the employee being exposed to a hazard. In A.B. 255, our concern is when you are in an informal conference, which is the first stage after you receive an OSHA violation, that it is a fact-finding situation for the contractor to go through the information. This will be hard when there is a person in the room who has an emotional attachment as well as legal representation. We could see the informal process being taken away completely and going directly to the court system. In return, the contractor is going to have to spend more money, as will OSHA and the family member. The due process will not be able to take place. Hopefully, you will recognize that keeping our workforce safe is my first priority, and I am confident that we can do this in a way that keeps Nevadans gainfully employed.

Chair Atkinson:

Are there any questions from the Committee? I see none.

Tyson Hollis, Safety Director, Martin Harris Construction, Las Vegas, Nevada:

I want to discuss the worker's exposure to a hazard. If we have an exposure and the worker does not see it, we need that situation changed. In reality, an inspector in a situation where there are no workers present will find something that shows that a worker was working there. This is already in place with no increase in legislation; those situations will be addressed and we will see citations from them. Concerning the informal opening conference, I am already emotionally involved because it involves one of my workers; you want facts and it is informal. When a family member is there, I will not say anything without legal representation. An informal conference is not a pleasant experience. We are grilled on why the incident occurred and what the details were. We have that to go over facts and take the emotion out and not include hearsay. If OSHA already has procedures, why do we need increased

legislation? We need to enforce what is on the books without increasing legislation that adds requirements that are unnecessary.

Chair Atkinson:

Are there any questions from the Committee? I see none.

Jason Carll, Member, Local Safety Committee, Nevada Chapter, Associated General Contractors of America:

I work for Baselite Corporation, a local manufacturer of concrete products. My concerns about A.B. 255 are that no one needs to deal with a fatality. Everybody loses. We need OSHA to do its job well and we need to do our job well. I agree that bringing the emotional side into the discussion with family members will not help. It will be difficult for the company, for the workers, and for the family. The investigation should be left to the professionals and to the facts, so they can fix it so hopefully it will never happen again.

If Assembly Bill 254 is changed, it could get better. Perception is scary.

Regarding A.B. 253, we need OSHA. It keeps workers safe. I work for a safe company and am proud to be part of the OSHA Sharps Program and the Safety Consultation and Training Section. Those proactive tools help us keep our workers safe. That is where the money, time, and effort should be spent. The fine of \$70,000 is a lot of money. I do not agree with the increase to \$120,000 for fines.

Chair Atkinson:

Are there any questions from the Committee? I see none.

Dave Backman, Member, Nevada Chapter, Associated General Contractors of America:

I am a private business owner, and my heart goes out to those who testified earlier regarding the loss of life. That would be the worst possible scenario for any business owner that I know. We at AGC pride ourselves on our members who take all of these things seriously. We give awards to companies that take safety seriously and hold them up to others to say this is how you do it. The payback is the respect of your peers. You can sleep at night without worrying about what is going to happen tomorrow. The intent of this effort is to provide a safe workplace for the workers and employers. This is what we are about, at least at my company. We run a clean operation and safety is at the top of our list. It is always the unintended consequences that have been talked about in opposition to this bill. We look forward to putting the AGC hat back on and working with Assemblywoman Carlton to clean up these things. I have been party to fraudulent claims where OSHA was called as a payback for being laid

off or for some other reason. We work closely with OSHA and call consultation out on every job so we can have that extra set of eyes to make sure we are doing it right. I agree with Jason that time would be better spent up front. We are going to a lot of trainings to try to keep up with the regulations. I was in one yesterday for rigging, as were many OSHA personnel. At the end of the eight-hour day, no one was qualified. We were in a better position to be qualified. There are unintended consequences that the employer is leery of, and in this economic climate, this will add increased cost to doing business. That is a fear. The ones who are breaking the current statutes are always going to be breaking those statutes. I am not sure that this is the cure but look forward to working with OSHA and Assemblywoman Carlton.

Chair Atkinson:

Are there any questions from the Committee? I see none.

Robert Ostrovsky:

I would like to present my specific concerns in each bill. We have no concerns with A.B. 253 with the addition of settlement agreements to those areas which can be fined. Our biggest concern is in section 2, where the fines have been raised for both willful and repeated violations. They are two different things. I think when there is a willful violation there should be a big hammer. Should the hammer be the same size for someone who repeats a violation? A repeat violation could occur during the probationary period of five years and be subject to these high fines. I would like to talk with the parties about splitting willful from repeated and try to find some mitigating numbers. I think the numbers are too big, but I support an increase.

In Assembly Bill 254, regarding the investigations, interviews, and deposition of witnesses, as a member of the Advisory Committee, I know there are a lot of complaints reported to OSHA by employees that lead to nothing. A lot of people think there is a violation when there is not, or they may create a violation when there is not. There is some standard we could reach if a violation exists and an inspector can see it but cannot see the exposure of the employee to the violation; we should not make him wait to see it. There should be some mechanism to resolve that and be able to give a citation at the appropriate place. I will work with Assemblywoman Carlton to find some language to allow that to happen. Inspections by OSHA are, for the most part, unannounced. Once the inspector is there, he can schedule a return visit. I think there is language that can fix this. We would support A.B. 255 as amended if it applies only to fatalities.

Chair Atkinson:

Do you mean the agency's amendment?

Robert Ostrovsky:

I was referring to Assemblywoman Carlton's amendment that it would apply only to fatalities, not injuries.

Chair Atkinson:

Are there any questions from the Committee? I see none.

Lee Phillips, Safety Manager, PENTA Building Group, Las Vegas, Nevada:

The PENTA Building Group is a mid-sized general contractor based in Las Vegas with annual revenues of approximately \$300 million. The group is signatory with the carpenter, laborers, and concrete finishers unions and has built some of the largest and most complex projects in Las Vegas. We currently employ between 150 and 200 workers annually and have employed as many as 600 to 700 workers annually during the busier construction years. We currently have a number of high-profile projects underway in Nevada. As a safety professional, I realize that key legislative changes related to the industry can help reduce accidents and ultimately save lives. Based on the severity of the outcome, A.B. 253, section 4, subsection 1, which raises the fines for willful violations that result in the death of an employee to a minimum of \$50,000 and a maximum of \$250,000 with potential jail time, is completely justified and may be a deterrent for employers who take shortcuts that result in fatalities.

Other proposed language in all three bills may not achieve the desired effect as currently written, but instead may create adverse effects. Section 2 of A.B. 253 would have a severe financial impact on many Nevada contractors and subsequently will affect their number of employees and/or future employees. Raising repeat or willful violations to a minimum of \$8,000 and a maximum of \$120,000 may be counterproductive to creating safe contractors, as this amount of penalty risks putting smaller contractors completely out of business. A contractor might have a new employee who brings his own extension cord to the job site, unaware that his new employer has already been cited for an extension cord violation, and an OSHA inspector observes the bad cord. The inspector issues the contractor a citation, which is considered a repeat violation and is subject to a higher fine. This could cause the contractor to go out of business and his employees to be unemployed or move out of state for employment.

Section 1, subsection 1 of A.B. 255 poses similar problems with both the contractor and OSHA because it groups fatalities and injuries together. It would require the same amount of notification and administrative process for both

types of events. Under the current proposed language, the contractor would have to notify OSHA for each and every injury. It would require OSHA to notify the family, investigate the incident, send out documentation, schedule meetings, et cetera. This would be costly in time and resources to both parties and is unnecessary. I do not support the inclusion of the term "injury" in the bill and believe this language should apply only to fatalities. In this economic climate, we want to help create a safe workplace, not laws that would extend an economic recession. I appreciate your support and safety focus, which reinforce the efforts and culture of companies like ours.

Chair Atkinson:

Are there any questions from the Committee? I see none. We would like to hear any new information in opposition.

Frank Goettlich, Safety Manager, New-Com, Inc., Las Vegas, Nevada:

Our primary business is wastewater treatment facilities, airport improvements and expansions, a long and extensive list of casino projects, and public and municipal projects. In the past two and a half years I have witnessed a mass exodus of jobs and workers, which includes my company's workforce being reduced from approximately 600 employees to approximately 250 union-trained employees. This Committee's commitment to serve the public is commendable, especially during the current economic recession that has crippled this great State of Nevada. Your leadership is greatly needed to steer us in the direction of making sound decisions for the future that are self-sustaining instead of financially draining for the private sector. My position as a safety professional with over 20 years of experience in the construction industry is in opposition to all of these bills for the sake of the construction industry in Nevada, which is suffering because of the recession as well as the careless acts of a handful of contractors and their trained workers who failed to follow through with what they know was the right thing to do. The concern that OSHA shows up and everybody shuts down is not necessarily the case. There are a few cases, and those are the few that we as safety directors have to deal with it. General contractors have to deal with that because those citations may still be administered in a lot of situations even in their absence. General contractors may have to deal with multisite employer citations.

I see A.B. 253 as a deterrent that will reduce safety violations through the unfortunate means of reducing the number of companies that will be able to absorb such a crippling fine. It is predicated on the presupposition that the fortunate majority of businesses that are still working today during this recession are blatantly choosing to ignore the current OSHA requirements. This makes you guilty upon the arrival of the OSHA inspector. This may be true for a handful of contractors, but not for the majority. Even the best safety

programs are vulnerable to the possibility of receiving a willful or repeated violation in a period of five years. Electrical cord violations occur on every site. In this economy, a fine of that magnitude would bury a contractor and force many out of business. A contractor trying to maintain a margin of 3 percent would have to perform almost \$4 million worth of extra work to cover such a devastating fine if it is increased to only half of your proposed maximum fine. In reference to A.B. 254, each day as we walk our job sites, we address the hazards. The only way to remove all the hazards is to remove the workers. These sites are dynamic.

Chair Atkinson:

Are you in favor of the amendments from AGC?

Frank Goettlich:

Yes.

Chair Atkinson:

If you have something you want to submit in writing, we will make it part of our record, but we need you to finish.

Frank Goettlich:

I believe these bills are reactionary to a few. It is regulation that is not really addressing the issues. Safety is everybody's responsibility. Liberty Mutual Insurance recently reported that 2 percent of their workers' compensation claims were directly attributable to not having the correct training, 4 percent were the result of failed equipment, but 94 percent were because of the employee choosing not to do what he knew was right. Currently, employers are not allowed to perform random drug tests without giving the employee 30 days' notice, and then the entire site must be tested. Random drug testing is a real and tangible means to help protect employees. Other employees were revealed by our local paper to be drinking on their lunch break. There are things we can do internally. The Employment Policy Foundation revealed that 19 percent of the productivity slowdown in the 1970s was directly attributable to regulations imposed by OSHA and that nearly half of the slowdown in the long-term productivity can be explained by rising governmental regulatory activity. After this study, a more collaborative approach was adopted. Partnering programs became more prevalent, and businesses were able to expand and invest in the growing economy. This collaborative approach was also safety-successful.

Chair Atkinson:

Are there any questions from the Committee? I see none.

Paul Cracknell, Director of Safety, WestCor Companies, Las Vegas, Nevada:

We are a small- to medium-sized subcontractor made up of about three different trades with residential framing being the largest. We have just fewer than 300 employees, down from 1,000 in 2007. We are in opposition to these three bills. I am concerned with the repeated violations in A.B. 253. I do not have a problem with the willful violations. The language in A.B. 254 that assists Nevada OSHA in forcing settlement agreements is not only worthwhile but necessary. I have difficulty agreeing with the language that mandates a company to be cited for a violation that was not directly observed. This law will place unwarranted financial stress on companies that have not exposed an employee to a hazard. I think that adding the high emotions of the family of the deceased Nevada worker would only detract from the process that is already set up in A.B. 255. The entire State of Nevada is currently experiencing trying times, and I feel that these bills, although well intended, will have adverse effects on an already struggling economy.

Chair Atkinson:

Are you in favor of AGC's amendments?

Paul Cracknell:

Yes.

Chair Atkinson:

Are there any questions from the Committee? I see none.

Tray Abney, representing Reno Sparks Chamber of Commerce:

I signed in opposition, but I now agree with Mr. Ostrovsky's testimony.

Pat Sanderson, representing Laborers International Union Local 872:

I signed in as neutral. I attended the Subcommittee meetings and listened to the testimony. We are trying to protect Nevada companies as well as workers because of the OSHA reports. I look at these as preventative safety measures and know we have people here who can work these out. I am in favor of these bills but in a common-sense way.

Samuel P. McMullen, representing Las Vegas Chamber of Commerce:

We appreciate the work of the Subcommittee. We are comfortable with the amendments on A.B. 254 and A.B. 255 but have a concern on A.B. 253 that I do not think has been addressed. It relates to page 3, lines 10 and 18, where there is a departure from existing law. In the past we have wanted to maximize the discretion of the Division to enforce the law and to penalize people. By putting a minimum in there, you have basically said that any violation is a mandatory violation.

Chair Atkinson:

Are there any questions from the Committee? I see none. Is there any new information?

Shan Davis, Attorney, Duane Morris LLP, Las Vegas, Nevada:

I think the language in subsection 2(b) of A.B. 254 is harmful because it allows hearsay, which is excluded from any trial. I think allowing that provision to go forward could result in issuing fines that are based on evidence that is not admissible for trial.

Chair Atkinson:

Are there any questions from the Committee? I see none. Is there anyone else wishing to testify on these bills?

Assemblywoman Carlton:

These are tough, complicated issues. I will be happy to provide any information you need. Workers' safety is not for good times or bad times. It is to make sure that when you kiss your loved one good-bye in the morning to go to work, that he or she will hopefully come home that evening. I look forward to working with the interested parties. I will work with AGC and consider their amendments.

Chair Atkinson:

I am a little disheartened that an issue worked on during the interim had not heard this much opposition until now. I think it is horrible for the process. Some of these issues could and should have been worked out. I think there is a better way to handle these types of issues, and we should not be here today hearing all this on matters that an interim committee should have dealt with. I am really disappointed in that. We do not have a lot of time, and we have a lot more work to do in the Commerce and Labor Committee, so for everyone here, if you have issues with any of the bills in these committees, I would implore you to please talk to the sponsors, talk to the people who have these bills, and try to work things out before they come to the Committee. As we get closer to the deadline, we will not have time. I will not push out bad bills just because we do not have the time. I am glad we have the time for you to work this out, but this will not be the norm. I appreciate all of your work, Assemblywoman Carlton.

Assemblywoman Carlton:

It will be my priority, and I hope to get them back to you quickly.

Chair Atkinson:

Is there any other information to come before the Committee? Is there any public comment? Are there any other comments or questions from the Committee not related to these three bills? [There were none.]

We will close the hearings on A.B. 253, A.B. 254, and A.B. 255. Is there any other information to come before the Committee? Seeing none, the meeting is adjourned [at 4:07 p.m.].

RESPECTFULLY SUBMITTED:

Earlene Miller
Committee Secretary

APPROVED BY:

Assemblyman Kelvin Atkinson, Chair

DATE: _____

EXHIBITS

Committee Name: Committee on Commerce and Labor

Date: March 16, 2011

Time of Meeting: 1:33 p.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
A.B. 253 A.B. 254 A.B. 255	C	Assemblywoman Carlton	Executive Summary
A.B. 253 A.B. 254 A.B. 255	D	Assemblywoman Carlton	Subcommittee Report
A.B. 253 A.B. 254 A.B. 255	E	Debi Koehler-Fergen	Written Testimony
A.B. 255	F	Jack Mallory	Written Testimony
A.B. 255	G	Jack Mallory	Picture
A.B. 255	H	Jack Mallory	Picture
A.B. 255	I	Jack Mallory	Picture
A.B. 255	J	Jack Mallory	Picture
A.B. 253	K	Mandi Lindsay	Proposed Amendment
A.B. 254	L	Mandi Lindsay	Proposed Amendment
A.B. 255	M	Mandi Lindsay	Proposed Amendment