MINUTES OF THE
SENATE COMMITTEE ON COMMERCE, LABOR AND ENERGY

Seventy-sixth Session
February 23, 2011

The Senate Committee on Commerce, Labor and Energy was called to order by Chair Michael A. Schneider at 1:10 p.m. on Wednesday, February 23, 2011, in Room 2135 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to the Grant Sawyer State Office Building, Room 4412E, 555 East Washington Avenue, Las Vegas, Nevada. Exhibit A is the Agenda. Exhibit B is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Michael A. Schneider, Chair
Senator Shirley A. Breeden, Vice Chair
Senator David R. Parks
Senator Allison Copening
Senator James A. Settelmeyer
Senator Elizabeth Halseth
Senator Michael Roberson

GUEST LEGISLATORS PRESENT:

Senator Mark A. Manendo, Clark County Senatorial District No. 7
Senator Joseph (Joe) P. Hardy, Clark County Senatorial District No. 12

STAFF MEMBERS PRESENT:

Scott Young, Policy Analyst
Matt Nichols, Counsel
Vicki Folster, Committee Secretary

OTHERS PRESENT:

Larry Matheis, Nevada State Medical Association
Stacey Crowley, AIA, LEED AP, Director, Office of Energy, Office of the Governor
Rose McKinney-James, The Solar Alliance
Randell S. Hynes, Managing Partner, Nevada Solar Authority

Kyle Davis, Nevada Conservation League
Judy Stokey, Executive, Government and External Affairs, Government and Community Strategy, NV Energy
Joe Johnson, Sierra Club, Toiyabe Chapter
Rich Hamilton, President, Clean Energy Center
Monica Brett, Southwest Energy Efficiency Project
Paul McKenzie, Building & Construction Trades Council of Northern Nevada
Jim Groth, Point West Global Energy, LLC
John Griffin, Esq., Manufactured Home Community Owners Association
Marolyn Mann, Executive Director, Manufactured Home Community Owners Association
Jeanne Parrett, El Dorado Estates Mobile Home Park
James V. deProsse, Administrator, Manufactured Housing Division, Department of Business and Industry
Susan Fisher, Nevada Housing Alliance
Leo Poggione, Nevada Housing Alliance
Bob Varallo, Nevada Association of Manufactured Home Owners
Jim Blackwell, CEO, Housing Solutions, Inc.
Keith L. Lee, Board of Medical Examiners
Douglas C. Cooper, C.M.B.I., Executive Director, Board of Medical Examiners
Dianna Hegeduis, ESQ., Executive Director/Board Counsel, State Board of Osteopathic Medicine
P. Michael Murphy, Clark County
Fred Hillerby, Nevada State Board of Pharmacy
Marla McDade Williams, Deputy Administrator, Health Division, Department of Health and Human Services
Denise Selleck Davis, Executive Director, Nevada Osteopathic Medical Association

CHAIR SCHNEIDER:
We will open the hearing on Senate Bill (S.B.) 117. There is a proposed amendment submitted by Keith Lee (Exhibit C), Board of Medical Examiners, to consider.

SENATE BILL 117: Revises provisions governing the licensure of certain physicians. (BDR 54-194)

SENATOR SETTELMEYER MOVED TO AMEND AND DO PASS AS AMENDED S.B. 117.

SENATOR ROBERSON SECONDED THE MOTION.

SENATOR COPENING:
Can we get a quick overview of the issue and what we are changing?

LARRY MATHEIS (Nevada State Medical Association):
Senate Bill 117 addresses the issue of granting medical residents an active license to seek employment during their third year before they complete the residency. As it stands now, they have to wait for the residency to be completed before licensing. A unique situation in Nevada, medical doctors need to complete 36 months continuous medical residency to be licensed. The proposed amendment, Exhibit C, expands that to cover medical residents from other states and shortens the time line to get the information indicating they have successfully completed the program to the licensing board. We support the amendment.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR SCHNEIDER:
We will open the hearing on S.B. 59.

SENATE BILL 59: Increases the cumulative capacity of net metering systems operating within the service area of an electric utility. (BDR 58-408)

STACEY CROWLEY, AIA, LEED AP (Director, Office of Energy, Office of the Governor):
I would like to introduce S.B. 59 which proposes to increase the capacity of net-metering systems to 5 percent of a utility's peak capacity. The cap is set at 1 percent. "Net metering," is defined in *Nevada Revised Statute* (NRS) 704.769: "... the difference between the electricity supplied by a utility and the electricity generated by a customer-generator which is fed back to the utility over the applicable billing period."

The installation of renewable-energy projects around the State in recent years has demonstrated the success of the incentive programs offered by the utility company. I have provided you with my written statement (Exhibit D) which describes benefits such as the reduction of fossil-fuel-based energy

consumption and reducing the load on the grid. Ancillary benefits include an increased workforce, technology development and financial investment.

The Office of Energy, Office of the Governor, offers our services to the Chair to hold discussions with all interested parties. We welcome the opportunity to help the Committee and to work with other interested parties on a long-term holistic approach to the advancement of our renewable-energy industry.

ROSE MCKINNEY-JAMES (The Solar Alliance):
We offer our support for S.B. 59. The Solar Alliance is a national association of solar electric manufacturers, installers, integrators and financiers. We strongly support increasing the net-metering cap to 5 percent, a top priority for the 76th Legislative Session. Net metering is an important policy that will help Nevada lead the nation in solar installations. Ms. Crowley has outlined a number of reasons why this policy is consistent with the policy the State supports. She has offered to facilitate discussions on a variety of bills that deal with distributed generation loads and net metering. We will be happy to participate in those discussions.

SENATOR COPENING:
Can you explain how a net-metering cap works for those using renewable energies?

MS. MCKINNEY-JAMES:
Net metering is a process by which customers can generate either solar or wind energy at their sites. They remain connected to the grid, recognizing that both wind and solar energy are intermittent resources. In most cases, they generate more energy than they need and the additional power goes into the grid for broad use. Generally, when we use a renewable resource, we are not using a fossil fuel; therefore, we reduce the amount of fossil fuels used to provide that power. In some jurisdictions, the word “net” is the amount of power that is generated beyond what is used and is accompanied by a monetized credit. In this jurisdiction, we are granted a credit for the excess.

Presently, the statute limits us to 1 percent of the peak capacity of the utility within a service area. We are asking that the capacity to be increased to 5 percent and to provide a greater number of opportunities for customers to participate in the net-metering program.

RANDELL S. HYNES (Managing Partner, Nevada Solar Authority):
My partners and I have spent the last two years advocating with Solar Forces, a nonprofit corporation founded to train Nevadans on how to design, sell and install solar-power systems. We have trained about 1,500 workers and licensed, through OSHA, about 600 individuals with a photovoltaic installer license. We started Nevada Solar Authority, a system and integration engineering company, to bring more affordable equipment to the state to bring down the costs of solar energy.

I will read my statement into the record (Exhibit E) in support of S.B. 59. We are concerned about the 5 percent distributed generation loads. A Navigant Consulting report to the Public Utilities Commission of Nevada last month (Exhibit F) indicated a 9 percent distributed generation load would have no negative impact on NV Energy's network if spaced properly. We also are inclined to recommend a 9 percent cap for an ample 700 megawatt net-metered market.

KYLE DAVIS (Policy Director, Nevada Conservation League):
Our organization supports S.B. 59. The Nevada Conservation League is a coalition of 17 environmental conservation groups throughout the State. The focus on distributive generation is one of the organization's priorities for this Session. This bill has benefits of reducing consumption of fossil fuel and, with the infrastructure in place, will create new jobs.

JUDY STOKEY (Executive, Government and External Affairs, Government and Community Strategy, NV Energy):
We support the Office of Energy director's proposal to work with all interested parties on numerous bills regarding net metering and distributed generation.

Nevada has had a net-metering program for some time. We have increased the distribution generation percentage in previous legislative sessions. We are not opposed to increasing this percentage, but believe we need to work with all the parties to determine the correct percentage.

We agree the program is good. Over time it has changed and increased dramatically. The 1 percent cap is in the mid- to high-70 megawatts for the State. We currently are at over one-half of that 1 percent, and believe it will continue to increase in popularity.

NV Energy is amenable to working with interested parties and encourages renewable energy. We want to be sure the consumers and workers of Nevada are not harmed with increased rates by doing so. We are not opposed to increasing the percentage but need to work on establishing the correct number.

JOE JOHNSON (Sierra Club, Toiyabe Chapter):
We support distributive generation, the net-metering program and the concept of S.B. 59. However, there is a problem with distributive generation at low levels. The existing statute, NRS 704.7822, was meant to stimulate the development of distributive generation, but gave photovoltaic systems a particular advantage over other systems with a 2.4 multiplier. In essence, if we go to 5 percent, we lower the ultimate number of megawatts of portfolio required participation. If you expand the 5 percent to 20 percent with a 2.4 multiplier, you will meet approximately one-half of your portfolio with empty kilowatt hours. This is a concern of the Sierra Club that needs to be addressed.

RICH HAMILTON (President, Clean Energy Center):
After my discussions with Ms. Crowley, I want to voice strong support for an increase in the net-metering caps. As mentioned before, it will increase the amount of work done in the State. It will help Nevada have a more stable environment to plan business and move forward in the future.

Additionally, I was the wind-energy representative for the Navigant study. We came up with a few numbers, and 9 percent was the middle ground. The NV Energy system is quite robust physically and capable of holding a large amount of renewable energy. It is more of an economical issue, rather than a mechanical issue. We can do much because we have a utility that builds things better than anyone else.

CHAIR SCHNEIDER:
We will close the hearing on S.B. 59. We will open the hearing on S.B. 60.

SENATE BILL 60: Revises provisions relating to the Fund for Renewable Energy, Energy Efficiency and Energy Conservation Loans. (BDR 58-410)

MS. CROWLEY:
I want to present S.B. 60 to propose the expansion of the use of the Fund for Renewable Energy, Energy Efficiency and Energy Conservation Loans (Fund).

I have provided my written statement in support of this bill (Exhibit G), which includes a proposed amendment to NRS 701.595 and a list of projects that have been funded.

The Fund is a low-interest-rate loan program providing financing for renewable-energy projects in Nevada. The fund originated from an $8.3 million American Recovery and Reinvestment Act (ARRA) grant through the Office of Energy.

The Office of Energy has received 22 applications in response to 3 rounds of requests for proposals. Out of those applications, 15 projects have been funded by 9 applicants, Exhibit G, with the ARRA stimulus funds.

Only renewable-energy projects are able to take advantage of this program as stated in NRS 701.595. We believe the original intent of the Fund was to include energy efficiency and conservation projects as indicated in the Fund name. We have offered an amendment to the language in S.B. 60 to add those project types to the program as stated, Exhibit G.

We are pleased with the success of the revolving loan fund program created with good foresight during the 75th Legislative Session. We look forward to helping more renewable-energy and energy-efficiency projects with funding and putting Nevadans to work.

SENATOR COPENING:
Ms. Crowley, in the proposed amendment for the end of section 8, subsection 6 reads, "The Director is to give preference to large projects as determined by the adopted regulations ... ." Do the adopted regulations currently state they should be large projects, and if so, why? What about smaller start-up projects?

MS. CROWLEY:
The regulations do not prefer large projects at the moment. What we propose, if S.B. 60 is approved, is that regulations be revised to add that language. We have heard concerns that there are incentive programs and other subsidies available for smaller, energy-efficiency projects, weatherization, etc. There was concern the Fund should concentrate on larger projects.

MR. DAVIS:
We support S.B. 60 and believe it is an appropriate use of these funds to continue to invest in projects that will reduce our consumption of fossil fuels.

MR. HAMILTON:
We strongly support S.B. 60. One important item Ms. Crowley mentioned is the allowance of loans to be used for manufacturing jobs. It is a highly competitive world and our State needs to have that one "edge" to draw out that one other company to come to Nevada. If they have access to capital, it could be what will draw business to Nevada.

Additionally, allowing the director to favor the larger projects having a better return on investment will give Nevadans a better return on the tax dollar.

MONICA BRETT (Southwest Energy Efficiency Project):
We support S.B. 60. The inclusion of energy efficiency and energy conservation to the language is a huge improvement. Using these funds to prevent energy waste will also create jobs, especially with the large-scale commercial retrofit side of things. It also makes Nevada more attractive in the commercial real estate market. Many companies are looking for commercial properties that have these attributes.

PAUL MCKENZIE (Building & Construction Trades Council of Northern Nevada):
We are in favor of S.B. 60. We also supported legislation in S.B. No. 152 of the 75th Session through this Committee. Some of the provisions in S.B. 60 will fall under that previous legislation. Our funding requires Davis-Bacon Act payments and "Made in America," provisions the previous administration avoided enforcing. Our concern is to have something in the bill to assure those provisions of both the federal ARRA funding requirements and regulations are enforced for those loans. The previous NV Energy office did not enforce those loan requirements.

CHAIR SCHNEIDER:
Ms. Crowley, please respond to Mr. McKenzie's comments.

MS. CROWLEY:
I believe those requirements were adhered to on the projects that went through the revolving loan fund program. I would have to verify this as I do not have that specific information here.

CHAIR SCHNEIDER:
Going forward, Ms. Crowley, as director of this program, would you be enforcing Davis-Bacon federal law?

MS. CROWLEY:
Correct. The plan is to adhere to the ARRA requirements as stated.

CHAIR SCHNEIDER:
Mr. Groth, did the listed projects adhere to the Davis-Bacon law?

JIM GROTH (Point West Global Energy, LLC):
For the record, you are calling on me as the former Office of Energy director for the State; I am a private citizen.

CHAIR SCHNEIDER:
Yes, I called on you to testify as a former director of the Office of Energy on behalf of the new Committee members.

MR. GROTH:
The Office of Energy has strict reporting requirements, specifically section 1512 of ARRA, to be in compliance with labor laws and rules when engaged with any contractors using the ARRA funding program. Most of the projects listed were just completed and funded at the end of 2010. Many of the projects contracted are just coming to fruition. The labor being performed is in the process of starting, and will be ongoing over 2011 and 2012 and will be completed by April 2012, the time the funds need to be expended.

In regard to S.B. 59, I want to comment that out of all the renewable legislation to be discussed this Session, increasing the net-meter caps to benefit the economic development in Nevada will be the most significant.

SENATOR SETTELMEYER:
Mr. Groth, you were actively involved on this topic in the last Session. Why did you go from 1 percent to 5 percent? I am concerned about ratepayers over time going from 1 percent to 5 percent. Would it be wiser to do something incremental to keep better monitoring of this program and ensure that it works? How many years has it taken us to get to 1 percent?

MR. GROTH:
It has taken Nevada, the great renewable-energy resource state, from about 2003 to 2010 to go from something significantly less than 1 percent to close to one-half of 1 percent. As Ms. Stokey mentioned, that is about 40 megawatts of our 7,500 megawatt capacity. What has stifled our development is, in true capitalist fashion, going forward without subsidy and driving renewable-energy costs to grid parity. To expand and attract the type of manufacturing, installation and development companies that will succeed in Nevada is the knowledge of the certainty that we can build the future. To look at a five-year window, for example, knowing that we can build out somewhere will help build Nevada's economy.

Net metering is in the distributive generation, the means of electrical generation. Distributive generation deals with localized solar facilities such as the rooftop project on the Legislative Counsel Bureau's parking structure. Those projects have been stifled because economic drivers, solar and other types of renewable energy, have come down about 60 percent to 70 percent over the last three to four years. Presently, we have perfect conditions to expand renewable energy but to keep it limited enough that it does not create transmission and distribution grid problems.

SENATOR SETTELMEYER:
Has it taken that long to get net metering from zero to almost one-half of 1 percent? At what point do you think it will finally pay for itself so the other ratepayers do not have to help it?

MR. GROTH:
The industry is within about 20 percent to 30 percent, whereas five years ago it was 300 percent more to install solar energy than it was compared to grid fossil power. If we are in the neighborhood of 9 cents to 12 cents per kilowatt-hour for energy in the State, costs are now where, without subsidization, without taxing other ratepayers for solar energy that do not use it, we are finally getting close to the grid-parity point. We are not asking for a financial subsidy. We ask that you allow renewable energy to be put onto the grid and grow from the 1 percent, 75 megawatt realm, into this 7,500 megawatt capacity state. We want it to get to 350-400 megawatts.

You heard certain advocates today indicating they want net metering to go to 9 percent. I agree. The utility and those advocates need to conduct discussions

about what would be prudent and what would be best for the grid. If it is stopped at a point shorter than 5 percent, then the next Legislative Session does not meet until 2013. If we start to see great economic growth, new job creation and people installing solar panels on the local institutions, small commercial residences, etc., then we need that growth capacity of total percentage of the grid to be able to get there.

If we create something smaller than 5 percent now, we will limit business entities from wanting to locate to our state. They will locate in states' markets, such as New Jersey, Ohio, California, Texas, New Mexico and Arizona. To attract those businesses, we have to have an open window. The distributive-generation study completed in December 2010, Exhibit F, indicated the 5 percent load on the current transmission distribution infrastructure, as Rich Hamilton alluded, the robustness of our grid infrastructure probably allows taking on approximately 15 percent to 20 percent distributive generation without greatly affecting ratepayers by having to improve and step-up transformer stations, substations, and that type of thing.

SENATOR SETTELMEYER:
But if you go from 1 percent to 5 percent in a year or two, understanding your comment that we do not have enough time to wait until the next Session, what type of percentage increase do you think that would be to the average ratepayer? Does that chase away businesses from our community?

MR. GROTH:
It is a long-term economic conversation. I believe the exponential multiplier of businesses coming in and hiring for their payroll is far more significant. What is 5 percent of 12 cents per kilowatt-hour? A 5 percent factor might be a rate increase of 12 cents to 12.5 cents per kilowatt-hour. I do not believe it will lead to a 5 percent increase in cost of power.

SENATOR SETTELMEYER:
I agree with doing it, but I question the amount.

MR. GROTH:
The concern over the amount may be due to the windows between legislative sessions and law creation. It will be May 2013 before we are here again and able to decide these issues. Hypothetically, it could be March 2012 when the large solar distributive generation providers go elsewhere. A company called

SolarCity in California, the largest solar company in the country, has moved into leasing and rooftop solar installation services and is operating in 12 to 13 states. Do you know where they are not operating? They are not operating in the number one resource state for solar in the country, Nevada. It is because they do not see a window or an operating environment that is conducive financially to attracting them here.

CHAIR SCHNEIDER:
The Committee understands this is a fast-growing industry. The business model has been set, the factories are producing the equipment and everything is rolling. The government did subsidize this industry to get it going, and it created a market for it. Now the market is catching up and surpassing what is presently in place in Nevada.

MR. GROTH:
This is correct. We finally have the solar industry, material and products coming down to the price point where it is feasible and it will multiply in scales of ten.

CHAIR SCHNEIDER:
There will be more energy discussions on Monday, February 28, 2011. We will close the hearing on S.B. 60. We will open the hearing on S.B. 141.

SENATE BILL 141: Revises various provisions governing manufactured home parks. (BDR 10-925)

JOHN W. GRIFFIN, ESQ. (Manufactured Home Community Owners Association):
This organization is comprised of manufactured-home park owners across the State. The park owners have a unique relationship with the tenants, and it is sometimes looked at like a partnership. There are four parts to S.B. 141 I would like to review.

Section 1 deals with a statutory provision that does not allow for any discretion. It mandates park owners to issue a receipt for rent payments. If tenants pay by check, we have to write a receipt, even if they do not want one. We have to issue a receipt, otherwise we would be in violation of the statute which carries up to a $1,000 fine. Section 1 of S.B. 141 revises the mandatory receipt requirement to a receipt upon request.

Section 3, subsection 1, paragraphs (d) and (e), relate to cash payments by the tenants which is problematic for the park owners, because in most instances the tenants will pay by credit card, check or money order. If there are no tenants paying with cash, the current provisions of the NRS require us to carry available cash on the property. Having cash on the premises oftentimes gives way to opportunity for theft, vandalism or embezzlement. Section 3 of the bill attempts to eliminate that requirement. The owners will make accommodations for those tenants who have to pay by cash. A mandate to carry cash boxes is outdated in this current economy.

Section 2 and section 5 of the bill were discussed at length in S.B. 80, and the subject is referred to as the handyman exemption. That discussion included the requirement for double licensing. A contractor has to obtain a contractor's license through the State Contractors' Board, and for manufactured home repairs has to obtain licensing from the Manufactured Housing Division (Division), Department of Business and Industry. There are some reasons for having licensing by the Division because there are certain things particular to manufactured homes not found in other types of construction. However, repairing a disposal, fixing a toilet, painting and those types of handyman repairs do not require any special knowledge of how manufactured homes are built. Often, the double-license requirement decreases the number of contractors available to work on a home. The simple rule of economics is the fewer available contractors, the higher the price. The third thing this bill attempts to do is to provide a handyman exemption. If anyone needs to make a small repair to the home, there is an exemption to allow for those repairs. Oftentimes for the owners association, the people making the repair are the park owners. Presently a tenant's only option is to call a double-licensed contractor as opposed to having a repair person from the park make the repair.

SENATE BILL 80: Makes various changes to the provisions governing manufactured housing. (BDR 43-480)

The fourth part of the bill to address is more aggressive and generates the most controversy. The intent for the final "right of first refusal" attempts to address a situation where a home is in a state of disrepair. In the case of the manufactured home owner selling the home, section 4 attempts to give the park owners the right of first refusal to match the current offer or beat the offer and purchase the home. This would allow the park owners to upgrade the home.

We are aware of the problematic issues regarding the language in the current draft. In the current draft, the language suggests the park owners may approach the seller with the right of first refusal when, in fact, the seller already has a buyer. That is not the intent of this bill. We are willing to draft language agreeable to everyone.

SENATOR COPENING:
Regarding the right of first refusal, are you assuming that when a new homeowner takes over that home they will not fix up the place?

MR. GRIFFIN:
Yes, that is the assumption. If we knew it was the worst home in the community and everyone in the community thought it was an eyesore, we knew the buyer would not do anything to improve the dwelling. That is the type of situation we are trying to address.

SENATOR COPENING:
I suppose it would be impossible to know whether or not a potential buyer would be a person who would or would not fix up the home. I have some problems with this. There may be a situation where the homeowners do not like being told what they have to do with their home. There may be a situation where they may not even like the managers and the last thing they want to do is have their home sold to a manager. I am willing to review language that is more palatable.

With regard to the issue of the receipt, the important reason to have a receipt is for those occasions where there is a cash transaction because of the lack of a paper trail to follow that transaction.

MR. GRIFFIN:
We could address that issue.

SENATOR BREEDEN:
Mr. Griffin, we have had a conversation about this. However, I will ask you on the record about being required to have cash on hand. Per our conversation, I had asked whether a manager could refuse cash if this bill were passed as it is. You answered, “Probably yes,” did you not?

MR. GRIFFIN:
That is correct. That is not the intention, but that is a possibility as the bill is currently written.

SENATOR BREEDEN:
I have the same concern as Senator Copening.

CHAIR SCHNEIDER:
Mr. Griffin, I understand the concern of having large amounts of cash on hand. It creates a situation that could be unsafe for the residents of the park. I received an e-mail from someone who suggested that when tenants pay with money orders, we could give them a discount or credit for the cost of the money order. I do understand the concerns of having large amounts of cash on hand.

MAROLYN MANN (Executive Director, Manufactured Home Community Owners Association):
The Manufactured Home Community Owners Association (MHCOA) is in our 29th year representing community owners and managers, and represents approximately 65 percent of the spaces. Many of our members asked me to make additional comments regarding cash and receipts.

We, like all other businesses in this economy, are struggling and searching for ways to streamline and reduce unnecessary costs. Managers tell me that writing hundreds of receipts is time-consuming and most are thrown away. Others must be filed away for a period of one year, because, as Mr. Griffin said, they pay by check or money order and do not want the receipt. We still have to write the receipt, put it in our file and keep it for one year. One member said this is a green issue and was adamant about the amount of paper wasted. A total of 30,000 spaces equal 30,000 receipts per month, whether tenants request it or not. That is 360,000 receipts written and thrown away every year.

The cash issue is our number one fear. Visualize that most of our office managers are senior females sitting in a small office alone with no one else around. There may be thousands of dollars on hand. Not everyone who comes into the office is a resident. We have not had anyone hurt, only a few close calls. Mail drops have been broken into, and we have had some manager theft. In today's economy, people are more desperate than ever. After robbing the manager, what would prevent them from walking into the clubhouse and

confronting residents? Senator Schneider said they might know there are many seniors in the community with cash on hand.

This bill is proactive, not reactive. We want the word on the streets that there is a "no-cash" policy in mobile home parks.

SENATOR COPENING:
Ms. Mann, I did not see anywhere in this bill a proposal for a "no-cash" policy. It just takes out the requirement that an adequate amount of money be available to provide change. From a safety perspective, it may not be a bad idea to have a "no-cash" policy. I do not know if it needs to be in statute, but perhaps each mobile home park needs to have a "no-cash" policy.

Regarding your other comment about receipts, I will disagree with you. I do not know many people who make cash transactions and do not want some sort of verification that the transaction took place. I do not throw away my cash transaction receipts. I am not sure whether or not law is telling you that you have to keep the receipts on your books, but if something happens with a cash transaction and a receipt was not given, a "he-said-she-said" situation arises, leading to more problems. One mobile home park is not going to be writing 360,000 individual receipts. That owner may have to do a couple of hundred per year, but it is a piece of paper. For the consumer protection that a receipt provides, for cash-only transactions, there is a reasonable paper trail for verification.

MS. MANN:
We certainly agree with you about the cash. We were talking about checks and money orders. It goes without saying that sometimes when people pay, perhaps they are not paying their full rent and there has to be some sort of paper trail that a balance is due.

JEANNE PARRETT (El Dorado Estates Mobile Home Park):
Yes, with cash transactions, receipts have to be processed. Approximately 90 percent of our community pays by check or money order; however, we are trying to avoid the forced issuance of a receipt. For the cash receipts, it is a necessity.

I would like to address the favorable intent of the handyman exemption. As we try to promote affordable housing, when an elderly tenant has to pay a

double-licensed contractor plumber's fees to replace a $15 flapper in a toilet, it no longer becomes affordable housing. We are definitely in favor of the handyman exemption.

JAMES V. DEPROSSE (Administrator, Manufactured Housing Division, Department of Business and Industry):
With respect to the Division's position on S.B. 141 and relative to the cash receipts, cash payments and right of first refusal, we remain neutral on those topics. I met with members of MHCOA. February 10, 2011, in Las Vegas, and discussed the handyman concept in detail. The Division does support a handyman exemption to the current statutes. Together, we envision language that would replicate what is currently in the State Contractors' Board statute, NRS 624, which isolates or exempts permits or licensing for repairs under a certain threshold dollar amount, such as the $15 flappers in the toilets and other similar repairs.

SUSAN FISHER (Nevada Housing Alliance):
Our primary concern with S.B. 141 is in section 4, subsection 1, paragraph (f), subparagraph (2) where it discusses the right of first refusal. We would like the opportunity to work with the bill's sponsors to come up with something.

LEO A. POGGIONE (Nevada Housing Alliance):
I do not understand the need for that portion of S.B. 141. If a home is up for sale, the park owners should purchase it. I have submitted written testimony describing reasons why this bill is bad for the consumer (Exhibit H). This bill, as it is written, would allow the park owners to purchase the home out from under the prospective buyer. This would destroy the manufactured-housing resale market and we would lose clients. It is not in the spirit of a free-market system.

CHAIR SCHNEIDER:
If one is purchasing a home and made a good-faith offer, this individual would have to compete against the park owner, is that correct?

MR. POGGIONE:
Essentially, if you had a home for sale and Ms. Fisher were my client who makes an offer on the home and you accept her offer, it is then presented to the mobile home park, and they have the right of first refusal to match or beat that price. Now the person I have just worked to get to the point of an offer has just walked away, and I lose the opportunity for the sale.

SENATOR MARK A. MANENDO (Clark County Senatorial District No. 7):
I would like to address the cash issue with S.B. 141. As heard in testimony, there are not many individuals who pay in cash. While I understand it does happen from time to time, I would personally like to see a receipt. I agree with Senator Copening on that issue.

Mr. Chair, you mentioned that perhaps they could issue a discount for an individual who pays with a money order or check. This is a move in the right direction.

These communities are considered to be businesses, and most businesses have the ability to carry and handle cash transactions. Perhaps they can come up with a system to utilize the Internet to pay rent electronically.

Over the years, residents have "begged" for the right of first refusal when a community wants to sell. Residents do not have the right of first refusal, so why should a park have the right of first refusal to buy someone's home? There may be a compromise on the table this Committee would like to review. This portion of the bill is not needed. Buyers should be able to choose the best market price for their home. If the park owners are bidding on a home against a qualified buyer and the park owners offer the higher price, they can prevail on the sale this way. There does not need to be a law for them to have the right of first refusal.

CHAIR SCHNEIDER:
I do not believe that a group of residents in a park can qualify to get a $15 million bank loan to purchase a mobile-home park. Additionally, a homeowner offering a unit for sale can take it directly to the park owners and ask them if they wish to purchase the home at the appraised value. If the park owners say no, then the unit owner can put the unit on the market.

SENATOR MANENDO:
Current statute allows the park owners to do just that. There is no need to force a homeowner to sell to a particular business.

CHAIR SCHNEIDER:
That is not our intent.

SENATOR MANENDO:
That is what this bill does.

SENATOR COPENING:
Senator Manendo, do you know whether a mobile-home community operates like a single-family homeowners association (HOA) where each homeowner has a vote? Does it work that way?

SENATOR MANENDO:
No, it does not. The guidelines are at the discretion of the park owners and whatever is in NRS 118B. Those are the guidelines they have to follow. Sometimes tenants even have to get permission to use the clubhouse, an amenity for which they pay. In some cases, a manager will turn them down for the use of the clubhouse.

CHAIR SCHNEIDER:
Senator Copening, parks are more like apartment buildings or complexes. In many cases, residents own the mobile home, but they rent the lot it sits on.

SENATOR MANENDO:
Regarding Senator Copening's previous question, in Senator Roberson's and Senator Breeden's district, Mountain View actually has an HOA there.

CHAIR SCHNEIDER:
That would occur in the case where the homeowner owns the lot as well.

BOB VARALLO (Nevada Association of Manufactured Home Owners):
We are an organization that represents residents who live in mobile home parks and manufactured home communities, mostly land-leased communities. We disagree with and oppose S.B. 141.

The right of first refusal is already recognized, not in statute, but when there is a public sale of a unit. The community association of five mobile home owners will draft a letter stating that if the owner does sell their home, the association would like to have the first opportunity to bid. There is a stipulation this notification letter be sent to all owners on a yearly basis.

Presently at the Meadows, we require an application from a prospective buyer wanting to buy within our community. Along with the application, a $40 credit

check deposit is required. The community has 10 days to complete the credit check to determine whether the prospective buyer can buy the home. To add the requirement that the community would then have the right to buy the home anyway with the right of first refusal and outbid the buyer will deter individuals from purchasing in these communities. We oppose this option.

With regard to the issue of making a cash payment, manufactured homes and communities are in the business to do business. I do not know of any business that does not want to deal in cash. Cash has key importance for any business. If cash is not going to be accepted, we would be opposed to that.

Finally, with regard to the receipt part of this bill, the receipt should be provided upon payment of the rent when requested, and the statute was changed to read "must" provide a receipt. We can work with changing the language for receipts.

SENATOR BREEDEN:
Do you agree possibly to amending the language for receipts and the cash portion of the bill?

MR. VARALLO:
Yes, we are strongly opposed to changing the individual's ability to pay by cash, and we can agree on the receipt issue. The two primary issues are the right of first refusal and the cash. We are opposed to making changes in regard to those issues.

JIM BLACKWELL (CEO, Housing Solutions, Inc.):
We are opposed to S.B. 141 and have issues on all four points. I would like to read my statement into the record (Exhibit I).

The right-of-first-refusal provision of the bill borders on antitrust. It indicates that if the park owners have denied the person the right to sell or denied someone's right to purchase a home, that will drive the value of the home. When a seller wants to sell a home, the association has first knowledge of the sale by notification or signage. At any point in time, they are able and qualified to make an offer to purchase the home.

The exemption for the contractor's license would reduce the value and business opportunities for those who are licensed, resulting in a shortage of licensed

contractors who are willing to perform repair services. However, I would be in favor of doing away with the dual-licensing requirement.

Removing the opportunity to pay cash is a hardship that targets the tenants who pay cash. Those who want a receipt should be able to receive a receipt. By the same token, those who do not wish to have a receipt should be accommodated.

SENATOR BREEDEN:
We will close the hearing on S.B. 141. The hearing on S.B. 168 is now open.

SENATE BILL 168: Makes various changes concerning public health. (BDR 54-837)

SENATOR JOSEPH (JOE) P. HARDY (Clark County Senatorial District No. 12):
Senate Bill 168 is a combination of efforts from the Board of Medical Examiners (BME) and the State Board of Osteopathic Medicine (SBOM) working together to address the problems resulting in death from prescription drugs. There are some graphs for your review (Exhibit J) posted on the Nevada Electronic Legislative Information System (NELIS) and in your handouts.

Section 1, subsection 1, paragraph (g), will make records available to the requestor within five working days after the request. There are other statutes that discuss 7 to 10 days and 30 days for the Health Insurance Portability and Accountability Act (HIPAA), for instance. Logistically, it would be difficult to accomplish this in less than five days. I will defer section 5, subsection 1, to Keith Lee who will be presenting a proposed amendment (Exhibit K) to page 7, line 25 that addresses the fee increase for renewal of a limited, restricted, authorized facility of special license and leaves it as it was.

Section 18 would repeal NRS 630.30665 and replace it by section 12 of the bill.

Section 17, subsection 5, lines 27 through 44 discuss schedule II, III or IV drugs that can be dangerous. This section instructs the State Board of Pharmacy to assist the BME to address the number of written prescriptions when they exceed 95 percent above other practitioners. Also in subsection 5, lines 32, 33 and 36, inasmuch as the BME and the SBOM do not keep track of medical specialties, nor does the State Board of Pharmacy, we would strike out

where it starts at, "... in a particular medical specialty or other category established by the Board for this purpose." on lines 32 and 33. Also, strike out in line 36, "... in that specialty or category, ..." If we leave that line in, we create a new bureaucracy that will not be able to do that simply and effectively. That particular section deals with the State Board of Pharmacy; they have been cooperative in making sure that the BME or the SBOM are notified.

On page 17, line 34, I recommend striking, "... month ..." and changing it to "quarter." It will capture the information we need without being an overly frequent burden for physicians.

The concept in section 17, subsection 2, allows the BME to give practitioners the ability to find out what the BME writes. It is clarified and amplified in subsection 3, lines 11 through 22 clarifying and thus codifying so that it will not do any harm to amplify the above subsection 2. This keeps in mind what we can do to prevent people from dying from overdoses and too much medicine such as Lortab, Vicodin and hydrocodone, which are the main drugs of abuse.

SENATOR BREEDEN:
On page 6 of the bill, can you explain the deletions of lines 15 through 19?

SENATOR HARDY:
With your permission, I will defer to Keith Lee.

KEITH L. LEE (Board of Medical Examiners):
With your permission, I will introduce Douglas C. Cooper, Executive Director, Board of Medical Examiners, who can answer that question.

DOUGLAS C. COOPER, C.M.B.I. (Executive Director, Board of Medical Examiners):
We have asked for that particular requirement for BME to compile data and information and turn it over to the Health Division, Department of Health and Human Services, Health Division, the Governor and the Legislative Counsel Bureau. The strikeout is necessary to make the elimination of the language citation understandable. It is in conjunction with the citation that revolves around the reports section we are trying to eliminate and place somewhere else in the NRS. The report reference is in section 12, page 13 of the bill, which is being added.

MR. LEE:
Several years ago, we were concerned about certain procedures of sedation, various degrees of sedation, that might be being performed in physician's offices rather than in an ambulatory surgery center or some other facility. There was some concern about how much of that procedure was being performed, if there were dangers being created by this and if there are certain sentinel events, as defined in statute, that occur as a result of these procedures. It was determined this information should be gathered. The law presently instructs the BME to gather that information from physicians on an annual basis.

The procedure includes mailing to the physicians Form A and Form B to be completed and sent back to the BME. The BME forwards that information in the form of a report to the State Board of Health (BOH), Health Division, which makes certain decisions about the information provided. After the BOH reviews that information, they may determine a physician has potentially violated certain provisions of the law. They would then send it back to the BME which would then review those concerns and make a determination of what disciplinary actions, if any, should be taken. The BME proposes to delete lines 15 through 19 in section 3, subsection 2, paragraph (c), and adds section 12 on page 13, to remove the BME as the gathering agency for this information. Gathering information would then be the responsibility of the BOH which also has the responsibility of licensing and certifying certain facilities where sedation is performed. They will have the ability to report back to the BME if, in their investigation, they determine a potential violation requires further investigation by the BME.

SENATOR BREEDEN:
In section 3, subsection 2, paragraph (c), you have stricken the information on lines 17 through 19. The next line states, "The report must include only aggregate information for statistical purposes and exclude any identifying information ... ." Is it not true that you need specific information on the types of medical occurrences of sentinel events so we can track those?

MR. LEE:
That language has been replicated in section 12. It simply shifts that responsibility and defines those things. Section 12, subsection 1 states:

> ... a form provided by the Health Division, a report stating the number and type of surgeries requiring conscious sedation, deep

> sedation or general anesthesia performed by the person at his or her office or any other facility, excluding any surgical care performed:

Your concerns are addressed in the new language in section 12 on page 13. We are proposing to take the forms and requirements away from the responsibility of the BME and make them directly responsible to the BOH.

MR. COOPER:
This tracking of sentinel events is not the instant tracking of sentinel events that go to the Sentinel Event Registry.

SENATOR HARDY:
Page 14 of the bill may address one of the questions you pose. The aggregate information for statistical purposes does not prevent the actual incident from being discovered by those who need to discover it. A report cannot be made in such a way that it will identify a hospitalized patient who had a left hip fracture and surgery was performed on the right hip, or the right leg was cut off instead of the left leg, or whatever was the sentinel event. We do not want to be able to identify the individual this happened to. That would be in violation of HIPAA rules. It has to be somewhat aggregated but still able to be discoverable.

SENATOR BREEDEN:
I interpreted this as you wanting to eliminate reporting the sentinel events if there were certain numbers or occurrences. We would not want to eliminate those. I do understand eliminating the confidential information.

SENATOR HARDY:
That is addressed in section 12, subsection 6.

The amendment to NRS 453.1545 in section 17 gives the Board of Pharmacy and/or the coroner the ability to notify the BME or the SBOM when prescriptions of a particular specialty are written in excess of 95 percent of other practitioners. Those boards will then have the ability to put a practitioner on record that the boards have been notified. Those outliers will be put on notice.

SENATOR BREEDEN:
You want to eliminate the responsibility of the BME to report sentinel events. What would the impact be on the State?

MR. COOPER:
The sentinel events to which we are referring have probably already been reported at the time they happened. The sentinel event information is gathered at the end of the year on Form A and Form B where physicians report whether or not they have conducted in-office procedures using conscious sedation, deep sedation or general anesthesia; a negative report is required. In addition, if during those procedures a sentinel event occurred, they are required to inform the BME. When we receive those forms, we collate the information and draft a report.

What happens with the information after it is forwarded to the Office of the Governor, the Legislative Counsel Bureau or the Health Division is unknown to me. The reportable sentinel events reported by the physicians are examined by the Health Division and compared with what was previously reported. The data is then entered into the Sentinel Event Registry. The extra requirement of collecting in-office procedure data is put into a report directed to the Health Division.

MR. LEE:
Mr. Cooper is prepared to walk the Committee through the various provisions if that is necessary, or we can respond to other testimony. I would like to mention the proposed amendment addressing section 5, Exhibit K. The bill originally requested one fee be increased from $400 to $800. After further review, this request was found to be unnecessary. The amendment deletes that request and the fee will remain at $400, should the amendment be accepted.

SENATOR HARDY:
In section 10, subsection 1, on page 12, we are striking the last sentence regarding "substantial evidence" and replacing it with subsection 2 language to read: "A finding of the Board must be supported by a preponderance of the evidence."

DIANNA HEGEDUIS, ESQ. (Executive Director/Board Counsel, State Board of Osteopathic Medicine):
We appreciate the efforts of Senator Hardy to get some parity between the SBOM and the BME assisting with the language. We have submitted a proposed amendment to S.B. 168 (Exhibit L).

SENATOR HARDY:
On NELIS and in your hand is a proposed amendment to S.B. 168, Exhibit L, by the BME and the SBOM.

MS. HEGEDUIS:
There is an article in the *Las Vegas Review-Journal* regarding various cases that the SBOM has brought forth recently. The article describes overdosing and overprescribing medication. This is an issue that concerns the SBOM, and we are ready to assist with any language necessary for the bill.

MR. LEE:
Mr. Cooper is prepared to walk the Committee through various parts of the bill that affect the BME.

SENATOR BREEDEN:
We are going to suspend the Committee rules and allow the gentleman in Las Vegas to submit his public comment before we lose the video feed.

MR. HYNES:
In response to Senator Settelmeyer's question about S.B. 59 and the impact on ratepayers, I calculated some figures to address it. Raising the rate for each approximate 1 percent will add an impact of about one one-hundredth of a penny to the retail rates. The 9 percent that was discussed is something in the neighborhood of about seven one-hundredths of one penny rate impact on retail rates.

SENATOR BREEDEN:
We will now return to discussions on S.B. 168.

MR. COOPER:
There are six areas of the bill for which we asked Senator Hardy for assistance. I will review each one using written notes provided (Exhibit M).

On page 3 of the bill, we suggest striking language on lines 18 through 20 and replacing it with the following language: "If the records are located within this State, the provider shall make any records requested pursuant to this section available for inspection within 5 working days after the request."

Patients being left waiting for copies of their records may cause delays in the continuity of care. By giving the request a time frame, we have something on which to rely. This also affects the BME when investigating a case; there is no time frame for the BME as well.

SENATOR BREEDEN:
This language does not state the ability to obtain a copy. Is that correct?

MR. COOPER:
We do in subsection 2. It indicates the price of a copy per page and that there can be no additional administrative fees. Again, there is no time limit to provide those records. When requesting an inspection of records, a patient may request copies of certain pages or request a copy of the entire record. In either case, there is no time frame, which is unfair to the patient.

In section 2 on page 5, we propose to add new language to provide for autopsy reports to be submitted to the BME when findings suggest a nexus between overprescribing a controlled substance and the death of a patient by accidental overdose or suicide. Information and statistics for these findings can be reviewed, Exhibit M.

SENATOR SETTELMEYER:
How does this affect electronic records? Are they treated differently from paper records?

MR. COOPER:
Are you speaking of autopsy reports or the earlier medical record reports?

SENATOR SETTELMEYER:
I am talking about both.

MR. COOPER:
I am unsure if autopsy reports are completed electronically. As far as electronic medical records, it would make it easier for the physician to reproduce those in a paper form and scan or fax them to a patient within the five-day requirement. Electronic filing would improve this process. The five-day limit is still needed to protect patients and guarantee continuity of care.

The language on line 9, page 7, indicates a change to inactive license terminology. The use of the term "suspended" when someone fails to renew a license causes misunderstanding. The term "suspension" is reserved in the medical-board universe for disciplinary action. The term generally used today is "expired." The new language will eliminate problems associated with these types of misunderstandings.

There is one administrative correction to section 7, subsection 1, paragraphs (c) and (d) on page 9 referencing the Commission on Accreditation of Allied Health Education Programs and the Committee on Accreditation for Respiratory Care. These educational certified bodies were exclusive to the language in section 7, subsection 1, paragraph (b). Therefore, language for paragraphs (c) and (d) should be amended to "National Board for Respiratory Care" as referenced, Exhibit M.

In section 8, subsection 4, paragraphs (a) and (b) on page 10, the BME proposed to add new language about the time frame for reporting suspended hospital privileges to the BME. Statistical information is referenced in notes provided, Exhibit M. The BME considers the issue of substance abuse and medical, mental and/or psychological competency to be true public safety issues. These are precisely the types of events that fall under the legislative declaration found in NRS 630.003. Legislators found and declared, among other things, that the BME must exercise its regulatory power to ensure the interest of the medial profession does not outweigh the interest of the public. It has been our experience that these types of problems lead to patient harm quicker than any other category. We want to follow Senator Wiener's S.B. 37, ensuring that agencies report to other agencies timely and in a manner that would allow the BME to act for the benefit of the public.

SENATE BILL 37: Makes various changes concerning complaints received by a health care licensing board. (BDR 54-106)

We ask to revise the language in NRS 630.336 to differentiate and clarify the term "complaint" used in section 9, subsections 4 and 5 of the bill. As described, Exhibit M, one type of complaint, as used in subsection 4, is filed using language, "... a complaint filed with the Board ..." is confidential, whereas in subsection 5, "The formal complaint or other document filed by the Board ... ." indicates information that is to be public record. The BME is in constant battle with defendants, defense attorneys and others who may be

aware they are being investigated, to produce copies of the complaint because they believe the complaint is public record. The investigative complaint is a confidential report that starts an investigation. This information needs to remain confidential to prevent unscrupulous and nefarious competitors from loading up complaints on their competitors. If this information was public, damage could be done to competitors. The BME proposes to add the word "formal" in subsection five, line 40. The formal complaint and other documents are a matter of public records. The correct wording does occur in NRS 630.339.

The BME supports the language changes by Senator Hardy to include language in section 10, subsection 2, line 15, on page 12, "A finding of the Board must be supported by a preponderance of the evidence," a 51 to 49 weight of evidence.

Finally, the BME proposes to amend NRS 449.442 by adding a new section. This will remove the BME from the requirement to gather information from physicians indicating how many surgeries were performed using conscious sedation, deep sedation or general anesthesia. The BME proposes, Exhibit M, that the Health Division be required to gather the information and obtain these reports, as the Health Division has jurisdiction to issue the permits to clinics and medical offices where these types of sedation procedures are performed.

There was a question of enforcement; however, this is addressed in NRS 449.447, subsection 2, where it states, "The Health Division may review a report ... ." The report being referenced is the report the BME sends to the Health Division. They may review those reports to determine whether a physician's office or facility is in violation of the provisions. At that point, the Health Division could report to the BME that a violation has occurred and whether or not a sanction or penalty was placed on the facility or physician. If there are problems, the Health Division may take their own actions because of their jurisdiction over clinics.

In conclusion, these are the items supported by the BME in S.B.168, and they are provided to you for review, Exhibit M.

P. MICHAEL MURPHY (Clark County):
After conferring with Senator Hardy, we had proposed the amendment which is before you and in NELIS (Exhibit N). The amendment is now a moot point because we have settled these issues. In section 2, page 5, set out 30 days

from the time that an autopsy and reports are completed to have the report submitted to the appropriate boards, the SBOM and the BME. We agree with that requirement and there is no reason to make any adjustments.

It is important to note that in many instances, the actual final findings of the autopsy may not occur from 60 days to 8 or 10 months, depending on outside laboratories and conferring with other physicians or other disciplines. Typically it is about 30 to 45 days, but in some cases it can be up to 60 days or more. Our concern was the language be reiterated.

As a point of interest, our office will deal with about 14,000 deaths per year; a standard number for Clark County. About 10,000 of those deaths will come to the attention of the coroner's office and about 900 of those deaths will ultimately be labeled as accidents. Most people think of an accidental death as being caused by a motor vehicle accident, some unforeseen event such as falling from a height or a recreational mishap. Approximately 400 to 500 of those 900 deaths, in reality, will be drug overdoses. Those overdoses will primarily be from legal substances such as hydrocodone, Lortab or Vicodin, and are the primary causes of those deaths from accidental overdoses.

The reports on prescription drug death, toxicology and substance abuse and the street drug deaths are sent to the Department of Public Safety. We also send a copy of our reports to the BME which includes the autopsy, toxicology and investigative reports as they request. According to the new change, the reports would be sent within 30 days of the completion of the report.

One of our staff members sits on the Substance Abuse Prevention and Treatment Agency, Division of Mental Health and Developmental Services, Department of Health and Human Services, and currently chairs the Epidemiology Work Group. The purposes are to determine who is prescribing what, whether they are prescribing it appropriately and what deaths are occurring. We believe this is an appropriate next step and support S.B. 168.

FRED HILLERBY (Nevada State Board of Pharmacy):
We appreciate Senator Hardy's work and support S.B. 168.

MR. MATHEIS:
We support S.B. 168 and would be happy to help work on the amendments, if necessary.

MARLA MCDADE WILLIAMS (Deputy Administrator, Health Division, Department of Health and Human Services):
We are neutral to S.B. 168 and want to discuss some of the implications of section 12 and what it would mean to the Health Division.

In 2009, the Health Division was required to issue permits to physicians' offices providing certain levels of sedation. As I understand from the BME, there are about 4,700 physicians currently sending notices which the Health Division would now be required to send. Of those 4,700 physicians, we sent notices to about 250 physicians notifying them they were required to have permits under the laws enacted in 2009. Of those 250, approximately 50 physicians have come forward to receive a permit. We have 75 who have indicated they no longer provide anesthesia in their offices and are not going to seek a permit. We have an additional 75 who have not responded at all.

Mr. Cooper indicated there is about $13,000 worth of expense in mailing. We are a fee-based agency for the permitting and licensing process. Our model is to assess fees across all the licenses in any respective area. As a matter of practice, if we had these provisions in place today, we would assess the $13,000 in mailing expenses, plus the 144 hours worth of time to process, to approximately 50 doctors in Nevada.

We do want to reiterate that we are comfortable in overseeing facilities. This bill moves us into overseeing practitioners, which is going to be a new practice for us. After review of the bill, it appears there are provisions that would hold physicians accountable twice. We could take action against them under the Health Division and the BME could take action. It is not clear in the bill where one responsibility ends and the other begins.

Currently, the Sentinel Event Registry is used to store information reported from hospitals, ambulatory surgery centers and obstetric centers. We use the information to identify where we want to take our future inspection efforts and to develop educational campaigns for our licensed providers. The information collected is also used to identify issues that need to be addressed immediately, and we may issue technical bulletins. That is how we use the sentinel event piece. We are unsure how the BME currently incorporates that function into their business.

The proposed section 12, subsection 7, lines 12 and 13, on page 14, authorizes the Health Division to, "... establish by regulation as sliding scale based on the severity of the violation ... ." We are concerned this will give us two separate sets of sanctions: one for providers we are required to oversee and one for our facility providers. If we are going to move forward with this, we would prefer it stay within our current sanction process and not require us to develop a separate sanction process under these provisions.

The SBOM physicians under NRS 633 are required to give the reports identical to those required in NRS 630. This bill does not include that chapter. This would set up two systems for us to oversee the permitting process; one separate for the physicians licensed by the BME and the other through the SBOM physicians to do the mailing and tell us who should be required to obtain a permit.

In closing, we submitted a fiscal note on the bill, but we did not have time to determine the actual cost for that fiscal note and it came in high. After the discussions today, we realize it will not be that high. We anticipated the cost of the mailing to be about $13,000, plus a clerical position to carry out the provisions.

DENISE SELLECK DAVIS (Executive Director, Nevada Osteopathic Medical Association):
I received the proposed amendment from Senator Hardy, Exhibit L, and section 8 reads: "A hospital, clinic or other medical facility licensed in the State, or medical society, shall report to the Board within 5 days after a change in the privileges of a physician, ..."

We are a voluntary association, and members join us. We neither extend privileges, nor do we carry out disciplinary or investigatory actions. We request to be eliminated from that list as a medical society.

MR. LEE:
Expanding on Ms. Davis' comment, she is correct. The term "medical society" has been in statute for some time. It is in the proposed change; however, if you look at the previous page of the proposed amendment, it remains in some of the language. Senator Hardy and I have discussed this language, and it should be removed from both the proposed language and in the carryover language on the previous page.

SENATOR BREEDEN:
We will close the hearing on S.B. 168. There being no further business, the meeting of the Senate Committee on Commerce, Labor and Energy is adjourned at 3:55 p.m.

RESPECTFULLY SUBMITTED:

Vicki Folster,
Committee Secretary

APPROVED BY:

Senator Michael A. Schneider, Chair

DATE:

EXHIBITS			
ill	**Exhibit**	**Witness / Agency**	**Description**
	A		Agenda
	B		Attendance Roster
S.B. 117	C	Keith L. Lee	Board of Medical Examiners Proposed Amendment to S.B. 117
S.B. 59	D	Stacey Crowley	Written Testimony "Increasing the Net Metering Capacity"
S.B. 59	E	Randell S. Hynes	Written Testimony
S.B. 59	F	Randell S. Hynes	NAVIGANT ENERGY, Distributive Generation Study, December 30, 2010
S.B. 60	G	Stacey Crowley	Written Testimony on Expansion of the Fund for Renewable Energy, Energy Efficiency and Energy Conservation Loans
S.B. 141	H	Leo A. Poggione	Written Testimony
S.B. 141	I	Jim Blackwell	Written Testimony
S.B. 168	J	Senator Joe Hardy	Chart on Drug-Related Deaths, Clark County
S.B. 168	K	Keith L. Lee	Board of Medical Examiners Proposed Amendment to S.B. 168
S.B. 168	L	Dianna Hegeduis	Proposed Amendments to S.B. 168
S.B. 168	M	Douglas C. Cooper	Written Testimony and discussion of S.B. 168
S.B. 168	N	P. Michael Murphy	Proposed Amendment to S.B. 168