

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

**Seventy-sixth Session
March 25, 2011**

The Senate Committee on Commerce, Labor and Energy was called to order by Chair Michael A. Schneider at 12:15 p.m. on Friday, March 25, 2011, in Room 2135 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to the Grant Sawyer State Office Building, Room 4406, 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 Allison Copening
Senator James A. Settelmeyer
Senator Elizabeth Halseth
Senator Michael Roberson

COMMITTEE MEMBERS ABSENT:

Senator David R. Parks (Excused)

GUEST LEGISLATORS PRESENT:

Senator John J. Lee, Clark County Senatorial District No. 1
Senator Mark A. Manendo, Clark County Senatorial District No. 7
Senator Valerie Wiener, Clark County Senatorial District No. 3

STAFF MEMBERS PRESENT:

Scott Young, Policy Analyst
Matt Nichols, Counsel
Suzanne Efford, Committee Secretary

OTHERS PRESENT:

Gail J. Anderson, Administrator, Real Estate Division, Department of Business and Industry
Joanne Levy, Chair, Legislative Committee, Nevada Association of Realtors
Michael Cheshire, President, Commission of Appraisers of Real Estate, Real Estate Division, Department of Business and Industry; Board of Directors, Appraisal Institute, Las Vegas Chapter
Rodger W. Stone, President, Cogent Analytic Strategies, Inc
Bob Varallo, Nevada Association of Manufactured Home Owners, Inc.
James V. deProsse, Administrator, Manufactured Housing Division, Department of Business and Industry
John Griffin, Manufactured Home Community Owners Association; Sprint
Chris Ipsen, Chief Information Security Officer, Office of Information Security, Department of Information Technology
Randy Brown, AT&T
Helen Foley, T-Mobile USA
James D. Earl, Executive Director, Technological Crime Advisory Board, Office of the Attorney General
Bill Uffelman, President/CEO, Nevada Bankers Association
Jesse Wadhams, Asurion
Renny Ashleman, City of Henderson

CHAIR SCHNEIDER:

We have one bill draft request (BDR) to introduce, BDR 40-189. This is a health-care medical assistant bill proposed by Senator Valerie Wiener, Clark County Senatorial District No. 3.

BILL DRAFT REQUEST 40-189: Prescribes provisions relating to medical assistants. (Later introduced as [Senate Bill 388](#).)

SENATOR COPENING MOVED TO INTRODUCE BDR 40-189.

SENATOR BREEDEN SECONDED THE MOTION.

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

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CHAIR SCHNEIDER:

We will open the hearing on Senate Bill (S.B.) 227.

SENATE BILL 227: Revises provisions governing the financial administration of the Real Estate Division of the Department of Business and Industry. (BDR 54-982)

SENATOR JOHN J. LEE (Clark County Senatorial District No. 1):

The Real Estate Division (Division), Department of Business and Industry, is one of the few licensing and regulatory agencies which is State General Fund based. Of the 14 agencies making up the Department of Business and Industry, only 3 are General Fund agencies: the Office of Labor Commissioner, the Nevada Athletic Commission and the Division.

For a number of years, the policies of the Legislature have been to make existing and new licensing and regulatory agencies fee-based, determined on budgets supported by the industry and the licenses they regulate. The Division should not be treated differently.

The Division is a net surplus to the General Fund—which means it makes money for the General Fund—and will continue to be a net surplus, even in this economy. However, we continue to cut the Division's budget which makes it difficult to protect the public. In this housing market, we need more oversight of licensees, not less.

Based on the current budget proposals, the Division will reduce staff from the 36 positions it had in 2008, to 16 positions in 2012; close the licensing section in northern Nevada, thus licensing will only be available in Las Vegas; reduce the number of Real Estate Commission meetings which will lead to longer delays in compliance hearings and continuing education classes; and reduce the number of investigators. Senate Bill 227 will allow the Division to continue to operate in a manner that will provide protection to the public and make sure licensees are in compliance with chapter 645 of the *Nevada Revised Statutes* (NRS).

I have proposed an amendment to S.B. 227 ([Exhibit C](#)), which will make certain money is deposited in the State General Fund if there is a surplus, while ensuring consumer protection and that licensees are adhering to their obligations and good practices

The Division has many responsibilities. It generates capital for the General Fund, but because we are reducing funding, it will be difficult for the Division to keep its doors open. My goal is to have the Division meet with the Department of Business and Industry to develop a budget and determine how much staff they need to do their job to protect the public. As business increases, the Division must be able to hire more staff. Any money generated beyond what is budgeted will revert to the General Fund.

GAIL J. ANDERSON (Administrator, Real Estate Division, Department of Business and Industry):

I am submitting information presented in my budget hearing. This is not new information, but Senator Lee asked to have some factual information provided to the Committee for your consideration on S.B. 227.

The Division has four budget accounts. Three of those are either special-fund or fee-funded budget accounts. Those are the Real Estate Recovery fund, paid into by real estate licensees for recoveries made against court orders on transactions that were found to be at fault; the Real Estate Education and Research fund which is funded out of the recovery fund; and the Common Interest Communities Account which is a stand-alone, fee-funded account.

The Real Estate Administration Budget is a General Fund Budget Account, and almost all of the licensing, real estate and appraisers' fees are directly deposited into the General Fund. Within this budget are several programs: real estate licensees—our largest program with 30,000 licensees—which include brokers, broker-salesmen, property management permit holders, business broker permits and owner-developers; appraisers of real estate and appraisal management companies; inspectors of structures, who are residential home inspectors; the sale of subdivided land, which are all of the developments registered through this office; the timeshare sales act; and the membership campgrounds act. The Real Estate Commission, the Commission of Appraisers of Real Estate and the Commission for Common-Interest Communities and Condominium Hotels are also in the Real Estate Administration Budget Account.

The Real Estate Administration Budget Account has a fee component from timeshare projects registrations and licensing. There is also a fee component from property management permits.

There are revenue issues with the Division's Administration Budget Account. For the past decade, timeshare revenues continued to increase as new timeshare projects were developed and marketed, and as existing projects expanded. These revenues continued to grow and supplant General Fund monies appropriated for the operation of the Division's Administration Budget Account. The revenues from timeshares peaked in fiscal year (FY) 2008 at \$1,019,408. The revenues began to decline in FY 2009, down to \$766,000, in FY 2010 to \$560,000, and we have projected them to flatten at \$530,000 for the next biennium, FY 2012 and FY 2013.

The Division's Administration Budget Account therefore has been hit twofold in our revenue, both by the fee component revenue decline and shortfall, and also by the mandatory General Fund Budget reductions. Four full-time positions were eliminated in the 75th Session to address General Fund reductions. Three full-time positions were eliminated in the 26th Special Session to address revenue shortfall as well as other cost-cutting measures.

In the budget presented, as the administrator of the agency I prepared a balanced budget in which I could not request an increase in our General Fund appropriations. To arrive at the budgeted number, we have had to make cuts. This budget eliminates eight full-time positions and reduces one position to part-time. It eliminates another position and reduces two more positions to part-time, and it reduces commission meetings for the year for the Real Estate Commission from five to four and for the Commission of Appraisers of Real Estate from four to three. These commissions are charged with enforcement of laws and regulations.

The impact of these reductions is: the Carson City licensing section will be closed, with two positions eliminated; every administrative assistant in the Division's Administration Budget Account, with the exception of the licensing clerks in Las Vegas, will be eliminated. There will be no one to answer phones and no one to assist walk-ins. When I say no one, I mean other staff, such as compliance investigators, will have to handle these duties.

One of the other impacts in the compliance section will be a reduction to two investigators and a chief in Las Vegas and one part-time investigator in the Carson City office. Overall, this is a 55 percent reduction in staffing in the compliance section from 2007. We had eight positions at that time and we will

be reduced to 3.6 positions. Some of the concerns expressed are with timeliness, compliance and enforcement of the requirements of the law.

JOANNE LEVY (Chair, Legislative Committee, Nevada Association of Realtors):
We support S.B. 227. The Division is a General Fund Budget Account and provides a net surplus to the General Fund. A large portion of our licensing fees currently go not to the protection of consumers, not to the enforcement of licensing laws, not to the provision of licensing and educational benefits, but to the General Fund of the State of Nevada.

The Division is in the process of losing vital personnel including investigators, licensing administrators and crucial support staff. The Division has proposed closing the licensing section in the Carson City office. This means individuals and small businesspeople would have to expend resources to fly to the Las Vegas office, or go through a lengthy "snail-mail" process, to complete licensing procedures. Even in Carson City, this can take several hours with licensing staff to process licenses.

It is taking investigators two to three years to get cases on violations of NRS 645, which governs real estate licensees, to the Real Estate Commission for a hearing. Loss of additional investigators and staff will only lengthen the process, which is a disservice to consumers who look to the Division to protect them from licensees who violate the law, and also a disservice to the licensees who may be under investigation and are entitled to reasonable due process.

By allowing the Division to administer the entire Division account through a fee-based system, it will be able to staff its office adequately with the positions it needs for the efficient and complete performance of its functions of protecting the public, licensing real estate professionals and disciplining violations of law.

MICHAEL CHESHIRE (President, Commission of Appraisers of Real Estate, Real Estate Division, Department of Business and Industry; Board of Directors, Appraisal Institute, Las Vegas Chapter):

The Commission of Appraisers of Real Estate has not had a chance to vote on this bill; perhaps we will vote on it next week.

The concern of the Appraisal Institute is that we are one of the few professions licensed by the State, yet controlled and monitored annually by the federal government. Each year the Appraisal Subcommittee of the Federal Financial

Institutions Examination Council, which was formed by Congress under Title XI, Real Estate Appraisal Reform Amendments, under the Financial Institutions Reform, Recovery and Enforcement Act of 1989, audits the State of Nevada for compliance. This year, we received their report in the December meeting of the Commission of Appraisers of Real Estate. For the first time, we were in compliance; however, they did note some items in their report of which this Committee should be made aware.

The Division is again faced with significant budget reductions. The Appraisal Subcommittee is concerned that the Commission's resources are reduced and therefore the program could be negatively impacted, and we would become noncompliant with Title XI, Statement 5: Temporary Practice. That means if we become noncompliant, the banks could make no federal loans in Nevada and federal highway funds could be stopped. The Appraisal Subcommittee offered to write a letter to the Governor. I do not know if they are still willing to do that, but they said in our meeting they were so concerned about this, they were willing to help.

This could negatively impact the State as far as loans on houses, building roadways, etc. We are doing the best we can with what we have, and we realize we have to cut our budget, which we have done. If we have to cut it much further, we will not be able to stay compliant with federal regulations. They could shut down Nevada's federal loans. I have a copy of their report ([Exhibit D](#)) for your information.

CHAIR SCHNEIDER:

Based on your testimony, we will submit a letter to Senator Steven A. Horsford, Chair, Senate Committee on Finance, to alert him on these issues.

MR. CHESHIRE:

We need to keep up with the complaints, and when the commission meetings are reduced, it is difficult to do.

CHAIR SCHNEIDER:

We will also submit a letter to the Governor to inform him we are in jeopardy of losing federal loans.

RODGER W. STONE (President, Cogent Analytic Strategies, Inc.):

I have submitted written testimony in support of S.B. 227 ([Exhibit E](#)).

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CHAIR SCHNEIDER:

We will close the hearing on S.B. 227. Please be assured, we will notify the Governor and the chair of the Senate Committee on Finance that we must fully fund the Commission of Appraisers of Real Estate. I am also concerned about the Division.

We will open the hearing on S.B. 266.

SENATE BILL 266: Revises provisions governing the possession of pets by tenants of a manufactured home park. (BDR 10-960)

SENATOR MARK A. MANENDO (Clark County Senatorial District No. 7):

I am an advocate for people living in manufactured homes. It was brought to my attention by people living in some manufactured home communities that they were prohibited from having a pet cat or dog. As homeowners, it should be your right to be able to do as you please in your own home. There are local government ordinances dealing with sick or wild animals or if someone is bitten by a dog. There are communities which allow a cat or dog as a pet, and those are working fine. They have certain rules and regulations. For example, a person cannot have a pet over 50 pounds. This is reasonable.

Different communities are telling different people different things. Pets are additions to families. They are sometimes a person's only companion and to be forced to give up a companion is difficult. Not to be able to have a pet because someone lives in a manufactured home is wrong. I am saddened we are even talking about this issue.

As long as we have guidelines and regulations that all can agree on, this is a reasonable piece of legislation.

CHAIR SCHNEIDER:

If someone has had a dog for 13 years, can they no longer keep it?

SENATOR MANENDO:

That is true.

SENATOR COPENING:

As I look at section 1, subsection 1, where it says " ... the landlord or his or her agent" Is landlord defined somewhere in statute to say a landlord is a

person who is the manager of the park? The situation I am thinking of is where someone owns a manufactured home and then rents it to someone else. Generally, in those situations, the owner can allow no pets or ask for a deposit, much like an apartment does. This bill is not designed for those who own a manufactured home and want to rent it and who put those provisions of rental in their contracts. Is this correct?

SENATOR MANENDO:

This may be a policy decision this Committee will have to make. I understand what you are talking about, but you would then have a community that would have different rules. I would not be allowed to have my dog because I am renting the home and renting the space, but then you as a homeowner and my neighbor, living in the home and renting the space would have a different set of rules. If there are rules and regulations in place, they should apply to everyone.

CHAIR SCHNEIDER:

The Committee Policy Analyst, Scott Young, will read the definition of landlord.

SCOTT YOUNG (Policy Analyst):

It is NRS 118B.014, "Landlord" defined. "Landlord means the owner or lessor of a manufactured home lot and the owner or lessor of a manufactured home park."

SENATOR COPENING:

That is my concern. What you are trying to say is a manager who owns a park should not have the right to prohibit a pet from being in an owner's home. Is that correct?

SENATOR MANENDO:

Yes, that is correct.

SENATOR COPENING:

Because we have the two definitions of landlord, we cannot tell someone who owns their home and the lot, but who rents the home to someone else, that they must allow pets in the home. There is a risk when a pet comes into a home.

SENATOR MANENDO:

That is right, and I understand, but this is a policy decision of the Committee. Because we are seeing more and more park owners trying to buy up these homes, in some parks 30 percent of homes might be rented. Some people will be allowed to have a pet and some will not.

We need to have rules and regulations which apply to everyone. I understand that if someone owns a home, and rents it to someone else, the owner does not want a 150-pound dog in the home, but maybe a 25-pound dog would be okay.

SENATOR COPENING:

I understand what you are saying. I would feel more comfortable if we were talking about the park as a whole as opposed to the rights of individual homeowners to say what goes on in their homes.

SENATOR MANENDO:

When you say "park as a whole," do you mean park as a whole of the people who actually own their homes and rent the lot? If there is a 200-space community, the residents might not all fit under one or the other. I want to make sure you are addressing the people who own their homes.

SENATOR COPENING:

I would be in favor of the manager of the park not having the right to tell the individual homeowners in the park they cannot have pets in their development. Maybe I do not understand how the manufactured home situation works, and you are telling me some different things.

CHAIR SCHNEIDER:

Perhaps our Counsel could give us an opinion?

MATT NICHOLS (Counsel):

For the purposes of this section, it is sort of confusing. I guess when we think about landlords, we think about landlords. But, here for the purposes of this section and for this chapter, the landlord is the owner of the lot, not the owner of the manufactured home. And actually, in the new language on page 3 of the bill, where it refers to the tenant, we would usually think of that as a renter. They are the tenant of the space, but they are the owner of the home. And so, the bill would not affect the homeowner's ability, if

the homeowner were to rent out the home, to come to some different arrangement with the renter of the home as to whether a pet would be allowed or not.

SENATOR COPENING:

That is the explanation I needed. They could say no to the pets inside their own home.

MR. NICHOLS:

"They could enter into some sort of agreement, yes or no, but the provisions in this bill wouldn't affect that ability to contract for it."

SENATOR BREEDEN:

Did you receive an e-mail from Doris Green, President, Nevada Association of Manufactured Home Owners, Inc. (NAMH)? They are in support of S.B. 266.

SENATOR MANENDO:

I probably did, but I have not read all my e-mails.

SENATOR BREEDEN:

Doris Green expressed to me in an e-mail, "We need your help because people living in manufactured home communities should be able to have a pet in their home if that is their desire."

BOB VARALLO (Nevada Association of Manufactured Home Owners, Inc.):

The NAMH supports S.B. 266. I might be able to clarify some things regarding pets.

In the community in which I live, we have "guidelines for living" which are rules and regulations. We also have separate pet rules and regulations. The manager enforces the rules and regulations. Anyone new to the community who has a pet is advised that only pets up to 25 pounds are permitted in the community. Also, certain breeds are prohibited.

Also though, the present trend in manufactured home communities, which is dictated more or less by the economy, is for the community landlord to take possession of a home because the people have left for whatever reason. The landlord has the choice of either renting or selling the home. In most cases, the home is rented. Those individuals who are renters in the community can have

pets, but they also must abide by the rules and regulations enforced by management.

JAMES V. DEPROSSE (Administrator, Manufactured Housing Division, Department of Business and Industry):

The Manufactured Housing Division (MHD) handles complaints as part of NRS 118B. The MHD receives and resolves complaints relative to landlord/tenant issues within parks falling within the jurisdiction of NRS 118B. I have been with MHD for a year and a half, and to my knowledge we have had no formal complaints related to pets in parks.

JOHN GRIFFIN (Manufactured Home Community Owners Association):

The Manufactured Home Community Owners Association (MHCOA) has no problem with the language in S.B. 266 which eliminates the requirement of a deposit to have pets. The issue for MHCOA is with the language regarding the prohibition of a pet in a park. Insurance policies for most of the parks require the prohibition of dangerous breeds. The MHCOA would like to work with the bill's sponsor to review the language to ensure compliance with insurance policies.

Also, if S.B. 266 were to pass, it would prohibit no-pet parks. This would be a policy decision for the Committee. There are parks marketed as no-pet parks. This is an attraction for some people.

SENATOR ROBERSON:

How many no-pet parks are there in Clark County?

MR. GRIFFIN:

I do not know, but I can find the answer.

SENATOR ROBERSON:

Are there any?

MR. GRIFFIN:

I do not know.

MR. DEPROSSE:

I am not aware of any. The other thing we must be careful of when we compare ourselves to other states is that NRS 118B is unique to Nevada. In a manufactured home park with 100 residents, 50 of them may fall under the

jurisdiction of NRS 118B, and 50 of them may not. The difference is in the ownership of the home. An individual owning the home and renting the space, falls under NRS 118B, but if an individual rents the home and the space as one unit, and it is a park-owned home, then it does not fall under NRS 118B. There are rules in parks which apply to some and not to others.

SENATOR ROBERSON:

Mr. Griffin, you mentioned insurance policies which prohibit dangerous breeds. Could you please elaborate on what kinds of breeds and what the language is in those policies?

MR. GRIFFIN:

I do not have a copy of those policies, but my understanding is the insurance policies prohibit dangerous breeds and specifically calls them out, such as pit bulls.

SENATOR ROBERSON:

Are you aware of any other breeds?

MR. GRIFFIN:

The specific one was pit bulls. They do not mention any others.

SENATOR ROBERSON:

Would you be okay with this bill if it specifically mentioned pit bulls? However, this may be a problem with the sponsor of the bill.

SENATOR MANENDO:

There are people living in manufactured homes who rent the space, own their home and have pit bulls. I do not know what park policies are now regarding dog breeds or aggressive dogs.

SENATOR ROBERSON:

How did this problem come about? How many instances are you aware of in Clark County where an owner of a manufactured home park has suddenly changed the policy regarding pets? What is the scope and gravity of this problem?

SENATOR MANENDO:

I do not know the policies. I do not see it changing. If there is a community allowing pets and now says pets are disallowed, I do not know how that would change their insurance policy. I know of three communities that do not now allow pets in Clark County.

SENATOR ROBERSON:

Mr. Griffin, are you aware of these three parks?

MR. GRIFFIN:

I am not aware of those three parks. We were not aware of a problem prior to the introduction of this bill. Most of the parks in our membership require a pet deposit, prohibit aggressive breeds of dogs and have a weight limit.

SENATOR ROBERSON:

Mr. Griffin, could you work with Senator Manendo on language for this bill?

MR. GRIFFIN:

Yes, we can work on language.

CHAIR SCHNEIDER:

Mr. Griffin, page 3, line 10, states " ... threat to the safety of others in the park." This may cover your whole issue. Please work on language for this bill.

We will close the hearing on S.B. 266 and open the hearing on S.B. 267.

[SENATE BILL 267](#): Revises provisions governing personal information. (BDR 52-110)

SENATOR VALERIE WIENER (Clark County Senatorial District No. 3):

I have a video presentation on "Digital Photocopiers Loaded With Secrets," from the CBS News Website. I have also submitted a hard copy of the presentation ([Exhibit F](#)). This is what S.B. 267 is about.

It is as simple or as complex as people want to make it, but S.B. 267 places responsibility on businesses or data collectors to ensure, before releasing custody of a copy machine to another person, that the hard drive has been cleaned or removed. In section 4 of the bill, there are provisions requiring certain actions for those who own or possess a copy machine before they relinquish

ownership or custody to another person, and provisions addressing the leasing agreement for a copy machine.

Section 2 has caused concerns among providers of telephone service. This bill addresses copy and fax machines, not telephones. Section 3 addresses "Encryption" which has been defined elsewhere in statutes. Therefore, if the Legal Division, Legislative Counsel Bureau, deems it appropriate, the bill could be started with the language in section 4.

Senate Bill 267 is about protecting identities on a large scale. An individual who uses a copy center to copy passports, birth certificates, health records, etc., has no idea about the identity breach which could occur. We have spent a lot of years in this building on many measures with interest and commitment to protect people's identities. My concern is we did not know how much we did not know.

Those who collect data on a machine should be responsible to the people whose information is on the hard drive. The machine should be clean when they release custody of it.

There is an issue on the leasing portion of the bill regarding who is responsible, the lessor or the lessee, for ensuring the data has been removed. My concern is when custody of the machine is released; the machine is clean so someone else cannot get information. There is also a provision in the bill addressing machines which do not record information on a hard drive.

CHAIR SCHNEIDER:

Would you be able to work with the people who have concerns about S.B. 267?

SENATOR WIENER:

I certainly would.

CHRIS IPSEN (Chief Information Security Officer, Office of Information Security, Department of Information Technology):

I support S.B. 267. There are significant threats to citizens' identities. The threats come from many directions, but specifically from the identities inadvertently stored on these devices. Oftentimes, when information is copied, it is unknown where the information goes. Typically on these devices, it is stored by default. Most manufacturers, as a policy, allow this information to be

stored unless specified otherwise. There are ways to do it internal to the device. It is like any other hard drive; it can be erased, encrypted or destroyed. Hard drives are inexpensive. The potential risk associated with identities on these devices is significant.

Sections 2 and 3 created some confusion with respect to the focus of the bill. The focus is on printers, fax machines and multifunction devices. I am fine with the deletion of sections 2 and 3. We need to assign the responsibility of protecting the data either to the lessor or the lessee.

CHAIR SCHNEIDER:

Would Counsel explain encryptions and perhaps set aside the worries of the phone industry?

MR. NICHOLS:

I don't know if I can set aside the phone industries worries, but the definitions, data storage device and encryption, are existing definitions that applied previously only to what is section 6 of the bill. It is an existing section, but because section 4 is going to be codified in the same group of sections, were this bill to be enacted, and because it uses the terms encryption and data storage device, we are just applying those existing definitions here. The point of clarification I would like to make is that the requirements in section 4 apply only to a copier, fax machine or multifunction device that uses a data storage device to store the information. This doesn't apply... Broadly speaking, it doesn't apply to phones or cell phones or computers. It applies only to a copier or a fax machine that uses a data storage device to store the information. So, yes it appears at the beginning of the bill, but that's typically how we draft it. The definitions start the bill off, and then substantive provisions follow. So, I just wanted to clarify, it's not that new encryption standards or the scrubbing of the hard drives applies to all hard drives or to telephones, it applies to copy machines, fax machines or the new multifunction devices that use those, essentially, optical drives or hard drives to store the data.

CHAIR SCHNEIDER:

Does that explanation make the phone industry more comfortable?

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RANDY BROWN (AT&T):
Yes, the explanation is helpful.

HELEN FOLEY (T-Mobile USA):
Yes, we are comfortable with it.

JAMES D. EARL (Executive Director, Technological Crime Advisory Board, Office of the Attorney General):

I have submitted a written exhibit supporting S.B. 267 ([Exhibit G](#)). The Technological Crime Advisory Board (TCAB) is a joint executive legislative agency. The TCAB has seven statutory missions. The two crucial missions for this meeting are summarized in my written exhibit, [Exhibit G](#).

Senator Wiener brought the issue of multifunction devices to the TCAB's attention. She referred to some information received by the TCAB, which is contained on pages 26 through 30 of the TCAB minutes, [Exhibit G](#), forming the bulk of the written background. It also contains the best presentation on cyber threats I have heard. There is also some background information on cyber threats associated with NV Energy's introduction of the smart electrical grid and an initiative existing across State agencies to use electronic document "interexchange" to increase security in the State and lower prices of doing so.

I have learned that State agencies processing information using multifunction devices were already beginning to secure those devices in a variety of ways. In the last three pages of my written exhibit, [Exhibit G](#), there is a draft State security policy intended to be more prescriptive than S.B. 267 is regarding requirements for State agencies dealing with multifunction devices. The reason it is more prescriptive than S.B. 267 is that State agencies have information technology (IT) personnel who can evaluate and limit risks associated with the functions of the multifunction devices.

The default position for State agencies with multifunction devices is they are not to be connected to networks unless they are supervised by the IT department or the information security officer within the agency. That requirement is not appropriate for the private sector. Private sector users of multifunction devices and digital copiers purchase them specifically to connect to a network. It is the network risk which State IT personnel seek to prevent.

My conclusions are S.B. 267 mitigates the most significant risk to data stored on or copied by multifunction devices. State agencies are required to take additional precautions and private sector enterprises which have IT personnel should consider those state standards in their multifunction devices implementations. Any private sector entity large enough to have an IT department should already be aware of the dangers and threats associated with multifunction devices.

Senate Bill 267 continues a much broader effort stretching over multiple legislative sessions to distinguish Nevada as a protector of State data. This is important not only in its own right, but as an aid to economic development to those companies which rely on data integrity. The first page of my exhibit, [Exhibit G](#), contains three NRS chapters affected positively by data protection legislation in the 75th Session. Although consequences of Nevada striving to be an ecosystem which distinguishes itself by virtue of data protection, causality is difficult to determine.

BILL UFFELMAN (President/CEO, Nevada Bankers Association):

Dennis Brown, Vice President, State Government Relations, Equipment Leasing and Finance Association (ELFA), has submitted a proposed amendment to section 4 of S.B. 267 ([Exhibit H](#)). The issue is about who is responsible for the data captured on the hard drive. The individual in possession of the machine is responsible for the data and not the company leasing the machine. There should also be reference made to the internal data-storage device. There are machines into which a thumbdrive can be inserted to capture the information, and then removed and the data taken away.

Financial institutions provide financing to leasing companies to purchase machines for lease. The Nevada Bankers Association wants to ensure the responsibility for the data collected is the responsibility of the individual in possession of the machine and the internal hard drive.

I have also submitted a document from the Business Technology Association regarding data security ([Exhibit I](#)).

CHAIR SCHNEIDER:

Would you please work with Senator Wiener and others on the proposed amendments for this bill?

I will close the hearing on S.B. 267 and open the hearing on S.B. 292.

[SENATE BILL 292](#): Revises provisions relating to insurance. (BDR 57-1074)

JESSE WADHAMS (Asurion):

Senate Bill 292 is straightforward, but it does not appear to be. It would create a limited line of insurance for cell phones and other electronic devices. These devices are already covered under a form of insurance called "inland marine." This bill takes out that kind of insurance from inland marine and creates a new line. It would break out the unique and growing components of this insurance to bring them into the oversight of the Division of Insurance, Department of Business and Industry, to provide certain disclosures to the consumer.

I have proposed an amendment to S.B. 292 regarding that ([Exhibit J](#)). We are still working with Division of Insurance on language for a final proposed amendment which will encompass all the issues. The proposed amendment does not substantively change major sections of the bill. These changes are more technical in nature.

I will review the sections of this bill. Sections 4 through 9 are definitions on who is covered under this bill. Section 10 brings into licensure the individuals offering this line of insurance who would be producers of insurance. Section 11 covers the producers of this line of insurance who would train and supervise employees who would be selling this insurance through the producer. The employees are not considered producers of insurance. Section 12 adds the component of supervision of employees by an insurance agency. Section 13 is about the disclosures going to the consumer. Section 14 allows the vendor to bill for this insurance. Section 15 brings into codification how this line of insurance would be cancelled. Section 16 contains the penalties for violating this code. The remainder of the bill is putting the "portable electronics" wording into other sections where it needs to be referred.

Senate Bill 292 will allow the Division of Insurance to oversee the producers of this line of insurance. It spells out the nature and kind of coverage and it will allow more transparency for the consumer.

SENATOR COPENING:

Was there an issue that brought this bill about?

MR. WADHAMS:

The issue is that we are getting more and more devices linked to data plans. This bill is trying to get ahead of a segment of the insurance industry which is currently being sold as a subset of the broader category of inland marine. It will offer clarification and oversight regarding how this new market will be regulated.

SENATOR COPENING:

What is the difference between the insurance purchased from a vendor and the new line of insurance?

MR. WADHAMS:

There will be no difference other than the Division of Insurance will be able to oversee what is being offered and what are the nature of the disclosures. It is breaking out a line of insurance and giving more codification as to how this will be treated in the future.

CHAIR SCHNEIDER:

Are you working with the Division of Insurance? Is that where the delay is?

MR. WADHAMS:

We are continuing to work on this and will have a final proposed amendment before April 15.

MS. FOLEY:

At this time, we are just monitoring the issue. Transparency is a good thing. We look forward to reviewing the proposed amendments.

MR. BROWN:

We too are monitoring this issue.

JOHN GRIFFIN (Sprint):

Sprint supports S.B. 292. From a customer service standpoint, there is a danger that if this is not addressed as we move forward, the agents selling phones at the front desks could somehow be brought into the insurance umbrella which is nowhere near what they do, or what they need to be trained to do.

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RENNY ASHLEMAN (City of Henderson):

We have discovered there are many entities in the City of Henderson doing these things that would become insurance agents and would have to be licensed under city ordinances. We would like to work something out on the section of the bill making vendors insurance agents.

CHAIR SCHNEIDER:

We will close the hearing on S.B. 292, and with no further business, the meeting of the Senate Committee on Commerce, Labor and Energy is adjourned at 1:50 p.m.

RESPECTFULLY SUBMITTED:

Suzanne Efford,
Committee Secretary

APPROVED BY:

Senator Michael A. Schneider, Chair

DATE: _____

<u>EXHIBITS</u>			
Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance roster
S.B. 227	C	Senator Lee	Proposed amendment
S.B. 227	D	Michael Cheshire	ASC Staff Compliance Review Preliminary Findings
S.B. 227	E	Rodger Stone	Written testimony
S.B. 267	F	Senator Wiener	Digital copier presentation
S.B. 267	G	James D. Earl	Position paper
S.B. 267	H	Bill Uffelman	Proposed amendment from ELFA
S.B. 267	I	Bill Uffelman	Report from Business Technology Association
S.B. 292	J	Jesse Wadhams	Proposed Amendment