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

Seventy-Eighth Session
May 1, 2015

The Committee on Commerce and Labor was called to order by Chairman Randy Kirner at 1:33 p.m. on Friday, May 1, 2015, in Room 3143 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4401 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda (Exhibit A), the Attendance Roster (Exhibit B), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at www.leg.state.nv.us/App/NELIS/REL/78th2015. In addition, copies of the audio or video of the meeting may be purchased, for personal use only, through the Legislative Counsel Bureau's Publications Office (email: publications@lcb.state.nv.us; telephone: 775-684-6835).

COMMITTEE MEMBERS PRESENT:

Assemblyman Randy Kirner, Chairman
Assemblywoman Victoria Seaman, Vice Chair
Assemblyman Paul Anderson
Assemblywoman Irene Bustamante Adams
Assemblywoman Maggie Carlton
Assemblywoman Olivia Diaz
Assemblyman John Ellison
Assemblywoman Michele Fiore
Assemblyman Ira Hansen
Assemblywoman Marilyn K. Kirkpatrick
Assemblywoman Dina Neal
Assemblyman Erven T. Nelson
Assemblyman James Ohrenschall
Assemblyman P.K. O'Neill
Assemblyman Stephen H. Silberkraus

COMMITTEE MEMBERS ABSENT:

None

GUEST LEGISLATORS PRESENT:

Senator James A. Settelmeyer, Senate District No. 17

STAFF MEMBERS PRESENT:

Kelly Richard, Committee Policy Analyst
Matt Mundy, Committee Counsel
Earlene Miller, Committee Secretary
Olivia Lloyd, Committee Assistant

OTHERS PRESENT:

Terry J. Reynolds, Deputy Director of Administration, Department of Business and Industry
Jonathan Gedde, Chairman, Board of Governors, Nevada Mortgage Lenders Association, Las Vegas, Nevada
James Westrin, Commissioner, Division of Mortgage Lending, Department of Business and Industry
Janis Grady, Member, Advisory Council on Mortgage Investments and Mortgage Lending, Las Vegas, Nevada
Michael Hillerby, representing Bently Heritage and Charter Communications
Matt McKinney, General Manager, Bently Ranch, Minden, Nevada
Mike Draper, representing Churchill Vineyards and Frey Ranch Estate Distillery
Colby Frey, Owner, Churchill Vineyards and Frey Ranch Estate Distillery, Fallon, Nevada
Alfredo Alonso, representing Southern Wine and Spirits
George Racz, Founder and Distiller, Las Vegas Distillery, Henderson, Nevada
Donald J. Lomoljo, Utilities Hearings Officer, Public Utilities Commission of Nevada
Daniel O. Jacobsen, Technical Staff Manager, Bureau of Consumer Protection, Office of the Attorney General
Randy Robison, Director, State Legislative Affairs, CenturyLink, Las Vegas, Nevada
Michael Hunsucker, Vice President, Wholesale Services and Support, CenturyLink, Monroe, Louisiana
Randy J. Brown, Director, Regulatory and Legislative Affairs, AT&T Nevada
Mike Eifert, Executive Director, Nevada Telecommunications Association

Samuel P. McMullen, representing Southwest Cable Communications Association
Steven E. Tackes, representing XO Communications
Marla McDade Williams, representing Sprint
Samuel S. Crano, Assistant Staff Counsel, Public Utilities Commission of Nevada
Keith Lee, representing Maupin, Cox & LeGoy
G. Barton Mowry, Attorney, Maupin, Cox & LeGoy, Reno, Nevada

Chairman Kirner:
[The roll was taken, and a quorum was present.] We have four bills on work session.

Senate Bill 440 (1st Reprint): Revises provisions relating to insurance. (BDR 57-983)

I have been working on Senate Bill 440 (1st Reprint) to find answers to my questions and they are not all answered, so we will hear that bill next week. We will start with the work session on Senate Bill 86 (1st Reprint).

Senate Bill 86 (1st Reprint): Revises provisions governing pipeline and subsurface safety. (BDR 58-347)

Kelly Richard, Committee Policy Analyst:
Senate Bill 86 (1st Reprint) was sponsored by the Senate Committee on Commerce, Labor and Energy and was heard by this Committee on April 24. [Referred to work session document (Exhibit C).] The bill increases the maximum amount of a civil penalty that may be imposed by the Public Utilities Commission of Nevada for a violation of regulations adopted by the Commission in conformity with the Natural Gas Pipeline Safety Act of 1968. It imposes a new penalty not to exceed $200,000 for each violation for each day that the violation persists, with a maximum civil penalty not to exceed $2 million. The measure also increases the maximum civil penalty for a single willful or repeated violation of provisions governing excavation or demolition near subsurface installations to not more than $2,500 per day, and increases the maximum civil penalty for any related series of willful or repeated violations within a calendar year to not more than $250,000. Among other changes, the bill authorizes the Commission to triple the maximum civil penalty that may be imposed for each violation. There were no amendments.

ASSEMBLYMAN SILBERKRAUS MOVED TO DO PASS SENATE BILL 86 (1ST REPRINT).

ASSEMBLYWOMAN SEAMAN SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMEN PAUL ANDERSON, DIAZ, AND FIORE WERE ABSENT FOR THE VOTE.)

We will move to Senate Bill 151 (1st Reprint).

Senate Bill 151 (1st Reprint): Requires the Public Utilities Commission of Nevada to adopt regulations authorizing a natural gas utility to expand its infrastructure in a manner consistent with a program of economic development. (BDR 58-52)

Kelly Richard, Committee Policy Analyst:
Senate Bill 151 (1st Reprint) was also heard in Committee on April 24, 2015. [Referred to work session document (Exhibit D).] This bill requires the Public Utilities Commission of Nevada (PUCN) to adopt regulations authorizing a public utility that purchases natural gas for resale to expand its infrastructure in a manner consistent with an economic development program proposed by the public utility and approved by the PUCN. This bill was sponsored by Senator Atkinson and there were no amendments.

Chairman Kirner:
I will entertain a motion.

ASSEMBLYMAN SILBERKRAUS MOVED TO DO PASS SENATE BILL 151 (1ST REPRINT).

ASSEMBLYMAN OHRENSCHALL SECONDED THE MOTION.

Is there any discussion?

Assemblyman Hansen:
In section 1, subsection 2 of the bill, it talks about persons receiving indirect benefits from the expansion of the infrastructure. That is a pretty wide net, and I want to make sure that the record reflects those indirect benefit recipients are actually people who are in the immediate vicinity of the infrastructure. Indirect benefits is a really broad term. I want to be sure that the record reflects that our intention with this legislation is that indirect people are also within a reasonable proximity of the expansions that have to be paid and that the PUCN keep that in mind as they draft these regulations.

Assemblyman Ellison:
The questions I had on the bill have been answered.

Chairman Kirner:
I will call for the vote.

> THE MOTION PASSED. (ASSEMBLYMEN PAUL ANDERSON, DIAZ, AND FIORE WERE ABSENT FOR THE VOTE.)

We will move to Senate Bill 158 (1st Reprint).

Senate Bill 158 (1st Reprint): Revises provisions relating to collective bargaining by local governments. (BDR 23-704)

Kelly Richard, Committee Policy Analyst:
This bill was presented in Committee on April 24, 2015, by Senator Goicoechea and was sponsored by the Senate Committee on Government Affairs. [Referred to work session document (Exhibit E).] It requires a local government employer to make available to the public not less than three business days before a public hearing by its governing body to approve a collective bargaining agreement or similar agreement the following documents: the proposed agreement and any exhibits or other attachments to the proposed agreement; a document showing any language added to or deleted from the previous agreement if the proposed agreement is a modification of a previous agreement; and any supporting material prepared for the governing body and relating to the fiscal impact of the agreement.

These documents must be available on the website of the local government or, if the local government does not have such a website, by depositing the documents with the clerk of the governing body. Any document so deposited is a public record and must be open for public inspection.

Chairman Kirner:
Is there a motion?

> ASSEMBLYWOMAN SEAMAN MOVED TO DO PASS SENATE BILL 158 (1ST REPRINT).
>
> ASSEMBLYMAN ELLISON SECONDED THE MOTION.

Assemblyman Ellison:
I thought there was an amendment.

Assemblywoman Kirkpatrick:
I proposed an amendment to ensure that everybody was part of the process. I have not been able to meet with Senator Goicoechea, but it is current law that those evaluations are supposed to be public, and I think that needs to be reiterated. If I need to do a floor amendment for the bill to come out clean, I will. The intent has always been for all local governments that the evaluations be public. We passed that law a long time ago. I would love to see the amendment, but I am happy to offer it on the floor.

Chairman Kirner:
Is there any further discussion? Seeing none, I will call for the vote.

> THE MOTION PASSED. (ASSEMBLYWOMAN FIORE WAS ABSENT FOR THE VOTE.)

Assemblyman Ellison:
I voted yes, but I will reserve my right to change my vote on the floor.

Assemblywoman Kirkpatrick:
I will reserve my right too.

Assemblywoman Carlton:
I reserve my right to change my vote also.

Assemblywoman Neal:
I reserve my right to change my vote.

Chairman Kirner:
We will open the hearing on Assembly Bill 480.

Assembly Bill 480: Provides for the licensing and regulation of mortgage loan servicers and revises provisions governing the administration of the Division of Mortgage Lending of the Department of Business and Industry. (BDR 54-1174)

Terry J. Reynolds, Deputy Director of Administration, Department of Business and Industry:
This is a proposed amendment (Exhibit F) to the bill that we have worked on diligently to come to consensus with the Nevada Mortgage Lenders Association. I would like to go through the major points in the amendment. We proposed to change Chapter 645 of the *Nevada Revised Statutes* (NRS) to remove servicer language from the definition of escrow. We have strengthened the existing positions to clarify that the performance of escrow activity on Nevada

property requires licensure, unless exempt, regardless of where the escrow agency is located. An out-of-state escrow agency would still have to be licensed in the state of Nevada. This would also allow for the future of a nationwide registry for the licensing of escrow agents and escrow agencies.

In the amendment, mortgage brokers who are licensed under NRS Chapter 645B will be exempt from licensing under the servicer bill for loans they make or arrange under that license. We will also define "wholesale lender" and eliminate the in-state office requirement for them in Chapter 645B of NRS and allow for examination of electronic records. Additionally, if they are unable to send the records electronically or if we find a need, we would be able to go onsite to review the records in another state, and they could choose to pay for that and have our staff go to see them to do the audit.

Section 18 of the proposed amendment provides that mortgage bankers licensed under Chapter 645E of NRS will be exempt from licensing under the servicer bill for loans that they make under that license.

In our amendment (Exhibit F), we have deleted sections 21 through 86, which is a significant deletion. That will provide for the administrative amendments to be able to license mortgage servicers. It will define "mortgage servicer" similarly to the existing definition in NRS 107.440. It will prohibit a person from acting as a mortgage servicer unless they are exempt from licensure. It will require the Commissioner to adopt regulations to implement a licensing and supervisory program, but only after public hearings and working with the industry and then bringing them back for consideration by the Legislative Commission. It will require compliance with law and regulations, provide that a person compliant with the applicable Consumer Financial Protection Bureau (CFPB) under the Dodd-Frank Act is compliant with the bill, and allow the use of nationwide registry for receipt of applications, fees, and reports. It simplifies the process so two applications, one local and one national, do not have to be filed.

Those are the amendments that we are proposing. We have discussed this with the Nevada Mortgage Lenders Association and received consensus.

Jonathan Gedde, Chairman, Board of Governors, Nevada Mortgage Lenders Association, Las Vegas, Nevada:

As Mr. Reynolds stated, we have worked together to find common areas so we can support this bill. There are a couple of specific provisions that we worked on with the Division. Our primary objective is to make sure that affordable credit, specifically mortgage credit, is accessible for all Nevadans. There are two provisions in this bill to help do that. One is exempting the wholesale

lender from the brick-and-mortar requirement. It allows mortgage capital from wherever it may exist to come into the state without the onerous provision to have a physical location here. That will help bring in alternative loan programs and programs for those who do not fit in the Federal Housing Authority (FHA) or traditional box. The other provision is the compliance with federal laws as well as the CFPB's standards. Having those servicing standards, if followed, will represent compliance with state standards. We are happy to support this bill at this time.

Chairman Kirner:
I appreciate your work with the Division to bring this bill.

Assemblyman Ohrenschall:
Section 8, subsection 3 of the mock-up dated May 1, 2015, says, "The applicant shall include in an application for renewal of an existing license: (a) Any renewal fee required pursuant to NRS 645A.040." Is that set by NRS or is it left up to the Commissioner?

James Westrin, Commissioner, Division of Mortgage Lending, Department of Business and Industry:
The renewal fee is set by NRS 645A.040.

Assemblyman Ohrenschall:
How much is it?

Jim Westrin:
I believe it is $200.

Chairman Kirner:
Are there any other questions?

Assemblywoman Carlton:
For years we wanted people to be physically in the state. We figured if they were going to make money from the residents of the state, that they should at least have a physical presence in the state. I wonder what the public policy change is to eliminate that provision?

Jon Gedde:
The change in the provision does not actually change the spirit of that brick-and-mortar requirement. Anyone who is dealing directly with a borrower will still need to be physically in the state of Nevada or the license will still have to have a physical location in the state of Nevada. The exemption is only for wholesale lenders or correspondent lenders, which are institutions providing

capital either to fund transactions being originated by mortgage brokers in the state or to purchase loans that are funded by a local mortgage banker. The originator of the loan, someone who is taking an application from a borrower or negotiating terms with a borrower, is still required to have a physical location in the state.

Assemblywoman Carlton:
But the guy with the back-up dollars does not necessarily have to be in the state?

Terry Reynolds:
The issue is as long as they provide us access to their records electronically and they will pay for our staff to visit them or do an audit at their home location, we feel that in today's world, that is sufficient for us to reach out to them. Under the Dodd-Frank Act, they will be registered and have to comply with those regulations for the CFPB. We feel that is substantial protection for the consumer. In addition, most of the types of wholesale lenders have an office, but it is not accessible to the public. They work through a mortgage broker within the state that does have an office. We think from a consumer standpoint, those individuals will work more with the mortgage broker who has an office in the state.

Assemblywoman Carlton:
Dodd-Frank has been stymied for years. I did not realize it was getting any better. That does not give me a level of comfort. With what everybody in our state has been through with mortgages lately, I am looking under every rock to make sure we are not going to end up in the same position. I think we need to pay attention to what could possibly come from changes. The market is not back yet, and people are still underwater. It is not over, so I still have some concerns about some of these changes.

Assemblyman Nelson:
If a lender is a Nevada limited liability company (LLC), but is not doing loans in Nevada and is doing loans outside the state, would they need to be licensed?

Jim Westrin:
Generally, under our statutes, if they are making loans on a property located in Nevada, they would be licensed under our jurisdiction. If they are making loans on property in another state, they would be subject to the jurisdiction and consumer protections in that state.

Chairman Kirner:
Are there any other questions?

Assemblyman Ellison:
The fiscal note says revenue of $256,850 in future biennia. Is that such a large increase that we will discourage people, or am I seeing this wrong?

Terry Reynolds:
What you are seeing are the fees for initial licensing of mortgage brokers and bankers. We took the escrow fees out of this version of the bill, but the escrow fees are included in that amount. We have consensus from the Nevada Mortgage Lenders Association for the increase in fees. They support that increase and realize what it takes to run this office. This office was previously funded by National Mortgage Settlement dollars, and because those dollars are ending, we are going back to a fee-based budget.

Chairman Kirner:
We need to be focused on the policy. This bill was in the Assembly Committee on Ways and Means and was rereferred to us. If we are able to move this, we will rerefer it to Ways and Means to work with the fiscal notes. Are there any other questions from the Committee? [There were none.] Will those in support of the bill come forward.

Janis Grady, Member, Advisory Council on Mortgage Investments and Mortgage Lending, Las Vegas, Nevada:
I am in support of this bill with the presented amendments.

[Received but not discussed were letters of support from Michele Johnson, President, Financial Guidance Center, Las Vegas (Exhibit G) and Alan Williams of Las Vegas (Exhibit H).]

Chairman Kirner:
Are there others in support? [There were none.] Are there any in opposition to this bill? Seeing no opposition, are there any who are neutral on this bill? [There were none.] Are there any questions?

Assemblyman Nelson:
I only see two small sections taken out of the mock-up.

Chairman Kirner:
If you look at page 13 of the mock-up (Exhibit F), you will see a description of the sections that are deleted.

Terry Reynolds:
Sections 21 through 86 provide for administrative regulations to license servicers and sets out the process we will go through, which will require public hearings and require us to look at certain aspects of the licensure for those mortgage servicers.

Assemblyman Nelson:
You are taking out those sections, but they are still in the mock-up?

Terry Reynolds:
The note on the side indicates what the Legislative Counsel Bureau will provide in the legislation for the administrative process to cover licensing of servicers.

Assemblyman Ohrenschall:
Section 90 of the mock-up says "the Commissioner shall" and the deleted language is "adopt any regulations and carry out the provisions of this chapter." The new language gives the Commissioner "broad administrative authority to administer, interpret and enforce this chapter" and NRS Chapters 645A, 645B, and 645E and any other chapter for which the Commissioner is statutorily responsible. It looks to me like a big expansion in terms of the Commissioner's authority. Is that what section 90 is going to be?

Jim Westrin:
Chapter 645F of the NRS is the enabling legislation for the Division. Under each of the separate chapters, there is regulation authority. In the mock-up, there will be language that the final servicing rules for CFPB, if they are compliant with that, they will be compliant with the servicing provisions of the regulations.

Assemblyman Ohrenschall:
So, section 90 will not be a broad expansion of the Commissioner's authority?

Jim Westrin:
No.

Assemblywoman Bustamante Adams:
I have been contacted by Larry Carroll, who is a small-business owner from southern Nevada. Was this the bill he had concerns about and were they worked out? I did not see any follow-up on that.

Terry Reynolds:
We spoke with Mr. Carroll at length about his concerns regarding the construction control when you contract to do escrow services for contractors.

The ability to provide for the requirements of that and the educational requirements for construction control people or agencies is controlled through administrative regulation. I have spoken to Commissioner Westrin and we will work with that industry to provide for sufficient education and controls that are segmented to that industry and not broadened. They just deal with escrow and mortgages. I responded to Mr. Carroll and indicated that to him in an email and sent a copy to you.

Chairman Kirner:
Seeing no further questions, I will close the hearing on A.B. 480 and open the hearing on Senate Bill 246 (1st Reprint).

Senate Bill 246 (1st Reprint): Revises provisions governing alcoholic beverages. (BDR 52-631)

Senator James A. Settelmeyer, Senate District No. 17:
The idea for Senate Bill 246 (1st Reprint) came from two constituents in different counties who are seeking to start or increase distillery businesses. In section 1 of the bill, we included, at the request of the distributors, a section dealing with penalties. We already have these penalties in law for the other sections dealing with brew pubs and wine. We felt it was important to have parity and bring the penalties so that if someone disobeyed the law, somebody could bring a civil action against them.

Section 1.7 gets into the important part of the bill. We are seeking to increase the volume that can be brewed or manufactured from 20,000 to 40,000 cases and to increase the tasting limitation from two fluid ounces to four fluid ounces. Others at the table will talk about the plans they have for operations and the ability to tour their ranches to show where they are growing the grain. That is where the concept of doubling the amounts came from. The case limitation will change from two bottles per month per person to one case per month, but no more than six cases of spirits per year. The request came from the Frey Ranch Estate Distillery, which has customers who want to buy bottles for gifts. In section 1.7, subsection 1, paragraph (f), it has the ability to transfer neutral spirits for donation for charitable or nonprofit purposes. Paragraph (g) provides for the transfer of neutral spirits for manufacturing purposes. Subsection 3 describes a bottle and what is in a case and how many milliliters are in a bottle.

We have some small distillers that are growing and would like to have the opportunity to work within Douglas County. We have a company in Douglas County that is seeking to spend millions of dollars getting the old Minden Mill running for a distillery. My father was once the manager of the mill. The building has since been abandoned.

Chairman Kirner:
We will take testimony in favor of the bill.

Michael Hillerby, representing Bently Heritage:
We would like to thank Senator Settelmeyer and the other bill sponsors. We will have Matt McKinney talk about the Bently Nevada operation and the unique nature of the estate distillery.

Matt McKinney, General Manager, Bently Ranch, Minden, Nevada:
Bently Heritage, LLC will produce premium spirits from locally grown grains and botanicals grown on the Bently Ranch in the Carson Valley. [Provided handout (Exhibit I).] We will forge strong partnerships with established Nevada distributors by working within the current three-tier system and help draw regional attention to the homegrown businesses. Investor and project owner Christopher Bently is a Carson Valley native. He is establishing our estate distillery in Minden, the historic heart of the Battle Born State. Bently Heritage is a keystone of a larger plan to revitalize his home, create jobs, and draw other businesses to the area. In the first year of operation, it will create 13 new jobs which will pay an average of $25 or more per hour. However, it is about more than creating jobs. It is about establishing a local business that will last for generations and will forge partnerships with existing businesses and distributors that will last just as long.

The home of Bently Heritage will be the historic Minden Flour Milling Company building. This nationally recognized historic structure is being refitted into a cutting-edge distillery and a destination that will be open to the public for tours and tastings. The total project budget, which includes the cost of the building construction, renovation, land value, and investment in equipment, will be over $44 million. Distilling equipment will be ordered from Scotland, Germany, and local sources. In addition to creating a hub of activity in downtown Minden, the export market will be our main business focus for Bently Heritage.

The Bently family has been an economic force in the Carson Valley since 1961. We look forward to not only continuing this legacy but putting Minden back on the map and in good company with other Silver State artisans and distillers. The changes to Nevada's craft distilling law requested by S.B. 246 (R1) will enable us to meet customer demand and export Nevada-made spirits. It will generate interest in the history of the Silver State and be an important driver of economic development for local distillers, wholesalers, and businesses.

Michael Hillerby:
I would like to thank the wholesale and distribution industry who worked very hard to come to a compromise on this so everyone could come here today in support.

Chairman Kirner:
I appreciate your work on this bill. Are there any questions from the Committee?

Assemblyman O'Neill:
What kind of spirits are you talking about?

Matt McKinney:
Spirits is a large designation. We will have whiskey, bourbon, vodka, gin, absinthe, and anything along those lines.

Chairman Kirner:
Are there any other questions? Seeing none, I will invite those in support of the bill to come forward.

Mike Draper, representing Churchill Vineyards and Frey Ranch Estate Distillery:
The Frey Ranch operation is the only estate distillery and winery in the country. We appreciate Senator Settelmeyer's efforts to bring this bill to the Legislature this session. We support this bill. Nevada is on the brink of becoming a fantastic craft distilling state. Colby and Ashley Frey's distilled products are being distributed in Nevada and are starting to be distributed in California. There is a lot of opportunity.

Colby Frey, Owner, Churchill Vineyards and Frey Ranch Estate Distillery, Fallon, Nevada:
I am a fifth-generation Nevada farmer and owner of Churchill Vineyards and Frey Ranch Estate Distillery. We own a 1,200-acre farm in Fallon that I was fortunate to buy from my father, who got it from his grandfather. Being a farmer is tough because of land values and other problems such as droughts, so it is important to come up with new ways to survive. We came up with having a distillery. It is a way we can vertically integrate and create a product from what we produce on our farm. It is very important for our survival as farmers.

We have been distilling since 2006. We completed our state-of-the-art distillery building a year ago which is capable of producing 10,000 cases per month. We do not anticipate producing that much. We want to be farmers first. We want to grow the ingredients during the summer and create the products

during the winter. We sized our operation accordingly. We distill during the winter months and do not have to lay off our employees because of a lack of work. In the summer, we close the distillery and concentrate on growing the crops. We can do a good job at both jobs.

Assemblywoman Neal:
In section 1, subsection 1, it talks about economic damage as the proximate result. Have you ever experienced any economic damage for someone acting contrary to your business? What do the damages mean? Can you give me a real-life example?

Mike Draper:
We are talking about opportunity lost. We have people who visit from Oregon, California, Las Vegas, and even Reno. Because there are various restrictions about what can be sold, we are losing the opportunity to expose our product to these people. Selling more product benefits our distributor and our supplier. We view this bill as an opportunity for everyone to win.

Assemblywoman Neal:
Please also give me an example of instances that have occurred or could occur of an agent or employee who knowingly aids or assists in the violation of the rules.

Senator Settelmeyer:
The first section of the bill is not for the people who are growing or producing. It is for the distributors as it replicates the other sections in law. It ensures that if the producers produce more than they are legally allowed, it allows the distributors to have recourse. I believe that is done because our state only has two enforcement agents. Therefore, these individuals need legal remedies. An example would be if an individual produced 50,000 cases and exceeded the law, the distributor would have the ability to state that on those 10,000 cases over the limit, you have disallowed me this much income. Therefore, the distributor could put forth a civil action to try to recover those differences within the confines of the law.

Assemblywoman Neal:
Is it the competitor who would be able to bring a claim?

Senator Settelmeyer:
This bill goes to the heart of the matter of the three-tiered system that we have in Nevada. Traditionally, the producers are supposed to go through a distributor and then to a retailer to sell. We are allowing an exemption for this process for what we consider to be craft industries, on a limited scale, to allow them

to grow. Once they get to a big enough scale, they should think about going to a traditional route for all of their product. There is nothing currently in law that would prevent these operations from growing as much as they wish and then going through the distribution chain to the retailer. The law is to protect the three-tiered distribution chain that has been established in Nevada.

The intent of the bill is to expand the definition of a craft distillery and to give them room to grow in these businesses. As Mr. Frey indicated, he has the potential to produce 10,000 cases per month, but he only does that in the winter months. He was looking at flexibility so he can employ his people for the four winter months. But if he or any other individual were to exceed the limit of 40,000 cases, then there is a loss to the distributors and the retailers. They would have the ability to show said loss in a court of law. I believe the intent of the bill is so we do not have to have more enforcement officers.

Alfredo Alonso, representing Southern Wine and Spirits:
That is the intent. We are not creating something new here. This is already in statute in *Nevada Revised Statutes* (NRS) Chapters 369 and 597. As an example, a distiller decides to start selling beyond those limits on premises and they are now operating in all three tiers. They are now perhaps selling by mail and disregarding the limits, instead of selling it through the system. The likelihood is that no taxes are being paid because of the difficulty within the enforcement arm of the state. Many years ago, the Legislature determined the three-tiered system acted as another tool in case you could not get the enforcement. A retailer, a wholesaler, or the distiller could sue on behalf of themselves in respect to any damages. If you have someone who is obviously bypassing the retailer, he could say that should be in my store and should not be sold in a different manner. Therefore, this is an excellent mechanism to ensure that the state, the retailer, and the wholesaler will be whole.

Assemblywoman Neal:
Has proximate result always been the standard in relationship to economic damages? Would this change the burden of proof?

Alfredo Alonso:
This was used recently. Southern Wine and Spirits sued a gray marketeer. This gray marketeer was bringing huge amounts of gray market, black market, and, in some cases, counterfeit liquor into the state. It was being sold into the same channels and everyone thought it was legal until they figured out that 50 cases of Cristal champagne had been sitting on a dock in Oakland for about six months. One of our gaming properties bought it thinking they had

good product and found out it had been bad for years. Chapters 369 and 597 of NRS allowed for bringing action against the gray marketeer. The courts ruled in our favor. It is another method in which the private entity within the system can seek damages when our enforcement arm cannot.

Chairman Kirner:
We will move to the testifier in Las Vegas.

George Racz, Founder and Distiller, Las Vegas Distillery, Henderson, Nevada:
We are happy with this bill and we support it. I wrote Assembly Bill 153 of the 77th Session. It is great to see that we planted a seed a couple of years ago and we have more distilleries opened in southern Nevada. This bill will increase the production for us. We support this bill.

Chairman Kirner:
Is there anyone in opposition? Seeing no opposition, are there any to testify from a neutral position? [There were none.] I will close the hearing on S.B. 246 (R1). I will open the hearing on Senate Bill 87 (1st Reprint).

Senate Bill 87 (1st Reprint): Authorizes the Public Utilities Commission of Nevada to modify resource plans submitted by certain public utilities. (BDR 58-349)

Donald J. Lomoljo, Utilities Hearings Officer, Public Utilities Commission of Nevada:
Senate Bill 87 (1st Reprint) pertains to the integrated resource planning authority of the Public Utilities Commission of Nevada (PUCN). Integrated resource planning is an application process that the jurisdictional electric utilities go through on a triennial basis. Those companies include Sierra Pacific Power in northern Nevada, Nevada Power in southern Nevada, and the larger jurisdictional water utilities. They are required to present a plan to the Commission of how they are going to serve their customers in the next 20 years. The Commission approves an immediate three-year plan which is called an action plan.

Senate Bill 87 (1st Reprint) corrects a current inconsistency in the integrated resource planning law. Last session, the Legislature passed a law that created a subset of integrated resource planning, which was the emissions reduction and capacity replacement plan process. In that process, the Commission has the ability to accept, modify, or deem inadequate a plan. This bill extends those abilities to the Commission in general in integrated resource plans. It creates efficiencies, a more dynamic process where the Commission can actually consider and modify plans based upon testimony and evidence that is received in the integrated resource planning litigation process.

Chairman Kirner:
Are there any questions? Seeing none, I will invite those in support of the bill to come to the table.

Daniel O. Jacobsen, Technical Staff Manager, Bureau of Consumer Protection, Office of the Attorney General:
We are supportive of this bill. By giving the Commission the latitude to make changes to the proposals a utility might make for a project, we think it will result in better protection for consumers. We are currently seeing a lot of disruptive technology that may significantly alter the way we think about utilities that previously had no competitive alternatives.

Chairman Kirner:
Are there others in support? Seeing none, are there any opposed to this bill? [There were none.] Are there any to testify from a neutral position? [There was no one.] I will close the hearing on S.B. 87 (R1) and open the hearing on Senate Bill 112 (1st Reprint).

Senate Bill 112 (1st Reprint): Revises provisions relating to telecommunications. (BDR 58-636)

Senator James A. Settelmeyer, Senate District No. 17:
As the Chair of the Senate Committee on Commerce, Labor and Energy, I am here to tell you where my Committee ended up on this bill and why. After several discussions about incumbent local exchange carriers (ILEC) and competitive local exchange carriers (CLEC), it gets to be a fairly technical discussion. In that respect, one of my Committee members indicated that they felt it was best to let the Public Utilities Commission of Nevada (PUCN) deal with it because they have people who are well versed on this subject.

Randy Robison, Director, State Legislative Affairs, CenturyLink, Las Vegas, Nevada:
I have with me Mike Hunsucker, Vice President of Wholesale Services and Support, who has primary responsibility for managing and looking after the plans that are in place in some of the states where we do business. Not all of the states in which we do business have performance measurement plans (PMP), but there are enough that do, so he makes sure they are doing the right thing. I would like for Mike to explain why we feel it is time to look at these plans and to give the PUCN more flexibility to balance the interests and the complex issues.

Michael Hunsucker, Vice President, Wholesale Services and Support, CenturyLink, Monroe, Louisiana:
I have been with the company for 36 years and have lived through a long history of changes in the industry. I started with United Telecom in 1979 and went through the Sprint years, the Embarq years, and now the CenturyLink years. I was a director in the policy group for Sprint and represented CLEC and ILEC operations in front of state commissions. I have an extensive background and I know when the PMP was first put in place here in Nevada in 1999 it was started by the local competitive users group. In 2000 in Nevada, CenturyLink had over 900,000 access lines in the state. We believe this plan was put in place to ensure that there would be effective competition.

We believe competition has worked and is still working. We now have only 332,000 lines in Nevada. We have seen a 64 percent decline in our lines. A lot of that is due to the growth of the CLECs in the state and competition from wireless providers. In the same period of time that we have seen a 64 percent decline in our lines, the population of Clark County has increased 47 percent. We are not as dominant as we once were in the market. There was a Federal Communications Commission (FCC) report released in October 2014, which reflected data through December of 2013. This is not my data or my company's data. This is data that was reported by 9 ILECs in the state and 115 CLECs. If you look at the total subscribers including wireless, the ILECs have 15.4 percent of the total subscribers in the state. We are not controlling the market, and we think the PMP was put in place at a time when it was needed, but over time the need has changed.

When we first introduced this bill in the Senate, we said the Commission "shall eliminate" the plan. We have changed it to "may." We are asking that we move forward and let the Commission use their expertise to determine whether it is needed now or not. That is what this bill does. Some will question whether we have an incentive to continue without these measurement plans. We operate in 37 states and 19 of those states have no measurement plans for CenturyLink. Three other states have a measurement plan, but have no penalty plan. The reason we have the ones we have with penalty plans is from the Qwest acquisition four years ago. When we acquired Qwest, their customers were in 14 states and they all had PMPs and penalty plans. We have a real incentive to provide quality service to our wholesale customers. We treat them as customers. If you look at our third-quarter financial statement that we reported to the FCC, 20 percent of our company's revenues come from our wholesale customers. Thirty-five percent of our segment income comes from these customers.

We are structured organizationally with a group that does nothing but manage wholesale. My boss is the president of the wholesale market. We have around 1,000 employees whose role is to make sure we are providing services and delivering the products that the customers need. We have an incentive and we are going to continue to provide quality service. These plans are not the impetus for us to provide quality service. We need that revenue as a company, and we have a fiduciary responsibility to our shareholders. We will continue to provide quality service if the PUCN reviews this and at some time eliminates it. Our network was built to serve 1 million access lines and we now serve a little over 300,000 lines. It is a huge fixed-cost operation. We need the contribution from wholesale customers to cover that cost and help us pay for our network. That is one more incentive that we are not going to walk away from. It is important to us and key to the financial success of CenturyLink in the future.

Chairman Kirner:
The change from "shall" to "may" in the bill will allow the PUCN to review this and to make certain decisions. They are not required to make any specific decisions, but they operate as they normally do with all other areas of their business. Is that correct?

Randy Robison:
That is correct. The change is from "shall" establish regulations relating to performance measurements and reporting with self-executing penalties associated with that. Changing to "may" allows them to revisit that perhaps more regularly than they do now to have a broader range of decisions that they can make. In our view, it gives them a bit more discretion.

Chairman Kirner:
It gives them pure discretion. They are not required to do anything specifically other than review the regulations and so forth. Are there any questions?

Assemblyman O'Neill:
Will the Commission decide if you need to make performance reports?

Randy Robison:
That would be a good interpretation.

Assemblyman O'Neill:
How will they know they need the reports if they do not get the information that performance is not being maintained?

Randy Robison:
I think your question presumes a scenario where the PUCN would eliminate the reporting requirement. That is unlikely. They may restrict the number of measurements. Let us say that they do; we could still get the data. In current statute, there is an existing expedited complaint procedure for CLECs or anybody else who feels they are being harmed or receiving discriminatory treatment. They could file an expedited complaint with the PUCN. Under the PUCN's normal proceedings, they can request the data from us and we can pull that data that is related to that complaint. We still have the ability to get the data and respond to a complaint from the PUCN.

Assemblyman O'Neill:
How long would that take you to get your information together?

Randy Robison:
We could have it the same day.

Assemblywoman Kirkpatrick:
This would give the PUCN the ability to change what they are looking for in regard to performance. I have never known the PUCN to not open a docket if there are enough complaints. If they do bring regulations, I want to be clear that the legislative intent is there and they get the correct data that makes sense for the complaints that are being addressed. Is that what I heard you say?

Mike Hunsucker:
I think that is a fair assessment. If a customer believes we are not complying and there is a discrimination going on, they can bring whatever issue, and we will be responsive to getting the data and making sure that we work with the customer and the PUCN to resolve it. We would like to see the customer come to us and see if we can work it out ourselves before we have to go to the PUCN.

Assemblywoman Kirkpatrick:
The PUCN is always about consumer protection first and foremost, but I want you to be clear that they could bring regulations back and the performance measures could be changed.

Randy Robison:
In respect to the performance measurements, we believe that is an accurate interpretation. Currently we are reporting on about 34 different measures. With each of those measures, there are submeasures. We are currently reporting on 394 different data elements that relate to competition and

discriminatory activity. That information comes from a variety of data sources within our system, and that is where some of the costs and time comes from. It is not like there will be two measurements out there. Right now we are required to report on 34 different measures.

Assemblyman Ellison:
My worry is the consumer. How long is it going to take to go through the PUCN for the consumer to get their rates if they are adjusted? Where does the consumer come in?

Mike Hunsucker:
If there is a complaint today, I do not know that it is going to take an inordinately longer amount of time to resolve. We prepare that data on the 394 submeasures every month. We are finding that our wholesale customers today generally are not looking at the data. We track who accesses the system and which measures they are viewing. We have some carriers that have not requested access to the system. We have some customers who have looked at it once in the last three years. We are not trying to delay resolution. Selling on a wholesale basis is important to our business, so we are going to try to do everything we can to make sure there is no impact on the customers.

Assemblyman Ohrenschall:
Mr. Hunsucker, regarding *Nevada Revised Statutes* (NRS) 704.6881 and the current system we have with performance measures and the self-effectuating penalties, you mentioned that CenturyLink operated in a lot of jurisdictions that do not have these performance measures. In those jurisdictions, do you find that the CLECs are filing a lot of complaints because they feel that CenturyLink or the other ILECs are not playing fair, are not being competitive, or are discriminating in favoring one company over another? How are you finding that this works in the jurisdictions that do not have this kind of structure?

Mike Hunsucker:
The short answer to that is no. I have been in this role for seven or eight years. I am not aware of any complaint that has gone forward before any of our commissions regarding service discrimination. We may have had inquiries from some of our customers about issues. We had one in Nevada about directory listings, but we worked with this particular carrier to try to solve that problem.

Assemblyman Nelson:
Is the process already working with the PUCN to get performance measures lightened or removed?

Mike Hunsucker:
We have the ability to make changes to the plan, but the PUCN does not have the statutory authority to eliminate the plan if they deem that the plan no longer needs to continue. All this bill does is allow them to eliminate the plan. You are correct, adjustments can be made, but there has to statutorily be a plan. With this bill, we are trying to give them the authority to eliminate it if they deem that is appropriate.

Assemblyman Nelson:
Are the costs of complying with the performance measures being passed on?

Mike Hunsucker:
They are just a cost that we incur as a wholesale business unit. We do not bill a fee to our customers that says here is your performance management plan cost. Those are our costs of doing business and providing service.

Assemblyman Nelson:
I thought that when this was set up the smaller carriers were going to contribute to the costs.

Mike Hunsucker:
I do not believe that is accurate.

Chairman Kirner:
I will invite those in support to testify.

Randy J. Brown, Director, Regulatory and Legislative Affairs, AT&T Nevada:
Senate Bill 112 (1st Reprint) is a simple measure that makes for a very balanced approach to address the competing interests of all parties by simply allowing the state's eminently qualified PUCN to conduct an open and public proceeding to determine what part or parts of the PMP should be kept, modified, or eliminated. I would like to address something you are likely to hear from a competitor that operates in AT&T's territory, primarily in northern Nevada. What you will hear is the PMP and performance incentive plans are critical to the business operations of the competitor and without those plans in place, AT&T will begin competing in an anticompetitive manner. What you will not hear from the competitors is that during the five-year period beginning January 1, 2010, through December 31, 2014, not once has the competitor accessed the PMP data that has been collected and provided. You will also not hear from them that in the same five-year period, on not one occasion has AT&T missed a performance measure standard that would have resulted in a penalty payment to them.

Some of you have also been told that the 911 emergency number will be negatively impacted as a result of this legislation. The facts state otherwise. I want to be abundantly clear about this. Absolutely no change to the existing performance measures or performance incentive plan can occur without the express written approval of the PUCN. It could only happen after conducting a thorough and open public proceeding to address any requested changes. I think it is preposterous to suggest that the highly qualified PUCN would approve any modification that would negatively impact public safety.

I would also point out the competitors who do business with AT&T can and have participated in these very proceedings at the PUCN. They intervene into the cases and are granted intervener status and they are allowed to participate in the dialogue of these cases. Very few times do they actually do that, which I believe is an indication of the good performance that we have had.

I want to be clear about what this measure does not do. This measure does not change or modify any state or federal laws regarding anticompetitive behavior. All existing protections regarding anticompetitive behavior remain in full effect. This measure makes absolutely no changes to the expedited complaint process that has been discussed earlier. If the Commission finds that AT&T has behaved in an anticompetitive manner, the Commission has extremely broad authority to impose fines and penalties up to and including the revocation of our certificate to operate in this state. I hope you agree that is a big penalty.

Mike Eifert, Executive Director, Nevada Telecommunications Association:
We represent the 12 ILECs that have been mentioned. It is important that we keep the focus that the PUCN oversees all of our companies. They do a very good job, sometimes too good. They do their job adequately well. This bill does not remove any of that. It still gives them that discretion and we will still follow the processes that are in place. If there are any complaints, this bill does not remove the process for hearing those complaints and it does not remove any of the authority of the PUCN.

I want you to know, Assemblyman Nelson, that the rural carriers do not do PMPs. In 1999, our competitive suppliers were seen as monopolies, and we no longer hold that status. There is a great deal of competition and a great deal of movement between what we used to deal with, which was a landline, to the various technologies that we have today. We are in full support of this bill.

Chairman Kirner:
Are there any questions?

Assemblyman O'Neill:
AT&T has been doing the reports for years. You recently submitted to the PUCN that you had no problems continuing to do the reports. Can you help me understand that conflict?

Randy Brown:
As is required by law, AT&T and other competitive suppliers are required to file a triennial review with the PUCN. We have the plan reviewed every three years. It is an expensive process for us. When we seek to make changes to these performance measure plans, we have to hire a subject matter expert, often a consultant who is well versed in our systems and in dealing with our competitors in our service territory. We then have an extensive debate at the PUCN where we argue with the CLECs about what measures should be kept in or taken out. We have made significant progress in Nevada on refining those measures and in our last triennial review, we simply refiled our existing plan. We chose not to go through the expense of the process and having a long, drawn-out fight. Part of the reason, in addition to the expense, was that we have performed greatly and we have not had performance measurements with this specific competitor, so there was no compelling reason to make a change at this point.

Assemblywoman Diaz:
One of the arguments that has been highlighted is that there is fear that other companies who depend or rely on your services will be treated like second-class customers and that you will solely focus on providing services to your customers, and their customers will suffer. That is what I heard from the other side, and that is why they think that you need to continue this reporting. Can you share with the Committee why you do not think that will really happen? I know there are federal regulations that mandate your company. What would be the ramifications for your company if an expedited claim would be brought to the PUCN?

Randy Brown:
These systems are designed to operate at parity. When someone calls for a repair technician to make a repair at their home, we use the same technicians for our customers and those of our competitors. We do not have two separate databases that update the 911 database. We have one database that does that. These systems are designed to operate at parity. There are federal and state laws governing anticompetitive behavior, and that is not being touched in this bill. If we behave in an anticompetitive manner, the competitor has the absolute uninhibited right and ability to file a complaint with the PUCN, and they have broad authority to remedy the situation.

These are our customers, and we make money from them. We have a financial incentive to treat them well. We want them to be on our network. They contribute to our net income, and they contribute to our shareholders.

Assemblywoman Neal:
Now that the bill is becoming discretionary versus mandatory in regard to regulations, what is the effect of that? I was reading the local telephone competition report, and I was looking at the interconnectivity. The local telephone competition reports said there were 48 million users that were interconnected through Voice over Internet Protocol (VoIP). What does that mean if it becomes discretionary when you can choose to do certain things when the federal statute said it was mandatory and in other cases it said "shall provide"? So what are you responsible for doing?

Randy Brown:
This bill does not make any changes to interconnection. You are referring to VoIP, which is a specific technology. We may interconnect using that technology. They may also interconnect using time-division multiplexing (TDM), which is in place today. This legislation says that the 394 measures and submeasures in CenturyLink's example can be evaluated by the PUCN, and they will make a decision about what measures, if any, are required to continue to be reported on. I believe this statute was added in 1999. In the years since, the competition and the technology have changed. It is simply saying that the Commission will decide what measures or incentive plans need to be in place at any given time.

Chairman Kirner:
We have a lot of questions.

Assemblyman Ohrenschall:
Do you know how many of the penalties have had to be paid either by AT&T or the other ILECs in the last year? Are violations happening a lot to the CLECs or is this something that is infrequent? The argument I have heard from some of the CLECs is that if they do not have this data, they will not know if they are being treated fairly. I would like to know the ILECs' response. If the data is not collected in other states, I am assuming there is another way to check on that, but I am not sure.

Randy Brown:
Regarding your question on penalties paid, I did the research for only the major competitor that you are likely to hear from today. They are one of the largest

competitors in our service territory. We went back to January 1, 2010, through December 31, 2014, which is a five-year window, and we have not paid them a single penalty. In addition, we have not missed a single performance measure or submeasure that would require a penalty payment.

Assemblyman Ohrenschall:
No penalty means no violation?

Randy Brown:
That is correct. While I understand the argument that is being made, that if the information is not available, how will we know, my response is, how would you know today because you do not look at the information. The information has not been reviewed in five years, so how do you know if you have a problem or not? I would suspect to operationalize the way you would know there was a problem or not is that you would hear from your customers. They would ask, why is it taking me three weeks to get my phone repaired? They would say their neighbor has AT&T and he got his phone repaired yesterday. Or they would hear we were giving order due dates or completion dates that are months out when it normally only takes two or three days to complete an order. I think it would be quickly apparent if there were problems in the systems.

Assemblyman Nelson:
It seems the system is almost like détente. The rules that are in place make you guys play fair. You are saying we have been playing fair, we have federal laws that make us continue to play fair, and we have no incentive not to play fair. Is that correct?

Randy Brown:
That is what I am saying, but our ability and authority to operate in the state is conditioned upon approval from the PUCN. It would be simply foolish for me to risk the authority to operate in the state by behaving badly with my wholesale partners.

Assemblyman O'Neill:
Would you still be keeping the data available if an issue came up?

Randy Brown:
That is correct. This data is still maintained, and if an issue arises and a complaint is lodged, we would prefer to handle this outside of the PUCN complaint process.

Assemblywoman Seaman:
You said the standards of performance and reporting have not been reviewed for the past five years even though it is available.

Randy Brown:
This information is gathered and posted to an Internet site, and it is provided annually to the PUCN. What I looked at was specific to the competitor, and not once in more than five years has the competitor accessed that reporting system to see what the performance measure results are.

Assemblywoman Kirkpatrick:
I think we are all overthinking this bill. I think there is still an ability to go in and protect the consumer and get data based on consumer complaints. I think we as the Legislature go back often, review reports, make changes, and sometimes we make them obsolete because they are no longer relevant to the current legislative discussions. I think by changing it from "shall" to "may" it is better because it still allows the PUCN to make it work. This seems like such a small issue in the grand scheme of consumer protection. Would that be a fair statement?

Randy Brown:
This is very commonsense and middle of the road. This legislation originally was introduced to eliminate both the performance measure plan and the performance incentive plan outright. The opposite extreme is doing nothing. The middle of the road is exactly as you described it. It gives the state's premier regulatory agency, who deals with our business day in and day out, the authority to review this matter.

Chairman Kirner:
Seeing no further questions, are there any in opposition?

Samuel P. McMullen, representing Southwest Cable Communications Association:
I represent in-state companies: Cox Communications, Charter Communications, and other cable companies. I do not represent the telephone companies. I would like to address some of the things that were critical to this when it was started. This was a negotiated portion of a large part of the deregulation of telephones. When you had the monopoly lines, switches, and systems 15 to 20 years ago, they knew that you had to have fair and nondiscriminatory access for your competitors. Otherwise, there would not be competitive pressure in the market. Assemblywoman Kirkpatrick is correct; this is really about consumers. Deregulation was not about battles between big companies.

It is about the forces of competition and helping consumer prices, consumer access, consumer benefits, and consumer technology advance. This was the critical piece of opening systems so there was a switch, wire, or a list of numbers that was on a system that a competitor could access and complete a call. It sounds simple now, but there were real issues that were addressed. This was part of what was done, and there were some trade-offs made by companies to get this fair access.

An unbundled network element is a piece of the ILEC, the incumbent system. In the early days, you did not have to have access to the complete system, but you had to have access to a switch or wire to complete a call. That is called an unbundled network element. They had to split out the pieces and price that. In the pricing, the ILECs were very astute and priced it not only for the simple access to that piece of equipment, but for the reporting, compliance, administrative, and other burdens that were being added on these pieces. They were going to make sure that their system was fully funded by the pricing of those unbundled network elements.

It was the consumers who paid for these protective systems, for the systems to be in place, and to police the system so that there was no chance that they would be caught in a situation where prices ratchet up. I think this is why prices have ratcheted down and why it used to cost $34 to $36 a line and now it is much less than that. As it relates to reporting, it is easy to say, if you are the proponents of this bill that the system is no longer necessary because there are no people checking the reports and there are no violations. That means that the system is working perfectly and should not be changed.

If you look at this bill, and the key words here are the standards of performance in section 2.5, subsection 1, it is not just reporting, but standards of performance. It took 11 years or so to understand the standards of performance and put them in place so no customer was disadvantaged. They now understand that everybody is their customer and they have to treat them correctly and fairly. This is more of a deterrent, not because AT&T is not a wonderful company and not because CenturyLink is not now really understanding that their bread is buttered on all sides, but because it is the part of the system that is still required.

Our position is the bill is not necessary. Unless you want to evaporate these standards completely, the system already exists to do these one by one and case by case. In the case of CenturyLink, they have submitted their three-year review, and they have a number of these that they have asked to be reviewed. You have to trust the PUCN to exercise their expertise and judgment. If you ask for this many parts of the system to be changed and the PUCN does not change

them, you come to the Legislature and ask for relief. Where it is now is where it should stay. The PUCN will do as it has many times. There used to be 100 or more standards, and they are now down to a limited number of 34 with some substandards. That is another part of the system that is working and it is working for consumers. You see the big companies fight, but we do not want the consumer to get lost in this.

I want you to understand this is part of a system that is working and all the attributes are in place. When you have the PUCN testify, you will find that they have actually done some of the modifications on a case-by-case basis, which is what I think you as legislators want. That system is perfectly in place, and this language is not necessary.

Steven E. Tackes, representing XO Communications:
I have represented most of the telecom companies here in Nevada, including Charter, Cox, Level 3 Communications, Sprint, TelePacific Communications, and others. Some of them have written letters to you in opposition to the bill (Exhibit J). My clients are in opposition to this bill because it is completely unneeded. Anything that the ILECs, AT&T, and CenturyLink have told you that they want to do, they can currently do under the existing law. This is the 1 percent referred to by Assemblywoman Kirkpatrick where we disagree on things. Ninety-nine percent of the time, the industry works fairly well together. With respect to performance measures, which are measurements of just those monopoly pieces that are left on the ILECs' phone network, it is very critical that we have a system that allows us fair treatment. That is what the performance measures do. It is difficult for me to sit here and listen to the representatives of the companies tell you that the data will be available in 24 hours or very quickly, and it is always there. What then are they trying to get out of? You heard them tell you the way that we access the data is that we log into a system and pull the data out of the system when we see problems occurring. The data keeps them honest and as long as they are honest, there is no reason to dip into the data. Is that what they are trying to get out of, us dipping the data? Is that really their cost that they are trying to avoid? It does not make sense. If they are really trying to get out of any responsibility for collecting and reporting data and having a penalty system that keeps them honest, I understand that. When they come to you and tell you, We need this bill because we are still going to collect the data, but we do not want to be obligated to report it, something does not ring true.

I keep hearing people say that there is so much competition going on and wireless this and wireless that. This bill has nothing to do with wireless. This bill only has to do with wireline connections and the few elements that are on the network that only the ILECs provide. So a competitor has to go to them.

If a competitor has to go to them to provide service to their customers, there needs to be some system to make sure they treat the competitor at the same level of service that they treat their own customers. We are not asking for better service; we are just asking for the same service. That is what this system measures. Each time they file a new PMP, we get together as an industry and we negotiate which services can we eliminate, which wire centers have become unimpaired, which services really do not matter anymore. We go through and we work out that entire process. Frankly, it works and it has been working. To throw it out or say that it does not need to be here anymore, that does not protect the industry or the customers.

We all fight for customers, and I am sure that the ILECs would like every advantage they can get, but the one advantage that you should not allow them is to be able to leverage the few elements that they control so they can get the customer. How would they do that? One of the things is repair. A competitive company has a customer that cannot provide the service over their network and they have to use some component of AT&T's or CenturyLink's network. If that component breaks, and AT&T or CenturyLink drags their feet when it is our customer, but not when it is their own customer, you could see what would happen. Those are the things we measure. We all hope that they would treat us with parity and equality. That is what the measurements measure. The change that has occurred since 1999 is that we are measuring fewer of them. Certain segments of the market have fallen off and become competitive.

If any of the wireless companies have contacted you for or against this bill, you should ignore their position because this does not impact wireless. I had heard that some of the wireless companies like Verizon had chimed in, and they do not even service any wireline customers in the state anymore. They frequently like to use the state to try to get things accomplished so they can take it to other states.

I wanted to respond to the question, does this have anything to do with interconnection? It really does because some of the components we measure are those components that we purchase on interconnection from AT&T or CenturyLink. Those measurements of how they provide those services do come into play. That is critical because interconnection is the single way that all of the customers of the competitive companies can call all the customers of AT&T or CenturyLink. It is important to all of us that everyone gets to call each other. That is a critical element. The fact that penalties have not been paid is great. It does not mean that there have been no violations. Our penalty plan says that we look at standard deviations off a norm, so we allow a few outlier penalty

violations to occur, but we give them credit so they do not have to pay for every violation. They only have to pay for significant violations. When they say they have not paid any penalties, it does not mean that there have not been any violations. They have done a pretty good job historically.

We are opposed to the bill and we do not think it is needed. It certainly is not needed to accomplish the things they have testified they need to do, so we stand in opposition.

Michael Hillerby, representing Charter Communications:
We appreciate the service that AT&T provides us as the largest CLEC. In their most recent filing in January, we intervened and were granted intervener status and supported their filing and continued to do the same measures for the next three years that they had done in the past three years (Exhibit K). The other filing that was made in January was from CenturyLink. Of the 33 categories of performance measures, they have asked that 22 of those categories be deleted (Exhibit L). That will be a fight that happens at the PUCN. We think that is pretty strong evidence that they can get much of the relief they ask for now. Regardless of whether the law has changed or not, to address the issue of cost, that will still be an effort that has to take place in front of the PUCN between the CLECs and ILECs and will undergo costs on both sides asking to make changes or opposing those changes whether you give more latitude to the PUCN or less.

Whether the reports were accessed or not is really irrelevant. The way we know immediately whether there is a problem are the self-effectuating fines. I would offer this analogy. If you sign up for a credit monitoring service, you are not going to look at that report every day or once a month. You are waiting for them to alert you that there has been a problem. At that point, you are going to go on and see what the problem was. These are very much like that, and we appreciate the level of service. We think it is fantastic and we believe it is a very strong case that the rules work because there has not been a problem in the last five years. We have not needed to access the data to look for one and a fine has not had to be paid by AT&T. The way the law reads now, it says the PUCN shall adopt standards. It does not say how many, but they shall have standards. We think the change from "shall" to "may" gives the signal that perhaps the Legislature does not think that these are as important as they once did. Because these involve the elements in the network that are only controlled by the incumbent carriers that we cannot provide and we cannot get anywhere else, we think that détente is very important.

Assemblywoman Neal:
Section 2.5 of the bill is confusing to me based on your testimony and then the acknowledgement that interconnection is somehow affected. When you strike out "shall" and you put "may" in by regulation, you establish a standard of performance and reporting regarding interconnection, et cetera. To me, "may" is permissive, so it changes your behavior. Can you explain that to me in relationship to those items listed under subsection 1? Does may mean permissive?

Michael Hillerby:
The short answer is yes.

Assemblywoman Neal:
My second question is about the document from the PUCN (Exhibit M) that was the order on April 15, 2015, which was a stipulation from AT&T. Can you explain what the stipulation means in relation to this issue in this bill?

Steve Tackes:
In that case, I was the attorney for Charter. The stipulation meant that the parties got together and decided there was no reason to go through a costly hearing and change these performance measures because AT&T was satisfied with them the way they were. We came into the case and said that sounds good to us. The stipulation says that we asked the Commission to approve this without a hearing. The Commission staff agreed. That is what happened in that stipulation.

Sam McMullen:
When you file the three-year report, you are effectively filing something that needs review by the PUCN. The PUCN opens a docket. That is a call for everyone to comment on this report. In this case, AT&T had said we are not asking to change anything. It was nothing more than a stipulation to go no further and accept the report. A different process will occur with respect to the submission by CenturyLink. When you ask to change 22 things and you are not willing to stipulate that everything is fine, there will be a hearing and the PUCN will do what it has the authority to do. They will evaluate each one of the items, case by case, with evidence on both sides. If there is a case made like there has been in the past that these standards no longer are applicable or meaningful and the standard and the reporting should end, that will happen. That will be an open process where the companies are present, but the customers' needs will also be an issue.

Assemblyman Nelson:
Do the federal laws not require what is required by state law or you would have preemption issues? What are other states doing?

Steve Tackes:
There is a federal law, the Telecommunications Act of 1996, which requires companies like AT&T and CenturyLink to interconnect their networks with new companies that are investing money in Nevada. It requires that they do it in a nondiscriminatory manner. The federal law has given the states the determination of how to measure that and how to be sure that is really taking place. Most states adopted systems of performance measurements. I do not know what happens in other states, but initially they all adopted systems. They all required the AT&Ts and CenturyLinks of the world to build systems called operation and support systems that would allow them to provide the services and measure them. When they built those systems, they looked at the costs and they set the prices that the competitors would have to pay to include recovery of those costs. The cost is built into the prices we pay as competitors. Periodically, they need to replace the system and that will cost new dollars. I was surprised to learn that CenturyLink does not have to do this in many of their other states, at least for the surviving monopoly services. If we get to the point that there are no monopoly services left, we will probably all come in together to ask to get rid of this.

Chairman Kirner:
Are there any questions?

Assemblywoman Kirkpatrick:
In the cable business, is there a competitive disadvantage if you do not have that report? What is the underlying issue?

Steve Tackes:
It is not all cable companies. XO Communications is not a cable company. They are a telephone competitor. The reason it is so important is that it is what measures anticompetitive behavior. These performance measures are out there to make sure that the anticompetitive behavior does not happen. It would happen if CenturyLink or AT&T disadvantaged the competitor by harming the few components that they sell to them. That is why it is critical. We only look at it when we see there are problems.

Assemblywoman Kirkpatrick:
What makes that any different from any other business in a free market world? You are already bound by federal rules that say that you cannot do all of these other things. There is a sense of protection for the consumer in that respect. Why is this local piece different than other markets? You are regulated by the federal government.

Sam McMullen:
There are a few simple answers. The system is always changing, so these standards may need some adaptation. They may need something because the unbundled elements change. There may be a need for a longer or better look at a part of the system. It is not the same system that was done in 1996. Competition is local. You can have all of the federal laws that you want, but what they recognized in the Telecommunications Act of 1996 is that the place where the issues will occur is how the customers in Henderson are treated with a new company compared to the customers in Las Vegas. That is where you need to be looking, measuring, and reporting. At some point maybe this will go away, but it is now an active plan. Functionally, they had so many examples early on about how this was starting to affect people, that this was actually something they added because they knew the monopolistic elements would have been insidiously used against the competitors. The system is working for the benefit of the customer.

Michael Hillerby:
The difference from the other industries is that there is still a monopoly component in telecommunications. We cannot go anywhere else and buy those very specific pieces that are controlled by the ILECs. We have to buy those pieces only from them. The relationship works pretty well, but we believe it works well because of the financial incentive to treat one another fairly. Significantly, it works because the law is in place and there is a reporting system to be sure that we know on those monopoly elements that we pay a fair price and we get the same kind of service for us and our customers.

Assemblywoman Kirkpatrick:
When was the last time any one of you have looked at those reports?

Steve Tackes:
None of us are allowed to look at the reports. They give a secure password only to the internal people at the carrier. If you are asking when our carrier last looked at the reports, I believe we submitted a letter to the Senate Committee on Commerce, Labor and Energy on behalf of XO Communications which said we have not accessed the reports because our logs have shown that the service we have gotten from CenturyLink has been consistently acceptable.

Assemblywoman Kirkpatrick:
That is where I am struggling. You would recognize if there was a problem sooner rather than later. How would you know there was a problem if you have not been following the reports? Somebody is going to have to give me more information to make me understand why we are hypothetically worried about something that we have not looked at.

Assemblywoman Carlton:
I remember Senate Bill No. 440 of the 70th Session in 1999. We deregulated a lot of things that year. In section 23 of that bill, it covers all of the performance measures. Section 24 gives the expedited procedures for complaints. We made sure that if there was a problem with this, that it got dealt with quickly because everyone was very apprehensive. This was still going to be a quasi-monopoly and we wanted to make sure that we opened up competition. I think we accomplished our mission. Everyone has played the way they are supposed to play. This bill does not impact section 24 of S.B. No. 440 of the 70th Session. There still will be an expedited procedure if there is a complaint. I think there are times when some things become obsolete like regulating telecommunications companies. We no longer do that so we are either going to regulate them or not. This is the next step. Cable companies are not regulated, but the telecommunications companies are. This is the next step towards opening up the market, making sure it is fine, and making sure that your complaints will still be addressed.

Chairman Kirner:
Are there others in opposition?

Marla McDade Williams, representing Sprint:
We agree with the opposition testimony.

Chairman Kirner:
Are there any to testify from a neutral position?

Samuel S. Crano, Assistant Staff Counsel, Public Utilities Commission of Nevada:
We are neutral on this bill. We appreciate the compromise language that Senator Settelmeyer crafted. Any proceeding we had would be open to the public and open to any of these carriers to intervene. The language currently says "shall" and is suggested to go to "may." We do have those regulations in place so if we were to change any of them, they would of course come to the Legislative Commission for review.

Chairman Kirner:
Are there any questions?

Assemblywoman Kirkpatrick:
There is a process in place. We can open the dockets to come back and visit it and if there is a problem, there is a way to track that. Is that correct?

Sam Crano:
That is correct. In addition to the federal rules which require nondiscriminatory conduct, NRS 704.68887 requires nondiscriminatory conduct. The expedited complaint procedure is in NRS 704.6882. No one has suggested to change those. Those will be in place. As far as getting the information, NRS 703.195 allows the Commission to go to any public utility in the state and go through every piece of paper in their building so we can get whatever information we need.

Assemblywoman Kirkpatrick:
I feel confident that between the Consumer Advocate and the PUCN, the job of protecting the consumer will be done well.

Sam Crano:
Thank you. We attempt to treat everyone fairly. That is our mission.

Assemblyman Ohrenschall:
Under existing law, the PUCN could provide relief to the ILECs from some of the performance measures, but they cannot go to zero performance measures. If this bill were to pass into law as is and in a couple of years the PUCN is asked to go down to zero, what would be the process and what would be the protections for the consumer? If we did go down to zero performance measures, how would the CLECs know if everything is happening pursuant to the federal and state law?

Sam Crano:
The current law requires that there be standards, but it does not mandate how many or what they are. There are some categories where there have to be standards, so I do not think we could go to zero. I think we could probably go to three or four because there have to be standards dealing with interconnection, unbundled network elements, result services, et cetera. That is possible, but I do not see a point in the future where we get down to zero. It is possible with technology change that there may come a time when these plans do not make sense anymore. I do not think that is quite here yet. How that would take place is that we would need to have rulemaking which would be open for any party to intervene in. We would have to either change or

eliminate the performance measures and the performance measurement plans are adopted by the Commission. The companies would have to bring those back to the Commission to get rid of them. Those would also be open proceedings where competitors could present evidence to the Commission. There are federal and state statutes requiring nondiscriminatory conduct and an expedited complaint process that any carrier can take advantage of if they have been treated in a discriminatory manner. I have never worked for a phone company, so I do not know how they would tell if they are being discriminated against, but in the normal course of their business, they would be able to tell when something that used to take a day now takes four days. I think some of that would be self-evident.

Assemblyman Nelson:
My question was how would they know without the standards?

Sam Crano:
If the service they have been receiving for a period changes drastically or starts to change incrementally, they can file a complaint or they can ask us to pull the data. We get the data every year and we go through it. The PUCN may be the only one using that system. I think getting a difference in service would be the first indication.

Assemblywoman Carlton:
The PUCN is accessing this information, and you are neutral on this bill. You are comfortable, moving forward, that you will still be able to do the job, which you love to do, which is to regulate. Did I hear you correctly?

Sam Crano:
That is correct. We use the data, and we will continue to do so.

Assemblywoman Diaz:
How many expedited complaints have come before the PUCN based on the data being reported since its inception?

Sam Crano:
I do not know how many since 1999. Since I came to the PUCN about eight years ago, there have been two. I can get the information for you.

Assemblyman Nelson:
You look at the data. If this bill were to pass and the PUCN were to decide that they do not need these performance measures anymore, would there still be data to look at?

Sam Crano:
They provide us data once a year, and we go through that. We could continue to do it once a year or do it more often.

Chairman Kirner:
Does the bill sponsor want to make a closing statement?

Randy Robison:
There is a clear difference of opinion on this issue. We think the PUCN is adequately prepared and capable of handling these issues. We encourage you to support the bill.

Chairman Kirner:
I will close the hearing on Senate Bill 112 (1st Reprint) and open the hearing on Senate Bill 384 (1st Reprint).

Senate Bill 384 (1st Reprint): Revising provisions relating to family trust companies. (BDR 55-279)

Keith Lee, representing Maupin, Cox & LeGoy:
With me today is a principal of the law firm of Maupin, Cox & LeGoy, Barton Mowry, who will present the bill. Senator Kieckhefer sponsored the bill, and he is relying upon us to present the bill on his behalf. I think one of us has had an opportunity to visit with most of you, if not all of you, on this bill. This is a bill to amend a chapter in the *Nevada Revised Statutes* (NRS) that was created in 2009. It created family trust companies. A family trust company is a company that acts as a trustee for a large family, generally a very wealthy family trust that has many branches of family members and others in it. The primary responsibility is to administer those trusts to the benefit of the beneficiaries pursuant to the terms of the trust. Most importantly, it will help to continue to manage and operate and keep viable a long-standing family business that is the fueling vehicle behind these trusts. Mr. Mowry is one of the practitioners in Nevada in this area. I worked with him and Mr. Armstrong of the McDonald Carano Wilson law firm in 2007. We got NRS Chapter 669A adopted in 2009, and we have worked with it ever since.

G. Barton Mowry, Attorney, Maupin, Cox & LeGoy, Reno, Nevada:
I have been a practicing attorney in Reno for 35 years and a practicing certified public accountant for almost 40 years. Family trust companies have been a successful niche kind of business in Nevada. Since 2009, with the enactment of NRS Chapter 669A, we have over 50 family trust companies operating in the state. It is the preferred vehicle nationwide for wealthy families to manage family wealth for multiple generations and in particular, to provide for

business succession. There are a lot of retail trust companies that do not want to handle business interests whether they are marketable or not. When their preference is to sell the company, they feel there is a duty to diversify those assets and put them in marketable securities. Many of the interests being managed by family trust companies are entities, Nevada limited liability companies (LLC), and Nevada corporations. There tend to be ones that are not traded on established securities markets.

Several of the family trust companies that have moved to Nevada have established offices here. They hire locally and provide good-paying, white-collar jobs. They also become active and generous citizens of the state of Nevada. Many times they prefer to fly below the radar, because of the names of the individuals involved. There are security issues dealing with families of this level of wealth. I had one kidnapping for ransom in my client base from some years back. Their employees are often discouraged from even telling for whom they work.

We have been in a competitive race in this market. We were among the first states to get involved. Similar to all of the business entities that we create under the various business statutes—corporations, LLCs, limited liability partnerships, and others—we are always trying to keep that cutting edge. The bill before you seeks to make technical amendments to update the law that was enacted in 2007. Certain of the provisions we took from some of our competitor jurisdictions such as Tennessee, New Hampshire, Alaska, Delaware, and South Dakota. There was at least one provision from Wyoming.

Chairman Kirner:
Are there any questions from the Committee?

Assemblywoman Neal:
I have a question in section 8, subsection 3. Although this particular part of the provision comes under the privilege is not waived, it says, "The attorney-client relationship between an attorney and a family trust company or licensed family trust company acting as a fiduciary shall not extend to a successor fiduciary to the family trust company or licensed family trust company."

I did some research on when attorney-client privileges extend to successors in interest under a family trust. There was a California Supreme Court case, *Moeller v. Superior Court (Sanwa Bank),* 16 Cal.4th 1124 (1997). They said that the attorney-client privilege does extend to the successor fiduciary. For it not to extend would not make sense unless there was some kind of a super external situation where there was a need to limit their ability to get information in regard to the trust that they may inherit in the future. What does that mean?

[Assemblywoman Seaman assumed the Chair.]

Bart Mowry:
I am familiar with the *Moeller* case. There is developing case law throughout the country as to whether there is any privilege that existed between the predecessor attorney and the trustee. The *Moeller* case makes reference to if there is going to be litigation involving the trustee, the new attorney for the trustee of the one in charge of the litigation needs to open up what is referred to as a red file. That information becomes privileged between the attorney and that particular trustee. What sometimes happens is there is an attempt to get one trustee removed and another trustee in and then they seek to learn all of the confidential communications that occurred between the predecessor trustee and the attorney, so it completely eviscerates the attorney-client privilege which has been sacrosanct in this country since the Pilgrims arrived. California takes a very liberal approach on this. There are other states that have taken the contrary view. As far as I know, the Nevada Supreme Court has not ruled on this particular issue, which is why we have included that in this bill to make it clear.

Assemblywoman Neal:
That is what gave me pause. The contrary case was *Hubbell v. Ratcliffe*, 50 Conn. L. Rptr. 856 (2010), where they saw the issue differently than the California Supreme Court. All of the states do not have the same rules in regard to who holds attorney-client privilege and whether or not it travels through several entities. They said in the *Ratcliffe* case, unless it was statutorily placed, they would not construe it. It made me think, why is this good public policy to have in statute when there is no bright-line test or consensus among the states? It is more of a balancing test to determine or have a discussion outside of statute to determine if there is a client relationship. Are you the holder of the privilege? This takes away the discussion to find out whether you have a right to the information. It says "shall not extend", which means you will never get the attorney-client privilege relationship to you, yet case law is not clear on that issue.

Bart Mowry:
Where it says that it shall not extend to a successor fiduciary, it means that the successor fiduciary cannot go back to the attorney for the predecessor trustee and require that attorney to disgorge all of the secrets that that attorney might have received in what was deemed or considered to be confidential communications between an attorney and a client. It does not in any way prevent the successor fiduciary from hiring his or her or its own attorney and to

then have the attorney-client relationship being sacrosanct subject to the ethical rules that we all have to operate under such as no fraud. If you know a client is going to commit a breach or violation of the law, a criminal act, or somebody's life is at stake, those are exceptions to the attorney-client privilege.

[Chairman Kirner reassumed the Chair.]

Chairman Kirner:
Mr. Ohrenschall has a question.

Assemblyman Ohrenschall:
My question is in section 14, subsection 9, which states, "Notwithstanding the provisions of any other law to the contrary, any beneficiary of a trust administered by a family trust company or licensed family trust company not otherwise entitled to receive an account or annual report under the terms of the trust or applicable law shall have no right to demand an account or annual report of the trust." Can you give me an example of when a beneficiary would not be entitled to report on how a trust is doing? I think the beneficiaries would be interested if funds are being managed and invested correctly. Can you comment on that section?

Bart Mowry:
There is another provision in this legislation that would allow the draftsman who is the attorney who prepares the trust agreement, at the request of the creator of the trust, to provide an accounting to another person or even the family trust company if they are not the trustee. There is another provision for a check and a balance. You may be asking why would you want to keep a beneficiary from getting an accounting? Young adults reach adulthood at age 18. In the level of trust that we are discussing here, the last thing in the world that you would want to do in my judgment is to have a 19-year-old know how much he or she might be worth at the point that the trust makes distributions. Many grantors say they do not want their child to even know about the existence of this trust or what is in the trust until he or she is 35 years old. There are no distributions to be made. They do not wish to discourage or destroy the work ethic in that particular individual because they happen to have been born into a wealthy family.

Assemblyman Ohrenschall:
So the draftsman of the trust would provide some other check. The beneficiary may not know how the funds are being distributed or how much is there. But, pursuant to NRS Chapter 669A or to the revisions in this bill, would someone be making sure that there are no problems?

Bart Mowry:
That is correct. A report could be to the parent of that beneficiary or it could be to the family trust company, as long as the family trust company is not the trustee. It could also be to the family attorney. This legislation builds into NRS Chapter 669A a certainty that it is not a situation where the trustee is not accounting to someone.

Chairman Kirner:
Are there others in support of this bill? Seeing none, are there any in opposition to this bill? Seeing no one in opposition to this bill, I will invite those in the neutral position. [There was no one.] Are there any other questions?

Assemblywoman Neal:
If you read section 5 and section 6 together about the liberal construction, it says the rule of the chapter "shall be liberally construed to give maximum effect to the principle of freedom of disposition", and it goes on to say, "This chapter will control over any contrary provisions of law." I understand the argument of wanting to be like Delaware or whatever, but why would it be so wide open?

In section 5, it says that the duties shall only apply to the extent that they are not inconsistent or contrary with any other provision or chapter of the trust. It is like they have their own little special universe.

Bart Mowry:
There are a couple of things that we are trying to do there. One is an attempt to make NRS Chapter 669A self-supporting and at the same time trying to make it consistent with certain provisions of Title 12 of the NRS, which are generally those statutes which govern testamentary trusts and other types of trusts. We are also trying to coordinate that there is no conflict between the accounting provision NRS Chapter 165 might provide versus what the trust agreement itself provides. That is so the trustee knows what standard is to be applied in presenting the accounting, even if NRS Chapter 165 were to be amended in some successive legislative session.

Chairman Kirner:
Thank you for bringing this bill forward. We have completed our agenda for bills to be heard. I would like to ask for the support of the Committee to look at Assembly Bill 480 so that we might pass it out of the Committee so it can be rereferred to the Assembly Committee on Ways and Means.

Assemblywoman Kirkpatrick:
I would be happy to make a motion.

Chairman Kirner:
Would anyone have an issue with suspending Rule No. 57 of Assembly Resolution 1 and considering this bill? [All members present agreed.]

> ASSEMBLYWOMAN KIRKPATRICK MOVED TO AMEND AND DO PASS AND REREFER ASSEMBLY BILL 480 TO THE ASSEMBLY COMMITTEE ON WAYS AND MEANS.
>
> ASSEMBLYMAN OHRENSCHALL SECONDED THE MOTION.

Chairman Kirner:
Is there any discussion?

Assemblywoman Carlton:
For clarification, it is the amendment in the May 1, 2015, mock-up (Exhibit F).

Chairman Kirner:
That is correct. Thank you for bringing that up.

We will take a vote.

> THE MOTION PASSED. (ASSEMBLYMEN PAUL ANDERSON, ELLISON, FIORE, AND SILBERKRAUS WERE ABSENT FOR THE VOTE.)

Is there any public comment? [There was no public comment.] The meeting is adjourned [at 4:26 p.m.].

RESPECTFULLY SUBMITTED:

_____
Earlene Miller
Committee Secretary

APPROVED BY:

_____
Assemblyman Randy Kirner, Chairman

DATE: October 9, 2015

EXHIBITS

Committee Name: Assembly Committee on Commerce and Labor

Date: May 1, 2015 **Time of Meeting: 1:33 p.m.**

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
S.B. 86 (R1)	C	Kelly Richard, Committee Policy Analyst	Work session document
S.B. 151 (R1)	D	Kelly Richard, Committee Policy Analyst	Work session document
S.B. 158 (R1)	E	Kelly Richard, Committee Policy Analyst	Work session document
A.B. 480	F	Terry J. Reynolds, Department of Business and Industry	Mock-up of proposed amendment dated May 1, 2015
A.B. 480	G	Michele Johnson, Financial Guidance Center, Las Vegas, Nevada	Letter of support
A.B. 480	H	Alan Williams, Private Citizen, Las Vegas, Nevada	Letter of support
S.B. 246 (R1)	I	Matt McKinney, Bently Ranch, Minden, Nevada	Handout
S.B. 112 (R1)	J	Steven E. Tackes, XO Communications	Letters of opposition
S.B. 112 (R1)	K	Michael Hillerby, Charter Communications	AT&T Nevada PUCN filing
S.B. 112 (R1)	L	Michael Hillerby, Charter Communications	PUCN Final Order for CenturyLink
S.B. 112 (R1)	M	Assemblywoman Neal	PUCN Final Order for AT&T