

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

**Seventy-Eighth Session
March 27, 2015**

The Committee on Commerce and Labor was called to order by Chairman Randy Kirner at 12:07 p.m. on Friday, March 27, 2015, in Room 4100 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4406 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 Chairwoman
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 P.K. O'Neill

COMMITTEE MEMBERS ABSENT:

Assemblyman James Ohrenschall
Assemblyman Stephen H. Silberkraus

GUEST LEGISLATORS PRESENT:

Assemblywoman Ellen B. Spiegel, Assembly District No. 20
Assemblywoman Teresa Benitez-Thompson, Assembly District No. 27



STAFF MEMBERS PRESENT:

Kelly Richard, Committee Policy Analyst
Matt Mundy, Committee Counsel
Leslie Danihel, Committee Manager
Jennifer Russell, Committee Secretary
Olivia Lloyd, Committee Assistant

OTHERS PRESENT:

Brian Reeder, Government Affairs Coordinator, Nevada Chapter,
Associated General Contractors of America
Steve George, Administrator, Division of Industrial Relations, Department
of Business and Industry
Donald C. Smith, Senior Division Counsel, Division of Industrial Relations,
Department of Business and Industry
Jan Rosenberg, Deputy Administrator, Division of Industrial Relations,
Department of Business and Industry
Joshua Hicks, representing Manufactured Home Community Owners
Association
Rick La May, Private Citizen, Reno, Nevada
Marolyn Mann, Executive Director, Manufactured Home Community
Owners Association
Jim deProsse, Administrator, Manufactured Housing Division, Department
of Business and Industry
James Westrin, Commissioner, Division of Mortgage Lending, Department
of Business and Industry
Luis Valera, Private Citizen, Las Vegas, Nevada
Bailey Bortolin, representing Legal Aid Center of Southern Nevada and
Washoe Legal Services
Rose McKinney-James, representing Bombard Renewable Energy and
Energy Works LLC
Tony F. Sanchez III, Senior Vice President, Government and Community
Strategy, NV Energy
Donald Lomoljo, Utilities Hearings Officer, Public Utilities Commission of
Nevada
Daniel O. Jacobsen, Technical Staff Manager, Bureau of Consumer
Protection, Office of the Attorney General
Angel De Fazio, President, National Toxic Encephalopathy Foundation,
Las Vegas, Nevada
Walker Wright, Director, Public Policy, Sunrun, Inc., San Francisco,
California
Robert Uithoven, representing The Alliance for Solar Choice
Melissa Holland, Founder and Executive Director, Awaken, Reno, Nevada
Eileen Carter, President-Elect, Junior League of Reno

Paul J. Enos, Chief Executive Officer, Nevada Trucking Association
Joanna Jacob, representing Dignity Health St. Rose Dominican Hospitals
Marlene Lockhard, representing Nevada Women's Lobby
Jonathan Leleu, representing The Cupcake Girls
Troy Martinez, Director, Nevada Sex Trafficking Awareness Campaign
Elisa Cafferata, President and CEO, Nevada Advocates for Planned Parenthood Affiliates
Marissa Crook, President, Students to Abolish Sex Slavery, Reno, Nevada
Deirdre Strunk, Director, Spa and Salon Operations, South Point Hotel Casino and Spa, Las Vegas, Nevada

Chairman Kirner:

[Roll was taken, and housekeeping items were discussed.] On today's agenda we have five bills that we are going to hear. We have three bills on work session. We are removing Assembly Bill 72 and Assembly Bill 119. We will work Assembly Bill 4.

Assembly Bill 4: Deletes provisions specifying the population of a county in which a winery may engage in certain activities. (BDR 52-228)

Kelly Richard, Committee Policy Analyst:

The only bill we are hearing on work session is Assembly Bill 4 [referred to work session document ([Exhibit C](#))]. This is Assemblyman Hickey's bill that was heard in Committee on Friday, March 13. It allows a winery in any county in Nevada to import wine or juice for fermentation, mixing it with other wine or aging in this state, or to sell wine at retail or serve wine or any other alcoholic beverage by the glass on its premises. Under current law, only wineries located in a county whose population is 100,000 or less may do so.

Mr. Mundy will go through the proposed amendment to the bill ([Exhibit C](#)).

Matt Mundy, Committee Counsel:

The population cap for importing wine and juice for bottling and blending will go away, and all businesses in all counties will be able to participate with some limitations. New wineries would be authorized to sell wine on the premises. Depending on the growth requirements that are identified in the bill, current licensed wineries would be able to sell alcoholic beverages in addition to wine and maintain a second location for sales. Wineries that bottle 25 percent or more of Nevada-grown grapes would be able to bottle and sell an unlimited amount of wine per year. Wineries that bottle using less than 25 percent of Nevada-grown grapes would only be able to bottle and sell up to 1,000 cases per year. Current licensed wineries will come into compliance with the growth

requirements within a ten-year period, and after that period, the requirements will apply uniformly across the state. The State Board of Agriculture would be permitted to adopt regulations as necessary for federal labeling requirements.

Chairman Kirner:

The Chair will accept a motion to amend and do pass.

ASSEMBLYWOMAN CARLTON MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 4.

ASSEMBLYWOMAN SEAMAN SECONDED THE MOTION.

Chairman Kirner:

Is there any discussion?

Assemblyman Ellison:

I know that all of the parties sat down and tried to work this out. Is everyone in agreement with the amendment as it has been submitted?

Chairman Kirner:

You are right. Everybody did try to sit down, and my understanding is that everybody is in agreement. Are there any other comments? [There were none.] We will take a vote.

THE MOTION PASSED. (ASSEMBLYMEN OHRENSCHALL AND
SILBERKRAUS WERE ABSENT FOR THE VOTE.)

Chairman Kirner:

We are going to hear Assembly Bill 255. I invite Assemblyman Hansen, the bill sponsor, to the table.

Assembly Bill 255: Provides for the award of certain costs, fees and expenses to prevailing parties in actions before the Occupational Safety and Health Review Board under certain circumstances. (BDR 53-1027)

Assemblyman Ira Hansen, Assembly District No. 32:

I represent District No. 32, which covers some or all of the following counties: Esmeralda, Humboldt, Lander, Mineral, Nye, Pershing, and Washoe. I am here to present Assembly Bill 255, which provides for the award of certain costs, fees, and expenses to prevailing parties in actions before the Occupational Safety and Health (OSHA) or court of judicial review under certain circumstances. The purpose of the bill is to protect small businesses from being adversely affected by alleged illegal action if it is determined that the business

did nothing wrong. Under current law, if the business prevails over the Division of Industrial Relations in an action relating to an alleged occupational safety or health violation, there is no mechanism by which the business can recoup its losses on the costs, fees, and expenses incurred. In this scenario, a business may have done nothing wrong, yet the enterprise could be in jeopardy due to the crippling costs of going to court. Assembly Bill 255 is intended to provide small businesses with a way to recoup the costs of defense if it prevails in the action.

You may remember my bill, Assembly Bill No. 106 of the 77th Session, which had the endorsement of this Committee and was passed by the full Assembly. The bill unfortunately languished in the Senate Committee on Commerce, Labor and Energy at the end of last session, which is why I brought it back for your consideration this session.

I would like to walk through the significant sections of the bill. Sections 2 through 5 define new terms used in *Nevada Revised Statutes* (NRS) Chapter 618 that are required to carry out the provisions of the bill. For purposes of A.B. 255, the award of costs, fees, and expenses is limited to an individual with a net worth of no more than \$2 million or a company with a net worth of no more than \$7 million and no more than 500 employees.

Sections 6 and 7 provide that the prevailing party in the action or proceeding against the Division must be reimbursed for costs and awarded any fees or expenses incurred in prosecuting or defending the action or proceeding. An award of fees and expenses must not be made if the court determines that the Division's position was substantially justified or that the existence of special circumstances would make the reward unjust. The party seeking an award of costs, fees, and expenses must submit an application within 30 days of the decision with supporting documentation. There are limits in section 7 intended to ensure that the award requested is reasonable.

Section 8 deems a party to be prevailing in an action if the judgment ultimately obtained by the Division is substantially smaller than the adjudication originally sought, allowing the party to be awarded the costs, fees, and expenses incurred in defending against the excessive demand made by the Division. Section 9 relates to any appeals that may be made by the Division requiring that if the Division appeals the award of costs, fees, or expenses and the award is affirmed either in whole or in part, then it must pay interest on the amount that is affirmed as of the date of the original award.

Section 10 stipulates that all awards made under A.B. 255 must be paid from the Fund for Insurance Premiums and approved by the Attorney General or the State Board of Examiners under certain circumstances. Section 16 provides that the awards and reimbursement contemplated in A.B. 255 apply to any actions which are currently pending or which have not been commenced as of the bill's effective date.

My bill's proponents will explain the background behind the structure of Nevada's Occupational Health and Safety Program and the appeal process for contested citations.

Assemblywoman Carlton:

Is this the mirror image of Assembly Bill No. 106 of the 77th Session, which is the bill you proposed last session?

Assemblyman Hansen:

It is verbatim.

Chairman Kirner:

For recollection, we did pass it out of our house. Is that correct?

Assemblyman Hansen:

Yes, we did. It was hung up on the Senate side, but we did pass it.

Chairman Kirner:

Are you bringing others up in support?

Assemblyman Hansen:

It may just be me.

Chairman Kirner:

Is there anyone who wants to testify in favor of this bill?

Brian Reeder, Government Affairs Coordinator, Nevada Chapter, Associated General Contractors of America:

We support this bill. If a small contractor is cited and feels that it was unjust, it can be a bit preventative for them to pursue that appeal further. This makes that an option, and for that reason, we support the bill.

Chairman Kirner:

Are there others in support of this bill? [There were none.] Are there any opposed to this bill? [There were none.] Are there those who want to testify in neutral?

Steve George, Administrator, Division of Industrial Relations, Department of Business and Industry:

In Las Vegas, we have Deputy Administrator Jan Rosenberg and our senior attorney, Donald C. Smith, to answer any questions, as well as Jess Lankford, Chief Administrative Officer of our Nevada Occupational Safety and Health Administration (OSHA).

I have a couple of points I would like to make. As an agency, we are neutral. The policy is up to you, and we will follow your direction. Our job in OSHA is to protect employers, workers, and the public. That is our primary concern. We offer safety training classes that are free of charge to the business community through our Safety Consultation and Training Section (SCATS). We do everything we can to help prevent injuries. Our OSHA Review Board is composed of five members appointed by the Governor, two management representatives, two labor representatives, and one general public representative. The Board has its own legal counsel, who is paid a separate salary at an hourly rate. That person bills us for about a hundred hours a month right now. Mr. Smith can talk more about that if he wants to add something when I'm done. The Board is completely independent of the Division of Industrial Relations. We do not have oversight, and we do not appoint anyone. When the Board makes its decisions, we rarely question them.

I was not in this position two years ago, but I did read the testimony from last session and understand Assemblyman Hansen's point in bringing this bill forward. Bruce Breslow, Director of the Department of Business and Industry, has done a tremendous job of turning the department into a very business-friendly organization. He is trying to do more with the Division of Industrial Relations to help the business community here. To that end, Jess Lankford is the new Chief Administrative Officer for that agency. He has instituted some great systems to ensure the type of situations addressed in this bill are negated as much as possible.

Upon returning from the field, the safety specialist now must meet with a supervisor to discuss findings and recommendations. When a safety specialist and supervisor are not in agreement, a district manager can review the matter. If a business disagrees with a ruling or believes it is onerous, the Chief Administrative Officer will get involved and work with the parties to reach an amenable settlement. We have instituted a lot of checks and balances to ensure there are no onerous cases against people in the field.

One of the areas that is the most difficult for us relates to settlements. The way this bill is written, if we agree to give a little and the business agrees to give a little and we reach a settlement, a person could come back and ask for

all court costs. Without having some kind of a stopgap in there that would allow us to freely settle and make a good case for both parties, it takes away that reason to go into settlement as much. That is one of the only areas that I think would be worth addressing. I would be happy to sit and discuss that with you Assemblyman Hansen.

The fiscal note is rather large. With the increased hearings that we suggest in our fiscal note, another issue you should consider is that the members of the OSHA Review Board are volunteers. They take time away from their jobs to go to hearings. By increasing the number of hearings, you are increasing their expenses and the costs associated with their participation in this endeavor.

**Donald C. Smith, Senior Division Counsel, Division of Industrial Relations,
Department of Business and Industry:**

I am the Senior Division Counsel for the Division of Industrial Relations, which includes Nevada OSHA. My staff of attorneys represents us in front of the OSHA Review Board. I would like to elaborate on the fact that the bill, as drafted, presently states that if there is a significant change in the penalty as agreed to and stipulated to, the party can still seek attorney's fees and costs. There are a number of things that go into an OSHA citation. One is the violation itself and another is the classification of the citation or violation. Is it defined as serious? Is it other than serious? Is it a repeat violation? Is it willful? There are all of those classifications. There is also a monetary amount which is assessed. Often in the stipulation it may be agreed that the classification will be reduced from serious to other than serious, but the monetary penalty remains the same and the violation remains the same. It appears that the agency would be subject to attorney's fees and costs for that. It may be that the violation itself—the severity, the classification—is agreed to, but the fine is reduced, and it may have been reduced because we received other things in the stipulation, such as an agreement to abate the issue.

As to other points, this bill is essentially modeled after the Equal Access to Justice Act, which is a piece of federal legislation that is used in federal OSHA. Of the research I have done, of the 25 states we looked at, there are ten state plans that have no provisions at all for attorney's fees or costs in an OSHA matter. Nevada is one of those. There are only three states that have adopted the Equal Access to Justice Act, and they appear to be Arizona, Minnesota, and Washington. There are the usual states with their own provisions, including California, Maryland, Michigan, and Tennessee. This has not been a great groundswell. We do not see it as a panacea. We do see it as an added expense and burden to the Division for not much in return.

Assemblywoman Kirkpatrick:

I want to ask about the fiscal note. I have to think that would have stuck out last session. What has changed? It is very high. The cost-allocation piece of the fiscal note is extreme—\$500,000 is a lot of money. I want to understand how that came about. What was the fiscal note last session? If it was that high, it would have gone to the Assembly Committee on Ways and Means and stayed there for a very long time.

**Jan Rosenberg, Deputy Administrator, Division of Industrial Relations,
Department of Business and Industry:**

The fiscal note that you see is similar to the fiscal note last session. There were some minor adjustments made because we went back and looked at caseloads. The caseload numbers dropped slightly from the previous fiscal note, but the legal expenses increased due to the increased cost of legal expenses. We proposed that we would need some additional staff. Some of those numbers are adjusted upward slightly. Essentially, it is pretty close to the last fiscal note.

Assemblywoman Kirkpatrick:

I realize that this is the policy committee and not the fiscal committee, but I would want to see that breakdown. I understand legal fees are up and the Attorney General increased his cost allocation to everyone, but I want to see why you need that. From a legislative perspective, every time we try to do something good to mitigate a problem that costs us a lot in the long run, it seems to have a fiscal note that does not make sense. If we were to give you the \$500,000, would you give it back if there were a third of the claims between now and the next biennium?

Steve George:

Part of the fiscal note is staff that would be added. We have four attorneys for our six divisions right now, and they are overloaded. They would need a person to help with the caseload. Part of it is the expense of staff and the other part is what we think we might have to pay. I do not see why that could not be reverted back if it ended up that we had a lower amount in damages that we would have to pay.

Assemblywoman Carlton:

I remember this bill coming to Ways and Means and Assemblyman Hansen testifying. I remember we let it go forward, but since it was never finalized, those numbers were never put on the sheets. However, because it was voted on in the Assembly, there must have been some level of comfort. I will go back

and read the minutes. I have the same concerns Assemblywoman Kirkpatrick has. We were cutting it close last session, although not as close as we are this year, but I have serious concerns about that number.

Assemblyman Nelson:

The way I read the bill is that the prevailing party can get fees and costs, so the prevailing party could be your Division, right?

Steve George:

No. The way the bill is written, the business could get those costs, but the Division could not. If the person took it to the district court at whatever level and we were successful in defending the case, our costs would not be included in that—only those of the person who is contesting the citation.

Assemblyman Nelson:

Am I misreading section 6 of the bill?

Donald Smith:

If you look at the definition section, section 3, the Division is excluded as a party. While the general provisions appear to have parity between OSHA and the employer, when you take OSHA out as a party, then OSHA cannot recover anything.

Assemblyman Nelson:

In section 5, subsection 1, it says a party means "A natural person, other than an employee or officer of the Division," but it does not say the Division is not a party.

Steve George:

I will have to go back and find it, but it is in there. The state cannot recover any of its costs; only the business owner can.

Assemblyman Nelson:

I must have missed that.

Assemblywoman Carlton:

The Division of Industrial Relations fiscal note for Assembly Bill No. 106 of the 77th Session does have some significant dollars in it, but when we get to the "total" line, it says "zero." I want to let the Committee know that we did pull it up, keeping in mind that fiscal notes do not get amended as bills do. That is important to realize because if it says one thing at one stage during the session, it does not necessarily mean it is true at the end of the session.

Looking at this, the personnel costs were significantly different, but I do not understand why the zeros are in there. Assemblyman Hansen and I will work on this.

Assemblyman Nelson:

As I reread section 5, I see I was mistaken. It narrows it to a "natural" person so that is probably what keeps the Division out.

Chairman Kirner:

Are there any others testifying in a neutral position? [There were none.] Assemblyman Hansen, please come back to the table. If there are no other questions, I will let you make your closing comments.

Assemblyman Hansen:

I agree with Mr. George. Nevada OSHA has substantially improved under Mr. Breslow. These cases are going to be extremely rare. The burden of proof is high for the contractor to show that Nevada OSHA was incorrect. In the case that initiated this, the judge ruled with a strong prejudice against Nevada OSHA. It was clear that the whole case should have been thrown out, yet the small contractor had a bill for \$8,000 in legal fees with no possibility of recouping it. This will be limited to small companies in Nevada.

With regard to the fiscal note, on one hand they testify these cases are rare, and then they have a high fiscal note to cover those expenses. Keep in mind that if you are going to spend \$500,000 on it, that means some small companies had to pay at least \$500,000 out of their pocket to defend themselves against false charges. I do not know if it is the same, but what we are trying to do here is give some reasonable level of relief from unfair practices by the government to some very small companies who have difficulty dealing with this.

I will work with Assemblywoman Carlton on the fiscal note. She passed it in Ways and Means last session after hearing all of the details. As I recall, in the Office of the Attorney General there is a contingency fund of \$25 million that the state uses to fund cases like this. We will research that.

Chairman Kirner:

A number of us on the Committee felt that fiscal note was outrageous. You make the point, if you have a \$500,000 fiscal note, you must have a lot of people that have been taken along the way. To the extent you can work on that and get those numbers, all of us would appreciate it. It was a good bill last session, and it is still a good bill.

I will close the hearing on A.B. 255 and open the hearing on Assembly Bill 264.

Assembly Bill 264: Makes various changes related to residential real estate transactions. (BDR 54-250)

Assemblywoman Ellen B. Spiegel, Assembly District No. 20:

I am supposed to be presenting this with someone who is on the way. I am not sure if he is at the Grant Sawyer State Office Building in Las Vegas yet.

Chairman Kirner:

You may wait. We will instead begin the hearing on Assembly Bill 270.

Assembly Bill 270: Revises provisions relating to manufactured homes. (BDR 10-1143)

Joshua Hicks, representing Manufactured Home Community Owners Association:

I have with me Marolyn Mann with the Association and Rick La May, who is one of the board members. Ms. Mann will walk you through some of the rationale behind this bill, and then I will review Assembly Bill 270. First, Mr. La May will make a few comments.

Rick La May, Private Citizen, Reno, Nevada:

I own a couple of mobile home parks in northern Nevada, one of them for over 30 years. Based on my profession and involvement with mobile homes, I am probably familiar with every mobile home park in northern Nevada. Renting mobile homes is, unfortunately, a required task for most parks. It is not the preferred way to run a mobile home park; it is just required to keep your mobile home park somewhat full.

Offering mobile homes for rent is a terrific low-cost housing opportunity. Historically, the cost of renting a mobile home is less than apartment living. There are no common walls with your neighbors, parking is convenient, and most mobile homes offer a small yard. I do not feel there is any rational basis to require a license to rent something that you own, including a mobile home. That requirement does not exist with other property types. I am in favor of this bill because we do not need the additional regulation.

Marolyn Mann, Executive Director, Manufactured Home Community Owners Association:

We are a statewide trade association, exclusively representing owners and managers of mobile home parks in the state. On behalf of my members and board of directors, we appreciate the opportunity to talk about A.B. 270.

At last count, there were just over 400 mobile home/manufactured home communities. We are talking about 30,000 spaces, give or take a few. We estimate about 10 percent vacancies at the present time. We represent 65 percent of the total spaces in the state. For over 30 years, our Association has sought to promote the general welfare of the manufactured home community industry. As amended, Assembly Bill 270 proposed two important changes to Nevada laws governing manufactured housing, both of which are rooted in assuring accessibility to manufactured housing, which is a critical form of affordable housing for many Nevadans. A manufactured home may be the only option for those in search of security and well-being associated with home ownership. For others, manufactured housing represents an incredibly affordable freestanding rental option.

Throughout Nevada, many mobile home parks are filled with previously-owned homes that have either been abandoned or sold by prior owners. These homes now are park property; they are often bought by the parks and then repaired, improved, and offered either for rent or for sale to new owner occupants. As amended, A.B. 270 addresses both scenarios.

In 1999, NRS Chapter 489 was amended to require a person who rents out or leases a mobile home to have a dealer's license. While it appears that the original intent of the bill was to capture third parties acting in an agency capacity to lease or rent, the law's ambiguity inadvertently extended to park owners renting personal property of their parks.

When park managers rent park property to a potential tenant, they do not function as a third-party dealer, but rather as an apartment manager. They are renting park property as a function of their management duties. They are not receiving a commission, nor do they have any monetary interest in the transaction. The law, as it currently stands, requires them to get a license to rent out their own property. Moreover, requiring them to attain a dealer's license creates a financial burden on the parks that is either financially unviable for smaller parks or drives up the cost of renting to potential occupants. This bill would allow mobile home parks to rent park property without the onerous burden of a dealer's license.

As amended, A.B. 270 also includes protection for potential tenants by incorporating an appeal process for determining the fair market value of a home. This bill further addresses an issue posed regarding the sale of park-owned manufactured homes. It creates a de minimis exemption for seller-financed credit sales transactions. As previously stated, many manufactured homes

currently available are pre-owned homes that are now owned by mobile home park owners. Unfortunately, these homes, many of which cost less than \$10,000, are not available to Nevadans because traditional home mortgages are unavailable for these homes. In the eyes of the law, these homes are treated as chattel. Accordingly, the only way for an individual or family to purchase these homes is directly through a seller-financed credit sale transaction from the owner of the mobile home park which triggers the Secure and Fair Enforcement (SAFE) for Mortgage Licensing Act. As originally adopted, the SAFE Act inadvertently included mobile homes in those transactions to which the law applies. Despite the clear differences between a traditional residential sale and the sale of a mobile home since then, the federal government has issued recommendations to the states to adopt a de minimis exemption to the SAFE Act to allow the sale of a small number of homes by the mobile home owner without the costs and burdensome requirements of the SAFE Act. Absent the adoption of such an exemption, a mobile home park owner wishing to sell inventory in his or her park must secure a mortgage loan originator's license, driving up the costs of these individual mobile homes. To date, there are approximately 29 states that have adopted a de minimis exemption.

Finally, A.B. 270 addresses a requirement regarding the conversion of mobile home parks to either senior or family parks or closures. Under current Nevada law, should this occur, the park has a responsibility to ensure the owner has a new park in which to relocate, and where that is not possible, to reimburse the home owner for the fair market value of the property. These circumstances are very rare. As amended, A.B. 270 would allow that determination to be made by the park owner and, if unsatisfactory, provide the park owner with the right of appeal. Rarely does this arise. The Association feels that in those few cases, this will better facilitate the transaction between the resident and the owner. It acts as a "blue book" and is used nationwide.

Josh Hicks:

I will walk you through the bill as well as the amendment ([Exhibit D](#)). I want to thank the Manufactured Housing Division and the Mortgage Lending Division. We have been talking with both of those agencies, and they have been extremely helpful and open.

Starting on section 2, regarding the rental of mobile homes, it clears up what is currently ambiguous in the law about whether these dealer licenses are needed for a park to rent mobile homes that are owned by the park. In our conceptual amendment, we have added some clean-up language. We wanted to make it very clear that this only pertains to mobile homes owned by the park and rented by the park. If that is the case, you do not need a dealer's license from the Manufactured Housing Division.

Section 1 of the bill was one of the last points Ms. Mann discussed. That was the determination of fair market value in the event of a conversion. The conversion process has been in Nevada law for some time. It was actually put in place as a protection element for residents of these parks. If a park converts, there are some protections for them if they need to be moved.

We have also included in the amendment a new section 10, because the way this is written, the landlord would make that fair market value determination pursuant to NRS 118B.1837. That is the requirement to use established appraisal guides. The new section came about from the Manufactured Housing Division's suggestion, which was to make sure there was some recourse for a tenant who may have disagreed with that fair market value determination. There is a process for the tenant to appeal to the Administrator of Manufactured Housing and have an appraiser appointed to determine fair market value that way. I will also point out that this does not change subsection 9 of NRS 118B.130. It is in section 1 of the bill, on page 3, lines 33 through 36 and the cost of that is borne by the landlord. That would be unchanged.

The other sections that would be in the bill are actually not in the bill itself but in the amendment. There is a proposed amendment to NRS 489.336. That is the piece that allows the Manufactured Housing Division to issue certain licenses and permits allowing these mobile home parks to sell homes in certain circumstances, and one that we would add would be tenant voluntary surrender. The final section is a proposed amendment to NRS 645.015. This has to do with the mortgage lending piece. This would allow the mobile home park owner to carry the paper on the sale of five or fewer per year of these mobile park homes.

I will note for the record there is similar language in Assembly Bill 311, and that bill is being heard next week. We will make sure, if both bills are being processed as we go, that we reconcile them and have them be consistent. We recognize the importance of that. We wanted to make sure that was in this bill to maximize our chances of getting it passed.

Assemblyman Ellison:

I want to clarify that this is for mobile homes that are left at an existing trailer park and the park ends up owning the mobile home. Is that correct?

Marolyn Mann:

We are talking about homes that are abandoned, given up, or bought.

Assemblyman Ellison:

The issue is that we have owners who leave for a variety of reasons and rent their mobile home out. I wanted to make sure that did not fall into this, and it does not. I think it is good the parks are selling these homes and are selling them to people who otherwise would not be able to get into a home. I have seen this in Elko quite a bit.

Some of the interest rates are massive, and that is what I would like to see adjusted. I like the idea they are selling the mobile homes, but they should be current with what the interest would be if they bought a new one.

Rick La May:

In a lot of parks, the interest rate is not the driving force. Personally, I would not bother with the interest rates because the loans are typically so small.

Assemblyman Ellison:

I agree with you, but I have seen some up to 35 percent, and that is ridiculous. That is why I would like to see it adjusted or put in the bill.

Rick La May:

As I mentioned, I am familiar with nearly every mobile home park, and I have not seen a 35 percent interest rate.

Assemblyman Ellison:

I have seen it. It happened to one of my employees. We just gave him the money to purchase a mobile home in another park. He had to just abandon it because they could not get ahead. That is what they were trying to do. They were excited they had purchased a mobile home and moved their family into it. Then two years later, they owed as much on the home as they started with. I would like something that addresses the interest rate, even though I love the idea that they are selling them.

Assemblywoman Carlton:

How have the meetings with the park tenants gone? Which portions do they support and not support? It seems there is an aversion to having a dealer's license. How much is that license?

Marolyn Mann:

We have not reached out to the tenants this time because we did not feel that they would be concerned with this. They know if they are renting the homes that this does not apply to them. They are happy about the de minimis

exemption because some of the homes are being sold. We have worked with the state's Manufactured Housing Division for a couple of years on this, and I do not believe there have been any negative feelings from the tenants association.

Assemblywoman Carlton:

If you have not spoken with them, how would they know?

Marolyn Mann:

We communicate. I did not run this by them like we used to do with consensus bills. I did not reach out to them this time. We just worked with the Manufactured Housing Division.

Chairman Kirner:

The second question was in regard to cost of licensing.

Marolyn Mann:

It is \$2,000 for the dealer's license. Of course, you also have other fees involved with study guides and so forth, and you have to pass a test. There are also annual or biennial renewal fees.

Assemblywoman Carlton:

By not having to get a dealer's license, you would be cutting into the business of people who actually do have the dealer's license right now.

Marolyn Mann:

I guess you could say that, but there are hardly any.

Assemblywoman Carlton:

I would be concerned that the tenants have not been involved and anything that happens in their neighborhood affects their lives.

Assemblywoman Neal:

The amendment has a provision that says fair market value, and you cited it in your testimony. What is the criteria other than the fair market value? You struck out all of that language in section 1, and it is still struck out in the amendment. I see that there is a dispute resolution part. If the tenant disagrees, he or she can ask the Administrator to step in, but how does the landlord determine the value on their own property without any criteria?

John Hicks:

The statutory cite in that part of the bill, NRS 118B.1837, discusses an established appraisal guide of the National Automobile Dealers Association.

That guide is a kind of "blue book" for these types of situations. That is what you would utilize in determining fair market value. The strike-out has to do with the appraisal piece.

I will also take this opportunity to add a piece of testimony I left out before. The fair market value determination is only for homes that have not converted to real property. It is not going to impact anything that has been converted to real property. The appraisers were concerned about that, and I wanted to make that clear.

Chairman Kirner:

I do not see any more questions from the Committee. I will invite those who are supportive of the bill to please come forward.

Jim deProsse, Administrator, Manufactured Housing Division, Department of Business and Industry:

The Manufactured Housing Division is in favor of this bill in part and remains neutral in part as well. With respect to section 2 of the bill, we are in favor of it. Through NRS Chapter 118B, the Division has authority over manufactured home parks that pertains to virtually every park in the state in that it requires continuing education (CE) credits, fees, and registrations annually, as well as the ability of the Division to fine for violations of NRS Chapter 118B.

The reason we are in favor of the bill is that we see some redundancy in additional requirements in the dealer statutes of NRS 49.076. The Division has been working with the Manufactured Home Community Owners Association (MHCO) the last couple of years on this issue. Our hope initially was to come up with some modified license arrangements through regulation where we would fall within the law but still make it palatable for manufactured home parks, especially some of the very small ones. The definition of a park includes any park that is two or more homes. In addition to the requirements of NRS Chapter 118B, to also require these parks to become licensed at a fee of \$2,000 initially is extremely burdensome.

Through that process, we had two public meetings to discuss the issue with the public. There were tenants in attendance and there were park owners. The parks' position was that they should be able to rent out the homes that they own without further licensure. I do not recall any specific comments from tenants; I would have to go back and research those minutes.

With respect to the new section that touches on NRS Chapter 489 in the amendment, it seems appropriate that we draft regulations for the purposes of voluntary surrender, because there have been instances where tenants have

thrown up their arms and left their homes. They have turned their keys in to the landlord, and the landlord has no legal right to take their home because they did not acquire it through a lien. They are stuck with it in their park. It would be appropriate to have a mechanism for them to secure ownership because they cannot legally sell it without holding title. It is appropriate for us to draft regulation to support that need of the dealers.

With respect to section 1 and the last section pertaining to the mortgage and lending issue, the Division remains neutral.

Assemblywoman Carlton:

I understand the part about small parks, but unless it is in the citation, I did not see anything saying that this would only apply to small parks. This would apply to everyone as far as being able to deal with these issues. There are some pretty big parks out there too, and I would not want them taking advantage of something designed just for small parks.

Jim deProsse:

The definition in NRS Chapter 118B identifies a manufactured home park as any tract of land with two or more units available for rent.

Assemblywoman Carlton:

You said the issue was more with the smaller parks dealing with these issues, especially when people walk away or they purchase and want to be able to rent it out. So, it was not necessarily with the big parks, correct.

Jim deProsse:

I will try to articulate it better. The issue with NRS 489.076, which is the dealer requirement that the resistance came from small park owners. That is what I was referring to. If a park has very few spaces, and on top of their NRS Chapter 188B requirements they are also required to secure a license from the Division for \$2,000, it is extremely burdensome.

Assemblywoman Carlton:

If this was limited to small parks, it might make this a little easier to deal with.

Assemblywoman Kirkpatrick:

I want to clarify regulations because that is where we run into trouble in the interim. How long would it take you to adopt these regulations? What specifically are you addressing? This is more than the new piece being added. I would not want you to go back and readopt regulations about how the manager can sell it or where the home is located. I would assume the legislative intent is that you would adopt only the new green language of

the new section of the amendment that says, "or acquired the mobile home by tenant voluntary surrender." I want to be clear on the legislative intent so that those of us on the Legislative Commission who see it know where to look back to.

Jim deProsse:

It is the intent of the Division just to modify the regulations to include this voluntary surrender piece because it is a void currently, yet there is a need for industry.

Chairman Kirner:

Are there others who are in support of this bill? [There were none.] We will take those who want to testify in neutral.

James Westrin, Commissioner, Division of Mortgage Lending, Department of Business and Industry:

I am testifying in a neutral position on A.B. 270. We just learned yesterday that there was an amendment that sought to seek a de minimis exception for manufactured housing people who sold homes and took back the paper. We had discussions this morning with Mr. Hicks, and we have some technical questions and concerns. We wanted to go on the record as being neutral.

Chairman Kirner:

Are there any opposed to the bill? [There were none.] I will close the hearing on A.B. 270. We will invite Assemblywoman Spiegel back up and open the hearing on Assembly Bill 264.

Assembly Bill 264: Makes various changes related to residential real estate transactions. (BDR 54-250)

Assemblywoman Ellen B. Spiegel, Assembly District No. 20:

It is important to understand the story behind this bill. I will tell the first half, and then we can go to Las Vegas for testimony on the second half. A year and a half ago, my husband and I were living in rental housing and looking to buy a house. We had a long and frustrating house-hunting experience. At one point, my husband and I decided to look at renting a house. I went online and began looking at real estate listings for rental homes. I saw a listing for a beautiful home. It was in my district, the pictures were nice, and it was a lovely home. The rent was extremely reasonable. We decided to look at the house, but wanted to know who owned the property. It was managed by a property manager and being rented through a real estate firm. I looked on the Clark County Assessor's website and saw that the house was owned by Luis Valera, who is familiar to many of you.

My husband and I decided to call for an appointment to look at the house. We thought that if it looked promising, we could go to the Legislative Counsel Bureau (LCB) and ask for an opinion on whether we could proceed. I contacted the real estate agent and was told that the house was not available on the market. He said he had other houses we could look at, but something did not seem right, and I was put off by the discussion. I thanked him for his time and hung up. I turned to my husband and said, "If that was a rental property that we owned, and a listing was still up when the home was no longer available, I would want to know about it. I would want to contact the real estate agent or the property manager and ask that the listing be removed from the Internet." I called Mr. Valera to inform him that his listing was still up. Much to my surprise, he told me that the house was not on market, and he had no relationship with that property manager or that realty firm. At this point, I would like Mr. Valera to explain his half of the story.

Luis Valera, Private Citizen, Las Vegas, Nevada:

As much as I hate to disappoint the Committee, I think the drama has already been told. Essentially, in addition to the Assemblywoman, I had other inquiries regarding the property. I had real estate agents leave cards on my door. I had never listed the property, never signed a contract, and never intended to rent the house. I was grateful that Assemblywoman Spiegel had informed me of the listing.

Assemblywoman Spiegel:

These listings are called "ghost" listings. They have become increasingly prevalent over the past few years. There are a number of real estate agents who will say that no one is really harmed by them because people are not actually renting the property that is being listed as a "loss leader." When I called the property manager, he said the property was not available, but he could show me something else. To some people, I think that is not grounds for disciplinary action because they are not actually renting or selling something that they do not have the right to do. But the reality is that Mr. Valera and his family were put at risk. When houses are rented or sold, they are presumed to be vacant. This puts them at risk for break-ins for things like copper theft. It puts them at risk for squatters. The addresses are published so strangers come by. There are times when Mr. Valera's children are home alone, and they were put at risk. Whereas this affected me personally, our constituents are being put at risk increasingly because of this practice. This bill seeks to affirmatively make it grounds for disciplinary action for a real estate agent or property manager to put up a listing that they do not have a right to put up.

Assemblyman Ellison:

Why are you going after the real estate license group when you went to an unlicensed person off of craigslist to get a house? It seems you are targeting the licensed people who are doing things right versus the guy who is on craigslist.

Assemblywoman Spiegel:

The property manager was licensed working through a licensed real estate office.

Assemblyman Ellison:

Were they licensed?

Assemblywoman Spiegel:

They were licensed.

Assemblywoman Seaman:

Is this the only incident that you personally had? You said you were looking to rent a place and this particular incident happened. Was there more than this one incident?

Assemblywoman Spiegel:

This was the only instance where I actually knew the owner of the home. There were other times when I called regarding a listing and was told that the property was not available. It was the combination of knowing the owner and knowing that there could have been an issue, precisely because the owner of the home is employed as a lobbyist and I am a legislator. Otherwise, I might not have followed up.

Assemblywoman Seaman:

As a Realtor, I know that the state's Real Estate Division would have come after me if you had reported it to the Division of Business and Industry. We are creating a law which already exists. If I have a listing and my expiration date is three days past, I can be fined \$300. There are so many disciplinary actions from the Real Estate Division that this law troubles me. There are so many people unlicensed who are listing houses. I had an incident recently where one of my listings that was sold had squatters in it. There are already so many disciplinary actions for real estate licensees that this seems unnecessary to me.

Assemblywoman Spiegel:

I agree that this should extend beyond where it is. Having it in statute, affirmatively making it grounds for disciplinary action, is still the right thing to do because of the prevalence of the problem and the risk that is put to families.

However, if you would like to work with me on an amendment to put something into statute covering the unlicensed folks who use craigslist or bulletin boards that people use for real estate, I would be happy to work with you on that.

Assemblywoman Seaman:

Are you telling me that you called the Real Estate Division, and they said they could not do anything to that licensee?

Assemblywoman Spiegel:

I did not call the Real Estate Division. I would be happy to work with you on an amendment to address the piece you just brought in.

Assemblywoman Seaman:

I would be happy to call the Real Estate Division and find out for you what the disciplinary action is. We can work on that.

Assemblyman Nelson:

Is the intent of the bill to add more specific language to section 1, subsection 1 which is already in the bill? Section 1, subsection 1 seems to cover the same thing, but maybe not with enough specificity.

Assemblywoman Spiegel:

Yes, it is to add some more teeth.

Chairman Kirner:

I am trying to gauge how big of an issue this is. I understand your personal experience and, hopefully, you spoke with others as you developed the bill. Is it your perception that this practice is rampant? Does it just occur occasionally? What is your sense of it?

Assemblywoman Spiegel:

My sense is that it happens more than we know. It is a bit difficult to quantify, because when you call and say you are interested in a property and somebody says it is not available, that is a reasonable answer. You would then ask if you could see something else. I know that there have been some articles in the media over the past year or two that discuss the practice, and it seems to be increasing. I have not seen that specific to Nevada. I am aware that folks who talk about Clark County's squatters problem they also talk about false and fraudulent real estate listings as being part of the problem.

Chairman Kirner:

I listened to your testimony, and it feels like a bait and switch to get people like yourself who are looking for a house. You call them, and they say it is unavailable but they do have others. It is a way to promote their business.

Assemblywoman Spiegel:

There are two components to it. The first one is absolutely a bait and switch, which is illegal and everyone recognizes that it is subject to disciplinary action. It is the second piece that people do not really understand, which is the families who become vulnerable because their addresses are published, photos of their homes are published, and many people think these homes are vacant.

Assemblywoman Seaman:

To be fair, what happens when we list properties for lease is that websites like Trulia and Zillow will post them without our permission. We have no control over when they put listings up or take them down. We have to update our multiple listing service (MLS) to say that we have rented, leased, or sold the property. We do not have control over those sites. This is a problem we are experiencing as agents. You were talking about addresses and pictures. Unless you go in and register your home, Zillow, Trulia, and other sites will have pictures of your home listed. You need to register to take the information down. They have all of the information on our homes, such as what they are worth and what we paid for them. I wanted to put that on the record.

Assemblywoman Spiegel:

I know from which you speak. I own a rental property. I have advertised it through Trulia and Zillow. I also know that when I did rent my property, I was able to go online and remove my listing. Maybe there is something on the back end that can be looked at. The pictures are still online but it indicates that my rental property is "off the market."

Assemblywoman Seaman:

That is probably what the real estate people should do. With Trulia, I did not even put it on their website. They put it up on their own accord. I did not know that I could take it down.

Chairman Kirner:

I will invite those who support the bill to please come forward.

Bailey Bortolin, representing Legal Aid Center of Southern Nevada and Washoe Legal Services:

With our consumer protections divisions, we support protecting the homeowners and would like to see more protections.

Chairman Kirner:

Seeing no others in support, is there anyone in opposition to the bill? [There was no one.] Is there anyone wishing to testify as neutral on the bill? [There was no one.] I will close the hearing on A.B. 264.

I will open the hearing on Assembly Bill 330. Assemblywoman Kirkpatrick, this is your bill.

Assembly Bill 330: Provides requirements relating to the sale or lease of certain systems for the generation of electricity. (BDR 58-934)

Assemblywoman Marilyn K. Kirkpatrick, Assembly District No. 1:

I would like to discuss the intent of this legislation. Over the last ten years, Nevada has invested in renewable energy. We have had huge success over time. Over \$6 billion has been spent in Nevada related to renewable energy. We funded our Office of Energy for the first time last session.

Now we need to ensure that we have ways to protect the consumers. As many of you know, solar panels are the up-and-coming thing. Everybody wants to be a part of it. The rates are affordable. We have finally passed legislation that allows third-party leasing so that everyday people can have the opportunity to participate in the program. However, anytime there is a hot item, there are going to be those who are marketing it differently. I have heard from constituents that they are getting calls over the weekend from Arizona saying they have great solar panels for sale. They are coming from California. We have people on our doorsteps leaving information that says you need to do it today or you will miss your opportunity. A lot of people are concerned regarding what that opportunity is. It is a hard sales push. Being in sales myself, I know that integrity is everything. You only have your word. We have people coming into our state who put panels on our roofs and then leave. In some cases, people are finding their energy costs are actually going up because they did not do something right. They sometimes find that they purchased more panels than they needed because it was an easy sale. Assembly Bill 330 puts in some consumer protections.

I have spoken with the Public Utilities Commission of Nevada (PUCN). I have an amendment from SolarCity and The Alliance for Solar Choice (TASC) ([Exhibit E](#)), and I tried to incorporate the things I thought were relevant into the bill. I know that Bombard Electric has some technical pieces of it. I think that with the amendment, this is really about giving the PUCN the ability to open up a docket when some of these cases go too far. They are receiving calls on a regular basis because people do not know what they should be looking for when they

are purchasing a solar system. This would help to answer their questions. This would help the Office of Energy as well to have the right individuals there to answer questions.

I will start with the amendment I submitted ([Exhibit F](#)). I added the amendments that were being put out there so we could make it clear what we are looking for. We have substituted terms that are used elsewhere in NRS so that we are consistent when we talk about renewable energy. We want to make sure the warranty requirements are consistent with the minimum warranty terms for solar systems so people know what to expect with their contracts, and our PUCN can review them if necessary. Included in the bill is the common model for residential solar photovoltaic (PV) installations, the purchased power agreement, which is really important because people need to know and understand the terms and that they can receive energy savings. We have inserted a "reasonable person" requirement that the seller/lessor/power seller discloses information necessary to the consumer so the consumer can make an informed decision.

I have had constituents in my district who do not always read the fine print. I had a constituent one year who bought a PVC pipe for her air conditioner and was told it would lower her rate by 50 percent. She gave them her credit card, she paid \$6,000, and there was never a PVC piece put on her unit. Trying to go back and track that person down is nearly impossible. But people do that every day; especially with renewable energy and solar power. It is the Legislature's responsibility to ensure consumers have the tools to evaluate these systems and make the right decisions.

Next, violations of sections 6, 8, and 12 would be considered deceptive trade practices. Finally, the bill would require the person or entity who installs a distributed generation system to register with the Office of Energy, and it requires the Office of Energy to establish a forum. This is important because last session we finally funded the Energy Office, but it is supposed to be a consumer protection so that people know what things to look for. One of the most successful things we were able to do with the Energy Office was to offer rebates for washers, dryers, and refrigerators because people could see what they could buy, instead of what people were telling them when they showed up on their doorstep to make a sale. That is the crux of the bill and the reason for the bill. I can go through the amendment, but I have people here in support because they believe we should do this.

Chairman Kirner:

In section 10 of the amendment, the required written reference, it says, "actual utility rates may go up or down and actual savings may vary." Given that my

understanding is that we are close to net metering limits, it would seem as if that statement should be a bit stronger, at least until such time where there is some resolution to what net metering is.

Assemblywoman Kirkpatrick:

I believe that we are getting closer, and I am happy to make it stronger. I want people to know that it took me two sessions to figure out that you are receiving information based on what your energy would have been had the rate not fluctuated. That is important to understand.

Assemblywoman Seaman:

Do you have information about how many complaints have been filed against installers of solar power systems?

Assemblywoman Kirkpatrick:

Currently, there is no authority for anybody to take action on complaints. The PUCN can tell you that they receive calls on a regular basis from consumers across the state. It is a problem that is becoming more prevalent. At a minimum there are 15 calls a week to the PUCN but they do not have the ability to do anything with them.

Assemblywoman Seaman:

Is law enforcement able to intervene in any of these cases, as in your \$6,000 example? Is there any recovery?

Assemblywoman Kirkpatrick:

No, there is no recovery. As we continue to cut budgets, there are fewer options for the Office of the Attorney General to move forward. This will allow the PUCN to address complaints and slow down some of these companies that are just coming into our state to take advantage of Nevadans. One of the things we have seen in the food distribution business is that people come into our state, get sales, and move on to the next state. We are such a transient state, and this would help protect people.

Chairman Kirner:

As I understand it, the consumer affairs division of the Office of the Attorney General was one of the first ones that was cut back in 2010. I do not think they have recovered from that.

Assemblyman Ellison:

The State Contractor's Board was getting so many complaints that they ended up licensing a lot of these different areas, mostly in solar energy. In one instance, a company put big units on a woman's house and told her that

her hot water bill would go away. All they did was stick a hose through the roof, put it into a tank, and install a fake solar panel. When winter came, it cleaned the woman out. The damage to the house was massive. These guys are out there in numbers. We are seeing them all over the state.

Assemblywoman Kirkpatrick:

The best experience I had with this was the person who came to my house one Saturday and tried to tell me how it was going to be done. I kept him on my porch for three hours while he explained it to me. I pretended that I had never heard about it before and asked him to elaborate. It really is a problem on so many different levels, and this is where we can get it under control. We do not want to paint all of them badly, but we do want to get rid of the bad actors.

Chairman Kirner:

I will invite those wishing to support this bill to come to the table.

Rose McKinney-James, representing Bombard Renewable Energy and Energy Works LLC:

We are here to support A.B. 330. In addition to being the managing principal of Energy Works, it was my privilege to serve the state at the Nevada Public Service Commission, which was a precursor to the PUCN, as well as to serve as your first director of the Department of Business and Industry. I served on more than 25 agencies, boards, and commissions that were part of that original agency. I was responsible for both the early efforts of the energy office as well as the former office of the Commissioner for Consumer Affairs. As a result, I am more than familiar with some of the issues that were outlined and that are addressed in this bill. I have been active in this process since 1983. I like to tell people that in addition to spreading sunshine, I am a fossil around here and I just celebrated my twelfth anniversary in the private sector as a small business owner. For most of those years, I have worked with this body on a suite of policies I refer to as clean energy policies and, without question, it has been my pleasure to work with the sponsor of this bill. I will emphasize the fact that Assemblywoman Kirkpatrick is one of the more knowledgeable members of this body on energy policy, and she is quite a formidable negotiator. I have always found her to be fair, and that is why I am compelled to be here to support her efforts today.

Over the past few sessions, we have focused on identifying opportunities to take advantage of our vast renewable resources. Around 1991, this body established a state policy of promoting and supporting the development of our indigenous resources. At that time, geothermal was well on its way to great parity; Sierra Pacific had a significant amount of geothermal in their portfolio. Solar was essentially in its infancy. As a matter of public policy, we began

a conversation to provide a foundation for the development of these resources for the economic benefit of the state. Today, we enjoy those benefits as outlined by the sponsor in her opening testimony. I believe that early wisdom created a new industry, and we are now attracting more companies to Nevada. We also face the challenges of making sure we continue to protect the interests of Nevadans in light of these developments. I believe this measure has been crafted appropriately in a desire to codify some of these protections.

As I mentioned, I am principally here to represent Bombard Renewable Energy. Bombard Electric is the parent company and has been in business since 1982. For 35 years, it has been active in the construction industry. Bombard Renewable Energy was established in 2004 and, in that time, the company has installed more than 1,000 solar systems in the state. Most of these systems are residential and net-metered. The staff at Bombard includes photovoltaic (PV) installers and technical sales staff certified by the North American Board of Certified Energy Practitioners (NABCEP) and an Underwriters Laboratories certified PV or photovoltaic installer. You will see their work in the state at Nellis Air Force Base; Las Vegas City Hall; the University of Nevada, Las Vegas; and the Stillwater Project in Fallon. If you look at the top of the Capitol, you will see a project that Bombard completed.

We currently warranty our installations, the panels, parts, and inverters. We do not lease or provide customers with direct financing. Bombard cannot afford to compete with bad actors. We recognize the potential long-term damage to this industry that we have worked so hard to build if bad acting goes unchecked.

We have reviewed the provisions of the bill, as well as the proposed conceptual amendment offered by The Alliance for Solar Choice, and we have shared our feedback. We appreciate the willingness of the sponsor to consider some of our suggestions, and we would like to work with her on the bill, particularly on the language in section 8. I believe that Bombard supports the need to have clear and concise definitions and disclosures for all parties relative to the roles and responsibilities and expectations needed to further vet and ensure consumers are protected. I appreciate the opportunity to present these observations.

Tony F. Sanchez III, Senior Vice President, Government and Community Strategy, NV Energy:

In the 20 years that I have worked in the public policy arena, I cannot recall ever being on the panel in support of something with the Public Utilities Commission, the Bureau of Consumer Protection, and Ms. McKinney-James. I concur wholeheartedly with Ms. McKinney-James. We are here in support of the bill as well as the two amendments that have been offered by TASC and Assemblywoman Kirkpatrick.

NV Energy is proud to be an industry leader in renewable energy. This bill has nothing to do with renewable energy; this bill has to do with consumer protections. The bottom line is that, with a growing industry you are going to have bad actors. For every incredible, responsible company like Bombard, with whom we do a lot of work, you are going to have a dozen actors who are not that responsible. I get the same pitches at home, on the phone, at stores, by these folks who are trying to sell a product and I, too, have had the opportunity to question these people.

It impacts our company, because when folks take advantage of the opportunity to have rooftop solar and then they experience a problem, they do not have anywhere to turn. They call us at the energy company and say, "Why am I getting a bill from you still?" and we ask what they mean. They say they were told by their solar installation company that they would no longer be a customer of NV Energy. We walk them through and give them as much information as we can, but it is a trend that we are seeing as we get these complaints on a daily basis.

We also hear customers complaining that their contracts say they are supposed to immediately save 10 percent because rates are going up 10 percent next month. We say we do not know what they are talking about, because working with the Utilities Commission we signed an agreement last year not to have any rate increases through 2017. They say it is in their contract and then they ask about their recourse. Obviously, they can go to the State Contractor's Board or the Office of the Attorney General, but often their only recourse is to hire a lawyer at great expense and try to go after these companies. By the time they go after them, they find that the companies have changed their name or they are gone. They may be "fly-by-night" operations.

There is a precedent for this type of regulation. In 1991, the Legislature passed a consumer bill of rights for utility customers. That is something that we are subject to. It is something that the PUCN enforces. You may remember that one of the great consumer advocates in our community, Thelma Clark, led efforts to modernize the consumer bill of rights and the Utilities Commission has handouts that list all of those. The bottom line is that this only applies to folks who are regulated, and this is an industry that is not regulated in many cases. We are looking forward to working with all of the parties. This is a terrific industry; it is something we are committed to working with to enhance our customers' ability to go green. We look forward to working with all of the companies and all of the parties here as this bill is considered.

Donald Lomoljo, Utilities Hearing Officer, Public Utilities Commission of Nevada:

I do not mean to diminish the moment, but the Commission is neutral on the bill. We were invited because we had a hand in providing suggestions for the amendment that has been proposed. Those suggestions were incorporated into the amendment.

I would like to provide one bit of clarification regarding the amendment. Assemblywoman Kirkpatrick mentioned there would be an enforcement process regarding bad actors that might flow through the Commission. The amendment actually envisions that process going through the Attorney General's Bureau of Consumer Protection through the deceptive trade practice statutes. In crafting the amendment, the participants were more comfortable with that process, and that avoided the fiscal note from the Commission on this bill.

To give some color to the conversation between Assemblywoman Seaman and Assemblywoman Kirkpatrick regarding complaint numbers, since 2011 the Commission has received 198 complaints regarding rooftop solar installers. That is not a big number, but that number is escalating. Since November of last year, the Commission has received 41 complaints, and in the last month, we have received 13 complaints, so the rate of complaints is escalating.

Daniel O. Jacobsen, Technical Staff Manager, Bureau of Consumer Protection, Office of the Attorney General

We are supportive of the bill. We have also received complaints. Probably the biggest complaints are from customers who got a sales pitch, put down a deposit, and then nobody came to install the solar panels. They have no recourse; they could not find who it was. We are hoping that a registration process that will clarify who the players are, where they are, and how they can be located will help with that. It is significant that section 8 of the bill would classify violating the provisions here as deceptive trade practices. That is basically the hook that will allow the Bureau of Consumer Protection to take on the task of investigating and proceeding on these issues.

We spent a lot of time speaking with the PUCN about the way this could be done without putting a fiscal note on the bill. This is potentially more work. My boss, Eric Witkoski, Chief Deputy Attorney General, who is the Consumer's Advocate, is willing to give it a try with our existing resources. Chairman Kirner, I was pleased to hear you acknowledge that Consumer Affairs was cut back. We no longer have the investigators that we used to have, but we are willing to give this a try with the existing resources that we have. Our hope is that we will weed out a few bad players and with the registration process, it will not be that big of a thing.

We have also had customers express frustration that they expected to not have to buy any more power from NV Energy. Not that it is not an honor to buy from NV Energy, but it is important to require a disclaimer that makes it clear that customers are going to have to continue to buy power from the utility. We do not know any way to estimate what will happen to utility rates, but we think it is important for customers to know they are still going to have to pay those utility rates.

The final thing that we have seen is some advertising—door hangers—that has been crafted in a way to scare the customers into thinking that if they do not sign up, they are somehow going to violate state policy. We have read the door hangers and they seem to be referring to the renewable portfolio standard (RPS) or incentives that are available, but they are written in a way that is pretty scary. A lot of customers have called and asked if they were going to violate state law by not doing anything. We are hopeful that the registration process, the deceptive trade practice wording, and your support of this will help us help consumers with this issue.

Assemblywoman Seaman:

What is the actual problem? According to Assemblywoman Kirkpatrick, there are a lot of companies coming in here without licensing. In order to do this, do you not need a contractor's license?

Daniel Jacobsen:

You need a contractor's license to install, but you do not need one to start advertising, and you do not need one to collect deposits that may be fraudulent.

Assemblywoman Seaman:

You would have to have a contractor's license in order to advertise. Where is the State Contractors' Board? Are they getting complaints? If these people do not have a contractor's license, would that not fall under the State Contractors' Board?

Chairman Kirner:

If someone is trying to sell you something, they would probably not need to have a contractor's license to knock on the door. You might ask if they have a contractor's license.

Assemblywoman Seaman:

Does it not have to be on your advertisement?

Chairman Kirner:

I do not know.

Assemblywoman Seaman:

I am told that to advertise you would have to have a license.

Assemblywoman Kirkpatrick:

What happens is that many of these companies hire students to put flyers on the door, or they hire folks who are telemarketers to call people to get appointments set up. I did this to see how it works. They come out for an appointment and present you with a contract and tell you what they can do. They then sell it to a subcontractor, who installs it. It is a long process to go back and try to find everybody. That is my point. The consumers do not know where to start. Do they go to the Contractors Board? What if the people were never licensed? What if no one ever showed up but they paid the down payment? It is a spider web as to who is actually involved, and it leaves the consumer with nowhere to turn. You can only go to the Contractors' Board after someone has done the work on your home. Sometimes you do not even get to that step.

Chairman Kirner:

There are sellers who are also installers. They may have the contract. But there are sellers who are not installers. They may get an order and contract with an installer. The seller does not have to have a license or produce a license. That is a fair statement.

Assemblywoman Kirkpatrick:

We are very creative in our state. That is why I am trying to put something out there that is good.

Assemblyman Hansen:

What happens if you catch someone? There are some fraudulent guys going door to door selling these things. When you catch them, what penalties can you apply? You cannot take away their license. Are they criminally charged and prosecuted? What is the penalty?

Daniel Jacobsen:

If they have engaged in a deceptive trade practice, we would go after them.

Assemblyman Hansen:

Do you actually have them arrested? If the guy is going door to door and finds out he has been discovered, he leaves the state.

Daniel Jacobsen:

We would go after him. There are a variety of things we could do.

Assemblyman Hansen:

Then there are mechanisms in place to chase down these people?

Daniel Jacobsen:

There are some very unpleasant people who work in that part of our group.

Chairman Kirner:

Seeing no other questions from the Committee members, we will take testimony from those in Las Vegas.

Angel DeFazio, President, National Toxic Encephalopathy Foundation, Las Vegas, Nevada:

I would like to thank Assemblywoman Kirkpatrick for introducing this bill that now offers solar customers some protection. What really is needed is PUCN oversight as with NV Energy, but this bill is a step in the right direction. I am sure that you have not investigated as much as your constituents. I want to apprise you of why this bill must be fast-tracked to the Governor for his signature.

Last summer during the PUCN's statutorily mandated consumer session, I presented the problems as they related to SolarCity. Since the PUCN was required to provide a report to the Legislative Counsel Bureau (LCB), this has become a matter of public record.

Solar companies are unregulated; there is no oversight and they have to account to no one. A prime example of an upcoming Solyndra-type scandal is SolarCity. What they do not want you to know about them is there is a letter dated March 12, 2014, from Bob Stump, Chairman of Arizona Corporation Commission, to Lyndon Rive, CEO of SolarCity. Some of the concerns were:

“[Y]ou—as well as other solar providers—may be communicating with customers in a way that is both confusing and misleading and which deprives them of the balanced information that they need in order to make informed decisions.”

The Arizona Corporation Commission requested that they answer, What kind of representation statements regarding utility rates, charges, and conditions of service does your sales representative make to potential customers thinking about solar? They also asked about training and monitoring of representatives. In 2010, the Commission cited that SolarCity was not a public service corporation, however, your form 10-Q filed with the SEC (Securities and

Exchange Commission) in 2013 made comments to indicate that you sell energy to end users.

"We offer our customers the option to either purchase and own solar energy systems or to purchase the energy that our solar energy systems produce through various financed arrangements. These financed arrangements include long-term contracts that we structure as leases and power purchase agreements. In both financed structures, we install our solar energy system and charge the customer a monthly fee for the power that our system produces.

I am concerned that you are providing a service that is 'clothed with the public interest,' but that you may not be measuring up to the very standards required of such entities."

Other issues regarding SolarCity include a class action lawsuit filed on March 28, 2014, in United States District Court in Northern California for violations of federal securities law and numerous complaints filed with the Better Business Bureau (BBB). According to the BBB, SolarCity rarely responds, and when it does, the customers are strung along.

According to <watchdog.org>, SolarCity kept changing the terms of contracts by continuing to reduce the amount of electricity that would be produced. Is this another Solyndra scandal in the making? U.S. Senator Jeff Sessions, a Republican from Alabama who is a ranking member on the Senate Budget Committee, sent a letter to Treasury Secretary Jack Lew to express concerns that SolarCity might become the next Solyndra. Solar customers need protection, and this bill offers such.

Chairman Kirner:

Are there any others who are in support of this bill? [There was no one.] We will move to those who are neutral on the bill. [There was no one.] Is there anyone who is opposed to this bill?

Walker Wright, Director, Public Policy, Sunrun, Inc., San Francisco, California:

This has been a good conversation, and I have learned a lot about consumer protections and how you view it. I am hoping this testimony can provide some context on this bill and the way this discussion is happening across the country. Sunrun is excited to be a recent addition to the Nevada rooftop solar landscape. We recently opened a warehouse at 6265 South Valley View Boulevard in Las Vegas. We applaud the policy work in Carson City which has led to Nevada demonstrating the number-one solar jobs growth per capita this past year. Thank you, Assemblywoman Kirkpatrick, for your ongoing support for a clean energy future.

From a business perspective, we ask ourselves why families go solar. It is usually a combination of savings, consumer choice, and environmental reasons, in no consistent order for any one customer. From a business perspective, we take nothing more seriously than consumer protection issues for one simple reason: happy customers equal more customers. Our company at this point has installed solar panels on about 70,000 homes across the country, and we find that referrals are by far the number one reason for new homes going solar.

Unhappy customers will destroy our business. Going solar is a complicated process. Thus, we invest heavily in a customer care department that is there 24/7 to hold the hand of each customer in what is ultimately a long-term relationship. To be clear, it is our business mission to make sure that when a solar customer picks up the phone, we answer right away and we are there for them all the time. We do not want them to call the utility or the PUC. Misunderstandings may exist, but that is the reality of the market right now. It is also fair to say that there are companies out there that do not have the infrastructure that a large national company like Sunrun may have and which is part of any growing industry. I would be happy to go over a Sunrun contract and proposal with anyone on this Committee, or I would encourage you to investigate going solar yourselves to understand the process. Becoming a self-generator rapidly facilitates the understanding of rooftop solar policies. We would be happy to work with the author on better identifying the issues that must be addressed in Nevada. We have not had the opportunity for a face-to-face meeting, but we look forward to it. We also want to better understand some of the rogue actors that are participating in this state that give our industry a black eye. We are well aware of that and that is part of a growing industry that is very hot in this state.

Most of the provisions in A.B. 330 are already covered by existing law, and government agencies are enforcing those laws or should be enforcing them. Duplicative regulation creates conflicting laws, government bureaucracy, and wasted resources enforcing two sets of identical laws. The practical implication of this bill is to limit the ability of businesses to operate in Nevada without actually bolstering consumer protection. Solar companies are subject to a variety of federal regulations and authority by over a dozen state and federal agencies. Here is a list of the major government agencies that govern the solar industry as well as a few of the regulations that cover solar companies:

- Equal Credit Opportunity Act
- Fair Debt Collection Practices
- Can-Spam Act

- Occupational Safety and Health Administration (OSHA) law and regulations
- Federal Magnuson-Moss Warranty Act
- Consumer Leasing Act
- Fair Credit Reporting Act
- Right for Financial Privacy Act
- Uniform Commercial Code
- Telephone Solicitations Rules
- Unfair Deceptive Practices Act
- Electric Funds Transfer Act
- Truth in Lending Act
- Electronic Signatures Act
- Federal Trade Commission Act
- Consumer Financial Protection Bureau
- Securities Exchange Commission
- Federal Trade Commission
- United States Department of Treasury
- Financial Crimes Enforcement Network
- State contracting licensing boards
- State engineering license boards
- State consumer protections agencies
- Local municipalities and permitting agencies
- State attorney generals' offices

This specific bill is imported from Arizona, the state we like to refer to as the current solar war state. The language in its original form was almost identical. I encourage this Committee to look into what was behind that bill. There has been recent investigative reporting into the utility that was behind that bill, and that utility publicly stated that they had nothing to do with that bill. A congressman from Arizona wrote a letter to the Federal Trade Association in addition to the Consumer Financial Protection Bureau. The congressman denied having guidance from the utility. Investigative reporting eventually found that the utility was behind the bill. We do not want this dirty solar war coming into this state right now.

In Arizona, there are bad apples, just like there are here in Nevada. Those bad apples are being investigated by the attorney general's office. I would encourage all of us to get together and discuss who the bad apples are today and how they can be addressed. As a leading solar company, we certainly do not want future black eyes for our industry. Unnecessary disclosure requirements will increase the length and the cost of lease agreements without

bolstering consumer protection. Instead, these requirements will increase consumer confusion and achieve the opposite of the stated goal.

A comparison to the better-known car lease demonstrates the unreasonableness of these provisions. For example, this bill states that all components of a solar system must be listed in the agreement, including serial manufacturing numbers. If a car lease were required to state the manufacturer and serial numbers of cup holders and windows, would that increase the consumer protection in any way?

I do not think so. If stakeholders believe that additional disclosures are necessary for finance or leased products in solar, then they should be able to amend the current leasing laws that are out there.

Chairman Kirner:

You mentioned a number of NRS statutes that already address this. Do you have those?

Walker Wright:

Would you like me to submit them?

Chairman Kirner:

If you have them, I would like you to submit them.

Robert Uithoven, representing The Alliance for Solar Choice:

I regret that we are on the opposing side of this legislation. Our goal is to get on the side of the bill sponsor and support this legislation. We have heard a lot of testimony about complaints. Both of these companies—SolarCity and Sunrun—have A-plus ratings from the Better Business Bureau. We are proud of them. We are in agreement with the proponents of the legislation, more so than being opposed to what was testified to earlier. We agree that we need to weed out any bad actors in the industry, and that contracts must be available. I can assure anyone on this Committee or the PUCN that our contracts are publicly available for review. Certainly our customers have the opportunity to review our contracts. As Mr. Wright stated in his testimony, there are dozens of federal and state laws and regulations which we fall under and comply with, thus earning the customer satisfaction that continues to allow our members to grow. We need to give credit to customers and not assume that everyone out there is gullible to the ideas of lowering their power rates. When the monopoly utility testifies to the fact that there are a number of bad actors there, we want them out of the state as well. We want to continue to be regulated. We submitted the proposed conceptual amendment ([Exhibit E](#)) and look forward to working with the bill sponsor and the Committee to see that these

regulations are put in place, and that we continue to have strict oversight of the industry from the PUCN and from this body.

We are expanding significantly in the state—capital investment, jobs—because your constituents are going online and finding ways to lower their power bills. They invite someone from Sunrun or SolarCity to their homes, analyses are performed, and contracts are reviewed. This is a customer-driven success story. Yes, there have been increased complaints, as testified to. I have not seen those, but I will assume that is accurate. There has been a significant increase in demand as people decide that they want to lower their rates.

I will address the elephant in the room, and that is the net metering cap. We are coming up on that. It is a significant roadblock to future success, future jobs and creation, future investment in our state, when we assume that by the end of this calendar year we hit that net metering cap, and there is no longer the availability for your constituents to have the consumer choice they have today. We are hoping to address that with this Committee. We look forward to working with this Committee and the bill's sponsor. We will be going through her language, the bill, her amendment as well as our amendment, and come to some resolution so we can protect consumers without jeopardizing consumer choice.

Chairman Kirner:

You represent some incredible businesses. What I understood from Assemblywoman Kirkpatrick's testimony is that she was after the bad apples. What are you opposed to with regard to going after bad apples?

Robert Uithoven:

We support going after them and working with the PUCN and the Office of the Attorney General. We look forward to sitting down with all of the major stakeholders. We are in complete agreement. What we do not want to do is regulate the industry out of Nevada and stop the continuing capital investment, job creation, and consumer choice that is currently provided. We believe, given the laws and statutes that were just read by Mr. Wright, that we have a number of protections in place today. This may be an issue of enforcement of existing laws and regulations and not so much an attempt to create new laws, regulations, and enforcement. Particularly with the testimony today on issues that we are addressing, statute does provide a remedy for deceptive trade practices.

Chairman Kirner:

Is it your view that Assemblywoman Kirkpatrick's bill is duplicative of other law that already exist?

Robert Uithoven:

We believe there is some duplication in the bill, and we look forward to working with the sponsor and this Committee to hopefully avoid overregulating or having duplicative laws put in place that become too onerous and burdensome for our customers and your constituents.

Assemblywoman Carlton:

You say that you are looking forward to working with the bill sponsor. Had you met with the bill sponsor before today's meeting?

Walker Wright:

I met her in the past to discuss energy policy, but not on this bill.

Assemblywoman Carlton:

You had not reached out to the sponsor even though this bill has been out for a while. Have you talked to other members of this Committee about this bill?

Walker Wright:

We have reached out in the last few days, hoping for a meeting with Assemblywoman Kirkpatrick.

Assemblywoman Carlton:

Have you talked with any other members of the Committee about the bill?

Walker Wright:

No.

Assemblywoman Carlton:

I would like to know, in regards to that list you read quite quickly, which one of those entities would have dealt with the issue of the person standing on my porch trying to sell me something? You may not have the information now, but I would like to have it.

Walker Wright:

Certainly.

Chairman Kirner:

To Assemblywoman Carlton's question, I will say that Mr. Uithoven did come in and speak with me, just to introduce the bill, not to persuade me one way or the other. He wanted to let me know they would be testifying in opposition to the bill.

Assemblyman Hansen:

Mr. Uithoven approached me too. Mr. Wright, I was going to sponsor the "Act to Reduce the Number of Acts Act" after listening to your testimony. We have regulations now. There are some elements of the bill you think are okay. How many systems are installed in Nevada in a typical year? The PUCN mentioned 20 to 30 complaints.

Robert Uithoven:

We have thousands of customers throughout the state. The number has been increasing as consumer choice has been afforded to your constituents. I do not have the precise number, but I can provide it to you and the Committee.

Assemblyman Hansen:

When there are complaints about unlicensed contractors, the complaints go through the Contractor's Board. I think there are 14,000 licensed Nevada contractors, with a tremendous amount of volume and a very small number of complaints when you look at licensed people. If you are installing thousands of systems and all of your competitors sell them, I am guessing 5,000 to 10,000 per year are being installed. If that is the case, and you are averaging 30 to 40 complaints in front of the PUCN, that is a tiny window of problems when you look at the industry as a whole. Therefore, is there a need for additional regulation, or is the current level of regulation sufficient to ensure that the bad actors are subject to some form of discipline?

Robert Uithoven:

We agree that we need to get after the bad actors. We believe there are laws and regulations in place today to get them out. I get flyers on my doorstep; sometimes they are from someone wanting to clean my house, or someone who wants to mow my lawn. I do not believe we have a statute that regulates when someone can be on my property, but we do not find that to be related to bad actors who are purposely trying to entice people into phony contracts or scam people out. When those people surface, and they do exist, it is our hope that they can be prosecuted.

Assemblyman Hansen:

The bill sponsor is well known for being a strong advocate for consumer protections. Hopefully, we can get some of this resolved and the good stuff from the bill into state law.

Assemblywoman Seaman:

There were approximately 198 cases since 2011. That would average out to about ten a year that the PUCN gets in complaints. Why would the current fraud laws or the Contractors' Board not be enough to prosecute these

ten cases a year without putting more laws on the books? I feel for somebody who handed someone \$6,000 and did not get any work done. That is something that would go to the fraud unit. I do not think that this bill would help that situation.

Walker Wright:

One way we are trying to make this connection is that the utility in Arizona turned consumer protection for rooftop solar leasing into a way to attack the solar industry, which is tied to more broad energy and net metering issues. When we saw a bill that was almost identical to it here, that raised our concern.

Assemblyman Nelson:

A question came up about section 8 and some of the provisions that you characterize as being onerous. You have to include the serial number of any component provided by the manufacturer, and there are a number of things about including an estimate of the amount of electricity that would be generated, tax incentives, tax obligations, sales taxes, and things like that. Are those things that you are concerned about as far as making representations or possibly getting legal advice? What are your other concerns about section 8?

Walker Wright:

I can walk you through the Sunrun contract or that of our major competitors where a lot of this is disclosed. What we are worried about is making the sales process far more complicated than it already is. The decision to go solar is already a complicated issue. You are putting a set of panels on top of your roof and looking at what your electricity payments are going to be for the next 20 years. You go from being a customer of the utility to a customer of two different entities. That in itself takes a lot of explanation. The lead time from our perspective is often months and months of ongoing consultative conversations. When we look at that, we are saying other products that are out there in the market do not require this level of onerous oversight.

Assemblyman Nelson:

We all agree that we want to protect consumers. Do you have the ability to provide the information that section 8 would require, particularly regarding state and federal tax laws, incentives, and obligations? Is that in your typical materials?

Walker Wright:

Yes, a lot of it is.

Assemblywoman Carlton:

Do you sell these solar panels and electricity? I am trying to understand the business model and how the pieces fit together.

Walker Wright:

What happens is you are approached by a solar company, or you called the solar company, and if it is in a lease or a purchase power agreement (PPA) arrangement, the solar company will put the system on top of your home. You will then pay for the power your system produces for the length of the contract—usually 20 years. You are paying for the power from the solar company and you are continuing to pay NV Energy. The way most systems are set up, you essentially have two electricity providers.

Assemblywoman Carlton:

In essence, you are selling electricity in the state.

Walker Wright:

Yes, we are in 13 states.

Assemblywoman Carlton:

But you are not regulated.

Walker Wright:

No.

Assemblywoman Carlton:

There are no guarantees that the consumers get an appropriate price. There is no regulatory oversight to make sure they are getting what they pay for.

Walker Wright:

The solar company is putting the system on your rooftop at the cost to the solar company of \$20,000 to \$25,000. To pay that off, the solar customer is then paying the solar company for the power that system produces. Whether it is a lease arrangement or a PPA arrangement, it has already gone through incredible legal oversight just to be able to exist in the current utility structure.

Assemblywoman Carlton:

I am sure it is not the basic rate. I am sure there is something added in to carry that note and money forward—some type of interest or fees on top of that.

Walker Wright:

The best way to answer would be for me to walk you through a contract. If you were a prospective lease customer, that would be helpful.

Assemblywoman Carlton:

I like NV Energy. I am sticking with them. They are regulated, and I have an opportunity to question them. I am just curious about the regulatory question. Is there a regulatory process?

Walker Wright:

The solar company is telling you what you are going to be paying them. There are no hidden costs. What the customer will pay the solar company for the next 20 years is in the contract.

Assemblywoman Carlton:

You are not regulated.

Walker Wright:

That is true.

Assemblywoman Seaman:

You do have oversight, though, is that correct?

Chairman Kirner:

Your testimony earlier was that you were subject to NRS regulations. Is that correct?

Walker Wright:

That is correct.

Assemblyman Hansen:

It also means you are a competitor to NV Energy, is that correct also? Which is otherwise a monopoly too?

Robert Uithoven:

That is correct. If someone wants to stay with NV Energy, we appreciate their ability and desire to do that. However, we want to protect the choice of the consumer to go solar on their rooftop as well. Our number one asset is our customers. They are fueling the growth of our industry in Nevada.

Assemblyman Hansen:

You provide options for customers.

Robert Uithoven:

Yes, sir.

Chairman Kirner:

Seeing no other questions and no one else wishing to testify in opposition, I will welcome the sponsor back.

Assemblywoman Kirkpatrick:

At the risk of killing my own bill with what I am about to say, I would like the PUCN to go over the numbers. It is very telling, and I do not want it to get lost in this. This truly is about consumers, and I have plenty to say.

Don Lomoljo:

Just to give some statistical background again, since November, the Commission has received 41 complaints regarding rooftop solar installations.

Chairman Kirner:

Let us be clear: 41 complaints about bad apples trying to sell a product or installations that did not occur or were faulty?

Don Lomoljo:

That number covers all of those situations. To put that into context regarding total installations, in 2014 there were 328 completed rooftop solar installations in Nevada. Those 328 were installations that received SolarGenerations rebates; there may have been other installations that did not receive rebates. This year alone there have been 446 completed installations. That shows that rooftop solar installations are increasing. Although we take calls regarding the complaints, the Commission is left without jurisdiction to do anything about them at this time. We refer those to the Office of the Attorney General.

Assemblyman O'Neill:

Out of the 41 since November, do you know how many installs there have been so we can look at the comparison?

Don Lomoljo:

No, I do not. I do have installation numbers by month back at the office. The number I gave you was the 328 installations in 2014 that received rebates.

Assemblyman O'Neill:

If we went with the 446 in 2015, we are looking at 10 percent.

Don Lomoljo:

With those numbers, that is correct.

Assemblyman Hansen:

That answers my question because 10 percent is actually a substantial amount. You mentioned that is the number that received rebates. How many are installed that do not receive rebates? Is there any way to know how many total installations there were in the state? I have a hard time believing that in the entire state of Nevada there were only 328 systems installed in the north and south. I think there were a few hundred just in the Reno-Sparks area.

Don Lomoljo:

There are a number of installations that do not receive rebates. I believe I can get that number for you since renewable generators have to register with the PUCN if they want to accrue renewable energy credits.

Assemblyman Hansen:

When you say 328, you probably are close to the total number installed, because if you are seeing 41 complaints since November and there have only been 446 in the entire year, that is a higher than 10 percent complaint rate. That is substantial. If those numbers are reflective of what we are talking about, there is a substantial consumer concern.

Assemblyman Nelson:

In 2014, there were 328 rooftop installation rebates. How many are there so far in 2015?

Don Lomoljo:

There have been 446 in 2015. I would emphasize that most recently, in the past month, we have had 13 complaints.

Assemblyman Nelson:

In 2015, there were over 100 more installations, and we have not even completed the first three months of the year. The rate is increasing astronomically.

Don Lomoljo:

That is correct.

Assemblywoman Fiore:

The numbers are not calculating for me. We have 300 in 2014, we have 400 in 2015, we have 13 complaints this year, we have 41 complaints last year, we have 41 complaints as of November. I have a legislator behind the dais being a cheerleader for NV Energy. Numbers can be skewed. Where can I get true proof that these numbers are accurate?

Assemblywoman Kirkpatrick:

It is not fair to the PUCN to be under fire for trying to do the consumer's work. We have the SolarGenerations program [of NV Energy], and that is one way to track it. However, a lot of new companies are coming to our state with regard to solar. The PUCN is only one agency. We have the Contractors' Board, we have the Consumer Advocate, so when you add those numbers up, we are seeing an increase. It is no different than any other industry that comes to our state. Everybody wants to be the first. I have served in this house for ten years, and I saw that when all the hotels were putting in LEED certification. We went back and put some parameters in so people knew what the rules were.

I will work to get you the numbers from all the different agencies, but it is not fair to beat up the PUCN. The issue here is that we are seeing an increase in complaints in a short time frame, and solar is becoming more popular, so we want to have some basics in place. It is going to take a bit of time to get the numbers, but I do want to respond to the opposition at some point.

Assemblywoman Fiore:

I understand that, but sitting here behind the dais with our peers, and our peer jumps up as a cheerleader for NV Energy, it is a problem.

Assemblywoman Kirkpatrick:

I understand that, but we are talking about the consumers. It might be a 68-year-old senior citizen in my district who was hoodwinked by a bad actor, or your young families who are just trying to save on their energy bills. This is not about one company or another.

Assemblywoman Seaman:

Mr. Lomoljo, can you get us all of the numbers—not just the rebates or the ones that you deal with? There are thousands of other solar systems being put on homes. I would like to get all of the numbers.

Don Lomoljo:

I can attempt to get numbers on installations. I have no means by which to get numbers on complaints outside of our agency.

Assemblywoman Seaman:

I would just like the number of installations, even the ones who do not have the rebates, so we can compare the 198 since 2011 and see why these problems are not being taken care of through other avenues.

Don Lomoljo:

I believe I can do that; if not, I will let you know.

Assemblywoman Seaman:

Thank you.

Assemblywoman Kirkpatrick:

I would like to respond. I am offended because I have a good reputation in this building, working across aisles and working across agencies. It is one thing to walk down the hallways and say, "Hey, I would like to talk to you about renewable energy," but that does not mean that you arranged an appointment or you attempted to stop and say, "I have a problem with your bill."

In 2005 I was sucker-punched when leadership asked me to sit in on a renewable energy discussion with Senator Townsend. It was ten boys sitting around with their cigars, talking about golf, talking about renewable energy, talking about golf, and talking about renewable energy. These were five-hour meetings. My leadership at the time asked me to go and learn about the subject. In order for me to survive those meetings, I had to learn the lingo to keep up. I learned the renewable energy lingo so we could get something done. I have spent many hours trying to ensure that if our state is going to go in that direction, we have some consumer protections and we fund the agencies that are necessary. I do not even know what Arizona did. That was not what my deal was, so to assume that I copied their legislation—that is not my issue.

In 2005, I took it on the chin. Go back and read the news reports: "Assemblywoman Kirkpatrick wants to tax solar." No, I just want people to pay their fair share. In 2007 they said, "Assemblywoman Kirkpatrick wants to get rid of solar." No, I just want to make sure there are rules and regulations. In 2009 they said, "Assemblywoman stays up all night and takes on big industries to avoid a billion dollar shortfall." That was the most offensive comment anybody could say to me in this building because I care about the constituent who lives on my street and the single family who is just trying to make it.

To say that walking down the hallway you mention you want to talk about renewable energy, and then to characterize that as reaching out to the sponsor, is offensive to me. You did not talk about any piece of this bill that you have problems with or put your concerns out there regarding regulations to ensure the consumers know what they are asking. That is offensive. I am in the business sector. I am all about the free market, and I am all about the competitive business. That is how I feed my family. To not know me and to come to this state and assume I am trying to get rid of something is

unforgiveable. Mr. Chairman, if you are going to make me work with them to try to fix my bill, I am not sure I can do that. I would be happy to kill it if that is the case. If consumers are not going to be protected in this state, I do not want to be part of it. You can go back a few years to Dr. Hatice Gecol, who was the Energy Commissioner, and to Jim Groth, Director of the Office of Energy. No matter what party people were from, or how conservative or liberal they were, I always brought balance. This is the first time in ten years I have been on the same page with Ms. De Fazio, and I did not even ask her to testify. She testifies at every meeting of the PUCN. We want business in our state and at the same time, we want to protect our consumers. I do not know what there is to fear in this bill.

Chairman Kirner:

Assemblywoman Kirkpatrick, we certainly appreciate your experience. We will close the hearing on A.B. 330 and open the hearing on Assembly Bill 336.

**Assembly Bill 336: Revises provisions governing human trafficking.
(BDR 52 166)**

Assemblywoman Teresa Benitez-Thompson, Assembly District No. 27:

Assembly Bill 336 is in regard to the posting of language and a national toll-free phone number in certain businesses and other sites to help victims of sex trafficking and human trafficking. The toll-free hotline is operated by the nonprofit Polaris Project and its National Human Trafficking Resource Center.

In 2013, the Legislature passed Assembly Bill No. 67 of the 77th Session. It was an omnibus bill that addressed in statute different aspects of sex trafficking, including sentencing and rehabilitation. There was a lot of good conversation that came out of last session and statutes that have served us well. At the national level, *United States Code*, Title 18, Sections 1589 and 1591 define what human sex trafficking is. Much of our definition of victims comes in *Nevada Revised Statutes* (NRS) Chapter 217.

I want to discuss the journey I have been on and how grateful I am as a legislator to know people who are working so diligently and passionately in this area. Over the summer, the Junior League of Reno reached out to me and said they would like to work on some sign-posting language so that the women who are caught in sex trafficking, when they are able to leave, have a way to access resources. The most important thing for the young women who are caught up in sex trafficking is that there be a community wrapped around them to help when they are ready to make their way out.

For those of you who are not aware, victims of sex trafficking are being forced into commercial sex, usually by very heavy-handed coercion. Young women who enter sex trafficking are in their early teens; 13 is the average age. They might believe that it is a lifestyle choice that they want to pursue but to us, there is nothing about this issue that we believe is a choice for these young women. They are coerced, they are forced, they are victims, and they need help. This bill is about helping them have access to resources for a way out.

I will introduce my two copresenters, Melissa Holland from the Awaken Project here in northern Nevada, who will talk about community resources that we are building, and Eileen Carter of the Junior League of Reno. After that, I will explain the amended version of the bill so you know what we are trying to accomplish.

Melissa Holland, Founder and Executive Director, Awaken, Reno, Nevada:

We started this nonprofit officially as a 501(c)(3) in May 2011. We are an anti-trafficking organization. We do community awareness events, advocacy education, trainings, and direct services for the victims of commercial sexual exploitation. We have worked with well over 200 victims—local girls in northern Nevada. When I first started looking at the research, both worldwide and domestic, I was in graduate school at the University of Nevada, Reno. I was shocked to find out how much is happening locally in our country. Human trafficking is growing faster than arms dealing and drugs. What is unfortunate is the reason why: you can only use a drug or a weapon once but you can re-use a person multiple times. That is why this is the fastest-growing criminal enterprise in the world. The U.S. Department of Justice estimates there are over 250,000 American children at risk today; the average age of entry is 13.

This is a very local issue. My organization, volunteers, and staff have dealt face to face with many victims. One of the interesting things is, living in Nevada we do have an interesting brand and reputation. There is an interesting shift taking place. Our state used to be known for the selling of sex. There are phenomenal organizations out there that have done a great job of rebranding what this state is to be known for. The Economic Development Authority of Western Nevada (EDAWN) has done an incredible job bringing in new industries so we can be known for new things. As this shift takes place, the bill comes in agreement with that kind of change. What this opportunity presents is that we can be known not for the selling of sex but for the protection of victims of sex trafficking. This is an opportunity to take a stand and be known for protecting children, to be known for protecting victims who are coerced. The techniques used to coerce these children and women are highly

sophisticated. It is important that we are just as sophisticated in attacking this problem. That is what this bill allows us to do.

Law enforcement estimates there are up to 40,000 illegal sex workers in Nevada. There is a conservative estimate from law enforcement that says there are upwards of 7,000 children being victimized. These are numbers that we want to look at. In my organization, Awaken, we are approaching this in ways that are needed. There are not a lot of resources available in Nevada. There is only one safe house that I am familiar with in the entire state, and that is in Las Vegas. In northern Nevada, we are about to open a safe house in the Gardnerville area. We also offer transitional housing and a drop-in center off Fourth Street in Reno.

There is a real collaborative and community effort to respond to the problem, but we would like to match it on the legal side as well. Promoting services that are available and letting people know there are ways to get help provides a public awareness for those girls and lets people know that Nevada is against these things. Nevada takes a stand for children and victims. That is something we are proud of. We have upwards of 50 million tourists that come to our state every year. We have a real opportunity to make an impact on a lot of people that come to our community, to not just be known for the selling of sex, but to be known for the protection of the victims who are wrapped up in this unwillingly. This is a chance to post this and rebrand our state in that effort.

Eileen Carter, President-Elect, Junior League of Reno:

We are an organization of women who work together to promote volunteerism in our community and to develop the potential of women. We have been working for about three years with a focus on the area of human trafficking. We have been closely involved with Awaken to make this issue something that people are talking about in our community. It is happening in our community, and it is not something that a lot of people want to face or talk about. We have been working really hard to bring it to people's attention. Two years ago, we worked with Assembly Bill No. 67 of the 77th Session, which was passed. We are hoping that posting this hotline will help these girls and give them access to the help that they need.

Assemblywoman Benitez-Thompson:

I did put on NELIS the facts, figures, and statistics from the National Human Trafficking Resource Center (NHTRC) [([Exhibit G](#)), ([Exhibit H](#)), ([Exhibit I](#)) and ([Exhibit J](#))]. On each one of the pages is the national hotline number. National hotline statistics are also uploaded so you have that information available to you.

I will review the conceptual amendment of the bill ([Exhibit K](#)). Section 1, subsection 1, contains language that states that a model sign will be developed and prescribes a list of businesses where we would like this sign to be posted. Through the course of conversations with survivors of sex trafficking, these businesses were mentioned as places where victims would see the signs. Mass transit was identified as being crucial, as were truck stops and sexually-oriented businesses. Regarding restaurants in particular, I was touched by comments made during the "Turn the Arch Blue" event hosted by Awaken and the Junior League, where a survivor spoke and said that when she was trafficked, she only ate fast food. The only types of places she went into were fast food establishments. We are proposing an amendment to our language for the sign to be posted inside women's restroom facilities because she said the only time she was ever alone and out of the sight of her trafficker was when she used the restroom. That was her only moment of privacy. The intent is for this notice to be posted discreetly inside the women's restroom facilities of the listed businesses. I have brought examples of the Truckers Against Trafficking signs that they currently use [held up small signs]. We have handed them out to Committee members.

In subsection 2, you will see that the original language prescribed a sign that is at least an 8 1/2 by 11 inches in size. Our intent is actually for something much smaller and discreet. Along this line, you will see that we have removed a lot of language in order to fulfill our intent of the sign being this size and this discreet [held up one of the small signs]. Again, through feedback from survivors, we wanted our language to be as colloquial as possible. California did a similar campaign that we heard that was a good campaign and produced great results. However, the language was written in legalese and was difficult for the underage women to understand. We are proposing language that someone from the age of 11 to adulthood would be able to appreciate. It says, Are you or a friend being forced into sex or to work against your will? Call the National Human Trafficking Resource Center at 888-373-7888 to access help and services. We wanted it as simple and plain as that. We are asking the Department of Business and Industry to come up with model language, although we will provide them with the template and the sign, preferably in English and Spanish, with one language above the other. You are going to see that the sign had a lot of prescriptive language that we are removing.

In subsection 3, we discuss how we would like the sign to be accessed. We are asking the Office of the Secretary of State and the Office of Business and Industry to make this notice available on their website for businesses to download and post in their women's restroom facilities. We are also asking that, when the Secretary of State sends out renewal packets for business

licensing fees, they include a notice that informs these businesses of their obligation to post the sign.

In subsection 5, we are making it so anyone who would like to donate funds or sponsor a sign has the ability to do that. There are organizations that may want to host the printing of signs for businesses, and we are fine with that. Our intent is to have language that would allow the Secretary of State's Office as well as the Department of Business and Industry to accept such assistance.

Lastly, in subsection 6 we have the provisions regarding a fine. This is an area of language that we are still working on with other stakeholders. Ideally, we would like any fines from this bill to go into the Contingency Account for Victims of Human Trafficking, which is housed within the Department of Health and Human Services. The point of this bill, though, is not necessarily to generate money by heavily assessing fines. This is not meant to be heavy-handed in any way. We are having ongoing conversations with folks about a way to have some teeth in the bill to ensure compliance but without being onerous when it comes to fines. We have changed the language from 24 hours to 30 days so that if a business is notified of their obligation to post the sign and they do not comply, they have 30 days to come into compliance. A fine would not occur unless a second offense is found at the same site. The rest of the amendment contains various definitions.

Assemblyman Nelson:

I am sure you are aware of Speaker Hambrick's bill which was heard this morning in the Assembly Committee on Judiciary. Are you planning to possibly merge these two bills or make sure they are compatible?

Assemblywoman Benitez-Thompson:

Yes, similar language is a component of section 4, subsection 3 in Speaker Hambrick's bill, Assembly Bill 276. He is a cosponsor on this bill as well. Speaker Hambrick and I spoke over the summer about this bill and the language. We attended the event that Awaken had, where there was a packed room of people who are passionate on this issue. It was so moving, and it enriched my heart to be at that event. We both attended and have been working in tandem on this language. Many of these changes were made to ensure that we were not incurring fiscal notes and undue responsibility on the Department of Business and Industry and the Office of the Secretary of State. We have made accommodations as such. We imagine that the legislative process will sort it out.

Assemblyman Nelson:

I am sympathetic to this, as I am sure everyone in the room is. It is a terrible problem. I have daughters and granddaughters and cannot even think about such a terrible thing going on. In subsection 4 of the amendment, how do you propose that the Secretary of State will notify businesses of their obligations? Will that be part of their annual renewal packets?

Assemblywoman Benitez-Thompson:

Yes. We imagine that when businesses file their initial paperwork to establish themselves, this would be one of the pieces of information in the packet. It would also be in annual renewal packets. The Department of Business and Industry would post this on its website. Mr. Breslow, Director of the Department of Business and Industry, told us that he has no issue at all posting this in a section where businesses would be able to locate and download the notice.

Assemblywoman Seaman:

I think this is a problem in the state, and I appreciate your concerns about this. I too am concerned. As a former spa owner, I am wondering how we justify forcing people to post signs in a business in which they have invested a lot of money. My other concern is that it seems a little overreaching. Who is going to police this? In my business, we volunteer to put signs up, which I think is a better way to go with this. The business chooses to display the sign, and you might get more businesses that choose to put them up. What if someone removes them, or they get tagged? There is a hefty fine here. This concerns me as a business owner. We had many people who came to my business and asked to post signs for various things, and we could choose what we wanted to put up. I do not know if I could support forcing a business into this.

Assemblywoman Benitez-Thompson:

I do not know if that was a question.

Assemblywoman Seaman:

Who is going to police it?

Assemblywoman Benitez-Thompson:

We are working on the section regarding fines. The intent of the bill is not to be heavy-handed or to generate revenue from the fines. In our conversations, we believe that there has to be some piece of accountability; otherwise, without a reason to comply, there will not be compliance. We are working on that piece.

We have shared the language with people who would be posting the signs and, with the amendment to make the sign small and discreet and only in women's restrooms, business owners have said this would be easy to post on the inside of a restroom stall. The point is to be discreet. A spa business came to us specifically to say they were a high-end spa and had troubles with the sign. When we talked about the size of the sign and told them it would only be in the restroom facility, that gave them more comfort. We are open to other suggestions people may have. The sign will probably end up being smaller because it will not have the large logo on it. I do not think it is too much to ask for one of these to be posted in a restroom. We are not going to get any more prescriptive than that. If a business thinks it would be better suited inside of a stall, that is great. If a business thinks it is better suited by a mirror, that is great too. We will not get more prescriptive than that. I do not feel that this is too onerous, and there will not be sign police out there. That is not our intent. Our intent is not to go rushing into businesses and shaking them down over a sign. We would hope that in the spirit of what we are trying to accomplish, there would be compliance.

Assemblywoman Carlton:

In the interest of history, years ago Senator Valerie Wiener had a bill for putting up a sign for fetal alcohol syndrome, pointing out that drinking while pregnant can cause birth defects. That was a huge issue. Now you see them everywhere; it has become commonplace. They are in every women's restroom. We have done this before; we are not re-creating the wheel. It is just a matter of notice. My question is, does the amendment remove the fiscal note? I would like you to talk about that so that people who pull it up will understand how it is being addressed.

Assemblywoman Benitez-Thompson:

The fiscal note is no longer accurate. It should be zero, but if that is not reflected, we can make sure that there is outreach to make sure that is addressed. If there are additional fiscal notes, I can look at those, but I believe that was the only one that was potentially out there.

Assemblywoman Neal:

Regarding the amendment, I know you added in public high schools. Typically, I have never seen anything on the stalls. I have seen things on the university level when you go into the bathroom, like the rape hotline. Where does the Clark County School District stand on this issue?

Assemblywoman Benitez-Thompson:

We have been speaking with the school district. They are the ones who proposed the amendment regarding fine violations specific to "at the same site."

We have incorporated their amendment language into our amendment language. We would say their amendment was very friendly. Otherwise, there was no additional concern. We feel compelled to have it at the high school level because the data is telling us that girls who enter sex trafficking usually start at a very young age. Some would even argue that middle schools are also appropriate, but we are most comfortable with high schools so that young women, if they are still attending school, can have a number close at hand.

Assemblyman Hansen:

We deal with this in the Judiciary Committee quite a bit. This is my third session and we have talked about this extensively. The problem I see is that I can go back to the 1990s when there was a big concerted effort, mainly by Clark County, to create an advertising campaign to make Las Vegas "family friendly." Since then, we have evolved into "What happens in Vegas stays in Vegas." We have created a climate where maximum sensuality is being openly promoted. We talk about child sex trafficking, but the fact is that open sex trafficking is everywhere. There are strip clubs and everything else. This is almost a peripheral thing. I remember Ms. Holland's testimony from last session. We are dealing with problems on the extreme ends, when the real problem is the whole culture we are creating in the state with "What happens in Vegas stays in Vegas?" Issues like this are the result of some of that change.

Getting to the numbers, you said there are 40,000 illegal sex workers in Nevada. I assume that if each pimp has ten girls, that means there are at least 4,000 pimps, and I do not know how many "johns" are involved. It seems like, while we are focused on trying to address the worst aspects of the issue, the people who are the real problem, like pimps and their customers who hire these girls, are not addressed. For the people who have been watching this development for a while, I would like to see some real solutions. The idea is that if I go to Vegas and I am from out of the area, I can do what I want to do and leave; nobody knows about it.

Assemblywoman Benitez-Thompson:

I do not think any of us are going to disagree with you. If we could wave a magic wand and, as Ms. Holland said, make our culture and economy less about commercial sex and more about emerging technologies and the great things that are happening, like with Tesla Motors, we would do that. We also support Speaker Hambrick's bills, especially the one heard this morning in Judiciary. Last session's bill regarding sentencing also makes some headway. But this is a big cultural change. Our concern with this bill is that when the victim is being sex trafficked and forced into commercial sex, and the victim decides she has a momentary opportunity to get out, she is not far from a phone number that she can call for help. We need it to be posted discreetly

because, as victims have said, if it is posted openly, they might get further physically assaulted by their trafficker. That is why the restroom aspect is very important. We do not want these young women to be far from the number when they need help. That is our intent with this bill.

Assemblyman Hansen:

I am fully supportive, obviously, to eliminating this entire unfortunate trade. I think there is a bigger atmosphere that we have created in our state. This is frankly one of the results of those successful advertising campaigns. These are victims who no one thought about when someone wanted to change Nevada into the sensuality capital of the word and invite them to do things that are clearly illegal in their own states. Thank you for your efforts on behalf of these unfortunate people.

Assemblywoman Fiore:

I want to make sure that you are eliminating the penalties and fees for innocent business owners because even though your intent is not to collect fines, when there is a fine, all departments will be policing it. Small businesses get audited many times by several agencies because we have implemented these policies and we overfeed our business community. A lot of businesses want to help and participate, but when you mandate things and issue fines, trust me, there will be someone, whether it is the Department of Taxation or whoever, knocking at the door, going to the restroom, and fining people for not having signs. Are you amending that off of this bill?

Assemblywoman Benitez-Thompson:

As we stated, we are working on the final section. I am not going to commit on the record that we want to abandon the concept of a fine. You will see that we are working toward the spirit of the bill, which is not to be heavy-handed. We have replaced the language that says 24 hours with 30 days. The first notice would be a warning, and then you have 30 days to print off a sticker and post it in the restroom. If for some reason that cannot be accomplished, perhaps we can consider a fine on a subsequent violation. For people who are openly hostile to this idea or this notion—that might be some of the businesses in this category—they know part of their bread and butter is activity like this, and they would be the ones most likely not to comply. We want a mechanism by which they can come into compliance.

Assemblywoman Fiore:

Is the intent of this bill to be directed toward the strip clubs in Las Vegas?

Assemblywoman Benitez-Thompson:

Based on our conversations with victims of sex trafficking, we have outlined businesses where they said they would most likely be taken. We know, for example, there is an issue with mass transit and trucking. To their credit, the Nevada Trucking Association has been up-front in their campaign within their own industry to address this. We are not here to call out any particular industry; we are just here to make sure that for those who do not want to comply or do not believe they ought to comply, those are the businesses that are most likely susceptible to this activity and should have signs.

Assemblywoman Fiore:

In your amendment, can we see a list of the businesses? I saw it in the bill, but we go from this section, and then what? Do we go to bumper stickers? Do we put stickers in the truck cabs?

Assemblywoman Benitez-Thompson:

We have given months and months of thoughtful consideration to this bill. All of this language came from conversations with survivors of sex trafficking. From their mouths came the recommendations of putting signs in women's restrooms. From their mouths came the list of these businesses. It is going to be a policy decision about whether or not we disagree with them, but I am not ready to say to those young women that it is not worthwhile to consider what their history has been, how they lived when they were being sex trafficked, and how we might be able to help them.

Assemblywoman Seaman:

You stated that these are the businesses you are targeting. You have restaurants, public spas, and hospitals. Are you going to amend this to just those businesses where you think these activities occur rather than including restaurants?

Assemblywoman Benitez-Thompson:

To make the record clear, I was saying that the list of businesses identified here are where victims told us they would be. For instance, because of the habit and nature of the trade, the young women only ate at fast food restaurants. That is where they would be. That is in no way implicating the fast food restaurant chains as being complicit in this; it is just where they told us they would happen to be. We have specific stories for almost all of the businesses indicated here. Hospitals are listed because the women would tell us that when they were assaulted, they sometimes had a chance to seek treatment at an emergency room. That is why we would like this number in those restrooms.

Melissa Holland:

Listening to this, I am reminded of some of the things I have studied. This is on par with what is called modern-day slavery. Assemblyman Hansen, I highly identify with your passion. What I have learned is that there is an end here, and that is to abolish slavery. There is a process that we have to take, and in that process there is a cost. We are in a position where the culture in our state has cost us. It has cost our businesses and our families, and it has cost the girls and women who have become victims to this. We are at a point where we branded our state, and it is going to cost us to make a change. We are here and the numbers do not lie. The state gets to take a stand with us. Organizations and businesses are already doing it. It is an opportunity for the state to say we are in agreement with the costs that it has made and in agreement with the lives that are at risk. We are in agreement with protecting that. We get that opportunity.

I can appreciate the offense that it may not be in your business; I understand that. But culturally speaking, it is. It is in massage parlors, spas, and restaurants. I have heard the testimony, and I have seen it. We do outreaches, so I know it exists. Yes, we are a little behind the game, so it is going to cost us. There is an incredible amount of grace in the bill for a 30-day period where you say, this is what we are doing, and this is a movement we are making now. It is truly nowhere near the cost that it actually is.

Assemblyman Hansen:

I want to make a quick statement. I remember distinctly Ms. Holland's testimony from last time. I want you to know you are one of my heroes. Considering what you went through in your life and your willingness to keep doing this for years on end to help those people, I really want you to know I am one of your sincere admirers.

Chairman Kirner:

I am going to ask those who are in support of the bill to please come forward.

Paul J. Enos, Chief Executive Officer, Nevada Trucking Association:

We have been involved with this issue since 2012. Sex trafficking happens everywhere. It happens at the Super Bowl. My colleague in Arizona called me and said we need to get involved with Truckers Against Trafficking because Tempe, Arizona, is going to be the number one city in the world for sex trafficking while the Super Bowl is going on. It happens at political conventions. Unfortunately for the industry that I represent, a lot of it happens at truck stops and rest stops. The members of our industry are targeted as a place where they solicit people who are being held against their will. It is a transient industry. We are not always in the same place, so it is hard to

identify somebody who is in that situation and be able to call the authorities and get them involved. Ninety-five percent of our workforce is male. They are out there on their own; we are a target for these folks as well.

We have gone through a change in our industry. I debated about whether or not to talk about this. You walk through truck stops and you see small signs on the side of a truck. They may not have a sticker like this that says if you need help, here is the hotline number to call. But you will see a sticker with a band sign put through it, and that says "no lot lizards." A lot lizard is a derogatory term for a prostitute who works a truck stop. For a long time, the view of people in our industry was that there were people working truck stops of their own volition. When you hear a solicitation over the CB like, "Hey want to party?" or you hear that knock on your cab in the middle of the night, that was somebody that was not being held against their will. I had that same view too, until we got involved in Truckers Against Trafficking, and I found out that a lot of these women, and unfortunately boys too—it can apply to everybody—are being held against their will and sold not just at truck stops but everywhere.

Since this is a black eye on the trucking industry, we feel there is a moral imperative for us to be a part of the solution. We have been working with law enforcement and our membership to educate our drivers, who are the eyes and ears of the road, to have an awareness of it. We encourage drivers to view these girls not just as lot lizards, but as victims whom we can help. We educate them on the signs of sex trafficking. We have a wallet card that outlines the signs. If you see something that raises the hairs on the back of your neck, call the number. We tell our guys to call the number and to call 911. That is going to be the quickest way to get help for the victims. We also have a video that we ask our companies to show at new driver orientation and at their safety meetings. We want to be a part of the solution and not just looked at as part of the problem.

I thank Assemblywoman Benitez-Thompson and Speaker Hambrick for bringing this bill forward. We, as an industry, have put these signs in our cabs voluntarily; we have signs at truck stops telling drivers that they can be heroes, and that these are not lot lizards; these are victims. This is something we take very seriously. I understand the point that a lot of people made, and I have the same sympathies that you have. But I believe that this is a problem, and we want to be part of the solution.

Joanna Jacob, representing Dignity Health St. Rose Dominican Hospitals:

We are one of the industries listed in this bill. This is a priority issue for St. Rose Dominican. They see victims in all three campuses in southern Nevada, and they have made efforts to educate their health care providers in

the emergency rooms to identify victims of human trafficking. I have seen some anecdotal evidence from St. Rose Dominican Hospital that about 30 percent of victims have had a health care encounter while they were serving against their will. We know that we may be seeing them. We are supporting all of the legislation before you this session and in previous sessions.

Marlene Lockhard, representing Nevada Women's Lobby:

I agree with the comments of the previous testifiers in support. We were pleased as an organization to partner with the Nevada Trucking Association when they had their launch and their first press conference addressing and bringing focus to this serious issue. We were pleased to participate with former Attorney General Cortez Masto in her legislation last session, and with Speaker Hambrick and Assemblywoman Benitez-Thompson this session as they bring this much needed legislation.

Jonathan Leleu, representing The Cupcake Girls:

We are a nonprofit organization geared solely toward the support and rehabilitation of individuals in all facets of the adult entertainment and sex industry, including individuals who have been sex trafficked. The Cupcake Girls was founded by Joy Hoover four years ago and since that time has provided almost 1,000 meetings of peer support, 142 professional sessions with doctors, dentists and lawyers, 83 instances of providing mental health services, 55 résumé building and career development sessions, 36 financial advisory sessions, and even a self-defense class. All of these resources are provided on a pro bono basis through donations, trained volunteers, and community partners such as my law firm, Greenberg Traurig. We are in full support of this bill and urge you to pass it.

Assemblywoman Neal:

I have a question for the trucking industry. Are you collecting statistics? How does it work for your drivers in terms of turning down the girls?

Paul Enos:

I do not have statistics. Our hope is that if there is a driver who is considering opening the cab of his truck when he gets a knock on the door, that he has seen this campaign and knows there are other drivers out there watching him. We do have some evidence from news stories that this is working. We do have drivers who are making those phone calls. Last month, a trucker in Virginia noticed something out of the ordinary, and he made a phone call. They were able to get the girl out of an awful situation. We do not have statistics, but there are truckers who are calling the hotline that the Polaris Project sponsors. We know that a lot of our member companies have shown this to their drivers and are part of the Truckers Against Trafficking. A point of pride for me is that

Nevada was one of the first trucking associations in the country to adopt this. It was our priority to get the American trucking associations to embrace this program and start to work with Truckers Against Trafficking and start to generate awareness in the industry.

Assemblywoman Neal:

I was curious because Assemblywoman Benitez-Thompson put in the hotline statistics, and any additional data helps to reinforce whether the outreach method is effective or not.

Assemblywoman Seaman:

You said the truckers adopted this, but you did not mandate it to them. Why do you not mandate it? You are infringing on businesses. I have a daughter, and this is a terrible thing. You are making businesses accountable if you are going to fine them for not posting a sign. That is not the real root of the problem. I want to know why you are not mandating it on truckers if you are mandating it on businesses or trying to.

Paul Enos:

We do not have the power to mandate anything. We are a voluntary trade association. People can pay us dues. I have zero control over anything that our trucking companies do. We are here as an industry to promote the best practices.

Assemblywoman Seaman:

I meant to say promote the mandating.

Paul Enos:

That is what we do; we ask our guys. I have been pleasantly surprised by the people in our industry who acknowledge the problem and want to do something about it. The summer before last we took a road trip through rural Nevada with Attorney General Cortez Masto, meeting with our rural companies and talking about this issue. One of the proudest pictures I have is in my hometown paper, the *Elko Daily Free Press*. I was there with Attorney General Cortez Masto and it said "Attorney General Enlists Road Warriors to Battle Sex Trafficking." That is what we can do. It is promoting it; it is going out and saying we think it is a good program, and we want our industry to be a part of it.

Assemblywoman Seaman:

I think that if you did that with businesses, you would have the same exact response.

Assemblyman Ellison:

I had two of these cases in the last couple of years. Two young girls were in one of our businesses. We got contacted by one of the girl's parents in Utah. We were able to get her into a motel, cleaned up, and clothed. The mother did not have the money, so we paid for the bus ticket to get the girl home. She was 15 years old and they had allowed her to leave with a 20-some-year-old man. The other case involved a young girl who was living at the river, and she asked if she could use our dumpster to sleep in.

The dumpster had steel cages around it. She had been raped the night before and wanted to know if she could sleep there so she would be safe. We were able to get her into a motel, clothed, fed, and out of Elko. These things are happening, and it is scary.

Chairman Kirner:

I see no other questions for this panel. We will go to testimony in Las Vegas.

**Troy Martinez, Director, Nevada Sex Trafficking Awareness Campaign,
Las Vegas, Nevada:**

I am in support of this bill. I also work with the Mayor's Faith Initiative in Las Vegas that represents about 70,000 congregants. I want to tell you a story about a girl who was rescued on Christmas Eve. She was brought here from Los Angeles. She was 21 years old. We will call her Tiffany, although that is not her real name. She was promised she would make money and be part of all kinds of elaborate things that would happen. When she arrived, she was trafficked by violence; she was taken to restaurants and in the back doors of what are considered legitimate businesses. She would not identify what they were but they looked like massage parlors and spas. Her family did not know where she was. She was able to sneak a call after she was taken to the hospital for broken bones. She had been waterboarded in toilet water. She called her parent and was trying to get help. There was no hotline displayed in any of the restrooms or in the hospitals, restaurants, spas, or anywhere else she was taken. She had no way of getting help.

Fortunately, the girl and her mother had seen a documentary last year that Paul Enos and Melissa Holland were both part of. The mother called Nevada and contacted us. This was on Christmas Eve while we were sitting around the fire with my four adult children, and eight grandchildren. She was able to escape to a local bus station where we arranged to pick her up. This was at 5 o'clock in the morning. There was no hotline at the bus station. The pimp tracked her down. He had a getaway car with another gang member, and their plan was to murder her and make her an example. The police were notified. In broad daylight she was being carried over the shoulder of this boyfriend/pimp.

As the police pulled up, she was thrown on the floor, and the violent offenders escaped. We were able to take her to a shelter, where she still is now. She has been reunited with her family. It is a horrible example of how quickly these things happen and how powerless the victims become. Everything was taken from her, including her phone and her identification.

We have been working very hard with law enforcement and nonprofits to make parents and victims aware. The victims are being told that they are the criminals and if they call the police, they will be arrested and the pimp will go free. We know that has changed since A.B. No. 67 of the 77th Session was passed, but they do not know that, so sometimes they stay in the situation. The Polaris Project addresses conditions in which human trafficking is allowed in our society. The NHTRC hotline, which they have spent millions of dollars to network, can route these types of calls. It was fortunate for this young woman to connect with us, but there are many others who do not have that privilege or option. Nevada does not have the money or resources to have a statewide hotline. We have one available to us; we just have to put those signs in the places they frequent the most. There are six businesses listed on this bill that this young lady said she was taken to in the short time she was here.

Just this month, the U.S. Attorney in Nevada, Daniel G. Bogden, released a report on a six-month arrest surge of child predators called Operation Protect the Powerless. The victims were all 18 and under. There were over 500,000 pornographic images of children and young women that were recovered. There were 2,739 videos confiscated and over 200 prosecutions. This took place between June 1 and December 31, 2014. That is a picture of a six-month window of what is happening to our children, young ladies, and some young men in Las Vegas. It is horrific. We desperately need your help to protect these people. We have worked hard for many years. We have brought this forward in 25 states that have adopted this posting regulation and have made it mandatory. There has been an increase in self-reporting. You can go on the Polaris Project website and find those statistics. When a family member wants to report it, they have a hotline. If a victim is being brutalized, they have that hotline. We need it desperately, so I fully support this bill.

Assemblywoman Fiore:

Thank you, Mr. Martinez, for your testimony. I understand that the Polaris Project works on bills like this regarding sex trafficking. I appreciate the concept and the intent of the bill. This is a hard question, but it has to be asked. Stickers are warm and fuzzy and it is an easy feel-good bill, but if you really want to stop sex trafficking, why are you not coming forth with a serious bill? Why are you not serious about sex offenders and pimps? Come to us with

a castration bill. Come with a bill that will stop people in their tracks. If you want to get serious about stopping sex trafficking, let us get a serious bill.

Chairman Kirner:

We will come back to Carson City, and finish with those who are in favor, and then go to opposition.

Elisa Cafferata, President and CEO, Nevada Advocates for Planned Parenthood Affiliates:

We do support this bill. Before we saw the amendment presented by Assemblywoman Benitez-Thompson, we had submitted some testimony ([Exhibit L](#)) and requested clarification on including sexually-oriented businesses in the notification requirement. In the amendment, she adds women's health providers, so we wanted to clarify on the record that we support the bill and the amendment. We are happy to be included.

Marissa Crook, President, Students to Abolish Sex Slavery, Reno, Nevada:

We testified in favor of A.B. 276 this morning and are also in support of A.B. 336. I would like permission to have the students who came to support the bill today to stand up. [A letter in support of A.B. 336 was submitted by the organization Students to Abolish Sex Slavery ([Exhibit M](#)).]

Chairman Kirner:

Are the students here? Please stand up. [Several audience members stood up.] Thank you.

Are there any questions for any of the panelists? [There were none.] Are there any others in support of this bill? [There was no one.]

[A letter in support of A.B. 336 was submitted by Stacy Woodbury, Executive Director, Nevada State Medical Association ([Exhibit N](#)).]

I will now move to those who are opposed in Las Vegas.

Deirdre Strunk, Director, Spa and Salon Operations, South Point Hotel Casino and Spa, Las Vegas, Nevada:

I am also a member of the Las Vegas Spa Association. We in the health care industry care very much about this issue; however, we feel that it is unduly burdensome on the resort spas. We have spent millions of dollars on our spas for the total experience for our guests. We would like some language change or maybe put signs in the break room, but we do not think signs should be in the public eye. We have worked really hard over the last 20 years to change the perception of what a massage establishment is all about. It is about health care

taking care of people, and de-stressing people. It is not about sex in our spas and in the resorts especially.

We are governed by the Board of Massage Therapists, the State Board of Cosmetology, the health department, and the licensing department. There are so many agencies coming into our facilities and going room by room, checking our facilities, and checking the licensing of our therapists. It is just too much. We are happy to work with anybody on a compromise with the language and where the signage goes and things like that. I just cannot see hanging signage in the front of our multimillion-dollar spas about sex trafficking.

Chairman Kirner:

Are there any others who are opposed? [There were none.] Are there any questions for Ms. Strunk?

Assemblywoman Carlton:

Do you have the posting for drinking while pregnant in your spa in the ladies room?

Deirdre Strunk:

No, we do not.

Assemblywoman Carlton:

You are already violating the law.

Chairman Kirner:

Are there any people who want to testify as neutral on this bill? [There was no one.] I will ask the bill sponsor back for closing comments.

Assemblywoman Benitez-Thompson:

I am remiss in that some of the Committee members are gone, because my remarks are specific to comments that were made. I do not consider this a silly bill. I am offended. I am offended on behalf of everyone who came here to talk today about the serious nature of sex trafficking and the young women who are trafficked. Yesterday, I had a conversation with a survivor of sex trafficking who was pulled in and turned out at the age of 11. To her, this is not a silly bill. To Leah from Sacramento, who was pulled in and forced into sex trafficking at the age of 13, this is not a silly bill. To the women of the Junior League, the women of Awaken, and to all of the organizations who are here to talk about how serious this issue is, to talk about their industry's and trade association's commitment to making a change in Nevada, this is not a silly bill.

I have signed on to bills that have bigger and worse pieces in them regarding law enforcement issues. To this group of people and the survivors we have been working with for months, it is meaningful and significant. It should not be the public policy of Nevada, or the public policy as legislators, that we write off their experiences, that we write off the hell that they went through when they were forced at very young ages to participate in sex trafficking and coerced into selling themselves.

Chairman Kirner:

I do not think there is anybody here who thinks this is a silly bill.

Assemblywoman Benitez-Thompson:

It was said on the record, and I am remiss in that the legislator who made that comment is not here. I appreciate your consideration, thoughtfulness, and reverence to this issue.

Chairman Kirner:

I will close the hearing on A.B. 336 and open the meeting to public comment. [There was none.] I will adjourn our meeting [at 3:49 p.m.].

RESPECTFULLY SUBMITTED:

Jennifer A. Russell
Committee Secretary

APPROVED BY:

Assemblyman Randy Kirner, Chairman

DATE: _____

EXHIBITS

Committee Name: Committee on Commerce and Labor

Date: March 27, 2015

Time of Meeting: 12:07 p.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
A.B. 4	C	Kelly Richard Committee Policy Analyst	Work session document
A.B. 270	D	Josh Hicks/Manufactured Housing Community Organization	Proposed amendment
A.B. 330	E	Robert Uithoven/Alliance for Solar Choice	Proposed amendment
A.B. 330	F	Assemblywoman Kirkpatrick/Assembly District No. 1	Proposed amendment
A.B. 336	G	Assemblywoman Benitez-Thompson/Assembly District No. 27	NHTRC Hotline statistics
A.B. 336	H	Assemblywoman Benitez-Thompson/Assembly District No. 27	NHTRC Sex trafficking
A.B. 336	I	Assemblywoman Benitez-Thompson/Assembly District No. 27	NHTRC Human trafficking
A.B. 336	J	Assemblywoman Benitez-Thompson/Assembly District No. 27	NHTRC Overview of incoming signals
A.B. 336	K	Assemblywoman Benitez-Thompson/Assembly District No. 27	Proposed amendment
A.B. 336	L	Elisa Cafferata/Planned Parenthood Affiliates	Letter in support, request for clarification
A.B. 336	M	Marissa Crook/Students to Abolish Sex Slavery	Letter in support
A.B. 336	N	Stacy Woodbury/Nevada State Medical Association	Letter of support