

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

**Seventy-Fifth Session
May 21, 2009**

The Committee on Commerce and Labor was called to order by Chairman Marcus Conklin at 2:54 p.m. on Thursday, May 21, 2009, in Room 4100 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4401 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at www.leg.state.nv.us/75th2009/committees/. In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (email: publications@lcb.state.nv.us; telephone: 775-684-6835).

COMMITTEE MEMBERS PRESENT:

Assemblyman Marcus Conklin, Chairman
Assemblyman Kelvin Atkinson, Vice Chairman
Assemblyman Bernie Anderson
Assemblywoman Barbara E. Buckley
Assemblyman Chad Christensen
Assemblywoman Heidi S. Gansert
Assemblyman Ed A. Goedhart
Assemblyman William C. Horne
Assemblywoman Marilyn K. Kirkpatrick
Assemblyman Mark A. Manendo
Assemblywoman Kathy McClain
Assemblyman John Ocegüera
Assemblyman James A. Settlemeyer

COMMITTEE MEMBERS ABSENT:

Assemblyman Morse Arberry Jr. (excused)

GUEST LEGISLATORS PRESENT:

Senator Michael Schneider, Clark County Senatorial District No. 11

STAFF MEMBERS PRESENT:

Scott Young, Principal Research Analyst, Research Division, Legislative
Counsel Bureau
Dave Ziegler, Committee Policy Analyst
Dan Yu, Committee Counsel
Andrew Diss, Committee Manager
Patricia Blackburn, Committee Secretary
Sally Stoner, Committee Assistant

OTHERS PRESENT:

Hatice Geçol, Ph.D., Governor's Energy and Science Advisor, Director,
Nevada State Office of Energy
Luke Andrew Busby, Assistant General Counsel, Public Utilities
Commission, representing the Governor's Energy and Science
Advisor, Nevada State Office of Energy
Greg Smith, Administrator, Purchasing Division, Department of
Administration
Gustavo "Gus" Nuñez, Manager, State Public Works Board, Department
of Administration
Rose McKinney-James, Las Vegas, Nevada, representing The Solar
Alliance, North Samautoma, Massachusetts
Steve Wiel, Nevada Representative, Southwest Energy Efficiency Project,
Incline Village, Nevada
Tom Clark, Carson City, Nevada, representing Sempra Generation,
San Diego, California
Robert Tretiak, representing International Energy Conservation,
Las Vegas, Nevada
Kyle Davis, Policy Director, Nevada Conservation League, Las Vegas,
Nevada
Charles Benjamin, Director, Nevada Office, Western Resource Advocates,
Carson City, Nevada
Joe Johnson, representing the Toiyabe Chapter of the Sierra Club, Reno,
Nevada
Pete Ernaut, Reno, Nevada, representing NV Energy, Las Vegas, Nevada
Judy Stokey, Director, Governmental Affairs, NV Energy, Las Vegas,
Nevada

Dylan Shaver, representing the International Brotherhood of Electrical Workers, Local 357; the National Electrical Contractors Association, Las Vegas, Nevada

[Roll called. Quorum present.]

Chairman Conklin:

We will not be hearing Senate Bill 358 (4th Reprint) because it has not come to us from the Senate yet.

We will open the hearing on Senate Bill 395 (2nd Reprint).

Senate Bill 395 (2nd Reprint): Makes various changes regarding renewable energy and energy efficiency and alters the composition of the Commission on Economic Development. (BDR 58-1219)

Hatice Geçol, Ph.D., Governor's Energy and Science Advisor, Director, Nevada State Office of Energy:

The Governor wanted to come here himself to present his bill, but he is in Elko today and I will be presenting this bill on his behalf.

I would like to take you through the bill section by section. On page 2, lines 14 and 15, section 4 changes the requirement of the Utility Environmental Protection Act (UEPA) process, which provides for the issuance of permits for the construction of renewable energy utility facilities to require nameplate capacity of not more than 70 megawatts rather than a generating capacity of not more than 35 megawatts for renewable energy generators. This is changing the nameplate capacity for the UEPA application for the renewable energy utility facilities from 35 megawatts to 70 megawatts.

Regarding section 5 on page 3, lines 16 through 18, we provided an amendment to clarify the intent of this section ([Exhibit C](#)) in *Nevada Revised Statutes* (NRS) based on the recommendation of the Governor's Climate Change Advisory Committee. I have with me today Mr. Luke Busby, who was the legal advisor to the Climate Change Advisory Committee and he will explain the amendment to you.

Luke Andrew Busby, Assistant General Counsel, Public Utilities Commission, representing the Governor's Energy and Science Advisor:

The bill stated in section 5, subsection 1, paragraph (b), that "except with respect to a renewable energy facility that is built in Nevada pursuant to NRS 704.820 to 704.900, inclusive, and emits greenhouse gases, the extent to

which the facility is needed to ensure reliable utility service to customers in this State." The new provision reads "If the utility facility emits greenhouse gases, and does not use renewable energy as defined in NRS 704.7811 as its primary source of energy to produce electricity, the extent to which the facility is needed to ensure reliable utility service to customers in this State." It is my interpretation that this provision maintains the balancing test that exists under the UEPA statute for any utility facility to be built in Nevada per the definition of the UEPA statute. This test requires the Commission to find and determine the nature of the probable effect on the environment. Under the new provision, if the facility emits greenhouse gases and is not a renewable energy facility, the extent to which it is needed to provide service to customers in Nevada balances any adverse effect on the environment.

That is the positive interpretation of this provision. The negative interpretation is that if you are building a renewable energy facility in Nevada, under the existing UEPA statute language, it is theoretically possible that the Public Utilities Commission of Nevada (PUCN) could turn down a project if it is not needed to ensure reliable utility service to customers in Nevada. If you are building a facility on the border that was independent and had a transmission line going to another state, it would essentially be impossible under that scenario to prove that the facility would be needed to ensure reliable utility service to customers in Nevada. There are two sides to the effect of this provision as I read it. There is negative effect whereby you regulate greenhouse gases and require that they show that the facility is needed to ensure reliable utility service to customers in this state. On the other hand the provision allows renewable energy facilities, as defined in NRS 704.7811, to be constructed without showing the need requirement under the UEPA statute.

Chairman Conklin:

Are there any questions from the Committee? Because we have a specific amendment, let us find out if there are any questions.

Assemblyman Anderson:

Does this exceed, remain the same, or exclude the involvement of the PUCN in the determination? How does it affect the PUCN in its relationship with renewable energy? Does it cut them out entirely? Does it give them further guidance in terms of how to make the determination? Or, does it leave them where they are presently?

Luke Busby:

My interpretation of this provision is that it excludes from the review process before the Commission the requirement that the need for a renewable energy facility, as defined by NRS 704.7811 be shown.

Assemblyman Anderson:

Why do you think it is to the advantage of the public to exclude the PUCN?

Luke Busby:

I believe that this provision could enable a renewable energy developer to build a project in Nevada that they could not otherwise build under the existing statute if they are not able to show the extent to which the facility is needed to ensure reliable utility service in the state.

Hatice Geçol:

Just to make it clear, when I come to each section, if I have a person available who can explain it, I would like them to come forward.

Section 6 and section 24 should be evaluated together. These two sections alter the composition of the Commission on Economic Development to require that at least two of the appointed members be from counties whose populations are less than 100,000. This affects NRS 231.040.

I would like Greg Smith to explain sections 8 and 9.

Chairman Conklin:

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

Greg Smith, Administrator, Purchasing Division, Department of Administration:

My sections are simple and swift. In short, they require our agency to adopt regulations establishing standards favoring the procurement of appliances, equipment, lighting, and other devices that bear the Energy Star label. In areas where the Energy Star label is not applicable, we will then refer to other requirements as prescribed by federal law unless to do so would be cost prohibitive.

Assemblyman Anderson:

Why is your agency better to do this than the PUCN?

Greg Smith:

We would be better able to do this because we are the agency that procures the appliances, equipments, lighting, and other devices that the state uses in construction.

Chairman Conklin:

I think we are talking about the purchasing for all state facilities to meet these requirements.

Greg Smith:

That is correct.

Assemblywoman Kirkpatrick:

I want to thank Dr. Geçol. We have been working on several energy bills together. Last session I proposed a bill and the PUCN was one of the agencies that changed out their lighting and went with the more efficient lighting, and they were able to save \$24,000 just in their energy bills. I think this is a great start for us to have the procurement with the specifications, because we are always looking for ways we can make simple purchasing decisions that can affect our overall utility bills. There will come a time when the costs outweigh the longevity of the product and if you could speak a little bit to that, so that we are not just buying an Energy Star because we think it will save us money. How would that work?

Greg Smith:

The Purchasing Division prides itself in being coordinators or facilitators of any given procurement project. We are not experts on anything. We do know how to get the experts involved, whether it is the PUCN, the people from Public Works, or the people who can help us analyze. One of the particular clauses that I like in the bill talks about purchasing equipment with the Energy Star label or the other requirements prescribed by federal law, unless to do so would not be cost-effective. We recognize that we are not the experts. We bring those folks in, help them do the analysis of any given procurement project, and decide if it is going to be cost-effective and how long the payback will be; is it ten years, fifteen years, or twenty years? I would also add that it has to be documented in the procurement because anytime we decide to go with a given company or product, you can bet there is always some competitor who is willing to challenge that decision. It has to be documented and verified.

Assemblywoman Kirkpatrick:

When we talk about energy efficiency does it also include water? I was noticing that some of our faucets and toilets would fall into these energy efficiency categories.

Greg Smith:

It is in the next section and we would be happy to do that.

Chairman Conklin:

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

Hatice Geçol:

Gus Nuñez can explain sections 10, 11, and 12.

Gustavo "Gus" Nuñez, Manager, State Public Works Board, Department of Administration:

Sections 10, 11, and 12 pertain to the State Public Works Board. Section 10 provides for the adoption, by regulation, of standards for the efficient use of water and energy, including sources of renewable energy, for the design and construction of public buildings. Also, it requires us to adopt, by regulation, performance guidelines for new, remodeled, and renovated buildings for energy consumption, use of potable and landscaping water, and disposal of solid waste.

This bill also provides for an evaluation of standards and performance guidelines through cost-effectiveness, life cycle analysis, and establishment of threshold levels for energy and water savings. It also provides for adoption, by regulation, of enforcement.

The goals are to reduce or eliminate the negative impact of building on the environment by use of energy conservation and renewable energy, water conservation, sensible site planning, and conservation of material and resources. The benefit that we see from this bill is it will allow us to establish standards and performance guidelines that are customized to specific goals, fully assess the cost-effectiveness, and to be sure it is appropriate for a specific project and region.

Assemblywoman Kirkpatrick:

I have worked a lot on this energy issue with Dr. Geçol throughout the interim. I want to make sure this is not limited to Leadership in Energy and Environmental Design (LEED), and I would like to see some other things in there. I would like to see Nevada standards. I would like to tell the Committee that last session we put the solar panels on the roof across the street, and we have been able to save 50 percent of our energy cost, according to Ms. Erdoes, and I think that speaks volumes. I hope that we will continue to move forward in that respect. Could you explain the "Green Globes" system?

Gus Nuñez:

Green Globes is similar to LEED. All of the systems on the market are similar. It gives you certain criteria and guidelines that you can measure your project against as to how well you are performing. What we want to do with this bill is not adopt LEED or any of the other standards. We want to adopt standards for Nevada that will stay under the control of the State of Nevada through this regulation process, which will allow us to optimize specific target goals that we are talking about in water, energy, and renewables. It will avoid any unwanted cost impacts that may come about as a result of trying to use a national standard that applies to the whole nation and all projects.

We have specific needs here in Nevada. We live in a region that is desert, and water is a precious resource. Obviously energy is an issue for the state, just like many other states. We want to stay targeted and focused on things that make sense for Nevada.

Chairman Conklin:

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

Hatice Geçol:

Sections 18 and 19 of this bill require vehicle dealers in Nevada, beginning on January 1, 2010, to provide upon request to any person a written statement about the estimated carbon dioxide that is emitted by each new vehicle that the dealer offers for sale if such information is available.

Chairman Conklin:

Is that information currently available by most dealers?

Hatice Geçol:

The manufacturers have the data.

Chairman Conklin:

In order to comply with this, they just have to provide it at the request of the consumer, right? So, if I buy a car and I want to know before I buy the car, the information will be given to me, if available?

Hatice Geçol:

Yes.

Assemblyman Horne:

I was assuming that all of this information was readily available. It gives me concern that we would have in the language "unless the information . . . is unavailable." What circumstances would make it unavailable?

Hatice Geçol:

This is just protection language when a new car comes on line; they might need some time to gather the data. This is a protection that automobile dealers wanted to see. It has been through the vetting process for over a year and also in the Senate committee.

Assemblyman Horne:

I am a suspicious lawyer. It gives me concern when someone puts in "unless the information is unavailable" for something that is generally available, since

we are talking about new vehicles and it is probably information that is with the vehicle when it is shipped.

Assemblywoman Kirkpatrick:

We worked with Senator Townsend, who apparently was involved in the car dealership area before, and one of the things we talked about was perhaps someone would order a special vehicle and they may not have that information on it. We did not want the dealer to be fined for that. More states are moving towards this. There was a lot of discussion on this. There is a little stimulus money available, it is going forward, and we wanted to support it. We wanted to make sure that, if it was a vehicle that came from Europe, that the dealer would not be penalized.

Chairman Conklin:

Are there any questions from the Committee?

Assemblyman Goedhart:

This question is directed to Mr. Busby. At one point it looked like the population limit was in the bill, and it was later crossed out. What is the genesis behind that change?

Luke Busby:

I believe that the population exclusion from the definition of a utility facility has its genesis in the fact that the Clean Air Act regulates fairly strictly the air sheds in population centers, and as much not in rural places. I believe the rationale for the exclusion that existed before was that requiring a UEPA permit in such places would be duplicative. An applicant who would now fit the definition of a utility facility within Washoe and Clark Counties would have to meet the other requirements of the UEPA statute.

Assemblyman Goedhart:

So a utility facility now, according to the new language, would either have 70 megawatts or less and is a renewable green energy facility and only uses carbon-based fuels to the extent necessary to provide a stable energy source? I am trying to get a definition of a few of these terms.

Luke Busby:

My understanding is the exclusion that is contained in the bill states that, if you are building a renewable energy plant and its nameplate capacity is less than 70 megawatts, you do not qualify for the definition of a utility facility, so you do not have to get a UEPA permit to build your plant. As the statute exists now, if you are building your facility in a county that has a population of 100,000 or more, regardless of whether it emits carbon, you would have to get

a UEPA permit if you do not fit the definition. They are two independent standards that operate differently. You have to apply both of them to each plant when you are determining whether or not something is a utility facility.

Assemblyman Goedhart:

Could you walk through those two criteria once again for us and how this changes that criteria as it relates to the county and the size of the utility?

Luke Busby:

The change would require a facility built within a county with a population of 100,000 people or more to get a permit. If it uses renewable energy as its primary source to produce electricity, and if it were 70 megawatts or more in nameplate capacity, that facility would also be required to get a UEPA permit before construction could commence.

Assemblyman Goedhart:

Currently, before the law was amended, you could theoretically have a facility that was in a county of less than 100,000 that would not need a UEPA permit. This takes away that exclusion because it crosses out the counties of 100,000 or less, and as long as you have a nameplate capacity of 70 megawatts or less and it is renewable green energy, you do not need to have it now; is that correct?

Luke Busby:

The exclusion actually applies to the counties in which the population is 100,000 or more. Within those counties before, if you were building a plant you would not have had to get a permit, but now you do, according to the amendment.

Assemblyman Goedhart:

I guess I am still confused. I will talk to you later about it.

Assemblywoman Kirkpatrick:

I have two bills up in Legislative Operations and Elections, but I wanted to get on the record. We have worked on four of these bills, and the UEPA piece fits into a couple of other bills for long-term planning for our energy zones going forward. All of that fits within the parameters that we have. I do not want to leave here without voicing my support. It is important, especially the UEPA portion, because it plays into a bigger piece of the western region on how we plan for the future of our state.

Chairman Conklin:

Are there any questions from the Committee? I see none. Mr. Goedhart, I am going to try to move this bill today. If, when we are done, you want to step outside and speak to these testifiers to get more comfortable, that is acceptable while we move on to the second bill.

Assemblyman Goedhart:

I do not have so many concerns. I was trying to get a better feel for exactly what this legislation does.

Assemblyman Horne:

On the amendment in section 5, I keep reading it over and over again and I cannot seem to get it. You will not give the permit unless it finds and determines if the utility facility emits greenhouse gases and does not use renewable energy. Perhaps I am not reading it correctly.

Chairman Conklin:

I understand your concern. This may be a drafting issue that Legal has to clear up but it should say, if it emits greenhouse gases and it is not a renewable energy facility, before they issue a permit they must determine the extent to which the facility is needed to ensure reliable utility service to the customers in this state. It is not that they cannot issue the permit to a plant that emits greenhouse gases; it is just that before we issue a permit to a plant that does, we need to make sure that we really need that particular energy, because we would prefer to emit no greenhouse gases or have a renewable energy facility.

I think that is the point that you are trying to get at. I just think this is clumsy legal language. Is that right?

Luke Busby:

I think the reason why the language reads awkwardly is the fact that some utility facilities that are also renewable energy facilities, such as geothermal plants, also emit greenhouse gases. If you were to capture the intent of this bill, you would need the three propositions: (1) that it emits greenhouse gases; (2) that it does not use renewable energy to generate electricity; and (3) the extent to which it is needed to ensure reliable utility service. Those are the three concepts I tried to package together when I created this language and I think that is why it reads awkwardly. It would be easy to just exclude all renewable energy resources but you also have to account for the fact that some of them emit greenhouse gases.

Hatice Geçol:

This recommendation came from the Governor's Nevada Climate Change Advisory Committee. In plain language, the intent of this recommendation is, if you are building a greenhouse gas emitting utility plant in Nevada, we need to make sure it is needed. Because of our delicate air shed and limited resources of water in Nevada, the Committee did not want other utility companies to see this as a place to come and build a plant and sell the electricity outside of our state. You cannot prevent that unless it is tied up in line with these other conditions. If you are coming and building a coal-powered plant and a natural gas-powered plant, which emits the greenhouse gases, we need to make sure that those utility power plants are needed for Nevada.

If the geothermal companies are using pentane, which is an organic liquid, it emits a little greenhouse gas. We did not want this language to prevent those types of technologies being built in Nevada. We do not want these companies to come here and put us in a difficult position, but if we need it in Nevada for reliability reasons, we should be able to build those kinds of power plants.

Assemblyman Horne:

I look forward to seeing the language cleaned up. If you are intent on moving it today, I still have some concerns.

Chairman Conklin:

It is unlikely this needs to meet the Governor's veto deadline, since it is his bill. However, my concern is that next week we do not know what will happen. If we are not ready to move, we do not have to; if we are ready, we will move.

Assemblyman Goedhart:

I have a possible suggestion. Under section 18, we could put in "passenger vehicle" and then strike "unless the information is unavailable." I think, according to federal law, all passenger vehicles are required to provide that information. I believe this meant if a person wanted to come in and purchase a motor coach or something of that nature, the information may not be available. If we tighten that up and just refer to passenger vehicles, we would be fairly well assured that the information is available.

Assemblyman Horne:

That helps me somewhat. I heard Assemblywoman Kirkpatrick say something about ordering a specialty car that would come from overseas. I do not know how the wording could be crafted. If I order a Rolls-Royce, emission standards still would have to be provided upon delivery. I will not hold up the bill, but I reserve my right to change my vote on the floor.

Hatice Geçol:

I would like to put something on the record on behalf of the Governor. Sections 1, 2, 13, 15, 16, and 17 of the bill were deleted by amendment during the Senate committee hearings. These sections were related to the use and sales tax and the property and personal tax abatements for renewable energy generation facilities, renewable energy transmission infrastructure, renewable energy manufacturing, and research and development facilities. The bill proposed to extend the abatements and required the Nevada Commission on Economic Development to adopt regulations with a tier system concept. It also proposed to eliminate the Local School Support Tax (LSST) from these abatements. This concept is now handled as part of Assembly Bill 522 sponsored by Assemblywoman Kirkpatrick and your Committee.

Section 3 of the original bill was deleted by amendment during the Senate committee hearings. This section proposed incremental increases and extended renewable energy portfolio standards for a provider of electric service so that by 2025 at least 3 to 5 percent of the electricity sold to the retail customers by those providers must be derived from the portfolio energy systems or efficiency measures. This proposal is now part of both Assembly Bill 387 and Senate Bill 358.

Chairman Conklin:

We appreciate your willingness to work with us on putting together bills. On behalf of the subcommittee that worked on that—Chair Kirkpatrick, Assemblyman Christensen, and I—we appreciated the opportunity to sit and visit with you and the Governor about all the bills coming forward and where we could find agreement.

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

Rose McKinney-James, Las Vegas, Nevada, representing The Solar Alliance, North Samautoma, Massachusetts:

I want to state, for the record, that we signed in on the Senate side to testify on this bill in its original form. Time ran out and we were unable to come to the table. This bill has been substantially revisited but I do want to identify two areas.

This bill should be commended for its emphasis on energy efficiency. Energy efficiency is an important component of our discussions this session. With respect to the bill, particularly in section 10, an emphasis is put on the use of renewable energy systems when it comes to the design and construction of public buildings. This is an area that would advance the ability of the state to

take advantage of these resources and as a result we would like to offer our support for this measure as currently structured.

Steve Wiel, Nevada Representative, Southwest Energy Efficiency Project, Incline Village, Nevada:

The Southwest Energy Efficiency Project (SWEET) is a nonprofit organization advocating energy efficiency in six western states. I would like to point out that, if the State of Nevada is trying to develop a comprehensive energy efficiency plan to reduce the energy use in Nevada by 20 or 30 percent over the next 10 or 20 years, there are two provisions in this bill in sections 8 through 12 that address procurement in government buildings and the design of government buildings. Those are two of the most important cornerstones that you could provide. Therefore SWEET strongly supports this bill.

Tom Clark, Carson City, Nevada, representing Sempra Generation, San Diego, California:

We support this bill.

Robert Tretiak, representing International Energy Conservation, Las Vegas, Nevada:

We support this bill. We believe that the provisions now provide a road map for legislation that was passed four years ago when then Assemblywoman Chris Giunchigliani sponsored a bill to have a 20 percent reduction in state facilities by 2015.

Chairman Conklin:

Are there any questions from the Committee? I see none. Is there anyone wishing to testify in opposition to this bill? I see none. Is there anyone wishing to testify in the neutral position? Mr. Davis, are you in support but have amendments? Please come forward to testify.

Kyle Davis, Policy Director, Nevada Conservation League, Las Vegas, Nevada:

I apologize for the confusion. We are in support of the bill. I was a member of the Governor's Climate Change Advisory Committee. We think there are a lot of strong provisions in this bill. The amendment that we bring to you today is a concept that occurred to us when we were talking about raising the cap for the UEP language. This is something that came before this Committee last session and we have worked out an agreement on it. There was a need to change that number because of the interpretation in rule making.

We have brought forth an amendment ([Exhibit D](#)). We are looking at renewable energy generation being built in the state in the future as opposed to nonrenewable fossil fuel generation. The environmental benefits are much

better on renewable energy. There are different impacts that may occur and that is where the genesis of this amendment comes from. Currently, under statute, the application review is done by the Division of Environmental Protection of the State Department of Conservation and Natural Resources. We would like to add the Department of Wildlife, under the justification that we want some ability to review the impacts on wildlife and potential endangered species of large scale projects, that is, projects that are larger than 70 megawatts. We want to make sure that projects that are going forward will not put us in the position of putting a species on the endangered list and slow development of all resources. That is not anyone's goal. The intent is not to extend the time for the UEPA application, because these processes would run concurrently. We have talked about this concept with some stakeholders in the public lands community and also with Ormat Technologies, Inc., who are the people we worked with on this amendment and they are okay with that concept.

I do not have a copy of the amendment from the Governor's Office, but it sounds as if they might have incorporated my second part into their amendment. That would be removing the county population of 100,000 so that all of these projects will be evaluated at the state level rather than at the county level. The reason is because these have more impact on land than they do on air. The state is better equipped to evaluate impacts on land, as opposed to the large counties that have air quality departments to evaluate that.

Chairman Conklin:

Mr. Davis, have you provided Dr. Geçol with a copy of this amendment prior to this meeting?

Kyle Davis:

Yes, I provided this amendment to Dr. Geçol when the bill was on the Senate side. She has had a chance to look at it and has said that there were some concerns. We talked with some stakeholders that we had worked with in the last session and they were okay with it. As far as other developers, I do not know.

Chairman Conklin:

All three of these were in your proposal at that time?

Kyle Davis:

Everything that is on the page in front of you; there are only two sections.

Chairman Conklin:

The Senate did not process this?

Kyle Davis:

I never actually submitted it to the Senate committee. I just gave it to Dr. Geçol. Due to the time frame and the way things are working on the Senate side, I told Dr. Geçol we would deal with it when it got to this side.

Chairman Conklin:

You realize the time frame we are now dealing with on this side?

Kyle Davis:

Yes, time got away from us.

Chairman Conklin:

Is this a problem that would kill the bill? Is this bill more important in its current form without the amendment, or is it conditional upon the amendment in terms of your support?

Kyle Davis:

The bill is a very good bill, and if this amendment would delay the process, we do not want to do that.

Chairman Conklin:

I am going to close the hearing on this bill for now and allow you and Dr. Geçol and any other interested parties to step outside and talk about this while I allow Senator Schneider to present his bill. We can bring this back in work session and if you can come to some agreement, we will consider it. If you cannot, we will consider just the bill.

We will close the hearing on S.B. 395 (R2). We will open the hearing on Senate Bill 188 (1st Reprint).

Senate Bill 188 (1st Reprint): Provides for the establishment of the Solar Thermal Systems Demonstration Program. (BDR 58-379)

Senator Michael Schneider, Clark County Senatorial District No. 11:

This bill creates a rebate program for solar hot water and solar air heating systems that is modeled on the solar photovoltaic program the Legislature first established back in 2003. Heating hot water in a home accounts for about 17 percent of the total utility bill. That is the third-largest energy expense in the home. Solar hot water heating systems can reduce fuel usage for water heating by as much as 75 percent. Most hot water heaters burn natural gas. Avoiding the use of natural gas reduces carbon dioxide (CO₂) emissions.

This aspect will be even more important when Congress adopts a carbon regulation scheme. Using less natural gas reduces the overall price for natural gas even without carbon regulation. One study indicated using solar hot water heaters in California could save more natural gas than any other technology in both residential and commercial buildings. A companion study in California indicated that solar hot water heating could save 5.2 percent of statewide natural gas consumption. Another study indicated saving 5.1 percent would reduce northern California wholesale natural gas rates by 27 percent and southern California natural gas rates by 37 percent. That would save California consumers \$23 billion in the first few years.

These dollar amounts may be somewhat lower since the study was done in 2006 and, fortunately, natural gas prices have remained low and even fallen in some areas. However, this data indicates the magnitude of the possible savings. If solar hot water systems were fully deployed in California, it would have the same effect as removing 1 million cars from the highways. A single unit on a house could avoid more than 50 tons of CO₂ over a 20-year period.

Solar hot water heating systems are one of the most cost-effective uses of solar power from a customer standpoint. The payback period is less than for a solar photovoltaic system, so more people can take advantage of the technology. Residential units are in the \$6,000 range depending on the amount of water used and other factors like rotation of the house. Assistance is still needed with up-front costs to make the units affordable and to increase production so that unit costs decline.

This bill will also provide new jobs for Nevada, just as solar photovoltaic will. It will keep money for fuel from flowing out of state and the money will be recirculated here in this state. Nevada spends \$9 billion a year on total energy. We ought to keep as much of that in Nevada as possible.

I have provided a handout ([Exhibit E](#)) with additional information about solar thermal technology. At least 12 other states have solar hot water programs and so do many local governments and utilities. Hawaii enacted a law last June that requires most new single family dwellings built after January 1, 2010, to have solar hot water heaters. Increasing demand driven by the state and local initiatives is resulting in new technological innovations by industry. In my handout is an article on General Electric's new line of solar hot water heaters.

The bill also includes provisions for solar air heaters. These units also save significant amounts of fuel, thus cutting emissions and providing savings to customers. I provided you with a picture ([Exhibit F](#)) of those particular units. They are very low-tech. Each has a plexiglass box and aluminum cans painted

black. Dampers at the top force air to flow around the cans. The hot air goes into the house at the top of the unit, and the cool air comes out of the house at the bottom of the unit, and recirculates. You continually heat the air when the sun is shining.

This bill will help move Nevada forward as an energy conservation leader and add to in-state energy jobs while benefitting our environment.

We have a fiscal note attached to this bill. The Public Utilities Commission of Nevada (PUCN) is funded by mill assessments paid by ratepayers, so there is no General Fund impact. The PUCN can levy up to 3.5 mills but it is currently at 1.59 mills. It can absorb the additional expenses even with the new funding arrangements for Senate Bill 358, which is coming to your Committee this evening.

The fiscal note is so small to begin with, \$24,880, that it can be handled by regulation hearings. Some of those costs can be avoided by combining regulation hearings on the same day with the PUCN's other regulation hearings. The bulk of the fiscal note is to hire a part-time economist to work on the hot water heater regulations. These regulations are a one-time proceeding. The PUCN can hire a consultant to work on them and does not need to employ a staff economist who will stay on with the PUCN into the future. They have hired consultants for other projects and can do it for this.

A lot of the money otherwise spent on fuel for hot water heaters will be avoided by enacting this bill. That saves ratepayers money over the lifetime of the units. This bill will also help create more green installation jobs in Nevada's new energy economy and may foster the growth of local manufacturing components as well.

The less natural gas burned to heat hot water, the less emissions we put into the air. Clark County had an ozone alert last summer and is getting ready to announce another ozone alert for this summer. These emissions pose health hazards to the young and the elderly in particular. Everything we can do to use cleaner energy will help protect the health of our citizens.

We had a discussion yesterday with a man from northern California. He has been following our legislation this session. He is very interested in this, and with a coordinated effort of the Economic Development Commission incentives and support staff, he could launch a company here within 90 to 120 days that would create several hundred jobs. His average wages would be close to or greater than the abatement schedules and he is prepared to come here. This is one of the new companies that are looking at Nevada for all the work that your

Committee has done this session. This bill will add to that total energy package.

I hope the picture piques everyone's interest, because this is something that a lot of us could probably do in our garages.

Chairman Conklin:

I believe I have visited this house before and this is not the only thing that he has. He has a photovoltaic system on top of his home and he has done some rather ingenious things.

Assemblyman Christensen:

After talking with people over the past several months about converting their homes to solar water heating, I did not realize that the technology has come such a long way. The only solar water heating technology that I have seen was the coiled up hose on the roof. What is the cost to convert from their current way of doing things? Is it affordable for the average family to add this type of solar water heating to their home?

Senator Schneider:

It is getting more affordable. The coiled hoses that you see on the rooftops in Las Vegas are mostly for the heating of pools. These units that we are talking about would be in the \$6,000 to \$8,000 range. That is fairly pricey for the normal family. With the rebate from the federal government of perhaps \$2,000, and another possible rebate from the local government, it starts to make it more affordable for those people. You would still have to come up with \$3,000 to \$4,000. Every rebate would be helpful.

Assemblyman Christensen:

So, it is approximately \$6,000, and then the federal government would offer a one-third rebate?

Senator Schneider:

The federal rebate would be according to your tax bracket.

Assemblyman Christensen:

So, \$2,000 comes off that \$6,000, leaving \$4,000, and then this bill would take it to what?

Scott Young, Principal Research Analyst, Research Division, Legislative Counsel Bureau:

I need to disclose that I am here only to testify on technical details, and we do not advocate for or against measures. Under the federal tax program, the credit

is 30 percent. Last year that was capped at \$2,000 and that cap was removed so that if you have a \$9,000 unit you would get \$3,000 off. The way this bill is set up, the PUCN would determine the rebate that would come through the utility. It will depend on the information that the PUCN assembles when it looks at this issue and what it decides the appropriate rebate should be. There is a provision in the bill that specifies in section 23, subsection 3, "In determining the amount of the rebates provided through the Demonstration Program, the Commission shall consider any federal tax credits and other incentives available to participants." So, the amount is yet to be determined, but the PUCN would do that based upon other rebates and probably testimony as to an effective level of rebate that would incentivize people to install these units.

Senator Schneider:

There is a proposed amendment here from the PUCN ([Exhibit G](#)), proposed by Rebecca Wagner. She goes through the sections where we delete "Commission" and replace it with "utility."

Scott Young:

The idea behind this is to substitute "utility" for the "Commission" in specified sections. The idea is to relieve the Commission of the burden of developing all of these plans. The Commission will still do the regulations, but the utility would actually administer the plan, select the participants, make recommendations to the Commission on who should participate, and that is designed for efficiency and to take some of the burden off of the PUCN.

Chairman Conklin:

We do not have that amendment, so please make copies available for us.

Scott Young:

I will make those copies available to you. I could go through it for you. On page 3, section 8, line 3, it says "'Participant' means a person who has been approved by the Commission." "Commission" would be changed to "utility." Then in section 17 on the same page, line 38, where it says "The Commission shall establish," that would be changed to "The utility." Again, there are several places in the bill where the Commission remains, because it must adopt the regulations, not the utility, and again we will provide your Committee with copies of the document so that you can see exactly where those submissions occur.

Chairman Conklin:

Senator Schneider, you also have Senate Bill 358, which has the solar demonstrations program, school program, wind program, water program,

et cetera. Does this bill coincide with that or does it interfere with that bill, or have you vetted it and those programs go along together just fine?

Scott Young:

They are separate. However, there is a provision in this bill which is designed to mirror the newer approach to these rebate programs that you will see in S.B. 358. In the past, the legislation has created categories: for example, for residential users, for public schools, for public buildings, and for private business. There have been a specified number of kilowatt hours, for example, for wind, solar, and hydro. This bill takes the position that it is a better approach to have a total allotment, in this case 3,000 units by 2019, instead of having a yearly limit. There have been some problems with the solar demonstration project in terms of trying to build all of those applications in a given year. Sometimes people are eager to sign up, they are put in a queue, and when the time comes to actually perform, they do not. If the people drop out, then you have this capacity which was assigned to a given year, and at the end of the year you do not get all of that capacity installed.

This bill takes the approach that there will be 3,000 units over a ten-year period. You could get to the 3,000 units before the ten years were up, if the program really took off. In that respect, with S.B. 358 you are moving towards having total limits of so many megawatts for solar, so many for hydro, and so many for wind, and moving away from this yearly allocation.

Chairman Conklin:

Are there any questions from the Committee? I see none. Is there anyone else wishing to testify in support of this bill?

**Rose McKinney-James, Las Vegas, Nevada, representing The Solar Alliance,
North Samautoma, Massachusetts:**

We support this bill.

Kyle Davis, Policy Director, Nevada Conservation League, Las Vegas, Nevada:
Me too.

**Charles Benjamin, Director, Nevada Office, Western Resource Advocates,
Carson City, Nevada:**

We really, really, support this bill.

**Joe Johnson, representing the Toiyabe Chapter of the Sierra Club, Reno,
Nevada:**

We also support this bill.

Hatice Geçol, Ph.D., Governor's Energy and Science Advisor, Director, Nevada State Office of Energy:

On behalf of the Governor, we support this bill.

Chairman Conklin:

Is there anyone else wishing to testify in support?

Robert Tretiak, representing International Energy Conservation, Las Vegas, Nevada:

We support the bill as well.

Chairman Conklin:

Is there anyone else wishing to get on the record in support of S.B. 188 (R1)? I see none. Is there any opposition to this bill? I see none. I understood there were more issues regarding an amendment before we could move this bill forward.

If it is the pleasure of the Committee to move this bill, I am certainly willing to accept an amend and do pass with the caveat that the amendment comes to each and every member before I send it to the floor, if that makes the Committee comfortable.

ASSEMBLYMAN SETTELMAYER MOVED TO AMEND AND DO PASS SENATE BILL 188 (R1) WITH THE AMENDMENT PROVIDED BY REBECCA WAGNER AND PROVIDED THAT THE COMMITTEE HAS THE OPPORTUNITY TO SEE THE MOCK-UP BEFORE REPORTING THE BILL TO THE FLOOR.

ASSEMBLYMAN GOEDHART SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMEN ARBERRY, BUCKLEY, AND OCEGUERA WERE ABSENT FOR THE VOTE.)

We will take up Senate Bill 395 again and I will dispense with Mr. Ziegler telling us what the bill is about since we heard it 20 minutes ago. Assemblywoman Kirkpatrick attended this meeting and we need her to share that information with us at this time.

Assemblywoman Kirkpatrick:

The amendment that was proposed by Dr. Geçol was agreed to as well as the second half of the amendment that was proposed by Kyle Davis and

Joe Johnson. So, the portion defining utility in *Nevada Revised Statutes* (NRS) 704.860 was accepted as was Dr. Geçol's amendment. With that I would make a motion to amend and do pass.

Chairman Conklin:

I know that Assemblyman Horne had some concerns about the language in Dr. Geçol's amendment. Also, Assemblyman Horne and Assemblyman Goedhart had some suggested language for the back portion of this bill that is talking about vehicles. The concern was making it submissive, that is, "if it is available." I think we might want to see that language tightened. The suggestion was "every passenger vehicle." According to federal standards that we are aware of, that information has to be available.

Assemblywoman Kirkpatrick:

I would like to explain to the Committee that we had several hours of conversation on this, and I am afraid changing it will hurt the bill. There are some new cars that have the information automatically, but there are some manufacturers who are not going to have it yet. I do not know how else to explain the language currently in the bill. We spent a long time trying to get it right and meet in the middle. If it would make the Committee feel better, between now and floor, I would be happy to speak to some of the Senators who sat in the working group and see if I can adjust the language on the floor. I just want to reiterate that we spent hours on this little portion of the bill trying to get it right.

Assemblyman Settlemeyer:

I was just curious regarding the previous discussion, where it talked about two parts. I thought it was just one part.

Chairman Conklin:

I think Assemblywoman Kirkpatrick was talking about the conceptual amendment, provided by Mr. Davis, in which there is a portion that inserts a new provision in the statute, and it actually amends a provision that is in statute but does not currently appear in the bill. That is NRS 704.875. That is the portion that is not part of the agreed upon amendment. The second portion, which is NRS 704.860, is "utility" defined, and that amendment is acceptable.

Then, Assemblywoman Kirkpatrick, let me clarify to make sure that you want to make a motion that is an amend and do pass motion with the amendment to accept the proposed amendment by Dr. Geçol, and to accept a portion of the amendment by Kyle Davis which amends NRS 704.860.

As with the previous amendment, this would be an amendment that I will bring back to Committee prior to processing on the floor to give everyone a chance to review the language.

ASSEMBLYWOMAN KIRKPATRICK MOVED TO AMEND AND DO PASS SENATE BILL 395 (R2) WITH THE PREVIOUSLY STATED AMENDMENTS.

ASSEMBLYWOMAN MCCLAIN SECONDED THE MOTION.

Is there anyone with discomfort on this motion?

Assemblywoman Gansert:

I am just looking at the utility facility defined again with the amendment from the Nevada Conservation League and the Sierra Club. I missed part of that testimony. The second half of the amendment does what? Will there be a fiscal note because the state is involved at a higher level?

Chairman Conklin:

I am not sure I understand your question.

Assemblywoman Gansert:

I was looking at the justification. I guess I just do not see where it fits into this language. I will reserve my right.

Chairman Conklin:

This actually proposes to change the language in section 4 of the bill. Dr. Geçol, is it your interpretation that this would change the fiscal note on the bill?

Luke Busby:

I believe an additional fiscal note from the Public Utilities Commission of Nevada (PUCN) may be required on this amendment due to the fact that it would require the PUCN to process additional UEPA cases. I can get that fiscal note to the Committee by 6:00 p.m.

Chairman Conklin:

Assemblywoman Kirkpatrick and Assemblywoman McClain, would you like to rescind your motions?

Assemblywoman Kirkpatrick:

I would like to rescind my motion.

Assemblywoman McClain:

Yes.

Chairman Conklin:

Both parties are rescinding their motions. Assemblywoman Kirkpatrick, do you want to make a new motion?

ASSEMBLYWOMAN KIRKPATRICK MOVED TO AMEND AND DO PASS SENATE BILL 395 (R2) WITH DR. GEÇOL'S AMENDMENT ONLY.

ASSEMBLYMAN ATKINSON SECONDED THE MOTION.

Because of the language in that amendment, once it has been drafted I will bring that back to the Committee before submitting it to the floor. Are there questions or concerns on the motion?

Assemblyman Anderson:

I have not had a chance to compare the two different documents. That is the one that is in color and the other in black and white. Which amendment are we including?

Chairman Conklin:

The motion is amend and do pass with Dr. Geçol's amendment only.

Assemblywoman Kirkpatrick:

We can do this on the floor, but I think it would be wrong to put a fiscal note on this bill after it has been part of a larger piece.

Chairman Conklin:

Are there any additional concerns? [There were none.]

THE MOTION PASSED. (ASSEMBLYMAN ANDERSON VOTED NO. ASSEMBLYMEN GANSERT AND HORNE RESERVED THE RIGHT TO CHANGE THEIR VOTES ON THE FLOOR. (ASSEMBLYMEN ARBERRY, BUCKLEY AND OCEGUERA WERE ABSENT FOR THE VOTE.)

We are at a time where we are running up against a deadline. I expect that some things may transpire on the floor of the Senate early this evening and we may have an opportunity to come back. I am going to recess at this time until a call of the Chair. If I have an opportunity to actually receive

Senate Bill 395 (R2), we may take that up. If I do not, then we can have a Meeting Behind the Bar to adjourn this meeting.

[The meeting was recessed at 4:23 p.m.]

[The meeting was reconvened at 11:36 a.m. on May 22, 2009. The meeting was started as a Subcommittee.]

Vice Chairman Atkinson:

We will open the hearing on Senate Bill 358 (4th Reprint).

Senate Bill 358 (4th Reprint): Revises provisions related to energy.
(BDR 58-1146)

Assemblywoman Kirkpatrick:

This bill has several different components. Yesterday I talked about the Governor's bill and...

Vice Chairman Atkinson:

Excuse me, most of you should have in your folders the third reprint of this bill, which is the most updated one we have. There is a fourth reprint and we should be receiving it soon.

Assemblywoman Kirkpatrick:

The first part of this bill addresses how the Office of Energy is going to work. We will keep the Office of Energy as it exists today. It will become a data collection operation. They will administer applications and collect all the data for all of the different programs that we have.

This bill will create a Nevada Energy Commissioner, who will oversee our renewable energy and efficiency. We have called it the Renewable Energy and Energy Efficiency Authority. This person will be responsible for doing everything possible with renewable energy, which will include setting up feasibility studies, energy zones, and transmission authorities. This bill creates a State and Local Government Panel on Renewable and Efficient Energy. The panel will help with state-building retrofits. There is the New Energy Industry Task Force, which consists of industry representatives, and is a major part of making sure that we move forward with this. There is also some flexibility in the bill for the Commissioner to set regulations in place for additional items.

As you know, we have a lot of stimulus money which will work through the Office of Energy with the help of the Commissioner to help us invest in our natural resource. There is a portion of the bill that deals with distributive

generation, and I believe Ms. McKinney-James could explain that part. Then we will ask Ms. Stokey to talk about the solar generation fixes that are needed.

Rose McKinney-James, Las Vegas, Nevada, representing The Solar Alliance, North Samautoma, Massachusetts:

Since this bill was a matter of extensive negotiations, I would ask Mr. Ernaut and Ms. Stokey to join me at the table so we will be in a position to respond to all of your questions.

Vice Chairman Atkinson:

Assemblywoman Kirkpatrick, are you through with your presentation?

Assemblywoman Kirkpatrick:

There is only one portion that the testifiers probably cannot speak to. There is a mill tax and our statute allows us to increase it to pay for the Commission Office.

Pete Ernaut, Reno, Nevada, representing NV Energy, Las Vegas, Nevada:

I want to commend the Committee and others for all the hard work that has been done over the last few weeks and months on this piece of legislation which, I believe, is vital to the State of Nevada as we deal with a new public policy regarding renewable energy going forward and all the great economic development implications that it has. I will go through the distributive generation portion of the bill, which is generally found in section 13.5. I would like to note that most of what we are dealing with today on the distributive generation portion will be in the third reprint, but as we get to a couple of the other sections, they will be in the fourth reprint. I am hopeful that by the time we get to those sections, you will have the fourth reprint. [Distributed PowerPoint presentation ([Exhibit H](#)).]

Distributive generation (DG) speaks to the ability to have smaller solar development—rooftop, small commercial, public buildings, and such—rather than the other form of solar power that you have spent more time discussing this session, which would be more of the commercial utility size variety. Just as a matter of background so that this is all held in context, I would like you to understand that throughout all of the energy bills that have been before you this session, a few major issues have changed. The number one issue 25 percent renewable by the year 2025. I think this body, the utilities, and all involved should be commended in this great public policy statement and goal for this state.

The second issue encompassed in this bill is an increase to the solar set-aside as it relates to the renewable portfolio standard (RPS) from 5 percent to 6 percent in 2015. That does not sound like a large increase, but it is.

There is a new program to foster the development of DG that would be enacted under the current program and administered under the current program of solar generation created by *Nevada Revised Statutes* (NRS) Chapter 701B. Under this program, homeowners, commercial buildings, schools, and such can apply for rebates in order to facilitate and incentivize their constructing and implementing solar power on their facilities. The goal of this particular legislation was to increase that part of the solar fulfillment of the RPS to 2 percent over the first 11 years of this program, from 2009 to 2020. With this legislation we accomplish that over a graduated scale.

The existing Solar Generations Program begins with a base foundation of 3,760 kilowatts that is set aside for this program and that breaks down as follows: it allows 2,000 kilowatts for schools, 1,000 for residences and small businesses, and 760 kilowatts for public buildings. This program, beginning with that base, will increase the capacity allowed for distributive generation by 9 percent each year from the current year through 2020.

There also is a provision within this bill that sets a cap as to how much the utility will incentivize this program and I will speak to that later. Just to give you the overview, there will be up to \$255 million between 2008 and 2020 and a full \$78.26 million committed from January 2009 to the end of 2012. There is an enormous front-loading portion to this that allows this industry to flourish and to gain a great foothold.

There was some concern that there would be some allowance for existing distributive generation programs that have already been completed by the utility to be allowed to satisfy the standard within the first few years. It was a grandfathering provision and this legislation does not contemplate that any existing programs can satisfy the requirements going forward. We would be starting with the 3,760 kilowatts and moving forward.

The Solar Generations Program is also funded by an existing rate called Renewable Energy Program Rate (REPR). That is how the money accumulates into the program and it is accessed only at the point when it is needed, meaning that when the rebate is applied for and granted, then the money is funded from this rate, so there is not some great pot of money that is taken out of investment to the detriment of the ratepayer.

This program contemplates the concept that over time, as solar construction and the solar industry matures, the prices associated with this type of construction will generally go down. You will notice when we go through the spreadsheet ([Exhibit I](#)) that it is a contemplated change from a cost of \$9 per watt to \$7 per watt by 2020.

There are some accountability provisions in this bill. I know Mr. Anderson will remember, having been here for some time, that we have had a number of energy issues that we have rushed into with great anticipation and a lot of positive energy. We have found, at times, that we wished we would have had more accountability and look-back provisions in case things changed or, in the case of what happened with electrical deregulation, that we were ultimately wrong. I have a great deal of experience with that, because as a member of this body, I was the chairman of the committee that brought that legislation forward and had to eat my helping of crow to unwind some of those provisions. Not to fool us twice, we have tried to implement some strong look-back provisions in this bill. We have two provisions, one in 2013 and the other in 2017, so that this Legislature has a full vetting of whether this program is working, whether it is underutilized or overutilized, and what adjustments need to be made, if any, to keep it flourishing.

One of the problems that is associated with the current Solar Generation Program, and one we seek to avoid going forward, is what we commonly refer to as the "use it or lose it" provision. That means you apply, you are able to garner the rebate, but your project does not go forward for one reason or another. You have a point at which, if you do not meet the project milestones, you would automatically be withdrawn from the program. This provision guards against somebody holding their place in capacity and never actually building the project. From our standpoint, this is about these projects being built and actually working, not some sort of credit or paper transaction.

One last portion that was a matter of great debate—but where we ultimately reached the right public policy—was regarding who owns the system. Is it on the utility side of the meter or on the customer side of the meter? We have agreed with The Solar Alliance that it is most proper that this be connected on the customer side of the meter. All of the negotiation can begin without any input or bureaucracy that may be created by the utility up until the point when they apply for the actual rebate. That way, the responsibility and the ownership is on the customer side of the meter. That is a very important point to this bill.

I would like to bring you to this spreadsheet and explain some of the numbers so everyone understands exactly what we are talking about. There is one typographical error on this spreadsheet; that is, there are two line 2s. I will

refer to the second line 2, which is RPS percentage. You will see as you go across the page it begins at 9 percent in 2008 and gets to 20 percent in 2020. If this spreadsheet continued on to 2025, you would see that number eventually get to the 25 percent of the RPS that is contemplated in other legislation, but again it is a major portion of the public policy behind this bill.

On line 8, the DG Solar percentage of RPS, you will see that this spreadsheet contemplates the gradual increase to the goal that we had for DG that would reach a full 2 percent of the RPS by 2020.

Line 12 shows the reference to the 9 percent increase annually. Then, as we get to line 14, you will see in megawatts the opportunity or capacity that is available and how that increases across the board. There is a critical mass issue that I know my colleague, Ms. McKinney-James, would testify to that there has to be enough capacity allowed for these things to flourish. We begin by jump-starting it, and you can see the 3.7 that references the 3,760 kilowatts I discussed earlier and goes forward.

On line 15, the 6.3 is the rollover. The rollover is all that capacity which was available to the program but unused in the previous year. I would like to stop there for a second because there are two major provisions to that and that is again as a result of intense negotiations. One of the things the utility has agreed to do is that any unused capacity in this program will roll to the next year. Even though there is a financial cap that cannot be exceeded, that is added to each year by any unused capacity. That way we do not have a position where as the first years begin, if these industries are not in a position to fully subscribe to the capacity allowed to it, they do not lose the opportunity in the out years.

The second thing is an ability for this program to mature so that the Public Utilities Commission of Nevada (PUCN) will now have the discretion to change the disposition of the rollover capacity from year to year and change the categories if they want to increase it for schools or commercial and make those changes. We fully agree that the PUCN has and should have the discretion to change the disposition of that rollover, and only the rollover, in those categories. It makes sense.

The reason we have those caps on the different categories is because we do not want to have one major project, or a number of medium to large projects, eat up the capacity that is allowed within this bill. We want this capacity to be available at the residential level and not be eaten up by two big box retailers. That is why it is important to have those limitations, but also to have the flexibility for the rollover capacity. Obviously, the logic would be that the

capacity was not used in the other categories in the year previously and should be available for the other categories.

On line 22 you will see the dollars that we are speaking of. In retrospect, in looking at 2008, some \$7.5 million would be available for this program. In the first year, 2009, it would jump to \$34.5 million and that is mainly because of the concept that the 6.3 megawatts of unused capacity would roll over. Then, you will see for the years going forward that it steadily increases until you get to \$26.38 million in 2020. That adds up to \$255 million, which is the total capacity of this program in the first 11 years.

If you look at line 24, it shows how the average rebate affects the residential bill on a monthly basis. You will notice that in every case, except the first year because of the rollovers, it is significantly less than \$1.00 per month. On line 27, the total effect in rates of this program is limited to \$.68 per average residence per month. We all understand that going into this new economy and renewables that there is going to be a cost for this transition, but I would suspect that at \$.68 a month on average for an average residence is a defensible cost and one that certainly is limited to the great benefit that this provides.

That is the best I can do to explain this program. I know it is rather dry material and can get a little complicated, but I would be available to answer any questions you might have.

Assemblyman Anderson:

I have quite a few questions relative to the spreadsheet. On the second line 2 the rate goes from 9 percent to 20 percent. I see that in 2015 we have reached the 20 percent level. Does this mean that from 2015 until 2020 it remains a stable rate? Or, is that the percentage of increase of total energy output that is going to be generated with an anticipated growth factor?

Rose McKinney-James:

That is a stable rate that will give the utility and everyone the opportunity to then deal with the proposed 25 percent by the year 2025. It gives them a little time to ramp up because there is steady ramping, as you can see, from 2009 all the way to 2015.

Assemblyman Anderson:

Am I to assume that between 2015 and 2020 the rate will remain fairly constant at 20 percent with the anticipation that by 2025 it will reach the 25 percent level? Yet, we do not know how that will take place? It looks as if it quits ramping after 2015.

Pete Ernaut:

If this spreadsheet went all the way out to 2025, what you would see in 2021 is a jump from 20 to 22 percent and then 23, 24, and 25 percent in the years thereafter. This is modeled after the RPS that you are hopefully going to pass in another bill. This is contemplated by the public policy that you set forth in the RPS standard and it just follows that track. It just does not have the last five years on the spreadsheet.

Assemblyman Anderson:

I understand the concept of needing to ramp up. What I am trying to figure out is why there is a long, extended five-year time period where it is stable and not making any incremental percentage increase. I would think that two years would not be abnormal, but five years would appear to be somewhat abnormal. I thought there might be some reason why you were statistically making that kind of supposition when you are anticipating the part you are not showing us is going to reach the 5 percent increase in the same amount of time that you are making no increase during that initial period.

Pete Ernaut:

The logic is, there is such a glut right now of projects ready to go on the market that after the initial "gold rush" there will be a falloff. It is going to be increasingly difficult for the utility to reach that RPS standard once the initial rush of the solar and wind and geothermal plants are built, and there has to be a point at which everybody can exhale and have an opportunity to find other opportunities. We are trying to have a crystal ball ten years down the road of what the market will look like. I think the decision of this collective body was that it was prudent to have a plateau for a number of years in there to contemplate the supply, and the ability for new capacity coming on line, and be available for the utility to meet that standard.

[There was a quorum present.]

Assemblyman Anderson:

On line 24 it says estimated average rebate – south. Is the reference to the south because that is where the predominate solar fields are currently located?

Judy Stokey, Director, Governmental Affairs, NV Energy, Las Vegas, Nevada:

The reason this says south is because we had numerous charts and we were trying to make it simple to show you and make it consistent with one area.

Assemblyman Anderson:

So, these figures are based upon the southern field which is currently in place?

Judy Stokey:

Yes.

Assemblyman Anderson:

What is the potential for solar collection being built into government facilities and the cost reflection of reducing overall energy costs, as a good investment for the state? Is this anticipated differently because of the opportunity for us to go without the use of any energy source other than solar?

Pete Ernaut:

The only place in which that is contemplated is in code in which we are already dealing with the current standard in the Solar Generations Program. That is the part that I discussed where we have the 3,760 kilowatts available for capacity. That is broken out 2,000 for schools, 1,000 for residences and small businesses, and 760 for public buildings. The savings will come in the out years because in the initial years you are taking in the investment and the up-front money, so it is hard for us to contemplate that out. This is not only the savings going forward and recouping your investment of the initial cost but also, as you go forward, the decrease in the cost of solar generation. Over the course of time you will need to replace these things. The second generation of these may become much less expensive.

It is a great long-term investment, but the initial years, until you recoup your investment, would not show as a decrease.

Assemblyman Anderson:

I would hope by 2015 with the advent of this big "gold rush" the overall cost will prove their economic feasibility and become a more stable product, and therefore the cost should go down. Will the overall requirements for the energy companies drop in terms of how they are producing their energy needs for the public as a whole? The year 2025 is a long way off. I am trying to estimate the impact on NV Energy and other power producers.

Judy Stokey:

On line 20, one of the assumptions we had was the rebate actually declining. We did anticipate that, and put in not having to go out and buy excess power because this would be coming onto the grid. In our assumptions in putting these numbers together, we did include that.

Rose McKinney-James:

The members of The Solar Alliance have been clear, and I think it has been documented, that we are seeing a steady decline in the cost of the components. It is based on our view that we will continue to see a decline that we can

support a concurrent decline in the amount of the rebate. The goal of the solar industry is to have grid parity; that is, a matching cost, per kilowatt, to what is currently the rate by the year 2015. We have seen a substantial reduction in the costs. We hope that trend continues.

Assemblywoman Kirkpatrick:

I would like you to discuss section 11.3 because it is important that it is clear where we are trying to go. I did make sure that the Committee has the fourth reprint of the bill.

Pete Ernaut:

Is it the pleasure of the Committee that we exhaust the questions on the distributive generation portion or go into the energy efficiency and conservation portions which, I imagine, will elicit another subset of questions?

Vice Chairman Atkinson:

Whichever way you want to go.

Assemblyman Goedhart:

I have a question regarding distributive generation. Would you rather I hold those until the whole presentation is done?

Vice Chairman Atkinson:

Assemblywoman Kirkpatrick, has your question been satisfied?

Assemblywoman Kirkpatrick:

Yes. I will defer to Mr. Goedhart.

Vice Chairman Atkinson:

Why not let the members ask you questions before you finish your presentation. It may answer some of their concerns. We do not have a lot of time.

Assemblyman Goedhart:

We were talking about having a rate of return on the efficiency savings. Is there going to be a rate of return for NV Energy on distributive generation or not? Has that been figured in here? That is basically supplanting your internally produced power by an outside producer, right?

Pete Ernaut:

There is not necessarily a rate of return. This is the amount of money that the utility would make available for this program, and those subscribers would then apply for the rebate. That pot of money is funded by a separate rate but it is only to recoup those costs. There is no rate of return.

Assemblyman Goedhart:

You said there might be a cap per customer application, because you would rather have a lot of small ones than some big box stores. What is that cap?

Pete Ernaut:

Let us start with the money part of it, because the cap really begins with how much money is available and that is on line 22. It relates back to the number of watts, which is on line 14. You will see it is 3.7, 4.0, 4.4, and so forth. That is what is available each year but it also does not take into consideration what would roll over from the previous year.

Assemblyman Goedhart:

But, you could have one customer put in 1 megawatt, theoretically, of photovoltaic, correct?

Rose McKinney-James:

Yes, that is correct.

Assemblyman Goedhart:

Can a third party contract with a private business owner, for instance, a big box store with a third-party lease, and put in the system, contract to sell the energy directly to the big box store, and then contract with you for the rebate.

Rose McKinney-James:

Mr. Goedhart, there is another measure that deals specifically with third-party agreements, which is Assembly Bill 186, and I am not sure where that bill is in the process.

Assemblyman Goedhart:

Is this only exclusive to solar or does it also apply to biomass and wind?

Rose McKinney-James:

The program that is in place for Solar Generations deals principally with solar, wind, and water. So, I cannot speak to biomass.

Assemblyman Goedhart:

So, this is available for wind as well?

Rose McKinney-James;

Correct.

Assemblyman Goedhart:

Who keeps the carbon credits? I believe NV Energy gets a multiplier of 2.2 times for every megawatt hour produced for meeting their renewable energy standards. Would that private person be able to capitalize on the carbon credits?

Rose McKinney-James:

With respect to carbon credits, I do not think we have a program for carbon credits. There are credits available to comply with the portfolio standards and those credits go to the utility.

Assemblyman Goedhart:

I think that is great for the utility to enhance and embrace this program with renewable energy portfolio standard credits, but I think it would be an additional incentive for the producers of this energy to make it clear in this legislation if, and when, any future carbon credits would become available on the market. They are sold right now on the Chicago Climate Exchange. The producers of that project should be able to internally keep, market, and sell those carbon credits for themselves.

Assemblyman Settlemeyer:

I see from the chart that in 2012 you are indicating an average increase per month of \$.68. Is there any data showing what it would be in 2010 or 2011 or some of the other years that are listed here so we could see a larger increase?

Pete Ernaut:

If you follow line 24 across, you will see that in 2009 it is \$1.44. Again, that is because we have jump-started it with the baseline of 3.7 plus the rollover from 2008. That was by design. There was a large capacity available immediately to take on the glut of projects we believe are shovel ready. In 2010, it would drop off to \$.55 and then begin to gradually go up. That is for each individual year.

Assemblyman Settlemeyer:

On line 27 there is only a number for 2012. Is there any reason for that?

Pete Ernaut:

Lines 25, 26, and 27 are meant to give you a snapshot of what it means just in the first four years of the program. It is \$80 million and that is the rate up to the very first look-back provision. The reason we wanted to do that was because after the look-back provision, this whole thing could be changed. All of the rest are really just educated guesses. This was just to let you know what the initial commitment is.

Assemblyman Settlemeyer:

So, you are indicating \$1.44 increase per customer in the State of Nevada in 2009?

Pete Ernaut:

Yes. But then the average over that four-year period would be \$.68.

Vice Chairman Atkinson:

Ms. Stokey, did you have more presentation?

Judy Stokey:

Everything seems to have been covered already. I do know that Mr. Ernaut would like to go through the provision that Ms. Kirkpatrick mentioned, which is section 11.3.

Vice Chairman Atkinson:

How much longer will that take?

Pete Ernaut:

I can talk really fast. Section 11.3 of the bill deals with energy efficiency and conservation. This has been referred to as decoupling. That is not an accurate term.

What this section speaks to is the appropriate financial incentives for the utility to create and maintain energy efficiency and conservation programs. The energy efficiency and conservation programs are the least expensive alternative way to fulfill the obligation of the RPS. As all of you know, energy efficiency and conservation programs are allowed to fulfill 25 percent of the RPS standard.

My previous PowerPoint exhibit discussed the federal stimulus package and focused on the impacts to the utility. I would like to read the exact passage from the federal statute so everyone understands why we are doing this.

"The applicable state regulatory authority will seek to implement a general policy that ensures the utility financial incentives are aligned with helping their customers use energy more efficiently and to provide timely cost recovery and timely earnings opportunity associated with cost-effective measurable and verifiable efficiency savings."

Essentially what this does is create programs of efficiency and conservation to teach people to use less of our product. However, not only does our obligation to the RPS not change, neither do our costs. This attempts to right that ship by

allowing the utility to recover not only hard costs, but unrealized revenues in which the energy efficiency and conservation programs would be at no cost or profit to the utility. That is important because the alternatives to energy efficiency and conservation programs are higher depending on what form they take on, whether it is geothermal, solar, or even building a gas plant. All of those are much more expensive at this point. We are hopeful that parity is achieved very quickly. But, as we sit here today, this is the best use of the money and the best use and protection of the ratepayers.

This bill directs the PUCN to adopt regulations through rule making to allow the utility to recover costs both hard and in terms of lost revenue directly, and only directly, related to measureable and verifiable facts of our energy efficiency and conservation programs. This directs the PUCN to enter into rule making to come to the regulatory direction of allowing the utility to recover these costs. I would juxtapose that against what has been done in the gas industry which allows for the recovery of any lost revenues that are related to any decrease in consumption for any reason. This is asking only for those costs directly related to our energy efficiency and conservation programs. Again, this is asking for recovery at par and not at a profit.

I do not know, Mr. Vice Chairman, if you would like me to take you through this bill section by section. That would be the biggest cure for insomnia that any of you would have.

I think everybody understands this issue and that it is a product of intense negotiation with members and with all those affected, and I am proud to present it today as something that I believe works for all involved.

Vice Chairman Atkinson:

Please do not go section by section.

Assemblywoman Gansert:

In recovering those costs, how do you anticipate they are spread?

Pete Ernaut:

The spreading of the obligation becomes part of the rule making at the discretion of the PUCN. The direction in the bill is that those are spread fairly across all customer classes.

Assemblywoman Kirkpatrick:

I would like to put on the record the fact that the Legislative Commission has to approve any PUCN regulations. It is not the last time that the Legislature will see this. Secondly, on line 35 of page 36, it talks about the ratepayer being

taken into consideration. We worked extensively with the Consumer Advocate on this issue. I think there should still be some legislative oversight on this. This is the 11th reprint because of this one section.

Assemblyman Goedhart:

There has been a lot of hard work involved in this bill. I applaud the concepts. I think we have wind and I think you said there is solar and water power. Is there any possibility, at this late date, to open it up to all renewable energies, including biomass? Was biomass left out on the table?

Rose McKinney-James:

From the perspective of the solar industry, this has been an extremely important and fully negotiated outcome. This bill is not perfect, but we have come a tremendous distance. It is important for us to indicate how grateful we are for both the support of the Legislature and the other affected parties that we can reach this accord. We will see an increase in our RPS. We now have a definition in statute for distributive generation. We have found a way to allow the PUCN to provide the legislative intent on this record to encourage the use of medium-sized commercial within the rollover allocation. We are giving support to the entire industry going forward. It is important also to note for those who were concerned about the program itself, there are a number of fixes in this bill and many of them that were in Assembly Bill 448 are now in this bill. We urge and encourage your support.

Pete Ernaut:

I would like to make just one last statement. Nothing in section 11.3 requires the PUCN to give the utility an incentive. It only requires them to consider it. It is a product of rule making. There has been a lot of discussion about whether this is leading the horse to water, and I assure you that it is not and it only requires the PUCN to consider it.

There is one word problem in the bill, and that is in section 11.3, subsection 1, paragraph (a). We had discussed the word "should" and not "must" for exactly the same reason we just talked about, which is that the PUCN should consider those provisions, and through bill draft and many iterations, the word "must" just kept getting in there. The utility was pushing for the word "should" and we would hope that we could fix that in a trailer bill at another date.

Vice Chairman Atkinson:

Is there anyone else wishing to testify in support of this bill?

Joe Johnson, representing the Toiyabe Chapter of the Sierra Club, Reno, Nevada:

We encourage your passage of this bill as it is today and would like to become involved in possible revisions in a trailer bill if there is one. The current bill puts a representative from the Department of Wildlife into the efficiency portion of the state and local government building areas. That position really belongs in the area of the Task Force under industry, which is an environmental consideration.

We would like to comment on the overall view of this bill. We congratulate all of the people who worked with the bill, but it really is very strongly oriented in language and the thrust of the development in renewable energy; we want to give verbal equality to efficiency. The utility has distributed the efficiency document that we are fully supportive of. The efficiency process is really the lowest cost and quickest way to implement savings. We would like to see the additional improvements in this fourth reprint recognize the efficiency and funding in the other utilities besides electricity, and we would like to propose some additional minor tweaks. These are not fatal flaws.

Kyle Davis, Policy Director, Nevada Conservation League, Las Vegas, Nevada:

I want to go on record in support of the bill. I look forward to continuing to work with the people who put this bill together to continue to make good renewable energy policy.

Dylan Shaver, representing the International Brotherhood of Electrical Workers, Local No. 357; and the National Electrical Contractors Association, Las Vegas, Nevada:

I will keep it short—we like the bill.

Charles Benjamin, Director, Nevada Office, Western Resources Advocates, Carson City, Nevada:

I think the bill is a very enlightened bill and moves us forward in the state with regard to renewable energy. With regard to section 11.3, I would like to point out to the Committee that the chairman of the PUCN has already started a process of looking at the integrated resource planning regulations and that includes demand-side management and energy efficiency. I have some concern with the Legislature dictating what should be the outcome of that regulatory proceeding. If you do choose to adopt this language, I do support the suggestion that section 11.3, subsection 1, paragraph (a) be changed to "should."

Vice Chairman Atkinson:

Are there any questions from the Committee? I see none. Is there anyone else wishing to go on the record in support? I see none. Is there any opposition? I see none. Is there any testimony in the neutral position?

Steve Wiel, Nevada Representative, Southwest Energy Efficiency Project, Incline Village, Nevada:

Southwest Energy Efficiency Project (SWEET) is a nonprofit advocacy organization in six western states. I signed up to be neutral on this bill because I have mixed things to say about it. I strongly support the provisions of the bill which fund the functions of the current Office of Energy. It is really important for the state that the advocacy for energy efficiency be appropriately funded. The mill tax arrangement is an appropriate way to do that.

I have some information to tell you about section 11.3. There are three perspectives that I bring to the issue of what you call decoupling. I have a direct interest in how much energy efficiency NV Energy provides through its demand-side management (DSM) program. I am also a past Nevada Public Service Commissioner, serving from 1984 to 1992, so I have some regulatory perspective on what is good and bad regulation. Also, I chaired the National Association of Regulatory Utility Committee in the late 1980s and chaired that committee while we introduced the whole concept of deregulation into the regulatory lexicon. I have worked with my colleagues since then on various ways to refine it.

I have only one comment in the way of advice and that is the issue of what I call real decoupling versus lost revenue recovery, which is the issue before you. The debate that has been going on in this building for the last month is between what I call real decoupling versus lost revenue recovery and what some people call full decoupling versus partial decoupling. My advice is that you do not need to understand or learn about it. It is not an appropriate legislative issue. It should be left to the PUCN. Two years ago on the gas side, you mandated that something be done, which is most appropriate, but you left it to the PUCN to choose between real decoupling and lost revenue recovery. It is the appropriate thing for you to do here.

Vice Chairman Atkinson:

Did you share these concerns on the Senate side and with the sponsor of the bill?

Steve Wiel:

Yes.

Vice Chairman Atkinson:

Are there any questions from the Committee? I see none. Is there anyone else wishing to speak in the neutral position? I see none. We will close the hearing on S.B. 358 (R4).

Assemblyman Conklin:

It is late and this bill has been worked on for months by our colleague Assemblywoman Kirkpatrick and other members. I would like to offer a do pass motion.

ASSEMBLYMAN CONKLIN MOVED TO DO PASS
SENATE BILL 358 (R4).

ASSEMBLYMAN GOEDHART SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMAN ARBERRY WAS ABSENT
FOR THE VOTE.)

We will recess the meeting to the call of the Chair.

[This meeting was adjourned on May 28, 2009, at 1:35 p.m.]

RESPECTFULLY SUBMITTED:

Patricia Blackburn
Committee Secretary

Cheryl Williams
Editing Secretary

APPROVED BY:

Assemblyman Marcus Conklin, Chairman

DATE: _____

EXHIBITS

Committee Name: Committee on Commerce and Labor

Date: May 21, 2009

Time of Meeting: 2:54 p.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
S.B. 295	C	Hatice Geçol	Proposed amendment
S.B. 295	D	Kyle Davis	Conceptual amendment
S.B. 188	E	Senator Michael Schneider	Background materials
S.B. 188	F	Senator Michael Schneider	Photograph
S.B. 188	G	Senator Michael Schneider	Corrections
S.B. 358	H	Pete Ernaut	PowerPoint presentation
S.B. 358	I	Pete Ernaut	Spreadsheet