

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

**Seventy-Fifth Session
April 1, 2009**

The Committee on Commerce and Labor was called to order by Chairman Marcus Conklin at 1:40 p.m. on Wednesday, April 1, 2009, 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/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 Chair
Assemblyman Bernie Anderson
Assemblyman Morse Arberry Jr.
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. Settelmeyer

COMMITTEE MEMBERS ABSENT:

None

GUEST LEGISLATORS PRESENT:

Assemblywoman Sheila Leslie, Washoe County Assembly District No. 27
Assemblyman David Bobzien, Washoe County Assembly District No. 24

STAFF MEMBERS PRESENT:

Dave Ziegler, Committee Policy Analyst
Dan Yu, Committee Counsel
Andrew Diss, Committee Manager
Patricia Blackburn, Committee Secretary
Sally Stoner, Committee Assistant

OTHERS PRESENT:

Rebecca D. Wagner, Commissioner, Public Utilities Commission of Nevada
Samuel A. Thompson, Commissioner, Public Utilities Commission of Nevada
Judy Stokey, Director, Government Affairs, NV Energy, Las Vegas, Nevada
Rose McKinney-James, representing The Solar Alliance, Las Vegas, Nevada
Tom Clark, representing Black Rock Solar, Semptra Energy, and Cogentrix, Carson City, Nevada
Tom Price, Executive Director, Black Rock Solar, Carson City, Nevada
Kyle Davis, Policy Director, Nevada Conservation League, Las Vegas, Nevada
Stuart Erdheim, Owner, Classic Solar Energy, Las Vegas, Nevada
Charles Benjamin, representing Western Resource Advocates and Nevadans for Clean Affordable Reliable Energy, Carson City, Nevada
Robert G. Johnston, attorney for Nevadans for Clean Affordable Reliable Energy, Carson City, Nevada
John Owens, Director of Resource Planning and Analysis, NV Energy, Las Vegas, Nevada
Gregory A. Kern, Director, Customer Renewable Generation and Energy Efficiency, NV Energy, Las Vegas, Nevada
Julia Curtis, Director of Strategy and Government Relations, Solar Energy Solutions Group, Sharp Electronics Corporation, Huntington Beach, California
Joseph Johnson, representing the Toiyabe Chapter of the Sierra Club, Reno, Nevada

Jo Ann P. Kelly, Chair, Public Utilities Commission of Nevada
Michael W. Yackira, President and Chief Executive Officer, NV Energy,
Las Vegas, Nevada
Carrie Cullen Hitt, President, The Solar Alliance, North Scituate,
Massachusetts
Dylan T. Shaver, representing the International Brotherhood of Electrical
Workers, Local 357; the Las Vegas Chapter of the National
Electrical Contractors Association; and the City of Henderson,
Nevada, Las Vegas Nevada
Lisa Corrado, Redevelopment Project Manager, Community Development,
City of Henderson, Nevada
Chad Dickason, representing Soleon Energy, LLC, Reno, Nevada
Michael J. Carano, Director, Rates and Regulatory Affairs, NV Energy,
Reno, Nevada
Randy J. Brown, Director, Regulatory and Legislative Affairs, AT&T
Nevada, Reno, Nevada

[The roll was taken, and there was a quorum present.]

Vice Chairman Atkinson:

We will open the hearing on Assembly Bill 186.

Assembly Bill 186: Revises the definition of “public utility” and “utility.”
(BDR 58-189)

Assemblywoman Sheila Leslie, Washoe County Assembly District No 27:

The intent of this bill is to modify the definition of a public utility to allow for what is called third-party ownership. Generally, third-party ownership is a financing mechanism for renewable energy systems that provides a utility customer with the opportunity to utilize renewable energy with minimal up-front costs. This topic has been the subject of debate before the Public Utilities Commission of Nevada (PUCN), so I have two of the Commissioners here with me today because it is unclear whether the existing definition of a public utility, in statute, applies to a third-party owner of a renewable energy system that is located on the premises of a customer, where the customer does not own the system. The PUCN ultimately decided that third-party owners of net metered renewable energy systems are not public utilities and are not subject to the jurisdiction of the PUCN.

In order to provide clarity and certainty that third-party ownership is allowed in Nevada, I have proposed this modification to the definition of a public utility. What is being distributed to you ([Exhibit C](#)) is an exchange from the docket where Commissioner Wagner made this clarification at the PUCN. Towards the

end of these three pages you can see an exchange between her and Mr. Brooks showing that the utility would not be opposing this type of legislation. When I walked into the room I understood there may be an amendment coming forward to tighten up the language a bit. Commissioner Wagner would like to talk to you about a possible amendment to limit this to one renewable energy system per premise.

That is really what I am after. I want to make sure that people who put this kind of renewable energy system in their own home have the ability to contract with a third party so that they can get the financing they need to make this possible.

Rebecca D. Wagner, Commissioner, Public Utilities Commission of Nevada:

It was my order at the Commission that provided for third-party ownership of certain renewable energy systems. I do not want to add to the testimony because it is a pretty straight-forward issue. What Assemblywoman Leslie brought forward to you just codifies what the Commission has done.

Samuel A. Thompson, Commissioner, Public Utilities Commission of Nevada:

I was also at the agenda meeting where this matter was brought forward. It came before us under the guise of a petition from regulatory staff for an advisory opinion, since they had been getting information from third-party vendors on this particular issue, that this is an illegal activity in Nevada because they would otherwise qualify as a utility. It was a definition issue, legally. At the agenda meeting, we rejected the advisory opinion, it was referred for an investigatory docket which Commissioner Wagner handled, and it was at that time that the comments were made that were just referred to.

Vice Chairman Atkinson:

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

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

We are here today supporting the concept of what A.B. 186 stands for. I did bring an amendment that I had not shared with the bill's sponsor until right before this hearing, so I would like not to distribute it at this point. After speaking with her and with the Commissioner who was in charge of this docket, we believe the language that will be proposed to narrow down the language will allow us to be supportive of the bill.

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

We are here to offer our support for this bill.

Tom Clark, representing Black Rock Solar, Carson City, Nevada:

I would like to turn this over to Tom Price who is the Executive Director of Black Rock Solar. We brought this forward with the members of the PUCN. Although this does not directly benefit Black Rock Solar, Mr. Price has some good insight into how this system works.

Tom Price, Executive Director, Black Rock Solar, Carson City, Nevada:

We are the country's largest nonprofit builder of renewable energy systems for public buildings, many of which have been built in northern Nevada for schools and hospitals. As one who builds systems like this, but who would not specifically be able to benefit from it, I feel like I am in a position to offer objective opinions.

When you purchase a home you do not come up with all the money up front. You get a loan to pay it over time. With renewable energy systems, however, those mechanisms are not yet in place, or rather the law has not been clear in Nevada. The result has been if you want to build a large system, say for a school district, you would have to come up with all the money up front. That is quite a burden for a school district. Third-party ownership allows an outside entity to come in, to put up the money, and to take the risk and enter into a long-term contract with the school district. They provide the money. The recipient of the energy then gets the benefit immediately and can lock in the savings for a period of 5, 10, or 20 years, whatever the term of the loan, and does not have to come up with all the money up front. It is not unlike paying a mortgage on a house.

The result of this bill would be to clarify for the marketplace the benefit of doing business like this in the State of Nevada, so that both small residential systems as well as potentially much larger ones would recognize that there is a clear regulatory environment for this financing mechanism. Those kinds of systems which are now common in other states would then be able to do business here.

I think the result would be an immediate uptake of renewable energy, and it would immediately create jobs. One of the great mechanisms in the stimulus package is an allowance for what was formerly a tax credit, now a grant, from the Department of the Treasury for up to a third of the cost of the system. For a third-party owner, it would make this much more attractive. If they can come in and make an agreement with a homeowner or a school district or a hospital or whatever, we can get those high-paying, green-collar jobs here in Nevada right now instead of them having to go to another state where the regulatory environment is clearer.

It is our opinion that this would dramatically increase the likelihood and speed of uptake of renewable energy and bring considerable stimulus money to the state.

Assemblyman Settlemeyer:

What is the amount of the checks from the Treasury?

Tom Price:

The details are being finalized, but it is my understanding that 30 percent of the cost of building a renewable energy system is available with no upper cap. It was previously capped at \$2,000, and it was a tax credit. Now it is in the form of a direct grant, and there is no upper limit either for residences or for other buildings or larger systems.

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

We also want to go on record supporting this bill. I think it has been very well explained that it could lead to more renewable energy installations in the State of Nevada

Stuart Erdheim, Owner, Classic Solar Energy, Las Vegas, Nevada:

I am a solar developer in Las Vegas, Nevada. I want to thank the sponsors of this bill and Commissioner Wagner for her leadership on this issue. Just to add to Mr. Price's comments, the robustness of the renewable energy programs in places like California and New Jersey has been in great part due to this issue. Third-party ownership has allowed a great deal of investment money to come in and to support these kinds of projects. It is the kind of thing we need here in Nevada, and it will permit renewable energy to go forward in an important way. I am in support of this bill.

Vice Chairman Atkinson:

Are there any questions from the Committee? I see none. Is there anyone wishing to testify in opposition? I see none. Is there anyone wishing to testify in the neutral? I see none. We will close the hearing on A.B. 186.

Assemblywoman Leslie:

I was unaware there were amendments outstanding. I will work with them and get you the proposed amendments.

Vice Chairman Atkinson:

We will open the hearing on Assembly Bill 402.

Assembly Bill 402: Revises provisions related to resource planning by public utilities. (BDR 58-888)

Assemblyman David Bobzien, Washoe County Assembly District No. 24:

This bill is what I would term a good government, good policy bill. It seeks to maximize public involvement and input in integrated resource planning. What you will hear about today is that integrated resource planning is an important part of how we get power to our citizens and how we produce that power in the state. It is my belief that the process, itself, would be better served if we had the ability for nonprofit public interest groups to gain party status for those proceedings in front of the Public Utilities Commission of Nevada (PUCN). Essentially, the meat of the bill is in section 1, subsection 2(c) which is a definition of the nonprofit corporation that I am hoping will be given automatic party status to these proceedings.

Vice Chairman Atkinson:

Do you have anyone you want to speak for you?

Assemblyman David Bobzien:

There are some people with the PUCN.

Assemblywoman Gansert:

I am not that familiar with the process at the PUCN, but I see you have it opened up to domestic, nonprofit corporations and associations. What happens with for-profit companies or industry representatives?

Assemblyman David Bobzien:

In the earlier discussions that I had with people putting together this bill, we talked about the possibility of also including for-profit companies. But, in the end, we decided not to include them. I was trying to be sensitive to the regulated nature of how we do power in this state. You could envision some problematic situations in which competing companies could come in and question the regulated utility's resource plan. That would be too complicated. Right now it is just for the nonprofit, public interest groups that want to raise public interest issues related to integrated resource planning.

Vice Chairman Atkinson:

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

Charles Benjamin, representing Western Resource Advocates and Nevadans For Clean Affordable Reliable Energy, Carson City, Nevada:

[Spoke from written testimony ([Exhibit D](#)).]

We come to you out of frustration because we have been trying to participate in the integrated resource planning dockets in this state for three years. When we do get into the dockets, we are severely limited, or we cannot get in at all.

What you see in the written testimony is a summary, going back to 2006, of the dockets that we have attempted to intervene.

The way the process works is that interested parties in integrated resource planning who want to get into the docket file what is called a Petition for Leave to Intervene. We have filed those petitions beginning with the 2006 integrated resource plan of the utility, and we were granted intervention. But that was the last time we were granted intervention, and it was seen as setting no precedent.

There have been several dockets in which the utility has come in to amend their integrated resource plan. We have attempted to get into four of those dockets, and in those we have either been limited severely or have been denied in the entirety.

If we do get in and are limited, we cannot get access to the information before we participate. We can only speak to those specific issues that the presiding officer says we can speak to. If we are denied entirely, we are not allowed to participate in the process.

[Continued from written testimony.]

We are not asking for any special treatment when we get in; we just want to participate. Where we have been allowed to intervene, we believe we have acted responsibly and have brought in experts. Some of our expert testimony has actually been adopted. We are not abusing the process and have no intent of doing so. We are not going to use it as a way to litigate the process. As members of the public we want to participate in a public process, and we are being kept out.

Vice Chairman Atkinson:

Are there any questions from the Committee?

Assemblywoman Kirkpatrick:

This bill would broaden your ability to intervene. Are we going to see people from other states coming in to get in on this process? What is the likelihood of that happening?

Charles Benjamin:

If you read the bill, it says "domestic nonprofit corporation" which means State of Nevada. It does not mean the United States. That is "foreign" in lawyer terms. You have to be incorporated in the State of Nevada to participate. Our organization is incorporated in the State of Nevada.

Assemblyman Settlemeyer:

I am concerned. I have a hydro-electrical power right. I do not have a hydro-electrical plant, but I have the right to put one in. I am worried that someone could come along and say that they do not want my green energy because it might harm the fish. All of a sudden I could be regulated by someone who wants to mainly push wind or some different form of energy.

Charles Benjamin:

That would not occur in this type of proceeding. This is integrated resource planning for the utility. The utility comes in with a plan that lays out what they want for their type of generation. They have a load forecast in which they estimate how much the demand will be and how they will meet that demand. This would not be a forum to do the kind of thing that you are talking about. The kind of thing that you are talking about would more likely be in what is called the Utility Environmental Protection Act (UEPA) statutes that have been in effect in Nevada since the early 1970s. This would just be a hypothetical example, but if you were in a county of less than 100,000, which is where UEPA applies, you have to get a permit from the PUCN, and you would be allowed to enter that docket. That is already in existing law.

This bill is different.

Assemblyman Settlemeyer:

I understand; however, I predate the PUCN, and I predate the State of Nevada Engineering Office and a couple of other agencies. I appreciate the answer; it gives me some clarification.

**Robert G. Johnston, attorney for Nevadans for Clean Affordable Reliable Energy,
Carson City, Nevada:**

In my comments ([Exhibit E](#)), I have focused on what are existing inconsistencies between the standard for intervention under the UEPA, which predated integrated resource planning, and the current practice of the PUCN. The UEPA was passed in 1971. In that act, the Legislature recognized the impact on the environment of constructing utility facilities and the needs for groups interested in conservation and the protection of the environment to participate in proceedings regarding construction of major facilities. We have no quarrel with existing UEPA statutes that specifically provide that nonprofit entities such as Nevadans for Clean Affordable Reliable Energy (NCARE) can participate in those proceedings.

What happened is that in 1983 the Legislature passed integrated resource planning (IRP) which has a big environmental component in it. The Commission in IRP is looking at the least cost plan to meet forecast needs for electric service

in the state. In looking at that they are considering not only the financial cost, but also the societal costs which take into account any environmental impact for the various alternative plans presented to the Commission. What has happened, over time, is the issue regarding environment and energy that used to be addressed in UEPA are now, in respect to NV Energy, addressed and resolved in IRP, before a UEPA permit is ever filed.

On page 4 of my comments, I indicate that by the time NV Energy comes in and asks for a UEPA permit to construct a facility, that facility will already have been reviewed and signed by the PUCN as part of a three-year action plan and IRP. That will only happen after the Commission has considered, with other factors, the environmental costs of that facility, and it is determined that the facility is part of the least-cost plan to serve the state's needs, and only after the utility has been assured that it may recover all costs reasonably incurred in planning and constructing the facility.

If entities such as NCARE have the ability to intervene by statute in a UEPA proceeding but are excluded from the IRP process, that ability is of little value. By then, the facility is a done deal. If you look at the UEPA statute, it talks about the things the Commission needs to find before they approve construction of the project. They need to consider the following: the nature and the probable effect on the environment, the extent to which the facility is needed to assure reliable utility service, whether the need for the facility balances any adverse effect on the environment, and whether the facility represents the minimum adverse effect on the environment considering the state of available technology and the nature and economics of various alternatives.

I would submit to you that, with respect to facilities built by NV Energy, virtually all of those items have been addressed in whole or in part in the IRP. That is why it is so important for an entity such as NCARE to have a voice in the decision proceeding, which is the IRP.

To follow up briefly, since I have been involved with NCARE, the Commission has not denied all of our petitions to participate. They have granted some in part, but our participation has been limited in ways that I do not think are consistent with the legislative intent of IRP when first enacted by the Legislature. As an example I would point to what occurred last spring in docket numbers 08-03034 and 03035 which were amendments to NV Energy's resource plans. Nevadans for Clean Affordable Reliable Energy had expressed interest in participating in the proceeding for the purpose of reviewing the reasonableness of the power company's load forecast. They were updating their load forecast, and if you look at resource planning, load forecasting is a critical part of it because you build facilities to meet forecasted loads.

The Commission denied NCARE's ability to participate on that issue. They said we had no direct and substantial interest in assessing, in resource planning, the reasonableness of the utility's load forecast. We do not think that is consistent with the purpose of resource planning. We think that legislative direction to the Commission is needed in this respect. The practical effect of the Commission's posture is that on issues such as load forecasting, they are hearing only three voices: the company, the Commission staff, and the Bureau of Consumer Protection. Everyone else is told that if they have something to say about load forecasting, they can submit comments, but the Commission is not going to allow you to be a party of record. You will not be allowed to present expert testimony, and your comments will not be considered evidence under the Administrative Procedure Act when the Commission renders its decision on that docket.

That is our concern. I would also point out that up until approximately seven or eight years ago, I would have thought this legislation was unnecessary. From the time resource planning was adopted or enacted by the Legislature and the first regulations were promulgated in 1983, up until 2001 or 2002, the PUCN had a very liberal standard of intervention, and we would not have been having this discussion. Entities such as NCARE would have been allowed to participate in resource planning. It was only about six or seven years ago that the Commission raised the bar for intervention. I believe the concern of the PUCN was that the process could be abused, and that if you adhered to the more liberal standard of intervention that had prevailed for the first 20 years of resource planning, you would have people trying to game the process, running amok in the proceedings, and slowing down the process. We think that there has been an over-reaction to that fear and the Commission has adopted a policy that, in effect, is punishing the many to get at the few. We think you can adopt a standard similar to what is statutorily mandated under UEPA, and it would not delay or expand or unduly burden the Commission.

Vice Chairman Atkinson:

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

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

Our organization is also a member of NCARE, and we are in strong support of this legislation. We think it is very important in terms of public involvement in what our government does. It will be a strong step for the Nevada Legislature to stand in favor of this bill.

Vice Chairman Atkinson:

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

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

With me today is our Director of Resource Planning, John Owens. We are in opposition to A.B. 402. We did speak to the sponsor about this bill prior to the session, and he is aware of our opposition. We do not think it is necessary, and we think the Commission does a good job in determining who should or should not be a party to the resource planning dockets.

John Owens, Director, Resource Planning and Analysis, NV Energy, Las Vegas, Nevada:

As Ms. Stokey stated, we believe this legislation is unnecessary as Commission rules already allow intervention. Under the Commission's current rules any person or entity who demonstrates a direct and substantial interest in the proceeding may participate as an intervener. The Commission has applied this rule in a manner that encourages and fosters public participation. As NCARE's representatives mentioned, they indeed have been parties to a number of our integrated resource planning dockets.

Our primary concern, and the main reason we are opposing this bill, is that resource planning proceedings often contain confidential financial information. One example of this would be the cost of purchasing renewable energy from wholesale providers. It is in the public interest to protect this information since the release of this information could undermine the competitive bidding process, resulting in higher prices for Nevada's electric customers. We feel it would be very difficult to protect this information, as broadly as this has been opened up in the proposed legislation.

One example is in the proposed language in line 5, on page 2, which says, "represent commercial and industrial groups." I can envision a nonprofit entity that represents a renewable energy industry association intervening in our case. Currently, we have a protective competitive bidding process to procure those resources, as required under Nevada's renewable portfolio standards, at the lowest possible price to protect our customers. We feel that language would open up intervention to entities that may have a commercial interest rather than a purely environmental interest.

In addition to interventions that are allowed by the Commission in this process, our facilities go through many other siting and licensing processes. The National Environmental Protection Act (NEPA) has an environmental review, and

these groups can participate in that process. There are also other significant permitting processes that our facilities would need to go through before they would get to a UEPA proceeding. These groups are free to participate in all of those processes. I question that our projects are anything but a done deal by the time the resource planning process is over. It is one step of many steps in providing new resources to the state.

Finally, integrated resource planning processes operate on a fairly short time frame. We are concerned that multiple interventions could inject delay and inefficiency into the hearing process by having an unwieldy and unmanageable number of participants.

Assemblywoman Gansert:

In looking at this, it actually says with your forecast or plan that you are supposed to consider economic, environmental, and other benefits to the state. Is that part of the process that you go through right now when you put together the plan?

John Owens:

Yes. The integrated resource planning process provides extensive economic analysis of how we are going to meet the state's future electric needs. We do very significant economic analysis for a variety of alternatives and options to meet those needs, and there is a robust debate and discussion amongst all the parties, which also include the staffs of the PUCN and the Bureau of Consumer Protection, and customers who have been granted intervention. It is very extensive.

Assemblywoman Gansert:

How frequently are these plans due?

John Owens:

Integrated resource plans are currently filed every three years. NV Energy's southern region will be filing one on July 1st of this year, and the northern region will file one on July 1st of next year.

Vice Chairman Atkinson:

Are there any questions from the Committee? I see none. Is there anyone else wishing to testify in opposition to this bill? I see none. Is there anyone wishing to get on the record in the neutral position? I see none. We will close the hearing on A.B. 402.

We will open the hearing on Assembly Bill 448.

Assembly Bill 448: Revises provisions governing incentive programs for renewable energy. (BDR 58-511)

Assemblyman David Bobzien, Washoe County Assembly District No. 24:

This bill is the last stop on a long road that I have personally taken over the last year or so looking at some of the incentive programs we have in the state for renewable energy and trying to answer some questions concerning: how we can make these programs better, how we can use them most effectively to promote renewable energy in the state, how they can serve all the interested constituents as effectively as possible, and how we can make them easier to understand. I am a firm believer that the policy we develop on renewable energy in this state should be something that the average Nevadan can pick up and comprehend quickly.

I also have brought an amendment ([Exhibit F](#)), and I have Commissioner Wagner here with me who will go through this amendment and give you the tour. I will give you an overview.

We have received input from installers, labor organizations who work in this field, NV Energy, different consumers, and different groups who want to see renewable energy expanded in Nevada. The shortcoming of the existing programs is that there is an antiquated process to go through to make an application. We oftentimes have successful applicants who then do not go through with the project, but who take up room from others who are more willing and more capable of going forward with their renewable energy projects. We talked about ways to grant the administrators of the programs more ability to remove those nonperformers and other ways to try to clean up the programs. We finally had the idea that we just needed to make things simpler. We needed to set a goal for these programs, set a time frame for when that goal would be reached, and then set up a mechanism whereby the rebate levels themselves would descend, over time, as we came closer and closer to the completion of that goal.

My hope is that for those who take the time, fill out the paperwork, get into the program, and then sit on their hands and do not do their project, their incentive to complete the project goes away because if they wait to do their program, they will get a lower rebate level in the future. This new design for these programs will, we hope, go a long way toward making it more transparent, easier to understand, and at the end of the day, incentivize as much renewable energy as we possibly can.

Vice Chairman Atkinson:

The amendment you are talking about is in our folders.

Rebecca D. Wagner, Commissioner, Public Utilities Commission of Nevada:

From the Commission's perspective—and having been the one who has drafted regulations from previous sessions and trying to deal with how we can make the program work better—I worked with Assemblyman Bobzien with some ideas to synthesize the goals of the Legislature along with the hurdles we see at the Commission.

The main goal of this amendment is to make the solar program goal-oriented so there is a target of an installation of 50-megawatts of solar energy systems by 2019. There will be a system of incentives that are broken down by program and category capacity goals, and these incentives will decline over time as we approach the 2019 time frame. Most importantly in this program, we are taking away all of the regulatory and statutory hurdles and giving it maximum flexibility so that the utility can implement the program. If a person wanted to install a solar energy system, they would do the paperwork, get all their information in, and be able to do their project without waiting nine or twelve months and having the uncertainty of the existing system.

This amendment will require an energy audit or a survey of the participant's property so we know they are including all the energy savings measures in advance before they invest \$30,000 on the system for their home. We want to maximize the benefit for the ratepayer.

We have eliminated the reporting requirements of the utility to the Commission. Instead, they will just give us the highlights of how the program works through their annual renewable portfolio standards (RPS) report. Another addition is a website that monitors an applicant's progress throughout the process.

Those are the highlights of this amendment. We have some transition language so that as the Commission needs to adopt new regulations, the existing rebate levels that are in place are not diminished. It is turning the program upside down and making it work in a more consumer-driven and more goal-oriented way.

Vice Chairman Atkinson:

Are there any questions from the Committee?

Assemblyman Anderson:

Please explain the section in the amendment in which you are contemplating a change in *Nevada Revised Statutes* (NRS) 701B.240 and are anticipating that participation in the Solar Program will be on a first-come, first-served basis. What would be the net effect? What about someone who makes application and then does not move forward; would they preclude the opportunity for

someone else to become involved in the program, who may be well intended and better able to move forward?

Rebecca D. Wagner:

I struggled with the concept of first-come, first-served because what is happening right now is that people sign up and then do not act, which prevents someone who wants to participate from participating in the program. That is largely what drives the attrition level of the solar generations program. This is not perfect, and I would like to have the opportunity to work with the solar generations program and anybody else interested in setting it up so that if you complete your application, are accepted because you have met all the requirements, install and interconnect, and have your system verified, then you would get your rebate level. There has to be some leeway built into this so that if you want to put solar panels on your house in northern Nevada and it is January and there is snow, obviously, you are going to need a little more time.

The goal was to make it consumer-driven so that people would not take up space and not perform, but there is also the other side of it: the consumer also needs a little time to cure or be able to implement it.

Assemblyman Anderson:

Not to be argumentative over the issue, but I thought from your testimony that was the whole purpose: you were concerned there were people taking up space but who were unable to act. I thought we wanted to get as many people into the program as possible, and if this precludes people from participating in the program, why would we want that?

Rebecca D. Wagner:

I will try to answer that. It is not intended to preclude. The problem now, why people cannot complete their projects, is the timeline. There is a built-in program, and certain steps have to be met. Once you have been accepted by the Task Force, you have to wait a certain amount of time, and that is where people drop out. It can be anywhere from six months to nine months to a year before they actually can get the go-ahead.

What this is saying is if you submit everything to the utility in your application, that is you have dotted your "i"s and crossed your "t"s, you can start immediately. You do not have to wait for the lengthy approval process. That is what we are trying to avoid with the first-come, first-served basis. We want to motivate the consumer to get their act together and to get it done with no artificial timelines created by a program year or by waiting for a Task Force approval, or Commission approval. If you do it and get it done, you can get your system going.

Assemblyman Anderson:

If I have all my paperwork done and have the economic resources but am the 40th person in line, I would be stuck even though the 3rd person in line may not have the economic wherewithal to move forward.

Rebecca D. Wagner:

I see what you are saying. If you are the 50th person to sign up and you get your project done faster than the first person, that first-come, first-served basis should not come into play. If the first person in line does not complete, they are likely to be dropped or fall into the next rebate category. If you are number 50 and you get your stuff done before number 1, then you are good to go.

Assemblywoman Gansert:

This looks like an incentive program. Is the PUCN officially promoting this bill?

Rebecca D. Wagner:

No. The Commission does not officially have a position on this, but the Commission has to address this issue. I have an existing docket pending right now addressing some of these issues because of the solar generations program and unused capacity from previous years. I offered my assistance to Assemblyman Bobzien to try to get it fixed once and for all. I was here last session trying to fix it, and I am just trying to lend my expertise and my obsession with making this program work and getting it done so we do not have to keep coming back.

Assemblywoman Gansert:

On the incentive, how do you come up with the amount? Is that amount already established, or who negotiates that?

Rebecca D. Wagner:

The Commission in regulation, right now, establishes a rebate system based on a "per watt" basis which declines annually whether or not people have signed up for it. That was the basic unfairness of it. The Commission has a rate of \$2.80 per watt for a residential customer and that is consistent with what other states are doing throughout the country. This is how much money you need as an incentive to do this and to help offset some of the costs.

Assemblywoman Gansert:

It talks about public and private property, but there is a clause in the amendment that talks to prevailing wage. Would you have to follow prevailing wage law if you were installing a system on private property?

Assemblyman Bobzien:

This is merely a clarification about the public property projects, whether they are schools or other institutions.

Assemblywoman Gansert:

The amendment talks about public or other property defined as real property which could also include nonprofits. I guess I understand that now. Thank you.

Vice Chairman Atkinson:

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

Assemblyman Bobzien:

I want to thank all of the people who have been involved over the last few months, giving me their input and their perspectives on this. It has been an interesting process. I want to express my appreciation for Ms. Wagner's hard work that she has put into this.

Vice Chairman Atkinson:

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

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

With me today is Gregory Kern who is our Director of Customer Renewable Generation and Energy Efficiency. He actually runs these programs. We are very supportive of these programs, and we do admit there are issues that could be worked out, which would change the program so that it would work more effectively.

Gregory A. Kern, Director, Customer Renewable Generation and Energy Efficiency, NV Energy, Las Vegas, Nevada:

I have the privilege of running many of the energy efficiency programs and renewable energy programs here in the great State of Nevada. I want to talk about A.B. 448. It proposes some changes to the program that I think will help us and will improve the program. I want to use some of my time to speak in broader terms about how the program works so that we are on the same sheet of music before we get down to the details.

Solar Generations is now five-years old. It started right here at the Legislature. The Legislature required the Public Utilities Commission to write regulations and detail how the program would be run. The regulations lay out what the utility will do, what the governor's Energy Task Force will do, and what the Commission will do. The program is simple. A customer of the utility signs up to take part in the program so that they can get a rebate on their solar installation. If the Task Force selects them to become a participant and they follow the requirements, they receive a rebate for a portion of their facility.

This rebate is paid for by the ratepayers. There is a line item on your bill which says "REPR" which stands for the renewable energy program rate, and it shows exactly how much you are paying for this program. Historically the Legislature sets the program caps. The Commission sets the rebate amounts, whether they are \$2.50 or \$5.00. Right now there is a difference between a small business and an individual who get one rebate, and a school and a public building which get a rebate twice as large because they cannot take advantage of certain tax benefits. The utility runs the program, and the ratepayers pay for it.

In the last five years we have accomplished a lot. We started an industry. The utility is proud of that. Five years ago it was very difficult to find an installer; now there are dozens of people who will install and design the system for you. Five years ago your homeowners' association rules precluded you from installing these in many neighborhoods. Now you can install them anywhere. Five years ago building inspectors were not trained to accept these systems. They did not know what they were looking at from a safety point of view. Now they know. Over the last five years many program problems have also been worked out. Rules have been changed so it is easier for people to participate, and they have a little more time to construct.

I agree with Assemblyman Bobzien and Commissioner Wagner that the biggest single problem is that someone will hold their capacity and not release it. They will sign up, not build, but not give up the capacity so someone else can build. That needs to be fixed.

We look forward to working with all parties in making this program even better.

Vice Chairman Atkinson:

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

Tom Clark, representing Black Rock Solar, Carson City, Nevada:

I am going to turn this over to Tom Price.

Tom Price, Executive Director, Black Rock Solar, Carson City, Nevada:

I would like to use an analogy to help you understand the problem with this program but also the opportunity here. Imagine you heard there was a great sale on plasma screen televisions at Best Buy, and it was only until midnight. So you went there, and there were a lot of people in line. The problem we have run into with this program is as if someone got in line ahead of you and then sat there holding that television set. They did not buy it, they did not put it back on the shelf, and then it was midnight, and the sale was over. What this bill will do, in part, is make sure that the people who actually want to buy the plasma screen can buy it and get that coupon before it expires.

Nevada has the best incentive program in the country for renewable energy. There is enough solar power falling on Washoe County to power the country. The problem has been implementing this exceptional program and getting it into the hands of people who want to use it before they get tired of waiting and give up. I cannot tell you the number of homeowners who have wanted to do this, but when they call the contractor, are told they will have to wait until September before they can apply. Then it could be up to nine months before they can appear before the county, and by that time the person may have moved on.

We think this bill will make it a lot easier for a lot of people to participate in the renewable energy feature and bring those jobs to Nevada.

Vice Chairman Atkinson:

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

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

The Solar Alliance is a consortium of some of the largest solar developers, installers, and financing entities in the country. You will recognize some of the names of the larger companies, including Sharp Solar, British Petroleum, and others. I am joined this afternoon with the Nevada representative for The Solar Alliance, Julia Curtis. I want to express our appreciation to the sponsor of the bill and in particular to Commissioner Wagner for helping to advance a program that we have found to be extremely important in our efforts toward expanding distributive generation of solar in Nevada.

I would like to turn the rest of my time over to Ms. Curtis to speak to the bill. We did have a chance to chat with the sponsor today. We are aware there is an amendment, and we are willing to work with all parties toward a mutual understanding of how to proceed.

Julia Curtis, Director of Strategy and Government Relations, Solar Energy Solutions Group, Sharp Electronics Corporation, Huntington Beach, California:

Sharp Electronics is one of the world's largest manufacturers of solar panels. Nevada is certainly the prime spot for solar, and I want to commend Assemblyman Bobzien as well as Commissioner Wagner for the leadership they have taken. I just received a copy of this amendment, so there are a couple of nuance issues that I would like to propose modifications to, but generally, I believe that this bill addresses the high drop-out level that Nevada currently has in their solar generations program.

One of the concerns The Solar Alliance has is how to redefine individual system sizes for each category, which are currently set too low, and therefore we are not meeting the potential that Nevada has. Currently, the residential cap is 5 kilowatts and the small commercial cap is 30 kilowatts. These systems should be increased so they capture both homes and businesses with larger electricity loads.

The Solar Alliance is seeking to improve the efficiency as well as the capacity of the Solar Generations programs in addressing, in particular, the rebate program. We commend the leadership for taking the best examples that have come from the California solar initiative program and also the lessons learned from that program in terms of tiered rebates that would decrease over time, and making sure that capacity is met. We would definitely want to be sure that the capacity level for the Solar Generations program is spelled out in this legislation amendment, which provides for the installation of 50 megawatts of solar by 2019. We believe this level is far too low, and a ramification of that will be that you will see the majority of solar manufacturers and installers going to other states.

We see President Obama's leadership on a federal renewable portfolio standards (RPS) bill that will be passed sometime this year. I think it is important that Nevada take a leadership role in meeting, if not exceeding, what that federal RPS is likely to be. If you put a capacity cap as low as mentioned in this bill, it is a problem.

We could provide some written recommendations and modifications to the amendment.

Vice Chairman Atkinson:

Please work with the sponsor on that. Are there any questions from the Committee? I see none. Are there others wishing to speak?

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

We are in support of this bill. I would like to point out this program is incredibly important because, ideally, this is where we need to go in terms of creating a new energy infrastructure in this state and throughout the country. If we can figure out a way that we can install home-based and business-based energy systems, it will cut down on the need for large power plants and large transmission lines. I think we will all be winners in the long run, and it is going to be a key step in dealing with some of the environmental challenges that we face.

I have reviewed the amendment, and I think this is an excellent concept of where the program needs to go, and hopefully it will result in getting more and more people to be a part of this program.

Assemblyman Conklin:

I am curious. If we take a cap off of this and allow individual homes and businesses to participate, what effect does that have on the predictability of the demand of the grid energy sources? Is there an effect?

Rebecca D. Wagner:

You did not finish your question, but I saw where you were headed with it. Because we set a maximum, targeted goal of 50 megawatts by 2019 and the Commission will set the incentive levels based on capacity blocks, we will know, generally, what the impact is from how many systems are going to be installed on an annual basis. The 50-megawatt target falls well below the net metering 1 percent cap that is in existence right now. The 1 percent was the tipping point of when we will have impacts on our system because of distributive generation. I do not know if the 1 percent cap is correct. But, the 50-megawatt target was such that you should not have any system reliability issues or issues of demand and would be able to monitor that progress with each annual utility filing.

Assemblyman Conklin:

I am not so concerned about reliability. What I am concerned about is the need to purchase excess energy because you do not know what you are going to need. You cannot accurately predict the number of sunny days or how much energy will be out there. I am not opposed to the idea. I am trying to figure this out: if the grid is normally 6,000 and you can produce 100 this distributive generation, but the distributive generation actually operates at 60 to 80 percent, then you need to purchase some extra, but you do not know if it will be used. I need to know that there is an overflow valve so that the ratepayers are not caught with the extra purchase just to safeguard what may not be predictable.

Rebecca D. Wagner:

I am trying to formulate a decent answer for you. When a utility constructs for its native load, it builds to ensure that it can make and deliver power reliably up to its system peak. The system peak is 6,000, for instance, and that does not happen every day. These systems will have generation available to meet that 6,000 regardless of the renewable energy systems that are individually sited. They actually work as a benefit on a sunny day in Las Vegas to reduce that peak load. The utility would not be caught in a position in which it was relying on 50 megawatts of distributive generation. You will always have that backup; plus there are operating reserves available in contingent situations.

Vice Chairman Atkinson:

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

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

We are in support of this bill. I would like to be included in the working group on this. Back to the Chairman's question, there are variability loads within the prediction. There is always the thought on photovoltaics of the 100-megawatt cloud, that is, that transient cloud that comes over in the summer and lowers demand on air conditioning. It would be lowering the production from individuals, but those are normal variances.

Vice Chairman Atkinson:

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

Stuart Erdheim, Owner, Classic Solar Energy, Las Vegas, Nevada:

I support most aspects of this bill because it will increase the opportunity for renewable resource development in the Nevada economy. I do not have a copy of the amendment, so perhaps my concerns are addressed in that amendment. I do not support sections 2 and 11 of this bill. The term "solar power purchase agreement" contained in these two sections requires that a utility be included as a party in all solar power purchase agreements. Including this requirement will prevent nonutility renewable resource firms, also known as third-party renewable energy developers, from participating in these agreements. If this section is not changed, adoption of this bill will effectively prevent private companies from investing in the development of renewable resources under the solar generations program.

If a utility plans to ratebase a capital expenditure for these projects, then ratepayers would theoretically be paying more for those projects utilizing

purchased power agreements originating with the utility, than those done by private developers who use capital that is not ratebased. Throughout the nation, third-party developers have created robust renewable energy markets in California, New Jersey, and Colorado, and these companies rely on private capital, not ratepayer support, as they develop renewable resources for a wide range of public and private customers. Therefore, I respectfully request that you amend A.B. 448 to allow third-party developers as well as utilities to participate in solar power purchase agreements in Nevada as they do in other states.

Accomplishing this objective can be done in one of two ways: either include the language, "solar power purchase agreement means an agreement between a utility or a nonutility provider of electric service," or simply remove the whole section.

Vice Chairman Atkinson:

Are there any questions from the Committee? I see none. We will close the hearing on A.B. 448.

[A document was presented ([Exhibit G](#)) for the record.]

We will open the hearing on Assembly Bill 387.

Assembly Bill 387: Makes various changes to provisions concerning energy resources. (BDR 58-223)

Assemblyman Marcus Conklin, Clark County Assembly District No. 37:

[Distributed a proposed amendment ([Exhibit H](#)).]

You have before you today A.B. 387. This bill attempts to address a very limiting position for our state in terms of the development of renewables and its ability to reach its renewable portfolio standard (RPS). This is an old problem that has existed forever and is commonly referred to as the chicken and the egg and which comes first. In order to develop renewable energy, you have to be able to get it to market. There may be a place where renewables are highly developable, but if they are remote and there is no way to get the energy to market, what is the point of developing? Conversely, there may be a desire to build a freeway, in this case transmission, to a place where renewables are developable, but without some assurance that the product will be developed, what is the incentive to build the freeway?

This bill creates competitive renewable energy zones to address this issue. In essence, this bill allows for the Public Utilities Commission of Nevada (PUCN) to

review zones that are hot spots for renewable development and then allows our PUCN to bring in plans to address the chicken and the egg problem. They do that by planning out their transmission development through either main lines or feeder lines to the hot zones. The PUCN can approve those for development provided they have assurances that the development is, in fact, going to take place. Doing it this way will encourage faster development of our renewables in our marketplace.

Over the last several days I have worked with several of the PUCN Commissioners, the two that you see here, and also last night with the Consumer Advocate, Mr. Witkoski, and in the Attorney General's Office, Mr. Figueroa, to make sure that we have drafted language that is loose enough to encourage and foster growth in this area, but not so loose that we have problems with developments that do not actually yield what our consumers desire, which is meeting the renewable portfolio standard.

Most of what is in the bill covers these energy zones. There are two provisions, in addition, that I would like to bring to your attention. The first is that this bill also raises the renewable portfolio standard. The current portfolio standard is 20 percent by 2015. We want to raise it to 25 percent by 2025. Those are the plans most likely to come out of Congress as they are pushing a RPS standard that they can address nationally. Within that standard, the solar component is also raised. Many of you know that there is a solar set-aside in the RPS that is currently 5 percent. We are proposing to raise that to 6 percent by 2025. The mock-up amends the way the bill was drafted because the bill put it in place right away, but you cannot develop solar overnight. We would be out of compliance with our own statute. There is a time frame to reach that. It may sound like a small portion, but I think there may be some testimony that if growth projections are right for energy and populations and so forth, the solar component actually could be rather significant by 2025. If this bill passes, the solar component actually would be close to twice what would be expected under current statutes.

Because of the multiplication effect, there is a real expansion of the actual kilowatts necessary to meet the solar set-aside of this component.

There is another provision that is in the mock-up, and it allows for the outside purchase of renewable energy by our monopoly utility, NV Energy. It is important because there is no doubt that the price of renewable energy is higher than every other type of energy that we have. By not allowing the utility to go into the open market to purchase those renewables, you create a secure environment in which developers are able to "hog tie" our energy company into purchasing only that which is available to them. As you can see, that would

have a negative impact on the price our consumers would have to pay for renewables. What this bill does is free up the market, and it puts competitive pressure back into the marketplace to deliver renewables at an affordable price.

That is all that is in A.B. 387. I have, however, some background to provide and I would like the opportunity to continue to work on this. I requested to amend this mock-up to address an issue that has come up before this Committee many times in the past which has to do with providers addressed in *Nevada Revised Statutes* (NRS) Chapter 704B. These are people who, for whatever reason, whether they need a certain amount of energy stability or what not, have moved off the grid. Every year we have this issue to deal with—what standard are they under? Are they under the standard from which they came off the grid, or are they under the new standard that is being proposed, or a new standard that has changed? There are two points to this argument. One is if we are going to have a standard, it should apply to everybody. The other part of it, however, is a situation in which you are going to develop and you are a small developer—in this case for a very specific purpose which is the only reason we let them off in the first place—and then you make a capital outlay to build for 50 megawatts or 100 megawatts. If the standard continues to go up but you have no more need, you are constantly chasing a new energy that you do not need just to meet the standard.

What I have proposed, and to the best of my knowledge all parties have agreed to, is to have a limited grandfather provision. The limited grandfather provision would work as follows. When you apply, you enter an agreement that if you go off the grid, you are going to produce "x" amount of energy. That energy will be produced at the current standard, and that standard remains tied to that agreement. Should you want to come back at some later time and expand your production, then your new agreement would operate under whatever the new standard is. In that way, as you develop, you may have to develop more renewable resources when you come and reapply for more energy, but the fact of the matter is, you are able to plan because of it.

To the best of my knowledge, everyone has agreed to this conceptually, but I have not had time to put this together since it is complicated to draft. We still need to tighten up the language so that we get it just right.

Assemblyman Anderson:

I want to make sure I understand. In the mock-up, you have changes to section 6. That section deals with the time frame, when these renewables have to be to a certain level and they are not going to change over what current law is. Is that the reason you are moving away from the 25 and back to the 20 percent?

Assemblyman Conklin:

The way the bill was originally drafted, on line 21, they actually increased the RPS by 2014, which is five years away. That was not my intent. My intent was to expand the RPS to 2025. What you see is a reflection back to current law on line 20. Then, in paragraph (f), it is also current law that by 2015 it will be 20 percent. Then paragraph (g) is really where the expansion is from 20 percent to 25 percent.

Assemblyman Anderson:

Do you not anticipate the growth in this area to be as substantial as the growth that will have taken place between 2005 and 2015, a ten-year time frame, as compared to the following ten-year time frame? Are you only anticipating a 5 percent growth in solar energy?

Assemblyman Conklin:

No. I absolutely believe the growth in renewables should greatly exceed that. The question becomes, do you want our ratepayers to bear the burden of the higher cost of that renewable, or do we want that generation to go to other states that will pay twice what we are willing to pay for it. If that generation is produced by our utility, it actually "purchases down" the price of renewables for our consumers. We can raise this to whatever you want, but then again, we are operating in a closed market where the price is being driven higher. Or we can have some reliable standard that meets certain criteria and anything above and beyond that is used as an export for our state. My personal preference is that choice.

Assemblyman Anderson:

I can appreciate that. It seems that when we set the standards, we were trying to set a goal to get them off ground zero and to get them moving in this direction, and if we have not set a high enough standard, we would still be sitting at ground zero. I do not want them to think that 25 percent is a high enough rate for us to move toward. I think we should set the standard higher.

I recognize your desire to continue to work on the bill. As this is such a dramatically changing field, you have the opportunity to move forward. Is it not a disincentive if I come in and double the size of my capacity if, at the same time, I also have to upgrade the existing facility to meet the newest standard, when I was anticipating another level? Not only do I need to do an outlay for the existing facility, and its return, and how long it will be until it pays for itself, but I also have to do a look-back. That would be a greater disincentive to the economic investment in upgrading the system as a whole.

Assemblyman Conklin:

You are talking specifically to my last proposal that is not in the mock-up. Yes, there will be an increased standard, and you will have to go back and meet that. However, that is far easier to plan for if you are a small producer of your own energy, than having a changing target once you have built and do not need additional capacity but are left to meet a newer standard. So you have to build some more solar, which means you have to increase the amount of production you have, but you do not necessarily need that energy, so it become excess.

What I was trying to do was find a compromise that our standards would apply to everybody. But in this particular case as long as your power needs do not change, whatever standard and capital investment you made initially, we will honor that. If you choose to change it, when you come back, you have to be held to the then-current standard. I think the parties involved will tell you that they agree it is a fair standard for everybody.

Assemblyman Anderson:

I just would not want it to be a disincentive to get the most energy efficient system available to me if I had to meet a higher standard that was going to be so substantial that I would not do the investment because my energy needs were such that I could come in at that level.

Assemblywoman Gansert:

Where are we right now with our portfolio standards?

Assemblyman Conklin:

I would prefer we let one of the PUCN Commissioners and/or NV Energy answer that question.

Vice Chairman Atkinson:

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

Rebecca D. Wagner, Commissioner, Public Utilities Commission of Nevada:

I do not have anything to add to Assemblyman Conklin's presentation, but since this body has decided to pursue renewable energy as a matter of public policy, I believe that A.B. 387 helps to reach that goal. I think Assemblyman Conklin has put in safeguards to ensure that both the renewable energy developers and the utility and ratepayers are all sharing the risk in this venture and also receiving the benefits from it.

The Commission does not have an official position on this bill, but as an individual Commissioner, I do absolutely support it, and I think it is one method

of addressing the chicken and the egg issue that no state has been able to tackle successfully. So far this is the best shot.

In answer to Assemblywoman Gansert's question, the utility filed their annual report today, and I believe they are in full compliance for 2008.

Sam A. Thompson, Commissioner, Public Utilities Commission of Nevada:

I am one of the three Commissioners on the Public Utilities Commission, and like Commissioner Wagner I am personally in support of this bill. The Commission, itself, is neutral. I would like to speak specifically to section 5 on the amendment, on page 4. As you can see, extensive work has been done, and just very briefly, my analysis is that I am comfortable with the way this language operates to allow the Commissioners to hear these cases. The Commissioners act as presiding officers and actually hear these cases. In an integrated resource plan a presumption of prudence arises; and this is what this language talks about. There is a secondary examination in the general rate case, and that is the just and reasonable standard that you have heard. That is an old 1923 United States Supreme Court standard. This preserves all of that analysis. I think it does solve the chicken and the egg situation in that it incentivizes the investor-owned utility (IOU) to come in with an integrated resource plan and receive that stamp of prudence to move forward, and yet protects the ratepayers in a general rate case where the presiding officer gets to determine, based on the evidence presented in the case, if it was a just and reasonable expenditure.

Vice Chairman Atkinson:

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

Jo Ann Kelly, Chair, Public Utilities Commission of Nevada:

I thought if I continued to sit in the audience with everyone saying that the Commission is neutral on this bill, and that they are personally in favor of it, it could be interpreted that I was not in favor of it. I felt it was incumbent upon me to sit with my other fellow members and let you know that even though the Commission is not taking a position this year—we have no bills—we are here to help the legislators and the Legislature with technical assistance throughout this session. That is the basis for why we stay neutral on most of the bills that come before you. I do want you to know that, personally, I do believe this bill has been crafted very well. I am personally in favor of it.

Assemblyman Settlemeyer:

You agree that this will allow the sharing of the risk and help keep the price more structured for the people already in the system?

Jo Ann Kelly:

I do agree. I think one of the issues that has been a struggle has been production and transmission, and I think this is the best approach that I have seen.

Charles Benjamin, representing Western Resource Advocates, Carson City, Nevada:

I am in favor of the bill. In fact, I brought this bill concept to Assemblyman Conklin last December because I had seen what this concept has done in Texas and Colorado. Texas had a problem. They had enormous wind potential in west Texas. They had high demand in the Dallas/Fort Worth/Houston areas. The problem was there were wind developers with no transmission. They were stuck, and they could not change that situation through the Commission so they went to the Legislature. It was Texas that created this process of what is called competitive renewable energy zones. The idea is you allow the Commission to identify zones in the state that are prime areas for renewable energy. Then the utility can go to the Commission and show they have a plan for transmission that would bring that renewable energy to load, and if that is approved, they get accelerated cost recovery. That breaks the chicken and egg problem. That has proven enormously successful in Texas, and they are now well beyond 7,000 megawatts. They are on the road to 10,000 megawatts, which will be far beyond anyplace else in the nation. Colorado has adopted the same concept, and it is starting to work in Colorado as well.

On motivation, we are concerned about climate change, and we would like to move away from carbon-based electric generation and move toward more efficiency and more renewable energy. We think this bill will go a long way toward accelerating that process.

If I may, I would like to speak to Assemblyman Anderson's question about whether we should set a cap on renewable energy of 25 percent. I think this bill will allow the utility to go far beyond 25 percent much more rapidly than they have in the past. We are doing an analysis in my organization which shows very rapid adoption of renewable energy in a time frame even quicker than this. This concept will allow that to happen. I thank Assemblyman Conklin for working with me along with the other parties to draft a bill that I believe is well conceived and will go a long way to making Nevada the number one state in the nation for renewable energy.

Michael W. Yackira, President and Chief Executive Officer, NV Energy, Las Vegas, Nevada:

I am pleased to be here in support of this bill. As you all know, the Nevada Legislature took action in 1997 to be one of the first three states in the United States to institute a portfolio standard. Our company, 11 years before it was statute, started contracting for geothermal power in northern Nevada, so there is an understanding in our company of the importance of renewable energy. It is particularly important for a state that has abundant renewable energy resources ingrained within the state and throughout the state.

We are supportive of the aspects of this bill that I think will allow us to not only meet the portfolio standards but beat them. As Mr. Benjamin said, we have worked on this bill together. We believe this is an important avenue by which we can assure that the renewable resources in our state stay within our state for the benefit of our customers.

We are number one in the United States in terms of geothermal capacity and solar capacity, per capita. If you remove the comparison of numbers of people, because we are a small state, we are number two in the United States in geothermal capacity and number three in solar capacity, in total. We have done a remarkable job in our state, and that is because of the foresightedness of our Legislature and the fact that we have been foursquare behind this.

We believe that the combination of this bill with the project that we announced a couple of weeks ago which we are now calling the One Nevada line, or ON Line project, which will interlink the northern and southern electrical systems for the first time in this state, will be the driver behind renewable energy development. We continue to believe that this bill, which is an aggressive bill with respect to reaching a portfolio standard of 25 percent by 2025, is as aggressive as any bill that is before Congress today in attempting to get a national portfolio standard. We believe it is a floor rather than a cap for what we can do in this state for renewable energy. We look forward to continuing to work on having Nevada stay number one in the United States in the various renewable energy resources that we have in our state.

Vice Chairman Atkinson:

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

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

This is an opportunity to savor a moment, over these many years in advancing renewables and particularly the portfolio standard, to sit at a table with the Chief Executive Officer of the investor-owned utility supporting the measure. It is very pleasant to be able to do so. It is also pleasant to introduce the

president of The Solar Alliance who was kind enough to get on a plane at 4:00 a.m. from Massachusetts to come out to support this measure. I think it is important for us to recognize the significance of how far we have come with the support of this body to place the State of Nevada in a position of leadership with respect to advancing a resource that is beyond abundant and provides us with some significant economic development opportunities.

We spoke briefly with the sponsor of the bill. We have not had the opportunity to review the amendment in detail, but the significant portions of this bill that we came today to support, I think, remain intact.

I would like to introduce Carrie Cullen Hitt who is the president of The Solar Alliance for some additional brief comments.

Carrie Cullen Hitt, President, The Solar Alliance, North Scituate, Massachusetts:
We just have a few brief remarks on the bill. First, we are very happy to see such a bill before the Committee and the Legislature. We have been working hard this session to advance and increase RPS here in Nevada as well as looking to increase solar resources here in the state.

As you heard earlier today, we have 30 members in The Solar Alliance, who represent all aspects of the solar industry—manufacturing, installation, financing, and integration. We are very interested in the state, and we are happy to be here today.

My remarks will address two areas, first concerning the RPS pieces of the bill and second concerning the transmission and renewable energy zones.

In terms of the RPS components, again I am speaking to the bill, not the amendment because I have not had an opportunity to review it, we do support the increases recommended in this legislation. We would ask this Committee and the sponsor of the bill to consider distributive generation set-aside as it relates to the RPS, specifically, a percentage of 5 percent within that set-aside. The reason is we think that Nevada can benefit from ensuring that solar is installed at all levels in the system, not just for large-scale systems, so that residential consumers and small commercial and industrial consumers can also benefit from the solar programs and the RPS offered in the state. One way to ensure that this can happen is to ensure that there is a set-aside within the RPS. We ask that you consider this. We will be filing written testimony with more details on that recommendation. [Nothing was submitted.]

In addition, I have just a few brief remarks on the transmission planning and renewable energy zones. We would like to see additional language in section 3

to clarify how the geographic zones of renewable energy development are to be designed and by whom. This may be taken care of in the amendment. We suggest emphasizing the renewable energy zones that have already been identified in the Renewable Energy Transmission Access Advisory Committee, the Western Governors' Association Western Renewable Energy Zones processes, or similar open and transparent processes for identifying renewable energy zones. I am sure that was contemplated; we would just like to see some specific language that recommends looking at work that may already be done and ensuring that we have a transparent process.

As written, the legislation would require the PUCN to consider the level of financial commitment from renewable energy developers when evaluating plans. We are unclear as to the intent of this requirement. What does it mean for the PUCN to consider the level of financial commitment? Does it mean money that has already been expended to prepare plans for development? Or, is it only to apply to determining the level of planned capital investment in renewable projects within a broad arena?

Again, this is a detail, and we would like to better understand what the intent is or see some clarifying language in the legislation. Similarly, in this area, recommending firm commitments from developers on financing prior to committing renewable energy zones could be a difficult process. Some of these things may have to happen in parallel. It is like a chicken and egg issue if you ask someone whether they are going to make a financial commitment, yet the area is not identified as a renewable energy zone. The level of that financial commitment may change depending on whether or not it is a renewable energy zone. We recommend that the Legislature consider this a process in which a zone is identified, following parties' expressing an intent, but a formal commitment is not made.

Vice Chairman Atkinson:

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

Dylan T. Shaver, representing the International Brotherhood of Electrical Workers, Local 357, and the Las Vegas Chapter of the National Electrical Contractors Association, Las Vegas, Nevada:

In brief, we are in support of this bill. We think it is good public policy to keep the focus on clean and renewable energy for Nevada's families, and we like the economic opportunity. If we keep encouraging growth in this sector, the prices will come down, and this will get more and more attainable for consumers. We appreciate any policy that will do that. An increase from 5 percent to 6 percent for the solar set-aside may not seem like a lot, but with the growth in the

market, it will actually create a lot of jobs and a lot of opportunities for Nevadans to participate in renewable energy and renewable energy programs.

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

We are in support of the bill, but we have some concern in identifying the renewable energy zones. There will be a proposal later today. Just to identify the problem, we obviously have concerns about very large withdrawals in the public land sector to do renewable energy. We would like the environmental impacts and the conditions of wildlife to be considered in the process of identifying these zones. The Western Governors' Association has identified those zones with environmental and wildlife impacts. The Renewable Energy Task Force has reviewed potential zones that have been identified in Nevada. I am a member of that committee, and we have considered wildlife and the impacts on cultural and other resources that would be of concern to the environmental community in the transmission areas. However, the zones that have been identified have not undergone review from an environmental basis. We would suggest that the identification of these zones will drive transmission in the future, and it would certainly make everyone's life more interesting and less difficult if we could remove some of the environmental concerns early in the process.

Tom Clark, representing Sempra Generation, and Cogentrix, Carson City, Nevada:

We want to be on the record that we support this concept and this bill. Transmission is the number one reason why we are not developing large solar projects in rural Nevada. We would like to plug that hole with this bill.

Vice Chairman Atkinson:

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

Stuart Erdheim, Owner, Classic Solar Energy, Las Vegas, Nevada:

I do support A.B. 387, and I simply want to follow up on Assemblyman Conklin's comments on the solar carve-outs. I agree that increasing the carve-out is the right approach; however, this increase is more modest than it appears on the surface due to the fact that there is a multiplier factor of 2.45. What that multiplier factor does is take a nominal 5 percent rate and reduce that to an effective or real rate of 2.04 percent. So in raising the carve-out from a nominal 5 percent to 6 percent, in fact we are only raising the rate to a real rate of 2.44 percent. So, we are going from 2.04 percent to 2.44 percent. Those numbers are a lot smaller than what they appear on the surface.

The way to deal with that is to eliminate the multiplier factor or to increase the nominal rate to 12.25 percent. That would get you to a real rate of 5 percent. A nominal 14.7 percent carve-out would get you to a real 6 percent. Again, raising the carve-out from 5 to 6 percent, while certainly in the right direction, is a lot more modest than it appears. We can do a lot better here in Nevada.

Vice Chairman Atkinson:

Are there any questions from the Committee?

Assemblyman Goedhart:

When you talk about the multiplier on solar, does that not apply only to photovoltaic? I do not think it applies to other solar, does it?

Stuart Erdheim:

That is my understanding.

Assemblyman Goedhart:

So, I think in your testimony you made the assumption that all of the solar carve out would come from photovoltaic.

Stuart Erdheim:

Correct.

Assemblyman Goedhart:

I do not think that will be the case.

Vice Chairman Atkinson:

Are there any questions from the Committee? I see none. Is there anyone wishing to testify in favor of A.B. 387? I see none. Is there anyone wishing to testify in opposition? I see none. Is there anyone wishing to testify in the neutral? I see none. We will close the hearing on A.B. 387.

[There was a fifteen minute recess.]

Vice Chairman Atkinson:

We will call the meeting back to order. We will open the hearing on Assembly Bill 456.

Assembly Bill 456: Provides for renewable energy installations and energy efficiency improvements for residential property. (BDR 58-121)

Assemblyman David Bobzien, Washoe County Assembly District No. 24:

This bill is a simple idea. You should have in your packet a copy of an article ([Exhibit I](#)) from the *New York Times* describing what it is we are hoping to put in place with this legislation. Harkening back to the last bill we heard on solar generations and other incentive programs, one of the observations I came away with as I was working with that bill was that all the incentive programs we have are pretty high dollar affairs. If you are looking at putting photovoltaic on your rooftop you are looking at \$20,000 to \$30,000, if not more, just to get in on the action. In my estimation, these incentive programs are not accessible to the average Nevadan. It is my hope that we can do more things in the future to broaden the involvement of the public in the promotion of renewable energy and energy efficiency.

This bill lays out a program whereby a low-interest-rate loan pool can be created through bonding and can be borrowed against by residential homeowners for either energy efficiency improvements or renewable energy systems. The wonderful thing about the loan program put forth in this legislation is that you would pay it off through a voluntary assessment on your tax bill. You borrow the lump sum of money, you put the system on your property, and then you pay it off over 20 years through your property tax bill. The advantage of this program from the consumer's standpoint is that you can roll the loan into your escrow account; you can take care of that with your mortgage payment. It is nice and clean should you transfer the property; not only does the improvement convey, but the payment of the loan conveys as well.

I will acknowledge up front that there are concerns about this legislation and what it seeks to set up with local government, and I am committed to working with those who have concerns about this. I know there are a few people signed in to support the bill.

Vice Chairman Atkinson:

Are there any questions from the Committee?

Assemblyman Goedhart:

I support the concept. I just wonder about the following example. A person has a \$300,000 mortgage and is current on his mortgage. The house was originally worth \$350,000 and now is worth \$250,000, so he actually owes more on the house than it is worth. He gets a loan for the improvement or renewable energy system, and then that loan is second behind the bank. He finds out the value of his house drops some more, and he walks away. How does that work?

Assemblyman Bobzien:

Just to be clear, the scenario you are suggesting is that the bank takes control of the property again?

Assemblyman Goedhart:

Correct. There is already some reverse equity, and the homeowner is underwater because of the fall back of real estate values.

Assemblyman Bobzien:

My understanding of how it would work is whoever is paying the property taxes on the property is also responsible for paying the loan.

Assemblyman Goedhart:

So, in the case in which the bank gets the property back and there is some reverse equity, who takes the loss of the additional loan on the photovoltaic system?

Assemblyman Bobzien:

It would be a separate assessment, a property tax assessment. It is separate from the reverse equity that you are speaking of.

Assemblyman Goedhart:

So, as soon as the house is resold again, at whatever price, that assessment continues in place?

Assemblyman Bobzien:

Exactly.

Vice Chairman Atkinson:

Are there any questions from the Committee?

Assemblywoman Gansert:

I am looking at section 2 which pertains to the establishment of a public bonding entity. What about private funding for renewables on small projects? Is that available at all?

Assemblyman Bobzien:

Again, what this sets up is the ability for local governments to establish this district and to then issue revenue bonds to set up this pool. They are setting up a low-interest-rate pool, and I assume they would be working with private banks to set up this package.

Assemblywoman Gansert:

So the purpose is for someone to be able to get a low interest rate versus borrowing through the normal channels?

Assemblyman Bobzien:

Correct.

Assemblyman Goedhart:

Would it also be characterized as deductible interest like a home mortgage deduction, or is it separate from that as a lien? How does that work out as a tax policy?

Assemblyman Bobzien:

I am not a tax advisor, but I would have to guess that it would not. It is not mortgage interest. It is a separate lien on the property.

Assemblyman Settlemeyer:

It says here by an option of the property owner. Do they have the option to opt out of this, or is it a onetime deal?

Assemblyman Bobzien:

It is strictly voluntary. We are back to the concept that this is a district that you opt into. You opt in for purposes of the loan, and then you are committed to paying the loan off. It is strictly voluntary to enter it, but once you are in, you have to pay it off.

Vice Chairman Atkinson:

Are there any questions from the Committee?

Assemblywoman Gansert:

Whenever I think of district, I think of a geographical area. This does not necessarily represent a geographical area; this is a group of individuals who are working together to do this; is that right?

Assemblyman Bobzien:

Correct. It is a district, but the district does not have to be contiguous. It is more for having some concept that you use to be able to issue these bonds. We will hear from Lisa Corrado of the City of Henderson, Nevada, who has been working with me on this legislation for quite some time, and she can probably go into some of the particulars about how they envision this program working.

Vice Chairman Atkinson:

Are there any questions from the Committee? I see none. Do you have additional speakers?

Assemblyman Bobzien:

Yes, Lisa Corrado is going to come up and give the Henderson perspective. Then we have some other people signed in, and whatever order you want to take them in is fine with me.

Assemblyman Settlemeyer:

It indicates in the bill that the director will create a list of approved types. Is there a generic plan, and who creates this? Does the director come up with it himself?

Assemblyman Bobzien:

You will see that when you read the *New York Times* article. Typically in other jurisdictions where this program has gone forward, it has been very focused on renewable energy systems. Back to my original point about trying to present a broader set of incentives that include energy efficiency, rather than just the photovoltaic on the roof, the problem is there needs to be some sort of control over what constitutes an energy efficiency measure. Is the energy efficiency a new refrigerator that happens to be Energy Star, or are we looking for things like window upgrades or something like that? That just sets out the process to come up with the common list.

Lisa Corrado, Redevelopment Project Manager, Community Development, City of Henderson, Nevada:

We support the bill. We have been working through a stakeholder group with Assemblyman Bobzien and appreciate his vision in this arena. To respond to Assemblywoman Gansert's question, in addition to the low interest rate, there also are some economies of scale that can be captured by having a city act as a facilitator. Those details would be worked out through an ordinance. Choosing a package to make it easier for residents who may not be as savvy or familiar with the technology of available vendors would be an additional benefit. We would also work on a preferred vendor list through some type of qualification process. There are a few different options. It would also provide some standardized costs, and it would be easier to determine the cost and the benefits of implementing the installation, so that there is a little more predictability.

In addition I would like to clarify that in section 2, which allows the local government body to establish the district, the City of Henderson has been researching programs like the solar financing program run by the City of

Berkeley, California called the First Program that allows homeowners to voluntarily participate in a special improvement district. I believe this language would also allow the assessment to happen through a local improvement district, and we currently manage local improvement districts. We have an administrator who does that. We are currently set up to do that type of thing.

There is strong interest among Henderson residents in green building, sustainable living, and renewable energy technology, so we would pursue and extend this public outreach process if we were able to pursue this opportunity.

Vice Chairman Atkinson:

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

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

We are in support of this legislation. Just to follow up on my previous testimony on another bill, I think this is an important way to go in terms of building a renewable energy infrastructure in our state, with the concept of community-based and home-based systems. Another thing that this bill would do is give an opportunity for the energy efficiency portion as well. When we look at the way our economy is right now and try to figure out ways to get jobs into the economy, this is a great opportunity. This gives the possibility of a financing mechanism so people who may not be able to afford the up-front cost, whether it is a renewable energy system or a large-scale energy efficiency upgrade on their home, have the opportunity to finance those improvements that stay with the property. It also provides the opportunity to put people to work doing those types of things.

Another thing I would like to highlight is that this is a program you would opt into. It is something that is voluntary. Although it requires the cooperation of the locality, it is something that is financed by that end user. It would not be a drain on city or county coffers. This could be a win-win for everyone. It has the benefit of getting more solar on rooftops and more renewable energy and more energy efficiencies, which have long-term benefits.

Assemblywoman Gansert:

Is this program intended for residential use?

Kyle Davis:

I think the idea was that this would be for residential.

Chad Dickason, representing Soleon Energy, LLC, Reno, Nevada:

I came forward to speak for the solar installer industry. Financing is a major issue in trying to install residential solar systems, especially in the current credit

climate. Typically, in my experience, trying to finance systems for homeowners was almost impossible unless there was a significant amount of equity in the home or the homeowner decided to completely refinance the property. Measures like this can really help drive the industry and provide people, who may not have the equity in their home or may not have the means to obtain a loan or want to pay a loan at 8, 9, or 10 percent interest rates, access to obtain a system.

Dylan T. Shaver, representing the International Brotherhood of Electrical Workers, Local 357, and the Las Vegas Chapter of the National Electrical Contractors Association, Las Vegas, Nevada:

We are in support of A.B. 456. We think that the concept, as stated, will make solar installation more accessible to residential end users. Although we do not perform residential work in this area, it is still important to us that this industry be given the opportunity to thrive and prosper in the State of Nevada.

One highlight that we like best about the bill is it will allow localities to wrap this program into programs that are already in existence. We look forward to working on it in the future.

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

I would like to offer our support for this measure. I think the prior speakers have made it very clear that this is an important aspect of solar development in the state, and clearly this is something that we are in agreement with.

Vice Chairman Atkinson:

Are there any questions from the Committee?

Assemblywoman McClain:

I have a question for the sponsor of the bill. I think this is very novel and a great idea for renewable energy. Regarding energy efficiency improvements, will there be some kind of threshold?

Assemblyman Bobzien:

Energy efficiency improvements are pretty broad. I could see the state Energy Director going through some sort of process to come up with a simple, easy to understand list that is not everything under the sun. I would appeal to the Chairman to think back to a visit that the two of us had over the summer at a gentleman's home who had a number of different improvements that were not photovoltaics, features such as rows of old aluminum cans surrounded by plexiglass on a south facing wall, that in the wintertime accumulate heat and then pump it into the duct system to maintain temperature. His pitch on that was this is a \$2,000 system in which you get your return within a year or two.

I am thinking in terms of other design features, but some sort of a list that would include things such as new windows, but would not just mean a more efficient television.

Assemblywoman McClain:

Which is part of the reason I want to ask the next question, which is why the Office of Energy? I know we have people with more expertise in weatherization and other things; why did you pick that department? Would it not be better under the Public Utilities Commission of Nevada (PUCN)?

Assemblyman Bobzien:

The Office of Energy is working on a number of projects that are similar in focus to this one. They would be bringing in comments from those other experts.

Vice Chairman Atkinson:

Are there any questions from the Committee? I see none. Is there anyone else wishing to testify in favor of this bill? I see none. Is there anyone wishing to testify in opposition? I see none. Is there anyone wishing to testify in the neutral? I see none. We will close the hearing on A.B. 456.

We will open the hearing on Assembly Bill 510.

Assembly Bill 510: Revises various provisions governing the Public Utilities Commission of Nevada. (BDR 58-1140)

Assemblyman Marcus Conklin, Clark County Assembly District No. 37:

You have before you A.B. 510 which is one of the Commerce and Labor Committee's introductions this session. I have asked members of the Public Utilities Commission of Nevada (PUCN) to come forward in case you have questions. I requested this piece of legislation over the past three sessions. I have worked closely with the PUCN to bring legislation to help increase efficiency. This session should be no different.

The bill that you have before you today seeks to do several things. Several years ago when we split up the PUCN, a position was left out of the PUCN; this position was important to accomplishing their business. It was originally in, and then they split it up, and then the position fell idle. That was the position of Executive Director. A lot of agencies which have "judges" who rule on public business have an Executive Director to insulate the difference between the public's view and the public's business and the Commissioner's business and the body that actually does the work, the administration. So, this bill simply seeks to put that position back into statute, updated in some ways, to create a buffer and management over the administration, and to allow the

Commissioners to do the job that they were originally intended to do, which is to govern and rule on the public utilities in the State of Nevada. This is covered in sections 1 through 3.

The second thing this bill seeks to do, which is in the very back, in section 5 of the bill, is to allow the Commission to consider reduced rates for low income customers, in their rate case hearings after, of course, investigations and hearings on the matter. This is just a subtle nuance of rate making. It just allows the Commission to consider again variable rates if certain circumstances arise. It does not change the standard by which they should evaluate whether or not that is good for the ratepayers.

Finally, on page 6 of the bill, which is section 4, there are some changes to the electric utility rate case dates, from the one that has already been filed, which was December of last year, to the next required date of filing, which is June of 2010, or June of 2011 in densely populated counties.

That is all that is in this simple bill.

Assemblyman Anderson:

Is the Executive Director going to be a paid position?

Assemblyman Conklin:

I doubt very seriously they will do it for free.

Assemblyman Anderson:

That would be my impression also, although I see on the front of the bill no affect on the state.

Assemblyman Conklin:

This bill will have to go to Ways and Means.

Vice Chairman Atkinson:

Are there any questions from the Committee? I see none. Do you have an order for your speakers?

Assemblyman Conklin:

I think the Chairman would like to go first.

Jo Ann Kelly, Chair, Public Utilities Commission of Nevada:

One of the reasons we wanted to come forward at this time is when a bill is introduced that is affecting the administration of an agency, we want to show our support. This is the type of organization the Commission needs, and we do

support it. The Executive Director would be the top administrator at our agency.

Vice Chairman Atkinson:

Are there any questions from the Committee?

Assemblyman Settlemeyer:

I know this is a policy committee, but what do you think the fiscal note would be?

Jo Ann Kelly:

I think a fully loaded position would be about \$140,000.

Assemblywoman Kirkpatrick:

We need to weigh the cost effectiveness of what this Executive Director would do.

Jo Ann Kelly:

I have been with the agency for quite some time, and the previous Chairman was with the agency ten years. I realize the importance of setting up a system in which the administrative people could flow through and stay with the Commission and get the kind of experience that an Executive Director would need. We looked at the agents per administration in gaming, and we compared other agencies, so we had already looked at a position of this type. When this bill came out, there was a big smile on our faces to see that there was a possibility of getting someone like this for our agency.

We had looked at the structure, and we believe that this position is needed. It was not a surprise in the sense that we had looked at our structure prior to this bill coming out.

Assemblywoman Kirkpatrick:

Just to follow up, there are some benefits to having an Executive Director who is not appointed by the Governor's Office, and who has institutional knowledge, especially with term limits coming which will bring change to your board. I love Mr. Settlemeyer for asking the amount, but I always look at the policy side, at what we can actually benefit from that amount.

Jo Ann Kelly:

Thank you very much. We appreciate the question, and we think it will be important. The other factor that may not be obvious is how our agency is segregated. We have a staff side and a policy side. Generally the Commission is on the policy side even though the Chairman administers the agency. When it

comes to a contested case, our staff is an independent party, and we do not communicate with our staff regarding those cases which they are prosecuting or carrying forward. This bill creates a position that will report to the Commission, but is above both the policy side and the staff side. It creates that neutral position which creates a very good philosophy for the agency. It is a position that we need. We need it at this high level, and we need a person with experience, and that is why the fully loaded benefits would be in the range of \$140,000. To have this neutral position adds to the way we work.

Vice Chairman Atkinson:

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

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

With me today is Mike Carano who is our Director of Rates and Regulatory Affairs. We are here to support this bill. Mr. Carano can answer any technical questions; he is our technical guy.

Michael J. Carano, Director, Rates and Regulatory Affairs, NV Energy, Reno, Nevada:

I would be happy to answer any questions you might have.

Randy J. Brown, Director, Regulatory and Legislative Affairs, AT&T Nevada, Reno, Nevada:

As an entity that appears regularly before the PUCN, AT&T is in support of this bill, specifically section 3. I mention section 3 because it is the only section that applies to telecommunications. As the others before me have said, this bill organizes the PUCN much like other similarly situated regulatory bodies in our state. For example, the Nevada Gaming Commission operates with appointed commissioners but also an executive secretary. Under this proposal the PUCN would identify a resource to fill a similar role as the Executive Director. We believe as Commissioners transition in and out of their position, the appointment of an Executive Director will provide continuity and other efficiencies.

Charles Benjamin, representing Western Resource Advocates, Carson City, Nevada:

As a party who also appears regularly before the PUCN I think this is an excellent concept for the State of Nevada and will go a long way in making the Public Utilities Commission more efficient.

Vice Chairman Atkinson:

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

testify in opposition? I see none. Is there anyone wishing to testify in the neutral? I see none.

I will entertain a motion.

ASSEMBLYMAN ANDERSON MOVED TO DO PASS AND REREFER
ASSEMBLY BILL 510 TO WAYS AND MEANS.

ASSEMBLYWOMAN KIRKPATRICK SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYWOMEN BUCKLEY AND
GANSERT WERE ABSENT FOR THE VOTE.)

We will close the hearing on A.B. 510.

We will open the hearing on Assembly Bill 522. We recognize that this bill will need some work so this is just an overview for the Committee. We will hear the overview, and then we will break, and the rest of the Committee will leave. The Subcommittee consisting of Assemblywoman Kirkpatrick, Assemblymen Christensen and Conklin will come back into this room at 5:30 p.m. and will actually hear the bill in subcommittee.

Assembly Bill 522: Makes various changes relating to energy. (BDR 58-1139)

Assemblywoman Sheila Leslie, Washoe County Assembly District No. 27:

I am beginning the discussion on this bill as the senior member of the Assembly Democratic Renewable Energy Caucus. The other members are sitting to my right and left, Assemblywoman Kirkpatrick, Assemblyman Bobzien, and Assemblyman Conklin. I want to begin the discussion on this bill today by saying that this really represents our ongoing efforts to prevent our renewable energies from being exploited to provide energy for other states with no benefit to Nevada. We need to have the right framework for our energy policies in Nevada, especially now as we enter a gold rush period of our history.

This is the work of our caucus, within the caucus, and others who have engaged in the dialogue on this topic over the last year and most intensively over the last month or so. We are more than willing to keep working on this during the session to be sure we have it right. I think we owe a great deal of gratitude to our legal counsel who has had numerous meetings with us and said things like, "You cannot do that; but you could do that." Mr. Ziegler has also given us a lot of great ideas.

Make no mistake we live right next door to a voracious consumer of energy. We do not want companies who come into Nevada to develop our renewable energy to bring their workers from out of state to do it, and then to export the energy produced to other states with no benefit to our citizens. To allow them to do this would be irresponsible on our part.

Assembly Bill 522 offers incentives to encourage the development of our renewable energy resources while imposing a modest production fee that will be used to lower utility rates for Nevadans. We believe that renewable energy developers will continue to come to Nevada with implementation of this comprehensive energy package for three reasons: one, our vast renewable energy resources; two, our already low tax rates; and three, the continuation of incentives to those who provide jobs in our state. We should go back, for just a moment, to our low tax environment, because people have been complaining about the production fee included in this bill. I pointed out that our neighboring competitive states all have a corporate profits tax. People mention Arizona as the place where these developers will flee. Arizona charges 6.968 percent on profits. In California the tax is an 8.84 percent flat rate. In Idaho the tax is 7.6 percent. In Utah the tax is 5.0 percent. In New Mexico the tax is 4.8 percent on profits over \$500,000 and 7.6 percent on profits over \$1 million. I know that the Chairwoman of Taxation is here, and she knows better than anybody what Nevada's corporate profits tax rate is, a big fat zero. I do not think, personally, the developers will be running to our competitor states over a small production fee, not to mention the regulatory environment which is much better in Nevada than in California.

This bill will also establish an independent Nevada Energy Commission to oversee these activities. It is our intent that the Commission will absorb the existing Energy Office located in the Governor's Office and will be funded through those existing funds as well as a small portion of the revenue generated by production fees. The Energy Commission will have separate duties from the Public Utilities Commission of Nevada (PUCN), and we do not anticipate a conflict between the two entities. If we need to revise the bill to make sure that the roles and responsibilities are clear, we are certainly open to doing that.

One of the duties of the Energy Commission will encompass the issues of transmission. I have requested a bill draft to create a new transmission authority to address planning and implementation for a transmission grid in Nevada to make sure that we are in a position to move the renewable energy from where it is produced to where it is most needed and where people will buy it, whether that is in state or out of state.

Instead of creating another bureaucracy, after we started meeting on a regular basis, I agreed that the Energy Commission would be the most appropriate body to oversee transmission issues in Nevada, so that concept is rolled into this bill. The bill also includes two provisions related to the federal energy stimulus. It requires the adoption of a new standard of energy conservation in public buildings, and it also has a decoupling section. But there is already an amendment to that section which would require the PUCN to develop ways to make it financially beneficial for the electric utility to encourage conservation.

Let me emphasize that the primary goal of the production fee is to reduce utility rates for Nevada consumers. This is not going to happen overnight, our bills will not drop overnight, but the revenue will increase over time as this sector is developed, and our citizens will enjoy a benefit realized on their utility bill. Renewable energy is Nevada's oil, and just as Alaska has used its resources to benefit the residents of Alaska, we believe we need to be equally diligent in making sure Nevadans benefit from the development of our precious renewable resource.

I would like to turn the presentation over to my two colleagues to go through the sections of the bill to make sure we lay out for you exactly what we expect to achieve with A.B. 522.

Assemblyman David Bobzien, Washoe County Assembly District No. 24:

I want to discuss, briefly, the sections dealing with the Commission itself and some of the thinking that has gone into this part of the bill. It has been my observation, and many of you may share this observation, that for too long in Nevada we have dealt with energy policy in a very fragmented, at times almost haphazard way. Whether it is the Renewable Energy Task Force or the State Energy Office, these are all fantastic efforts, and we have received a lot from them, but we have struggled with issues related to funding for those entities. My hope is that as a legislator I see more policy discussion and more policy recommendations come forward from those entities. I think we have fallen short. There is certainly blame to be placed on the Legislature when it comes to these funding challenges, but nonetheless, I think it is time to step forward, take it up a notch, and deal with energy policy in this state in a much more concerted and comprehensive fashion.

Someone recently made an analogy that renewable energy policy, particularly in this state, is like a whole chorus of crickets. We have a lot of crickets making a lot of noise, but we are not really sure what the score is, what the sheet music is, and it is time that we try to bring all of this together.

You will notice, and Ms. Leslie alluded to the separation between the PUCN and the Energy Commission proposed in this bill, we are modeling the structure of this Commission on the PUCN both in terms of its professionalism and how it is appointed. You will see the three positions that are on the Commission and the expertise we are hoping to find to fill these seats in section 4, subsection 3. I think paragraph (c) which states they not have a pecuniary interest in any energy company in this state or elsewhere is important. That is not meant to be an attack on anyone; it is just an acknowledgement that as this industry is gaining momentum in this state, it is important that we have some neutral players who are guiding our policy when it comes to energy.

The rest of the bill has aspects similar to what we have in the PUCN in terms of the party makeup and how the seats are filled. What follows from there, you will notice, is essentially the current duties of the Office of Energy being rolled into this Commission. On page 6, section 16, subsection 9, we are now talking about the transmission aspects. Ms. Leslie has been working so hard on this bill and I am sure she will want to go into more detail on that. You will see that a very broad and sweeping mission is placed on this Commission, and it is my hope that over the long term all things concerning renewable energy will be dealt with in this context, and the state will benefit greatly from it.

Assemblywoman Marilyn Kirkpatrick, Clark County Assembly District No. 1:

I want to turn your attention to section 28 of the bill. Currently we have renewable incentives in place, and they are set to expire in June of 2009. That is just a few months away. What we wanted to do was still allow the incentives, since our state very much needs to be competitive, but also add a little bit more accountability. I believe that these incentives are based on jobs. The thought behind this was if you are coming here and building a large solar plant and not impacting our state beyond the time you are here to build it, your sales and use tax exemption should follow the construction of your plant. We did keep the ongoing property tax in place because the up-front money is great, it is competitive with other states, but the property tax also helps.

Many times I have said zero percent of nothing is nothing. But, this time, if we give you a 50 percent abatement, then it is fair because the impact is much less. Our goal in this state is to bring the manufacturing here because those are the long-term jobs; those are the jobs that create so many other jobs. Also, when you have long-term jobs and short-term jobs you also have professional services that come to our state, and those are just as important. The people who design the plant, the architect, the engineers, and all of them should be included, as well as an abatement. In manufacturing, we have provided that 30 percent of the materials being purchased must be purchased within our state. That also helps our state get those jobs.

Last session I worked on a Leadership in Energy and Environmental Design (LEED) energy bill, and one of the big parts of that bill said you needed to buy all of your materials within 500 miles of where the project was being erected. So, I thought that was an interesting concept, and it has been working across the nation. Let us try it in Nevada.

Sections 28 and 59 of this bill talk about the current program that we have in the Housing Division. We thought by moving it to this new Energy Commission everything would be in the same place, and we could better keep track of it. Approximately 75 percent of the energy universal charge which is collected on our utility bills today goes into the fund. The remaining 25 percent is used for weatherization. We know that weatherization is the key piece to helping people change their mind-set about how to lower their utility bills.

Section 85, which is probably the most controversial section of the whole bill, is the excise tax. Legal and I worked tirelessly, going over 90 different scenarios on how we could help the consumer lower their power bills, and how we could make sure the consumer understood that we were reinvesting in renewable energy within our state to benefit them. One of the thoughts was to lower our utility rate as Ms. Leslie said, and we would have to collect something in order to do that. A second piece of it, which I think Mr. Bobzien is going to discuss, is the rebate program which is similar to the Southern Nevada Water Authority program under which you can "turn in" your grass and receive \$1 back for every square foot. My thought was that if we collect this money it could go back into these two programs, which in the long term will change the way Nevada does business when it comes to renewables.

The excise tax is a very small amount and is consistent to the way the other incentives are worked out across the nation. There really is no other way to tax everyone equally that we have been able to come up with. This does not include geothermal, because geothermal is protected within the *Constitution*. If we said today that we would take 39 percent of 1 cent, that is very small, and is similar to what Alaska did when they started with theirs: they were able to give back to their residents 50 cents to \$1, and now they are able to give back to their residents \$900 across their state. That totals approximately \$40 million since its inception. Because we have no database and we have no tracking system, in order to give this back directly to our constituents, we thought it would be good for them to be able to buy the new, energy efficient, programmable thermostats and receive a rebate, as well as taking the utilities and deferring their rate so that the consumers would actually see something.

Assemblyman Bobzien:

What are the benefits of the gold rush that we are experiencing with renewable energy in this state? Section 16, at subsections 10 and 11, sets up and directs the creation of a program for energy efficiency. Rebates or incentives can take a variety of forms to again make sure that whatever incentives we have for renewable energy, we have something for the average Nevadan and for the everyday homeowner—some sort of program to bring this all back around.

Again, the real strength of this Commission model is that this is a very integrated way of looking at how we do everything about energy in this state. We are not talking just about large-scale solar production. We are also talking about making sure that someone's home is weatherized and we can lower their power bills so that they can have a direct benefit from all of this.

Assemblywoman Leslie:

It is a big bill and there are lots of issues in it. I am sure there will be many questions. There are a lot of people who like the bill and many who do not. We are happy to try to answer any specific questions, recognizing that none of us are technical, professional people in the field.

Vice Chairman Atkinson:

What we are going to do is allow the Committee to ask "light" questions, because we are really not hearing this bill right now. As I mentioned earlier, this was just an overview for the Committee; the subcommittee will come back later today and hear the bill and take testimony and listen to all sides. We do not want the individuals to have to do this all night long. Keep it brief and keep it quick.

Assemblyman Goedhart:

I applaud your efforts and the direction in which you are going in regards to planning. I do want to add a couple of items of caution into the record, not really questions. I have worked a little bit on projects in Nevada and also have gone across the border into Arizona, down as far as Yuma and over to the four corners area, and into California as well. I was trying to get a holistic picture of what exactly it is that we can offer as Nevadans, and what we can expect to receive as Nevadans for the maximum benefit to our citizens and our state without at the same time putting us out of the race, so to speak. Those are the issues I would love to talk to you about at some length at a later time.

I know if you look at the average cost of property tax, which is the main way of getting revenue from the energy producers, I think you came up with a figure of .39 cents per kilowatt, which I think is pretty much in the ball park. I looked at a 50 percent abatement on a large Concentrated Solar Power (CSP) project at

the old rate that is due to expire, and at that rate it was 1.1 cents per kilowatt. If you include a 30 percent in state-mandated manufactured in Nevada input, the project could not meet that, and there would be no abatement. They would be charged 2.2 cents per kilowatt. We are almost in the area of charging five or six or seven times as much property taxes on renewable energy as we charge on coal-fired power plans. There are some other issues like that as well. There is not a single state that has both an excise tax and a property tax.

In Colorado they only tax the power generation block of it. There are a lot of issues to discuss in regard to this, and as Nevadans we do not always mind exporting because exporting brings new dollars into the economy, whether it is alfalfa being shipped to California or gold produced here in Nevada being shipped around the world. It is very unusual for us to charge excise taxes on exports which bring brand new money into the state.

California attempted to do something like that on some milk we shipped to California, and we won at the United States Supreme Court level. Your method may be fine, but we do have a lot of issues, and in Nevada we have some hurdles. We have a lot of open land, but also in Nye County, 98.1 percent of all ground is federally controlled. Whoever does a large solar project will have to go through a very extensive biological assessment up through an Environmental Impact Statement. We will have longer transmission corridors to go through.

We want to make sure that we maximize the benefit for Nevadans, but at the same time do not kill an industry through a central planning mechanism or have some unintended consequences that put us out of business before we get in business.

Assemblywoman Kirkpatrick:

I checked 48 states across the nation and checked the legislation for the surrounding states, and they look great on paper, but when you put in the regulatory process, and everything that they are exempted from, they are not competitive with these proposed taxes.

In California, in 2007, they had legislation that exempts a great many things. I think the incentives are important. At some point we have to realize that our constituents want to know what they are getting back. I do not think that is too much to ask.

I have not seen too many working documents so I implore everyone to come up with something better. For me it is all about making sure that Nevadans actually see what they are getting back. At some point if we have to say no, I

am okay with that. I have put a lot of energy into this. I am doing energy audits and staying involved in the process and have learned and have researched it. I understand where you are coming from. I have an open mind about this. It is not like we just made this up. I think it is a working document, and I think we have to start somewhere.

Assemblyman Bobzien:

I echo everything that my colleague just stated about the purpose behind this bill. One of the duties and possible programs for this Energy Commission will be taking all the work that has been done and providing a centralized plan to focus on our lands policy related to energy. We have all seen it, the string of county-by-county lands bills that come down the pike, and typically there is some economic development or energy piece in it, but the state does not really have a formal process for participating in that. I think there are a lot of benefits directly to the industry from this.

It is all trade-offs; it all balances out. Ms. Kirkpatrick has done an exhaustive survey of how we compete with everyone else, and I think, on balance, this model will be one that is very supportive of renewable energy.

Vice Chairman Atkinson:

If people have follow up questions, I would like them to come back later to the subcommittee.

Vice Chairman Atkinson:

Are there any other comments from the Committee members? Seeing none, we are going to adjourn, and the subcommittee will meet at 5:45 p.m.

[The meeting was adjourned at 5:14 p.m.]

RESPECTFULLY SUBMITTED:

Patricia Blackburn
Committee Secretary

APPROVED BY:

Assemblyman Kelvin Atkinson, Vice Chairman

DATE: _____

EXHIBITS

Committee Name: Committee on Commerce and Labor

Date: April 1, 2009

Time of Meeting: 1:40 p.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
A.B.186	C	Assemblywoman Leslie	Portion of transcript
A.B.402	D	Charles Benjamin	Written testimony
A.B.402	E	Robert G. Johnston	Written testimony
A.B.448	F	Assemblyman Bobzien	Proposed amendment
A.B.448	G	Chad Dickason	Proposed modifications
A.B.387	H	Assemblyman Conklin	Proposed amendment
A.B.456	I	Assemblyman Bobzien	<i>New York Times</i> article