

**MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON GOVERNMENT AFFAIRS**

**Seventy-Fifth Session
March 31, 2009**

The Committee on Government Affairs was called to order by Chair Marilyn K. Kirkpatrick at 8:04 a.m. on Tuesday, March 31, 2009, in Room 3143 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:

Assemblywoman Marilyn K. Kirkpatrick, Chair
Assemblyman David P. Bobzien, Vice Chair
Assemblyman Paul Aizley
Assemblyman Kelvin Atkinson
Assemblyman Chad Christensen
Assemblyman Jerry D. Claborn
Assemblyman Ed A. Goedhart
Assemblywoman April Mastroluca
Assemblyman Harvey J. Munford
Assemblywoman Peggy Pierce
Assemblyman James A. Settelmeyer
Assemblywoman Ellen B. Spiegel
Assemblyman Lynn D. Stewart
Assemblywoman Melissa Woodbury

COMMITTEE MEMBERS ABSENT:

None

GUEST LEGISLATORS PRESENT:

Assemblyman Pete Goicoechea, Assembly District No. 35
Assemblywoman Heidi Gansert, Washoe County Assembly District
No. 25

STAFF MEMBERS PRESENT:

Scott McKenna, Committee Counsel
Susan Scholley, Committee Policy Analyst
Cyndie Carter, Committee Manager
J. Renee Ekleberry, Committee Secretary
Olivia Lloyd, Committee Assistant

OTHERS PRESENT:

Tray Abney, Director, Government Affairs, Reno-Sparks Chamber of
Commerce, Reno, Nevada
Michael Tanchek, Labor Commissioner, Office of Labor Commissioner,
Department of Business and Industry
Danny L. Thompson, Executive Secretary-Treasurer, Nevada State
AFL-CIO, Henderson, Nevada
John E. (Jack) Jeffrey, representing Laborers' International Union of North
America, Local No.872, Las Vegas, Nevada
Randy Soltero, representing Sheet Metal Workers Union No. 88,
Las Vegas, Nevada
Richard Leigon, Southern Nevada International Brotherhood of Electrical
Workers, National Electrical Contractors Association, Labor
Management Cooperation Committee, Las Vegas, Nevada
Donny Grayman, representing Ironworkers Local No. 416, Las Vegas,
Nevada
Lamar Jones, representing International Brotherhood of Electrical Workers
Local No.357, Las Vegas, Nevada
David Kersh, representing Carpenters/Contractors Cooperation
Committee, Los Angeles, California
Jack Mallory, Assistant Business Manager/Secretary-Treasurer and
Director of Government Affairs, International Union of Painters and
Allied Trades, District Council 15, Henderson, Nevada
Patrick T. Sanderson, representing Laborers' International Union, Local
No. 872, Carson City, Nevada
Clara Andriola, President, Sierra Nevada Chapter, Associated Builders and
Contractors, Reno, Nevada

Vickie Coll, Administrator, Human Resources, A & K Earth Movers, Fallon, Nevada
K. Bart Hiatt, President and General Manager, A & K Earth Movers, Fallon, Nevada
Daniel J. Klaich, Executive Vice Chancellor of Education, Nevada System of Higher Education, Reno, Nevada
Luis F. Valera, Director, Government Relations, University of Nevada, Las Vegas, Nevada
Robert J. Dincecco, Assistant Director, Design, Planning and Construction, University of Nevada, Las Vegas
Carole Vilardo, President, Nevada Taxpayers Association, Carson City, Nevada
Michael C. Cate, Chief Executive Officer, Pavers Plus, Inc., Sparks, Nevada
John Madole, Executive Director, Nevada Chapter Associated General Contractors of America, Reno, Nevada
Derick Stowell, representing Plumbers and Pipefitters Local 525, Las Vegas, Nevada
Richard (Skip) Daly, representing the Laborers Union Local No. 169, Reno, Nevada
Steven J. Redlinger, representing Southern Nevada Building and Construction Trades Council, Las Vegas, Nevada
Lou Salazar, representing Plumbers and Pipefitters Local Union No. 525, Las Vegas, Nevada
James E. Sala, Senior Representative and Political Director, Southwest Regional Council of Carpenters, Las Vegas, Nevada

Chair Kirkpatrick: [The roll was taken. A quorum was present.]

We will open the hearing on Assembly Bill 195.

Assembly Bill 195: Revises provisions concerning certain prevailing wage requirements. (BDR 28-506)

Assemblyman Pete Goicoechea, Assembly District No. 35:

I will be fairly brief with my presentation of this bill. There are only a couple of changes. The long and short of it is that A.B. 195 amends *Nevada Revised Statutes* (NRS) 338.018. It raises the threshold from \$100,000 to \$3 million for prevailing wage jobs. The \$3-million threshold would qualify a project as a prevailing wage job when it was a public works job. The second part is in section 2, subsection 2, and this is really the change I am seeking with this bill.

In northeastern Nevada the prevailing wage is predominately mine wages. We feel that if you are going to establish a prevailing wage, it should be those wages that are paid in the area. Right now, when we conduct a survey of contractors, we do not get enough returns to establish the prevailing wage so we end up paying a prevailing wage that is established in the Reno or Las Vegas labor halls. Section 2, subsection 2 says, "To establish a prevailing wage in each county, including Carson City, the Labor Commissioner shall, annually, survey contractors who have performed construction work or work of a comparable nature in the county." I think this gives the Labor Commissioner the ability to go into the counties across northeastern Nevada and look at comparable work. A lot of that would be mine work. We are not looking to drive the wages down to minimum wage, and the mines do pay good money, but it is not as high as that which is normally established as prevailing wage in either Reno or Las Vegas.

I realize this will put additional burdens on the Labor Commissioner, but clearly it is a question of equity. The current situation does pose a hardship on those contractors in the Winnemucca and Elko areas when they have to pay prevailing wages on a job, so their guys are making \$35 per hour, and another job nearby is paying \$25. We are trying to get some parity in rural Nevada.

I do not have anyone else to testify. I know there will be some people testifying on the next bill, and I think that bill and this bill are mirrors of each other in many areas. I do not anticipate a lot of opposition to this bill.

Chair Kirkpatrick:

Are there any questions from the Committee?

Assemblyman Claborn:

Regarding the threshold amounts to qualify for a prevailing wage project, the old threshold was \$100,000, and if you change it to \$3 million, that does not have anything to do with changing the prevailing wage.

Assemblyman Goicoechea:

Clearly, the bill does change the threshold amount to qualify for prevailing wage job from \$100,000 to \$3 million. But in section 2, subsection 2, on page 2, you will see the language that "the Labor Commissioner shall, annually, survey contractors who have performed construction work or work of a comparable nature," so it will give the Labor Commissioner the ability to go into the rural counties and establish a prevailing wage. It might not necessarily be the same as established in the Reno or Las Vegas labor halls.

Assemblyman Claborn:

My understanding is that we do not have anyone in the Labor Commissioner's Office to check the prevailing wage surveys if they are sent in. The budget cut removed two of their people even before the legislative session opened. This would be null and void as far as I can see until we get some money in the budget to get some people hired. Why send the surveys in if there is no one to analyze them?

Assemblyman Goicoechea:

I recognize there will be an additional burden on the Labor Commissioner, but he will have to review the surveys again if they were sent in from that county or from a contractor in that county. It does not make any difference. He still will need to establish a prevailing wage. I recognize that the Labor Commissioner has a full plate.

Assemblyman Claborn:

I would rather see one issue per bill instead of wrapping up two big issues in one package. That concerns me.

Assemblyman Goedhart:

I see you have one letter of support here from Steve Weaver from the Division of State Parks, Department of Conservation and Natural Resources ([Exhibit C](#)). I understand during these tough economic times some of the impetus behind this is to maximize the efficiency of precious, scarce tax dollars. Would you be open to the idea of putting some sort of sunset provision on that threshold that would say this would be an emergency, economic-driven threshold and if times got better we could revisit the issue?

Assemblyman Goicoechea:

I think this is an extraordinary measure for extraordinary times. Normally you would not consider moving a \$100,000 threshold to that larger number. Perhaps you would go to \$500,000 or \$1 million, certainly not \$3 million. There are significant savings that can be realized by raising that threshold to \$3 million on a lot of the smaller projects, whether they are state or local government projects. The other side of it is that realistically almost any project that you build will cost you over \$3 million today. It would just be those smaller projects that we could move away from and realize a significant savings. We could be looking at a 25- or 30-percent savings on some of these smaller projects by not having to go with prevailing wage.

Assemblyman Goedhart:

We know that a lot of people are looking for different revenue enhancements, that is, tax increases, and this is a way to make the existing tax dollars go further without raising taxes.

Assemblyman Goicoechea:

It is a cost-saving measure for tax dollars, there is no doubt about it. It is hard to calculate. We have to be careful. We have to make sure that people do not start scoping projects to be under the \$3 million and doing them in pieces to avoid paying prevailing wage. That is an issue that we deal with all the time. We want to make sure that we are fair to labor as well as to the taxpayers in our jurisdictions.

On your first question, I think if this Committee saw fit to put a sunset on this bill or the bill that is following, that would be okay.

Assemblywoman Pierce:

The truth is that numerous studies, including a University of Utah study that I have in front of me, say that watering down and eliminating prevailing wage jobs saves the taxpayer nothing. It considerably increases the injuries on the job. It eliminates any kind of apprenticeship program, so that you are not getting the skilled labor force that you get when you have prevailing wage laws. Cost overruns go through the roof. Study after study has shown that prevailing wage laws do not raise the cost of construction on public works and do not cost taxpayers any more money. That is not even getting into the whole idea of suddenly having people doing jobs who do not have benefits and who are now using taxpayer-funded health care. I appreciate this gentleman [Steve Weaver] weighing in, but the premise of his letter is not borne out by any academic studies.

We should not be talking about how this is going to save taxpayers money because it just does not.

Chair Kirkpatrick:

Mr. Goicoechea, where did the figure of \$3 million come from?

Assemblyman Goicoechea:

We discussed the threshold, and at one point we were talking about \$500,000. Again, we need to start somewhere, and \$3 million seems to be a pretty good break from a typical small project versus major construction. A lot of projects seem to fall into that \$3 million-or-less range, and approximately 60 percent will run over \$3 million. After looking at the data, it seemed like a place to start.

In response to Assemblywoman Pierce, just because you are under \$3 million or over \$3 million does not really impact the quality of the help you hire. That is up to the bidder.

Chair Kirkpatrick:

Okay, we will call those in support up to the witness table.

Assemblyman Goicoechea:

I would like to go back to Ways and Means, if it is okay with you.

Tray Abney, Director, Government Affairs, Reno-Sparks Chamber of Commerce, Reno, Nevada:

If it is okay with you I can wait until the next bill since it encompasses everything.

Chair Kirkpatrick:

Is there anyone wishing to testify in the neutral position?

Michael Tanchek, Labor Commissioner, Office of Labor Commissioner, Department of Business and Industry:

I am neutral on the bill, but I would like to address a concern that Assemblyman Claborn had about our survey process. I am in good shape as far as handling the survey. The survey process starts tomorrow. Where I am hurting on the staffing side is outside of the prevailing wage program. I wanted to set your mind at ease on that point.

Assemblyman Claborn:

That makes me happy. Thank you very much.

Assemblyman Bobzien:

Looking at section 2, subsection 2, the proposal to expand construction work to "work of a comparable nature," the bill sponsor put out a hypothetical of mining work. Could you comment about how you would approach this if that was the charge? "Comparable" is a very broad term.

Michael Tanchek:

Right now we do consider some mining-related work in the survey, for example, building construction that is comparable. What we are looking at here are heavy equipment-type operations that are related more to mining than to normal building construction. That type of work is actually identified on the survey. It could fit in.

Assemblyman Bobzien:

Then you would be producing reports on the surveys that say you deemed this work to be comparable, and there will be some sort of justification as to why you consider that comparable.

Michael Tanchek:

Basically, we use certified records. We do not verify this information at the front end. If someone wants to object to it, then we would research it on the back end. In that regard, with the volume of information that comes in, I do not have enough people to check it all out. Generally what will happen is the trades will request copies of all the surveys, and they go through the information with a fine-toothed comb.

Assemblyman Bobzien:

But you did mention that you include some mining activity right now; is that correct?

Michael Tanchek:

It is what I would call mine-related. For example, if the mining company wanted to build a new shop facility, it would not be that much different than the Nevada Department of Transportation building a shop. We have taken that type of mine-related work into consideration.

Assemblyman Bobzien:

But construction that happens outside of Washoe and Clark Counties is included, and often it is related to the mine industry?

Michael Tanchek:

Yes.

Chair Kirkpatrick:

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

We have 37 people who would like to speak on both Assembly Bill 195 and Assembly Bill 298. If you want to come and testify on A.B. 195, we will be more than happy to incorporate your testimony into A.B. 298. Sections 6 and 15 in A.B. 298 incorporate most of what is in A.B. 195. I am trying to make sure that everybody gets a chance to speak. I want to make sure that Las Vegas gets their points and we do have a third bill to be heard. Those who would like to testify in opposition to A.B. 195 may come forward.

Danny L. Thompson, Executive Secretary-Treasurer, Nevada State AFL-CIO, Henderson, Nevada:

We can testify now or after Assemblywoman Gansert's bill because it is going to be the same testimony. Do you want our testimony now or wait until her bill is heard?

Chair Kirkpatrick:

I think because there is more in A.B. 298, it would be more efficient if you just opposed it for the group. Then your opposition is on record, and we can incorporate those points from A.B. 195 into A.B. 298 in our minutes.

Danny L. Thompson:

I can do that. For the record I oppose A.B. 195. I will give you the details after you hear the proponents of the next bill.

John E. (Jack) Jeffrey, representing Laborers' International Union of North America, Local No. 872, Las Vegas, Nevada:

I agree with the previous speaker. At some point, whether now or on A.B. 298, I would like to give you a short history of what has happened with prevailing wage here in Nevada and especially why we even have such a thing. If you would rather I do it later, I will do it later.

Chair Kirkpatrick:

You could go ahead and start with that. It would probably be helpful to the entire Committee before we get to the next two bills.

Jack Jeffrey:

I will hold my testimony then to the information. I would like to talk about the comparable work portion later.

The original prevailing wage bill was a federal law, the Davis-Bacon Act. It was introduced by two Republican senators during the height of the Depression. The reason that we have the Davis-Bacon law is because various governments, local, state, and federal, did public works projects to try to stimulate the economy in various areas. Contractors would come in from out of state, usually from an area that was much more depressed than the one where the project was located. They would bring their workers with them and pay them a rate lower than the rate the people in the area were used to. When the job was over, they left the workers there and moved on to the next area, leaving the workers, who then became a drain on the community. The Davis-Bacon law was passed in 1931 as a result of that kind of activity. Nevada passed the so-called Little Davis-Bacon Act in 1937.

The Labor Commissioner used to establish the prevailing wage rate according to what he believed to be the rate in that area. If there was an objection and he thought the objection was valid, he would hold a hearing to establish a different rate. Through most of the years until 1985, the prevailing wage was the collectively bargained rate in Reno and Las Vegas. The reason for that, primarily, was when a commercial construction project was going to be done in an area that was where the workers came from. The workers came out of Reno and went down as far as Ely, and the workers in Las Vegas covered the four southern counties.

That method worked well until 1985, when Douglas County objected to the rate. The Labor Commissioner at that time did not believe that he was wrong, and he would not hold a hearing to change it. Douglas County filed suit in district court and the local judge found in the county's favor. The case reached the Nevada Supreme Court. The Supreme Court never made a decision on it, but the Labor Commissioner decided to hold a hearing. The hearing was held, and nothing was changed. When the Republicans controlled the Assembly in 1985, there was an effort to repeal prevailing wage in its entirety. There were massive hearings in Las Vegas, Reno, and Winnemucca. There was strong opposition from many people, not only construction workers but business people who saw repeal as harmful to their economy. One of the people who testified against the bill was Oran Gragson, the former mayor of Las Vegas. Mr. Gragson came to Nevada from Oklahoma in the 1930s because of the Depression and went to work on the dam. He remembered those days very well.

As a result of all of the legislative activity in 1985 there were two major changes to the Nevada prevailing wage law. First, the threshold was raised from \$2,000 to \$100,000, and second, the surveys were started. The surveys are expensive; they cost everybody in the process money, and if you look back over the history, I think you will find that the Labor Commissioner—the one in the 1980s who said he was not in doubt—was on the mark. The prevailing rate is still pretty much the Reno-Las Vegas collectively bargained rate.

As far as comparable work is concerned, I object to that part of the bill because mining activity is already covered on the construction end. This bill would cover the operations of the mine. Do we want to get into that with every industrial complex in the state, where anyone who runs a tractor counts against an operating engineer? Do we want anyone who is a laborer in one of the chemical plants in Henderson to count at that rate? The prevailing rate is based on the construction rate, and that is how it should stay. It makes no real sense to start branching out into areas that have nothing to do with what we are trying to accomplish with the legislation as a whole.

Chair Kirkpatrick:

Are there any questions from the Committee?

Assemblyman Settlemeyer:

What year did you mention that we went to \$100,000?

Jack Jeffrey:

It was 1985.

Assemblyman Settlemeyer:

I remember looking up some of the testimony from that time frame, and it was decided in that committee to go to \$200,000, and then at the last minute, for some reason, it was decided to use \$100,000 instead. My question is, from 1985 with the increase in costs, perhaps Mr. Goicoechea's amount of \$3 million is way too high, but would you not agree that we should at least increase that number to what would be reasonable, like the increase from \$2,000 to \$100,000 back then?

Jack Jeffrey:

The question is, where do you want the workers to come from? Assembly Bill 195 does not repeal prevailing wage; it just amends it to death. If you adopt that legislation, it will cause major problems in the construction industry for people who are now competing. Wherever you set the threshold, that means people can pay less than the prevailing wage, and the commercial contractors have a tough time competing on that size job. They are competing against people that pay less than they do. Those companies have no pension plans and no insurance protection. It is far from being a level playing field.

Assemblyman Settlemeyer:

In other words, you feel there should be no threshold at all?

Jack Jeffrey:

I think there should be a threshold for very small projects that are more in line with maintenance-type work. If a school wants to repaint, they can generally do it under the \$100,000 threshold. There are very small jobs that you would have a hard time finding contractors to bid on anyway.

Chair Kirkpatrick:

Are there any more questions?

Randy Soltero, representing Sheet Metal Workers Union No. 88, Las Vegas, Nevada:

We are strongly opposed to A.B. 195 and I respectfully reserve my comments at this time and will make comments during the hearing on A.B. 298.

Chair Kirkpatrick:

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

Richard Leigon, Southern Nevada International Brotherhood of Electrical Workers, National Electrical Contractors Association, Labor Management Cooperation Committee, Las Vegas, Nevada:

I would like to go on record as opposing A.B. 195. I will reserve my comments until we get to the other bill.

Chair Kirkpatrick:

Is there anyone else in Las Vegas who would like to do the same thing?

Donny Grayman, representing Ironworkers Local No. 416, Las Vegas, Nevada:

I would also like to go on the record as opposed to A.B. 195.

Lamar Jones, representing International Brotherhood of Electrical Workers Local No. 357, Las Vegas, Nevada:

I oppose this bill and would like the opportunity to speak about A.B. 298.

David Kersh, representing Carpenters/Contractors Cooperation Committee, Los Angeles, California:

The Carpenters/Contractors Cooperation Committee is a labor management organization comprised of the Southwest Regional Council of Carpenters and its signatory contractors. I am here to oppose A.B. 195 and A.B. 298, but I will speak now.

I think it is a misconception and shortsighted to think that by repealing prevailing wages or raising the threshold, which is another way of repealing the law for many projects, that we are going to get more construction for our money or more value for our public dollars. That is not the case. What this bill will do is undermine the many social and economic benefits that we obtain by paying prevailing wages. Scores of studies across the country undertaken at the state and federal levels, and using diverse methodologies, have examined the impact of repealing the prevailing wages or lowering the threshold. These studies, and I am aware of at least 15, are consistent in their findings.

I would like to summarize some of these findings. A reduction in prevailing wages would have the result of lowering tax revenues, reducing job

productivity, reducing worker training and job safety, decreasing the number of minorities in training programs, reducing health care and pension benefits, impacting negatively the local health care systems, and slowing economic expansion. Instead of raising costs, the payment of prevailing wages and benefits forces contractors to hire and train a more productive labor force. The failure to pay prevailing wages results in trained workers migrating to other areas, and the young, less trained workers will have an injury rate 15 percent higher than trained workers.

The increase in cost of prevailing wage was found to be statistically insignificant. This appears to be true in numerous cases. Future savings in maintenance costs because of higher-quality construction produced additional savings for the state. A major study of nine states that have repealed prevailing wage found the repeals had negative impacts on all state budgets. The loss of construction earnings and sales tax revenues had an adverse impact. Cost overruns in construction also increased after the repeal of prevailing wages. Training was reduced by 40 percent, and injuries increased by 15 percent.

I could go on and on. The point I am trying to make is that we need to keep the prevailing wage law strong, and it is misleading to think that we are going to get more value by raising the threshold. We are not. On the contrary, we could lose a valuable public policy which benefits workers and their families, responsible contractors, public agencies, communities, and the public at large. It is all the more crucial in these tough economic times to make sure workers can make ends meet, the public gets the most for their public dollars, and we keep our middle class vibrant and hopeful. Thank you for this opportunity to speak.

Chair Kirkpatrick:

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

Jack Mallory, Assistant Business Manager/Secretary-Treasurer and Director of Government Affairs, International Union of Painters and Allied Trades, District Council 15, Henderson, Nevada:

It appears that many of my contemporaries have read the same studies that I have, so I will keep my testimony as brief as possible and try to address a couple of issues that Assemblyman Goicoechea raised. He said that the vast majority of prevailing wage projects currently conducted in this state are greater than \$3 million. That is not, in fact, true. In the Labor Commissioner's fiscal note that was submitted for A.B. 298 there was an additional page attached to it that showed a list of all of the 2008 public works projects that were performed in this state. Of the 857 public works projects performed, 146 were greater than the \$3 million threshold. Additionally, the prevailing wage surveys,

as I understand the way they are calculated, are based in the county that they are submitted for. If a county does not have any prevailing wage surveys submitted, then the state Labor Commissioner will look as far as two counties over to determine what the prevailing wage would be for that county.

I support what the previous speakers have said, and I am in strong opposition to this bill. This bill and others like it appear to be trying to take advantage of an opportunity and submitting proposals that are very similar to the budget submitted to this Assembly and Senate where they are trying to shift the burden and the obligation of the state onto the backs of its residents and its workers.

Chair Kirkpatrick:

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

Patrick T. Sanderson, representing Laborers' International Union, Local No. 872, Carson City, Nevada:

I want to bring up one portion of Assemblyman Goicoechea's testimony, in which he said he would like to include mine work in the surveys. I worked construction all of my life. Construction is a boom and bust job. One day you have a job and the next you do not. It might be because the boss likes you, or dislikes you; it might be because you work so hard, but the season comes to an end, especially out in the rural counties.

Our members who work in the rural counties usually have one shot at going to work that season. When they go to work, they need to get enough hours to build up their bank for their insurance. They hope to have enough hours to get vested in the pension plan. They hope to work long enough to make enough money to survive until the next job comes to these rural counties.

Mining is a completely different entity. I have three nephews in the rural counties who have worked in the mines for over 25 years and never had a day off unless they switched from one mine to another. Construction is not like that. You either make it today or you lose it tomorrow. One thing that everyone complained about over the last couple of sessions, was why we did not have enough trained workers to do these jobs. If you take the prevailing wage away, you do not give them a chance of working and making their money in that short span, and then we will not have good workers in the State of Nevada, especially in the rural counties.

If you raise the threshold from \$100,000 to \$3 million, every one of these entities will find a way to prevent it from becoming prevailing wage. In tough times I understand this. Every county and every city has only so much money to work with, but we need to keep a good, productive construction force in the

State of Nevada and not have to bring in workers from all over the rest of the country. We do not want to change the prevailing wage.

Hopefully, we will tie prevailing wage right into the green energy bills. That is an up-and-coming vehicle, and perhaps there will be a little bit more security. If that happens, every rural county will make money off these green energy projects. They will have workers who make a decent living wage who will spend money in their towns and the counties will come back strongly.

I am completely against this bill.

Chair Kirkpatrick:

Are there any questions from the Committee? I see none. Is there anyone else who would like to testify in opposition to A.B. 195? We will incorporate all the testimony into the hearing on A.B. 298.

We will close the hearing on A.B. 195. We will open the hearing on Assembly Bill 298.

Assembly Bill 298: Revises provisions relating to public works. (BDR 28-587)

Assemblywoman Heidi Gansert, Washoe County Assembly District No. 25:

I am here to present Assembly Bill 298. I did not know very much about prevailing wages until last summer. I had a constituent of mine call me three times in one day. I called him back, and he was a contractor. He installed burglar alarms in buildings. He was very upset because the prevailing wage for installation of alarms had gone from \$25.09 to \$51.14. He explained to me that through the survey process only 46 hours had been turned in for Clark County, and that had adjusted the prevailing wage throughout the state because those were the only hours turned in on that type of work. I started to investigate to find out how that could happen. I learned quite a bit about prevailing wage.

This bill, to me, is about putting people back to work. Right now our economy is slow. Some of the big jobs are in Clark County, and other places are tailing off. There will not be a lot of jobs. Having sat on Ways and Means for the past three sessions, I can tell you our construction projects for the state are about zero. There are some maintenance projects, but that is about it. How do we help people get back to work? Part of it is the cost of projects. In learning about prevailing wage, my understanding was that surveys are collected, but typically they represent collective bargaining. They do not represent all of the work that is being done in the state. This is not a bill to kill prevailing wage; this is trying to get prevailing wage to represent what a prevailing wage is in

counties throughout this state. Let us look at everything instead of a limited number of surveys.

This bill also addresses what is called job targeting to make sure that people who are working those jobs get the dollars that are the prevailing wage and that there are not substantial hold backs, which currently happens in these contracts. This bill raises the threshold, as Assemblyman Goicoechea's bill does, to \$3 million. It also excludes the Nevada System of Higher Education as well as K-12 projects.

There are a few spreadsheets you should have which will give you an idea of the amount of money is being spent ([Exhibit D](#)). This has a summary, prepared by the Labor Commissioner, that shows you the number of projects under \$3 million and those over \$3 million. The total projects done in 2008 are listed in column C, which is about \$6.5 billion. Column E is the \$435 million that was spent on the smaller projects, and the remaining is about \$6 billion. If you look at column E and the different counties, you will see that the small counties have a lot of little projects. If you use some quick math, many of them are under \$800,000. These small counties have very little money, and the state ends up putting more money into education for them. If prevailing wage was 10 percent less than it is now, you would have a savings of \$40 million. Also, if prevailing wage was adjusted to reflect the average and that was 10 percent less, that would be another \$600 million that could be saved off column G for a total of about \$650 million in one year. That is a lot of money.

The other document shows the money that has been spent in 2007 for the projects for education. In looking at Washoe County, they spent about \$58 million. I served during the entire interim on the Washoe County Schools Construction and Revitalization Advisory Committee, trying to figure out how we could put money together to improve some of the older schools in Washoe County. In Clark County most of the schools are relatively new, so you do not have the substantial maintenance that we have in Washoe County. My county has many schools over 50 years old. We put a question on the ballot last November to try to raise some taxes to take care of that. It failed. We could not get any new money, so these school districts need to be able to use what they have to get these projects done. If we can do them for a lesser amount, even if it is only 10 percent less than the prevailing wage, some of these school projects can actually get accomplished.

I wanted to make sure that we can get projects done, and that people are put to work and are paid a good wage, and that they receive that wage. I realized how prevailing wage does not necessarily reflect accurately all of the projects in a county in this state; it really represents only about 40 percent.

I have with me Ms. Clara Andriola of the Associated Builders and Contractors. She can go through the bill in detail and answer most of your questions.

Assemblyman Claborn:

I disagree with you on quite a few things. When you cut the prevailing wage, who do you cut? You cut the workers. Where did you save the money? The workers did not receive the money; therefore they have a smaller paycheck to take home to their families to live on. Another thing is, what are we getting the stimulus money for? It is to put the money back into the economy. Most of the prevailing wage workers put their money back into the economy. You are really not saving anything. What you are doing is depriving the construction workers of money.

I have not heard anything about cutting prevailing wages for chief executive officers, and I doubt if we will. The whole thing in a nutshell is that when you cut a worker's wages, you take money away from him and his family to buy food, automobiles, and other items. When somebody says we save, we really do not save. I disagree with you.

Assemblywoman Gansert:

I am really concerned about workers having jobs. I want people to be able to work. In looking at the stimulus package, quite a bit of it goes to Health and Human Services and to Education. Those are not construction dollars. The construction dollars are mainly transportation—I believe it is about \$200 million—and that is it for the State of Nevada right now.

Clara Andriola, President, Sierra Nevada Chapter, Associated Builders and Contractors, Reno, Nevada:

I would like to agree with you that everyone's responsibility is to keep all Nevadans working. I think we would be hard pressed to find anyone who did not agree with you. The reality is that the way the prevailing wage is calculated is not necessarily represented by an average. Some of the money does not go directly to the worker. The most conservative study on this matter says that, just on the labor cost, about 9.91 percent of the wage does not go directly to the worker. Some of it goes into specific funds that are not necessarily in the prevailing wage-allowable contribution categories; in fact some studies indicate that the average voluntary fringe benefit is about 18 percent. That is a national study done by the Society for Human Resource Management. About 30 percent of the prevailing wage jobs are represented by collective bargaining agreements. Every single cent should go directly to the worker, and that is why we have in this bill that the only allowable contributions be those that can be collected at the time by the worker during that project. They then would receive 100 percent of what they are due.

Assemblyman Claborn:

I was a business representative for the Operating Engineers for 24 years. Back in the 1970s when prevailing wage first came about, I was the one who got those documents together to do the survey. The Operating Engineers and the other unions put these forms together to determine our prevailing wage. I spent many hours on those surveys. When a new Labor Commissioner came in they would put out a new survey. Again, you are taking money from the working man's pocket. You can change it any way you want, but you will never get me to agree with it.

Assemblyman Bobzien:

I am looking at section 6, subsection 4 and trying to get my brain around what you are trying to accomplish, "The Labor Commissioner shall not consider a survey that has not been signed by the contractor who submitted the survey." From what I am hearing, you are concerned about the quality of the surveys. Who is filling those surveys out now? If organizations representing contractors are worried about the qualities of the surveys, they should make sure that the surveys are properly filled out. What is the dynamic that you are trying to solve?

Assemblywoman Gansert:

Clara Andriola has in-depth knowledge so I will let her answer that question.

Clara Andriola:

The reason that we put that section in speaks directly to the dedication and work that Assemblyman Claborn just articulated in terms of spending hours and hours in putting the survey together. We want to make sure the contractor is essentially reporting that data and that he or she is truly signing and representing that.

Assemblyman Bobzien:

So, your position is there is a lack of quality in the surveys because of the way the contractors are filling them out now?

Clara Andriola:

We simply want to have an assurance that the contractor actually signed off on any document that is included. I would defer to the Chair in terms of going through some of the detail, which I just wanted to share briefly in supporting what Assemblyman Claborn talked about and why we are doing these provisions in section 6. I am not trying to avoid your question; we are hoping that a contractor who is representing that survey would, in fact, be the contractor to sign and compile that information.

Assemblyman Bobzien:

I understand the concept. It seems that the concern is to make sure those are done correctly. For your organization specifically, are your contractors filling out those surveys right now?

Clara Andriola:

We do not oversee any of those documents that are submitted from any contractor.

Assemblyman Bobzien:

But, are your contractors filling them out?

Clara Andriola:

Yes.

Chair Kirkpatrick:

Let us go to Mr. Goedhart and then run through the bill. I think there will be some questions along the way. I did want to say that in Clark County we voted for a tax to upgrade our older schools. I wish they would do the same up here.

Assemblyman Goedhart:

I have been on both sides of this issue. I was a teamster once and worked the docks with Roadway Express. I have worked union jobs, and I know what a livable wage is and what it is not. I also have poured a lot of concrete in my life. I have a batch plant and mixer trucks, paddle wheels and motor graders, backhoes and excavators, and still do. In doing some work in rural Nye County, I wanted to pay a livable wage. I talked to my foreman on the project and asked what it would take to get the best guys out of Pahrump to do my job. He told me if I paid them \$200 a day I would get seven or eight hours and I could pick whoever I wanted. That was on the form finishers and finish concrete guys. We poured 20,000 yards, which is 2,000 truck loads of mud, in about four months and got it done. There was one day on the job and we had the trucks spinning and no one showed up to work. I asked my foreman what was going on, and he made some calls. There was a prevailing wage job opening up, and they were getting \$46 an hour.

We talk about putting it on the backs of labor that this is going to be untenable, but in this situation the "prevailing wage" was almost double what we had plenty of people knocking on our doors for. My wife went to college for eight years; she is a nurse practitioner. She makes about \$40 an hour. That is prevailing wage for her in that rural area. I recognize both sides of the issues, but I think there should be some attention that these prevailing wages are just

that, and that there is not a lot of hocus pocus and a lot of monkeying around to make these giveaways that are funded by the taxpayer.

Chair Kirkpatrick:

Ms. Andriola, would you like to go through the bill?

Clara Andriola:

I will try to be brief. I know there are a lot of people who want to speak, and I would like to make sure that everyone has the opportunity to do so. [Ms. Andriola read her statement to the Committee from prepared text ([Exhibit E](#)). She also provided additional reports, studies, and documents to the Committee members ([Exhibit F](#)) ([Exhibit G](#)) ([Exhibit H](#)) ([Exhibit I](#)) ([Exhibit J](#)).]

Chair Kirkpatrick:

Are there any questions from the Committee? I have a couple of my own. I am trying to read this "S.B. 102" report real fast. Honestly, in the five years that they did the report, the increase in surveys never changed. Why is it the state's responsibility to have contractors fill out their paperwork? If you want to be included in the process, fill it out. That is my first frustration. Can you explain that?

Clara Andriola:

There is absolutely no argument in terms of the dismal response of surveys. Instead of making a mandate and putting any administrative load on any entity, we are proposing an incentive to turn them in. The audit for the State of Nevada that was done by the Executive Branch compared Nevada to Oregon. Oregon put in a mandate.

Chair Kirkpatrick:

I do not incentivize my children; I tell them this is what you need to do to be responsible. Why are we incentivizing business owners to do what is already going to benefit them? You and I have had this discussion, and I have seen how they do not fill out the surveys. So, get rid of that secretary if she is not doing the job right. At the end of the day someone needs to sign off on that. If they are not, it is their dollars out the door. I get frustrated with that point because we are always being told to stay out of the business side of it. It is their responsibility to do these surveys.

Clara Andriola:

I would like to add one point. A lot of contractors believe that it is already a done deal. The prevailing wage is nothing more than the collective bargaining agreement, so why do it. I am not making excuses; I am just reporting

information. In terms of looking at an incentive, it would not impact any entity. If they do not want to fill out the surveys, that would be okay.

Chair Kirkpatrick:

In Clark County I voted for the tax to make sure that my children have good schools. I have been paying that tax for ten years. If you were to exempt schools from the prevailing wage requirement, as proposed in this bill, there is no guarantee that the money is going to go back into the school fund. We are broke. We could put it into a million other things. What is the guarantee, if we take change the prevailing wage threshold, that the money saved will actually go back into the education part of the budget? It could go right back into the General Fund, and the capital improvement budget could be smaller.

Assemblywoman Gansert:

Construction dollars are separate from operating dollars. Construction dollars come out of property taxes in Washoe County, and there are a couple of other vehicles in Clark County. But, those are specifically for construction. If construction costs a little bit less, you could do more projects. Nevada System of Higher Education funds are provided by the State of Nevada, and it is an onerous task for them to do projects. I have sat on the Interim Finance Committee's Subcommittee for Review of Public Works Board for a while. They supported the bill I had last session to exempt higher education. There are two issues—the prevailing wage and also exemption from Public Works Board oversight—that if affirmed will give them more control over their projects. It would put the Board of Regents in charge instead of the State of Nevada. They would still go through the process of where they prioritize and construct their projects. Those projects are funded through the State of Nevada versus county school district projects. Operating expenses are funded through county versus state.

Chair Kirkpatrick:

We did hear Assembly Bill 40, which exempted Clark County from some pieces of the Public Works Board. Last session we allowed 16 counties, with the exception of Clark County, to be exempted from a portion of the Public Works Board. I understood that we set what the capital improvement budgets are. Is that not how it works?

Assemblywoman Gansert:

We do for higher education, but we do not for school districts.

Chair Kirkpatrick:

So, this bill includes both. I thought we were already trying to take care of the problem. Is there a guarantee if we took this out of the capital improvement

budget that it would go directly back to higher education? I do not know how that works.

Assemblywoman Gansert:

We use bonds for the construction projects, and that money is kept separate right now. A prison was supposed to be built, but I do not know if it will be. Those dollars may get reshuffled because that is a function of revenue and bonding capacity. There are some small projects that we paid cash for, but I would expect that those dollars would be available for more projects if you reduce the cost of individual projects.

Assemblywoman Pierce:

The study that I quoted earlier is the University of Utah study, which is from a private think tank funded by the Coors family and ten of their closest friends. This study is very narrow, it is just about wages, and as a legislator, and I do not have the luxury to look only at some tiny piece of a problem. When you are talking about watering down prevailing wage and essentially promoting poverty in a community, there is a ripple effect. Assemblywoman Gansert is talking about creating jobs. When you create lower paying jobs in a community, all of a sudden people cannot afford to take their families out to a restaurant anymore. There are many recreational activities and retail goods that they can no longer afford. The Coors are not going to say you are not going to create jobs by lowering prevailing wage; you are going to destroy jobs and hurt the economics of the community, particularly communities in the rural areas.

My question is about the increased pressure on social services. What taxes would the Associated Builders and Contractors be willing to see the state raise in order to pay for the increase on social services? We do not now have the money for the social services, so specifically, what taxes would your organization recommend that we raise?

Clara Andriola:

There are several points that I would like to address, including your topic that deals with the ripple effect. This particular study was done by the equivalent of the Legislative Counsel Bureau (LCB) and speaks to some of those...

Assemblywoman Pierce:

This was not done by the equivalent of LCB; it was done by a think tank.

Clara Andriola:

I was speaking about another report. Let me speak to the ripple effect. In economics it is called a multiplier factor. The studies indicate that if the average wage reported was used, then that would be the prevailing wage. The

reality is that those inflated costs come into play, and the worker is not going to be able to have more money in his or her pocket to go to the restaurant, or do those activities that help stimulate the economy and have that ripple effect, because there are categories in some collective bargaining agreements that get put into the prevailing wage but do not go directly to the worker. That is why we are speaking to that piece of the reform. We are 100 percent supportive of every dollar going to the worker to do exactly what you are suggesting, to help our economy and to help those restaurants and every other business that is in desperate need.

Health insurance and pensions are allowable. We have found that when contractors provide that coverage, their workers still get more money in their pockets. The reason is that those contractors do not have a collective bargaining agreement and, therefore, specific categories are not pulled out because they are not considered an allowable contribution as defined by law. I hope I have answered your question.

Assemblywoman Pierce:

You did not speak to a specific tax that your organization recommends us raising.

Assemblywoman Spiegel:

I have two questions. I would like to ask them separately. My first question comes from a slightly different perspective, which is your cost of doing business. By way of disclosure, I own a firm that deals with workers' compensation.

Based on the Utah study that I have looked at, when prevailing wage was repealed in Kansas, worker injuries increased 19 percent, but serious injuries increased 21.5 percent. Have you spoken with anybody in preparation for today about what impact an increase of serious injuries by 21.5 percent would have on your members' workers' compensation premiums, and what that impact would be?

Clara Andriola:

I am not a workers' compensation guru, and I have not looked at the Utah study.

Assemblywoman Spiegel:

If your serious injuries went up by 21.5 percent, what impact would that have on your members' workers' compensation premiums and their associated costs?

Clara Andriola:

Our organization believes in safety first. Safety is critical in the construction industry, and we understand what those ramifications are. It would impact them if there were, in fact, safety issues. Workers' compensation would go up. Again, I have not looked at the Utah study, but other studies show that there is not an impact in terms of safety. It really does come down to training and being a good organization that supports safety first.

Assemblywoman Spiegel:

Would you be able to provide me with some data?

Chair Kirkpatrick:

Ms. Gansert, did you want to respond to something?

Assemblywoman Gansert:

We had a bill in Commerce and Labor that dealt with worker training and the Occupational Safety and Health Administration (OSHA). I think everyone recognizes the importance of safety training and that it is applicable to all jobs, whether union or nonunion. I know there is an emphasis in Nevada to create a safer environment.

Assemblywoman Spiegel:

I appreciate that, but I am interested in the cost-benefit analysis related to workers' compensation premiums associated with a 21.5 percent increase in serious injuries.

My second question is for clarification. Ms. Andriola, do you know, as part of the bidding process in public works projects in Nevada, if they look at contractors' "X-Mods," or experience modification rates, which are related to past safety performance? If the "X-Mods" are too high, can they bid on these jobs?

Clara Andriola:

Again, I am not a workers' compensation expert. I would defer to Public Works to answer that question. I am not aware of that being a factor.

Assemblywoman Spiegel:

If you could find out for me I would appreciate it. The reason I ask that question is I know, in many jurisdictions nationwide, public works projects cannot be bid on by contractors whose experience modification numbers indicate a high level of worker injuries. If this bill were to go through as put forth, prevailing wage would really be gutted in the rural counties, and that would, I believe, cause a significant increase in the associated experience

modification of contractors who are based in the rural counties. That could lead to their not being able to bid on public works projects in those communities. It would make them noncompetitive, losing out on projects to firms from Washoe or Clark Counties that have acceptable numbers.

Chair Kirkpatrick:

Are there any questions from the Committee? I see none. Is there anyone who would like to testify in support of A.B. 298?

Tray Abney, Director, Government Affairs, Reno-Sparks Chamber of Commerce, Reno, Nevada:

In our "Agenda for Economic Vitality," which is the Chambers' public policy manual, we mentioned our opposition to prevailing wage. We have also released an agenda with long-term spending reforms that we believe need to be implemented before any tax increases are considered. One of the reforms we list regards prevailing wage.

I want to applaud the sponsor and Ms. Andriola for bringing this bill forward. Assemblywoman Gansert mentioned the Washoe County ballot initiative last November to raise some taxes in order to revitalize our schools. I happen to have served on the steering committee of that ballot issue. Of the Chamber's political action committee funds that we spent last year, the largest portion went to that campaign. We had a heavily vested interest in seeing that our schools are fixed and up to code and up to standard.

By reforming prevailing wage with this bill we can actually put more money into our school facilities and serve our children better. I strongly support this bill and urge your support as well.

Assemblyman Bobzien:

Regarding the conversation I had with the representative from the Associated Builders and Contractors (ABC), there seems to be a consensus that part of the problem with the quality of the survey data is that people are not filling out the surveys. Does the Chamber have any interaction with its membership to get the word out about the importance of filling out those surveys and taking the time to be a part of that process?

Tray Abney:

No, we have not, and frankly I learned about the ins and outs of this issue from Ms. Andriola a month or two prior to this session. We are certainly willing to work with ABC and any other trade groups to get that response rate up, and I think that is very important. I agree with the Chairwoman that it is the

contractors' responsibility to do it. It directly impacts them if they want to see these wages chosen more fairly; it is up to them to turn in those surveys.

Assemblyman Bobzien:

I think it is one of those cases where rather than going right to statute, why not step back and consider ourselves as associations with members and get the word out.

Tray Abney:

I do not disagree.

Chair Kirkpatrick:

I do not have to ask that question. I was going to ask if you support incentivizing people to do their own paperwork.

Assemblyman Aizley:

I would like a little clarification. Are you objecting to prevailing wages or to the way they are computed? People have said both things, and I need to have those ideas separated. In general, I have also heard that prevailing wages do not give the worker more money, and other people say they do give them more money.

Tray Abney:

The short answer is both. The Chamber has had a long-standing position of objecting to prevailing wage in general. Given that this bill is before us today, we support any reform necessary.

Chair Kirkpatrick:

Most of those contractors belong to the Chamber, right? The workers like prevailing wage, of course. It is quicker to get workers when they offer prevailing wage than when someone offers a lower wage. The contractor benefits from that. What is the reasoning if they are all part of your association anyway?

Tray Abney:

I would say most of the contractors are members of my association and they reach an agreement with their unions as far as contracts. The Chamber believes that wages should be based on market rates.

Vickie Coll, Administrator, Human Resources, A & K Earth Movers, Fallon, Nevada:

I am in support of A.B. 298. Section 5 specifically talks about overtime. As Ms. Andriola testified earlier, the statute currently reads that you would pay

overtime for more than eight hours worked in a day or ten hours worked in a week or according to a collective bargaining agreement. It does not allow for a nonunion employee to negotiate or otherwise identify hours Monday through Friday on our work hours. When we bid on projects we look at the hours in the summertime because we are in the northern Nevada area. We do not have the luxury of the southern Nevada, Las Vegas climate. We have a very small window for working. When we do work, we try to maximize that time—ten hours, twelve hours, whatever it takes. Weather conditions can change. We had a situation in 2006 where we sent our workers to Battle Mountain, three hours away from their homes. We tried to negotiate directly with the employees what would be the best for their hours. Mondays and Fridays would be a lower hour worked than the rest of the week in order for them to at least achieve a 40-hour work week. There were a lot of times we looked at five days of ten hours.

When we started getting into the project, working ten hours overtime each week, there were days that we shut down less than ten hours. We got audited and the Labor Commissioner called us in. They scrutinized us and decided that if we were working five days, we must be working five eight-hour shifts. Therefore, anything over eight hours per day would be overtime. This did not negate the fact that there were days in that work week that they worked less than eight hours.

We said that was not our intent. Our intent was to work the maximum number of hours in a work day to accomplish the job and to accommodate the employees' request since they were travelling from their homes to Battle Mountain, three hours away and would rather travel on a Monday morning to preclude having to pay for any kind of hotel expenses and not be too far away from their families for too long. This was an accommodation for the employees, not for the benefit of the employer.

The statute currently does not allow for that to happen with a nonunion employee. You must have a collective bargaining agreement. The statute currently talks about a mutual agreement. What is a mutual agreement? Is it in writing? Is it verbal? If it is in writing, that is an implied contract. A nonunion worker cannot, on the average, negotiate with the employer to say he does not want to work that far away and be gone on Sunday nights and come home late on Friday night. Can I work fewer hours on Monday and Friday so that I can go home to my family? This bill will allow that to happen. We will not have any restrictions that require the employer to say employees have to come to work on Monday and work eight hours.

Chair Kirkpatrick:

Are there any questions from the Committee?

Assemblyman Claborn:

I am a 51-year, card-carrying member of the Operating Engineers and I have never heard anything like that in my life. You have a 40-hour guarantee from the federal government. They say you have to be paid overtime for anything over 40 hours. In order to have a mutual agreement, you call all the workers together and vote on it. If the vote goes your way, you can work 40 hours. They have agreements called portal-to-portal, but the law states that if you work 35 hours underground, you mutually agree to that.

I have never heard that you could not work your employees three or four hours. With the union bargaining agreement, if they work three hours, you pay them four hours. That is in the agreement. You have no bargaining agreement with your employees. You could pay them anything you want. You can also work them anytime you want unless the federal or state government says you cannot. I am not disputing your testimony here today, but you will have to prove it to me.

Vickie Coll:

Perhaps I did not make myself clear. Our plan was to work five days of ten hours each. What our employees wanted was to not work as many hours on Monday and Friday and achieve a higher number of hours on Tuesday through Thursday. They still enjoyed their 50-hour work week with ten hours of overtime. What the Labor Commissioner said was you must be working five days of eight hours, so on Tuesday, Wednesday, and Thursday it is overtime on anything over eight hours. The whole point is we are not trying to avoid paying our employees anything over eight hours in a day or over 40 hours in a week. We have a weighted average that we do on any kind of prevailing wage and any kind of private work job done in the same day. It is a weighted average at the end of the week. We do not have to do that. Often if the prevailing wage is less, we pay what the private wages would be. I think I did not make myself clear on what the whole point was. We are not trying to avoid paying them overtime. We try to accommodate their personal needs because the work was three hours away.

Assemblyman Claborn:

Even at that, with a nonunion contractor, if you abide by the law, you could work them 24 hours if you want as long as they get paid. If you want to work two hours on Thursday I cannot see how the Labor Commissioner can tell you how you can work your employees. The federal government supersedes your Labor Commissioner. I still do not understand. You will have to show me some

paper from the Labor Commissioner. I do not think he has the authority to change federal government standards.

Chair Kirkpatrick:

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

K. Bart Hiatt, President and General Manager, A & K Earth Movers, Fallon, Nevada:

I am a member of the Associated General Contractors and the Associated Builders and Contractors. I also am a member of the Chamber of Commerce in many communities across the State of Nevada. However, I am not a member of the Chamber in Las Vegas. A & K has been in business for 50 years. We are a nonunion contractor. We had been signed with the union back in the early 1970s, but I think this is not an issue about union versus nonunion. This is an issue about workers and workers' rights. I am in support of A.B. 298. We talk about rural counties and urban counties. One problem that we are having in the rural counties is getting taxes passed for improvements, and one reason is because the taxpayers are reluctant to pass taxes when they see a lot of public and government waste going on. They want the construction industry and the projects to have accountability. Sometimes tax issues are not passed because the public thinks the wages are too high or they think the money is being wasted. We have a different situation in a lot of the rural counties.

We have only one high school in Churchill County. A hundred thousand dollars goes a long way. If the contract is for \$150,000 and hits the prevailing wage rate, the money does not go as far. You have to put this issue into perspective and have some flexibility. Prevailing wage might work in Las Vegas, Reno, and Carson City, but communities like Winnemucca, Elko, Fallon, and Ely need some flexibility.

As far as the overtime and the eight hours a day and 40-hour week, two years ago we did \$50 million in sales. Last year we did \$40 million. We can see the downturn. You have to make adjustments. It is not about taking something away from workers; it is about giving workers the ability to have some flexibility and have some control.

As Ms. Coll mentioned regarding the project in Battle Mountain, we tried to say the employees would rather work fewer hours on Monday and Friday, save the money in their pockets, and not get the overtime for those days, rather than give it to a motel room, because they could drive up the next morning and start at a later time. The workers say, why give us the overtime when we are just going to spend it on motels? That is the only concept. We were not saying we

did not want to pay overtime. We were trying to get something workable and have some flexibility.

You should not create legislation that dictates what your employees can do. The government says they know the hours you should be working. I am not saying that it is all legislation that creates this, but it can result in taking accountability away from the workers and contractors and tie all their hands. Besides that, we cost ourselves a lot of extra money. For taxpayers, for companies that pay taxes, it all comes back to "we the people."

We are based in a rural community, and I will match our experience modification factor with any large contractor in any big city. I do not think that anybody in today's world, if they are going to be successful, is going to circumvent safety because they are in a rural county, because they are in a big city, or because they are trying to steal money from their employees. Safety pays. There is no reason to not enforce strict safety rules on projects. I would ask that you reform some of the rules that were adopted years back and reform them to a degree that gives all of us some flexibility.

Chair Kirkpatrick:

I do not think that anybody on this Committee disagrees with you on worker safety; otherwise there would not be all those bills that we have this session. I believe the point that Ms. Spiegel was trying to make was that we do not want to sacrifice one to pay for another.

Assemblywoman Spiegel:

That was part of it and the other part was a question. In looking at what the potential cost is to your bottom line, based on what has happened historically in other venues, what happens when apprenticeship and other programs go away? Not necessarily in the first year, but down the road? I did not mean to say that your company is going to do anything bad. I was just asking for some hard data to see what the potential impacts could be on your bottom line.

Chair Kirkpatrick:

We know that you have always been one of those who have been at the table with us.

Assemblyman Claborn:

With the last two speakers, I think your problem is not with the state. Your problem is with the federal government. The laws were made by the federal government and govern what you are talking about.

Assemblyman Christensen:

To the speakers, I appreciate you being here. I know that it can be rough. This is the fourth time that I have served on this Committee. I have always been a small-business entrepreneurial person. I have seen success as well as failure. My experiences have crafted me to be more of a free-market person, so I appreciate your comments about trying to compete. Like all of my colleagues here, we are working as best we can to put our state back to work. I work out three times a week here in Carson City with only union guys. I have learned a lot about organized labor and unions, how the contracts work, the business agents, and the representatives. Just this morning I got an earful on this Committee. One of the most vocal union members does not know that I serve on this Committee, and to hear their perspective has been a great experience for me. I also can connect with your perspective on this bill, because you want to perform your work at a good rate, deliver a good product, and be competitive.

I do not see prevailing wage going away, but if we can make some of these changes work to find a middle ground, it can really help us out.

My question concerns the experience modification (Mod) factor in regard to safety. I want to be sure I know what a Mod factor is.

K. Bart Hiatt:

The Mod factor, or experience modification factor, is an adjustment made to your workers' compensation rates based on how safe a contractor you are or how big a risk you are. We work very hard at safety because it is money. It is like the insurance premium on your house or your car. If you get a lot of speeding tickets, your insurance premiums go up. It is the same way if you have a lot of accidents in the construction industry.

On the prevailing wage, I am not supporting the idea that prevailing wage should go away. I am supporting the bill so that all the factors are calculated. An ironworker in Fallon, where our tallest building is three stories, is different from an ironworker in Las Vegas on a high-rise. You have to have the flexibility and the surveys. It is hard to get contractors and companies in rural Nevada to turn in surveys. They feel it does not really count because Big Brother is setting the standards. They get frustrated with the process and mind their own business. We are trying to get people to stand up and speak their piece. We have no problem with overtime no matter how you look at it, but let us make it easier on everybody and say all hours over 40 hours a week should be paid overtime.

Our company may have three contracts out at the Fallon Naval Air Station with three different prevailing rates. That is a nightmare for our payroll person to try

to figure out, because each job number has a different rate. On one job the carpenter's rate might be higher than on the other side of the base or vice versa. It is a balancing act trying to keep all the rates changed. Then, if you throw in anything over 8 hours per day, and then everything over 40 hours in a week, it is difficult to do the paperwork. We were audited three times over the last couple of years, and the auditors and my people could never come up with the same number. We finally had to agree to disagree. We will have seven different rates on one employee for a week's period. Because we are nonunion, we pay prevailing wage on union-type work, and in every county we work in—Elko, Washoe, Carson City, Lyon County—they have different rates. We need to simplify it for everybody.

Chair Kirkpatrick:

I have Committee members who have questions; however, we have 55 people who want to speak and one more bill to be heard today. I am willing to have them stay over to answer Ms. Spiegel's or Mr. Settelmeyer's questions. Can you do that?

Assemblyman Christensen:

Madam Chair, I have a question you may be able to answer. We have talked about the surveys and I have heard a lot of talk. Assemblywoman Gansert mentioned the example where someone was paying \$25 per hour and the nearest example was out of Las Vegas and it doubled. I need to get an education on that. It seems like artificial price fixing.

Chair Kirkpatrick:

I will ask the Labor Commissioner, because I believe he is neutral on that point.

Assemblyman Christensen:

That can even be off line. Anyone out there who can answer that would be fine with me.

Chair Kirkpatrick:

I believe the Labor Commissioner actually has a copy of the rate.

Assemblyman Settelmeyer:

This is a question I want to ask a business owner. Working on the ranch, I have to install a new light. I first have to grease the backhoe; then I become an operator because I hop onto the hoe; then I have to dig the hole. After that I have to frame it up to pour a light pole, which makes me a carpenter. Then I put some rebar in, so I am an ironworker, and I pour the concrete, so I am a mason. Then I also have to put in the conduit so I am an electrician. I think the businessperson is the only person who would have any real knowledge of how

much time was spent in each field. How could they rely on someone who was not involved in the job to make those determinations? My question is, do you not think that the only people who really know how much time is spent in each task are the people who are doing the job?

Chair Kirkpatrick:

I am going to agree to disagree with you on this point. I want to move on. That is the job for a foreman. My husband is a union plumber and is about to retire. He is so inundated with paperwork because he has to track 181 employees. He has to justify how many people did the helper part, how many hours went into the journeymen, and how many hours went into the apprentice. That is his responsibility as being in charge for that company. I believe you know that is your responsibility.

Assemblyman Settlemeyer:

I agree 100 percent with what you are saying, that the individuals working in and around the job have that information. But, to have someone outside that scope do it is wrong.

Chair Kirkpatrick:

But, at the same time, they are just turning the paperwork in. It is their responsibility. Please help us clarify this so we can move on.

K. Bart Hiatt:

Here is what we do. Our workers fill out their own time cards and the cards are turned in to the job foreman or supervisor. They verify the hours that the employee worked. He may operate a loader, he may do labor, and he may help out in another area. That would be three different rates. It is complicated enough when you go from an operating engineer to a laborer to a truck driver, but within each one of those rates there is a whole bunch more. You may have ten operator rates depending on the size of the piece of equipment he was operating. We have to simplify it. It is not about trying to cheat our employees out of a dollar. We just set one rate for prevailing wage. We will take the highest labor rate on the job in the book. We will say if you pick up a shovel, you get this rate; if you run a whacker, you get the same rate. We are not going to try to save 30 cents or 40 cents and play that game. We do not have time to do it.

That is why we try to simplify the process even though there are many rates out there. Our employees are very conscientious. When they have a problem with their time card and think somebody missed their hours, they call the payroll clerk, she gets in touch with the superintendent, and they work it out.

Chair Kirkpatrick:

Ms. Spiegel has another question, and then if there is anyone else in support of this bill, please come to the table.

Assemblywoman Spiegel:

You said that you do not want this bill to be gutting prevailing wage in the rurals. You also mentioned that you live in Churchill County. Based on the summary of 2008 Public Works projects, which were handed out by Assemblywoman Gansert, if that \$3 million limit had been in place there would have been no public works projects subject to prevailing wage in Churchill County.

My question to you is, if you do not want to do it, what is the appropriate threshold that you would support? Where would you like prevailing wage to kick in?

K. Bart Hiatt:

It does not matter to me personally as far as the dollar amount. I think for a community the threshold needs to be much larger. We are a small community so you would be looking at maybe \$500,000. We do not have the bankroll that the bigger counties have.

Daniel J. Klaich, Executive Vice Chancellor of Education, Nevada System of Higher Education, Reno, Nevada:

First, I want to say that the Nevada System of Higher Education pays prevailing wage on its jobs. It always has, whether those jobs are public works or not. We have never supported legislation that has attempted to support the repeal of prevailing wage, and we do not support that portion of the bill today. As Mrs. Gansert indicated in her testimony, there is a portion of the bill that exempts the Nevada System of Higher Education from the Public Works Board. That is the portion of the bill that we are here to support. I do not know whether you want to talk about that at this point of the hearing or not. That is the only portion we are here to support.

Chair Kirkpatrick:

Please tell us why you are in support. Public Works has been cutting people out for the last two sessions. Why was it not part of the previous discussion, or was it?

Daniel J. Klaich:

We have had this discussion with Public Works over the past four years. As Mrs. Gansert indicated, this bill came forth in 2005. We discussed it in 2007. We have delegated some specific projects, but we have a business center model

north and south with many of our institutions that work their own projects through that. We found that there is a certain redundancy involving those models and Public Works that could be saved. Mr. Valera and Mr. Dincecco are here from the University of Nevada, Las Vegas (UNLV) and they can speak more specifically to that. I want to be very clear that we are only speaking in support of that narrow portion of the bill.

Luis F. Valera, Director, Government Relations, University of Nevada, Las Vegas, Nevada:

I want to introduce Robert Dincecco, who is the assistant director for design for UNLV. We are here to speak only on the Public Works portion of the bill.

Robert J. Dincecco, Assistant Director, Design, Planning and Construction, University of Nevada, Las Vegas, Nevada:

As has been stated, I am speaking on behalf of UNLV in regard to the Board of Regents' management of the capital projects through Nevada System of Higher Education. I am doing this from the perspective that UNLV will be managing these projects with our current staff, which we believe has the expertise to do this.

I have four points. The first point is that there are structural inefficiencies in the State Public Works Board process.

Chair Kirkpatrick:

It is funny that you say that. I guess I am getting a little frustrated with this whole thing now because last session we worked to revamp some of that, and I never once heard you in this Committee testifying that there was an issue that could be fixed.

Robert J. Dincecco:

Again, this is not a criticism of the State Public Works Board. For instance, there is duplication in the efforts that go into preparing the capital improvement plan. The University does it and then passes it on to the Nevada System of Higher Education, which prioritizes it for the system. Then they pass it on to the State Public Works Board, and it goes to the Governor.

Also, there are many organizations involved in the staffing of the project management function. For instance, the State Public Works Board has a project manager. Sometimes they hire a third-party project management firm that has a project manager. We at UNLV have our planning construction manager and, of course, the architects and the contractors have their own project managers. So we need to streamline that. We believe there are too many managers and not enough management going on.

Secondly, UNLV has a vested interest in the success of the academic programs and the long-term operations and maintenance costs. In the academic programs we deal with user requests on a daily basis, and we have developed very good relations with the academic function. When on a State Public Works Board project, we are the prime interface with the users. We meet with all the users and help translate their needs into the space program.

Thirdly, UNLV has a department of planning and construction with a professional staff managing projects, and we do manage our own agency projects. We have managed the Foundations Building, the Stan Fulton Building, the Beam Music Center, the Cottage Grove Parking Garage, and more currently the Advanced Dental Education Building, which is design-built. We also have managed the Student Union building, the Student Recreation Center, the Moot Court, and the Tropicana Parking Structure.

I would like to go back for a moment and talk about our interest in the long-term operations and maintenance costs. At the campus level we have the knowledge of the operational and maintenance costs. Our Planning and Construction Facilities Management, and other related departments know about these costs and know what mechanical, electrical, plumbing, and telecommunication systems will work with the campus infrastructure.

Lastly, UNLV is very familiar with the plan check and inspection services which the State Public Works Board provides. Many times they hire a third party to do that. We would propose to follow the same kind of model and hire a qualified third party to do plan check, reviews, and onsite inspections as required. If there were any disagreements, we would go to the senior vice president for business and finance and the president.

In conclusion, we are in the process of updating all of our design standards and our contracts in hopes we will be prepared for the future.

Chair Kirkpatrick:

Are there any questions from the Committee? I see none. Is there anyone else who would like to testify in support of A.B. 298?

I will call people in Las Vegas to come to the table so we will be ready.

I will call some people to the table here in Carson City so we can expedite this process.

Carole Vilardo, President, Nevada Taxpayers Association, Carson City, Nevada:

I am not going to speak in detail on either bill. We have had a constant concern and have been consistent. When the prevailing wage was raised in the 1985 Session, we understood that. The problem we see is that your wages have constantly gone up. That is fine. I cannot speak to the mechanics, but the level of prevailing wage has never gone up. To say that you would end up losing money, I think, is not an entirely accurate argument, because over the years the wages have gone up considerably more on prevailing wage so in all probability you would raise the base. I support that concept in A.B. 298. There is a provision, which I think is a transparent provision, and I would like to support that issue. That is where you would identify who has responded to the prevailing wage survey. I think that is an excellent requirement and maybe would improve some of the surveys. I know you are short of time. If anyone has a question, I can respond in writing, and I think everyone has my email.

Chair Kirkpatrick:

That would be perfect. If anyone has any questions, please get them to me, and I will get them to Ms. Vilardo.

Danny L. Thompson, Executive Secretary-Treasurer, Nevada State AFL-CIO, Henderson, Nevada:

I would like to read you some testimony from 1927 that was given by Republican Representative Robert L. Bacon of New York on House Bill 17069.

The government is engaged in building in my district a veteran's bureau hospital. Bids were asked for. Several New York contractors bid and their bids, of course, had to take into consideration the high labor standards prevailing in the state of New York. The bid, however, was let to a firm from Alabama who had brought some thousand nonunion laborers from Alabama into Long Island, New York, into my district. They were herded onto the job. They were housed in shacks. They were paid a very low wage and the work proceeded. It seemed to me that the federal government should not engage in construction work in any state and undermine the labor conditions and the labor wages paid in that state. The least the federal government can do is comply with the local standards of wages and labor prevailing in the locality where the building construction is taking place.

That bill did not pass. There were bills introduced in 1927, 1928, and 1930, and finally on March 3, 1931, the original Davis-Bacon Act, named for two Republican representatives, was passed and signed into law by a Republican

President, Herbert Hoover. I think that statement explains why you have to have prevailing wage laws.

I will repeat my previous testimony on whether or not the government in Nevada should accept federal stimulus money for extension of unemployment compensation to workers in Nevada. Today, in the 18 building trade unions in Reno, unemployment is 50 percent. It was not 50 percent during the Great Depression. During the Great Depression, we were exactly where we are today. The only difference is the government did not do anything about it. The government sat and watched all these things happen. The government watched the stock market collapse, and then the government had to come back and pick up the pieces. Prevailing wage was one of those pieces designed to restore standards in the community.

Today, 50 percent of those union workers are out of work. In Las Vegas, in those 18 trade unions, 25 percent are out of work. I dare say that when CityCenter and those three or four big jobs on the Strip are finished at the end of this year, you will see unemployment numbers that will stagger you. You will see such a strain on the welfare systems, on Medicaid, and on your budget that you probably will be back here talking about what to do. Today, in this economy, to talk about doing away with prevailing wage, or negatively impacting prevailing wage, is contrary to what every economist in this country has said. If you do not start putting people back to work, this nation will turn over, and we will be in a depression. You are this close to a depression. You have a \$3 billion hole in your budget.

I have been here since 1981. I was here in 1985, when, as Mr. Jeffrey described, the prevailing wage law was changed. I would tell you, Mr. Settelmeyer, the reason the threshold was changed from the proposed \$200,000 to \$100,000 was because 3,000 people showed up in Winnemucca. Not just workers, but 3,000 people, many of whom were business owners in the small community that did not want to go out of business because those workers were the people they relied on. There was so much pressure on the Assembly's Republican leadership at the time that they backed down from the \$200,000. The original bill was an outright ban on prevailing wage.

I do not think they had a count from Reno and Las Vegas on who attended those hearings. You could not even get near City Hall in Las Vegas. As far as whether or not the prevailing wage or the union rate is the wage that prevails, it is not always the wage that prevails. You heard a contractor here today say that when the prevailing wage is lower, they pay whatever it is. The standard of living in Las Vegas is what it is. Whatever rate comes out, that is what it is. In Reno it is the same. In Storey County, that is what it costs to live there.

The method of calculation is done by a system whereby the Labor Commissioner surveys contractors. We spend a lot of money watching this work for obvious reasons. There are many contractors who will submit a bid on a job knowing that they are not going to pay the prevailing wage and that the other contractors who bid did so at the prevailing wage. When you see a bid that is 50 percent upside down, it does not take a rocket scientist to figure out what happened. Costs for steel, concrete, and other materials are the same for everyone. The fluctuations are in the labor costs. If you see a bid that is far out of whack, that person is going to undercut the labor costs and that money is not going to go around in the community.

Prevailing wage laws level the playing field. After watching 16 people get killed on the Strip on these jobs, to say that this situation does not affect safety is hard to believe. The reason unions were formed in the first place were safety on the job and hours of work. We started out at 12 hours a day. The reason people joined unions was because workers were forced to work 12 hours a day, and they decided that sunup to sundown was not good for them. It was not safe. All of these things are intertwined.

Safety is an issue, because if you work people more than eight hours a day, you are not as safety conscious. There is a good reason why those laws were put on the books in 1937.

Finally, the whole issue of the budget is impacted by prevailing wages. A friend of mine who is now deceased, Frank Cane, was the head of the Ironworkers Union. He used to say, "I see these guys coming in from out of state. They do this work for \$10 per hour, and on Friday afternoon they take their dirty laundry and their paycheck and they go back to Arizona or Utah with our tax dollars in their back pocket." That is not conducive to solving the problems that we have in the state budget. I do not know how you are going to solve those problems, or if you can. Changing prevailing wage is contrary to everything that the federal government is trying to do to stimulate the economy. It will have a negative effect on your ability to solve the problems that you are talking about.

Assemblyman Aizley:

Do workers make more money with prevailing wage take-home pay than they do without it? Someone has suggested that they do not.

Danny L. Thompson:

It depends. The prevailing wage is the rate that prevails in that particular county. If you are on one of those jobs, you will be paid that rate. It may be higher or lower than our rate. Signatory contractors may pay our rate, but if you go out and work in another county, that is what you will be paid. The

answer is that you will be paid the prevailing wage that has been established for that county.

Michael C. Cate, Chief Executive Officer, Pavers Plus, Inc., Sparks, Nevada:

I am an open-shop contractor. I am opposed to A.B. 298. I am opposed to the raise in the threshold, and I am opposed to taking prevailing wage off school projects. There are a few reasons for that. If we had bid a job 18 months ago for a school project and we bid that exact project today, I will guarantee you that number would be 25 to 35 percent less. Wages would have nothing to do with it. If this goes into effect, companies from out of state will come in and they will have cut wages. If Assemblyman Claborn is still here, I am a chief executive officer who took a cut in pay. My field personnel have not taken a cut. They are what make me the money. I believe it is important to give our workers the best wages we can.

There is one thing I would like to say regarding the eight hours and the overtime. It would be a benefit to the employees when winter comes, and we know we are going to miss some days, if they can get in extra hours on a day and we do not have to pay them time and a half. Instead, they work eight and go home because we did not bid the job to allow for overtime. That part of the bill would be helpful to me. I have seen the competition come in from out of state and cut wages. Now my company is so lean, the only way I could compete would be to cut my people's wages.

John Madole, Executive Director, Nevada Chapter, Associated General Contractors of America, Reno, Nevada:

I have some serious concerns about what would happen if this bill was processed. I would suggest that this bill, if enacted, would not be good. There are several favorable provisions of the bill. As noted earlier by Mr. Hiatt, I think there should be more flexibility in the 40 hours. The offenses and penalties provision would actually clarify some issues and give the Labor Commissioner some flexibility, which he does not have now. I would say \$100,000 in 1985 probably is not \$100,000 today, but I do not know what the right number is.

There are some unfavorable provisions that should be considered in not processing this bill. The pension provisions would be a nightmare for someone who had a contract that said they were paying a pension contribution on individuals. If you had 50 people on a job, and some were vested at 20, 30, or 50 percent, there would be no way, without a huge amount of paperwork, that anyone could figure out what would be disallowed as part of the prevailing wage. I do not think anyone wants to see that happen. It goes even further. Health and welfare plans in collective bargaining agreements include our banks, so that when you get laid off in the winter, you will still be able to receive your

health and welfare benefits. Each of these would ultimately disallow whatever provision was made for an hour bank. For example, if you were paying \$3.50 for health and welfare, and 35 cents went to the hour bank, that would not be counted, the way I read this bill.

The \$3 million threshold is quite a leap from \$100,000. It creates another problem that I do not believe anyone has talked about today. Sometimes the contractor's biggest competitor on these jobs is not another contractor nor is it someone not paying prevailing wage. It is the government agency that decides the agency itself is going to do the job. This nightmare will compound beyond belief. The government will lose a lot of accountability. Rather than open bids for a project, they just do it themselves. It is happening right now. They are breaking the existing law. If you allow the threshold to go to \$3 million or some other huge number, you will not believe what will happen.

The prequalification, mostly on whether someone can meet the financial and management requirements of public works jobs, does not belong in the bill. This will go to places you do not want it to go. Therefore, I do not think this bill should be processed the way it is.

Chair Kirkpatrick:

Are there any questions from the Committee?

Assemblyman Goedhart:

I have a question for Mr. Thompson. I am trying to get some more information on this subject and you are the resident expert. Do all of Nevada's 17 counties have their own separately-calculated prevailing wage, or are there some counties that do not have the information and rely upon one of the urban areas?

Danny L. Thompson:

You are right. It is different in every county. The prevailing wage is supposed to be established by the county where the work is done. If there is no work hours turned in, I believe the Labor Commissioner goes to the next county. Previous speakers talked about turning hours in. What we have found in the case of contractors who have bid while knowing they are not going to pay prevailing wages, they do not want to turn those hours in because they would have to open their books if someone challenged them. If a contractor is trying to outbid another contractor—and in states that have done away with prevailing wage, this is exactly what happens—the workers make no money, the trained workers leave, the contractors start low-balling each other, and they drive each other out of business because they cannot make a living in that particular place.

Assemblyman Goedhart:

So, if I spoke with the Labor Commissioner's Office, they would be able to tell me the different figures for each county.

Danny L. Thompson:

Yes.

Chair Kirkpatrick:

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

Danny L. Thompson:

Mr. Greg Smith had to leave and asked if I would read his statement. [Read from prepared statement of Greg Smith, Apprenticeship Coordinator, Operating Engineers Local No. 3 ([Exhibit K](#)).]

He points to a study done by the Economic Policy Institute in July 2008. Prevailing wages have generally been shown to have positive effects on the construction industry by expanding the pool of construction workers trained through apprenticeship programs. Studies have shown that apprenticeship training programs are fewer in states without prevailing wage laws. In Utah, state apprenticeship programs plummeted 40 percent following the 1981 repeal of the prevailing wage law. In Kansas, apprenticeships dropped 38 percent after the 1987 repeal. As part of the Kansas study, Phelps, in 1998, conducted a cross-state examination of construction apprenticeships in prevailing wage and nonprevailing wage states. Apprentices were in decline nationwide, but the number of apprentices in states with prevailing wages declined 27 percent compared to 53 percent in nonprevailing wage states. I would say in addition to that statement, that all of our apprenticeship programs require a minimum of four years of schooling, and for a master electrician, five years.

Chair Kirkpatrick:

Just for your information, we are running behind and Assembly Bill 467 will be rolled to first thing tomorrow morning.

**Lamar Jones, representing International Brotherhood of Electrical Workers,
Las Vegas, Nevada:**

I would like to thank Mr. Thompson for speaking so eloquently. I do have a few additional things to say. It is very clear that no one in support of this bill is concerned with workers' safety, wages, or working conditions. I am out working every day, and I see a lot of guys doing the prevailing wage part of it. There is a lot of cheating going on in regard to not having the right people on the jobs as far as apprenticeship ratios and workers' safety are concerned. I see many injuries that are not claimed. For those who do support this bill, they

should not blame safety issues and their budget problems on the backs of those workers. There is not a construction worker in the state, union or nonunion, who would be for this bill. The bill is trying to take the wages from the workers. The building trades have backed the safety of the workers from day one.

Derick Stowell, representing Plumbers and Pipefitters Local 525, Las Vegas, Nevada:

I want to go on the record to say that we are against both A.B. 195 and A.B. 298.

Chair Kirkpatrick:

Is there anyone else in Las Vegas who would like to testify in opposition?

Richard (Skip) Daly, representing the Laborers Union Local No. 169, Reno, Nevada:

We are opposed to A.B. 195 and A.B. 298. I would be willing to talk to anyone on the Committee if they give me a call. I can give you substantial information. I can tell you how we do the survey, what the state law says, what the regulations say. I believe that contractors do not participate in the surveys because there is no money in it. They do not get paid for it, and it does not create a dime for them. They should participate—it is to their benefit—but you cannot make them do it any more than you can make people vote in elections.

The eight-hour workday is the law in the State of Nevada. There are some caveats to that rule; if you make more than one and a half times the minimum wage, it does not apply to you. Several years ago the Labor Commissioner had a bill that created the eight-hour workday on public works jobs. That has been the standard in the State of Nevada, and we should keep it.

You heard a contractor say he went to his workers and they voted to work with flexibility. If I asked him if I could talk to his workers about taking a vote to join the union, I do not believe he would let me. He is interested in his workers' voices only when it suits him.

Regarding using similar types of work as outlined in A.B. 195, we should not survey for that. Prevailing wage applies to construction projects; it does not apply to residential, so we do not survey for residential. Why would we survey for mining work to establish a construction rate? Why would we survey for logging, a similar type of work? Why would we survey Nevada Cement? People there run loaders, there are electricians and a labor gang. But it is not construction, and we do not include those hours in the survey. It is not realistic and not needed.

When a contractor performs work for a mining company, and he is licensed under *Nevada Revised Statutes* (NRS) Chapter 624 and actually performing construction work, those hours do get included in the survey. Mine-activity work does not. If it is performed by the mine and not required to be licensed, it is not the same comparison in order to establish the survey.

[Distributed a report ([Exhibit L](#)).]

The prevailing wage was established, in part, because the government, across the country, accounts for about 30 percent of the construction dollars that are spent. You have substantial ability to affect what the wage rates are in a particular area. As a consumer of construction products, the government has taken the position that we should not adversely or unduly influence what the wage rates are in an individual area. You have established what government will pay, what the rate is in the area, and then you develop a system to establish what that wage rate will be through the survey. If people want to complain about that process, that is what we do, it is what we have done, and it works. There is not any other way to do it.

There is a saying out on the construction jobs: "no low dough." They do not want to be paid less wages. Mr. Goedhart mentioned something about his \$25-an-hour workers versus workers going to prevailing wage jobs. Today we have established procedures, and we have the most productive workers, but if you start to lower the wage rates, we will become an "NFL" state, which stands for "not for long." If you lower the wage, workers will switch to other jobs the first chance they get.

Steven J. Redlinger, representing Southern Nevada Building and Construction Trades Council, Las Vegas, Nevada:

We are opposed to A.B. 298 and A.B. 195. I have provided the Committee with a briefing paper ([Exhibit M](#)) from the Economic Policy Institute dated July 8, 2008. The paper goes into the existing research on prevailing wages and government contracting costs. I just want to address a few passages. For over 100 years many state and local governments have required that companies that want to contract for public works must pay their workers a wage that reflects wages commonly received in the area. At the heart of these laws is the conviction that government, as a major buyer in the construction sector, should not act to drive down wages. Indeed, the civic-minded reformers who initially pushed for prevailing wage laws believed that the government ought to use its buying power to enhance the welfare of workers and their families.

Critics of prevailing wage laws argue that they inflate government contract costs. But a growing body of economic studies finds that prevailing wage regulations do not increase government contracting costs.

Most modern economic literature finds no cost impact on public construction associated with the implementation of prevailing wage regulations. The literature suggests a number of possible reasons for the absence of a link between prevailing wage laws and overall costs. Number one, prevailing wage regulations do not in all cases increase wages. Public contractors may pay at prevailing wage rates without the regulation. Average labor costs, including benefits and payroll taxes, are roughly one quarter of construction costs. Even if a prevailing wage regulation raised wages by 10 percent, the impact on the overall contract would be less than 2.5 percent. Thus, even if there is an increase in contract costs, it is likely to be small, to the point of being undetectable.

Improved productivity can offset higher wages. Better steel workers attracted to the higher wage might complete the job in less time, or firms looking to reduce their higher labor costs might utilize labor-saving technologies.

The common hypothesis advanced in these bills is the following simple premise: prevailing wage rates raise costs, result in higher wage costs for contractors, and contractors pass these costs on to the government. Although this seems like a plausible outcome, there are many reasons why the cost to the government might be the same regardless of the wage differences. For example, contractors might pay the wages required under prevailing wage laws even if the law does not require it. Labor costs are not the dominant costs of government construction contracts. Higher wages might be offset by a rise in productivity. Prevailing wages can attract better skilled, more productive workers, or firms that may rely on higher managerial productivity or invest in labor saving technologies.

What we want to mention here today is the erroneous notion that the prevailing wage is a big driver in costs on construction projects. That has been debunked by modern analysis of these situations. I believe it was Ms. Gansert who talked about raising the threshold on prevailing wage from \$100,000 to \$3 million. She mentioned that it would be helpful to some of the smaller counties to eliminate the prevailing wage. If it becomes the law of this state to start to decrease wages of construction workers in rural counties, what kind of an impact is that going to have on the economies of those counties? If we are driving down wages, we will see less tax revenue and more difficult times for the governments in these counties to offer basic services to the residents.

She also made the argument that because the school construction bond in Washoe County failed, we needed to find a way to reduce wages. Does that make sense? Again, if it becomes the law of this state to essentially reduce construction worker wages, we are going to have devastating impacts on this state's budget. We already have a \$3 billion deficit. If you start reducing wages in this area, those wage reductions will not be centered only in the construction industry; those reductions will seep into other parts of the economy, and we will get into a bigger fiscal hole.

Chair Kirkpatrick:

Are there any questions from the Committee? I see none. I want to go to Las Vegas to get them on record.

Lou Salazar, representing Plumbers and Pipefitters Local Union No. 525, Las Vegas, Nevada:

The problem that I am having with prevailing wage is very simple. When I walk on a job and there is a nonunion contractor supposedly paying prevailing wage, the way they make the adjustment is very simple. If the plumber is doing some type of labor work, they will adjust his pay to a laborer's prevailing wage and not the plumber's wage. It goes on and on, with the prevailing wage being paid out incorrectly. We have certain fire departments being built, and I went out there and passed out the prevailing wage sheets as to what the workers are supposed to be paid. Yet, none of them were being paid at that rate. I asked how they determined how they would be paid next week; their answer was they did not want to stir things up because it would cost them their jobs.

We have attempted to have the Labor Commissioner's Office in Las Vegas do some follow-ups, and all they do is give us long forms to fill out for the worker to submit. Then they will evaluate and within a year will figure out whether he was paid right or wrong. Many of these construction workers who are on nonunion jobs, doing prevailing wage, are not on those jobs long enough to see the final outcome of these jobs.

We talk about out-of-state contractors coming in and doing our work on a lot of these school district jobs. When you look at the bid jobs, the difference on the bids is a big amount of money. One of the contractors coming out of Utah submitted a bid for a school job on a prevailing wage, and the difference on the bid was over \$300,000. When we look at the contractor's office here, there hangs a license that gives him the opportunity to get that 5-percent difference on the bid, yet all the trucks are registered in Utah and all of his workers come from Utah. His payroll comes and his supplies come from Utah. All our tax money would stay here if we were to hire a local contractor. Instead, our money is going back to Utah because we failed to see all the gray areas in the

contracts for low bidders. It is remarkable how much money leaves Las Vegas. Nonunion contractors bring in their workers to do prevailing wage jobs on our schools, for which we pay taxes but see no revenue.

Chair Kirkpatrick:

Mr. Salazar, I hate to cut you off, but floor has started and I still have five people wanting to testify. Could you please just summarize for us? If there is anyone who would like to submit testimony, we would put it into the record for today.

Lou Salazar:

We are opposed to A.B. 298. We want to have more regulation and simpler applications to make sure that everybody gets paid the right way.

Richard Leigon, Southern Nevada International Brotherhood of Electrical Workers, National Electrical Contractors Association, Labor Management Cooperation Committee, Las Vegas, Nevada:

To keep it short, I would like to submit testimony ([Exhibit N](#)). To go on record, we strongly oppose A.B. 298 and completely agree with everything that has been presented against the bill, especially the comments by Danny Thompson and Steve Redlinger.

Jack Mallory, Assistant Business Manager/Secretary-Treasurer, Director of Government Affairs, International Union of Painters and Allied Trades, District Council 15, Henderson, Nevada:

We are obviously opposed to this bill. I do want to go on the record saying that it is ironic that Ms. Andriola is proposing to take apprenticeship training funds out of the calculation for the prevailing wage, and prohibit those contributions being made to those funds—which is part of the calculation of prevailing wage—when she sits on the Board of the State Apprenticeship Council.

James E. Sala, Senior Representative and Political Director, Southwest Regional Council of Carpenters, Las Vegas, Nevada:

I will abbreviate my comments and submit the majority of them in writing ([Exhibit O](#)) but I want to go on record as saying that we are strongly opposed to A.B. 195 and A.B. 298. These are blatant attempts to undermine prevailing wage and interfere with private sector collective bargaining. I want to make two quick points—One related to a study by the Federal Highway Administration, Labor Research Counsel. They studied highway projects for 14 years, from 1980 to 1993, and they found that skills and productivity, not the difference in wage rates, were the critical determiners of bottom-line costs. The study found that higher paid, higher skilled workers reaped an average of

\$123,000-per-mile savings. The study found there is no basis in the claim that lower wage rates lead to lower costs.

The other point is that the University of Utah study, which you already have, clearly said that when they repealed the prevailing wage in Utah, cost overruns tripled on their public works and road construction projects. Training was reduced by 40 percent, and injuries increased by 15 percent. I would like to point out that Assemblyman Kihuen is sponsoring a bill to make this day, March 31, Cesar Chavez Day. Mr. Chavez fought for all the things that are in the bill that you are trying to tear down. We would hate to see that happen.

Patrick T. Sanderson, representing Laborers Union Local No. 872, Carson City, Nevada:

In 1959, I worked my first prevailing wage job. It was a Davis-Bacon job building a post office in Hawthorne, where I was born and raised. I made \$1,600 that summer. I spent all of that \$1,600 in local stores buying beer for my friends. It helped lead me to where I am today.

I am most concerned about these job-targeting programs. When I started work with the union in the early 1960s, we started a pension plan for the simple reason that we had 65-year-old men working 12-hour days because they did not have a pension. They did not have a health and welfare plan. They did not have anything that would sustain them in their later years.

We started the pension plan to take care of these older workers. You get broke down when you work construction and you get older. We started the training program so we could work safer and learn new skills, so when you finished, you had a job. We also learned how to perform better on all of these jobs.

In the construction world, if you work one year you make a living, and if you work two years you get a little bit ahead. If you work three years in a row, you can build a new home, you can buy a new car, but you cannot do this unless you have steady work. In construction work you have a job today and you are out of work tomorrow. It is not like every other job where you have a trade and you work year-round.

Chair Kirkpatrick:

I am going to close the hearing on A.B. 298. If anyone has additional testimony they would like submitted into the record, please give it to my office. Is there any public comment?

A letter was submitted from Wes Henderson ([Exhibit P](#)) in opposition to A.B. 195. Another letter from Wes Henderson ([Exhibit Q](#)) was submitted in opposition to A.B. 298.

[The meeting was adjourned at 11:08 a.m.]

RESPECTFULLY SUBMITTED:

J. Renee Ekleberry
Committee Secretary

Patricia Blackburn
Transcribing Secretary

Denise Sins
Editing Secretary

APPROVED BY:

Assemblywoman Marilyn K. Kirkpatrick, Chair

DATE: _____

EXHIBITS

Committee Name: Committee on Government Affairs

Date: March 31, 2009

Time of Meeting: 8:04 a.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
<u>A.B.195</u>	C	Steve Weaver	Written testimony
<u>A.B.298</u>	D	Assemblywoman Heidi Gansert	Summary of Projects
<u>A.B.298</u>	E	Clara Andriola	Written testimony
<u>A.B.298</u>	F	Clara Andriola	Job Targeting Study
<u>A.B.298</u>	G	Clara Andriola	Beacon Hill Institute Study
<u>A.B.298</u>	H	Clara Andriola	Letter from Thierman Law Firm
<u>A.B.298</u>	I	Clara Andriola	<u>S.B. 102</u> Report
<u>A.B.298</u>	J	Clara Andriola	Audit report
<u>A.B.298</u>	K	Greg Smith	Written testimony
<u>A.B.298</u>	L	Richard Daly	Report on Prevailing Wage Law In Nevada
<u>A.B.298</u>	M	Steve Redlinger	EPI Briefing Paper
<u>A.B.298</u>	N	Richard Leigon	Written testimony
<u>A.B.298</u>	O	James Sala	Written testimony

<u>A.B.195</u>	P	Wes Henderson	Written testimony
<u>A.B.298</u>	Q	Wes Henderson	Written testimony