

**MINUTES OF THE MEETING  
OF THE  
ASSEMBLY COMMITTEE ON TAXATION**

**Seventy-Sixth Session  
March 22, 2011**

The Committee on Taxation was called to order by Chair Marilyn K. Kirkpatrick at 9:03 a.m. on Tuesday, March 22, 2011, in Room 3137 of the Legislative Building, 401 South Carson Street, Carson City, 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/76th2011/committees/](http://www.leg.state.nv.us/76th2011/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](mailto:publications@lcb.state.nv.us); telephone: 775-684-6835).

**COMMITTEE MEMBERS PRESENT:**

Assemblywoman Marilyn K. Kirkpatrick, Chair  
Assemblyman Harvey J. Munford, Vice Chair  
Assemblyman Elliot T. Anderson  
Assemblywoman Teresa Benitez-Thompson  
Assemblywoman Irene Bustamante Adams  
Assemblyman John Ellison  
Assemblywoman Lucy Flores  
Assemblyman Ed A. Goedhart  
Assemblyman Pete Livermore  
Assemblywoman Dina Neal  
Assemblywoman Peggy Pierce  
Assemblyman Lynn D. Stewart  
Assemblywoman Melissa Woodbury

**COMMITTEE MEMBERS ABSENT:**

None

**GUEST LEGISLATORS PRESENT:**

None

**STAFF MEMBERS PRESENT:**

Russell Guindon, Principal Deputy Fiscal Analyst  
Michael Nakamoto, Deputy Fiscal Analyst  
Cyndie Carter, Committee Manager  
Mary Garcia, Committee Secretary  
Olivia Lloyd, Committee Assistant

**OTHERS PRESENT:**

John Wagner, State Chairman, Independent American Party  
Lori Bagwell, Private Citizen, Carson City, Nevada  
Donna DePauw, Private Citizen, Carson City, Nevada  
Donna Curtis, Commissioner, Carson City Parks and Recreation  
Commission  
Stephen Hartman, former Chairman, Carson City Open Space Advisory  
Committee  
Jeffrey Fontaine, Executive Director, Nevada Association of Counties  
Nancy Boland, Chair, Esmeralda County Board of Commissioners and  
Vice President, Nevada Association of Counties  
Patti Chipman, representing Nye County  
Brad T. Goetsch, Manager, Churchill County  
Lindsay Anderson, Director, Business Development and Research,  
Commission on Economic Development  
Judy Stokey, NV Energy, Inc.  
Alfredo Alonso, representing Large Scale Solar Association  
Jesse A. Wadhams, representing Ormat Technologies, Inc.  
Tom Clark, representing Sempra Energy and Interwest Energy Alliance  
Kyle Davis, Political and Policy Director, Nevada Conservation League  
William McKean, representing ACCIONA Solar Power

**Chair Kirkpatrick:**

[Called the meeting to order. Roll called.] Good morning. By the way, happy birthday, Mr. Livermore. We will open the hearing on Assembly Bill 263.

**Assembly Bill 263:** Clarifies permissible use of proceeds of certain local sales and use taxes by Carson City. (BDR S-646)

**Assemblyman Pete Livermore, Assembly District No. 40:**

I am before you this morning to present A.B. 263. This bill clarifies permissible use of proceeds of certain sales and use taxes by Carson City. It amends Section 8A.070 of the Carson City Charter, changing the word "may" to "must." It also adds a new Subsection 3 that states that proceeds of the tax or

any other income earned on those proceeds must not be used to pay any administrative costs or deposited or transferred to any other fund. Apparently, the word "administrative" was too broad, so I have amended that ([Exhibit C](#)).

Subsection 2 of that Section talks about a voter initiative that was passed in 1996 in a general election. That is referenced further in the exhibit I provided to everyone here ([Exhibit D](#)). I am not going to go through that page by page, but I would like to go through some of it. This is about voter intent. This is about a vote of trust in the integrity of a ballot question that speaks specifically to the use of public money. The issue that was the reason for this bill was the Quality of Life Initiative, which was Ballot Question 18.

Question 18 was initially developed through a grassroots effort of concerned citizens who wanted to provide for recreation facilities, open space, and the creation, protection, and development of watershed and the river corridor. The ballot question asked registered voters whether to request the Legislature to authorize an increase in the sales tax of 0.25 percent to be used to fund the acquisition, development, and maintenance of parks, open space, trails, and recreation facilities.

The next two paragraphs (on page 2 of [Exhibit D](#)) speak to that, particularly the third paragraph which reads: "Whereas, the Board of Supervisors of Carson City is empowered by NRS 293.482 to ask for advice of registered voters within its jurisdiction on any questions which it has under consideration." This is the advice they were asking for from the registered voters.

The next part of the exhibit, the explanation of the question, goes into further detail concerning the use of the money and the argument to convince people the money would be used for one set of things. On the fourth page it says the Quality of Life Initiative (QOLI) would create a dedicated fund for parks, open space, trails, and recreation facilities and would supplement, but not replace, current park funding levels. A portion of the fund was to go toward maintenance of the new facilities. The next page is the signature page signed by Mayor Marv Teixeira, with full support of the Board of Supervisors.

Next in the exhibit is a copy of a pamphlet that was used to present to the public the intended use of that fund. It says that, if approved, these funds would be dedicated for specific purposes, for example, the acquisition and maintenance of open space and the development and operation of new park and recreation facilities.

The next page is a copy of Question 18 as it actually appeared on the ballot. The explanation states that the funds would be separate from the city's general

fund and used exclusively for the acquisition of open space, biking and hiking trails, new park development, and other recreational improvements. It also lists anticipated projects. The next paragraph states that the Quality of Life Initiative would create dedicated funds for open space and recreational purposes and would supplement, but not replace, current park funding levels. The next page states that a portion of the funds would be used for park upkeep and maintenance of new facilities.

The argument for passage reiterates the dedicated purpose of the fund. It adds that the fund will help protect access to the surrounding mountains and the scenic view of hillsides presently subject to private development. It will help protect the water resources and natural areas that are important to the health and quality of life in our community. It says \$.01 of a \$4 picnic lunch will create a dedicated park and open space fund. I would emphasize that word "dedicated."

The election was held on November 2, 1996, and the citizens supported it, understanding that it was an advisory vote and did not implement the tax. The tax could only be implemented by the legislative body.

Next in the exhibit ([Exhibit D](#)) is the history of Assembly Bill No. 237 of the 69th Session (1997).

**Chair Kirkpatrick:**

Mr. Livermore, before you get to that, let us be clear. The initial ballot said 40 percent of the fund would go for open space, 40 percent would go toward new park facilities, and 20 percent would be used for operation of those new park facilities.

**Assemblyman Livermore:**

That is correct. That was clearly marked in those words.

**Chair Kirkpatrick:**

I just wanted to help the Committee out because this really is a lot of information. I know you are not going to read all of the highlighted information. Is that right?

**Assemblyman Livermore:**

What follows is that on March 5, 1997, then-Assemblyman Mark Amodei submitted A.B. No. 237 of the 69th Session for hearing in the Assembly Committee on Government Affairs. From that, you can see the testimony. I have provided you with the full minutes of that meeting. I did not select certain pages, so you can get the intent of the entire meeting.

I would just like to make a couple of points. You will remember the initiative was signed by then-Mayor Marv Teixeira, but, during that same election, a new mayor was elected. Mayor Masayko led the endeavor to impose the ballot question the voters had voted on. Mayor Masayko opened the testimony in support of A.B. No. 237 of the 69th Session by saying he was there specifically to speak on behalf of the Carson City Board of Supervisors. He said the bill would amend Carson City's charter to enable the Board to enact a 0.25 percent sales tax that would be the funding mechanism for enacting Carson City's QOLI. In the next sentence, Mayor Masayko said the Board of Supervisors should be committed to implementing the ordinance laying out the related policies, procedures, and processes necessary to fully carry out the intent of the initiative.

In further testimony, Steve Hartman of the Open Space Advisory Committee in Carson City stressed that the 20 percent portion of the fund was not to be used for anything except the maintenance of the new recreation facilities. The advisory question had created what was called funding foresight to go out and acquire, develop, and maintain those recreational facilities for the community.

Mayor Masayko stated, on behalf of the Carson City Board of Supervisors, that the absolute intent was to memorialize in the ordinance that 20 percent of the tax would go to maintaining the new facilities. I would like you to keep the words "absolute intent" in your mind.

The Assembly eventually passed that bill unanimously. The exhibit then goes to the minutes of the hearing of A.B. No. 237 of the 69th Session before the Senate Committee on Government Affairs. Again, Mayor Ray Masayko assured the Committee that the Carson City Board of Supervisors was committed to the QOLI passed in the last general election. In the last sentence of that paragraph, the Mayor reiterated that Question 18 provided for the funding of parks and recreation in the amount of 40 percent of the fund, maintenance of park and recreation facilities in the amount of 20 percent, with the remaining 40 percent for the acquisition of open space, trails, and administrative purposes.

**Chair Kirkpatrick:**

Mr. Livermore, I think it might be good if the Committee could ask some questions now so we can discuss this process.

**Assemblyman Ellison:**

It says that actually, in 1996, this went to the voters. Is that right?

**Assemblyman Livermore:**

That is correct.

**Assemblyman Ellison:**

That is 14 years ago. So after the 14th year, it went back in front of the Board of Supervisors, and they approved it, also.

**Assemblyman Livermore:**

For the first 10 or 11 years of the bill, everybody understood the intent of the voters. The money was used specifically for its intended purpose. However, three years ago, an issue arose regarding the legal definition of the word "may" versus the word "must." The city began assessing a cost allocation charge against this fund that was never the intent of either the voters or the Board of Supervisors. In roughly 2008, the city began to siphon money from that account. The first year they siphoned off \$170,000. The second year they siphoned \$131,000. This year they have proposed siphoning \$136,000.

When I was a member of the Board of Supervisors, I voted against the budget because this was included in it. I spoke specifically to this issue, but I did not make any headway. As an Assemblyman, in order to protect the voters' intent, I offered this bill to clarify the wording and rectify the inappropriate use of that money.

**Assemblyman Ellison:**

Thank you. I think that was the short version of why we are here.

**Chair Kirkpatrick:**

That was a good job. See, we have been through the whole package.

**Assemblyman Livermore:**

There is enough information in here for you. I will not go any further. In the back of the exhibit ([Exhibit D](#)), you will see the cost allocation plan. I just want to point out this year's allocated cost and where those allocated costs are going. They are going to fund the Board of Supervisors. They are going to fund the city clerk, the treasurer who pays the bonds, the district attorney, the city manager's office, human resources, information technology, geographic information systems, the internal auditor, and the purchasing department. All these functions are the normal use of the government services funded out of the general fund monies allocated through the budget process.

Mr. Ellison is right. This did not happen for the first ten years. It was not even considered. I guess as the budget got tighter, people started looking for money, and they started tapping into this fund.

**Chair Kirkpatrick:**

That is a whole other issue we will hear sooner or later. I promise.

**Assemblyman Livermore:**

You can see those allocation costs on the last four pages of the exhibit. Almost \$5 million comes back to the general fund for discretionary use.

**Assemblywoman Flores:**

What has been the subsequent effect on the upkeep or acquisition of new parks in Carson City?

**Assemblyman Livermore:**

I have championed a new recreation center in this community for the last four or five years. We have a set of plans for more than \$1 million to be paid for that recreation center. We cannot open it because we do not have the operating money. That is the effect this has had.

**Chair Kirkpatrick:**

I think that is pretty common with a lot of local governments. I live in North Las Vegas. We have a beautiful park that we cannot open because of a lack of operating funds.

**Assemblyman Livermore:**

But that is what the people voted that this money be used for. Operations money is included in that.

**Chair Kirkpatrick:**

Here is one problem the Legislature has. We put in all these things, but we never go back and sunset them. We never go back to see that they work.

We could talk about the use of the "More Cops" money in North Las Vegas. We could talk about a lot of other examples where the voters voted for something but did not get the full extent of it.

At the same time, was this ever discussed with the Board of Supervisors? What happens if you come to a point where you are landlocked on your land? Where does that 40 percent go?

**Assemblyman Livermore:**

I have someone here who will speak to that. What was envisioned, though, was that the 40 percent would eventually be transitioned to maintenance of the lands purchased with that 40 percent. That 20 percent for maintenance in the initiative is only for recreation. It does not support the open space.

**Chair Kirkpatrick:**

That would be my point in keeping within the intent of the bill. I try to be sure we clarify things. We go back and sunset them; we go back and look at them, because I could see that, in five more years, that 40 percent could easily be swept up in something else. You get to a point where you do not have any land or the acquisition is not there. Then you have 80 percent for maintenance. Believe me, that is a lot of money.

**Assemblyman Livermore:**

What that 40 percent does today is hire staff. The administrative cost, as I described it, was not the operations of the open space component of this. It was about general government services that are being charged to that. The plan currently in place has two full-time staff people. Even the 20 percent for maintenance pays for park staff, operations staff, and whatever. Nowhere does it pay for general government services such as the internal auditor.

**Chair Kirkpatrick:**

Are there any other questions? This is my case for home rule, but that is for another committee.

**Assemblyman Livermore:**

Just be careful; the devil is always in the details.

**Chair Kirkpatrick:**

At this time, we are going to invite people in support of the bill to come up to the table.

**John Wagner, State Chairman, Independent American Party:**

I support this bill. I support the will of the people. Had I been there in 1996, when this was approved, I am not sure I would have voted for it because of the tax increase. I am a no-new-tax person. However, the voters having spoken out and said what they want, I have to go along with the voter intent.

The voter intent on this bill is quite clear. It has been outlined very well by Assemblyman Livermore. I do not think I can add anything to it. Thank you.

**Chair Kirkpatrick:**

Thank you. Does anybody have any questions? [There was no response.]

**Lori Bagwell, Private Citizen, Carson City, Nevada:**

I am here to speak in support of Assembly Bill 263. I might add that the issue really came to bear when the city began changing the cost allocation plan. Most governmental entities do comply with what is called "OMB Circular A-87,"



issued by the Office of Management and Budget (OMB), Executive Office of the President, Washington, D.C. This circular lays out federal cost allocation plan rules.

What has happened in Carson City is they are applying OMB A-87 to all their federal grants, but they are not applying those rules to their internal accounts. The reason for the current consternation of the public and the Committee is the action of the Board of Supervisors and the clerk's office. If people are interested, OMB A-87 does govern how cost allocation plans can be done, and I would be happy to leave a copy of that with the Committee. We would like to see those charges not assessed to this account, just as with all federal grants.

**Chair Kirkpatrick:**

Thank you. You can leave that ["OMB Circular A-87," [Exhibit E](#)] with the committee assistant, and we will see that it is posted to the Nevada Electronic Legislative Information System (NELIS) for the public as well as Committee members.

Does anybody have any questions? [There was no response.]

**Donna DePauw, Private Citizen, Carson City, Nevada:**

I am here to discuss the history of this issue. There were five founding members of the Quality of Life Initiative (QOLI). Among them were Jay Meierdierck, from whom you received a letter ([Exhibit F](#)); Assemblyman Livermore; and me. At the time, the majority of us were sitting on the Carson City Parks and Recreation Commission. People were coming to us with needs we just could not cover. So many people wanted so much money for so many projects.

As you all know, the federal government was giving less to the state, and the state was giving less to the cities. We had to come up with a way to fund things. It was so hard to keep turning these people down, so we came up with this initiative and took it before the voters. Passing a tax in Carson City is not the easiest thing in the world, but we did it.

I worked for the California Lottery for 25 years, and I saw what happened to the funding from the lottery that was supposed to be going to schools and for issues other than salaries. Even though I wanted those teachers paid, it was not supposed to come out of that money.

I was adamant that our bill needed to be exceptionally clear that this money would not be utilized for any other funding. We went through the whole process of the Carson City District Attorney's Office and working with our

City Manager. They brought in a bill and said there was no way the fund could be utilized for any other item. The only use would be 40 percent for open space, 40 percent for new parks, and 20 percent for new park maintenance.

This initiative was approved by the voters. As Mr. Livermore said, it had been adhered to by all the boards of supervisors prior to this one. In the last two to three years, they have been taking money out of the fund. There were \$49,000 that went to the District Attorney's Office and \$36,000 that went for the recording secretary's fund. I do not think the Board of Supervisors even realized they were getting paid out of the Quality of Life fund.

I spoke to the City Manager about this last year because I also sit on the Carson City Charter Review Committee and have done so since the early 1990s. I was questioning another agenda issue, and I brought up Question 18. I was told they were utilizing that money because of the word "shall." I said I did not care about the word "shall." It meant nothing to me because it was not what the people voted for. When people asked us if salaries would be taken out of that fund, we told them absolutely not. There was no intent for that money except for what we outlined.

I am quite disappointed with how the Board of Supervisors and the City Manager have reacted when spoken to about this. I understand where they are coming from because we were in the same position. We needed to get money for the people, and this was our way of doing it correctly and fairly.

I ask that you approve this bill because it is what the voters wanted, asked for, and expected. They did not expect what is happening now. More than \$350,000 has been taken, as of now, from the Quality of Life fund and placed in the general fund, and that was not supposed to occur.

**Chair Kirkpatrick:**

Thank you. Does anybody have any questions?

**Assemblyman Goedhart:**

What would this bill do in terms of the money that has already been diverted from the Quality of Life fund to the general fund?

**Donna DePauw:**

It could go for acquisition of new park facilities. It could go for maintenance of the new recreation facilities. I did ask the Board of Supervisors to pay it back.

**Assemblyman Goedhart:**

You are saying that, based on this bill, you would seek a claim to go back to the current Board of Supervisors to replenish the \$300,000 plus that has already been taken out of the Quality of Life fund. Is that what you are saying?

**Donna Depauw:**

I honestly do not know if the bill covers that. I personally asked the Board to do that out of fairness to the people.

**Assemblyman Goedhart:**

Then this is all just prospective?

**Chair Kirkpatrick:**

That is correct.

**Donna DePauw:**

My main concern is that I want this practice stopped. It is not what the people voted in. I would hope the Board of Supervisors would figure out a way to get that money back to where it belonged.

**Assemblywoman Benitez-Thompson:**

In the history, it looks like some specific projects involving parks and recreation had been conveyed to the voters and had been talked about by the Board of Supervisors. I was wondering if you could tell me how many of those projects have been completed and how many are still outstanding.

**Donna DePauw:**

I honestly cannot tell you how many are outstanding because I have not been on the Parks and Recreation Commission for a few years. I know there are some still outstanding, such as the ones Assemblyman Livermore spoke about—the recreation center and some gymnasiums.

Some of the projects have been completed. The first one was the covered pool, which people were literally begging for. That was the first main project.

Donna Curtis, who is on the Parks and Recreation Commission, could answer that question more specifically. She is planning on speaking.

**Chair Kirkpatrick:**

Okay, Ms. Curtis would like to testify. If there is anyone else who wishes to testify in support of this bill, there are three more seats at the table. You can just keep filling them up.

**Donna Curtis, Commissioner, Carson City Parks and Recreation Commission:**

If you do not mind, I will answer the question first. I am on the Carson City Parks and Recreation Commission. We have discussed this list many times. It turns out that everything on that list has pretty much been completed except for the gymnasium, which we are now calling a recreation center. Today, gymnasiums are recreation centers—a little more than just a gym. We do have plans, as we speak, to try to build that. It is not going to be as big as we had envisioned because we do not have enough funds, but we intend to do that.

Also, we have an opinion from our District Attorney's Office that that was an advisory list. That is the way it has been interpreted. Therefore, we have also built a park—the Ronald B. Wilson Park—which is not on that list, but for which we did use funds for that.

I have a prepared statement ([Exhibit G](#)), if that is all right.

[She read from her prepared statement in support of Assembly Bill 263. She reiterated some of Assemblyman Livermore's points and added that last year the Parks and Recreation Commission received less than \$700,000 from the Quality of Life fund, which should have been some \$1.4 million. She stated that \$660,000 of that \$700,000 went to bond payments, leaving nothing for capital repairs on projects that had been funded by the Quality of Life fund, much less for starting any new programs. She further added that it appeared the Board of Supervisors intended to continue using the Quality of Life fund revenue indefinitely. She felt the Board was not listening to its citizens and that it was appropriate for the Legislature to act on the citizens' behalf.]

**Chair Kirkpatrick:**

Thank you, Ms. Curtis. Does anybody have any questions? [There was no response.]

**Stephen Hartman, former Chairman, Carson City Open Space Advisory Committee:**

I am the immediate past Chairman of the Carson City Open Space Advisory Committee, which represents 40 percent of the Quality of Life funding. I resigned after many years because I thought it was time for someone with less gray hair to be involved in some of our efforts. As you can see, I was here at the beginning, and I am here at something near the end.

Without question, this ballot measure was a product of the citizens of the community. It was very specific with respect to where those funds could be used. We have generally adhered to that, with the only direct costs being the

open space portion for the payment to our manager and to our specialist, who deals with management issues of the lands we have acquired.

As Ms. Curtis indicated, these are not massive amounts of money. They are about \$700,000 to \$850,000, representing 40 percent of the total amount of sales tax attributed to this question. However, the QOLI was a question that was separate and apart. It was not a budgeting issue. This is almost like a referendum, so it takes on a different character as opposed to an enterprise fund, which is able to be raided periodically. It is different from a normal budgeting process in which there are chances during the year to augment and reallocate funds. This is a question voted on very specifically by the people of this community for very specific purposes.

Speaking for the open space portion, of which I have a history—and I do not speak for them here because I no longer belong to the Open Space Advisory Committee—we took years and years to accumulate funds to acquire property. These properties are expensive. It is not that you spend money every year. You study—we held workshops to find out what the people wanted in the community.

Over the past 14 years we have acquired most of the river corridor lands for areas where we could put trails. We could have aquatic trails. That was our number one priority as a community.

The number two priority was on the west side where it interfaces with U.S. Forest Service land. We have been able to accomplish a fair chunk of those projects that were designated by the community.

What the county is doing with this fund is just bad practice from a governmental standpoint. I understand the problem. It is the same problem, on a different level, that you all face in trying to allocate insufficient monies to multiple demands, wants, and needs. Again, this is a very specific bill with very specific directives. Assemblyman Livermore has been a champion of recreation and open space for many years, particularly dealing with children. This needs to be adhered to.

I would support not only the bill but also the amendments he talked about. I do not think any of these funds, whether for parks or open space, have any direct costs. It is those indirect costs that are there every day no matter what, and that are paid for by the community, that should not have to be redistributed.

**Chair Kirkpatrick:**

Thank you. Does anybody have any questions? [There was no response.]

**Donna DePauw:**

Mr. Hartman, the Committee asked earlier where the funding would go once there was no more open space available to purchase. Could you please answer that?

**Stephen Hartman:**

For some time, we have been looking at the prospect that, as time goes on and we acquire these public properties, we have to deal with the fuzzy line that distinguishes passive recreation from active recreation. The question is whether you determine a trail through an area of open space where you can actually access it for active recreation functions or you simply enjoy the area as an open space. We have dealt with that in numerous public meetings in literally every year I can remember. Our plan has been that the money would transition into the maintenance side.

We have an assistant in open space whose specialty is range management-related issues dealing with the functional part of open space. We bring in sheep every spring to try to keep the fire hazard down. Fire hazard control, noxious weed control and those kinds of things are a part of maintaining your open space.

When you look at other communities with open space, such as Boulder, Colorado, and other places around the country, that is typically what they do. That is the intent within the 40 percent. It does not go to the 20 percent which you will see from other testimony, was only to be used for the maintenance of the new projects.

**Chair Kirkpatrick:**

Okay. Does anybody have any more questions? Thank you. Is there anybody else who would like to testify in support of A.B. 263? Is there anybody in opposition to A.B. 263? Is there anybody who is neutral toward A.B. 263? [There was no response.] Mr. Livermore, do you have any final comments?

**Assemblyman Livermore:**

Thank you for listening to the details of what, for lack of a better term, is a family feud. I think the only way we can set the record straight on the voters' intent is through the adoption of an amendment to the city's charter to fairly clarify what that intent was. Here I am on my 70th birthday. I do not want to be here fighting for this cause on my 80th birthday. I have fought this battle for 12 or 13 years. This is a new time and a new battle. I want to thank the Committee for having the patience to hear this.

**Chair Kirkpatrick:**

Thank you. We will now close the hearing on A.B. 263 and open the hearing on Assembly Bill 14.

**Assembly Bill 14:** Revises the provisions governing certain tax abatements for new or expanded businesses and renewable energy facilities. (BDR 32-283)

**Jeffrey Fontaine, Executive Director, Nevada Association of Counties:**

On behalf of the Nevada Association of Counties (NACO), we would like to thank you for the opportunity to appear today to present Assembly Bill 14. With me this morning are Wes Henderson, NACO Deputy Director, and Nancy Boland, Chair, Esmeralda County Board of Commissioners and NACO Vice President. I will provide an overview of the bill and our proposed amendments (Exhibit H), and then Mr. Henderson will walk you through the details of each of those provisions. After that, Commissioner Boland will give you a brief background of renewable energy development in Esmeralda County.

While A.B. 14 contains provisions that relate to tax abatements for renewable energy as well as for economic development, I will focus my remarks on the partial tax abatements related to renewable energy development.

Nevada is often referred to as the Saudi Arabia of alternative energy, and we all know that Nevada has enough wind, sunshine, and geothermal resources to position us as one of the top states for the production of renewable energy. It is this prospect of jobs and economic diversification related to renewable energy that has given many of our counties—particularly the rural counties—a reason to be optimistic about their futures.

Madam Chair, we want to thank you for your leadership in helping position Nevada to become a leader in renewable energy. We would also thank you for your understanding that, in our pursuit to create a thriving renewable energy industry in Nevada, we must take care to reach a balance that ensures Nevadans derive tangible benefits, including high-paying jobs and sufficient revenue at all levels of government to support those services.

We are bringing A.B. 14 forward today to help refine that balance. Specifically, NACO wants to affirm its support for developing renewable energy while assuring counties that hosting renewable energy projects will provide benefits that will enable them to provide the services for their constituents and to grow their communities. Counties have a vital role in helping make all this development in renewable energy become a reality.

While renewable energy may bring a positive change through production, exploration, and all the things required for renewable energy development, in many cases they are seen as industrial facilities that may be met by resistance. Residents will have concerns about such things as noise, dust, safety, degradation of wildlife habitat, and impacts on their recreational and agricultural areas. Those constituents rely on their county governments to protect their health, safety, and way of life. The involvement of counties and the cooperation of the boards of county commissioners are vital to addressing the concerns of their local constituents.

Counties can also be strong advocates with the various federal agencies, especially the U.S. Department of the Interior's Bureau of Land Management (BLM) that manages the vast tracts of land where these renewable energy facilities will be constructed. County governments are very familiar with the BLM, having, in many counties, established cooperative relationships with their field offices on all kinds of issues and projects.

These relationships can go a long way toward helping project proponents in their efforts to be granted rights-of-way by the BLM for access, as well as having counties either cooperate or coordinate with the BLM and other agencies on the requirements of the National Environmental Policy Act of 1969 (NEPA). Counties have a role to play in helping address the various and complex issues associated with NEPA approval.

Under the current tax abatement structure, Nevada's counties are really taking by far most of the risk in investing in our renewable energy development. Renewable energy generation and transmission facilities that meet threshold conditions under Chapter 701A of *Nevada Revised Statutes* (NRS) are entitled to an abatement of 55 percent of real and property taxes for 20 years and all sales and use taxes for the first 3 years. The state tax that is subject to abatement is the 17-cent property tax levy for the state's debt.

All local property taxes are subject to the abatement. Of the 45 percent of the local property tax revenue remaining after the abatement, 45 percent of that goes to the renewable energy fund the Governor has proposed to use to fund the Office of Energy, which falls under the Office of the Governor. This leaves local governments with a little less than 25 percent of the property tax revenue for 20 years.

The Office of Energy is the same office that will decide whether to grant those tax abatements so, in addition to losing about another 20 percent in property tax revenues to the fund, the Governor's proposal would create a situation



where the Nevada Energy Commissioner would need to approve abatements in order to fund the Office. In our opinion, this is a conflict of interest.

Assembly Bill 14 keeps the current abatement for real property tax in place and makes personal property tax not subject to the abatement. This would benefit not only the state but also local governments. Our amendment also seeks to return the property tax currently going to the Renewable Energy Fund back to the local governments. Finally, our amendment would define which transmission lines would be eligible for the partial tax abatements.

We recognize that partial tax abatements may be necessary to construct the transmission lines that are so critical to the success of the development of renewable energy in our state. However, we want to make sure we are providing the tax incentives through abatements to those lines that will truly spur local development and substantially contribute renewable energy to the grid.

The local economic benefit from the construction of renewable energy production or transmission facilities is short-term—typically less than three years. After that, most if not all of the construction jobs will be gone. As we know, the operation and maintenance of these facilities is not job intensive.

It is difficult for the counties to understand how they are going to derive any long-term economic benefits from a project where the majority of tax revenues are abated for 20 years and the number of permanent jobs is extremely limited. Arguably, some tax revenues are better than none, but the local property and sales tax revenues that remain after abatements may or may not be adequate to pay for the county's cost to provide services related to that project, let alone enable a county to grow and diversify its economy. I respectfully submit that is not how we create sustainable communities in our state.

Currently, the only revenue source for counties derived from the use of federal lands for renewable energy is geothermal rents and royalties, which are authorized pursuant to the Energy Act of 2005. However, in the last two years, those revenues were diverted back to the U.S. Treasury. It literally took an act of Congress, led by our delegation, to return that 25 percent share back to the counties. Suffice it to say that, in the future, this is going to be a tenuous revenue source at best.

Like the state, Nevada's counties are also experiencing declining revenues, including property and sales tax—the two largest revenue sources for counties. At the same time, many of our counties are experiencing an increasing demand for services. As we all know, all the counties are facing the prospect this

legislative session of more unfunded mandates and cost shifts for the next biennium.

According to the database for state incentives for renewables and efficiency, some 27 states offer some sort of sales tax incentives for renewable energy. Another 34 states offer some sort of property tax incentive. Only a handful of states offer both, and not all of those are for utility-scale projects. I would submit that our tax incentives at this point are among the—if not the—most generous. Even with our proposed amendments, I believe Nevada would still be competitive, especially compared with our neighboring states.

We believe A.B. 14 and our amendments accomplish the need to provide predictable incentives that are of interest to developers, as well as the flexibility for developers to work with the counties by seeking lower tax abatements. Assembly Bill 14 also assures counties can get back taxes if the applicant fails to meet the conditions under which the abatement was granted.

In summary, we believe A.B. 14 finds the balance needed for renewable energy to flourish in our state while assuring state and local governments derive the benefits that will help make our communities sustainable. Again, I thank you for the opportunity to present A.B. 14. I would be happy to answer any questions.

**Chair Kirkpatrick:**

I am very passionate about this issue, but I am very fair. That is why we are having a hearing. I am going to let you do your part so I can collect my thoughts.

**Assemblyman Goedhart:**

I have looked at the bill and also at the proposed amendments. I am a bit confused. I know that one part of the bill would redirect that 45 percent of the remaining 45 percent from the state directly to the county because not only did the counties take a hit with the 55 percent property tax and sales tax abatements, but of that remaining 45 percent, 45 percent was redirected to the state. Is that correct?

**Jeffrey Fontaine:**

That is correct, and that is what our proposed amendments seek to do.

**Assemblyman Goedhart:**

On top of that redirection of those funds, what are you proposing, in this bill and your amendments, to do with the abatements that is different from what is done currently?

**Jeffrey Fontaine:**

The two major provisions are that we seek to have that 45 percent of the 45 percent returned to the counties and that we seek to have personal property taxes not be subject to the partial tax abatement. Also, we are including a definition for the transmission lines to tighten up on which of those lines would be eligible for abatements. We want to make sure it is the lines that are contributing substantial renewable energy to the grid that are receiving those tax abatements and not just not just any transmission lines.

**Assemblyman Goedhart:**

It looks like a lot of these projects are going to be on leased federal land. In that case, they are not paying a lot in real property tax. With personal property, you are talking not only about the power generating station but all of the ancillary wind or solar collection structures erected as well. Is that correct?

**Jeffrey Fontaine:**

I cannot tell you which ones will be on leased federal land, but that is correct. Again, we are not proposing any amendments to the partial abatements for the sales tax. That would still be available.

**Chair Kirkpatrick:**

But the sales tax belongs to the state, so we get to decide. That is the rest that we took. Am I mistaken there? To make any amendments to it, that would have to come from us because there are abatements.

**Assemblywoman Neal:**

I read the bill and the amendment. I thought the personal property deletion was possibly fair because I was thinking you were sweetening the pot, but it was maybe a little too sweet for the 20-year abatement for personal property being included at the 55 percent rate.

**Chair Kirkpatrick:**

I am fair, so we will have a fair conversation about this, but let us go back over a little of the history from Assembly Bill No. 522 of the 75th Session. I understand what other states are doing, but we have no infrastructure and we have no additional transmission. So, we are at a bit of a disadvantage when compared to the other states. Arizona has better transmission in place, as does Colorado. Utah has a great geothermal transmission line in place. However, in Nevada, we are very limited, and that is one of the reasons we included transmission lines in our tax abatement.

Also, when we discussed this, we talked about the need for people to build to help our transmission grow. You cannot just build transmission lines and hope

they will all come. That would be nice, but we will have to do more in order to make us successful in Nevada. Everybody is trying to get to California, but even in our own state, we can still build projects and build our transmission at the same time. That was the theory behind making the pot a little bit sweeter because we really did not have the infrastructure to work with what the other states had.

The state took that portion of the money for two reasons. The first was for the State General Fund, and nothing has gone into the General Fund from it. The second was so we could have the Commission on Economic Development as a separate entity so we could expedite some of these projects and move forward.

We have a lot of preapplications and applications online. We must have 30 or 40 people. We set a time frame so they had to have 18 months. They could not be just speculators hoping for the best that they could get. I felt it was only fair to local governments to give them some time frame to adjust within their budgets.

However, I know the Governor has a proposal to consolidate the two offices and make those changes. I am happy to give you your money back. I agree with that because it was yours to begin with. We agreed to disagree to use it to get that office up and rolling, which was very helpful to our state because we got some good regulation process in place and made huge strides. We truly are on the map. I am good with giving you your money back.

However, on the transmission part, I am not sure how you would do that because I have not found one state that can pinpoint when a renewable line is for transmission. I understand the hope is to have the collector lines as renewable lines as we go forward, but I do not know how we can make that particular change. What we do not want to do, and what I am worried about doing, is losing our good momentum. I have spoken at several events with people from around the world who are interested in coming to Nevada. They hold a yearly conference in our state because they are very interested in being part of renewable energy.

The reason the 20 years is in place is for financing. We worked with many different financing companies and many different bonding capacities across the western states. They would not even allow financing to go in place without the 20 years. Truth be told, they actually wanted 50 years because the life of a project could be 40 years, but 20 years was the minimum amount allowable for that financing. That is why that is in place.

Here is my problem. I am willing to give you back your property tax because it is your money. The state just borrowed it to get the office off the ground. About \$400,000 was projected last time.

I have been part of this whole thing because I follow my legislation all the way through. When the ordinances start coming in is where a company has to pay \$200,000 for fire service and police, or there is another ordinance coming because the county wants to charge \$10,000 for permitting fees. That puts us completely back out of the box because we are not even competitive on some of those things.

I specifically wrote in A.B. No 522 of the 75th Session that you could not hold people hostage. A renewable energy plant is different from a development where there is housing and you need a school and a fire station. I understand that type of agreement. But I do not understand why they have to pay \$200,000 for police and \$100,000 for fire protection on a project where they typically already have a lot of those services. I am not sure why we are putting those in as operational costs because A.B. No. 522 of the 75th Session specifically said it had to affect the surrounding area. That would be my first question. We need to find a balance, but how do we find that balance?

Believe me, 150 percent of the average wage is better than any other state, but I understood we did not get the long-term jobs. But six states are in the process of adopting that same thing. Alaska is calling asking how they can do this, because we were smarter than they were. We are trying to get those dollars generated back into the counties. The state did take a risk; we took the sales tax risk. At the end of the day we took the sales tax risk and guaranteed the schools had to be held harmless. We were trying to do our part, plus we sacrificed our property tax revenues.

I feel like we are in this together. I am sure we will come together, but how do we keep local governments from enacting all these ordinances that end up hampering us? I am sure when you hear the Speaker's economic development bill, Assembly Bill 449, which he has worked on with the Governor, that that has been a huge concern.

**Jeffrey Fontaine:**

Thank you, Madam Chair, for your comments. Specifically related to your concern about the ordinances and what some of the local governments may or may not be doing, I am going to address that in broad terms. I know we have Commissioner Boland and some representatives from Churchill County here as well. If there are specific examples of that occurring, we would certainly like to hear that. But we are certain the local governments in the counties we

represent are aware that you cannot ask for more than what is related to the project.

I think we have some good examples of where local governments may have been a little creative, but they worked cooperatively. I know, for example, that in White Pine County, the commissioners there worked with a wind energy developer to do some creative things at the community college to provide some training, and things of that nature. That was all done . . .

**Chair Kirkpatrick:**

Let me say, on that specific example, there are operational services for police and fire, which we do not let anybody do, ever. That was a golden rule of Government Affairs during my first session. Also, it says within the development agreement that it does not happen until the project is built.

We want to help these projects get built. I want them to work. We are working cooperatively on this, and you will see that in the economic development with the universities to help spearhead these. But I also attended an event where all the counties were meeting together to discuss their ordinances and how they were going to get their money back one way or another. I want you to be able to make money but, at the same time, we cannot stop the process.

**Jeffrey Fontaine:**

We all want renewable energy. We all think of green energy perhaps a bit differently from the way energy plants are typically viewed. Unfortunately, you only have to look across the Pacific Ocean to see what the nuclear power plants in Japan look like. Renewable energy facilities are also industrial facilities that require certain services to protect constituents in the surrounding neighborhoods from fire and other threats. In most cases, I think the requests for services related to that facility are for just that—to make sure the health, safety, and welfare of the residents in that surrounding community are protected.

We understand the counties should not be asking for things not related to the project. I was unaware there was a prohibition or it was frowned upon to ask for services related to police or firefighting, but I can tell you that Churchill County had a very specific example of where firefighting response was needed as a result of something that occurred at a plant in their community.

**Chair Kirkpatrick:**

But it said surrounding the area. We make everybody jump through hoops to prove their impacts, so I guess local government needs to prove to the state what their impact is because that is a fair turnaround. I read these development

agreements and the ordinances. I do not live in any of those counties, but I am telling you there is no transparency.

**Assemblyman Goedhart:**

In the last five or six years I have probably donated 1,000 hours of my time trying to realize the potential of renewable green energy in Nevada, but a couple of points should be made. We talk about the North Slope oil scenario, and we have all of these great resources. Well, the proof is in the pudding.

In the last five years, since ACCIONA Solar Power's Nevada Solar One project, which was built by the Duke Energy Corporation, came online, there has not been a single large-scale concentrating solar power (CSP) project built. Not a single one. If, indeed, things were that easy, we would already have had several of these projects being built. There has not been a large-scale commercial wind farm being built.

It is different with geothermal. Geothermal sites are specific. There is a resource there that cannot be moved or transferred to other states.

Also, I hear about the jobs. They say there are a lot of construction jobs, but once the plant is up and going, they do not have a lot of jobs. The jobs are short-term.

Actually, I have a lot of economists who say that is the best type of project for a county because you have a huge tax base, and you do not have a lot of people who depend on the goods and services. You are actually bringing to the county a lot more goods and services per citizen, so it actually increases the amount of county revenues that it can provide on a per capita basis.

Also, when we talk about a general development agreement (GDA), I happened to be involved as a volunteer on a project in Nye County. At the last minute, upon encouragement of the Nye County Board of Commissioners, the local town board passed a land use plan for that project that came into conflict with a piece of ground that had already been under application for over two years. Then they went to the developer and said the only way they could get out of it was to sign a GDA with us. The counties, in this case, forced them to sign a GDA.

Wayne Thorley from the Legislative Counsel Bureau prepared an analysis last session that said that a 500 megawatt CSP solar power project, even with the 55 percent abatement, would pay 12 to 14 times the amount of property tax per kilowatt-hour that a gas- or coal-fired power plant paid.

I think these people are going to pay good money. I agree with you on returning that 45 percent of the remainder that was diverted to the state unnecessarily. But when you look at the amount of public lands we have, the lack of private ground, transmission issues, and the fact that during the last five years we have not added a single megawatt of CSP or wind power, I do not believe these are giveaways. If they really were, we would actually have some projects being built right now.

**Chair Kirkpatrick:**

Thank you. Does anyone else have any questions? I will tell you we did at least get some good regulations and a process in place. For those of you on the Committee, you can actually go on the Energy Commissioner's website and see the impact statements. Those are one of the things we had them post so people could prove what they said the impacts were.

I am going to ask someone from the Department of Taxation to come up in a little while because I want to know about this personal property tax, since there is some question about it.

What was the fourth amendment you wanted?

**Jeffrey Fontaine:**

That is the amendment about returning the funding that goes to the Renewable Energy Fund back to the counties, making personal property tax not subject to the abatement, and the definition of the transmission lines. There is another amendment that would allow, at the request of the developer, to agree to either a lower abatement, a lesser term, or even agree to voluntarily repay a portion or all of the taxes that are abated.

The reason we put that in was because we understand, from talking with the industry, as well as with you and others, that there really needs to be a reliable, set amount. In our original bill, we wanted that to be a not-to-exceed amount. We understand the issue, so we have left that in place. We do think there may be an opportunity or a need at some point to give the applicant the flexibility to seek a lower amount. I think that would be particularly helpful, given that we have a situation where it is all or nothing. You either get the tax abatement at that level or you do not get it at all.

**Chair Kirkpatrick:**

I thought I also saw a piece in here about ordinances. I want to know about the ordinances. I spent the first half of my being home during the interim hearing about that.



**Jeffrey Fontaine:**

When we were looking at having the existing abatement levels set as a not-to-exceed amount in the original Assembly Bill 14, we thought that we would make it a requirement for all counties to have an ordinance that would set in place exactly how they would determine what those amounts would be. Since we have changed that, we are no longer requiring the counties to have such an ordinance. That is no longer part of the bill.

**Chair Kirkpatrick:**

Are there any other questions?

**Jeffrey Fontaine:**

I would just add two comments. The first is in response to Assemblyman Goedhart's comments about where we are in the development of renewable energy. We have Commissioner Boland and we have representatives from Nye and Churchill Counties to talk about where they are in that regard. I think you will be pleasantly surprised, or at least pleased, by the progress that has been made.

We understand the need for abatements. However, there other factors involved in why Nevada has not gotten further than we have. One is the availability of the land, as Mr. Goedhart indicated. There are also the regulatory requirements—the National Environmental Policy Act of 1969 (NEPA) and all those other things that go along with permitting. I know our congressional delegation has tried very hard to work with the administration to introduce legislation to streamline those federal processes. When you have 84 percent—or, in some counties, as much as 97 percent—of your land managed by the federal government, that is the process you have to go through.

The other key ingredient, which you all recognize, is the transmission lines. We are not opposed to allowing incentives for the construction of transmission lines. We understand how critical that is to moving this state forward. What we are concerned about is making sure the lines that will receive the tax abatements are truly the lines that will help us reach that goal.

Madam Chair, to your point about the ordinances, the costs, and those types of things, we have heard indirectly about some of the concerns related to the costs associated with permitting these projects. They are not extraordinary costs. These are renewable energy plants. It would be no different if they were building some other industrial facility, such as a food processing plant.

A lot of work needs to take place at the county level to review these applications and permit these projects in order to protect the health, safety, and

welfare of the residents of that community. A lot of the rural counties do not have the staff to do that. They do not even have county managers. They need to hire staff to do the job of making sure these facilities are constructed in a safe and proper manner.

**Assemblyman Goedhart:**

It is good to review those plans. However, from what I have seen of the NEPA process and environmental impact statements (EIS), what the federal government is requiring these companies to do is far in excess of what I have seen a county requiring. While the county would like to be a signatory to this, the EIS process is so exhaustive that it literally leaves no stone unturned.

As to the abatements, a coal-fired power plant does not pay tax on the coal being fed to generate electricity through the power block. A solar plant has the same power block, but instead of coal, it has basically prepaid fuel in the form of solar collectors and all of the ancillary equipment that goes into converting the sun's energy into steam.

I reiterate, even with the abatements that are on the books right now, the renewable energy people are still paying 12 to 14 times as much per kilowatt-hour as a coal-fired power plant, even one like that proposed in White Pine County. That is something to bear in mind.

**Chair Kirkpatrick:**

Are there any other questions? If we give you back your 45 percent, will that be an incentive to expedite some of these permitting processes as people go forward?

**Jeffrey Fontaine:**

Again, the counties are very interested in seeing these projects succeed. They would definitely be more interested in seeing them succeed if there was a bigger benefit for them.

**Chair Kirkpatrick:**

Everybody wants to throw everything into economic development this session, but if we were to give that money back to the counties to pay staff for whatever the process may be, I would hope we could actually start seeing some of these property tax dollars within the next 12 months. That is my understanding.

With that, I will let everybody who wants to testify have a chance to do so.

**Jeffrey Fontaine:**

Do you want us to walk through the specific amendments? Mr. Henderson is prepared to do that.

**Chair Kirkpatrick:**

Does the Committee want page-by-page specifics? I think we have the gist of them—the transmission line where I agreed to disagree with you, the 45 percent, the personal property tax, and the last one, which I still do not understand. Could you tell us about that again?

**Jeffrey Fontaine:**

We included a provision in our amendments that would allow applicants to voluntarily seek a lower tax abatement, lower term, and/or agree to repay a portion or all of those tax abatements. The reasoning for that is the way the partial abatements work right now. They either get the abatement or they do not.

We believe there could be circumstances where a county might be willing to help an applicant in different ways. Maybe they could provide land or work with them on a timeline. In exchange, an applicant might say if the county is willing to do that for them, then maybe they will only ask for a 10-year tax abatement instead of the full 20 years. This is not something the counties would or could require. This would happen if the applicant was willing to do it.

The other reason this is important is that, in NRS Chapter 701A, the Energy Commissioner has discretion to grant the tax abatements for those applicants who do not meet all the conditions in NRS Chapter 701A. We would like to be able to say that if an abatement is to be granted to an applicant who does not meet all those conditions, then maybe there should be some consideration for a lower tax abatement.

**Chair Kirkpatrick:**

I do not disagree with you on that, but I can tell you the regulations—and I, at least, expressed my opinion to the Legislative Commission—there should be no waivers at this point because we are not in a position to grant any waivers. If the requirement calls for 50 employees, it is better to have 52 employees. That number includes the landscapers, everybody digging dirt, everybody hauling water, and all those kinds of jobs. So, it is very easy for a company to get to those 50 employees. They can figure it out.

I do not disagree with you that we should not be giving out waivers at this point. However, in order to make good policy for the future, we have to have

that provision in. But the record is very clear, so I hope we will take that into consideration.

**Nancy Boland, Chair, Esmeralda County Board of Commissioners, and Vice President, Nevada Association of Counties:**

Joni Eastley, who is on the Nye County Board of Commissioners, was going to come here and testify because her county, my county, and Inyo County have done a lot of things together. Lobbyist Patti Chipman is here with a statement from Commissioner Eastley. After she reads that statement, I could answer any questions.

**Patti Chipman, representing Nye County:**

I am just going to read a statement from Joni Eastley ([Exhibit I](#)):

Nye County believes it has been at the forefront of renewable energy development in Nevada. To date, more than 30 project applications for wind, geothermal, and solar development have been received county-wide. The SolarReserve Crescent Dunes solar project north of Tonopah recently received its Record of Decision from the Bureau of Land Management (BLM) and a 100-megawatt utility-scale solar thermal plant utilizing an advanced molten salt system technology will break ground in July. This technology is the first of its kind in the United States and is not only important to Nye County, but also to the state of Nevada.

We have sponsored six highly-successful renewable energy workshops that brought industry leaders from around the U.S. together with state and federal officials to discuss issues such as project coordination, transmission development solutions, and agency coordination. Nye County entered into a memorandum of understanding—the first of its kind—with all four BLM district offices overseeing public lands in the county to enable coordination of renewable energy and transmission-related activities.

Tonopah's first century was one of boom and bust. Its wide swings were driven by a monopolized economy. First mining, then federal defense projects, dominated our business and culture.

We are determined to end these painful cycles. Diversification and stability are now our priorities. Rural counties like Nye, and communities like Tonopah, can play an important role in helping Nevada reinvigorate its economy, but only if we have the incentive to do so for ourselves in the process.

I like to believe that, while Tonopah once saved the state with silver mining in the early 1900s, we are being given the opportunity 100 years later to help by mining sunshine. In fact, "Mine the Sky" has become the official motto for much of Nye County's renewable program.

I have previously reviewed the testimony provided this morning by Mr. Fontaine on behalf of NACO and can say that Nye County agrees with and supports those comments. Refining the abatement balance so that everyone derives a benefit is the best way to ensure that the host communities for these projects can continue to diversify their economies, stabilize their tax bases, and help the state. I have heard repeatedly that "some tax revenues are better than no tax revenues" but we are finding that what's left may not be enough to sustain the impacted communities as the requirement for services increases during and after facilities construction.

Your consideration of the proposed amendments offered by NACO is appreciated.

Thank you.

**Chair Kirkpatrick:**

Thank you. Are there any questions? Mr. Ellison. And Mr. Ellison, just remember that Elko opposed all abatements.

**Assemblyman Ellison:**

This is a good bill, and they have done a lot of work. I read the amendments last night.

Mr. Fontaine, maybe you can hit on the impacts the infrastructure that is going into these counties will have on farms, roads, wastewater treatment plants and such. I think the big thing is going to be where they are eventually going to come up with the money to do maintenance and upkeep.

**Jeffrey Fontaine:**

Thank you, and I think this goes back to the Chair's comments about making sure that when a county reviews the applications for these projects, what they are asking to be mitigated are the impacts of the project. It is going to depend on the nature of the project.

For example, in White Pine County, there is a road that the county typically does not maintain in the winter, or, if they do, it is very minimal. But because

of a project's need to haul materials to the project site, the county now has to keep that road open, plow it, and maintain it. That is the kind of impact we are talking about here. That is in addition to development of new infrastructure, whether it is to grade a new road or whatever. There will be a lot of ongoing maintenance activities that are going to be important here.

Again, we have representatives from other counties. Churchill County Manager Brad Goetsch is here, and maybe he or Commissioner Boland can talk about some of their specifics.

**Chair Kirkpatrick:**

What is not being said in this room is the amount of capital these companies have to put in. We raised that to ten times what it was last time. For instance, they have to have a \$10 million capital improvement within that county. Does that not count for anything?

I think we are forgetting what they are investing. Sure it is going to cost for maintenance, but without them, the county would not have had that road for another ten years. Who is going to pay to put it in otherwise?

**Jeffrey Fontaine:**

Unless I misunderstand the intent of that provision, first it is graduated based on the size of the counties. I understand that, but I thought that investment was investment in the development of the renewable energy facility. My understanding is it does not necessarily mean they have to invest in new infrastructure for the county.

**Chair Kirkpatrick:**

But it does say in that bill, Assembly Bill No. 522 of the 75th Session, that they can build those surrounding roads so they can get to the roads everybody uses. Churchill County was one of the ones I fought with the most because those companies have to have a way to get in or out, and they are paving the roads that go to the facility. That was part of their capital improvement. In fact, I have looked at many of the impact statements, and these companies are doing more than just the specific requirements.

Elko County denied all the abatements. They did not want to be part of it. That is fine, so we are not going to build any renewable energy facilities there. Unfortunately, they have the greatest access to Salt Lake City. But that is okay; we do not need it.

I am saying counties cannot pick and choose what they want. Do they tear up those roads or tear down those capital improvements when the project is over?

That is where my frustration lies, because the counties do get something out of this. We worked very hard to put this in place. I am just saying let us put it all on the record.

**Assemblyman Goedhart:**

We are here now talking about the abatement change. I believe that with solar or wind projects, the counties already have the right to enter into a negotiation with the developers as it relates to abatements on geothermal projects. Is that correct?

**Jeffrey Fontaine:**

Yes, but it is a yes or no. It is not currently a situation where they can negotiate the amount.

**Assemblyman Goedhart:**

I believe that, on the geothermal, there should be an opportunity to determine the amount and work collaboratively with that developer. Again, we have a 500 megawatt project in process in Amargosa Valley. If that 45 percent that was going to the state now reverts back to the county, even the abated portion on that project is going to be \$15 million a year, of which \$4 million will go directly to the Nye County School District.

Now, even before the environmental impact statement was finished, they were already buying a new water tender for Nye County, which they did not have to do. In addition, they have agreed to repave roads to Department of Transportation highway standards surrounding that proposed site should that project go forward. If you have a project investing several hundred million dollars into the community, they are going to work proactively with that community.

These contributions do not necessarily have to be mandated. Just the amount of money they are going to pay on an annual basis is pretty incredible. For example, Nye County said we had to keep talking about Yucca Mountain because it will bring them \$11 million a year for having all the world's nuclear waste in their county, and they are going to receive \$3 million a year in payment in lieu of taxes (PILT). Those amounts added together come to \$14 million. One solar project will give the county more than Yucca Mountain and PILT put together. If you put the two things in one hand and the one in the other, I will tell you which I prefer. I prefer the solar power project.

**Nancy Boland:**

As things currently stand, in our county, it would highly depend on exactly where the project was. We have had several proponents come in front of us.

One was Ram Power Corporation. Their project is very close to the town of Silver Peak. We have trash pickup, a fire department, and ambulance service there.

Another group appeared before us with a proposal for a project out by Millers. That is in Esmeralda County, but it is about 50 miles from Tonopah and about equally far from Silver Peak, which would be our next-closest community. We do not have any solid waste facility or drop box there. Right now, our solid waste people have a routine that covers the existing communities, so we have one full-time person who drives. If we added one more place to that service, we would immediately need at least one more part-time person. The impact of a project in Millers, being so far removed, would be vastly different from something close to our town of Silver Peak.

I was very happy to hear some of the Committee members say they would be willing to give back the 45 percent to the counties because, from my point of view, that would solve a lot of this. In Esmeralda County, it is our choice not to have ordinances demanding special use permits. In fact, we are probably breaking some state law by our current lack of zoning ordinances and our building codes.

I would rather deal with these people the way we deal with mining companies a lot of the time. When they come to us, if they have a project located on a county road, we will work with them and the BLM to seek a right-of-way pursuant to *United States Code*, Title 5, Section 1701, so they can make improvements to it. That removes some of the bonding need in their projects because they have to take in everything—their access road, a power line, and whatever goes with that facility—and it adds to the acreage of disturbance these people have to bond for. We have always tried to work really hard with the mining companies to save them money. It also expedites things for our county.

I think if we could get back that 45 percent, we could deal in a similar fashion with the renewable energy companies. We truly do want this. This is an industry, as Assemblyman Goedhart said, that would be of great help for our county and would stabilize our revenues. We worked really hard with Nye County, participating in the workshops they put on where they invite developers and people who are knowledgeable in the transmission industry. We have also partnered with Inyo County to try to get transmission developed in our areas in central Nevada and, hopefully, to export over the border into California.



We are very much in favor of this. We would like, though, to make sure that we can benefit from it and that our people are not helping to subsidize some of the development, because we have seen that happening sometimes with things in the past.

**Chair Kirkpatrick:**

You have my vote to get your 45 percent back, but you have to convince the rest of the Committee. What I do not want to do is come back in two years and have yet another problem.

This is a statewide issue, and here is what we have to gain regardless of this whole thing. If we get the transmission lines in, we can actually work within our own state and be successful. That is the ultimate goal. If we can make a little money exporting along the way, if we can help some of the counties, if we can bring some research and some manufacturers, that is all gravy. At the end of the day, if we can, within our own state, be energy efficient and dependent on Nevadans, that is the ultimate goal. And I think people lose sight of that. The research, the manufacturing, and the transmission for exporting energy are all gravy. That is extra.

We have nothing to lose by investing in ourselves. In Europe in the late 1800s, that is exactly what they did. They invested in their infrastructure. So I consider this an investment.

It is a little bit tough right now, but local governments have to play their part. I agree about you getting your 45 percent back, but the ordinances and the business licenses have to go hand-in-hand. What I would like to see is the impact of the true cost. I doubt if you are going to make development agreements, but I do not want to see a \$10,000 business license fee for a one-time transaction. I think the counties owe us what the state has been putting on the record: actual impact. I think that is fair.

**Brad T. Goetsch, Manager, Churchill County:**

This has been a great discussion, and I think maybe I could have the chance to answer a lot of the questions and some of the things that have been brought up. First, I would like to remind you Churchill County is one of the leaders in renewable energy. We have seven operating geothermal plants right now. We have nine proposed geothermal plants in some stage of work—either NEPA or permitting. Also proposed right now, we have three solar plants between 20 and 30 megawatts that are currently in discussion and in some stage of planning and/or permitting. We have two transmission projects underway right now, and NEPA is nearing completion for one of those.

We are experienced in this. We work closely with the companies. In the past, we have had very good experiences with the mining and geothermal companies. They have come to us and asked how they can be part of the community, how they can help us, and how they can contribute. And they have contributed in the past. They have done a lot of things for our community, from ballparks to juvenile facilities to helping with fire trucks and some of the things that were mentioned earlier. I would like to address that.

By the way, the trucks the geothermal people helped fund rolled to a geothermal plant while it was on fire and put out the fires at that geothermal plant, so they were directly deployed in response to the fire at the geothermal plant. That worked perfectly for us and for the geothermal plant.

I would like to ask the members of the Committee to think about what the definition of successful is. I agree very much with the Chair. My background is in environmental and renewable energy. That is what I am educated in. Getting renewable energy in Nevada is a wonderful thing. Using green energy is a wonderful thing. Churchill County is 100 percent green. We export ten times the amount of energy we use in our county. It is all green energy that we export. We love that, we claim that, and we think it attracts industry to our county because they can claim that all the energy they use is renewable energy.

However, if we get a lot of projects coming in really fast, they do have impacts. The biggest impact they have, which has not been talked about at all, is just like the gold mining industry. They take that resource. When they come, they take our valuable resource, which is about all this county has to trade, and it is dominated or gone when they are finished.

I do not think we should just be thinking about what impacts they may have while they are in operation. We need to think about the future impact after that period of operation. It is like when you sell your house. You sell it once, and then your house is gone. That is the impact they have on us, and that needs to be part of the equation.

We need to be sure not only that we help them and they get what they need, but also that we get something in return at the same time in order to define success. If they get what they need and profit from it, and we get very little of what we could have had—if we get 5 percent of what we could have had because we sold today instead of waiting two years until the price is a little bit better or until we get this right—we cannot go back and redo it later. If we sell for 5 percent or for a fire sale price, as we do today, it is done. Later, we say we wish we had done a better job.

We ask that, as this bill suggests, we work it out together now and let us do a good job from the start. Let us make it good for the renewable energy companies and good for us. History shows that if we go easy with the copper barons or the timber industry and they ravage us and get what they need out of it, then we are left with the cleanup and have very little to show. All we are asking is that we do this right.

It is a bit misleading when we talk about capital investment coming and say wow, a \$5 million or \$10 million—or let us say a \$2 billion—capital investment in your county is a great thing. It is only a great thing if it produces some jobs and some income for your state and your county.

If somebody comes in with \$1 billion worth of Chinese infrastructure and buys pumps out of Chicago or Italy or Norway and spends all their capital investment money outside of your country, your state, or your county and then plops it in your county, they are not making a capital investment in your county. They are making a capital investment overseas and bringing their stuff to your county. Unless you have something worked out with them so that there will be some benefit to your county, then that capital investment did nothing for you but change the viewscape, impact your grazing rights, and change your county. I would like to be careful with capital investment.

We really like the changes Chair Kirkpatrick had enacted where the capital investment had to be a little higher and where some of that capital investment had to take place in Nevada. That is what we would really like to see. What is going to generate those companies, those support companies, and those other jobs is if, as you consider these kinds of bills, you require a good portion of those capital investments to be made in Nevada.

Let me go on to address a couple of interesting questions that were asked today. We worked with NACO to develop this bill. Depending on what source you use, Nevada is either the lowest or among the bottom three states in the nation in taxes required from industry and from individuals. You and your predecessors have done a very good job and have done well in creating an atmosphere in Nevada that is advantageous for business that we like because our taxes are low as individuals. I think some of the businesses, though, are now trying to take advantage of you and of the situation we have set up for them.

Churchill County is pro renewable energy; I talked about that earlier. We have a long history of working with renewables and of leading projects. I have heard, and have seen here today, that you have been misled about the permitting

issues. I have heard a lot of talk about that, and I would be happy to come anytime somebody from the industry wants . . .

**Chair Kirkpatrick:**

I would be happy to put a lot on the record if you want to go down that road. I have the emails about the ordinances of which Churchill County was the fire starter last session, so I am happy to go down that road if you would like to go there.

**Brad T. Goetsch:**

I just want to say where we are today. I brought to you and put on the record Churchill County's permits and fees ordinances ([Exhibit J](#)). As you can see, the total cost of permits and fees for an average big box store, for a manufacturing plant, or for a geothermal plant in Churchill County is \$125 for a business license—you can get that in my planning department—plus \$500 for a special use permit, plus \$2,300 for a road impact fee. Then they will pay a building permit fee based on the international building code on a formula that equals very close to 0.3 percent of the total cost of the construction of the building. That fee is for us to review their plans, to hire a consultant if we do not understand their industry well enough, and to be on site while they build their facility to be sure they build to what the plan said it would be and that they have a safe facility.

We charge the same amount charged in Chicago or New York or Los Angeles or Las Vegas or anywhere else that uses the International Building Code. That is it. Those are our fees. On average, that comes out to about \$60,900 for a 30- to 50-megawatt plant or for a Walmart or a manufacturer who comes in with a factory. That is it.

**Chair Kirkpatrick:**

The point I was making, and I will put it on the record, is that shortly after the end of last session, there was a big fire storm. I can tell you when the meeting was; I have all the emails to back it up because you cannot wear three different hats. But to change all the ordinances to get the development agreements, go into Pershing County or Mineral County or Humboldt County—I can show you all the emails, and I would be happy to put them on the record. I was not going to go there today, but I am glad you put those fees on the record. I would like to know for how long they are going to be because when the other counties call and say this is what Churchill County told us we should do, I can call you and say no, this is what you put on the record, that these fees are good for the next five years.

**Brad T. Goetsch:**

Madam Chair, I will agree with exactly what you said. At the end of the last session, when the bill did not come out as we thought it would, and where the counties did not have a scalable formula for how much a company contributed to the county related to how much they got in abatement, we did talk about how we were going to be compensated for the impact these companies have been having and for giving away our gold to them. You are exactly right. We met with the other counties and asked what we could do if we were put in a position where now these companies come to our community, take our resource, and do not pay us back.

Are there better ways we could do that? Basically, we discovered there are not better ways to do that. It is better to work with the companies and be sure they are paying a fair tax to the state from the start than have all of us work in different directions to find out how to get a little payback some other way. As Assemblyman Goedhart pointed out, even if we somehow charged them a \$1 million fee, it would not be nearly as much as they would be paying if they just paid a fair tax, as we are trying to set up.

Let me talk about that. In the past, as the geothermal industry and others have approached us, and as the mining industry is approaching us right now—we have a mine opening, and they said, hey, we want to build a road here and there are things we want to do for the community because we are going to take a resource, iron ore, from you—we work with the industry on the things they will do with us and for us and the things we will do to help them.

Geothermal developers, like mining, impact the environment. They impact water resources, grazing permits, recreational viewscapes, the traditional and cultural uses of the land, and the quiet enjoyment of private properties nearby. They bring traffic services and impact government services.

But, as Assemblyman Goedhart said earlier, in some ways they have lesser impacts because they employ very few people and they are not hauling out truckloads of materials and things. They are, though, tapping our heat resource and our water that can only be tapped once and used once. They are taking a resource from us that is extremely valuable and that gets used for the period of time they are operating. We do not see them as having terrible impacts, and they work with us sometimes to make those impacts less and help us pave roads.

However, we do see that we have something of value that they need and that they are going to use or use up over time or dominate so nobody else can use

it. We think the state and the county should get some value for their industry accessing that resource.

We ask that industry pay the same low tax that Walmart, Dairy Queen, a Maverik gas station, or individual Nevadans pay. Individual Nevadans do not come to ask for their taxes back. My children have graduated from school. Did I come back to the Assembly and say I do not want to pay my taxes anymore because I no longer have any children in school and, therefore, I do not impact schools? I contribute to schools because that builds my community; that builds a workforce; that builds the state; that strengthens all of us.

I do not come back and say, when I get old or I am not driving much anymore, that I do not want to pay road taxes or gas taxes anymore because I have no impact. The groceries I buy at the store come down those roads. I still participate in that.

It is disingenuous to talk about proving exactly what my impacts are so I will pay only for my impacts. We do not do that with individuals. We do not do that with any other industry we tax in our state. Why would we do that with renewable industries and say we are only going to tax you for exactly what we can prove your impact was?

**Chair Kirkpatrick:**

That is a constitutional issue you will have to take up with the voters of Churchill County, then. It has been in place since 1988.

**Brad T. Goetsch:**

Again, one of the impacts is that we are giving up a resource that can only be used once. That is an impact, and that is what I would like you to remember as you consider this issue.

Churchill County supports the state in abating taxes and giving incentives to bring industry to us. We really support renewable energy and the growth. We support a reasonable abatement that is shared between the state and the local government. We support a scalable abatement that can be adjusted so that the more a company is going to bring to the state and to the county, the more we should help them.

**Chair Kirkpatrick:**

I think what you are saying is not what is in this bill.

**Brad T. Goetsch:**

What I am saying is what is in this bill. You mentioned earlier, and you were right, that Churchill County is one of the counties that considered saying we opposed all abatements and we are just going to take that stance. But we do not. We think we are doing the right thing in trying to encourage some of the renewable energy companies and some of the other things.

If those abatements are done right, and if they bring something back to the counties, we can support them. If they are not done right, we have difficulty supporting them. That is the message I am trying to get across.

In past cases, and in some of the most recent cases, according to the figures from the Governor's Office of Energy, we abated \$4.7 million per permanent job provided by the solar plant that was built in the south. That does not seem a reasonable abatement from my standpoint. That is enough to pay all the personal expenses for that company in perpetuity to be invested in pay. We did not actually get new jobs or have the company pay new jobs. We assumed the cost of those new jobs, and we are paying those with tax money. That does not seem a reasonable abatement.

Those are the things we think NACO worked on in working this bill out so it has some scalability. It has an opportunity for companies to offer to give back to communities. It has a return to the counties. It gives local government a voice and gives the local people a feeling that they are getting something back for the resources and for the impacts they are putting up with.

**Chair Kirkpatrick:**

Thank you.

**Assemblyman Anderson:**

I just want to clarify something you just said. Do you think geothermal is the same as, say, iron ore? Is geothermal not much more long-term and much more worthy of being abated based on the fact that if the heat of the earth runs out, I think we have another problem?

**Brad T. Goetsch:**

That is a good question simply put, and thank you for setting it up for me. For the geothermal industry in the past, the life of a well averages between 25 years and, for the really good ones, 50 years. It is not permanent. The idea that once you tap into the heat of the earth it goes on forever is not a correct interpretation.

The geothermal industry finds a place, which is very rare, where the geothermal fluid is very near the surface because of a fault or a crack—I am not going to go into all the geology—then they begin to pump that water. The well can go bad in a couple of ways. One, the heat resource can be reduced to the point where the amount of heat is no longer usable or profitable to them. Two, the volume of water being pumped can go away because they are pumping so much. A lot of other things could happen. In Churchill County, we found the geothermal water is connected to the shallower aquifers so that when they pump geothermal, the wells go dry. Then they have to make some changes. That could limit the life or volume of those wells too.

In a sense, geothermal is like mining. They are finding that at the place where the heat and water work perfectly with the geology, there is a finite period of time they can make that system work. Technology has gotten much better, and they have found ways now to reinject and recirculate and extend the life of that geothermal, but it is still somewhat limited. It is actual mining, and it will not go on forever.

It is not exactly like mining. A mine can be open for 20 to 50 years. A good geothermal well or plant can operate for 20 to 50 years, or maybe even 100 years. There is one in Italy right now, which I believe is the oldest, that has worked for a little more than 100 years. But it is not a permanent thing that, once you do it, is going to continue to supply you until the earth goes cold. That is not a correct concept.

**Assemblyman Goedhart:**

From what I have learned from people in Churchill County, I agree with your assessment about the geology of where the water hits the heat and all the rest. However, it would be unfair to characterize wind or solar along the same lines. I would be a supporter of the notion that solar can go on basically forever, as can wind.

**Brad T. Goetsch:**

I am worried because, although geothermal is a bit different, we do not want to put it at a disadvantage compared to the other renewable energies. We do not feel that is fair. Assemblyman Goedhart, those energies, as you mentioned earlier, may not have come to full maturity as geothermal really has. There are still some real costs and challenges with solar and with wind, both environmentally and technologically, that make them a bit different from geothermal or coal or some of the others.



**Assemblyman Goedhart:**

I wanted to give a word of encouragement to the counties. As a farmer, I took over some pretty bad ground in Amargosa Valley that had never been farmed. I have invested in that bare patch of dirt, in some cases for 10 to 14 years, before I could turn it into a good piece of highly productive farm ground. Sometimes I feel the counties, in their haste to worry about revenue streams, are plucking every feather off that goose before it has a chance to lay the golden egg.

**Chair Kirkpatrick:**

When people are doing explorations, whether it is mining or geothermal, do we not see additional people come into the counties? Also, the impacts are important to me. I think that if the counties are doing exactly what they are doing—I am not saying you should not have that employee to process those permits—we need to make it transparent. That is fair. We are making all these renewable energy people jump through a million hoops, put it on the website, go through public hearings, and go through you. We are making them do their part. I would feel better if local government could at least justify some of these additional costs.

**Brad T. Goetsch:**

I agree with you 100 percent. I think a public meeting is transparent, and that is what we have done. We have made all these meetings public, and we have published exactly what our costs and fees are. By the way, the process can all be completed in 60 days, from the first permit they can run concurrently to the end of the process. Our average is 60 days to get a geothermal plant permitted and finished with their special use permit and all. That seems reasonable to me.

All of those things can be done if the company is ready and comes prepared. The NEPA has nothing to do with construction or with the county. That is state and federal. If they have all of that done, they can get through all of our processes in 60 days and be ready to go. I agree it has to be transparent. We are one of the counties that even ask for labor negotiations to be done in public and to be transparent.

Yes, there are jobs in exploration. We were told there would be almost \$2 billion spent in Churchill County on exploration over a five-year period. We have seen a few dozen people come, a lot of airplanes fly, and things being done. In the construction, we had two or three construction projects going on simultaneously. We saw an influx of about 300 jobs that lasted eight to nine months. They sequenced themselves so they could use the same workers to build one plant and then the next.

It was not what we had expected. From what we heard from the state and the economic people, we thought there would be maybe a couple of thousand people at once and everything would be happening. What we found was they brought in a crew, they did all of their work, and then they cycled to the next job and did all their work, and then they cycled to the next job, so they used a fairly small group.

Ninety percent of those people were flown in from Oklahoma and the southern United States and were cycled in and out and back and forth. About 90 percent of their money was going back home, but they did help our hotels and our restaurants for about nine months. So yes, there is a bump in the economy there.

**Assemblyman Stewart:**

For Churchill County, have the geothermal plants been in operation long enough that they have exhausted their source of water? And are there any plans for what will happen to those plants when that eventually does happen?

**Brad T. Goetsch:**

I would rather let an industry representative answer that question, but I would say no. I am not aware of any plants in Churchill County that have exhausted their resources. I know that some have had to change from one well to another or had to drill new wells when one well either cooled or no longer had the flow they wanted, or had done something else to ameliorate the problem. I am not aware of any that have said their source had run out or had to be abandoned. I would rather let the industry talk to you about that one.

What was your other question?

**Assemblyman Stewart:**

In mining, they clean up after the mine goes dry. Is there a plan to clean up after the water goes dry?

**Brad T. Goetsch:**

I think that is part of the requirements of the National Environmental Policy Act of 1969 (NEPA). I think there are federal requirements on federal lands that any operation on those federal lands, when they are finished, return the lands to their prior condition. So, there would be some sort of plan. However, there is a plant in Humboldt County or Pershing County that was built and still sits there, although it is not in operation.

**Nancy Boland:**

There is a difference if the project is on federal land as opposed to private land. If even a solar project is built on federal land, there is a requirement that a reclamation fee be set aside for that, and it is bonded. The same would hold true for wind or geothermal. On private land, we do not, at least in our county, have anything in place for that, which could possibly be another impact from this.

If I could address the question on exploration activity, we have had similar activity in our county. Actually, there were some \$30 million spent there, largely helped out by the federal government. What we found was the crews fly in from Oklahoma. There was some local employment, mostly people from Mineral County and a few of our own. We, however, do not have any hotels and restaurants, so we did not get that side benefit.

Another thing that happened while this was going on was these people helped themselves to some free screened gravel that had been paid for by the citizens of Silver Peak when they put in their water system. It was an inadvertent thing, but you run into almost a lack of coordination on some of these things. We probably would not get a lot of side benefits from exploration or even from up-and-running plants because we do not have anyplace to put anybody.

**Assemblyman Stewart:**

Do you have any current renewable energy projects in Esmeralda County?

**Nancy Boland:**

Yes, we do. We have operating geothermal plants in the Fish Lake Valley. They have been there for quite some time. We get about \$16,000 to \$17,000 in royalties from those. Ram Power is expected to build their plant in the Clayton Valley by 2013. They are well on their way with permitting and with the BLM at this point, and they are on target to get that done. There has been some interest in solar projects, but they have not been permitted or talked about very seriously. We also have some meteorological towers up for a possible wind project in the Clayton Valley.

**Assemblyman Stewart:**

So, currently, you are all geothermal, then?

**Nancy Boland:**

Yes, that is correct.

**Chair Kirkpatrick:**

Are there any other questions, then? I just have a final note for my friends in Churchill County. I hope you use that same aggressive nature to get everybody to come up with a different ordinance to go back and do those fees so we can be consistent throughout the state.

Is there anybody else who would like to testify in support of A.B. 14? Is there anybody who is neutral on A.B. 14?

**Lindsay Anderson, Director, Business Development and Research, Commission on Economic Development:**

In the original bill, there was some language about counties approving tax abatements that are unrelated to renewable energy. As a side note, we are very familiar with the renewable energy abatements. We used to administer them, but after A.B. No. 522 of the 75th Session, we turned that over to our friends at the Office of Energy. There was also some language relating to traditional incentives for companies through economic development.

I understand, through the amendment that has been proposed, that language has been taken out, but I wanted to assure the Committee and our friends at NACO that we work very closely with the counties during the abatement process. We also work with the development authorities who are appointed by the county governments to administer those abatements.

Certainly, it is the policy of our commissioners not to go against the feelings of the county. If that were ever to come up, it would be a very open process. The counties and the local governments affected by the abatements are aware of the meetings, and we work very closely with them.

**Chair Kirkpatrick:**

Thank you. Are there any questions? [There was no response.]

**Judy Stokey, NV Energy, Inc.:**

I was not sure which box, either for or against, to check on this. I understand the concerns the local governments have, and that is a policy decision you all will have to make. About those abatements, I know that anything we can save in building any of the transmission, which is what I am up here about, goes to our customers. We appreciate that.

We do understand that transmission has to be built in order to get the renewable energy to the customers. The transmission is very different from what I think a lot of people believe. Electrons are colorblind. We cannot tell renewable energy not to go across this line.

We are in the process of building the online project, which will employ up to 400 employees. That line is being built because we do have some contracts for renewable energy. We hope that will come to fruition, but if one of those renewable projects does not come about for one reason or another, we could end up with more traditional electrons going across that line. It is impossible to say which electrons are going to cross that line.

With that being said, I would like to work with the proponents of the NACO group on their definition of transmission.

**Chair Kirkpatrick:**

Thank you. Are there any questions? [There was no response.] Would anybody else like to testify neutral on this bill? [There was still no response.] Is anybody opposed to A.B. 14?

**Alfredo Alonso, representing Large Scale Solar Association:**

We have looked at the amendments. I would like to start my testimony by disagreeing with the premise that people will come to this state if we just ask them to. The reason this body put the abatement policy in place that you see before you is that we have a very competitive environment on the renewable front as a result of California's impending 33 percent portfolio standard. It has not been passed yet, but most of the stakeholders have already assumed it is going to 33 percent. Some have even thought it might go higher. The thought has been that there is a race as to who is going to ultimately bring renewable to their state and act as the hub, which will then obviously bring in more economic development, et cetera.

I disagree with the premise that they will just come. I believe these abatements are incredibly important and, while I respect Mr. Fontaine's hard work on this, and his amendment does take us a little bit further, my biggest concern is taking out personal property. You have suddenly made it very difficult for a solar company to come in and compete with Arizona, California, or now New Mexico. You have Utah coming into the mix as well. They all have legislation on this issue this session, by the way, and they are all working very hard for these dollars.

I also disagree with the premise that these are impacts on counties. While they may be impacting the counties, I believe it is in a very positive way. What other industry comes into your county and has a significant income? In fact, just take, for instance, a 100 megawatt facility being built in a county. You are talking about somewhere between 700 and 800 jobs with aggregate salaries around \$39 million. You are then looking at indirect and induced employment of, we believe, around 1,000 jobs or perhaps more—and I believe that is

conservative. Annual wages there would be around \$2.8 million. You end up with around 45 jobs.

Some would say that is terrible, that is not enough jobs. But you are looking at a situation where a company is coming in on federal land where there was no impact whatsoever on the county before. They are now coming in and paying a lease to the federal government. The county is now getting back a portion of that lease. Again, that is brand new money. Those 45 employees are getting paid fairly well to run a plant. In the case of a photovoltaic plant, they are not even watched. They have learned that you can put the photovoltaic array out and not even have to watch it in the desert. Now you have, again, a very small impact on the school system, on indigent health care, on anything that could potentially impact that county.

In essence, what you are getting is new property tax, new sales tax, and well-paid jobs—there may not be many, but they are good and they do not impact the county. I think what you have created is a win-win situation. For anybody to come into this room and indicate that somehow businesses are getting a great deal at the expense of the state, I respectfully disagree with them.

Finally, with the amendment, beyond disagreeing and strongly opposing the removal of the personal property tax portion, that new section 4 confuses me. I believe you can do that now. I think you could go to a company and say, "Listen, if you simply write us a check back for the last five years of the abatement, we will give you the land or these improvements." These are things you can do in a development plan today, so I think it is unnecessary. More than that, it gives me pause as to why you would want to do that in the first place.

Those are our comments. If anyone has any questions, I would be glad to answer them.

**Chair Kirkpatrick:**

Thank you. Does anybody have any questions? [There was no response.]

**Jesse A. Wadhams, representing Ormat Technologies, Inc.:**

Let me first stand on a number of comments made by Mr. Alonso. I have seen some of those impact numbers for geothermal developers, and they are very similar.

Ormat Technologies, Inc. is a developer and operator of many geothermal projects throughout the world and in Nevada. Its headquarters is right here in Reno, Nevada. In fact, just to make a nice point for them, the only utility-scale

geothermal development in the entire United States in 2010 was Ormat's Jersey Valley project, right here in Jersey Valley.

We are opposed to A.B. 14, both as written and as amended. As originally written, it brings wind and solar into the confusion of the county commission approval process. As amended, it remains generally an antigeothermal bill. The only kind of technology that goes through county commission approval is geothermal energy. That approval process is actually not predicated on discernable criteria. That is unlike a business license or other nondiscretionary permits where, if you hit these numbers, you get the permit. They are denied, and they are denied by counties. There is no predictability. When you go to financiers in New York or San Francisco, if there is no predictability, there is no benefit.

I would also like to see an end to the disparate treatment of geothermal as a technology. Obviously there are policy decisions on both sides. I would like to make the final point that, under A.B. No. 522 of the 75th Session, when a geothermal project is denied the abatements, they do not have to do any of the good things that that bill promised. They do not have to pay 150 percent of the average daily wage. They do not have to hire 30 percent Nevada workers. That is the trade-off. When these projects get denied, there is no benefit the other way.

We are certainly opposed to this bill, A.B. 14, both as written and as amended. We are happy to work with this Committee to work through any issues.

**Chair Kirkpatrick:**

I just want to clarify something very quickly. You bring a true point that you could just go in and build a geothermal plant without any abatement and hire the \$7-an-hour workers and still have the same impact. Is that correct?

**Jesse A. Wadhams:**

That is absolutely correct. Without these abatements, we do not have to do any of that.

**Tom Clark, representing Sempra Energy and Interwest Energy Alliance:**

I am here today on behalf of Sempra Energy and the Interwest Energy Alliance, which is the American Wind Energy Association. One thing I would like to touch base on—and we spent so many hours debating these same issues in 2009—is Sempra Energy just finished a project that we partnered on with First Solar in Boulder City. We dedicated that project on Friday. It is a 50-megawatt plant with well over 300 jobs. More than 250 of those jobs were Nevadans. We lived up the spirit of A.B. No. 522 of the 75th Session, although

we really did not need to because we got our abatements in 2007. But we wanted to show the policies put forth in that bill were important enough that we would live up to them.

The most important thing we did in 2009 was put certainty in the marketplace. Developers and Wall Street know what they need to do to build in Nevada. Every time we tweak the policies in that bill this session, they will be watching us, and they will move these projects to Arizona and other places if we continue to put uncertainty in that marketplace.

That is why we oppose this bill. Assembly Bill No. 522 of the 75th Session is great. It took us 14 months to write the regulations for that bill, so we would like it to stay just the way it is.

**Chair Kirkpatrick:**

Thank you. Are there any questions? Is there anyone else who would like to testify in opposition?

**Assemblyman Goedhart:**

I just want to make a comment to Mr. Clark. I did read that one of the bright spots in Boulder City's financial picture, one of the very few, was the additional lease revenues they will be getting from those projects. I believe you have plans to eventually expand that to 200 megawatts. Is that correct?

**Tom Clark:**

That is correct. With a 48-megawatt project, you have over 300 employees. Imagine how many people you will have working on a 200-megawatt project. I can tell you my client is very concerned about any changes that could occur this legislative session because they have yet to begin the abatement process for that 200-megawatt project. That could very easily go to property they own in Arizona.

**Assemblyman Munford:**

About that project in Boulder City, is the energy going to be provided for residential homes? Also, how much will they save on their energy costs?

**Tom Clark:**

That energy is actually contracted with the Pacific Gas and Electric Company in California, so it is an export project.

**Assemblyman Munford:**

It is not going to benefit southern Nevada that much?



**Tom Clark:**

It is not. Southern Nevada benefits specifically from the jobs and from the tens of millions of dollars Boulder City receives from the lease payments, and the state receives the 45 percent of the property tax they still pay.

**Assemblywoman Neal:**

You made a statement that discussion on this issue could create uncertainty with your developer or that they are apprehensive about any changes. Are they apprehensive about the change if the deletion of the personal property was taken out? What is the benefit to this particular company from keeping the personal property in there? How would this benefit the company?

[Chair Kirkpatrick left the room, passing the gavel to Vice Chair Munford.]

**Tom Clark:**

It is all about certainty. We know what the rules are in Arizona. We know what the rules are in Colorado and Utah and the other western states. Right now, they know what the rules are in Nevada. They know if they take the risk and invest hundreds of millions of dollars in these projects, this is what they will be able to receive and put on their bottom line from the incentives. They also know what the rules are in Arizona and those other western states.

By tinkering and changing and taking out personal property tax, now the bottom line changes for these developers, and they are going to look at going to other western states, not just my client, but all of the other utility-scale projects and utility-scale developers out there.

**Alfredo Alonso:**

Each of these projects costs anywhere from a couple hundred million to over a billion dollars. To give you an idea, taking out the personal property would basically take out almost all of the infrastructure. In a solar facility, that would take out everything but the raw land. When you are talking numbers that high—again, these abatements are in all the western states—all we were trying to do, what this body was trying to do, was to keep up, to at least be as competitive as the other states. Because again, we are not talking about private land so, in most cases, we are not taking money that is already in the county coffers. We are taking federal land—brand new money to the county and to the state—and, again, it is very important to understand that if you take the personal property out, you have suddenly sunk us below most of the western states in being able to compete with the other states. It is very significant.

**Vice Chair Munford:**

Are there any more questions from the Committee?

**Assemblyman Goedhart:**

The one concentrating solar power (CSP) plant that is closest to actually occurring, because they have a Power Purchase Agreement (PPA) signed with NV Energy, is the Crescent Valley CSP plant, which is roughly 100 megawatts. That one came to fruition partly because it had access to water from some of the neighboring farming areas. In most of Nevada, because of water concerns, in order to get any type of support from local communities or to avoid protests from the federal government, they have to go with what is called dry cooling. By the time you look at the additional cost for the dry-cooling towers plus the lower energy efficiency of the project, dry cooling basically costs about 10 percent to 12 percent more per kilowatt-hour.

That tells us that, in a lot of areas in Nevada, even with the existing rebates, we are still at a competitive disadvantage with our neighboring states. That is something also to keep in mind as it relates to large-scale CSP projects. That is why we have yet to turn a single shovel on a single new CSP project in the last five years.

[Chair Kirkpatrick returned and took up the gavel.]

**Chair Kirkpatrick:**

Thank you. Are there any questions? [There were none.]

**Kyle Davis, Political and Policy Director, Nevada Conservation League:**

We were opposed to the bill in its original form. We were very uncomfortable with the concept of extending that county approval process to even further technologies. We already had concern that we require this for geothermal, but obviously that is not the bill we are looking at now. The amendment does take care of some of those concerns with regard to that approval process. However, it does still leave in place the approval process for geothermal plants, which I will talk about in just a minute.

What I want to talk about, when it comes to this bill and this concept in general, is the idea that what we are trying to do here is to provide incentives that are going to allow renewable energy projects to be built in this state. The key thing is that there are benefits for all of us as Nevadans when it comes to the environmental benefits we get from clean, renewable energy that is not putting out pollutants or greenhouse gas emissions.

Something that has been lost in the discussion is when we are talking about what impacts these projects may have or what impact a certain industry may have on the county, we are losing track of the fact that, realistically, these should be treated the same as other businesses that are being proposed or put into place in these various counties. A lot of the arguments we heard, specifically in the discussion this morning, equate geothermal with a mining project. There is a big environmental difference between a geothermal plant and a large-scale mine. Equating the two in terms of their impact on the environment really is not valid, especially when there are environmental benefits from something like a geothermal power plant.

You could also draw these comparisons out to other industries, such as talking about the homebuilding industry when you talk about the permanence of jobs. I would like, when we have these discussions, to make sure we are thinking about all the different business opportunities in the state and that we are thinking about these all in the same frame of mind. If we are going to point out that we have a problem with the permanence of jobs in one area, we need to recognize that is true of a lot of different industries in our state. If we are talking about impacts a business may have, we need to recognize that these impacts accrue in many different industries in the state. And we should be looking at alternative energy in the same vein, especially when there are environmental benefits that come from it.

That gets us right back to the existing statute. We want to make sure we are creating law that is going to allow for all renewable technologies to compete and to come to market so Nevadans can benefit from the environmental and job impacts, even if we are shipping that energy out of state. We do not want to set up a situation where we are closing off the market to one specific technology that does have some benefits just because it uses a different process.

I look forward to working with the Committee to make sure that, if we make any changes or craft anything, we will continue to have a situation that allows renewable projects to come on line and that we are not unfairly disadvantaging them as opposed to other industries in the state.

**Chair Kirkpatrick:**

Thank you. Are there any questions?

**William McKean, representing ACCIONA Solar Power:**

ACCIONA owns and operates the Nevada Solar One project, a 64-megawatt power plant that was constructed at Boulder City. That was constructed in the 2007 time frame prior to the abatements, but ACCIONA is looking forward to

expanding that facility and conducting future projects in Nevada. These abatements are a very important incentive.

The amount of the abatements is necessary for predictability, in part because a long-term PPA needs to be negotiated with the power company. You are talking about a little bit of profit over a long time. You quickly eat up that profit when you make changes like exempting personal property from the abatement.

It was interesting to hear the comments of Churchill County. I certainly respect the perspective of the counties. However, on the personal property tax side, the personal property of individual homeowners is exempt under the *Nevada Constitution*, so that is not a very good analogy. It is better to look at the amount of the investment from these power plants. A lot of that is currently characterized as personal property.

There is an important discussion to have about that because each county assessor makes the decision about whether something is personal property or real property. That is another important area where stability and predictability are important. Those decisions should be the same regardless of the county in which the facility is located. To exempt the personal property investment would gut the whole purpose and effect of these abatements. ACCIONA is opposed to A.B. 14 in its original form and as amended.

**Chair Kirkpatrick:**

Thank you very much. Does anybody have any questions? [No one did.] Is there anybody else who would like to testify on A.B. 14? [There was no response.] I am going to close the hearing on A.B. 14. Is there any public comment? [There was none.] We have one work session document ([Exhibit K](#)). It is for Assembly Bill 200.

**Assembly Bill 200:** Authorizes a brew pub to obtain a special permit to transport donated malt beverages under certain circumstances. (BDR 32-508)

**Michael Nakamoto, Deputy Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau:**

As the Chair noted, today's work session is on Assembly Bill 200. This was Assemblywoman Smith's bill regarding the transport of donated malt beverages to charitable events provided that a license is secured from the Department of Taxation. The bill was heard on March 8. The testimony in support of the bill was given by Assemblywoman Smith. Tom Young, the owner of the Great Basin Brewery in Reno and Sparks, and Alfredo Alonso, representing Southern Wine and Spirits, also testified in support.

The Department of Taxation testified neutral on the bill. There was no opposition to the bill.

There was mention during the hearing of amendments that would be proposed to the bill from the Attorney General's Office. Those amendments would have given some sort of clarification regarding the treatment of alcoholic beverages determined to be unsafe or unhealthful by the U.S. Food and Drug Administration. I have been informed, though, by Legislative Counsel, that these proposed amendments would not be germane to this bill, and thus they cannot be considered as part of the deliberations on the bill for this work session.

If anybody has any questions, I would be glad to answer them. Thank you.

**Chair Kirkpatrick:**

Are there any questions?

ASSEMBLYMAN GOEDHART MOVED TO DO PASS  
ASSEMBLY BILL 200.

ASSEMBLYMAN STEWART SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

**Chair Kirkpatrick:**

The bill is passed out of the Committee. I will let Assemblywomen Smith present the floor statement for this bill, since it is her bill.

I have sad news. The meetings of the Committee on Taxation are going to move back to 8 a.m. and the meetings of the Committee on Government Affairs may be moving to 7 a.m. Mr. Nakamoto can, in less than one minute, give you an idea of what to expect on Thursday.

**Michael Nakamoto:**

On Thursday we will be having two different presentations. The first one is going to be on cyclical and structural deficits in California and the intermountain west. That will be given by Brookings Mountain West, and the person doing the presentation will be Dr. Matthew Murray from the University of Tennessee, who will be giving the presentation via videoconference.

The other presentation will be from Guy Hobbs and Jeremy Aguero regarding previous tax studies that have been commissioned for the state's revenue system.

**Chair Kirkpatrick:**

Okay, with that, we are adjourned [at 11:41 a.m.].

RESPECTFULLY SUBMITTED:

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Mary Garcia  
Committee Secretary

APPROVED BY:

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Assemblywoman Marilyn K. Kirkpatrick, Chair

DATE: \_\_\_\_\_

**EXHIBITS**

**Committee Name:** Committee on Taxation

**Date:** March 22, 2011

**Time of Meeting:** 9:03 a.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
A.B. 263	C	Assemblyman Livermore	Mock-up of Proposed Amendment
A.B. 263	D	Assemblyman Livermore	Presentation with Supporting Documents
A.B. 263	E	Lori Bagwell	Copy of OMB Circular A-87
A.B. 263	F	Donna DePauw	Prepared Statement of J.H. "Jay" Meierdierck
A.B. 263	G	Donna Curtis	Written Testimony
A.B. 14	H	Jeffrey Fontaine	NACO Proposed Amendment
A.B. 14	I	Patti Chipman	Prepared Statement of Joni Eastley
A.B. 14	J	Brad T. Goetsch	Handout: Churchill County Permits and Fees
A.B. 200	K	Michael Nakamoto	Work Session Document