

**MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON WAYS AND MEANS**

**Seventy-Sixth Session
May 17, 2011**

The Committee on Ways and Means was called to order by Chairwoman Debbie Smith at 4:46 p.m. on Tuesday, May 17, 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/. In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (email: publications@lcb.state.nv.us; telephone: 775-684-6835).

COMMITTEE MEMBERS PRESENT:

Assemblywoman Debbie Smith, Chairwoman
Assemblyman Marcus Conklin, Vice Chair
Assemblyman Paul Aizley
Assemblyman Kelvin Atkinson
Assemblyman David P. Bobzien
Assemblywoman Maggie Carlton
Assemblyman Pete Goicoechea
Assemblyman Tom Grady
Assemblyman John Hambrick
Assemblyman Crescent Hardy
Assemblyman Pat Hickey
Assemblyman Joseph M. Hogan
Assemblyman Randy Kirner
Assemblywoman April Mastroluca
Assemblyman John Ocegüera

GUEST LEGISLATORS PRESENT:

Assemblywoman Marilyn Kirkpatrick, Clark County Assembly District No. 1
Assemblywoman Teresa Benitez-Thompson, Washoe County Assembly District No. 27

STAFF MEMBERS PRESENT:

Rick Combs, Assembly Fiscal Analyst
Mike Chapman, Principal Deputy Fiscal Analyst
Sherie Silva, Committee Secretary
Cynthia Wyett, Committee Manager

Chairwoman Smith opened the hearing on Assembly Bill 416 (1st Reprint).

Assembly Bill 416 (1st Reprint): Revises provisions governing certain programs for renewable energy. (BDR 58-849)

Assemblyman David P. Bobzien, Assembly District No. 24, introduced Kyle Davis, Nevada Conservation League, who had been instrumental in the creation of A.B. 416 (R1). He said the bill represented a consensus of a number of developers in renewable energy on how to move forward with the state's various renewable energy incentive programs.

Assemblyman Bobzien explained the overall purpose of the bill was to move existing renewable energy programs toward a performance-based incentive model and to better link the incentives that were paid on the program to the actual performance of the systems being incentivized. He said there should be consideration for site, design, actual kilowatts generated, and how the system performed rather than providing a lump-sum incentive based on what a system could supposedly do. He reviewed section 4 of the bill, which would require the Public Utilities Commission to adopt regulations for participation in the Solar Energy Systems Incentive Program that would:

- Require that a private residential participant be paid the total amount of the incentive upon proof of installation and energizing of the participant's solar and wind energy system.
- Provide that a nonresidential participant would be paid over time, not to exceed five years, and that payments would be based on the performance of the solar energy system and the amount of electricity generated.
- Require that contracts between utilities and participants include information on frequency of payments and ownership of the portfolio credits; set forth reporting requirements for utilities and provide for a decline of payments over time as installation costs decreased; and provide for adjustment of the incentives not more frequently than once a year.

Assemblyman Bobzien further explained that section 10 of the bill changed the capacity goal for the program from 5 megawatts of wind energy by 2012 to a \$30 million total annual cost of the program through June 30, 2017. Section 19 of the bill removed the requirement to consider the Water Power Energy Systems Demonstration Program when public entities were developing energy retrofit plans for public facilities for agricultural uses. Sections 20 through 22 eliminated the sunsets on the Wind Energy Program to continue the program into the future, and section 23.5 stated that the regulations must be adopted by the Public Utilities Commission (PUC) no later than July 1, 2012, and must provide the transition to performance-based incentives for nonresidential participants.

Assemblyman Bobzien noted that an amendment to the bill reduced the regulations required, which reduced the fiscal effect on the Public Utilities Commission. He offered to answer questions from the Committee.

Assemblyman Hardy asked how the performance-based system for the Wind Energy Program would be evaluated. Assemblyman Bobzien replied there would be consideration given to the site and profile of the area surrounding the location to actually assess how many kilowatts would be produced. He asked Mr. Davis to provide further information.

Kyle Davis, Nevada Conservation League, explained the key policy change in A.B. 416 (R1) was the shift from an upfront incentive on nonresidential properties to payments based on the actual performance of the system. Currently an upfront rebate was provided based upon the nameplate capacity of either the solar panel or the wind turbine and an estimate of the number of kilowatts the system would produce. Mr. Davis said the system provided in A.B. 416 (R1) would require the performance-based incentive to be based on the actual amount of energy produced. He said the performance-based system would incentivize better designs.

Continuing, Mr. Davis said another key change in the procedure was payouts would be made over time rather than all at once, which would also reduce the impact to the ratepayer. Rather than pay one lump sum at the beginning of the project, payments would be made over a period of time, not to exceed five years.

Assemblyman Hardy asked how the concept would be defined so that legislators would know the specifics of the program before the legislative session was over.

Assemblyman Bobzien replied that the regulations would provide specific requirements for the program, and the Legislative Commission reviewed all regulations from the PUC to ensure that legislative intent was followed. He said the rulemaking process, once the legislation was passed and signed by the Governor, would involve the development community, the investor utility, and the Public Utilities Commission working together on how to implement the system.

Chairwoman Smith noted the bill had a fiscal note from the Public Utilities Commission for developing the regulations. She asked for an explanation of the fiscal note from the PUC.

Rebecca Wagner, Commissioner, Public Utilities Commission, testified the fiscal note was to cover the cost of writing the regulations, which was a part of the agency's regular course of business.

In response to questions from Assemblyman Atkinson, Mr. Davis explained A. B. 416 (R1) did not address the capacity of the budget. He suggested the capacity of the budget should more appropriately be addressed in discussion of Assembly Bill 380 (R1).

Assemblyman Conklin noted that he was the sponsor of A.B. 380 (R1), and he agreed with Mr. Davis that consideration of the budget capacity should be addressed when considering A.B. 380 (R1). He said the major purpose of A.B. 416 (R1) was to ensure a good return on the dollar when incentivizing programs that yielded energy production and return on investment to the ratepayer. He recalled that the 2009 Legislature passed a bill that intended to limit the incentive/rebate program for the renewable programs statewide at \$255 million. In his opinion, the PUC misinterpreted the bill to mean \$255 million in the southern part of the state and \$255 million in the north. Assemblyman Conklin said there had been no discussion concerning a bifurcated plan. He emphasized that it was never the intent of the 2009 Legislature to double the amount. He did not know whether \$255 million would be the correct amount, but he believed the matter warranted clarification on the record and should be addressed.

Assemblyman Bobzien agreed with the concerns expressed, and he concurred that the goal of A.B. 416 (R1) was to ensure that the state received the most return on its investment when incentivizing the renewable energy programs.

Chairwoman Smith asked for public testimony, noting that the hearing related to the fiscal note of the bill rather than policy.

Luke Busby, representing Clean Energy Center, a small renewable energy development company in Reno, expressed strong support for A.B. 416 (R1) and thanked Assemblyman Bobzien for working through the process with the Clean Energy Center and other companies.

Chad Dickinson, representing Hamilton Solar, stated his company was in support of A.B. 416 (R1), adding that the performance-based incentive would be the most appropriate use of ratepayer funds to create a marketplace that no longer would need incentives.

Judy Stokey, Executive, Legislative and External Affairs, NV Energy, spoke in opposition to A.B. 416 (R1). She noted that the state was a customer of NV Energy, as were the local governments, and any program that would increase rates should be discussed before the Ways and Means Committee. She agreed with the \$255 million limit on the program, but she was concerned that the program would exceed that amount, which would be paid by the ratepayers.

Ms. Stokey said she understood the performance-based plan being paid over time. However, utilities in other states that had performance-based programs had indicated that their residential customers preferred the lump sum payment because they could not install the energy system without the money upfront. She said other customers might prefer another way to pay, but there was concern that the customers were being paid upfront, but the increase in output was not realized. Ms. Stokey said the customer would benefit from realizing the output through reduced power bills.

Referring to Ms. Stokey's concern that the \$255 million limit would be exceeded, Assemblyman Conklin said he interpreted the purpose of the bill was to ensure that the projects funded through the rebate program and resulting in savings to the ratepayers actually yielded energy. He asked whether the monetary amount was the amount being invested in the systems as part of the rebate and incentive program, or whether it was the amount paid on an ongoing basis as a result of having better and more efficient energy projects.

Assemblyman Conklin remarked that NV Energy controlled the amount to be expended, and he saw no reason to exceed that amount.

Ms. Stokey replied the amount would be determined by the amount of the actual contract price, and A.B. 416 (R1) did not have a limit on the contract price for solar. The determined price could be higher for the five-year period.

Assemblyman Conklin stated the concern was that with the five-year price, which was a return on investment, the yield of energy was going to be greater than anticipated by NV Energy. Because the price of the project development was fixed, he asked whether NV Energy would offer a lower rate to average out the price.

Ms. Stokey said if the PUC entered into a fixed-price contract, she questioned why, as prices reduced with the systems, customers should be required to pay the fixed price over five years.

Assemblyman Conklin asked whether the company paid a fixed price on all of its solar energy projects. Ms. Stokey said for small-scale projects, the company paid a lump-sum price upfront. The pricing of large-scale projects was fixed, but they were less expensive than the smaller systems.

Chairwoman Smith remarked the discussion was more about policy, and therefore she moved to testimony in opposition to the bill. There was none, and she closed the hearing on A.B. 416 (R1). She opened the hearing on Assembly Bill 390.

Assembly Bill 390: Revises provisions relating to energy assistance.
(BDR 58-801)

Assemblywoman Maggie Carlton, Clark County Assembly District No. 14, explained the need for A.B. 390 had been called to her attention by a mobile home park resident. The mobile home parks were on a master-metered power system, and a number of them received individual bills. Encapsulated in the individual bills was a charge for the universal energy charge (UEC), which all customers paid. She said because the park was on a master-metered system, the individual residents were not recognized as customers, so if residents qualified for energy assistance from the UEC, they would not be allowed to apply because they were not considered customers. The intent of A.B. 390, Assemblywoman Carlton stated, was to allow qualified mobile home park residents to apply for energy assistance because they were paying into the UEC fee.

Chairwoman Smith asked how the bill related to the Low Income Home Energy Assistance (LIHEA) program budget closed earlier in the day by the joint money committees. Assemblywoman Carlton replied the LIHEA funds were slowly diminishing and would not be available, but she did not believe there was a relationship with the universal energy charge.

Chairwoman Smith noted the fiscal note was for the purpose of programming the system in the Division of Welfare and Supportive Services (DWSS). Assemblywoman Carlton replied she believed that was the case; there was apparently a lack of clarity on the intent of the bill, but she hoped the record had been clarified. It was her understanding the fiscal note was for the DWSS costs to comply with the policy to help those qualified receive the assistance.

Lori Wilson, Social Services Chief, Division of Welfare and Supportive Services, testified the Division did not anticipate a major cost to implement the program. Household surveys were currently conducted through the LIHEA funds, and because that program was being substantially reduced, the Division would have the flexibility to provide assistance through the UEC funds.

Chairwoman Smith asked whether the \$21,600 fiscal note was still valid. Ms. Wilson replied the cost to the Division would be inconsequential.

Chairwoman Smith asked for testimony in favor of or in opposition to A.B. 390.

Judy Stokey, Executive, Legislative and External Affairs, NV Energy testified in support of A.B. 390.

Chairwoman Smith closed the hearing on A.B. 390 and opened the hearing on Assembly Bill 359 (1st Reprint).

Assembly Bill 359 (1st Reprint): Revises provisions governing energy.
(BDR 58-1064)

Assemblyman Pete Goicoechea, Assembly District No. 35, testified the policy of A.B. 359 (R1) had been heard in the Assembly Committee on Commerce and Labor. He explained the bill related to agricultural users, as well as Indian tribes and travel organizations, that were customers of a utility. The bill changed the capacity goal of the Waterpower Energy Systems Demonstration Program from 500 kilowatts to 5 megawatts and extended the expiration date of the program to July 1, 2016.

Assemblyman Goicoechea said there were several small hydro projects in the state, and problems arose because the hydro sites were not near their location of use. Assembly Bill 359 (R1) would allow participants in the Waterpower Energy Systems Demonstration Program to locate their hydro sites on contiguous customer-owned property to provide net metering one-half or one-quarter mile away. He explained the advantage to net metering, especially in the agricultural setting, was that there was a significant cost differential. The bill revised *Nevada Revised Statutes* (NRS) 704.767 to expand the definition of

a net-metering system to a facility or system for generation of electricity that would:

1. Use waterpower as its primary source of energy to generate electricity.
2. Be located on property owned by the customer-generator.
3. Have a generating capacity of not more than 1 megawatt.
4. Generate electricity that would be delivered to the transmission and distribution facilities of the utility.
5. Be intended primarily to offset all or part of the customer-generator's requirement for electricity on that property or contiguous property owned by the customer-generator.

Assemblyman Goicoechea added that the fiscal note was for the Public Utilities Commission's costs to adopt and revise regulations.

Rebecca Wagner, Commissioner, Public Utilities Commission, testified that the fiscal note stood as written; the costs would be minimal.

Rick Combs, Assembly Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau, said the Public Utilities Commission had several small fiscal notes, and he asked how the PUC was monitoring whether the total amount of the fiscal notes could cause a problem in PUC's budget or the mill assessment and how the Fiscal Division would be notified if there was a problem.

Ms. Wagner replied the PUC was monitoring the fiscal notes. One bill, Senate Bill 184 (R1), carried a significant fiscal note and was just heard in the Assembly Committee on Commerce and Labor. She said the agency was tracking the amounts individually and collectively, but with the exception of S.B. 184 (R1), the fiscal notes appeared to be manageable. Ms. Wagner said the PUC would keep the Fiscal Division briefed on the status of the fiscal notes.

Assemblyman Atkinson recalled there was a bill in the Assembly Committee on Commerce and Labor that mirrored A.B. 359 (R1), and he wondered whether it was possible to comingle the two bills to reduce energy costs. Assemblyman Goicoechea replied he would consider any suggestions toward providing energy savings.

Judy Stokey, representing NV Energy, testified that NV Energy was in support of A.B. 359 (R1).

Chairwoman Smith called for further testimony in support of or in opposition to A.B. 359 (R1); there was none.

Chairwoman Smith announced the Committee would begin its work session.

**Assembly Bill 449: Revises provisions relating to economic development.
(BDR 18-726)**

Assemblyman Ocegüera recalled that A.B. 449 was heard before the Joint Committee of the Senate Committee on Finance and the Assembly Committee on Ways and Means several months before. The bill had been developed with and agreed upon by the Governor, the Lieutenant Governor, and the legislative leadership, who had worked tirelessly on the bill since it was heard. Assemblyman Ocegüera said his review would include some policy changes in the bill, but most of the changes were to reflect the concept of the bill as it was first presented. Some changes had been made to the concept to address valid points of concern that had been expressed since the bill was presented. All of the stakeholders had been consulted on numerous occasions to gather input on the amendments. He reviewed a summary of the clarifying language ([Exhibit C](#)):

- The Catalyst Funds and the operating funds would go directly from the Office of Economic Development to the regional development agencies (RDAs) for disbursement to private businesses in the form of Catalyst Funds or to local organizations for economic development as subgrants for operating funds.
- The Office of Economic Development may direct resources other than the Catalyst Fund, operating funds, and the Knowledge Fund, such as unused state property.
- All funds may be used for loans as well as grants.
- The Office of Economic Development may participate in federal economic development plans, and all monies granted by the Office—the Catalyst Funds, operating funds, or Knowledge Funds—may be used as matching funds to attract federal or private dollars.
- The final signoff for industrial development revenue bonds and abatements would be under the Office's authority to provide a more comprehensive central oversight body to help the state understand the various economic development-oriented functions throughout the state.
- During the interim, the Office of Economic Development would be empowered to develop an economic strategy for the state, designate

regional development agencies, develop grant procedures, and distribute funds.

- The composition of the Board of Economic Development was revised in that the Minority Leaders' appointment was changed from a joint appointment by the Legislative Minority Leaders to appointments by Minority Leaders alternating between the Assembly and the Senate, beginning with the Assembly Minority Leader.
- The Governor or his designee would serve as chair of the Board of Economic Development, and the Board composition would, when practicable, represent the diversity of the state.

Assemblyman Ocegüera reviewed new language contained in the amendment that would:

- Require a business that received any portion of the resource, grant, or loan to enter into an agreement to return the resource, grant, or loan to the Office of Economic Development if it was not used in accordance with established requirements.
- Allow the Executive Director of the Office to designate one or more regional development agencies for any region of the state to aid in implementation of the State Plan for Economic Development.
- Require the Executive Director of the Office to consult with local governments in designating the regional development agencies.
- Require Board approval for the distribution of money over a certain amount from any fund. The Executive Director would be empowered to distribute money for grants below that threshold, with the dual goal of giving the Office enough power to make decisions to distribute the money quickly, but not grant unlimited power without Board oversight.
- Require the Board to make recommendations to the Office of Economic Development on its various functions and require the Executive Director to consider the strategic plan and Board advice when performing his duties.
- Require the Executive Director to work with the Nevada System of Higher Education (NSHE) to allocate a portion of the commercialization revenues back to the Knowledge Fund.

Assemblyman Ocegüera reviewed a conceptual amendment to the mock-up version of the bill and the proposed amendment 6047 ([Exhibit E](#)). The conceptual amendment included minor clarifying language.

Chairwoman Smith pointed out to Committee members that there were three documents on NELIS to assist in understanding the changes to the bill: Assemblyman Ocegüera's presentation ([Exhibit C](#)), the mockup of the amendment ([Exhibit D](#)), and the conceptual amendment ([Exhibit E](#)).

Assemblyman Ocegüera noted the Governor's Office had proposed a conceptual amendment to change the appointment of three members of the general public by the Speaker of the Assembly, the Senate Majority Leader, and alternating Minority Leaders to instead require them to each nominate three individuals from which the Governor would choose three members.

Assemblyman Ocegüera believed that the change in the appointment procedure could politicize the board. He noted the makeup of the Board was according to the Governor's original proposal, and the bill gave the Governor more authority by making the Executive Director of the Office of Economic Development a cabinet-level position. The Governor would also serve as chairman of the Board.

He added that the Executive and Legislative Branches had agreed to most of the concepts in the bill.

Chairwoman Smith asked for questions concerning the amendments to A.B. 449.

Assemblyman Hambrick understood Assemblyman Ocegüera's desire to depoliticize the Board. He believed references to "the Governor" seemed to focus on personality, and he suggested the wording be changed to "a Governor."

Assemblyman Ocegüera replied he had no argument with the suggestion, but it was not a personal matter. He noted the Speaker and the Majority Leader were going to be different individuals in the future as well.

Heidi Gansert, Chief of Staff, Office of the Governor, thanked Speaker Ocegüera, Majority Leader Horsford, and members of their staff for their hard work on A.B. 449. She said there had been an outreach to a number of other interested parties to develop the bill in its present form.

Mrs. Gansert referred the Committee to a proposed conceptual amendment from the Governor's Office ([Exhibit F](#)). She noted the composition of the current

Nevada Commission on Development (NCED) included six members appointed by the Governor, plus the Lieutenant Governor, who served as the chair. The new Board of Economic Development would include the Governor, the Lieutenant Governor, the Secretary of State, and members appointed by the Speaker of the Assembly, the Majority Leader of the Senate, and alternating Minority Leaders of each House. Mrs. Gansert noted the NCED board was being shifted from one that was strictly appointed by the Governor to a board comprised of a variety of members. The Governor's Office proposed to amend the bill to provide that the Majority Leader, the Speaker, and the rotating Minority Leaders submit a list of names of prospective members from which the Governor would appoint the remaining members. She stated that a body that was strictly appointed by the Governor would be open and helpful to the economic development efforts of the state.

Assemblyman Conklin said he understood Mrs. Gansert's point but felt there was a conflict in her statement. If the Governor's Office wanted a board that was open and reflective of the state, appointments directly from other officials should be welcomed. He understood the desire to consolidate the appointments under the control of the Governor, but by doing so, the Board would be less diverse. Assemblyman Conklin said the new composition of the Board was clearly an attempt by everyone involved to improve it by broadening the selection of members. He pointed out that the Executive Director of the Office of Economic Development reported to the Governor, and there was no doubt as to who would be in charge of economic development in the state.

Mrs. Gansert stated the composition of the board was very inclusive. She noted that in Assembly Bill 474 (R1), which was currently under consideration, the Sunset Subcommittee would be comprised of members nominated by the Governor and appointed by the Legislative Commission. Mrs. Gansert said the Governor's Office agreed with the bill, which gave the Legislature control of the subcommittee. Another example, Mrs. Gansert continued, was the Economic Forum, which was an Executive Branch forum for which nominations were submitted by the Speaker of the Assembly and the Majority Leader of the Senate, and the members would be appointed by the Governor from those nominations.

Mrs. Gansert remarked that the Governor had been working well with the legislative leadership, and the point was not to be able to reject nominees to the Board. The goal was to ensure diversification on the Board, and giving the Governor authority for the ultimate appointments would help balance the membership.

Chairwoman Smith thanked Mrs. Gansert for her testimony. She asked Assemblyman Ocegüera to clarify the proposed process for appointment of Board members included in A.B. 449.

Assemblyman Ocegüera referred to the proposed amendment to section 10 of the bill, which read:

1. *There is hereby created the Board of Economic Development, consisting of:*
 - (a) The following voting members:*
 - (1) The Governor or his or her designee;*
 - (2) The Lieutenant Governor or his or her designee;*
 - (3) The Secretary of State or his or her designee;*
 - (4) The chancellor of the Nevada System of Higher Education or his or her designee; and*
 - (5) Five members who must be selected from the private sector and appointed as follows:*
 - (I) Two members appointed by the Governor;*
 - (II) One member appointed by the Speaker of the Assembly;*
 - (III) One member appointed by the Majority Leader of the Senate; and*
 - (IV) One member appointed by the Minority Leader of the Assembly or the Minority Leader of the Senate. The Minority Leader of the Assembly shall appoint the member for the initial term, the Minority Leader of the Senate shall appoint the member for the next succeeding term and thereafter the authority to appoint the member for each subsequent term alternates between the Minority Leader of the Assembly and the Minority Leader of the Senate.*
 - (b) One nonvoting member appointed by the Department of Employment, Training and Rehabilitation from the membership of the Governor's Workforce Investment Board.*

Chairwoman Smith said it was her intention to move the bill at this meeting. Although the amendment was lengthy, the members would have an opportunity to review it thoroughly prior to voting on the bill in the Assembly.

ASSEMBLYMAN CONKLIN MOVED TO AMEND AND DO PASS ASSEMBLY BILL 449 WITH AMENDMENT NO. 6047, THE PROPOSED CONCEPTUAL AMENDMENTS PROPOSED BY ASSEMBLYMAN OCEGUERA DATED MAY 14, 2011, AND TO ADD THE NAMES OF EVERY DEMOCRATIC ASSEMBLY MEMBER AND

ANY OTHER MEMBERS WISHING TO BE INCLUDED AS SPONSORS OF THE BILL.

ASSEMBLYMAN BOBZIEN SECONDED THE MOTION.

Assemblyman Goicoechea thanked Assemblyman Conklin for the opportunity for his caucus members to sign on as sponsors of the bill; he would leave that decision to the individual members. He asked when the proposed amendment from the Governor's Office would be addressed.

Chairwoman Smith said it was being addressed through the proposed motion to approve Assemblyman Ocegüera's amendment. The only difference was in the appointment process and whether the leadership in the Legislature made the appointments or they only made recommendations to the Governor. If the motion passed, the bill would go to the Assembly floor as amended. She noted the Governor's proposed amendment could be addressed further on the floor, but the only other opportunity to amend the names as sponsors would be on the floor or in the Senate.

Assemblyman Goicoechea asked that his caucus members' names be added to the bill, and they could request their name be taken off in an amendment on the floor if they so desired.

ASSEMBLYMAN CONKLIN AND ASSEMBLYMAN BOBZIEN AGREED TO ACCEPT THE ADDITION OF THE REMAINING ASSEMBLY MEMBERS AS SPONSORS OF THE BILL AS PART OF THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Chairwoman Smith announced the Committee would next consider Assembly Bill 224.

Assembly Bill 224: Revises provisions governing parental involvement in education. (BDR 34-859)

Rick Combs, Assembly Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau, stated that A.B. 224 was heard by the Committee on April 27, 2011. He recalled that the sponsor, Assemblywoman Benitez-Thompson, had testified the purpose of the bill was to capture the nexus between student achievement and parent involvement in the success of a child's education. The main reason the bill was heard in the Ways and Means Committee was a fiscal note from the Department of Education that included a parent involvement coordinator [Director of the Office of Parental Involvement

and Family Engagement] position and \$10,000 in each year to support the Advisory Council on Parental Involvement and Family Engagement.

Mr. Combs said the Fiscal staff had worked on the fiscal note, which included funding for the new position at a grade 39, step 5. He said although it was not uncommon to create a new position at a step 5, it significantly increased the cost. Mr. Combs said if the position was budgeted at the step 1 entry level, the costs would be reduced. After Fiscal staff's adjustment to the fiscal note, the fiscal note would be \$77,126 in the first year and \$101,594 in the second year of the biennium.

Chairwoman Smith said she had worked to assist the Department of Education and the school districts in identifying funding for the position. She recalled the position had been funded in 2007, and the funding was lost in the first round of budget cuts. When the Ways and Means Committee closed the Department of Education's budget, it approved the transfer of a position from Education State Programs to be funded with charter fees, which was appropriate because the position related to serving charter schools. The transfer freed up a sufficient amount of General Funds to fund the Parental Involvement Director position.

Chairwoman Smith remarked she believed the position was long overdue, and she recalled that Dr. Rheault, Superintendent of Public Instruction, had testified that current Department of Education staff had assumed the additional duties of the parent involvement program. She suggested that the bill be passed with the funding for the position designated to come from General Fund savings in the Department of Education budget.

Assemblyman Kirner said a number of members on the Committee on Education had voted no on the bill because it was felt there was an extensive program existing in Clark and Washoe Counties, and members thought the program was redundant at a time when the state was facing a budget shortage.

Chairwoman Smith appreciated Mr. Kirner's remarks, but she pointed out that the work was being done at the Department, but not in a focused way as it should be. The Department was understaffed, as evidenced from the statistics and the testimony received; the staff at the Department of Education was doing much more than expected. She noted the Department had conducted the last three rounds of the parent involvement summit with volunteers and help from a Department staff member outside of her regular hours and normal duties. Chairwoman Smith said she would appreciate support for the position.

ASSEMBLYMAN HICKEY MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 224.

ASSEMBLYMAN BOBZIEN SECONDED THE MOTION.

Assemblyman Goicoechea asked the total amount of the fiscal note. Chairwoman Smith replied the amount was \$77,126 in fiscal year 2012 and \$101,594 in fiscal year 2013. The savings from the existing position in the Department were more than the amount required for the position. The Department had lowered its fiscal note and the starting salary to fund the position.

THE MOTION PASSED. (Assemblymen Hambrick and Kirner voted no.)

Chairwoman Smith announced the Committee would end its work session and return to testimony on bills. She opened the hearing on Assembly Bill 432 (1st Reprint).

Assembly Bill 432 (1st Reprint): Enacts provisions relating to energy auditors. (BDR 54-136)

Assemblywoman Marilyn Kirkpatrick, Assembly District No. 1, explained A.B. 432 (R1) repealed the current program in place for evaluating the energy consumption of residential property established by the Nevada Energy Commission. The bill also provided for the licensure of energy auditors by the Real Estate Division of the Department of Business and Industry, and it required that an applicant must be of good moral standing, hold a certification or accreditation from an organization approved by the Division, and have successfully completed not less than 40 hours of training and practice. Further, the bill established the requirements for conducting an energy audit, a limited energy audit, or an energy assessment. The energy auditor must provide a report to the homeowner and the U.S. Department of Energy.

Assemblywoman Kirkpatrick said that in consultation with the Real Estate Division, she was proposing an amendment to clarify that an energy auditor's license would be valid for one year after the first calendar month immediately following the date it was issued. The license renewal fee would be \$250.

Assemblywoman Kirkpatrick explained that Senate Bill No. 437 of the 74th Session (2007) required the Director of the Office of Energy to adopt regulations for a program to evaluate energy consumption of residential property. However, because the realtors, the homeowners, and the utilities had been unhappy with the regulations, Assemblywoman Kirkpatrick said the

Committee on Commerce and Labor had worked toward developing a better program that would allow the current regulations to be reviewed.

Assemblywoman Teresa Benitez-Thompson, Washoe County Assembly District No. 27, explained the bill included three significant provisions:

- Establish who could lawfully call themselves an energy auditor within the State of Nevada.
- Define the scope of an energy audit.
- Provide state licensure of energy auditors.

Assemblywoman Benitez-Thompson said that the bill would prevent individuals from selling their services as an energy auditor without being licensed. She said the Committee had worked extensively with the Building Performance Institute (BPI) and the Residential Energy Savings Network (RESNET) home energy-rating programs. The technical information in the bill, such as the definition of an audit, how to measure energy, how to test for building performance and heat transfers, and the science of a home system, received a stamp of approval from the two leaders in the industry, BPI and RESNET.

Assemblyman Kirner said today when a house was sold, there was an option to request an energy inspection. He asked whether the bill would continue the option, eliminate the option, or make the inspection a requirement.

Assemblywoman Kirkpatrick replied the bill would not mandate an energy audit: the choice would continue to be optional. She said in working with the Real Estate Division, the Office of Energy auditors, and different business groups, the consensus was the program should be a marketing tool to enhance the value of a home for the long-term. Currently, there was nothing in place except a document indicating that the information could be waived or information from the previous 12 months could be requested. She said the audit would add value to a home in the appraisal process, and older homes could use the audit as a tool to obtain financing for upgrades. However, she added, an energy audit would not be required to sell a home and thus would not have a negative impact on the value of the home.

Assemblyman Kirner asked whether the buyer could require an energy audit. Assemblywoman Kirkpatrick replied the buyer could request that an audit be done as a condition of sale in negotiations.

Chairwoman Smith asked the Real Estate Division to address the fiscal note on the bill.

Gail Anderson, Administrator, Real Estate Division, Department of Business and Industry, testified the fiscal note initially submitted for A.B. 432 (R1) needed to be withdrawn and resubmitted. She said the Division had made adjustments to the fiscal note based upon amendments to the original bill. The amended fiscal note would reduce the fiscal note from two positions to one program officer for the program.

Ms. Anderson noted the Real Estate Division was a General Fund agency, and the projected revenue for the program exceeded the estimated cost of a program officer, which was \$46,780 in the first year of the biennium and \$58,214 the second year. The projected revenue was \$70,000 in fiscal year 2012 and \$115,000 in 2013; the surplus revenue would revert to the General Fund.

Chairwoman Smith asked whether the fiscal note from the Governor's Office would remain. Assemblywoman Kirkpatrick said she understood that the Office of Energy did not believe there would be a fiscal note. She would request the Director to notify the Committee in writing of the status of the fiscal note.

There were no further questions from the Committee. Chairwoman Smith asked for testimony in support of the bill.

Judy Stokey, Executive, Government and External Affairs, NV Energy, testified in support of the bill. She noted the NV Energy auditors would not fall under the statute because they did not charge for audits, and the audits performed by the licensed auditors would be much more detailed.

Randy Soltero, representing the Sheet Metal Workers Union in southern Nevada, testified his organization was in full support of the bill. The bill created jobs, and the union had already begun a training program to qualify workers to be licensed.

Jenny Reese, representing the Nevada Association of Realtors, stated the Association was in full support of the bill.

Jack Mallory, representing the Southern Nevada Building and Construction Trades Council, testified the Council supported the bill.

Chairwoman Smith asked for testimony in opposition to the bill; there was none. She closed the hearing on Assembly Bill 432 (1st Reprint) and opened the hearing on Assembly Bill 380 (1st Reprint).

Assembly Bill 380 (1st Reprint): Revises provisions governing certain programs for renewable energy systems. (BDR 58-308)

Assemblyman Conklin stated that Assemblywoman Kirkpatrick was present to review the policy of the bill if necessary. He said the bill had a fiscal note, which he understood was covered under the mill assessment and did not affect the General Fund.

Assemblyman Marcus Conklin explained that A.B. 380 (R1) provided for the extension of the solar, wind, geothermal, and hydro rebate/incentive programs until the year 2020.

Chairwoman Smith noted the fiscal note appeared to be from the Public Utilities Commission (PUC).

Rebecca Wagner, Commissioner, Nevada Public Utilities Commission, testified the fiscal note was for rulemaking.

Assemblywoman Marilyn Kirkpatrick, Clark County Assembly District No. 1, explained the program was currently in place, and the bill would extend it for ten years. She and Assemblyman Conklin wondered what regulations the PUC needed to develop for an ongoing program.

Ms. Wagner replied if the program was an extension, there would be no fiscal note.

Chairwoman Smith asked Ms. Wagner to review the amendment to determine whether the PUC would need to develop regulations and to notify the Fiscal Division in writing if the fiscal note was to be withdrawn.

Ms. Wagner replied she would do the same for all of the bills for which the PUC had fiscal notes.

Chairwoman Smith asked for testimony in support of A.B. 380 (R1).

Judy Stokey, Executive, Government and External Affairs, NV Energy, testified that NV Energy was in support of A.B. 380 (R1). She summarized the proposed amendments to the bill submitted by NV Energy ([Exhibit G](#)):

- Provide awards of incentives during an application cycle to applicants on a random basis until the capacity available to be issued in that cycle was awarded.
- Delete the majority of Section 13 for the following reasons:

- Ø A program capacity was not necessary when there was a total cap on expenditures.
- Ø The program would be administered on a statewide basis and did not need to allocate capacity to the separate service areas.
- Ø System size-limits were already in place, and the Commission had the authority to change the size limits if necessary.
- Combine the wind, solar, and water incentives under one program. The wind and hydro programs would expire if action was not taken during the current legislative session.
- Amend the net-metering system to equal 1 percent of the utility's total peak capacity of all utilities in the state. The amendment would provide adequate capacity to accommodate the growth in net metering for the next several years.
- Define the commencement of the annual revenue limit for incentives to start on January 1, 2013, and end on December 31, 2021.
- Add a new section stating that a provider shall be deemed to have generated or acquired 2.4 kilowatt hours of electricity from a renewable energy system for each 1.0 kilowatt-hour of actual electricity generated. Ms. Stokey explained all retail customers could apply for the rebates, and NV Power had considered putting systems at its locations, but it was not considered a customer. Allowing NV Energy to qualify as a customer would help lower costs to ratepayers.

Chairwoman Smith asked why the amendments were not addressed in the policy committee. Ms. Stokey replied A.B. 380 (R1) was originally very large; the majority of the bill was gutted, and the company believed some provisions needed to be added or put back in. The amendment had been sent to the sponsors, but Ms. Stokey had not discussed it with them.

Chairwoman Smith asked Ms. Stokey to work with Assemblyman Conklin and Assemblywoman Kirkpatrick to determine whether the amendments were acceptable.

Joe Johnson, representing the Sierra Club, testified the Sierra Club was in favor of the bill. He stated the proposed amendment introduced by NV Energy included a number of fairly argumentative policy positions that deserved full review before a policy committee. At this time, he said his organization was in agreement with some of the amendments and very seriously opposed to others.

Chairwoman Smith asked the sponsors to review the amendment and discuss it with others who had been involved in the bill. If necessary, she would designate a subcommittee to determine the final disposition of the amendment. The amendment could also be addressed when the bill was sent to the Senate.

Luke Busby, representing Clean Energy Center, testified in strong support of the bill as written and strong opposition to the amendment proposed by NV Energy. Kyle Davis, Nevada Conservation League, said the bill in its current form was a good framework for the program, but more work was needed on the capacity limits. He had significant concerns with the amendments proposed by NV Energy.

Chad Dickinson, Hamilton Solar, testified that Hamilton Solar was the largest installer in northern Nevada and was in general support of the bill as written. He was concerned with the proposed amendment. Mr. Dickinson said the biggest challenge during the 2011 Session was to eliminate the stop and start—the boom and bust—within the program, and he was concerned with using a random draw as proposed in the amendment and what that would do from a business planning standpoint.

Chairwoman Smith closed the hearing on Assembly Bill 380 (1st Reprint) and opened the hearing on Senate Bill 38 (1st Reprint).

Senate Bill 38 (1st Reprint): Revises provisions governing apportionments to school districts, charter schools and university schools for profoundly gifted pupils. (BDR 34-507)

There was no one in attendance to present Senate Bill 38 (1st Reprint), and Chairwoman Smith stated she would contact the sponsor and schedule the bill for another day.

Assembly Committee on Ways and Means

May 17, 2011

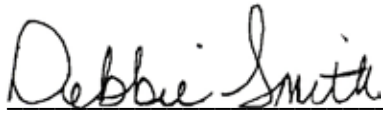
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There being no further business to come before the Committee,
Assemblywoman Smith adjourned the meeting at 6:27 p.m.

RESPECTFULLY SUBMITTED:

Sherie Silva
Committee Secretary

APPROVED BY:



Assemblywoman Debbie Smith, Chairwoman

DATE: October 31, 2011

EXHIBITS

Committee Name: Committee on Ways and Means

Date: May 17, 2011

Time of Meeting: 4:46 p.m.

Bill	Exhibit	Witness / Agency	Description
	A	*****	Agenda
	B	*****	Attendance Roster
AB 449	C	Senator Steven Horsford	Summary of Proposed Amendment 6047
AB 449	D	Senator Steven Horsford	Mock-up of Proposed Amendment 6047
AB 449	E	Senator Steven Horsford	Conceptual Amendment to Mock-up of Amendment 6047
AB 449	F	Heidi Gansert, Chief of Staff, Office of the Governor	Conceptual Amendment to AB 449
AB 380 (R1)	G	Judy Stokey, NV Energy	Proposed Amendment to AB 380 (R1)