

**MINUTES OF THE  
SENATE SELECT COMMITTEE ON ECONOMIC GROWTH AND EMPLOYMENT**

**Seventy-sixth Session  
March 9, 2011**

The Senate Select Committee on Economic Growth and Employment was called to order by Chair Ruben J. Kihuen at 1:05 p.m. on Wednesday, March 9, 2011, in Room 2134 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to the Grant Sawyer State Office Building, Room 4412, 555 East Washington Avenue, Las Vegas, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

**COMMITTEE MEMBERS PRESENT:**

Senator Ruben J. Kihuen, Chair  
Senator John J. Lee, Vice Chair  
Senator Valerie Wiener  
Senator Mark A. Manendo  
Senator Don Gustavson  
Senator Ben Kieckhefer  
Senator Greg Brower

**GUEST LEGISLATORS PRESENT:**

Assemblyman Kelvin Atkinson, Assembly District No. 17  
Assemblywoman Marilyn Kirkpatrick, Assembly District No. 1

**STAFF MEMBERS PRESENT:**

Kelly Gregory, Policy Analyst  
Bryan Fernley-Gonzalez, Counsel  
Debra Carmichael, Committee Secretary

**OTHERS PRESENT:**

Wendy Kameda  
Ray Bacon, Nevada Manufacturers Association  
Michael Dayton, NAIOP Southern Nevada Chapter  
Jack Mallory, International Union of Painters and Allied Trades District Council 15; Southern Nevada Building and Construction Trades Council

Senate Select Committee on Economic Growth and Employment  
March 9, 2011  
Page 2

Rose McKinney-James, Amonix, Inc.

Erin McMullen, Las Vegas Chamber of Commerce

Gary Milliken, Associated General Contractors, Las Vegas Chapter

Steve G. George, Chief of Staff, Office of the State Treasurer

Chris Brooks, Director, Bombard Renewable Energy

Rachel McMahon, Amonix, Inc.

Charles J. Coronella, Ph.D., Outreach and Education Coordinator of the  
Renewable Energy Center, University of Nevada, Reno

Robert Boehm, Ph.D., P.E., Director, Center for Energy Research, University of  
Nevada, Las Vegas

Stacey Crowley, Director, Office of Energy, Office of the Governor

CHAIR KIHUEN:

We will open the meeting with Assembly Concurrent Resolution (A.C.R.) 4.

**ASSEMBLY CONCURRENT RESOLUTION 4:** Expresses support for economic development in Nevada in the sectors of logistics, supply chain management and renewable energy technology. (BDR R-174)

ASSEMBLYMAN KELVIN ATKINSON (Assembly District No. 17):

This resolution was requested on behalf of the Legislative Commission's Subcommittee to Study the Development and Promotion of Logistics and Distribution Centers and Issues Concerning Infrastructure and Transportation, of which I was the chair. The Subcommittee was created from A.C.R. No. 30 of the 75th Session. The Subcommittee was charged with, among other things, examining the benefits of renewable energy and logistics in Nevada and considering Nevada's strengths in developing economic diversification to create more jobs and a vibrant economy.

The Subcommittee met four times during the interim. At each meeting, members heard from various presenters that the State must continue to shape an environment that strengthens business growth, job creation and a superior quality of life. Many presentations concerned the need to develop a highly skilled workforce. We also heard that we must develop competitive industry clusters, such as manufacturing, distribution and logistics, which will enhance the operating environments of the State, making it more competitive nationally and globally.

The Subcommittee recognized the need to prioritize the training and education of a highly skilled workforce in the sectors of logistics, supply chain management and renewable energy technology to promote investment in these sectors. Therefore, we requested this resolution.

WENDY KAMEDA:

I will start with the background on A.C.R. No. 30 of the 75th Session, which proposed creating an interim subcommittee to study ways to promote Nevada as a logistics and distribution hub and to focus on green industry to diversify our economy ([Exhibit C](#)). Before passage, its purpose was expanded to include consideration of issues relating to infrastructure and transportation, and A.C.R. No. 18 of the 75th Session arose as a result. Hearings held during the interim resulted in recommendations for legislative action; A.C.R. 4 implements one of these recommendations. These should be viewed in conjunction with other recommendations of the interim committee, especially that of recommending to the federal government the designation of a new interstate highway, Interstate 11. The highway would initially connect Arizona and Las Vegas, but it potentially will connect Canada to Mexico. It is known as the CANAMEX Corridor under the North American Free Trade Agreement and also would go to Seattle.

Two target industries identified by A.C.R. 4 are logistics-based businesses and renewable energy-related businesses. It suggests prioritization of targeting these businesses for relocation within the State. It also expresses a legislative intent to promote the State as a Southwestern hub or center for these businesses. Assembly Concurrent Resolution 4 urges the Governor, Department of Employment, Training and Rehabilitation (DETR) and Nevada System of Higher Education (NSHE) to target incentive dollars toward workforce training for these businesses.

Logistics can be seen as getting products, people and information to the right place at the right time. In the 1980s, the term “just-in-time manufacturing” was used, as dollars are not wrapped up in inventory waiting for delivery. There are a number of functions in logistics-related businesses, such as purchasing and

inventory control personnel, warehousing and distribution, and managerial functions. Related third-party businesses come into play when setting up a hub of logistic-related businesses, such as customs clearance and foreign trade zone product warehousing and assembly.

From 2001 to 2010, 142 companies averaging 40-plus employees and locations came to our State. We focused on these two industries because recent successes in attracting new logistics companies to our state show we can do it. Nevada is a pivotal Southwest location, and our colleges and universities have the basic programs needed to produce the workforce skill levels that these businesses need.

[Exhibit C](#) shows the deep harbors that receive most of the international freight in the United States. Los Angeles and Long Beach are fourth and sixth in processing freight tonnage entering the United States through ocean ports, while 25 percent of the volume is consumed in southern California. The freight tonnage is projected to increase by 400 percent by 2020.

Most rail freight for the Western United States comes from Los Angeles through Arizona to New Mexico; from Seattle to Idaho, Montana and North Dakota; or from the East Coast and Midwest to Salt Lake City or the Kansas City hub. The freight line shown in [Exhibit C](#) comes through Nevada, but the rail system does not carry a tremendous amount of freight because Nevada does not have any dedicated off-loading areas. The largest areas of projected growth are through Phoenix for the Southwest and through Kansas City for the Northwest. Despite our pivotal geographic position, Nevada is nowhere in the picture.

Air transport is a vital and growing segment of many international logistic networks. It is essential to managing and controlling the flow of goods, energy, information and other resources from the source of production to the marketplace. No Nevada airport ranks in the top 125 U.S. freight gateways.

Historically, most east-west truck freight traffic bypasses Nevada. Instead it flows westward from Chicago, Kansas City, St. Louis and Columbus or eastward from Los Angeles through Phoenix and Tucson. Salt Lake City is projected to remain the hub for the East to Northwest distribution of goods while Phoenix and Tucson are poised to dominate the Southwest. Nevada is

geographically positioned to capture businesses which can no longer afford to operate in southern California. Phoenix's cost may be less, but there are two hours of additional travel time that Nevada does not have.

Ninety percent of the manufactured goods that Clark County uses come from outside the State, and 85 percent of the trucks return with an empty load. We could offer a significant cost savings if we could attract some of these industries. We need the transportation corridor, Interstate 11, to maximize our efforts and capture these industries.

Although Nevada is traversed by primary transportation corridors for goods to and from Mexico and Canada, we have barely captured the business opportunities associated with this. The CANAMEX Corridor enters Nevada at Hoover Dam along U.S. Route 93 from Arizona, passes through Boulder City and Henderson, transitions to Interstate 15 and heads northeast through Mesquite. We are not maximizing the opportunities offered by CANAMEX. The Interstate 11 designation going to Seattle will allow us to capture more of that opportunity.

Nevada is an ideal place to generate solar power and can even generate power from the wind. Geothermal energy is already being exploited but not to its full potential. It takes advanced technology to take advantage of the energy potential. Advanced technologies require a highly educated workforce if we want to capture more than the temporary jobs to construct power generation facilities. We will need post-high school programs to train a professional workforce.

We have no corporate income tax compared to surrounding states even though our sales taxes and unemployment tax rates are relatively high. Our regulatory climate is more favorable than surrounding states. Prioritization of our State's education and training efforts are essential to make northern and southern Nevada major transportation hubs and logistic centers for the Southwest and Mountain States and to develop a green industry in the State. Assembly Concurrent Resolution 4 is an important step toward realizing this goal.

State agencies and local government will be strongly encouraged to prioritize the use of their incentive and other funds to promote the location of logistics and renewable energy businesses into Nevada by the legislative intent expressed in the resolution. Similarly, NSHE will be strongly encouraged to develop and maintain supply chain management and logistics curricula and programs. Finally, NSHE will be strongly encouraged to develop the advanced curricula and programs needed to develop the highly educated Nevada workforce needed by renewable energy-related businesses.

We are poised for growth and must seize our opportunities. Planning and coordination are the keys to success. Promotion of the State as a logistics, distribution and supply chain management center for the Pacific Northwest, Mountain West and Southwest and as a major generator of renewable energy are attainable goals that will diversify our economy and help secure the future of our State.

SENATOR KIECKHEFER:

Are these two industries the top ones considered in the list of others? What were the others considered?

ASSEMBLYMAN ATKINSON:

Our committee only looked at logistics and distribution. It was not our job to look at others.

RAY BACON (Nevada Manufacturers Association):

The State's logistics sector has been growing since the 1960s when we began our first economic development outreach. California charged a floor tax on everyone's inventory once a year. As California eliminated the floor tax, Nevada ignored the logistics sector because "it wasn't high-paying jobs." In many cases that is still true, but in every case, the logistics industry has graduated substantially as it becomes more computerized. There are still some low-end logistics jobs that will meet the skills of some of the individuals currently unemployed. We all want high-paying jobs, but some people do not have the skills to take high-paying jobs. Now, the logistics industry has an increasing percentage of higher-paying jobs.

With the three locations, the Ivanpah operation in the south, Reno-Tahoe International Airport in the Reno area and the dual-rail operation in Elko, we can have major control on West Coast distribution. In-bound freight needs to be taken away from the port facilities and go through off-port locations for customs. There is a bottleneck on in-bound and out-bound freight. Nevada has a perfect opportunity to be the off-port distribution area but has not previously sought those businesses. We should roll out the welcome mat, as opposed to California, which imposes heavy environmental restrictions on warehousing industry, making it marginal.

MICHAEL DAYTON (NAIOP Southern Nevada Chapter):

The NAIOP stands in support of A.C.R. 4. As the leading organization for developers, owners and related professionals in office, industrial and mixed-use real estate, NAIOP provided testimony to the interim Subcommittee that studied the development and promotion of logistics and distribution centers and the issues concerning infrastructure and transportation.

We made several recommendations, including ideas to promote Nevada as the manufacturing and distribution capital of the West. Your support of A.C.R. 4 will send a strong message that the development of logistics and distribution centers is a priority in Nevada's efforts to diversify and enhance the economy.

JACK MALLORY (International Union of Painters and Allied Trades District Council 15; Southern Nevada Building and Construction Trades Council):

We are in full support of A.C.R. 4. We have to move products in and out of the State, train people to handle logistics and train people to address the technological needs of people who want to come here and manufacture products. Provisions in this bill are similar to a bill heard last week where DETR and higher education are working together to identify the skill sets of unemployed people. It fits nicely with the goals set forth in A.C.R. 4. The building trades along with other industries have the ability to match up some of the skill sets that are needed, particularly with the blue collar work that is involved with this type of initiative. Even in the white collar sector, people who are unemployed can seamlessly work their way into logistics.

Senate Select Committee on Economic Growth and Employment  
March 9, 2011  
Page 8

ROSE MCKINNEY-JAMES (Amonix, Inc.):

The identification of renewable resources as a part of this discussion is extremely important and consistent with the testimony I have provided in the past.

ERIN MCMULLEN (Las Vegas Chamber of Commerce):

We are in support of A.C.R. 4. It is a good step in support of economic development and diversification. Anything that assists Nevadans to get back to work is a great step.

CHAIR KIHUEN:

The hearing on A.C.R. 4 is closed. We will now start the work session with Assembly Bill (A.B.) 144.

**ASSEMBLY BILL 144**: Makes various changes relating to bidder preferences on state and local public works projects. (BDR 28-64)

KELLY GREGORY (Policy Analyst):

Assembly Bill 144 was heard on February 25 ([Exhibit D](#)). Assemblywoman Marilyn Kirkpatrick submitted an amendment, page 2, which adds language clarifying appointment of damages and adds a new section on reporting. These are conceptual changes. Senator Kieckhefer and Senator Brower also proposed amendments.

SENATOR KIECKHEFER:

My amendment, page 3, stems from concerns over potential exposure of an individual's personal information, particularly the driver's license or identification (ID) card number, which the original legislation requires to be listed on the certified payroll reports. The State Labor Commissioner indicated these are public records and would be released even though a potentially conflicting law states they would not be released. This amendment requires the creation of two separate records. The first record would include all the information currently set



forth in section 5, subsection 4, paragraphs (a) to (d) of the bill except the driver's license number or ID number of the worker, if any. Thus the record would include the worker's name, worker's occupation, the name of the state or other jurisdiction that issued the driver's license or ID card, the actual per diem, wages and benefits paid to the worker. This record would be provided to the public body awarding the contract and subject to inspection.

If the worker has a driver's license or ID card, the contractor or subcontractor must keep a second record that includes the worker's name, the driver's license number or ID card number of the worker and the name of the state or other jurisdiction that issued the license or ID card. This record would be provided to the public body awarding the contract but would not be subject to inspection by the public.

The challenge of a person's preferential status would be the same. It is an attempt to protect an individual's identity while maintaining the purpose and intent of the bill. Assemblywoman Kirkpatrick is in agreement and in support of the amendment.

SENATOR LEE:  
Why have two records?

SENATOR KIECKHEFER:  
The bill states the employer would collect personal identifying information and submit it to the local government. The Labor Commissioner previously stated those records are regularly turned over for public inspection. It is dangerous to have lists of names and driver's license numbers for potential identity theft. It is up to the local government to redact the information before it is available for public inspection. I do not think that is always done. For example, I recently asked for someone's voter registration information and the application was handed to me with the person's social security number on it. Those mistakes are made, and I recognize there would be an additional burden for the contractors and subcontractors. I think it is important to protect people from identity theft.

SENATOR LEE:

Can you clarify the second section of the amendment? What would be the penalty if the subcontractor does not do this properly?

SENATOR KIECKHEFER:

This does not change any of the subcontractor's or general contractor's requirements or add additional information. It just keeps the information in a different manner.

SENATOR LEE:

For the record, "Contractors do everything they can not to pay the subcontractors." If the contractor did not receive the form, it could be an excuse to withhold payment.

SENATOR KIECKHEFER:

The bill itself will create challenges. It is incumbent upon us to protect people's personal information, and the laws do not do that. It is not an effort to create an unreasonable burden, but I realize it does create an additional burden.

SENATOR BROWER:

I appreciate the intent of this bill and applaud the sponsors for thinking of ways to address the unemployment problem. The original bill is problematic in requiring contractors to do things they normally would not do. My amendment on page 4 does not change that. It is an attempt to make sure an individual's personal identifiable information is not subject to an open records request. It is a good amendment and the sponsor likes it. I support the amendment and do not see a problem for the contractors that the bill itself does not already present.

SENATOR KIECKHEFER:

Do you see another way to protect individuals against identity theft?

SENATOR LEE:

As a plumbing contractor, I never had a single issue with the certified payroll record. This could be used against the subcontractor if something is not done correctly.

SENATOR WIENER MOVED TO ADOPT ASSEMBLYWOMAN KIRKPATRICK'S PROPOSED AMENDMENT 1 TO A.B. 144.

SENATOR LEE SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

\*\*\*\*\*

SENATOR BROWER MOVED TO ADOPT SENATOR KIECKHEFER'S PROPOSED AMENDMENT 2 TO A.B. 144.

SENATOR GUSTAVSON SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR LEE VOTED NO.)

\*\*\*\*\*

SENATOR BROWER:

My proposed amendment is intended to provide an additional requirement to qualify to receive a preference in bidding on public works projects. The additional requirement would be certification that the contractor will use a federal E-Verify ([Exhibit E](#)) system to verify the employment eligibility of all workers on the public work. We have record unemployment and the highest per capita of illegal or undocumented workers in the State. Those two things are worthy of addressing this Session. The bill addresses giving Nevada workers an advantage in getting public works contracts. The amendment would require that—in addition to the percentage of Nevada workers, vehicles registered in Nevada and the other criteria—the contractor certify enrollment in the E-Verify program to the government entity. The E-Verify program is a federal program administered by the U.S. Department of Homeland Security. It has been around for a long time, and the federal government requires it for federal contractors. Many states require it for their state contractors, state employees and all employers. It is a Web-based program that allows an employer to determine whether a job applicant or a new employee is legally authorized to work in the United States. The amendment is a perfect fit for this bill and will give the State or local government a comfort level that contractors are doing what

they need to do to verify their workers are legally authorized to work in the United States.

SENATOR LEE:

What is the contractor's process for E-Verify?

SENATOR BROWER:

The employer would use the Internet to enroll in the system. It is free for the employer to enroll and use. The employer enters the applicant's name and social security number in a database and almost instantly receives a response that tells if the applicant's name and social security number match and if the worker is legally authorized to work in the United States.

SENATOR LEE:

How long does it take to receive an answer back?

SENATOR BROWER:

It takes just a few seconds.

GARY MILLIKEN (Associated General Contractors, Las Vegas Chapter):

We are against this amendment. There is a bill about E-Verify sponsored by Assemblyman Pat Hickey. Electronic verification becomes a complicated issue and requires lengthy discussions. Many of our big contractors use E-Verify and many of the small contractors do not use it.

CHAIR KIHUEN:

Are contractors required now to use E-Verify?

MR. MILLIKEN:

Contractors are required to use E-Verify on any federal contract.

SENATOR KIECKHEFER:

What is the Associated General Contractors' position on E-Verify?

MR. MILLIKEN:

We have not discussed this yet. In the past, we have not taken a position.

SENATOR BROWER:

I have not heard anything bad about E-Verify. Is there a downside to using it?

MR. MILLIKEN:

There is nothing really solid against it, but there have been people opposed to it. Those with pros or cons should be able to voice their opinions.

SENATOR LEE:

What must the subcontractor do to perform the work he was awarded?

SENATOR BROWER:

The contractor has to certify to the contracting authority that it has enrolled in the federal system. This gives the contracting entity some degree of confidence that the employees are legally authorized to work in the United States. In order to get the contract, the contractor has to be enrolled in the system, use the system and only hire workers the system is not kicking out as undocumented.

SENATOR LEE:

What are the ramifications if the subcontractor does not use E-Verify?

SENATOR BROWER:

The amendment is drafted in an effort to make it as simple as possible. It does not address the difference between a general contractor and a subcontractor, nor does it address the State remedy for following up or ensuring the contractor is enrolled and using the system effectively. If contractors use E-Verify, they can certify to the State or local government and bid on the contract.

SENATOR LEE:

Is there a bill coming forth that will discuss the pros and cons of the E-Verify system in Nevada? If the bill passes, will it encompass this bill also?

MR. MILLIKEN:

Assemblyman Hickey has sponsored a bill on e-verification. That is the place to have the discussion.

SENATOR LEE:

I will not support Senator Brower's amendment until I get all the information. I will support going to the hearings once the bill is introduced.

SENATOR BROWER:

That bill is not my bill. It has not been introduced. We hope it will be introduced, have the language we want and be heard. I see Assemblywoman Kirkpatrick is here, and for the record, Mrs. Kirkpatrick is agreeing to hear it. Assembly Bill 144 is a good bill and the perfect vehicle for an E-Verify provision. It is a good policy for the State to adopt if we are serious about making sure jobs go to Nevadans who are legally authorized to work.

CHAIR KIHUEN:

Have you consulted with the bill sponsor?

SENATOR BROWER:

Yes. I met with Assemblywoman Kirkpatrick. She indicated she would prefer to not have the bill amended.

CHAIR KIHUEN:

Is the intent of the amendment to use E-Verify before or after hiring has taken place?

SENATOR BROWER:

The amendment does not address it. The contractor or subcontractor has to certify enrollment in E-Verify. There is no confirmation from the contractor to the government on a person-by-person basis.

ASSEMBLYWOMAN KIRKPATRICK:

Senator Brower and I have discussed the amendment. This is not the bill to include E-Verify. I have seen Assemblyman Hickey's bill and cosponsored it. In 2007, I introduced the E-Verify position and believe it needs an open debate. Assembly Bill 144 is specifically about Nevada residents with Nevada driver's licenses. I am the Chair of the committee that will hear the bill on E-Verify. I am open to the debate, and many things need to be discussed. Adding E-Verify to this bill would kill it. Assembly Bill 144 is specifically about Nevada residents with Nevada driver's licenses.

CHAIR KIHUEN:

Can undocumented workers receive driver's licenses in the State?

ASSEMBLYWOMAN KIRKPATRICK:

It is my understanding that undocumented workers cannot receive Nevada driver's licenses.

CHAIR KIHUEN:

Our priority is to get Nevadans back to work. We want to make sure the bill is well thought out and has the right intent.

SENATOR BROWER:

The bill requires the contractor to show at least 50 percent of its employees have Nevada driver's licenses. Without E-Verify, the other 50 percent could be unauthorized and there is no State recourse.

ASSEMBLYWOMAN KIRKPATRICK:

To stay within our legal confines, 50 percent is the safest. We will have the debate on E-Verify in a separate bill.

CHAIR KIHUEN:

Will Assemblyman Hickey's bill draft request discuss E-Verify?

ASSEMBLYWOMAN KIRKPATRICK:

That is correct. He has not introduced it yet. It will be introduced soon and get a scheduled hearing.

CHAIR KIHUEN:

Most of the Committee members only understand the concept of E-Verify. We do not have proof that it is efficient. Several U.S. citizens have gone through the E-Verify process and been denied. We want to avoid that situation. I want to hear the pros and cons, and I do not feel this is the right time.

ASSEMBLYWOMAN KIRKPATRICK:

The E-Verify process can be found on the Office of Labor Commissioner's Website <<http://www.laborcommissioner.com>>. Labor Commissioner Michael Tanchek stated last week that the federal government was in the process of changing the name, which is one of my concerns. This bill was intended to put Nevada residents back to work.

SENATOR KIECKHEFER MOVED TO ADOPT SENATOR BROWER'S PROPOSED AMENDMENT 3 TO A.B. 144.

MR. MALLORY:

Many of our signatory employers use the E-Verify process and have encountered problems. The primary problem is employers are using it as a prescreening tool. This is something that should be done posthire. This should not be used to discriminate against a potential employee. I disagree with this amendment because it only discriminates against a certain class or group of employers, those employers seeking to obtain the preference. It has no impact on those employers not seeking or not eligible for the preference. It seems Assemblyman Hickey's bill is a better vehicle for this issue.

SENATOR LEE:

Senator Brower is on to something very good. I want to know what ramifications the business owner will have if things are not done properly.



SENATOR GUSTAVSON SECONDED THE MOTION.

THE MOTION FAILED. (SENATORS KIHUEN, LEE, MANENDO AND WIENER VOTED NO.)

\* \* \* \* \*

MISS GREGORY:

During our last meeting when we discussed A.B. 144, Senator Wiener asked about the penalties for breaching the agreement; the difference was a \$5 million cost of the contract versus \$25 million. The penalties are enforced by two separate boards, the State Public Works Board and the State Contractors' Board. They can be done concurrently.

SENATOR LEE MOVED TO AMEND AND DO PASS AS AMENDED A.B. 144 WITH PROPOSED AMENDMENTS 2 AND 3.

SENATOR WIENER SECONDED THE MOTION.

SENATOR MANENDO:

During the hearing, I discussed the percentage of Nevadans to be hired. I understand that 50 percent is the number of Nevadans who could be employed under this bill. Other states are higher, more than 50 percent. There are 90,000 construction workers unemployed in Nevada. It is devastating to everyone's district. This piece of legislation is good, but we are talking about a small amount of construction work available. Hopefully, if an employer takes bids and the job is awarded with the preference, it will employ more than 50 percent of Nevada's unemployed. I am encouraging the employers to do so. If I find out employers hired 51 percent just to meet the minimum requirement, I will come back next session with a bill and make it 90 percent.

SENATOR BROWER:

It is a good idea to discuss the E-Verify system, I hope it will happen with Assemblyman Hickey's bill. I look forward to the discussion. There probably are a few people in the audience who have been part of a household that has

Senate Select Committee on Economic Growth and Employment  
March 9, 2011  
Page 18

suffered from unemployment in the State. Job creation and getting Nevadans back to work has to be priority No. 1.

THE MOTION CARRIED UNANIMOUSLY.

\* \* \* \* \*

CHAIR KIHUEN:

We will close the meeting on A.B. 144 and open the meeting on S.B. 64.

SENATE BILL 64: Establishes a program for the investment of state money in certificates of deposit at a reduced rate of interest to provide lending institutions with money for loans at a reduced rate of interest to certain eligible entities. (BDR 31-522)

MISS GREGORY:

We heard S.B. 64 on March 2. The explanation of the bill (Exhibit F) is on page 1. The first amendment, pages 2 to 10, was presented as a consensus amendment by the Office of the State Treasurer. The second amendment on page 11, presented by William Uffelman, revises the definition of a person who is discharged from the military. The last amendment, pages 12 to 14, is submitted by Senator Manendo and in conceptual form only.

SENATOR MANENDO:

During the hearing for S.B. 64, I mentioned there is nothing in the legislation that requires businesses to hire Nevadans. I spoke to the Treasurer's Office and we agreed to add a requirement that 60 percent of the persons hired must hold a valid Nevada driver's license or ID card. This seems reasonable as a starting point.

SENATOR KIECKHEFER:

We should hear the first two amendments before considering this one. I like what Senator Manendo's amendment is proposing, but I need to see how it meshes with the others.

STEVE G. GEORGE (Chief of Staff, Office of the State Treasurer):

Pages 2 to 10, Exhibit F, show the Treasurer's proposed amendment. Last week, we met with members of the banking community and discussed ideas that would make the bill more acceptable. Section 17 of this bill prohibits the

State Treasurer from making any new investments through the Linked Deposit Program after June 30, 2013. We propose to change the date to 2015 because it will be difficult to find qualifying businesses. We want them on the books so when the economy turns around, it is in place. It will take at least six months to go through the regulations process and have things in place for the banks. We have deleted the section that provides the State Treasurer may accept or reject a linked deposit loan package, as we do not determine eligibility of an entity - that is the qualifying lending institution's responsibility. Compiling and maintaining a Website and listing the priorities and eligible entities have been stricken, as this is the lending institution's responsibilities.

SENATOR WIENER:

Would you be ready to roll out the program as soon as the freeze is lifted on regulations?

MR. GEORGE:

We will be ready regardless if the freeze is lifted because the Governor's proclamation excludes economic development.

SENATOR MANENDO:

Who will verify the business is not employing more than 100 people?

MR. GEORGE:

That would be the lending institution's responsibility. The business requesting the loan would provide an affidavit on the number of persons to be employed and the lending institution verifies.

SENATOR MANENDO:

The business would show the number of employees and would include documentation showing that at least 60 percent of the employees are Nevada residents. This would work together, do you agree?

MR. GEORGE:

The Nevada Bankers Association (NBA) would need to answer.

SENATOR LEE:

Would this money be augmented by the Small Business Administration (SBA) loan money?

MR. GEORGE:

The SBA has a loan guarantee program that provides up to an 85 percent loan guarantee. It provides the banking institution more security, as the State is not on the hook for the loan, the banking institution is. We provide certificate of deposit loans now. The difference is we can take less interest to help promote economic development and employment.

SENATOR LEE:

Does the banking institution have an option to call the loan or readjust interest rates if the business goes from 50 employees to over 100 employees?

MR. GEORGE:

We have not thought about that. The loan package deals with the business at the time of the loan. If the business grew, it would be to the benefit of the State.

SENATOR LEE:

Would you consider the increase in employees to be a reason to call the loan?

MR. GEORGE:

I cannot speak for the NBA, but I would say no. There is no stipulation in the bill, and I do not see it as a problem.

SENATOR BROWER:

Are the ethnic, racial and gender-based preferences still in the bill?

MR. GEORGE:

Yes. Those were a carryover from A.B. No. 451 of the 75th Session. The State Office of the Treasurer does not have a position on that. If someone wants to amend those out, we would not be opposed.

SENATOR BROWER:

You must like it because it is still in the bill.

MR. GEORGE:

Originally, it was purely for minority businesses. We thought A.B. No. 451 of the 75th Session was going to be heard again this Session, so S.B. 64 mimics A.B. No. 451 of the 75th Session.

SENATOR BROWER:

We heard a legal opinion about a race-based preference in another bill. The conclusion was it would not be legally defensible. The Committee did not take any action on the proposed amendments. This language might have this problem also. It raises a red flag we need to address.

BRYAN FERNLEY-GONZALEZ (Counsel):

Any race-based differential treatment would be subject to the same level of scrutiny. It would have to satisfy a compelling interest and be narrowly tailored to that compelling interest. The same conclusion would apply.

SENATOR BROWER:

Is the legal opinion that this provision may not be constitutional?

MR. FERNLEY-GONZALEZ:

That is correct.

CHAIR KIHUEN:

Is this a requirement or is it optional?

MR. GEORGE:

It is a preference, not a must. The preference states if all things are equal, then there would be a preference to certain businesses.

CHAIR KIHUEN:

It does not require it?

MR. GEORGE:

That is correct.

SENATOR BROWER:

I am offering a clarification, the language is "must" It says "in determining which eligible business will receive a linked deposit loan, preference must be given, if the qualifications of the applicants are equal to... ." The legal opinion is that is probably not defensible in terms of a constitutional attack. This Committee needs to be very careful about that language.

SENATOR KIECKHEFER:

It is the lending institution's responsibility to determine the qualifications of businesses requesting loans. The lending institutions are prohibited from lending money based on racial issues, but if this states they must, that could create additional issues.

MR. FERNLEY-GONZALEZ:

There would have to be compelling interest that is narrowly tailored. There would have to be a very strong reason to include the statement. We have not seen the information that gives it that level of reason. It would be constitutionally problematic.

SENATOR KIECKHEFER:

We have heard many presentations on prioritizing our resources into areas of logistics, distribution and renewable energy. We need to focus on specific areas to promote economic development and incentives. This bill is uncomfortably silent on those areas. Having \$20 million available for loans to small businesses does not meet the call to be strategic. I would like to have that discussion.

SENATOR LEE:

This should be referred to our Counsel.

SENATOR BROWER:

Senator Lee's suggestion is a good one. The Attorney General (AG) Opinion No. 95-06 has been circulated. What will be helpful is to have our Committee Counsel look at this bill and its constitutionality with respect to the issue raised in that AG's Opinion, which is the State arguably engaged in a private enterprise or giving a benefit to a private bank. The 1995 AG opinion seems to give the idea or concept of a clean bill of health in that regard, but that was 1995 and not in the context of this bill. Counsel should look at the constitutionality of the bigger picture, the bill itself.

MR. FERNLEY-GONZALEZ:

We did look into the constitutionality of this particular program. Our conclusion was this is essentially the same as the Treasurer depositing money in a bank. The State would not be liable for the loss on any loan made by the bank. I will put our conclusion into writing.

CHAIR KIHUEN:

We would also like clarification on the first issue. This bill will be held for the next work session. The hearing is closed on S.B. 64.

CHRIS BROOKS (Director, Bombard Renewable Energy):

Bombard Electric (BE) ([Exhibit G](#)) is a family business, founded in Nevada in 1982. We currently employ 250 Nevadans. Bombard Electric was acquired by MDU Resources Group, Inc., in 2005. Bombard Renewable Energy is a division of BE created in 2004. We specialize in all types of renewable energy but specifically in solar, solar photovoltaic (PV) and distributed generation. Seventy long-time residents of Nevada are full-time employees involved in the development, design and installation of distributed generation PV.

Bombard Renewable Energy has created a model of third-party ownership called the Zero Cost Energy Services Agreement. We use the renewable generation rebates, federal investment tax credits, federal modified depreciation and bonus depreciation to create solar systems up to 100 kilowatts per meter within the State. This allows us to provide energy to the host at no cost. Some of those clients are Boy Scouts of America, Three Square Food Bank, Opportunity Village and Bishop Gorman High School. With the program we can use the State's incentive, the federal incentive, Bombard MDU money and MDU tax liability, and NVEnergy RenewableGenerations' rebates to create a program that uses 100 percent Nevada workforce and subcontractors and made in the USA solar systems. We are projected to pay over \$10 million to Nevadans in wages and benefits this year. Just on our distributed generation, we will pay several million dollars in sales and use and property taxes in Nevada this year.

Not only have these programs provided financial benefits but environmental benefits for the State as well.

RACHEL MCMAHON (Amonix, Inc.):

Amonix is an American company founded in southern California in 1989 ([Exhibit H](#)). We are a recognized leader in designing and manufacturing concentrated photovoltaic solar power systems that require no water in power production, use land better and produce more energy per acre than any other solar technology. Our systems have been tested for 16 years, and we have had a system in operation at the University of Nevada, Las Vegas, since 2004.

There are three primary reasons Amonix decided to locate in Nevada. The first reason is logistics. We require direct sunlight. Hot, dry and arid regions are the best places to locate our systems. It made sense to locate our manufacturing facility in southern Nevada. The second reason is Nevada is a business-friendly state. There are a number of policies that incent manufacturers and project developers to build here. The third reason, Amonix was awarded a 30 percent advance energy manufacturing tax credit from the federal government.

We broke ground on our manufacturing facility in October 2010. We entered into a partnership with Flextronics because of its manufacturing expertise. It brought down our manufacturing costs and enabled us to scale at manufacturing capacity quickly. We employed about 130 people during construction and currently have one line in operation that employs 90 people. Within the next 90 days, we anticipate adding an additional 170 workers for a total of 260 employees. About 95 percent of our current workforce is made up of Nevadans, coming in mainly from the construction industry. By the middle of next year, when all five lines are operational and the plant is at its full annual capacity of 150 megawatts, we are estimating 400 employees. We are working with the State to ensure those hires are Nevadans.

This month we will break ground on a research and development facility across the street from our manufacturing plant.

SENATOR WIENER:

How did Amonix make the determination that construction workers' skills were transferable to the solar power industry?

MISS MCMAHON:

I cannot answer that question but will get back to you with an answer.

CHAIR KIHUEN:

What other states did Amonix consider before deciding on Nevada?

MISS MCMAHON:

We already have a manufacturing plant in California and wanted to open an additional facility, so we chose Nevada for the reasons listed.



CHARLES J. CORONELLA, PH.D. (Outreach and Education Coordinator of the Renewable Energy Center, University of Nevada, Reno):

I serve as Outreach and Education Coordinator for the Renewable Energy Center (REC) at the University of Nevada, Reno. The REC is staffed by full-time appointed faculty ([Exhibit I](#)) from different departments within the University. The REC is a virtual center without a budget of its own. It gives us an opportunity to work together and collaborate, seeking competitive funding. Current funding is \$18.7 million, which is primarily federal funding with a mix of competitive and noncompetitive agency funding. The UNR has developed a very successful reputation for geothermal power-related projects.

The National Geothermal Academy is a first-of-its-kind program that will be hosted at UNR this summer. It will be taught in an intensive setting to industry professionals from around the United States, potentially from around world. It is funded through the United States Department of Energy (DOE). We expect to continue the Academy in the future, barring any funding problems from DOE.

The E-Scholars is a unique program that awards financial and academic support to 20 undergraduate engineering students. These students have indicated interest in working in careers related to energy. The track record for engineering students is problematic, as it is a demanding curriculum. Students without advantages struggle with it. This program enables success in the engineering curriculum. We will track the students through four years and have every expectation that all 20 students will graduate in four years.

The renewable energy minor is a program set up as one track for engineering students and one for nonengineering students. It was initiated under a grant from NV Energy. Our goal is to produce graduates well-versed in the issues and capable of working in the industry to provide economic benefits to the State. Other programs are shown in [Exhibit I](#).

I have been heavily involved with technology transfer and have spent four years working on a process that will take wastewater sludge out of landfills and put it to practical and profitable use. The process is called Sludge2Power or S2P. We are actively seeking partners for commercialization. We are working with Nevada Institute for Renewable Energy Commercialization and UNR's Technology Transfer Office (TTO). The TTO has a goal to commercialize technologies patented by UNR and the Desert Research Institute. It provides

assistance to patent new ideas and negotiates license agreements with outside partners. The TTO successes are shown in [Exhibit I](#).

CHAIR KIHUEN:

Has your program been impacted by the budget cuts?

DR. CORONELLA:

There have been minor reductions in the engineering budget but no reduction in personnel yet.

ROBERT BOEHM, PH.D., P.E., (Director, Center for Energy Research, University of Nevada, Las Vegas):

University of Nevada, Las Vegas (UNLV), has formal educational programs ([Exhibit J](#)) in place, such as a minor in solar and renewable energy, a graduate certification program in solar and renewable energy, and undergraduate design classes, many of which are involved in renewable energy designs.

We have a minor in solar and renewable energy program, also initiated under a grant from NVEnergy. The two paths are shown in [Exhibit J](#), as are the graduate certificate offerings.

The UNLV is involved in several renewable energy projects. The Center for Energy Research attracts up to \$2 million in externally funded research each year. We employ undergraduate and graduate students in accomplishing the research. Staff numbers range from 15 to 30, depending on the funding. The students can apply the research either for thesis or independent study in addition to being paid.

When operations at UNLV started in current form in the late 1990s, very little was taking place in the State on solar energy. Now we have state-of-the-art facilities, none paid by the State or university funds, available to support industry. [Exhibit J](#) shows some of the impacts on the State.

We were part of a team invited by a Chinese battery company to visit China and present opportunities that Nevada offers. The company is now setting up operations in Las Vegas.

Companies that have certain job functions — system installers, equipment manufacturing and assembly positions, and equipment and system designers -

need an educated workforce. Education is needed for two reasons. First, it is extremely critical acquiring the necessary skills and knowledge by the workforce. An undesirable alternative is that large installations will find out-of-state workers being imported on a short-term basis. Second, a good educational system is critical to improve the quality of life that is also critical for attracting companies.

STACEY CROWLEY (Director, Office of Energy, Office of the Governor):

Our funding comes from various sources, one being the American Recovery and Reinvestment Act of 2009 (ARRA) ([Exhibit K](#)). The ARRA provided money for energy efficiency and renewable energy projects. All 17 Nevada counties received money for energy efficiency upgrades. Some of the rural community efficiencies have had an amazing effect as the efficiencies were things we take for granted.

We have a revolving loan fund program that has been successful. The starting funds came from ARRA funds, and the program plans to continue on post-ARRA. About \$8.3 million was loaned, and we are increasing the amount by finding efficiencies with other ARRA projects and capturing and moving them into the revolving loan fund. It provides 3 percent loans to renewable energy projects. We have ten applicants and 15 projects associated with those initial funds. The interest and principal come back to the fund, and we can recycle funds out to other projects. We have a bill, S.B. 60, in the Legislature now that proposes to expand the eligible projects under the revolving loan fund program to include energy efficiency and renewable energy manufacturing.

[SENATE BILL 60](#): Revises provisions relating to the Fund for Renewable Energy, Energy Efficiency and Energy Conservation Loans. (BDR 58-410)

The Nevada Retrofit Initiative is a collaboration of nonprofits that deal with housing assistance, energy auditors, contractors and financial institutions to package energy efficiency programs for homeowners.

SENATOR KIECKHEFER:

Are there more applicants than we can service on the revolving loan fund program? Are the people who are applying for your loans unable to qualify for private loans?

MISS CROWLEY:

I do not know if people are not qualifying for loans, but I do know these loans help them get over the hump to do their projects. Many of the funded projects were prototypes, and now they are able to be commercialized and successful. Some are bringing manufacturing jobs back to Nevada. There needs to be a broad range for these people. This fund is not big, but we hope it will grow.

There is a queue of preapproved projects by the Interim Finance Committee in concept and others who have expressed interest.

CHAIR KIHUEN:

With no further business I adjourn the meeting at 3:32 p.m.

RESPECTFULLY SUBMITTED:

---

Debra Carmichael,  
Committee Secretary

APPROVED BY:

---

Senator Ruben J. Kihuen, Chair

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

<b><u>EXHIBITS</u></b>			
<b>Bill</b>	<b>Exhibit</b>	<b>Witness / Agency</b>	<b>Description</b>
	A		Agenda
	B		Attendance Roster
A.C.R. 4	C	Wendy Kameda	A Plan to Help Promote Economic Diversification in Nevada
S.B. 144	D	Kelly Gregory	Work Session Document
S.B. 144	E	Senator Greg Brower	Instant Verification of Work Authorization
S.B. 64	F	Kelly Gregory	Work Session Document
	G	Chris Brooks	Presentation to Senate Select Committee on Economic Growth, Bombard Renewable Energy
	H	Rachel McMahon	Maximize Your Utility
	I	Charles Coronella	Activities in Renewable Energy at UNR
	J	Robert Boehm	Enhancing Job Creation Opportunities in Renewable Energy at UNLV
	K	Stacey Crowley	Nevada State Office of Energy, Jobs from current programs