

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

**Seventy-Seventh Session
May 6, 2013**

The Committee on Commerce and Labor was called to order by Chairman David P. Bobzien at 1:36 p.m. on Monday, May 6, 2013, in Room 4100 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4401 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at nelis.leg.state.nv.us/77th2013. In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (email: publications@lcb.state.nv.us; telephone: 775-684-6835).

COMMITTEE MEMBERS PRESENT:

Assemblyman David P. Bobzien, Chairman
Assemblywoman Marilyn K. Kirkpatrick, Vice Chairwoman
Assemblywoman Irene Bustamante Adams
Assemblywoman Maggie Carlton
Assemblyman Skip Daly
Assemblywoman Olivia Diaz
Assemblyman Jason Frierson
Assemblyman Tom Grady
Assemblyman Crescent Hardy
Assemblyman James W. Healey
Assemblyman William C. Horne
Assemblyman Pete Livermore
Assemblyman James Ohrenschall

COMMITTEE MEMBERS ABSENT:

Assemblyman John Ellison (excused)
Assemblyman Ira Hansen (excused)



GUEST LEGISLATORS PRESENT:

Senator Aaron D. Ford, Clark County Senatorial District No. 11
Senator Ruben J. Kihuen, Clark County Senatorial District No. 10

STAFF MEMBERS PRESENT:

Kelly Richard, Committee Policy Analyst
Matt Mundy, Committee Counsel
Leslie Danihel, Committee Manager
Terry Horgan, Committee Secretary
Olivia Lloyd, Committee Assistant

OTHERS PRESENT:

Jeremy Aguero, Principal Analyst, Applied Analysis
Miskey Smith, Private Citizen, Overland Park, Kansas
Senator Greg Smith, Senatorial District No. 21, Johnson County, Kansas
Chuck Callaway, representing the Las Vegas Metropolitan Police
Department
Eric Spratley, representing the Washoe County Sheriff's Office
Robert Roshak, representing the Nevada Sheriffs' and Chiefs' Association
John T. Jones, Jr., representing the Nevada District Attorneys
Association
Tim Bedwell, representing the City of North Las Vegas
Lydia Ball, Executive Director, Clean Energy Project
Stacey Crowley, Director, Office of Energy, Office of the Governor
Kyle Davis, representing the Nevada Conservation League
David Gibson, Founder, Energy Independence for Nevada
Judy Stokey, representing NV Energy
Debra Gallo, representing Southwest Gas Corporation
Tom Clark, representing the Southwest Energy Efficiency Project
Joe Johnson, representing the Toiyabe Chapter, Sierra Club
Mike Hazard, Private Citizen, Las Vegas, Nevada
Anne-Marie Cuneo, Director, Regulatory Operations, Public Utilities
Commission
Bobby J. Hollis II, Executive, Renewable Energy, NV Energy
Rose McKinney-James, representing Bombard Electric
Daniel O. Jacobsen, Technical Staff Manager, Bureau of Consumer
Protection, Office of the Attorney General
Steven Polikalas, representing Unique Infrastructure Group

Warren B. Hardy II, representing Hamilton Solar
Chad Dickason, representing Hamilton Solar
Danny L. Thompson, representing the Nevada State AFL-CIO
Debrea M. Terwilliger, Assistant Staff Counsel, Public Utilities
Commission

Chairman Bobzien:

[Roll was taken. Committee rules and protocol were explained.]

We will begin our agenda with a presentation on the economic impact of renewable portfolio standard changes, and welcome Mr. Aguero to the table.

Jeremy Aguero, Principal Analyst, Applied Analysis:

Our firm, Applied Analysis, was retained by the Clean Energy Project to prepare a relatively comprehensive economic impact statement associated with renewable portfolio standard (RPS) changes. I am going to walk through some of the key findings of that analysis ([Exhibit C](#)).

We were asked to look at an economic impact analysis, which focuses on three primary areas. One is jobs, the second is wages and salaries, and the third is economic output—sometimes thought of as sales in terms of economic activity. Our findings are as of March 22, 2013. That is when we ended our fieldwork.

The analysis itself focuses on four alternative scenarios. The first is a base-case scenario—assuming we maintain the status quo. The other three scenarios are ones which have a material impact on the renewable portfolio standard. For much of the information we are providing to you we relied on data provided by many different sources. Perhaps the most important in our analysis is Aspen Environmental Group, which provided development and operating cost estimates under each of the alternative scenarios.

Our job was largely to take all that information and run it through a Nevada-specific economic impact model. We used the IMPLAN model for this purpose, which essentially assumes that the inputs of some industries become the outputs of other industries within our economy. It looks at how those changes in expenditures ripple through our economy as a whole. The impacts in the report were reported incrementally. What that means is we are comparing them against the base scenario. We are not saying that if we choose scenario 2 or scenario 4 that those are all the gross impacts; rather, this is the change in impact that would occur between that base scenario and the alternative.

The first scenario we evaluated is the Status Quo scenario. The second scenario we refer to as Alternative #1, or the clean renewable portfolio standard. This scenario assumes that demand-side management is excluded from the RPS, that station usage for renewable resources is not assumed or calculated toward the RPS, and that the photovoltaic multiplier, providing a greater level for that particular source of renewable energy, is eliminated as well.

Alternative #2 is the expanded RPS, and assumes that Nevada's renewable portfolio standard is increased by 2 percent per year until it reaches a total of 35 percent, higher than under the base-case scenario.

Alternative #3 includes both the clean RPS as well as the expanded RPS, essentially combining Alternatives #1 and #2.

Our analysis looked at all phases of the project. We have considered the construction impacts, the recurring impacts, and the rate impacts to get a total impact. The construction impact is a one-time impact, although our analysis goes all the way out through 2040. Because that construction continues over time, we are trying to capture all of the construction during the study period. Operations and maintenance (O&M) are smaller, but they recur. These impacts happen year in and year out as a result of the alternative scenario.

The final piece of the equation is the rate increase impact—the change in the rate that is borne by consumers, either residential or commercial, relative to the cost they will ultimately bear for power. The construction impact plus the O&M impact plus the rate increase impact equals the total impact, merely suggesting that all three of these come together.

We always want to be cautious about comparing construction impacts with operating impacts because construction impacts are one-time. Operating impacts have a tendency to recur, so we have also tried to express things in annual figures as well as cumulative figures to ensure we are being as complete as possible.

There is a summary of the economic impacts associated with the project. We have construction impacts, operating impacts, rate impacts, avoided fuel costs, and net impacts. If we think about it in terms of the construction impacts, these are very material. These are large investments—somewhere between \$3 billion and \$6.8 billion, resulting in a huge number of jobs and a lot of wage and salary payments. Depending on which alternative we look at, those numbers go from 37,262 jobs, or years of employment, all the way up to

78,000 jobs, or years of employment. That is largely associated with the amount of construction activity.

The recurring impacts that come from the operations tend to be more modest. There are a lot of labor requirements and investments that go into construction and operations have a tendency to be somewhat less.

The red column [([Exhibit C](#)), page 6] is a negative and is associated with rate increases. Those will be a draw back out of the economy and need to be shown as well. The avoided fuel costs are part of the rate impacts and need to be broken out separately. The most important figures are those that look at the jobs, wages and salaries, and the output associated with all three scenarios.

As a part of our analysis, many of these have ranges, and some of those ranges are relatively wide because the future is uncertain. We actually went through 47 different alternatives. We went through the three alternatives using varying degrees of costs of fossil fuels, whether we can export energy from the state, and varying degrees of carbon taxes. All can have material effects on any of these scenarios.

To boil this all down, the net impact is a positive one. There are positives and negatives to every one of the scenarios we looked at. A great deal of the economic impact is sourced to the fossil fuels that are today being imported into the state of Nevada—essentially exporting dollars. That is replaced with renewed investment in renewable energy in the state. That is what takes us from a negative impact to a positive one.

The construction impacts are nothing short of significant. Based on Aspen Environmental Group's reports concerning what the cost would be to build some of these facilities, we are talking between \$3 billion- and \$6.4 billion-worth of economic activity. The ripple effect associated with that level of investment is somewhere between \$5.2 billion and \$11 billion. In terms of person-years of employment, which means one person employed for one year, the numbers range from 37,300 all the way to 78,400 jobs. In terms of wages and salaries paid to Nevada households, the incremental estimate is between \$2.1 billion and \$4.4 billion.

The recurring impacts are somewhat more modest, and this is to be expected. The amount of investment and labor that is required to construct facilities and transmission lines is relatively significant whereas operation and maintenance is somewhat less. Facilities generate between 127 and 250 net new jobs annually, increasing labor income by between \$10 million and \$20 million and economic output statewide of between \$40 million and \$82 million. These are

aggregates in terms of one-time construction and ongoing operations recurring year in and year out.

The rate increases are both significant and uncertain based on varying assumptions in terms of what will happen in the future. Will we face a carbon tax? What will the cost of fossil fuels be? Will we be able to export some of the energy we produce? These things are all uncertain. We can come up with scenarios that are very favorable toward renewable investment and those that are very unfavorable toward renewable investment. Looking at the analysis, those negatives have the potential to cost the state of Nevada as many as 1,848 jobs and \$78 million in labor income annually.

The second bullet on this slide [([Exhibit C](#)), page 8] deals with an element I think is arguably the linchpin of the entire analysis, and that goes to the cost of fossil fuels. Based on all the analysis and all the data that was provided, there is about \$175,000-worth of fossil fuels that can be avoided for each megawatt of renewable power. These are monies paid by Nevada consumers that are used to buy a good outside the state—the fossil fuel that has been brought into the state. That creates a number of jobs in other locations outside the state of Nevada. It is this tradeoff—the fact that we are essentially retaining more of those dollars and using those funds toward the construction and operation of existing facilities throughout the state of Nevada—that shifts what would be a negative economic impact to a positive economic impact.

It is important for me to mention what is not included in our analysis. We looked at the economic implications associated with alternative investment strategies; we did not consider the environmental impacts nor did we consider the health impacts. We did not consider economic development or other similar types of impacts. If something like a carbon tax existed, it and these other factors are all very important and they would all be impacted by the portfolio strategies ultimately deployed and/or adopted by the state of Nevada. I thought it was important to mention that these other factors are beyond the scope of our analysis.

Chairman Bobzien:

Let us open this up to questions.

Assemblywoman Kirkpatrick:

I am highly critical of formulas and impacts. In this impact statement, were the tax abatements taken into effect, because that does change things? Also, I want to understand how the modeling was done for the operation impacts and how you get between 127 and 250 net new jobs annually. In the past,

we have seen that sometimes you get three or four jobs, so is this for a whole bunch of projects?

Jeremy Aguero:

We are only focused on the investment coming in and the costs that are going out. We did not do a fiscal impact assessment relative to the alternatives but just an economic impact assessment.

The fact that an abatement might exist and could, theoretically, increase activity or reduce or increase the cost was outside what we were focused on. We were looking at one scenario during which we continued with the status quo, and a second scenario in which we build an infrastructure set that is different from the one we have today.

Assemblywoman Kirkpatrick:

There are lots of renewable energy abatements which do change the numbers as we move forward. Are you seeing that people do not have abatements across the nation and we can just get rid of them?

Jeremy Aguero:

I do not know that I can opine relative to those specific abatements, particularly as it relates to something going all the way out to 2040. We have done other studies that were specific to any number of different kinds of abatements, although I do not know that I would be able to answer the question in terms of what other states are doing. From other work we have done, the level of competition surrounding renewable energy and wanting to attract or retain—both in terms of not only energy generation but manufacturing and the like—I would argue has become increasingly competitive.

Going to your second question regarding up to 250 jobs being created, I believe that is a remarkably modest amount of employment overall. In doing our analysis, what we found was that many of the renewable facilities do not look that dissimilar from an employment pattern, particularly today. They use a lot of similar technology, although with different fuels, relative to generating electricity, for example.

If we look at 250 jobs relative to all of the jobs that are in the utility sector in the state of Nevada, this is an absolutely modest increase. I would even argue that it is close to flat. I came into our analysis with the preconceived notion that the jobs would actually be lost. When we ran all the way through this idea of investing \$6 billion in all these different technologies that the people from Aspen gave us, and working through each one individually, what we found is that they were pretty close relative to the number of jobs that would be

created. That is 250 jobs going all the way out to 2040, which is a relatively modest amount. That is not a very big number in terms of the construction investment, but in terms of recurring operations, it does reflect the fact that the technology is not that dissimilar in terms of employment and investment from a human capital standpoint.

Assemblywoman Kirkpatrick:

The presentation ([Exhibit C](#)) said it would generate between 127 and 250 net new jobs annually, but you said this goes out to 2040, so the estimate is for that many new jobs per year out to 2040?

Jeremy Aguero:

That is the average over the entirety of the study period. In some years it might be a bit higher than that, and in some years it might be a bit lower than that. It takes awhile to construct everything, so in our model we looked at bringing on X number of megawatts and that this many new jobs are going to be created. From today through 2040, our model suggests that, on the top end of the spectrum, an average of 250 jobs would be net new employment.

Assemblywoman Kirkpatrick:

What kinds of jobs are those? I understand that we will probably get some research jobs out of it and other types of jobs, but the Committee needs to hear what kinds of industries they would be in. This is an industry within an industry, and in my mind, indirect jobs make a huge difference because the smaller companies can bring bigger projects. What types of jobs do you see? Research jobs pay well, but if they are labor-intensive jobs, those do not pay as well.

Jeremy Aguero:

On the construction side of the equation, those are construction-related jobs. In terms of recurring operations, those jobs run the gamut. The research jobs are a bit removed, and we are just talking for the moment about direct jobs. Those would run the gamut from engineers and technicians who automate things to management that oversees one or more facilities. Some of the labor required to maintain facilities has a tendency to be skilled labor as opposed to unskilled labor. We found that the average wage per employee was higher than the statewide average as a result of that.

Chairman Bobzien:

Do we have additional questions from the members?

Assemblywoman Carlton:

You did not take any environmental or health issues into consideration. It is frustrating to me, because when I want to look at this type of information, I would like to have those things addressed and discussed. They are part of the discussion, and when you take them out you are only having half of the discussion and we do not get to what is being discussed here. I have been in RPS debates since the first day I walked into this building. It is a very tough discussion to have, and I want to understand why the folks who commissioned the study did not want to look at all those other components to help have a real view of the whole issue.

Jeremy Aguero:

I agree with you. There is no doubt that our analysis underestimates the holistic impacts associated with this alternative, because we did not include some of those other alternatives. However, when this analysis was brought to us, and respecting the fact that we are going to underrepresent the impacts in their totality, I think there was a desire to break out the economic impacts from all the other impacts. From our perspective, and from conversations with our clients to determine what their needs were in terms of this immediate analysis, it was largely around an idea to understand jobs, wages, and output from a purely economic standpoint. We can always add to that, but that needs to be the foundation because that is the similar measure that other economic analyses have been using. I hope that what we have done is taken a step in a direction upon which researchers could build and provide you with that larger economic impact. We will avoid the criticism that would come from having included more factors and not just focused on the simplest economic elements of the alternatives.

Chairman Bobzien:

Do we have additional questions for Mr. Aguero? Seeing none, thank you for the study, the conversation, and the perspectives. It is going to be very valuable for our work in the coming days. With that, we are going to open up the hearing on Senate Bill 268 (1st Reprint), and welcome Senator Ford to the table.

Senate Bill 268 (1st Reprint): Requires a provider of wireless telecommunications to provide call location information to a law enforcement agency in certain emergency situations. (BDR 58-623)

Senator Aaron D. Ford, Clark County Senatorial District No. 11:

I am here to present Senate Bill 268 (1st Reprint) to you today. The bill before you is Nevada's version of the Kelsey Smith Act, which was first signed into law in the state of Kansas in April 2009. The bill provides law enforcement

a way to quickly and efficiently ascertain the location of a wireless telecommunication device if a user of that device has been determined by law enforcement to be at risk of death or serious physical harm. [Senator Ford continued to read from prepared testimony ([Exhibit D](#)).]

Missey Smith, Private Citizen, Overland Park, Kansas:

[Ms. Smith supplied prepared testimony ([Exhibit E](#)).] Thank you for allowing us to testify via telephone. I am the mother of Kelsey. As Senator Ford said, she is the reason this legislation began in 2009. As of April 29, 2013, this has passed in ten states, West Virginia being the latest.

When Kelsey was missing, we could not get our cell phone provider to release her cell phone location information for four days. Once they did, we were able to locate her body in 45 minutes. I want to make it clear. We do not hold her cell phone provider responsible for her death in any way, but they were responsible for her lying in the woods for four days.

Let me answer some questions about this bill: what is this law and why is it needed? Federal law already allows this information to be released. What this law says is that they will release this information. We spend a lot of time, money, and resources training our police and law enforcement. Let them be the ones to make the decision in the middle of the night when someone's life is at risk, not the cell phone provider.

What about privacy issues? We are not asking for the call information to be released. We are not asking to know who people are calling or texting or the content of those messages. All we want to know is where the device is and where it made contact with this network. What if a person wants to go missing? That is okay; let him go missing. In 2011, a young woman in Kansas went missing. Police located her, took her picture, and told her family she was alive, but not where she was. What about stalking? If someone wants to get the information, they cannot. There are protocols in place, and that information is only released to law enforcement.

Does it work? Yes, it does. I am here to tell you there are people alive in other states because of the Kelsey Smith Act. There was a suicide surrender in Kansas. A young lady had left a note for her parents; they tracked her device using the Kelsey Smith Act, and located her in time. In Tennessee, there was a child who was with a perpetrator who had ten charges against him with ten different children. They located this child and got him safely away from this perpetrator. We had an elderly stroke victim who could only call his wife. He did not know where he was. They located him in time and got him the medical attention he needed. One of the first cases this law was used for was to

recover the body of a young lady taken to another state and murdered. Her parents truly believe she would not have been found had it not been for the Kelsey Smith Act. She would have still been among the missing.

Much legislation is about numbers, so I will give you some. Two thousand dollars is what it cost to bury Kelsey in 2007. There were 125 detectives on her case, 18 different agencies, and multiple municipalities in two states, all tied up for four days, and how much did that cost? All the while, Verizon had the ability to locate her. Forty-five minutes was how long it took to locate her once the engineer went to the tower and told us where we needed to search. Four thousand one hundred and seventy-six 17- to 24-year olds were murdered in the United States in 2007. I personally knew one. The cost of the Kelsey Smith Act? Zero. It does not cost anything, and there are not many times legislators can pass lifesaving laws that do not cost anything. The value of a life saved using this law? Invaluable. It is priceless. I would like to finish with my favorite quote by C. S. Lewis: "Experience: that most brutal of teachers. But you learn, my God do you learn."

I am asking you, please, learn from us and pass this lifesaving legislation.

Senator Greg Smith, Senatorial District No. 21, Johnson County, Kansas:

[Senator Greg Smith supplied prepared testimony ([Exhibit F](#)).] I would like to thank the Committee for allowing us to testify in this manner, and apologize that we could not be there in person. You have heard from my wife, and hopefully, you now realize the importance of S.B. 268 (R1). Ten states have adopted this law or a similar law. It is a tool that gives law enforcement an immediate edge in a case where a person is missing. Technologies advance, and it is necessary for us to advance with the technology to keep people safe.

My background is in law enforcement. When Kelsey went missing, I was a police officer. I have approximately 18 years of police experience, and when I look at the Kelsey Smith Act and try to divorce myself from the situation that it is my daughter and look at it statistically, time is of the essence whenever a person goes missing. If a missing person is not found within 48 hours, the chance of surviving the abduction is minimal. The clock starts the minute that person goes missing—not the minute we find out about it, but the minute that person goes missing. This is just good public policy, because it fulfills a core function of government which is to provide for the safety of our citizens. It also recognizes what courts have already recognized, that this is an exigent circumstance. In those types of circumstances, people could be harmed or killed and police must be able to respond. Law enforcement is trained to do that. They analyze evidence. They analyze information to determine what an emergency situation is, and they are trained to respond to those situations.

It has to be done under extreme circumstances, and sometimes the time constraints are such that it makes it almost impossible to do their job. This gives them one more tool to help them out.

We have heard stories from 9-1-1 operators, family members of missing people, and law enforcement from other states that have passed this legislation, so we know it works. It is saving lives. People are coming home.

Speaking from the perspective of Kelsey's dad, not knowing where your child is, is the worst feeling in the world. Feeling absolutely helpless to do anything to find her is indescribable. She had a cell phone with her, yet I could not get the location of that cell phone. The police could not get the location of that cell phone. Even after a subpoena had been served, the information still was not forthcoming and we have to look at the reason why. There are several reasons, but I want to address two of them very quickly. The first was, the customer service representative for the cell phone company made a decision not to kick this request to locate a cell phone to someone up the chain of command who could really make that decision. In essence, we had an employee who was trained to handle service issues for a phone or calling plan upgrades, not in making a decision on whether this was an emergency situation. That night, he made the incorrect choice. The second reason is, without some type of legislative certainty, no business will knowingly put itself at risk of litigation. Even with legal documentation, releasing records could, without a law providing clear public policy, make a business pause or refuse to cooperate with law enforcement. It certainly did in Kansas that night in 2007.

After a four-day delay, once the information was released to law enforcement, Kelsey's body was located in about 45 minutes. My wife Missey has said it takes lawsuits or legislation to make big corporations take notice. We did not sue the cell phone provider. What purpose would it have accomplished? No amount of money will bring Kelsey back, but as a state senator in Kansas, I believe that the Legislature's primary duty is to provide for the public's safety. Senate Bill 268 (1st Reprint) is an excellent example of how government can do that. It is the Legislature, after all, that provides guidance to the courts as to legislative intent; and this bill provides certainty for the business community, responsible public policy for law enforcement, and codification for the court system. It provides for the public safety of all citizens in your state, and does it all without a tax or budget increase.

Again, thank you very much for allowing me to speak to the Committee. I am grateful you are working on this legislation, and I respectfully request that the Committee recommend S.B. 268 (R1) favorably for passage so it can be heard by the entire Assembly.

Chairman Bobzien:

Thank you, Senator Smith. I send the Committee's condolences for your loss and thank you for your courage in sharing your story and working across the country on this issue. Committee, do we have questions either for the Smiths or for the bill's sponsor?

Assemblywoman Kirkpatrick:

Senator Smith, I have a question about section 7, which requires the Department of Public Safety to adopt regulations concerning how this would be implemented. Knowing that we leave the Legislature and have to have some legislative intent concerning what those regulations should be, if you read back through sections 2 through 7, what is it specifically that we are looking for the Department of Public Safety to adopt? Is it how and when the information would be released? If ten other states have passed this or something similar, are there consistent regulations, because once we leave this body, it is important that the legislative intent be carried out. Could you give us some insight on that?

Senator Greg Smith:

The cell phone providers understand how this process works, especially the bigger providers. They have emergency call centers that operate on a 24-hour basis and liaison with law enforcement. Right now, federal law makes this an option. These companies can release this information if they want to, but it is totally up to the company. What the Kelsey Smith Act, or in this case S.B. 268 (R1), does is make it mandatory that the information is released and let law enforcement make the decision as to whether it is an emergency. As for the protocols of contacting the companies, law enforcement is fairly familiar with how that works. They know how to get hold of the emergency call centers and go through the protocols. We do not publicize the protocols because it would be detrimental to the process.

In Kansas, our Amber Alert phone number is manned 24/7 and all emergency call numbers for the major providers are kept on file. Any law enforcement agency in the state can call that number if they find themselves in one of these situations, and walk through the procedure with the cell phone provider to get the information they need. My wife and I have been fortunate enough to tour one of these emergency call centers. While we were there, a law enforcement agency had called in and requested a locate on a phone due to a woman who had been swept away in a flood. Once the requirements were met as far as positive identification that it was a law enforcement agency making the call, and certain other protocols had been established so everyone knew who everyone was, and the right people were getting the information, that information got out to law enforcement. They were able to locate this lady,

and we were there when it happened. It is amazing what we can do with technology, and this law makes it that much simpler to do.

Assemblywoman Kirkpatrick:

It sounds as though the regulations need to be somewhat vague in order for the counties across the state of Nevada to be able to implement them without giving away some security issues. Is that what I heard from you?

Senator Greg Smith:

Correct. Law enforcement will know this. In Kansas, the Kansas Bureau of Investigation, our state agency, is the warehouse for that information. Law enforcement can contact them and they will make the needed contacts with the cell phone providers. That is what my wife and I recommend anytime we talk with anyone. Have a lead agency that is your repository for the information and can facilitate those contacts. Then it becomes just a matter of procedure, and the law enforcement agency will set up those rules and regulations.

Senator Ford:

I want to add some additional points. As you just heard, through the tireless efforts of the Smiths and the advocacy of Kelsey's Army—the Kelsey Smith Foundation—this act has now been passed in ten states. It has also been introduced in the United States House of Representatives. At least eight other states, including Nevada, are considering the Kelsey Smith Act this year. Lawmakers in many other states have been approached to introduce similar legislation.

In summary, S.B. 268 (R1) requires a provider of wireless telecommunications to provide, upon the request of a law enforcement agency, which is a key point—only law enforcement can make this request—the most accurate call location information readily available concerning the telecommunications device of a user to assist the law enforcement agency in responding to a call for emergency assistance in situations that involve the immediate risk of death or serious physical harm. The bill was amended in the Senate by two different amendments, and each amendment added one word. The first amendment added the word "readily" to ensure that the wireless providers are able to quickly respond to a law enforcement agency's request for the information. The term "immediate" was added in section 5 at the request of the American Civil Liberties Union to clarify that a person must be in immediate risk of death or serious physical harm.

The bill protects wireless providers. That is important because a lot of cell phone companies were concerned about being sued for releasing information. People could be rendezvousing with friends and not necessarily want their

information released. This bill protects wireless providers by specifying that no cause of action may be brought against any provider, its officers, employees, or agents for providing call location information while acting in good faith. Nothing in S.B. 268 (R1) prohibits a wireless provider from establishing any protocols enabling the provider to voluntarily disclose a call location in an emergency situation.

Section 6 of the bill requires wireless providers to annually submit their emergency contact information to the Nevada Department of Public Safety to facilitate these requests from law enforcement agencies. This information must also be kept up to date with the Department. In turn, the Department shall maintain a database of emergency contact information and make it available to law enforcement immediately upon request.

Finally, the bill authorizes the Department to adopt necessary regulations to carry out the provisions of the bill. Testimony during the bill hearing in the Senate noted that the Department of Public Safety reports no fiscal impact for S.B. 268 (R1).

Clearly, the passage of S.B. 268 (R1) could save people's lives or perhaps prevent a person from being seriously injured. We need to give law enforcement this important tool to help those who are in dire need of assistance. I want to thank Senator Smith and his wife Missey for their courageous mission throughout the country advocating on behalf of these types of bills in memory of their daughter. I urge you to support this critical legislation which received the unanimous support of my colleagues in the Senate. I would also note that there are several representatives here from the law enforcement community to testify in favor of this important legislation. Likewise, I do not know if AT&T is here today, but they were present in the Senate to show their support.

Assemblyman Frierson:

Thank you, Senator Ford and Senator Greg Smith, for bringing this measure forward. I agreed to cosponsor it because I saw it as a great piece of legislation in capable hands. I am glad you mentioned law enforcement coming forward in support. I want to be sure that, in the event someone would attempt to impersonate law enforcement in order to obtain this information for a reason other than this measure's goal, we are able to prosecute that individual for impersonating a police officer or other crimes.

Senator Ford:

That brings up two important points. Assemblywoman Kirkpatrick asked a question about regulations. It may very well be that the regulations include something of this sort. That aside, I believe there are statutes that already prohibit the impersonation of officers. Nothing in this bill would prohibit the enforcement of those provisions, so I believe we are covered in that regard.

Assemblywoman Kirkpatrick:

Speaking about the regulations, I am not certain what they would be drafting regulations on. As I sit on the Legislative Commission where we see those regulations, I want to be clear, because legislative intent could get lost. If the Legal Division is going to draft regulations, those regulations must contain certain things such as that each law enforcement agency must have a protocol. Some of that detail might be missing. I am not sure what types of regulations we would see because the language is rather broad. The law enforcement agencies or the telecommunications people must have some regulations so we ensure they address the protocol, under what circumstances it would be considered an emergency, and who makes that final call. It seems as though some of that is missing. I do not want to belabor the fact because I understand the importance of having this bill, but I am trying to get past the fact that six months from now we will be trying to remember what the important pieces were so that there is a level of consistency across the state. No matter how small or how large your agency is, you must have a procedure in place that handles these things. In Nevada, we have the Commission on Homeland Security, so I know we know how to do it, but I need a level of comfort concerning what should be in the regulations before we get to a work session.

Senator Ford:

I will offer a couple of thoughts in that regard. At the Senate hearing, the Department of Public Safety (DPS) spoke of their support and the lack of a fiscal note. To me, necessary components include the phone number people would be calling and the requirements in terms of gauging what "immediate" is and what "serious physical harm" is. What we do not want to do is hamstring law enforcement agencies and those on the front line who deal with emergencies all the time. I hope we will be able to apply that same level of discernment in circumstances like this. The regulations would detail those requirements and details. I do not want to spell out in statute what the regulation has to be. I am happy to have DPS work with us to present something for your consideration, and we can bring those back before the Committee again at a work session. From my perspective, we do want to keep it somewhat broad to allow the Department to enact something that is going to be useful.

Assemblywoman Kirkpatrick:

I do not disagree. We never like to hamstring broad legislation when it comes to the seriousness of something like this; however, as a member of the Legislative Commission, what do we expect them to do? If they came to us and said that each police agency must establish a policy and procedure, I would expect that. But if they said each police agency must have its own data center, I might not know if that was the legislative intent. There should be some indication as to what direction we think this should be going. The language in the bill reads, "may adopt such regulations." Maybe the agencies do not need them, but I was looking for some consistency across the state so that we do not have a situation in which this does not get implemented because someone was not clear about what they should be doing.

Chairman Bobzien:

It is always good to get this kind of discussion on the record as we head into the interim. When those regulations come back before the Legislative Commission, it is always good to be able to go back and see what the discussion was. Do we have any final questions?

Assemblywoman Diaz:

Mrs. Kirkpatrick brought up some salient points. I was made aware of a situation where a child was taken from the mother. The father did not have custody rights but never brought the child back, and the child has disappeared. Would this be something that could be activated in a case like that?

Senator Ford:

Only if there is an immediate risk of death or a threat of serious physical harm. If there is a belief that the child who has been abducted is under either one of those risks, then, in my view, this legislation could be invoked. I do not know if there are other statutes that would address the kidnapping scenario you just described, but this statute really only addresses circumstances where there is a very real belief that there is an immediate risk of death or serious physical harm that could befall a person who has been abducted.

Assemblywoman Diaz:

If my child had not been brought home and almost six months had passed and they are still waiting for investigations to be under way, that would be kind of life threatening. I am thinking about the child's well-being, particularly if the parent who does not have total custody of the child takes that child. I do not care what is going on with the parents. The judge made a decision that the mother was the most sound and should have custody of that child. I think children should be a priority, too, so that is a thought for you during

conversations about regulations and what they should encompass. Our kids are very important, especially when they go missing.

Chairman Bobzien:

We might have our legal counsel weigh in on that question, because it is a good point.

Matt Mundy, Committee Counsel:

In section 5 on page 2, two applications are mentioned. The first is to assist in responding to any emergency call, which I think would cover the situation you just articulated. The second concerns any emergency situation involving the risk of death or serious physical harm.

Chairman Bobzien:

Are there any other questions? Seeing none, I see we have a number of law enforcement officials who have signed in to support this bill. Please, come forward.

Chuck Callaway, representing the Las Vegas Metropolitan Police Department:

We are here today in support of S.B. 268 (R1). As the Senator from Kansas stated, when someone is abducted, time is of the essence. The faster we can locate that person, the better. This bill would help us in locating potential victims of abduction. It would also help in search and rescue operations where people have become lost or injured in the outskirts of town. In addition, it is common for us to have what we refer to as 9-1-1 disconnect calls from cell phones. Someone calls 9-1-1 from a cell phone and then, for whatever reason, becomes disconnected and we are unable to immediately locate where they are calling from. In addition, in the Las Vegas area, we have a large number of care facilities. We have folks who are under care and need medication who wander away from those facilities. If that person were to have a cell phone in their possession, this would allow us to locate that person and get them returned to the care facility to get the care they need.

In the Senate hearing, we had a detective who provided some cases that the Las Vegas Metropolitan Police Department had. He was not able to be here today, but I can relate one story he told. There was a young teenage boy who made some threats to kill himself. He ran away from home and had a handgun in his possession that he had taken from the family residence. The detectives at the scene were able to contact the telecommunications agency that provided service for the phone the child was in possession of and they were able to locate him in a nearby park. He was sitting on a swing in the park with the handgun in his hand. They were able to approach him, negotiate with him, and eventually got him to give up and agree to get treatment and care.

As the senator from Kansas said, this does save lives. It does help us locate people. The Las Vegas Metropolitan Police Department has a pretty good working relationship with a lot of the telecommunication providers, but as stated, right now it is not mandatory. Sometimes cooperation varies, so we would urge you to support this measure.

Eric Spratley, representing the Washoe County Sheriff's Office:

I am here to express our support for S.B. 268 (R1). We thank Senator Ford for bringing this important legislation forward. The Kelsey Smith Act and S.B. 268 (R1) are very good and very necessary public policy.

Robert Roshak, representing the Nevada Sheriffs' and Chiefs' Association:

We would like to add a strong "me, too" on this bill.

John T. Jones, Jr., representing the Nevada District Attorneys Association:

We are here today in support of S.B. 268 (R1). I did want to take a moment to address Assemblyman Frierson's question with respect to potential charges for anyone who attempted to get this information who was not a law enforcement officer. I would direct you to *Nevada Revised Statutes* (NRS) 199.430, the statute related to impersonation of an officer, which is a gross misdemeanor. That is a potential charge we could file.

Chairman Bobzien:

Are there any questions for this panel?

Assemblyman Frierson:

Mr. Jones, knowing your background in child welfare, and considering Ms. Diaz' question, what was your reading of the language in the example she provided? I am looking at page 2, line 20. Is "emergency services" separate from an "emergency situation that involves the immediate risk of death or serious physical harm"?

John Jones, Jr.:

I read that to mean, if I call 9-1-1 and if for some reason they cannot find me, that the cell information could be used to locate my cell phone at any given time.

Assemblyman Frierson:

Her question specifically regarded custody and one parent who takes a child in violation of a placement order, or something like that. Another discussion involved two parents who might have orders in different jurisdictions and one may not be the proper jurisdiction. Would "emergency services" encompass that situation?

John Jones, Jr.:

I would have to defer to counsel on that question. I would hate to say either way. The way I read it, if someone calls 9-1-1, law enforcement can use that information to locate that individual with respect to the emergency services. I would go to Senator Ford's original statement that if there is evidence of immediate risk of death or serious physical harm, then yes, you could use the information.

Assemblyman Frierson:

That is my concern.

Chairman Bobzien:

I believe our legal counsel might have some perspective here.

Matt Mundy:

I would read that broadly to encompass any call for emergency services. That may not be the intent. If that is the case, then maybe we need some clarification; but from a plain reading of it, I would read it that way.

Assemblyman Frierson:

And I do have some solace in that law enforcement is the body to carry it out, so they would make the ultimate decision in the language in this bill. I just want to make sure that we get our intent clear.

Senator Ford:

My intent was not to have this construed so broadly as to open it up to misuse and abuse. That is the concern I would have with construing "emergency services" in a way that would authorize an overuse and misuse. Again, I do want to defer to the expertise of police officers who respond to emergency situations all the time. It could very well be, in circumstances like this, they construe what you described as an emergency situation that needs to be addressed via a statute like this, but it may not be. Not being in law enforcement, I do not want to place upon them the requirement that they construe every child custody dispute phone call as being one that requires them to call and get cell phone data information.

Chairman Bobzien:

Absent that particular scenario, even just acknowledging that Johnny missed his 11 p.m. curfew and I am calling 9-1-1.

Senator Ford:

Exactly.

Chuck Callaway:

For law enforcement the distinction is that if someone calls 9-1-1 and hangs up or gets disconnected, we do not know what the emergency is. It could be someone calling because the neighbor's cat is in their yard, or it could be someone on the verge of death. As the law is written, without that component, we would not be able to articulate the immediate need to get the information. Using the other language in that section, we would have to show that failure to take immediate action on the part of law enforcement could result in death or serious bodily harm. From a law enforcement perspective, that is the difference.

Assemblywoman Carlton:

You had my support until the conversation about the 9-1-1 hang-up call. If I make a 9-1-1 call and get disconnected, you will not be able to use this to come find me?

Chuck Callaway:

The way the language is written in section 5, subsection 1, where mention is made of "emergency services," it is my understanding that we would be able to use this. If that section were removed, then we would not be able to.

Assemblywoman Carlton:

That is exactly what I wanted to make sure was on the record, so if it happens in the future, you will come find us because we will need you.

John Jones, Jr.:

That is the way we read the statute as well.

Senator Ford:

As sponsor of the bill, that is my intent.

Chairman Bobzien:

Does anyone else want to get on the record in favor?

Tim Bedwell, representing the City of North Las Vegas:

Us, too, but I want to add one thing. We, as an organization, already have regulations for our agency that govern how we make these kinds of contacts. Because this is something we already do, we urge passage.

Chairman Bobzien:

Is there anyone else in support of S.B. 268 (R1)? Is there anyone in opposition to S.B. 268 (R1)? Is anyone neutral? [There were no responses to those questions.]

Senator Ford:

Thank you very much, Mr. Chair, for hearing this bill. I want to also publicly thank Senator Greg Smith and his wife Missey for agreeing to testify. Committee, I certainly hope we have placed an imperative on you to support this legislation. We think this is a piece of legislation that is going to be helpful to law enforcement and we hope we can count on your support.

Chairman Bobzien:

With that, we are going to close the hearing on S.B. 268 (R1) and open up the hearing on Senate Bill 329 (1st Reprint).

**Senate Bill 329 (1st Reprint): Creates the Account for Clean Energy Loans.
(BDR 58-861)**

Senator Ruben Kihuen, Clark County Senatorial District No. 10:

Last November, I moderated an energy efficiency forum that discussed the impediments to implementing energy efficiency measures. As you all know, energy efficiency is the quickest, fastest, and cheapest way to meet our energy demands. It also creates more jobs and other clean energy technology, and increases our home values while making our homes more comfortable. The most important impediment that came out of the forum was access to funds to help with the up-front costs of energy efficiency. While we know upgrading our air-conditioning unit will save us money on our bills after we install the unit, we do not always have the money to pay to have an efficient air-conditioning unit installed, so we continue to pay higher bills.

Senate Bill 329 (1st Reprint) will create a separate account for clean energy loans to be administered by the state Office of Energy to distribute money to local governments and third parties to make loans to qualified borrowers. I have with me Lydia Ball from the Clean Energy Project to discuss this piece of legislation. Also with me is Robert Nellis from the state Office of Energy to answer any questions you may have on the mechanics of their existing loan program, which this bill was modeled after.

Lydia Ball, Executive Director, Clean Energy Project:

Senate Bill 329 (1st Reprint) establishes an account for clean energy loans to be administered by the director of the Office of Energy. The account would allow local governments, nonprofits, and financial institutions to make loans to qualified borrowers. It directs the director of the state Office of Energy to adopt regulations for this specific loan program. The intent of this legislation was for it to be modeled after the existing revolving loan program, which has been very successful since 2009.

The interest rate for the loan could not be less than 3 percent. We chose that amount to allow for recouping expenses for the Office of Energy. Also, we found when you offer money for free, people think there is a catch and do not engage in it. Across the state, the loans that are most successful do carry some sort of interest rate.

Additionally, the director of the Office of Energy would have to develop the program and the regulations and would come back to the Legislature or the Interim Finance Committee to get final approval before any loans would be made.

The account would be managed by the director of the Office of Energy, but it would allow third parties—nonprofits, local governments, or financial institutions—to be the ones that actually distribute the loans. It is not the intent to have the Office of Energy be a loan center. The allocation of the money started with a discussion of a small allocation from the American Recovery and Reinvestment Act's (ARRA) revolving loan program. The language in the bill is more general to allow this money to be leveraged. Other accounts in Colorado and New York have also leveraged significant private funds through these accounts, nonprofits, and third parties.

If a nonprofit takes these funds, it is subject to the Open Meeting Law for the implementation, establishment, and administration of the program. This would allow the public to engage and monitor these funds.

It is not completely clear in the language, but it is our intention not to have any ratepayer dollars be contributed to these loans. That issue was brought to our attention earlier today, and we would like to clarify that language.

Assemblywoman Kirkpatrick:

I thought the ARRA dollars were already committed for commercial projects. Are you now expanding to residential? Where is more money going to come from? Also, I have a little bit of heartburn if this is going to residential. In 2009 the property assessed clean energy (PACE) financing program was put in place on the federal government level. That program was stopped because it was not working out very well. A lot of people were on the hook to pay the money back. What happens to the state's leveraging of dollars if someone does not pay it back? I could never support letting local governments be banks because property tax revenue has already dropped. I need to better understand how it is going to be paid for because it is very broad.

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

In terms of the ARRA funds used, the point of that \$8.2 million was to loan it out and get the money back over time. There is always a little bit of risk in the idea that some of these folks will not be able to pay that loan back. To date, we have had good success and hope to continue to have success. We worked on better language in terms of collateral that would be required to back these loans.

In terms of funds coming into this particular loan program, I think that is still to be determined. We would seek grants and gifts, leverage other funds, and work with financial institutions to understand how best to bring money into this account.

Assemblywoman Kirkpatrick:

The ARRA funds were different because that was one shot of money. It will be a couple of years before people are going to start paying it back, right?

Stacey Crowley:

We have some loan payments completed in full. It depends on how the program is structured. If a loan was based on a rebate that NV Energy would pay back for a solar installation, for example, that money was repaid. I believe four of our loans have closed out. Others are making payments, and those are five- to ten-year loans.

Assemblywoman Kirkpatrick:

Who is this geared to? Currently, we have the commercial program in place. We expanded the definition to include the commercial people with ARRA funds. Is this meant for residential?

Lydia Ball:

Yes.

Assemblywoman Kirkpatrick:

Who is on the hook if the property owner does not pay it back? Who is the third party that is going to approve it, because that is the PACE program that the federal government no longer does.

Lydia Ball:

The intention was not to model this like PACE. The intention was to model it as the revolving loan has done. Ideally, a third party like a nonprofit or a local government would develop a program and submit it to the state energy office. The Office of Energy would evaluate it and decide whether it has merit based on their experience with the revolving loan. Assuming that they are happy and

content with the program, they would allow those funds to be transferred to that third party. The third party could use that money as leverage to attract other private dollars to allow the loan to go back

Assemblywoman Kirkpatrick:

On page 4, section 7, subsection 3, paragraph (c), it says, "Bind the Office of Energy to terms of any agreements entered into pursuant to paragraphs (a) or (b)." That means as all this is done, the Office of Energy is on the hook for the dollars. What is the hammer if they do not pay it back? I understand the process and what we are trying to do, but I am concerned about the money. It is a little different with commercial folks who are spending money upgrading their buildings, because they are doing a lot of this, but we already have a third-party program in place where some of these things can be leased. I am wondering why the state is getting in the middle of this. Ms. Crowley, is this what your new energy manager is supposed to do? That makes a big difference to me if that is what it is.

Stacey Crowley:

That was not the intent behind the energy efficiency manager. The intent behind that position was to focus on state-owned buildings energy reduction.

Lydia Ball:

Regarding your question about the hammer, I am willing to have conversations and figure out what would make you comfortable.

Assemblywoman Kirkpatrick:

Mr. Kihuen, did any of these questions get asked in the Senate? Did they not ask about any details?

Senator Kihuen:

Your question about the hammer was not asked. As Ms. Ball alluded to, we are more than willing to talk about it and see what kind of hammer we can put on this.

Assemblywoman Carlton:

I wanted to put solar on my home. I looked at the different programs, but it was not cost-effective for me. I do not want to make it so easy that someone could do this and end up having a 20-year payoff when they are only going to be in the house for 10 years. Then that loan would have to roll into the next home. The state or the program will be put in the position of having to cloud the title of that home because the solar will be on that home.

I also have a real problem with nonprofits getting involved in some of these state and private business entities. Nonprofits can turn off the phones, close the door, and walk away. They have no ultimate responsibility, and we have no hammer over them at all. If they have a business license, or if they are actually with the state, we have a way to hold them accountable.

When I see the word "legislative appropriation" in the bill, we are going to have to talk in my office later because I have concerns about that with all the needs the state has. I understand; I want people to conserve, want them to have solar, I would love to see the electric meter on my house run backwards once. I am just not sure that we would not end up harming more people than we would be helping without having the really strict guidelines we would need for this program. That is what I am going to need to see.

We have had some strange experiences with nonprofits in the last couple of sessions. With the economic downturn, we saw some we thought would always be around go away, so I have apprehensions about that.

Assemblyman Daly:

Is there going to be an income level for the people receiving these loans? Someone with a \$3 million house can probably afford to buy his own. Is there going to be a limit on the administration costs? Will there be any wage standards for the workers who might be installing this? We say we want to create jobs, but if we are not creating good-paying jobs, that could be a problem. This reminds me a lot of the weatherization bill from a few years ago. There were good intentions, but it never really worked very well. I, too, have a problem with setting up a program and then paying a third party to run it. I have seen a lot of nonprofit organizations. They do some good work, but the number one purpose of those organizations is to perpetuate the organization and not really administer the programs well.

Lydia Ball:

Those are questions we anticipated being worked out in regulation; however, I am hearing there is some concern and we would like to put in some intent. I would be more than happy to work with Senator Kihuen and all parties to figure out the best way to move forward.

Assemblywoman Bustamante Adams:

My question is on section 5.5 where it defines "qualified third party." I agree with the concern Mrs. Carlton has about nonprofits. When you mention financial institutions, can you expand on that? Are you thinking of community banks? What does that mean?

Lydia Ball:

We were not trying to limit it too much, but yes, the intent was community banks and credit unions. There are banks that do offer programs like these already, but that was one concern mentioned earlier today, and I would be happy to tighten up the language.

Assemblywoman Bustamante Adams:

In your presentation you said that these entities would be subject to the Open Meeting Law. Did I understand you correctly? Financial institutions would be subject to the Open Meeting Law if they became a distributor?

Lydia Ball:

In section 8.5 it mentions "establishing and administering an energy improvement program," so only for that specific program is the Open Meeting Law applied. It does say that it is for an exempt 501(c)(3) organization.

Assemblywoman Bustamante Adams:

The way I understand the language in section 8, on page 4, line 32, the director of the Office of Energy would distribute the money to the qualified borrowers. Is that how it reads?

Lydia Ball:

It would be to a qualified third party. The Office of Energy would not become a bank where individuals would be applying directly to them.

Assemblywoman Bustamante Adams:

Ms. Crowley, if this were to pass, do you already have staff in your office to be able to handle something like this?

Stacey Crowley:

We have folks working on the revolving loan fund, and they would be the most likely candidates to work on this. We do have a fiscal note on this bill to add resources; however, the bill contemplates, as does the revolving loan, that the interest earned from the money coming back would help administer the fund.

Assemblywoman Carlton:

The fiscal note was submitted on March 28. How did this bill get here if the fiscal note was March 28? What day did it come out of the Senate? If it just slipped through, that happens, it is not unusual. But Senator, this is not a small fiscal note.

Senator Kihuen:

You are right. It must have been a slipup.

Assemblywoman Carlton:

That adds issue number two to my concern. We are talking about \$137,000 in fiscal year 2013-2014 and \$96,000 in 2014-2015. That is something we probably should keep in mind and work toward.

Chairman Bobzien:

Do we have any further questions? Seeing none, we will take any supporting testimony.

Kyle Davis, representing the Nevada Conservation League:

We are in support of the bill. We think it would be something that would advance the use of energy efficiency and renewable energy. We would be happy to work with the bill's sponsors and the Committee to make any changes to make this an even better bill.

David Gibson, Founder, Energy Independence for Nevada:

In regard to Assemblywoman Kirkpatrick's question earlier relating to default, I have a 20-page study on home energy efficiency and mortgage risks that was funded by the Institute for Market Transportation and performed by the University of North Carolina. They did a study of 71,000 homes across the United States and found that there was a significant decrease in mortgage default risks and loan defaults on homes that have efficiency improvements. If you would like a copy of that study, I can provide it to you.

Chairman Bobzien:

If you would like to submit that to our Committee staff, we can get that out to the Committee members.

Judy Stokey, representing NV Energy:

We do support the concept of this bill and would also like to work with the sponsor to fix some of the language.

Chairman Bobzien:

Is it to help assuage concerns that have been raised at this hearing, or is it because you have your own concerns or reservations about the language?

Judy Stokey:

We noticed some things once this bill left the Senate, but we did not get any amendments to you in time. Some of the things Ms. Ball mentioned on the record were already addressed, so I wanted to go on the record as wanting to work with her on those pieces she mentioned.

Debra Gallo, representing Southwest Gas Corporation:

We are here to support the concept of the bill. We are in favor of anything that helps residential customers use and be able to afford energy efficient measures.

Tom Clark, representing the Southwest Energy Efficiency Project:

Me, too.

Chairman Bobzien:

Are there any questions? Seeing none, does anyone else wish to get on the record?

Joe Johnson, representing the Toiyabe Chapter, Sierra Club:

We would also like to say, "Me, too." We think this process and concept is very good.

Chairman Bobzien:

Is there anyone in opposition to S.B. 329 (R1)?

Mike Hazard, Private Citizen, Las Vegas, Nevada:

Assemblywoman Kirkpatrick talked about these being loans and the risks associated with loans, and I think that is really true. Anytime you loan people money, there is risk. I do not think the taxpayers of Nevada should be exposed to that risk in this program.

Solar, as Mrs. Carlton said, is very expensive. We had our house analyzed for solar installation, and even a 4-kilowatt system is \$25,000 to \$30,000. If this is a situation where you are proposing to offer loans to homeowners for \$20,000 to \$30,000 so they can have a minimum-sized solar system put on their house, I think that is an unreasonable risk that the state should not be involved with.

Ms. Ball said that there is no ratepayer money involved in this. I think that is a misnomer. Ratepayers are taxpayers. When someone defaults on this, the taxpayers are going to be paying for this. I think this is an unreasonable risk.

Finally, I was at some of the Senate hearings on another bill, and I see some of the same people making supporting statements for this bill.

Chairman Bobzien:

We try very hard to keep our bill hearings segregated, and you are right. There will be a lot of people who I am sure will testify on both bills. You may wish to also do so, but please keep the focus of your comments to the bill at hand.

Mike Hazard:

The bottom line is, if someone wants to promote energy efficiency measures, it should be consistent across the board for other bills as well.

Chairman Bobzien:

Are there any questions? Seeing none, is there any opposition testimony on S.B. 329 (R1)? Does anyone wish to testify neutral on S.B. 329 (R1)? Seeing none, Senator Kihuen, do you have any parting words?

Senator Kihuen:

Thanks to you and to the Committee for your time. It looks like we still have a little bit of work to do on the bill. We are hoping to sit down and address the concerns of some of our colleagues here.

Chairman Bobzien:

We look forward to seeing if you can get this worked out. With that, we are going to close the hearing on S.B. 329 (R1) and open up the hearing on Senate Bill 252 (1st Reprint). I spoke with the Chairman of the Senate Committee on Commerce, Labor and Energy earlier today, and I understand that Ms. Ball is going to be presenting this bill. I realize that there are a number of amendments that have been submitted. I understand from speaking with the Chairman of the Senate Commerce, Labor and Energy Committee, that he looks forward to discussing those amendments with folks before we move the bill forward, so it is important for us to get those all on the table and hear all the ins and outs of this policy.

Senate Bill 252 (1st Reprint): Revises provisions relating to the portfolio standard for providers of electric service. (BDR 58-775)

Lydia Ball, Executive Director, Clean Energy Project:

To give you a quick background on Clean Energy Project, we are a nonprofit, nonpartisan organization dedicated to powering the clean energy economy through education, engagement with policy leaders, community leaders, and citizens on the economic benefit of fully developing our renewable energy economy here in the state.

The Nevada renewable portfolio standards (RPS) continue to have legislative review. Improvements have been made throughout the last 16 years since they were implemented. These improvements have ensured Nevada's goals for economic diversification and energy independence through the vast renewable energy resources that we have here in the state.

The bill in front of you is what we are calling an RPS reform. It is a Committee bill, so I will speak to you about the major policies that are in it that Clean Energy Project proposed, and then NV Energy will speak to you about a portion of the bill.

We believe there is a vast economic benefit across the state with an investment in renewable energy. In our studies, we looked at clean RPS, increasing the RPS, and then combining the two. We found we created the most demand for clean energy sooner by cleaning out the RPS. The other piece is really at policy level. Currently, the portfolio credits created here in the state of Nevada are not changeable. Their only value is here in the state. For example, there is not a value for an energy efficiency portfolio credit outside the state of Nevada, nor is there a value to the 2.4 multiplier on photovoltaic or flat solar. It is the same with station usage. Station usage is the energy used to create energy. It is predominantly found in geothermal plants.

What S.B. 252 (R1) proposes is to get us to what is called a clean RPS by 2025 and increase our renewable energy demand. The first piece phases out energy efficiency. Originally, Clean Energy Projects had modeled just removing it; however, in conversations in the Senate, we realized there is a benefit the ratepayers have already paid for, so we went through a model that phases out the energy efficiency. It stays at 25 percent for the next year and a half. Then, starting in 2015, it drops to 25 percent of the RPS. In 2020-2024 it will drop to 10 percent; and in 2025 it will be at 0 percent of the RPS.

Additionally, what S.B. 252 (R1) is proposing is removing the photovoltaic multiplier. This multiplier is 2.4 on solar or flat panels. We would like to stop allowing that multiplier after July 1, 2014. Regarding station usage, we do not want to take anything away from the ratepayers that has already been agreed upon. In 2015 those credits could not be used in the RPS, and that is also being proposed in S.B. 252 (R1).

Two additional pieces in S.B. 252 (R1) address carry-forward credits. Currently, our carry-forward credits would theoretically allow the utility to buy or obtain a significant amount of portfolio credits and then use them in perpetuity. That would basically decrease the ability to enter into any more contracts for renewable energy. We attempted to address that by allowing the renewable energy to be met over a period of time. Also, a trigger will allow the utility to sell those portfolio credits if there is an excess. Additionally, Senator Spearman has asked to study that process, so an additional amendment onto the bill that would allow for a study of the process in an investigatory docket in front of the Public Utilities Commission (PUC) would need to be added.

Chairman Bobzien:

With that, do we have questions from the Committee?

Assemblywoman Carlton:

This bill also has a fiscal note, which is larger than the last bill's. The fiscal note was added almost two weeks before the bill passed out of the Senate. I would like to know the conversation around that, if there was any. This will actually raise the mill assessment placed on everyone's electric bills. If there was a discussion about that, we need to know where it went.

Lydia Ball:

I know Anne-Marie Cuneo from the PUC testified on that.

Anne-Marie Cuneo, Director, Regulatory Operations, Public Utilities Commission:

The PUC did submit a fiscal note. We discussed it in front of the Senate. Some changes they were planning to make may have adjusted the fiscal note. As I see the reprinted bill before us, the fiscal note, as far as I and my agency are aware, would stand.

Assemblywoman Carlton:

The 0.11 increase in the mill assessment mentioned in the fiscal note, if that is correct, basically adds a penny onto everyone's electric bills.

Anne-Marie Cuneo:

For residential ratepayers, that one cent would be for electric, gas, and telecom—all regulated utilities.

Assemblywoman Carlton:

That would be a penny a month for a total of 12 cents.

Anne-Marie Cuneo:

That is correct.

Assemblywoman Kirkpatrick:

I am most concerned about the ratepayers. Every time we do something green, it costs the ratepayers. On page 4, line 4, the language says that in "calendar years 2013 and 2014, not more than 25 percent of that amount may be based on energy efficiency measures." Currently we are at 25 percent, but this language does not say if it is specifically energy efficiency because there is a cost recovery piece. So what is the impact to ratepayers?

Lydia Ball:

Are you specifically asking for 2013-2014?

Assemblywoman Kirkpatrick:

Yes, because I want to understand in the next 20 years what we are to expect.

Lydia Ball:

That does not change for the next year and a half, so for 2013-2014 there would be no additional rate effect.

Assemblywoman Kirkpatrick:

When we have energy bills, things are not very clear. Things get said but the next thing I know, I am receiving multiple calls from my ratepayers who got an increase of some fee that they did not know was coming. I want to be clear about the definition of energy efficiency, because that is different from the RPS, so what is the expectation?

Lydia Ball:

This is still within the RPS, so what we have is a phasing-out of the RPS. This is not a separate energy efficiency standard.

Assemblywoman Kirkpatrick:

I just want it on the record so it is clear. This is the RPS. Why did you not use the term "RPS standards"? Why did you use the words "energy efficiency measures" instead? To me, energy efficiency measures mean something different than RPS standards. Energy efficiency measures mean doing things like caulking around your windows, trading out your air conditioner or your washer and dryer for more efficient ones, and getting a new toilet that does not use as much water. That is what energy efficiency means to me. To me, renewable portfolio standards means solar, wind, or geothermal. I want it clear on the record, because they are two very different things in my mind. I just want to understand what that means.

Lydia Ball:

The intent is to keep it the way it is currently in statute for the next year and a half. If there was any drafting error to include energy efficiency, I would be happy to talk with the Legal Division and discuss it. I understand what you are concerned about, and the intent is not to set anything separate or change anything. That new language was to say that, for the next year and a half, it is as-is, with 25 percent of the RPS to be met by demand-side management programs approved by the PUC. In 2015 it would be the same thing, but by that year, only 20 percent of the RPS could be met by those energy efficiency measures.

Assemblywoman Kirkpatrick:

Last session, we had a bill proposing that a letter be inserted in people's gas bills saying that could be included in your energy efficiency measures, so would that or would it not be included?

Lydia Ball:

It is my understanding they would be energy efficiency measures approved by the PUC.

Assemblywoman Kirkpatrick:

It was the Chairman's bill, so maybe he can shed some light.

Chairman Bobzien:

The legislative history on Assembly Bill No. 150 of the 76th Session expanded what energy efficiency measures could be, and this was one of them.

Tom Clark, Private Citizen, Las Vegas, Nevada:

I am speaking as myself, because I no longer represent the client that brought A.B. No. 150 of the 76th Session. The intent behind it, and what it allowed the utility to do, was to put out and use a new tool to educate customers on energy efficiency. Whether that has been implemented to date, I am not sure. I do not believe it has.

Assemblywoman Kirkpatrick:

It is surprising that this bill does not define "energy efficiency." From the time it goes to the PUC, to the time the ratepayers get it and we come back to the next session, some of these definitions get mixed up. It seems as though we should have an energy efficiency definition, because we have an energy efficiency contract and many other references to it in the bill.

To go further through the process, 20 percent and then 10 percent, and by 2025 having a 0 percent RPS standard, would be contrary to what we have been trying to do. We have been trying to raise our RPS standard. Are you saying the zero part of the RPS standard can have any energy efficiency measures in it? Is that what it is?

Lydia Ball:

Yes, we are trying to get to 0 percent of the RPS being met by energy efficiency by 2025.

Chairman Bobzien:

Are there additional questions? [There was no response.] Are there others wishing to testify in support of S.B. 252 (R1)?

Judy Stokey, representing NV Energy:

With me today is Bobby Hollis. He is our executive for renewable energy for NV Energy. As Ms. Ball stated, we are in support of S.B. 252 (R1). We worked on a lot of these measures. In addition to the energy efficiency pieces Mr. Hollis wants to address, he will discuss renewable credits. There were three bills in the Senate that address credits. They have been combined into this bill and address Senator Hardy's and Senator Spearman's issues.

Bobby J. Hollis II, Executive, Renewable Energy, NV Energy:

I am heading up the renewable energy group at NV Energy. As Ms. Stokey just mentioned, I will speak to the concept of the surplus. You heard a bit from Ms. Ball concerning what the surplus is. To go back, portfolio credits equal a kilowatt-hour of renewable energy. We get a portfolio credit whenever there is renewable energy or something that complies with the standard. That is what we use to meet the renewable portfolio standard every year. To the extent that we have more portfolio credits than the standard requires by law, there is excess, or surplus, that goes over into the next year. A lot of proposals we saw earlier in the session were focused on that surplus—those extra portfolio credits—and how to minimize, or trim, that surplus. Our primary goal was to make sure that any efforts to do that did so in a way that preserved as much value as possible for our customers. What you see as a result are three bills that came together in S.B. 252 (R1). The language says if you have a very large surplus of portfolio credits, there is an obligation to go to the market and see what kind of value can be obtained for the customers. If you can meet a certain value threshold, you will make that sale and reduce the surplus. If you have a smaller surplus, then you do not have an obligation, but you can undertake those efforts. All the funds from either scenario go right back to the customers and reduce their rates in the year you actually get the funds back. At the same time, it does exactly what Ms. Ball described—it reduces the surplus over time so you are actually getting the generation in each year as we initially contemplated in some respects.

The second scenario concerns energy efficiency. Ms. Ball referenced some initial proposals which took efficiency out of the renewable portfolio standard immediately. We were not in favor of that, but said we would look at doing something that would phase out over time so we could undertake things that get the best value for customers and still keep efficiency a part of the renewable standard in the near term at almost the same levels. If you heard what Ms. Ball described, we go from 25 percent of the RPS being efficiency to 20 percent of the RPS being efficiency in 2015. In that year, the standard goes from 18 to 20 percent. The actual amount of kilowatt-hour savings is not that different from that of the year before, phasing down to the year after. Those numbers get a lot bigger as they go on, but the intent was to keep a level of

efficiency going on so that, as we look at it, efficiency is still taking place. We have seen our commission very focused on saying exactly what everyone in this room has said, which is when efficiency is cost-effective, it is something we should undertake. This is not saying you will not do efficiency by any stretch of the imagination; this is recognizing that efficiency stands on its own. When it is cost-effective, you will undertake those efforts.

Chairman Bobzien:

Mr. Hollis, I believe we have some questions for you.

Assemblywoman Kirkpatrick:

In 2011, your company had well over \$495,000 in renewable energy credits. When does that become a surplus so you can sell it back and lower some of your rates? I have asked what they are meant for and been told that the energy credits are meant to offset when times are tough so you can meet the standards we, the Legislature, put in place for you. I do not see anywhere in the bill how it will be determined, nor do I see a time when the PUC could call and tell you to get it done. I see you asking to get it done, so where is that process that would be in the best interests of the ratepayers in this bill?

Bobby Hollis:

The primary language is located in section 11 of the revised bill. The concept is to change the current structure which says that the Commission will approve a surplus carry-forward based on however many credits you have. This bill still says the same thing, but adds a provision that says, if you exceed by more than 10 percent but less than 25 percent, if you think you can still comply with the standard, to undertake sales. In section 11, subsection 2, paragraph (c), it says if you exceed your next year's standard by more than 25 percent, then you are required to undertake efforts. Those efforts probably entail a request for proposal (RFP) where you see what kind of value you can get.

When you look at the language in section 11, subsection 5 of the same provision, it gives you the concept of what that value is recognizing. You do not want to force the utility to sell and let everyone know you have to sell regardless of the price, so this gives them market indication concerning what that price has to be. It represents a market value of how much you could get additional renewable energy credits for.

Chairman Bobzien:

Assemblywoman Kirkpatrick, I think you and I are on the same wavelength on this one. I understand it would be problematic in terms of the value that could be returned to the ratepayers if we told the utility it had to dump all the credits. On page 7, at line 24, the language says, "the same calendar year in which the

money is received, less any verified administrative costs incurred by the provider to make the sale, including any costs incurred to qualify the portfolio energy credits for potential sale regardless of whether such sales are made." Basically, you are testing the market. If you decide the value is not there, what exactly is involved in doing that and what part of that expense are the ratepayers going to be on the hook for? From the PUC perspective, what activities are you going to be doing to time your sales which you would then be recouped for?

Bobby Hollis:

In Nevada, we have a unique system because the portfolio credits only work in Nevada. Most of the western half of the United States participates in something called the Renewable Energy Grid Integration Systems (REGIS) workshop, which is a multistate certification method. If we do not certify these facilities and the resulting credits of REGIS, we have the answer to our question. NV Energy, Sierra Pacific Power, and to a very small extent Barrick Gold are the only three markets, so you know what the RFP is going to result in, because the seller is the buyer. This says we will undertake the certifications, which are not large-scale costs, so we can potentially sell to another state. It recognizes that sometimes the surplus is a result of the fact that the economy was down for a long period of time; therefore, load was down for a long period of time, so that surplus builds year after year. Needless to say, it can go the other way as well. If the economy goes gangbusters and load goes gangbusters, you are going to need additional credits. The same thing can happen in any number of states, so this looks at how you do those certifications so you can actually get the market value you would be seeking.

Chairman Bobzien:

That is one scenario that seems problematic to me. You want the credits to deal with the load and it is right when the value of the credits is red hot, so we could wind up in a bit of a jam.

Assemblywoman Kirkpatrick:

Credits seem to relate to a number of things we do in the state whether it is generation programs or RPS and the credits we get back for efficiencies we undertake and that we have been stockpiling for some time. It seems we would have an abundance of them now, and it seems other states are also selling theirs. Are they doing it for a different reason, trying to balance their budgets? For the ratepayers, there must be an expectation concerning when they might see lower rates. I bet you have over 500,000 by now. Maybe 200,000 could be sold off soon. Summer is coming in Las Vegas, and I am thinking about the ratepayers.

Bobby Hollis:

The surplus primarily exists solely in the hands of Sierra Pacific Power Company. It has a lot of geothermal projects. NV Energy has a very small surplus, and probably will exhaust most of that surplus this year and get almost to the point where it is meeting its exact obligations. In any year during which you end up with a surplus that is above 10 percent, you could undertake selling. As soon as you make a sale and get the money, you would use that money to immediately offset rates in the deferred energy account or through fuel and purchase power.

Assemblywoman Kirkpatrick:

There must be a formula to determine when you have a surplus.

Bobby Hollis:

Every time we do the compliance filing, which is required annually and submitted on April 1 for the prior calendar year, in that filing, we will tell them how many portfolio credits we needed to meet the standard. Then, we will tell them how many we generated from eligible projects in that year. Everything above the standard becomes the surplus in that year. Under this law, anything that is in excess of either 10 percent or 25 percent the following year could be used for a sale.

Chairman Bobzien:

Do we have additional questions for Mr. Hollis?

Assemblyman Livermore:

How many times do you buy the product you sold? Is it unusual to buy them back and then sell them again?

Bobby Hollis:

It is not that different from other commodities. You are procuring to meet a standard that is required by law. It is never going to be exactly what you need to buy. You need to buy a portion above, because if we are below by even one, in theory, we could be penalized or fined. You are always going to have some amount above the standard if you are going to meet the standard. The issue here is that we had such a long period with little to no load growth, so we have a very significant surplus which could potentially be used to offset costs to other customers if we can sell it.

Assemblyman Livermore:

My question was along the lines of selling at the top of the market or selling at the bottom. You are telling me you would be selling depending upon what the PUC is going to require, but I am confused. When are the ratepayers going to

come out the best from this? Do they come out well because you sold high and more money was available to reinvest?

Bobby Hollis:

There is not a requirement in either circumstance, whether you are at 10 or 20 percent, to dump at any price. It is still looking at what is the best opportunity for customers. If you go out to the market and discover that no one is willing to pay, you would not undertake that sale. Your customers are going to be in the exact same position they are in today in that case. If you find out that the market is very high, you can undertake that sale and the way the law is drafted, you would pass through the costs you recover immediately. It is not deferred, it is not delayed over time, it goes immediately back to customers in the time you collect it. This does not require us to go to the market and become hostage to the market and sell at any cost. It does look to make sure you are getting the best value for customers, and that whatever value you are getting is at least as good as what you can replace it with.

Chairman Bobzien:

Are there additional questions for Mr. Hollis? Seeing none, let us continue with testimony in favor of S.B. 252 (R1).

Kyle Davis, representing the Nevada Conservation League:

We are in support of this bill. Renewable portfolio standard reform is one of the four priorities of our coalition of conservation groups in Nevada. We think this bill does create new demand for renewable energy, which we think is necessary to grow the market as we transition away from fossil fuels. I was happy to hear Mr. Hollis speak to the importance of energy efficiency as well, because that is a great opportunity. Cost-effective energy efficiency can help us along those lines as well. We are in support of the bill as written.

Joe Johnson, representing the Toiyabe Chapter, Sierra Club:

This is an issue the club has been interested in for a number of years. We are among the original requesters for the portfolio standards, and have been involved in many of the things you are being asked to correct. We are signed in in support of the bill as it presently exists. That is not to say that there are not issues that need to be addressed, and one is removing the ability for efficiency programs to count toward the portfolio. This is something we support. That does not mean that we do not support having a goal or separate standard for efficiency programs—the least costly the very best for the ratepayer. Preventing future need for development of projects is to be supported. We support the bill as it is crafted now.

Tom Clark, representing the Southwest Energy Efficiency Project:

I had originally signed in as neutral, but the conversation has been started regarding a standard. If we are going to gradually take energy efficiency out of the RPS, there is a broader policy question that needs to be discussed regarding that standard. I believe Assemblywoman Kirkpatrick was getting to that by mentioning the definition of energy efficiency versus RPS standard. On behalf of my client, that broader policy discussion does need to occur if this bill passes and we move down this path.

[Chairman Bobzien left the hearing, and Vice Chairwoman Kirkpatrick assumed the Chair.]

Vice Chairwoman Kirkpatrick:

Are there any questions for Mr. Clark? [There were none.]

Rose McKinney-James, representing Bombard Electric:

As a member of the Clean Energy Project, I believe very strongly that this is a measure we need to pursue. I did sign in in support of the measure. I would like to underscore the comments Mr. Johnson made with respect to energy efficiency, because we recognize that energy efficiency is an extremely important component to the overall discussion regarding clean energy, but it is so important for us to find a path to support renewable energy. When we talk about reform, over time this standard has been addressed in a substantive way by a number of legislatures. We are looking to the future to provide a solid platform for renewable energy development, understanding that we started this discussion many years ago with an emphasis on economic development and using resources that are indigenous to our state to provide a distinguishing opportunity for us going forward. We appreciate your support. This has been a negotiation over a period of time, and I believe we do have a measure that is balanced and makes sense for us going forward.

Vice Chairwoman Kirkpatrick:

Does anyone have any questions? [There was no response.] I have a question for all those folks who are in support. What is the definition of energy efficiency? I believe that is the red herring in the room, and we have about 18 days to get that record clear. Based on the minutes from the Senate, it is not very clear. Energy efficiency affects a whole bunch of other programs we have going. Someone has to show me what that expectation is, because in the interim, we seem to get sideways on the definitions.

Rose McKinney-James:

I believe there is a statutory definition for energy efficiency. Our RPS is unusual in that it has a provision that allows you to comply using energy efficiency

measures. There could be a range of measures that fall within that scope. You may want to ask a representative from the utility to offer you some examples of what they have used in order to comply. The reality is we are talking about reducing that percentage over a period of time. Right now, you can comply up to 25 percent.

Vice Chairwoman Kirkpatrick:

There are about five proposed amendments to this bill, and I want to understand the meaning of "energy efficiency" the way it is written in here.

Bobby Hollis:

"Energy efficiency measure" is defined in *Nevada Revised Statutes* (NRS) 704.7802. That is the concept of what an energy efficiency measure is that can be used to get portfolio credits under the RPS. That is generally the same energy efficiency concept that works its way throughout the regulatory process as well. It is largely looking at subparagraph (2): "The measure reduces the consumption of energy by one or more retail customers; and (3) The costs of the acquisition, installation or implementation of the measure are directly reimbursed, in whole or in part, by the provider . . ."

That is using things other than new generation in order to reduce customers' consumption. The biggest one people are most familiar with is the adoption of lighting, whether it is light-emitting diodes (LED) or compact fluorescent lighting (CFL), as opposed to incandescent bulbs. That change reduces the amount of energy they use; therefore, a utility does not need to build a new generator.

Vice Chairwoman Kirkpatrick:

Does anyone have any questions? Seeing none, is anyone else in support of S.B. 252 (R1)? [There was no response.] Is anyone neutral?

Anne-Marie Cuneo, Director, Regulatory Operations, Public Utilities Commission:

I am also one of two state representatives to the REGIS system Mr. Hollis mentioned. That is a regional tracking system. I am here to answer any questions you may have with respect to our fiscal note, about REGIS, or about how our state's quirky tracking system works. We do not use the REGIS system because we had our system first.

Vice Chairwoman Kirkpatrick:

Does anyone have any questions? [There was no response.] So, you are neutral on the bill?

Anne-Marie Cuneo:

Yes, I am.

Vice Chairwoman Kirkpatrick:

There is nothing in this bill that is problematic for the ratepayers?

Anne-Marie Cuneo:

There is nothing in here that we cannot work with. This is just about policy, and policy is up to you legislators.

**Daniel O. Jacobsen, Technical Staff Manager, Bureau of Consumer Protection,
Office of the Attorney General:**

We also are neutral on this bill. We were very concerned when the bill first came out, but Ms. Ball and others have amended this bill so that it has a transition that does not immediately eliminate the value that ratepayers have provided to fund portfolio credits over the years. From our standpoint, we think the company overshot and built a lot more renewables than was necessary to meet the RPS compliance, and we are glad to see a transition period so that the surpluses can be worked through.

In an effort to quantify the effect of current law versus the effect of what is proposed before you, I provided two bar charts ([Exhibit G](#)). The green bars on the top chart reflect what current renewables exist today. The yellow section reflects if nothing is changed. If you do not change the law at all, in 2025 that is when you would need additional renewables, based on our modeling. If nothing is done, because there are all these surplus portfolio credits that would be worked through, you would not add any renewables until approximately 2025.

Under this law, the red reflects the additional renewables that will be added if this law is adopted. If the loopholes are closed, you would need more renewables, but under this bill, you do not need them immediately because there is a transition that has been built into the law to allow carry-forward, to allow the energy efficiency measures to wind down gradually. The need for renewables would start in 2020. Probably, from an engineering standpoint, the company would make a proposal to the PUC to start a little sooner than that to make sure they are in compliance.

This is something we model and watch all the time. We show up at the PUC and try to encourage the company not to overshoot, not to invest in more renewables than the targets that are set by the Legislature.

You have before you S.B. 252 (R1). You may have heard that there is another bill coming that is not yet before you. It is a bill that has gotten a lot of attention, and it would close down the coal-fired plants. It is Senate Bill 123. Because that bill has the potential to certainly have an impact on the RPS,

we have also modeled its effect. In the bottom chart ([Exhibit G](#)), you see the same black line, the same RPS requirement. Senate Bill 123, which is referred to as NVision, instead of allowing the Public Utilities Commission to manage year-by-year what is needed to comply with the RPS, this bill that will come to you soon mandates that the company deploy 600 megawatts of new renewables between 2015 and 2020.

Vice Chairwoman Kirkpatrick:

I have not looked at S.B. 123 because it is in the other house, and I hope they take a really good look at it before it comes to us.

Daniel Jacobsen:

I have one last sentence: Please do not process S.B. 252 (R1) independent of what is coming in S.B. 123, because all of that 600 megawatts would apply to RPS and significantly overshoot the targets contemplated in S.B. 252 (R1). We ask that you address the two in concert.

Vice Chairwoman Kirkpatrick:

Ms. Cuneo, I have one question. Do those credits go back to all ratepayers or to the origin they were acquired for?

Anne-Marie Cuneo:

They go back to the ratepayers who purchased them. As Sierra Pacific Power Company's customers were the ones who have the largest balance, they will be the ones who receive the benefit.

Vice Chairwoman Kirkpatrick:

Are there any other questions? [There was no response.] Is there anyone who would like to testify in opposition?

Steven. Polikalas, representing Unique Infrastructure Group:

We are the developers of the Reno Technology Park in unincorporated Washoe County. It is a 2,200-acre park dedicated solely to the attraction and development of large-scale data center farms here in northern Nevada. This bill has been quite fluid in the Senate. There was a conceptual amendment that probably addressed our concerns; however, that was not adopted by the Senate, so I am bringing this amendment ([Exhibit H](#)).

We support the concept and efforts made on behalf of green energy. The data center park in question, and data centers generally, would like to be as green as possible. We would like to create the greenest data center park in the world here in northern Nevada.

As the background on my proposed amendment indicates, data centers are large consumers of energy and the cost of energy is incredibly important to them. The type of data centers we are trying to attract want more than 1 megawatt, so we are trying to preserve the existing NRS Chapter 704B process for those customers participating in the park. The park has been developed solely for data centers. The zoning is in place solely for data centers and the development agreement is intact with Washoe County allowing only for data center development. We just want to have enough leeway to be able to fulfill the promise the park means in terms of both data center development and economic development for the state in this new knowledge-based industry sector. We are hopeful, through working with the bill's proponents and this body, that we can create an answer to the issue we have with some of the customers we foresee coming to the park.

Vice Chairwoman Kirkpatrick:

Mr. Polikalas, this looks like an abatement to me. Is that what you are trying to get?

Steven Polikalas:

No.

Vice Chairwoman Kirkpatrick:

Can you explain it more clearly for me? It looks as though you are saying these customers fall within a special criteria. This looks like what Apple got.

Steven Polikalas:

This is nothing to do with an abatement whatsoever. We are purely looking to keep the existing law intact for customers coming to the park that would be following the NRS Chapter 704B process that has been established law in Nevada for decades.

Vice Chairwoman Kirkpatrick:

Nevada Revised Statutes Chapter 704B is a pretty large chapter. What is missing here is that it does not say what the 1 megawatt refers to—which piece of NRS Chapter 704B. Does the megawatt pertain to the credits or does the megawatt pertain to the net metering currently in place?

Steven Polikalas:

Nevada Revised Statutes Chapter 704B allows for a consumer of 1 megawatt or more, that demonstrates they are a consumer of 1 megawatt or more, to participate from a new energy provider.

Vice Chairwoman Kirkpatrick:

Where does it go away in the bill?

Steven Polikalas:

Nevada Revised Statutes Chapter 704B does not go away, but the issues in the bill that would be of most import to the issues I am describing would be the change to the multiplier on solar and photovoltaic systems. Although the bill's sponsor has moved the date the 2.4 multiplier goes away forward to 2014 from 2013, that is still probably not enough leeway for that solar benefit to accrue to the data center customers that will be coming to our park. That is one example.

Vice Chairwoman Kirkpatrick:

Where is the multiplier in this bill, so we can address it? Are you talking about being your own utility like mining or Sierra Pacific or some others where you can come off the grid? That is what NRS Chapter 704B does. Are you asking not to be part of the RPS?

Steven Polikalas:

In the bill as amended, section 9 talks about NRS 704.7822. That is the multiplier that exists. This bill, as amended, provides the circumstances through which the multiplier will still stay in effect on page 6, line 30: "The system was placed into operation before July 1, 2014." That is additional language but after that date, it goes away. Our conceptual amendment would be to allow customers coming to a park dedicated to data centers prior to this date to be able to avail themselves of the benefit of that multiplier, as solar is a particularly appropriate renewable energy source for data centers.

Vice Chairwoman Kirkpatrick:

Your amendment refers to the city ordinances and NRS Chapter 278. Is that a reference to land use and staying within what has already been designated?

Steven Polikalas:

Yes. We are trying to establish how it happened, that the land use plan has been a development agreement pursuant to NRS Chapter 278, and that it occurred early last year.

Vice Chairwoman Kirkpatrick:

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

Warren Hardy II, representing Hamilton Solar:

We proposed an amendment relating to section 9 ([Exhibit I](#)). We are neutral relative to the rest of the bill; however, we are concerned about how, from a policy perspective, we deal with the elimination of the multiplier.

Hamilton Solar has long advocated that we move as quickly as we can toward nonrebated systems—a market that will survive on its own two feet. In doing that, we always looked at the multiplier as a transitory provision that will help us get to that point, so the amendment we are proposing would phase out the multiplier. We had discussions in the Senate and, although there were no problems, we thought this provision might make it into the bill, but it did not, so we wanted to bring it forward as a policy question today. It is one of the main selling points we have, independent of any other rebates to sell systems, so we would like to see that removed through a transition rather just dropping the multiplier in 2015.

Vice Chairwoman Kirkpatrick:

Does anyone have any questions? [There was no response.] Mr. Hardy, I assume that in section 9, on page 6 at line 30, that is where you are asking that it be changed to 2016? Section 9 is pretty large, but only one piece was changed, so I just want to be clear about where it goes.

Warren Hardy:

Section 9, page 6, line 30, "The system was placed into operation before July 1, 2014," is where that would go. There may need to be some additional transitory language to accomplish that, but basically, you can see the dates we are proposing and the phaseout ([Exhibit I](#)).

Vice Chairwoman Kirkpatrick:

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

Chad Dickason, representing Hamilton Solar:

From an industry perspective, the rebate program is capped at 50 kilowatts for commercial systems. We have been working really hard over the last year to develop a marketplace using the multiplier for systems that range from 100 kilowatts up to a megawatt. There has been a lot of effort on our part to try to develop this marketplace that is not rebated and that does not have an impact on ratepayers. That is why we would like to have a little more time to roll this out.

Vice Chairwoman Kirkpatrick:

Does anyone have any questions? [There were none.]

David Gibson, Founder, Energy Independence for Nevada:

I do not expect to change your mind or reverse your perspective in the next few minutes, but I would like you to spend some time thinking about what I have to say throughout the rest of your day. I want you to understand that it is feasible

to transition to 100 percent renewable energy in our state, and that it will positively impact our economy.

Please think about your home, your business, or your office here in the Legislature. Think about an efficiency or comfort problem you have noticed. Maybe your floors are cold and drafty all winter long. Maybe there is a bedroom that is noticeably warmer or colder than the rest of your house. Maybe your energy bills are hundreds of dollars a month all summer long. It does not have to be that way. You can have a more comfortable home or business that costs you significantly less.

I moved to Nevada from the East Coast in August 2009 as an AmeriCorps volunteer. A year and a half ago, I bought a house in Reno. I used an energy efficient mortgage, which is available on all Federal Housing Authority (FHA) loans and allows you to borrow an extra 5 percent, up front, to make efficiency improvements.

Vice Chairwoman Kirkpatrick:

Mr. Gibson, where in the bill are you headed? Which section? I am concerned with the policy side of the bill.

David Gibson:

I will get to that.

Vice Chairwoman Kirkpatrick:

Sooner rather than later?

David Gibson:

Yes. With this \$5,500 in financing, I air sealed and insulated the attic, crawl space, and ductwork. I also received a \$1,000 rebate from the Energy Fit Nevada Program, overseen by the Office of Energy. I spent a little money out of pocket to change all my lightbulbs and install low-flow, 1.5-gallon-a-minute showerheads. With about a \$7,000 total investment, I cut my home's energy usage by more than half, saving \$3,500 in the first year, primarily in home heating oil. With the energy savings, I was able to install solar hot water panels in December.

Vice Chairwoman Kirkpatrick:

Mr. Gibson, please, what section of the bill are you speaking to?

David Gibson:

I am going to get to it, but I am proposing that you extend the RPS, so section 6 on page 3 is where I am going to end up. Also, there is not

a provision for this, but I am going to propose that, in phasing out the energy efficiency portion of the bill, we create a separate energy efficiency portfolio standard so we still have a strong priority for efficiency in the state.

Vice Chairwoman Kirkpatrick:

Do you have a proposed amendment or did you mention this in the Senate? I am trying to get to the crux of the bill, because we have another bill to hear and then many of our Committee members will be leaving for a different committee meeting shortly. I am trying to get to your concerns, so do you have an amendment for me?

David Gibson:

Yes, I submitted four pages of comments on Friday ([Exhibit J](#)).

Vice Chairwoman Kirkpatrick:

To my mind, this does not look like an amendment except on page 2.

David Gibson:

I spent a lot of time putting together my comments today.

Vice Chairwoman Kirkpatrick:

I am trying to help you with the policy side of this so we can address your concerns and what you want to fix.

David Gibson:

I submitted a handout ([Exhibit J](#)), and on the first page is an overview of my plan for how Nevada can transition to 100 percent renewable energy. In point 1 on the second page, I am asking to revise and extend the RPS, increasing it to 25 percent in 2020, 40 percent in 2025, 60 percent in 2030, 80 percent in 2035, and 100 percent renewable energy by 2040.

In point 2, I would like to create an energy efficiency portfolio standard which would allow for the projected growth in electrical usage and reducing off whatever baseline is established by the state, reducing electrical consumption 15 percent by 2020, 25 percent by 2025, and 30 percent by 2030. That would apply to all electrical consumers in the state.

Vice Chairwoman Kirkpatrick:

Are these programs done in other states?

David Gibson:

I have a link in point 2 relating to the energy efficiency portfolio standards in New York State.

Vice Chairwoman Kirkpatrick:

That is the energy efficiency portfolio standard, but what about the RPS? What other state is at 40 percent by 2025? I thought California was only at 33 percent.

David Gibson:

No other states. I am proposing that we lead the nation rather than follow California and New Jersey.

Point 3 is that I ask you to commission a study regarding the feasibility and economic impacts of reaching the goal of 100 percent renewable energy by 2030.

Vice Chairwoman Kirkpatrick:

In 2009 we did commission a study, and I am happy to get those results for you so you can see them.

David Gibson:

With my home's energy savings, in December I was able to install solar hot water panels manufactured in Sparks by Sunvelope Solar. This is the most cutting-edge solar thermal technology in the world and it supports our local manufacturing economy. With the combined savings from the efficiency and solar hot water, I am looking at solar photovoltaic panels to generate electricity and a ground-source heat pump to provide all my heating in the winter, which I will pay for with the next few years' energy savings. My goal is to be energy independent within the next five years, all on a salary under \$30,000 per year. This is not difficult to do; it just requires good foresight and financial planning. In the same way, transitioning Nevada from importing over 90 percent of our energy as fossil fuels to being energy independent, and even a renewable energy exporter, requires good foresight and planning.

I know there are a lot of Nevadans who think this is out of their price range, but it is not. We just need a statewide plan that every Nevadan can proudly stand behind. I have begun drafting such a plan to reach energy independence, which includes creating over 100,000 permanent jobs in our state. Working together, we can all create a feasible framework to move forward with. Honestly, I do not know all the details of how we will get there. I do not know how we will change our cars or our airplanes to renewable energy, but I bet you that President Kennedy did not know the details about how the lunar lander would reach the Moon's surface when he announced the space race that led to Neil Armstrong walking on the moon. Great leaders take action based on the information they have on hand and lead by example.

Vice Chairwoman Kirkpatrick:

Mr. Gibson, could you submit your talking points to our staff?

David Gibson:

If we wait until we know all the details before we act, we will lose this incredible opportunity to lead the nation to energy independence and instead, we will be following behind California or New Jersey.

I am not a paid lobbyist. I educate students, teachers, and community members in Reno and in Las Vegas about efficiency, renewable energy, and living sustainably. I have taught over 1,000 middle and high school students in Nevada in the past three years. Next week, I will be in Las Vegas visiting three different high schools in seven days. I always start my presentation by telling the students that Nevada receives enough sunlight to power the entire United States and that it is possible with existing solar technology. We have vast geothermal and wind resources as well. I want you to think about the middle and high school students here in Nevada who tell me they are concerned about having jobs when they graduate and who are concerned about climate change and constructing renewable energy. These students have ideas and passion that will move our state to the global forefront if we do not hold them back.

I know that each of you spend a lot of time thinking about our state economy and how to make it significantly better for the students I work with on a regular basis and we all want to thank you for that. I ask you to spend the rest of the day thinking about how we can transition to 100 percent renewable energy in Nevada. When you turn on a light, when you plug in your iPhone, or when you are comfortable in the heating or air conditioning in your home, think of how amazing it would be for us to lead the country with Nevada-generated renewable energy. Think about how planning with the natural resources we have can benefit future generations by creating thousands of new jobs in our state. Please do not feel overwhelmed. There are many of us here in the community who are eager to support you.

Vice Chairwoman Kirkpatrick:

Mr. Gibson, we have another meeting to attend after this one, so summarize this and I can get copies for the Committee members so they could read it. I really want to stick to the policy piece of your presentation. I understand your concerns. I have been working on renewable energy for a long time. I would like to ask you a few questions about your policy, but if we are going to run out of time, I am happy to not ask the questions.

David Gibson:

In closing, please read the written brief I submitted ([Exhibit J](#)) suggesting significant enhancements, and check out the Energy Independence for Nevada website. As the study commissioned by the Clean Energy Project highlighted, the avoided fuel costs far outweigh the rate impacts by about 10 to 1. I think that is really important. I read NV Energy's annual shareholder report for 2012. They spent over \$1.2 billion last year on their fuel costs, including fuels imported from out of state and the power they are buying. That \$1.2 billion a year is about 1 percent of our state's gross domestic product and is being sent out of state in order to import energy. A billion dollars kept in our state economy would create 20,000 jobs. I am looking at how we can do that and not just within the electrical sector, but within transportation and home heating as well. That will keep the \$5 billion-plus we spend out of state on fossil fuels each year; that is how we can keep that in our state and create 100,000 jobs in the long term.

Vice Chairwoman Kirkpatrick:

Mr. Gibson, I would like to know who the folks are in your group. If it is independent, you can just send me a quick email. I would also like to know whether this RPS and energy efficiency standard works without any rebates or abatements.

Danny Thompson, representing the Nevada State AFL-CIO:

We signed in in opposition to this bill. I am speaking for Mr. Paul McKenzie, who could not be here. It was his understanding that an amendment he had proposed would be here, but it is not. It relates to Nevada hiring preference within the portfolio standard and responsible contract language. I want to go on the record that there is another amendment to this bill, but it is not currently available.

Vice Chairwoman Kirkpatrick:

I appreciate your getting that amendment to the Chairman. Does anyone have any questions? [There was no response.] Does anyone else want to testify in opposition to S.B. 252 (R1)? Ms. Ball, do you want to make any closing comments?

Lydia Ball:

I look forward to working with all the stakeholders to get a clean bill for you.

Vice Chairwoman Kirkpatrick:

Thank you. Does anyone have any questions for Ms. Ball? Just remember, Ms. Ball, you have about 16 days because we are not working on this during

the last week of session. With that, we are going to close the hearing on S.B. 252 (R1) and open the hearing on Senate Bill 41 (1st Reprint).

Senate Bill 41 (1st Reprint): Revises certain provisions governing the regulation of certain providers of telecommunication services by the Public Utilities Commission of Nevada. (BDR 58-324)

Debrea M. Terwilliger, Assistant Staff Counsel, Public Utilities Commission:

This is the Public Utilities Commission's bill. We worked with industry in crafting this bill from the beginning. Sections 1 and 3 through 9 deal with some changes at the federal level to the federal Universal Service program. We are bringing Nevada law into conformity with those changes. Section 2 of the bill is the only thing that does not relate to federal Universal Service changes. The federal Universal Service program brings a significant amount of money to Nevada—approximately \$40 million. Part of that program provides low-cost or reduced-cost telephone service to low-income Nevadans.

Section 1 reduces some burdens for small-scale providers of last resort. Those are small rural carriers. At the federal level, the federal government is putting rate floors for them in order for them to qualify for some Universal Service, and we wanted to make it easier for them to file their rate cases with us.

Section 3 makes it clear that the federal Universal Service program involves broadband deployment and it makes sure that we still have jurisdiction over that even inside the broadband exemption statute.

Section 4 ensures that all competitive suppliers, all carriers, have the same eligibility criteria for lifeline service. Sections 5 through 8 relate to the federal link up program which helps buy phones for customers. Now, the federal government says that program is only available on tribal lands.

Section 9 makes it clear that customers can now buy a bundled product and that the lifeline discount is only going to apply to the voice version of the product, which is again consistent with federal law.

Section 2 is the only part of the bill that does not relate to the federal Universal Service program. It is about mergers for public utilities. We encountered a few problems in that statute. Staff and the Bureau of Consumer Protection were not getting notice of some mergers in a timely fashion for us to be able to protest. We changed that to make sure there is clear notice to us.

Vice Chairwoman Kirkpatrick:

Does anyone have any questions? [There was no response.] We worked with you on another telecommunications bill. Are there any conflicts we should be concerned about between the two bills?

Debrea Terwilliger:

No, there are no conflicts; however, there is one section that overlaps. That is section 3, *Nevada Revised Statutes* 704.684—the broadband exemption statute that relates somewhat to section 3. The change we made is consistent with what was made in section 3 of Assembly Bill 486.

Vice Chairwoman Kirkpatrick:

Is there anyone who would like to testify in support? [There was no response.] Is there anyone who is in opposition? Is there anyone who is neutral? [There was no response to either question.] We will close the hearing on S.B. 41 (R1).

Does anyone want to make any public comment? Seeing none, this meeting is adjourned [at 4:38 p.m.].

RESPECTFULLY SUBMITTED:

Terry Horgan
Committee Secretary

APPROVED BY:

Assemblyman David P. Bobzien, Chairman

DATE: _____

EXHIBITS

Committee Name: Committee on Commerce and Labor

Date: May 6, 2013

Time of Meeting: 1:36 p.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
	C	Jeremy Aguero, Applied Analysis	"The Economic Impact of Renewable Portfolio Standard Changes" document
S.B. 268 (R1)	D	Senator Aaron Ford	Introductory remarks
S.B. 268 (R1)	E	Missey Smith, Private Citizen, Overland Park, Kansas	Prepared testimony
S.B. 268 (R1)	F	Senator Greg Smith, Senatorial District No. 21, Johnson County, Kansas	Prepared testimony
S.B. 252 (R1)	G	Daniel Jacobsen, Office of the Attorney General	"Modeling the impact of S.B. 252"
S.B. 252 (R1)	H	Steven Polikalas, rep. Unique Infrastructure Group	Proposed amendment
S.B. 252 (R1)	I	Warren Hardy, rep. Hamilton Solar	Proposed amendment
S.B. 252 (R1)	J	David Gibson, Founder, Energy Independence for Nevada	"Energy Independence for Nevada: 100% Renewable Energy by 2030" document