

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

**Seventy-Seventh Session  
March 27, 2013**

The Committee on Government Affairs was called to order by Chairwoman Teresa Benitez-Thompson at 8:06 a.m. on Wednesday, March 27, 2013, in Room 3143 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](http://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](mailto:publications@lcb.state.nv.us); telephone: 775-684-6835).

**COMMITTEE MEMBERS PRESENT:**

Assemblywoman Teresa Benitez-Thompson, Chairwoman  
Assemblywoman Dina Neal, Vice Chairwoman  
Assemblyman Elliot T. Anderson  
Assemblywoman Irene Bustamante Adams  
Assemblyman Skip Daly  
Assemblyman John Ellison  
Assemblyman James W. Healey  
Assemblyman Pete Livermore  
Assemblyman Harvey J. Munford  
Assemblyman James Oscarson  
Assemblywoman Peggy Pierce  
Assemblyman Lynn D. Stewart  
Assemblywoman Heidi Swank  
Assemblywoman Melissa Woodbury

**COMMITTEE MEMBERS ABSENT:**

None



**GUEST LEGISLATORS PRESENT:**

Assemblyman Cresent Hardy, Clark County Assembly District No. 19

**STAFF MEMBERS PRESENT:**

Jennifer Ruedy, Committee Policy Analyst  
Jim Penrose, Committee Counsel  
Bonnie Hoeffcker, Committee Manager  
Lori McCleary, Committee Secretary  
Olivia Lloyd, Committee Assistant  
Cheryl Williams, Committee Assistant

**OTHERS PRESENT:**

Omar De La Rosa, Policy Staff, Assembly Republican Caucus  
Warren B. Hardy, representing Associated Builders and Contractors of Nevada  
Paul Moradkhan, representing Las Vegas Metro Chamber of Commerce  
Wes Henderson, representing Nevada League of Cities and Municipalities  
Geoffrey Lawrence, representing Nevada Policy Research Institute  
Paul McKenzie, representing Building & Construction Trades Council of Northern Nevada  
Thomas Harris, Ph.D., Director, University Center for Economic Development, University of Nevada, Reno  
Lauren Sankovich, CPA, CFE, Muckel Anderson CPAs  
Danny Thompson, representing Nevada State AFL-CIO  
Samantha Draper, Research Analyst, Smart Cities Prevail, Sacramento, California  
Jack Mallory, representing International Union of Painters and Allied Trades District Council 15  
Andrew Barbano, Vice President, Reno-Sparks NAACP  
Michael Haley, Sheriff, Washoe County Sheriff's Office  
Christopher B. Smith, Administrator, Division of Emergency Management  
Chris Magenheimer, CEM, Project Manager, Regional Communications Operation Coordinator, North Lake Tahoe Fire District

**Chairwoman Benitez-Thompson:**

[Roll was taken. Rules and protocol were explained.] We are going to be hearing one bill today, Assembly Bill 318, presented by Assemblyman Hardy. We will then have a presentation from the National Wireless Public Safety Broadband Network. I will open the hearing on Assembly Bill 318 and welcome Assemblyman Hardy to the table.

**Assembly Bill 318:** Revises provisions relating to the payment of overtime compensation and prevailing wages. (BDR 28-720)

**Assemblyman Crescent Hardy, Clark County Assembly District No. 19:**

As many of you know, I make a living as a contractor, so I have a working knowledge of prevailing wage issues and the problems we face today.

[Assemblyman Hardy continued reading from prepared text ([Exhibit C](#)).]

Studies report over and over again that prevailing wage requirements artificially raise the price of labor and distort the construction marketplace, and many have reported that the provisions in place are meant for organized labor's protection.

A 2008 study by Beacon Hill Institute at Boston's Suffolk University concluded that the Davis-Bacon Act requirements resulted in a 22 percent wage premium. Another example was a 2011 report by the Nevada Policy Research Institute that concluded Nevada's prevailing wage requirements result in an average wage premium of 44 percent to 46 percent. Finally, there is a 2002 nonpartisan report by the Ohio Legislative Service Commission that concluded savings between 5 to 10 percent of the construction cost per school, and also, once prevailing wage was removed, worker's wages increased by 3.2 percent ([Exhibit D](#)).

[Assemblyman Hardy continued to read from prepared text.]

I urge members to support Assembly Bill 318. I would be happy to answer any questions you may have.

**Chairwoman Benitez-Thompson:**

Assemblyman Hardy's testimony is on the Nevada Electronic Legislative Information System (NELIS) ([Exhibit C](#)). Are there any questions from the Committee?

**Assemblywoman Neal:**

In section 3 of the bill, you are adding the definition of maintenance, so I am trying to figure out how many people were a part of the conversation. I remember a couple of weeks ago we had a conversation on maintenance and how vague it is and sometimes there is an issue of how a city determines what is maintenance, what is not maintenance, and how people get involved in projects. Who helped you come up with the definition?

**Assemblyman Hardy:**

We determined what other states were using as the definition of maintenance, and I believe we basically chose the Missouri study regarding their prevailing wage and definition of maintenance.

**Assemblyman Ellison:**

If you go back to section 1, subsection 3, where you deleted paragraph (b), "Eight hours in any workday that the mechanic or worker was employed by the contractor or subcontractor, including, without limitation . . . ," I noticed you had that in your testimony. Could you elaborate on that?

My second question is by raising the threshold, how many schools do you think we can address in repairs and maintenance? How would that affect the employees in the union workforce? I know that is a lot to try to get on your plate at one time.

**Assemblyman Hardy:**

Regarding the 40-hour workweek, what happened with this law when it was revised, and I think I heard this from Mr. Tanchek, the former Labor Commissioner, was an unintended consequence. We travel for work all over the state. When we are out of town, employees like to get back home to their families when they can, so they like to work the 4/10 workweek, which is fine. All employees like to get their 40 hours in a week. However, if there is any type of delay, such as a weather delay, during that 4/10 workweek, and I have to change the workweek schedule so they can make up the extra hours that are missed, overtime is automatically paid for all of those previous hours that are over eight hours a day. It could go back as early as the beginning of the project. No one has ever tried to go after that, but legally it is an opportunity to go back and have to pay for every hour over eight hours in a day.

The reason I believe the threshold is so important, being a former public works director myself, not only in this day and age, but even back to the '80s, \$100,000 could hardly build anything without having to go to prevailing wage. There were a number of times back then when I would have liked to have done \$300,000 or \$400,000 maintenance or repair projects, but when you have to pay prevailing wage, the lower it is, the more costly it becomes once it gets over that \$100,000 threshold. When you get into \$3 million or \$4 million projects, then it does bring a little bit of equity back to it. That is the reason I want to try to get the threshold higher so they can continue to do those projects, especially in the rural communities. There are a number of things the rural communities need to do and they need to make their dollars work as efficiently as they can. That is the reason I went with the \$1.5 million threshold.

**Assemblyman Ellison:**

The other question was the impact to the workforce by raising that threshold. Where do you think this is going to put the workforce, the prevailing wage versus outside of the Davis-Bacon Act?

**Assemblyman Hardy:**

I do not think there is any impact. As a matter of fact, if you go back to the Ohio study, it actually increased the wages for the employees. I do not know what the effect would be on a union versus an open shop, but I think the competition should be in place. I do not think there is any effect on that situation.

**Assemblyman Livermore:**

Your bill requires a 40-hour workweek or four 10-hour days. That does not only exist in construction; it exists in retail and other areas. I have a similar bill that is going to be heard on Friday, I think, that is trying to address a local automobile dealership that hires their employees to work four 10-hour days. They have the same problem with the overtime. It costs that business thousands and thousands of dollars annually. I want to get on the record that even though it is addressed in this bill, there are other examples of where this is impacting other industries. A consequence could be rather than hiring six or eight employees, the dealership would only hire four or five. There could be an advantage to putting people in full-time employment if this was understood. The employer should not have to pay the burden of extra compensation that is owed to a worker by the way the law is written. That is not a question; it is just a position statement. I understand where you are coming from with that and hopefully the Committee that hears my bill will understand that also.

**Assemblyman Hardy:**

I appreciate the comments. This law is in *Nevada Revised Statutes* (NRS) Chapter 338 and will not address the issues you are talking about, which are probably in a different statute.

**Assemblyman Stewart:**

Would you remind me the last time the threshold was increased?

**Assemblyman Hardy:**

I believe it was 1983 or 1985. I cannot remember exactly.

**Assemblyman Stewart:**

Do you remember what the minimum wage was back then?

**Assemblyman Hardy:**

I have no idea.

**Assemblyman Stewart:**

Has it increased substantially, to your recollection?

**Assemblyman Hardy:**

Substantially.

**Assemblyman Stewart:**

Minimum wage has increased, but the threshold has not increased at all, is that correct?

**Assemblyman Hardy:**

That is correct.

**Assemblywoman Swank:**

I have a similar question about the cap. If it was set in 1985, if we adjust for inflation, that puts us at about \$277,000. I am just wondering why the \$1.5 million and if it would not be better to adjust it for inflation as minimum wage has been adjusted?

**Assemblyman Hardy:**

I understand it would be around \$280,000. My opinion is it was too low then and it also restricts the benefits of getting a little higher project to where the cost of the project will save those municipalities extra dollars for those lower cost projects. Most projects now are pretty huge when they are bid out, well above \$1.5 million. These maintenance projects and other improvement projects in communities, especially the small communities, could accomplish so much more if that threshold was higher.

**Assemblywoman Neal:**

I was reading your statement and I have a question about the 2011 report by the Nevada Policy Research Institute (NPRI) ([Exhibit E](#)) on the prevailing wage requirements that resulted in an average wage premium of 44 percent to 46 percent. Help me understand what was measured in order for them to come up with the increase. You are contrasting it against the 2008 study by Beacon Hill Institute at Boston's Suffolk University and the Davis-Bacon Act requirements. Help me understand the contrast between those two reports and the differing measurements they have.

**Assemblyman Hardy:**

I cannot tell you what their contrasts were on the reports exactly. I do feel the Ohio study is one of the more accurate studies because it was actually put in place and tested with real dollars and real work accomplished. There is actually a new report that has just been completed for the Las Vegas Chamber of Commerce by a nonpartisan group. I have seen the report, but I do not know if it has been posted for the public. It showed savings of anywhere from 25 percent to 40 percent.

Some individuals believe that you are taking from the employees' pockets on this. Most of those collective bargaining units that are within the prevailing wage and the way the reports are done within our state, which is not part of this bill, have cause and effect. If 40 percent of union or closed shops report, then that study in our state stands. The argument is, yes, the open shops do not report, it is a costly measure to report. I pay my employees well, probably as well as anyone. If we took the dollars that actually went into the employees' pocket, we are talking about health benefits and retirement benefits, you would still have an inflated cost in prevailing wage with collective bargaining units. These are items that I do not believe the taxpayer should be paying for, union-type benefits.

**Assemblywoman Neal:**

Can you elaborate on what those items are that you feel should not be paid for?

**Assemblyman Hardy:**

One is training. I am all for training. I pay for training in my company and my employees are well trained in safety and in their trade. I have to pay for it, but I do not get that same benefit back from the training that is paid on the salary. Another is job targeting. There are dollars that go out and back into those shops that are funded to compete against me as an open shop that I do not get the benefit from. The union shops are able to take that same dollar and put it into job targeting to compete against me. There are a lot of things in there, when you look at the report, that the Office of the Labor Commissioner gives that you cannot identify exactly what they are.

One of the other concerns I have is with health benefits. I pay just as good of a health benefit in my company as any closed shop. Why does it cost me anywhere from \$1.80 per employee, per hour, when the trades are costing anywhere from \$6 to \$12 per hour, depending on the trade? I do not understand that, and they are self-insured. If the private market is supposed to be so difficult to deal with, why are we paying more for closed shop insurance? Those are some of the areas I have concerns with.

**Chairwoman Benitez-Thompson:**

Mr. Hardy, you have another document on NELIS and I would like you to explain the numbers. It is identified as, "List of the Awarded Contract for School Districts and Higher Ed for the Last Three Public Works Years" ([Exhibit F](#)). Are these the total numbers for the project costs in northern Nevada and in southern Nevada? Can you tell me what this document is and what these numbers are?

**Assemblyman Hardy:**

If I may, Madam Chairwoman, I would like to have Mr. De La Rosa come up and explain those numbers. They were handed to me just before this meeting.

**Chairwoman Benitez-Thompson:**

Mr. De La Rosa, can you tell me what these numbers are? Are these aggregate totals of costs on projects?

**Omar De La Rosa, Policy Staff, Assembly Republican Caucus:**

We requested these numbers from the Office of the Labor Commissioner. They are what was awarded to schools. It does not show the final costs of the actual projects, only what was awarded. We submitted these numbers to show the amount of money we spent in schools for 2010, 2011, and 2012.

**Chairwoman Benitez-Thompson:**

These are not specific to wages, it is just the total amount of money spent on the projects, correct?

**Omar De La Rosa:**

A lot of these would be under prevailing wage if they were over \$100,000. We assume they are under the prevailing wage law.

**Chairwoman Benitez-Thompson:**

Are these the total costs of salaries and benefits?

**Omar De La Rosa:**

They are total awarded costs for construction work.

**Chairwoman Benitez-Thompson:**

Were these on all projects, or just the prevailing wage projects?

**Omar De La Rosa:**

They were all school projects.



**Assemblyman Daly:**

In your company, when you pay employees on non-public works jobs, do you pay them more than minimum wage?

**Assemblyman Hardy:**

My employees, on a non-public works job, are paid anywhere from \$25 to \$35 per hour, unless it is a prevailing wage job.

**Assemblyman Daly:**

So you pay them more than minimum wage?

**Assemblyman Hardy:**

Absolutely.

**Assemblyman Daly:**

You pay them more than minimum wage so you can attract the best workers and keep them on your job. If you paid minimum wage, do you think you would get quality employees?

**Assemblyman Hardy:**

You have to be competitive, and I have been very competitive along with many other open shops within the state. I actually have individuals who were in union shops who are working for me now.

**Assemblyman Daly:**

I am just trying to point out that being in the construction industry, you pay higher than you have to because you want to attract the best people. On a public works job versus a non-public works job, do you cut your profit margin? In other words, if we had a limit that a contractor could only make 2 percent profit on a public works job, do you think that would adversely affect the number and the quality of contractors who bid on public works jobs?

**Assemblyman Hardy:**

I am not sure I am catching the gist of that question.

**Assemblyman Daly:**

Hypothetically, if there was a rule that said if you are a contractor and you are going to bid on a public works job, you have to cap your profit at 2 percent—you cannot make any more than that—do you think that would affect the quality and the number of contractors bidding on those projects?

**Assemblyman Hardy:**

I do not think it would affect my quality. I surround myself with good employees who are experienced, and I believe most contractors in this state attract the best and brightest and pay the best they can. It is a competitive market.

**Assemblyman Daly:**

You are not answering my question.

**Assemblyman Hardy:**

I am not catching your question.

**Assemblyman Daly:**

If you are a contractor and you are going to bid on a job and the highest amount you could possibly earn on the job is limited at 2 percent, do you think people without that cap would take that opportunity, so there would be fewer contractors bidding, and lower-quality contractors bidding? Some contractors would think their work is worth more than that and can get more than that. They could pay higher wages so they could get the best employees. Do you think that cap would adversely affect the number and the quality of the contractors that would be willing to bid on public works jobs?

**Assemblyman Hardy:**

It may affect it, but that is a scenario I cannot answer.

**Chairwoman Benitez-Thompson:**

I want to make sure we have time to hear the folks in the audience in support and opposition of the bill. We will leave the question for the moment. Are there additional questions for Assemblyman Hardy?

**Assemblywoman Pierce:**

I am taking a quick look at the Beacon Hill study, which starts out with an interesting line, "One feature of public construction projects that the critics seem less willing to recognize, however, is that they function also as a costly welfare system for union workers." I am also looking through the rest of the content and I am not seeing anything about the multiplier; about what happens in a community when everyone makes so little that they have no ability to do anything except barely feed themselves and barely keep a roof over their head. There is no ability to go to a restaurant, go to a movie, or use the services of the small businesses in the community. There is nothing in here about that.

You simply cannot talk about wages in a community with any kind of accuracy unless you talk about the multipliers; unless you talk about what effect paying

people fair wages and making sure the people in the community have disposable income has on a community. If you know, I would also be interested in who funded this study. I see they have referred to some research arm of some part of the government, but they also take private grants. I am looking at the list of people they take private grants from and many of those people are well known to those of us who pay attention to big money on both ends of the political spectrum.

**Assemblyman Hardy:**

I have no idea exactly who funded the Beacon Hill study. There are studies that can go in a multitude of directions. As you see, there is anywhere from 40 percent to 5 percent on these studies. To say that employees are not spending out in the market; I know a number of contractors who are open shop. The employees do not have boats, they do not have all the toys that go with it. With these closed shops, based on the economy, people need a job today more than they need lots and lots of money. Do they need that boat, do they need that motor home? Yes, that benefits the economy at large down the road, but it also costs individuals to maintain those, to pay the insurance to protect that piece of equipment. Is that what the world needs today, or do we actually need food in our mouths and a roof over our head?

Those higher dollars that are perceived from this are not going into the employees' pocket. The money actually goes into national union funds. As taxpayers, why are we funding a national union with our tax dollars?

**Chairwoman Benitez-Thompson:**

We have a lot of folks who want to make comments on the record and we will get as many of those documented for the record as we can. At this point, I am going to move to support of the bill. I appreciate everyone's patience so we can keep the legislative record clear in terms of support, opposition, and neutral testimony. I will invite those up to the table who are in support of the bill.

**Warren B. Hardy, representing Associated Builders and Contractors of Nevada:**

I appreciate the opportunity to testify in support of Assembly Bill 318. I would like to provide a 30-second history on where our association has been in the relationship with the issue of prevailing wage. I have been associated with the Associated Builders and Contractors of Nevada for almost 20 years. Never has prevailing wage reform been at the top of our agenda for the Legislature. In fact, until last session, it was nowhere on our list of priorities. We just did not address it. That is because we had a divide among our membership in terms of whether or not prevailing wage should be reformed. We had several members who looked at this as a taxpayer issue, but not a contractor issue. Almost across the board, our membership has always considered this a taxpayer issue,

not a contracting issue. In fact, many of them like prevailing wage because it levels the playing field when you go into the bid process. You know the wage that is going to be paid.

You may ask why this is a priority for us now. We have spent quite a bit of time over the last year trying to figure out why Nevada, particularly the construction industry in Nevada, is lagging behind the rest of the country in terms of economic recovery. Some of the things we found surprised us; some of them did not. However, one of the things that consistently came up when we had these conversations with developers, investors, and others who were choosing our neighboring states for development instead of Nevada, was the excessive prevailing wage amount in Nevada. It has never really been an issue in the past because prevailing wage does not apply on private sector work. So why, all of a sudden, is it an issue? It is an issue because right now the only construction that is occurring in Nevada, for all intents and purposes, is either construction that is publicly funded or construction that has some federal loan guarantee or federal participation. As a result of that, it triggers the requirement to pay prevailing wage. Although it might be a privately funded project, the loan guarantee or the small input of federal or state dollars requires that prevailing wage be paid. As a result of that, people are analyzing the prevailing wage and it is forcing them to choose other states.

One of our members had a conversation with a developer who chose to do a renewable energy project in Arizona. This member asked the developer why he chose Arizona instead of Nevada, because we have the workforce and the right amount of sun. The developer said the greatest economic development tool the state of Arizona has is Nevada's excessive prevailing wage.

Our members then came to us and said, "We want to emphasize that we do not support the elimination of prevailing wage." I want to make that clear for the record because I think some folks that follow this might think that is our endgame objective. It is not. We do not support the elimination of prevailing wage. However, if it is causing us problems in terms of regional economic development, we have to look at two things. There are only two things you can do. You can try to make the law more equitable, or you can reform the way in which prevailing wage is determined in order to bring us in line with other states.

The bill before us today takes that first option—to try to level the playing field to try to make prevailing wage more equitable. We are here to support that. I will limit my comments today to the bill. I hope we have another opportunity this session to talk about how we might reform the calculation of prevailing wage to level the playing field. For my purpose today, I just wanted to provide

that background and our association's relationship with prevailing wage. We do not support its repeal. We do, however, support bringing prevailing wage to a level that makes us competitive. We support the original intent of prevailing wage, which is to ensure workers on public works projects are not paid less than workers in the private sector.

Specifically, we believe the first thing the bill does to level the playing field and make it more equitable is the issue of correcting the overtime. Again, it has been pointed out that we pay well in excess of minimum wage. However, the law requires that if workers on public works jobs work more than eight hours in a day, then the contractor is required to pay one-and-a-half times the prevailing wage. Our issue with that is simply this: that provision applies to the nonunion contractors only. The law specifically exempts those who come under collective bargaining agreements. We can have a discussion about the merits of that and, frankly, we could go either way. All we are saying is level the playing field. There is not a valid public policy reason, if we are looking at the purposes of prevailing wage, to have a standard that is different for the open shop industry than for the union industry. It is just not fair and it is not equitable. There is not a public policy reason to do it. Again, as far as I am concerned, we can go either way. We can make everyone subject to the ten hours, or we can make everyone subject to the laws as they apply to the union companies. We would respectfully ask for that to be corrected.

I will not go into too much detail about the threshold increase. I think it is time to examine an increase in the threshold for all the reasons that have been articulated.

The other reform in this bill is clarifying the prevailing wages for new construction and not for renewal or maintenance projects. We think that is appropriate. We believe a lot of states have gone in that direction and we think it is appropriate for Nevada in terms of bringing our prevailing wage into line with surrounding states, allowing us to compete.

In the interest of brevity, Madam Chairwoman, I will leave it at that. We do appreciate the opportunity to be here and we do appreciate the Committee's consideration of bringing prevailing wage into some equitable form.

**Chairwoman Benitez-Thompson:**

I think what I am going to do is take all the testimony in support of the bill, and then take the questions after. I have a feeling we will be hitting on similar themes in the questions.

**Paul Moradkhan, representing Las Vegas Metro Chamber of Commerce:**

The Las Vegas Metro Chamber of Commerce is here today to express its support of Assembly Bill 318. The Metro Chamber believes this bill is good public policy in regard to the overtime and prevailing wage components that the bill brings forward. The Metro Chamber believes this bill will help with job creation and will help our state become more competitive in attracting new business.

We must become more competitive if we wish to be successful in diversifying and strengthening our economy. This type of legislation is important as we have discussions on how we can improve our state's economy. It also leads to a larger conversation that we need to have of how we look at prevailing wage structure in our state and how it is calculated. As many of you know, prevailing wage reform is a longstanding policy priority for the Metro Chamber.

We would also like to thank the bill's sponsor, Assemblyman Hardy, and his cosponsors for introducing this bill. We appreciate these efforts and thank you for your consideration on this piece of legislation.

**Wes Henderson, representing Nevada League of Cities and Municipalities:**

We do support Assembly Bill 318, particularly the provisions that raise the threshold for prevailing wage. As Assemblyman Hardy said in his testimony, it has been quite a number of years since that threshold has been changed and we believe it is time to take a look at it and adjust it.

**Chairwoman Benitez-Thompson:**

We will now go down to southern Nevada.

**Geoffrey Lawrence, representing Nevada Policy Research Institute:**

Two years ago, the Nevada Policy Research Institute (NPRI) published a study ([Exhibit E](#)) on the fiscal impact of prevailing wage requirements that compared the existing prevailing wage schedule with a parallel wage survey conducted within a different branch of the Department of Employment, Training and Rehabilitation (DETR). While the Office of the Labor Commissioner's survey to determine prevailing wages suffers from some methodological problems that bias the results in local trade unions, including its accounting requirements, occupational definitions, self-selection error and majority rule provisions, the Occupational Employment Survey (OES) is a more scientific and comprehensive wage survey that includes most of the same construction occupations.

While the OES survey looks at only wages and not the value of employer-provided benefits, the two surveys can be directly compared with minimal adjustment. To do so, NPRI adjusted the OES rates upward by

40 percent to simulate the cost of employer-provided benefits. When the two resulting wage surveys were compared, it became clear that prevailing wage rates are higher than market wages, as looked at by the OES, by an average of 44 percent in northern Nevada and about 46 percent in southern Nevada, with substantial variation among particular occupations. In some occupations the prevailing wage rate is actually lower than the OES rate, and for some occupations, it is substantially higher. In fact, it is sometimes more than double the OES rate. Thus, if wages account for only 30 percent of a project's total costs, then the project will cost about 13.2 percent more at prevailing wage rates than at market rates.

I would like to address the question I heard earlier about the comparison between our study and the Beacon Hill study. They both basically take the same approach in that they compare the OES rates to prevailing wage rates. However, the Beacon Hill study was looking at Davis-Bacon Act rates on federally funded projects. Those tend to be lower than state prevailing wage rates for a number of reasons, one of which is in our state determination process, we include wages paid on prior prevailing wage projects, or publicly funded projects, and this creates a feedback loop that makes the wage rates look higher than would otherwise be the case. The Davis-Bacon Act requirements do not do that. They exempt all publicly funded projects from their survey process.

It is also notable that the OES is federally funded with a grant from the U.S. Department of Labor. As a result, the state could realize a significant cost savings simply by asking prevailing wage determinations on the OES instead of conducting a parallel survey within the Office of the Labor Commissioner.

The NPRI findings are consistent with what researchers have found in other states. For example, after Ohio lawmakers exempted public school construction from prevailing wage requirements in 1997, nonpartisan legislative staff examined the impact five years later and determined the exemption resulted in about a 10 percent cost savings for those projects. Similarly, a study by Kentucky's legislative staff concluded that prevailing wage requirements inflate public construction costs anywhere from 10 to 15 percent. So it is pretty consistent.

It is notable that when every construction project costs more to undertake, fewer projects can be undertaken. As a result, prevailing wage requirements actually result in fewer job opportunities for construction workers. Many studies confirm that prevailing wage is associated with a loss in construction employment. Even prevailing wage advocates have admitted this. The most

notable is a 1995 study by Peter Philips at the University of Utah, which was union funded.

Prevailing wage advocates have admitted that these requirements inflate public construction costs. What they have argued instead is that these requirements either increase construction quality or lead to fewer workplace injuries because more experienced workers are employed. However, there is little evidence to support these claims.

When Ohio's legislative staff examined the impact of exempting public school construction from these requirements, about 91 percent of those surveyed concluded that they found no difference in workmanship quality after the exemption, 2.6 percent believed quality had deteriorated, while 6.1 percent believed quality had improved. These were school administrators who were surveyed. Similarly, Kentucky legislative staff has concluded thusly (*An Analysis of Kentucky's Prevailing Wage Laws and Procedures*):

There was substantial evidence that prevailing wage laws did increase the initial costs of construction. It was unclear, however, whether the requirements result in higher quality construction. To the extent that quality is increased, prevailing wages were an inefficient method to increase quality. The wage requirement results in contractors paying higher wages with no guarantee that the additional wages would result in quality improvements.

In fact, it makes little sense that a price floor on a single input would lead to higher quality construction. Instead, it is more likely that a contractor would scrimp on the quality of materials in this case in order to make their bid more competitive. If quality is the goal, it would make more sense to address this issue directly through higher rates of inspection to ensure compliance with contract specifications.

With regard to worker safety, the federal Occupational Safety and Health Administration (OSHA) data shows that the frequency of workplace injury has been higher in states with prevailing wage laws than in states that never implemented these laws. It is a little ambiguous as to whether that actually results in fewer workplace injuries.

With that, I am happy to take any questions.

**Chairwoman Benitez-Thompson:**

I am looking at page 11 of your study ([Exhibit E](#)). You talk about the lack of data specific to Nevada and the low population figures in Nevada's



rural counties. In the next paragraph, you indicate, "This analysis assumes, as is standard, that labor costs account for 50 percent of total construction costs." Talk to me about the real numbers you used for your study, where you got those numbers in 2009 and 2010 versus the lack of data and assumptions you made in the study.

**Geoffrey Lawrence:**

There are only three metro areas in Nevada that can actually be compared to the federal Occupational Employment Survey: Las Vegas metro region, Reno metro region, and Carson City. Because the Occupational Employment Survey is done by metro region and our state only does surveys by county, they are not exactly the same. However, for all intents and purposes, those areas really correspond to Clark County, Washoe County, and Carson City.

**Chairwoman Benitez-Thompson:**

So within those areas where you were able to get the Occupational Employment Survey, what numbers did you compare those to? Did you compare those to the public records from certified payroll and actual numbers paid? This Committee heard an earlier bill that was looking at the prevailing wage rate. I think the public thinks, and I thought as a public policy maker, that when we talk about a prevailing wage rate, that is the actual dollar amount a worker gets. We have learned through different hearings and looking at certified payroll that the actual wage paid is much lower than what people actually think. There is money going into benefits and undefined fringe benefit plans. To me, I think it would be important to actually look at those certified payrolls and the actual numbers that are being paid and where they go. Was that anything you contemplated in this study?

**Geoffrey Lawrence:**

We did not use certified payroll records. We used the published prevailing wage schedule on the Office of the Labor Commissioner's website.

**Chairwoman Benitez-Thompson:**

So you assumed those labor rates at that dollar per hour?

**Geoffrey Lawrence:**

Yes.

**Chairwoman Benitez-Thompson:**

Who did you have prepare and review this data for your study? Was it you yourself, was it you and your staff at NPRI, or was it sent out for any kind of a peer review?

**Geoffrey Lawrence:**

That would be my staff and me.

**Assemblywoman Neal:**

I want to go back to a statement you made when you said you looked at the Labor Commission report. Could you tell me again about what you were comparing?

**Geoffrey Lawrence:**

The Labor Commissioner publishes on their website every year an annual schedule of prevailing wages that must be paid on publicly funded projects.

**Assemblywoman Neal:**

On page 10 of your report, it states, "In fact, the Labor Commissioner does not really calculate the prevailing wage, but the wage that would prevail if the wage-setting process were dictated solely by trade unions." Help me understand that statement.

**Geoffrey Lawrence:**

I think the complaint is because there is significant self-selection bias in the survey collection process. In other words, the Labor Commissioner sends out surveys each year to every contractor in the state, but he only gets about 5 percent of those surveys back. The ones he gets back tend to be from people who are actually bidding on prevailing wage projects. In other words, contractors who work on publicly funded projects and pay prevailing wage. Basically, the self-selection bias tends to select out those who are paying different wages. Once the Labor Commissioner amasses all of those wages, there is a majority rule provision where he actually only has to get 40 percent. Forty percent of the wage surveys that are returned in a given county in a given year are the uniform wage rate, which is typically going to be the union rate, then that is the rate that is now prevailing. The average of all of the responses are discarded in that case. If there is less than a 40 percent threshold that is met, the average of all those wages would become the prevailing wage rate.

**Assemblywoman Neal:**

If less than 5 percent of the surveys are being turned in, is that an accurate measurement to use to create a baseline assumption to then move forward and build a report or statement on it? Less than 5 percent does not tell you much of anything. To me, it is a snapshot. When you also stated that there was not enough data because of the low population within the rurals, it seems like we are comparing apples to oranges, but yet we are comparing a small apple to perhaps a nonexistent orange. I am trying to understand the basis of the hypotheses that you set forth in the study.

**Geoffrey Lawrence:**

Let me address both of those issues separately. The 5 percent issue, in terms of responses, we actually have the same complaint. You should not be able to make a statewide wage determination based on only 5 percent, especially when it is not a random 5 percent that has been self-selected. We think if there were a more strenuous process for checking back with contractors, making sure they turn in their surveys and getting a more comprehensive picture of what the wage environment looks like, then the Labor Commissioner's determinations would be more reliable.

With regard to the issue of rural counties, we discarded those counties entirely. We just looked at Washoe County, Clark County, and Carson City because there is such a low return in the rural areas.

One of the other issues with prevailing wage is if the Labor Commissioner does not get a survey returned for a particular occupation in a rural county, then the prevailing wage rate in that county is anchored to the county with the closest seat. In that case, you might have prevailing wage rates in Esmeralda County that are determined by Clark County, where the labor environment looks much different. You would expect to see higher wages in Clark County, generally, than in Esmeralda County. It may not be appropriate to use a Clark County prevailing wage schedule for Esmeralda County or Eureka County.

**Chairwoman Benitez-Thompson:**

One thing that is important to me, as Chairwoman of this Committee, is I like concrete numbers, I like surveys and data, and I like looking into the methodology of all of that. If we have good numbers, it can drive good public policy and I think we absolutely use them. Part of the hearing today, for me, is about getting past rhetoric that does not drive public policy in a way that is in any way fact-based.

The first page of the NPRI Study is where I saw a red flag. You talk about lawmakers channeling hundreds of millions of tax dollars each year to benefit the union so they can come back into our own campaign coffers. As much as I want to read your report with unbiased eyes, it makes a lot of the data harder to digest in a way that is genuine versus disingenuous. I just wanted to put that out there.

I also want to make sure that we get all comments on the record. Are there any additional questions from the Committee? The NPRI report is on NELIS ([Exhibit E](#)) and there is also a hyperlink ([Exhibit D](#)).

**Assemblyman Ellison:**

Mr. Hardy, in your testimony, one of the things you said was about the prevailing wage and the Davis-Bacon Act. As an example, we will look at two different projects. We have a union project over here, which is Davis-Bacon, and it will be \$1 million. If we took that same project under the private sector, using the same workforce, what do you think the comparison would be?

**Warren Hardy:**

I have been doing this for a long time and you will rarely hear me cite a study. I can give you 15 studies that make my case, and then my friends in labor will give you 15 studies that will make the opposite case. You can get fair and equitable studies and some of them that are out there are good. However, to try to make that kind of a public policy argument, you just get into a battle over studies.

I think there are true anecdotal evidences that are very instructive. When we make the case that the prevailing wage is higher than what is being paid in the private sector, all we have to do is look at the prevailing wage that is being paid and is required to be paid and look at the Department of Education, Training and Rehabilitation (DETR) rate of what is being paid in a similar trade. Take out anything but the base salary. That is a separate issue, as the Chairwoman pointed out. Where are all these benefits going and why is there such a great difference in the wages?

We have had instances where jobs have mistakenly been bid as non-prevailing wage jobs and the public entity realized there was a problem, or they realized there was a requirement to go prevailing wage because of some federal subsidy. They went back and rebid the project as a prevailing wage project. We see those differences anywhere from 20 percent to 30 percent on the labor rate.

Madam Chair, I hope we have an opportunity to discuss the things we can do to make prevailing wage more equitable; to have a prevailing wage rate that actually prevails, that provides a good wage for the worker, and provides equity for the taxpayer as well. In many instances, it is exactly the same worker. He will be on a prevailing wage job in the morning, making \$45 per hour, and then work in the afternoon at a non-prevailing wage job and make \$27 an hour. Does he reserve a special set of skills for the public sector job? Does he have a separate tool belt? I do not know how that works. We need to get to the point where we are paying a fair and equitable prevailing wage that is fair to everyone.

I do not quote studies, but I think if you take the time to do some research, look at the DETR rate that is reported on a regular basis regarding the wages that are being paid in the private sector and compare those to what is being paid under prevailing wage. You can get an accurate picture.

Madam Chairwoman, I apologize for this, but I neglected to state that Tray Abney from The Chamber in Reno-Sparks could not be here today and asked me to place his association on the record in support of the bill.

**Chairwoman Benitez-Thompson:**

We will make sure that is noted for the record.

**Assemblyman Daly:**

I would like to make a comment about something Assemblyman Hardy said earlier, which might be his view, but he is not correct. When he said taxpayers are paying into a benefit plan by an employee or a national pension, that is simply a lie. No more than workers who work on a prevailing wage job and then go buy a Fiat or a Toyota, are we paying for that car, paying for his child to go to college, or paying for him to go to a strip club. When a worker gets his wages paid on a job and what he does with those wages, whether he decides to go through a collective bargaining agreement into a pension plan, the taxpayers are not making that decision. They are paying that person his wages and he is spending his money. I wanted to clear that up so the Committee and the rest of the world know there is a lot of mud being slung here today and I hope we get to the truth eventually.

**Chairwoman Benitez-Thompson:**

Are there any additional comments in support of the bill? [There were none.] We will move to opposition of the bill in northern Nevada and southern Nevada.

**Paul McKenzie, representing Building & Construction Trades Council of Northern Nevada:**

With me today is Professor Thomas Harris, professor of economics at the University of Nevada, Reno (UNR), and Lauren Sankovich, a certified public accountant. I brought them to the table with me this morning because on NELIS we posted a study ([Exhibit G](#)) that was conducted by UNR in the interim. It addresses the specific issues that we are discussing today. Professor Harris, being one of the authors, will testify to the validity of the findings of this study and how they reached these findings. There is an attachment to this study, which is an analysis of the labor costs on several types of public works projects performed in Washoe County. The labor costs used in this analysis came from certified payrolls, which we must assume are an accurate reporting of the actual

labor costs on these projects. Ms. Sankovich reviewed the findings and will speak to their accuracy.

Professor Harris has to get back to UNR for a meeting, so if we could have him testify first and get the questions out of the way so he can get to his meeting, we would appreciate it.

**Thomas Harris, Ph.D., Director, University Center for Economic Development,  
University of Nevada, Reno:**

The Building & Construction Trades Council of Northern Nevada (BCTCNN) contacted our department chair, who then contacted me and co-author Sankar Mukhopadhyay. Dr. Mukhopadhyay is a labor economist and I have done some studies on regional economics in this area.

As you see, there have been many studies people have been talking about on prevailing wage. There seem to be very conflicting answers and results. That is one thing I am going to talk about, showing if there is a correlation between prevailing wage and the cost of construction. The earlier studies you have seen are pretty large. Among the studies that explore the relationship relating to construction wage range from as high as 23 percent to approximately 2 percent. These differences may be that you need to consider other things within the development of these wages. Sometimes these studies do not reflect all the different types of variables.

Normally overlooked is the number of bidders who are competing for these contracts. Also, price trends may be incorporated in these analyses. Scheduling school projects, we found in some of the studies that some of the schools throughout the nation do not spread out the construction. If you have all the school construction during the same time period, that may inflate the cost. In addition, when the construction occurred, usually in expansion periods, the cost may be higher. There is one study that did analyses and found that during recession, the total cost could be 21 percent lower. There are other things to consider if you are comparing schools, such as an elementary school versus a high school, or private versus public, et cetera. In addition, different states do different things on prevailing wage.

Throughout this study, we were talking about how one person looked at it and how another person looked at it and some of the errors they may have made without including all the different types of factors that need to be looked at.

Basically, you also have to look at the cost, not so much the market wage or skill qualities. You need to compare occupations to occupations to get an idea

of exactly what the difference is in the wages. Sometimes, when they use just regular market wages, they may get a differential that is pretty high.

One of the studies we followed was a study by Kessler and Katz who did a national study looking at blue-collar construction. They were basically looking at what happened before the repeal and after the repeal of prevailing wage. I will talk about how we looked at that also. I think that is a new way of doing things we need to look at when we do things like this. At one time, the study found that the decline was about 21 percent in wages for construction. However, what happened overall in blue-collar construction in nonrepealed states was the wages decreased about 19 percent. They also looked at what would happen with non-blue-collar wages. At the end of the day, what they found with what we call the difference-in-difference-difference (DDD) model is that repealing the prevailing wage led to about a 1.3 percent decline. These also just looked at the wages and did not include the other things, such as health and pension benefits, that are part of the total compensation package.

There has already been discussion about the Davis-Bacon Act, so I would like to go into other things. Basically, what we did in our study, following the Kessler and Katz procedure, we looked mainly in the mountain states, not including California, Washington, and Oregon. Arizona, Colorado, Idaho, Nevada, New Mexico, Utah, and Wyoming were within our procedures. Four of the mountain states repealed the prevailing wage, so you have something where you have one state that does something and another state that did not. You are looking at a what-would-happen comparison. Arizona, Colorado, Idaho, and Utah repealed the prevailing wage, while four other states did not. In running the model, what we found with the nonrepeal states is about a 1.7 percent decline in short run periods, and up to ten years, about a 4.4 percent decline in wages.

The study also discussed a little bit about multipliers. There are other studies in this project that looked at that and it did look like reducing the prevailing wage reduced economic activity. What happened with reducing economic activity in tax returns because of lower incomes to the households?

The other thing with the prevailing wage that many other studies did not look at was incorporation to higher productivity that would go along with this. Also, with prevailing wage, it seems to bring in a larger, more educated construction class, which we need for future periods.

In summation, we did an independent study and I had two other professors look it over for errors. We are also trying to have it looked at from the outside. What we are showing in the prevailing wage is that there are different

conclusions. We looked at new studies versus old studies. It looked like when you compared prevailing wage states versus non-prevailing wage states, those are the results we have, and we feel they represent the impacts.

**Chairwoman Benitez-Thompson:**

I have one question as a point of clarification. You talked about the analyses of states that have repealed prevailing wage versus states that have not. In the long run, there was a significant decline in wages by about 4.4 percent. With prevailing wage repealed, would it all have been private sector?

**Thomas Harris:**

Yes, all of those would be covered in prevailing wage. It was looking just in the mountain states, but it did not include benefits.

**Chairwoman Benitez-Thompson:**

The mountain states being Arizona, Colorado, Idaho, and Utah, for all of that sector, those wages fell?

**Thomas Harris:**

Yes.

**Assemblyman Daly:**

In the study, you found that wages went down with the repeal of prevailing wage, but 4.4 percent is not anywhere near the amount that people claim they can save. Was there evidence that showed there was a corresponding reduction in the cost-of-construction because wages went down?

**Thomas Harris:**

Because we did not have cost-of-construction data, we could not conclude that. We only had wage data. Previous studies have shown some influence on construction costs. Because we did not have the construction cost data, we could not make those conclusions.

**Assemblyman Daly:**

A reduction in wages is almost like a false economy. Because people have lower wages, theoretically, there is a savings but there is no evidence of it. As you said earlier, the timing of when you bid, what type of school, how many contractors, et cetera, does not necessarily equate to construction savings costs. However, then you have negative social impacts, so it almost costs the economy more when people make less wages. I know it is counterintuitive, but it does. There are less taxes collected, higher use of the safety net, et cetera. Is that also what was found?



**Thomas Harris:**

We cite some of the previous studies in our study and many of them, with this multiplier factor, have found that. With lower wages, people make lower impacts on the economy, as well as revenues. We did not look at that in this study for the state of Nevada.

**Assemblyman Elliot Anderson:**

As you see wages go down, did you see an increase in the construction sector of folks who need to use welfare-type benefits?

**Thomas Harris:**

The main thing we did in this study was look at the difference in the wage rates between the mountain states. However, looking at previous studies, talking about the differences in impacts to wages and construction costs, we also looked at some of the other impacts. One of the other studies done in New Jersey on school construction did look at some of the impacts. They found there was a lowering in economic activity in the state of New Jersey because of this. To what degree and how much, that is available in the study.

**Assemblywoman Neal:**

My questions are dealing with pages 8 and 9 of your study. There is a discussion of the study from Prus in 1996 and Fraundorf in 1984. It talked about once there was a controlled variable for construction type, then the prevailing wage state premium vanished. The statement went on to say, "This result led him to conclude that the Fraundorf et al. (1984) result was driven by specification and design . . . ." What were those specification and design differences?

**Thomas Harris:**

Specification and design means the different types of construction. You can have an elementary school versus a high school. Other things can be germane to each individual construction project. What we were getting at, in reviewing these, is there are other factors that need to be considered whenever you look at the increase in costs that can impact the project, not just the prevailing wage by itself.

**Assemblywoman Neal:**

At the top of page 9 of your study, I do not know what an "exogenous variation produced by changes in Maryland . . ." means, but the last statement says, "Even though public school construction costs were 40 percent more than private school construction costs, the reason for these increases was not attributable to prevailing wage." What was attributable to the increase?

**Thomas Harris:**

The increase in that study was the private and public sectors can also have different restrictions and mandates on their construction. In that study, it turned out they were showing the other factors that were contributing to the cost. Again, if you do all of your construction bids at once, if you have different types of schools, et cetera, those will also have impacts.

**Assemblywoman Neal:**

In the second paragraph on page 9, there is a discussion regarding the Skill Development and Fair Wage Policy (SDFWP) in British Columbia, Canada, in 1992. They indicated they looked at the simple difference in construction costs before and after the law of prevailing wage was introduced. It goes on to say, "However, once they control for a variety of confounding factors, such as the construction business cycle, number of competitors, type of school, type of school district, and time trend, they found that the prices increased by 9.4 percent, but the increase was not statistically significant." When we talk about construction projects in Nevada, do these control factors exist in a public school project?

**Thomas Harris:**

We have been through the Great Recession and impacts of a recession versus a great expansion. The impacts of commodity prices, for instance, with China expanding, you have added cost structure because of the cement and other factors. There are a lot of things that go into the cost that need to be incorporated. That is what we are talking about there.

**Assemblyman Livermore:**

If you were hired to do a study on prevailing wage and your goal was to put Nevada in a position so the state can recover from the recession, what direction do you think you would move in?

**Thomas Harris:**

Basically, what I wanted to do was provide unbiased data for the public officials here today so they can weigh this. My concern is there are a lot of numbers being mentioned today, from 24 percent to 2 percent. Why is that? That is the major thing we wanted to do with this study; to show what the impacts are, but also bring up some of the unintended consequences. There are other things you are looking at in this bill, such as the cap rate. You should also be aware that the impacts to employees, if they have lower incomes, will have an impact of lower expenditures.

The other thing that was in this study is the type of construction workers, which may be of higher quality. My library is full of computers; there is not a

book around. That took a different type of construction. There are different things to balance here, not just one idea. Throughout the testimony, there are other things that you may want to deal with in the rural areas. I work a lot in the rural areas and the problem is we do not have a lot of data from rural areas. Perhaps there needs to be more data that comes with finance. Those are other questions that need to be answered.

**Assemblyman Livermore:**

Are we over utilizing highly talented, trained construction people or journeymen, who, in some cases, do a job at a different level and still come out with a good product at the end?

**Thomas Harris:**

It depends on what they are working on. I am in the Business College now, but I started out in the College of Agriculture, Biotechnology, and Natural Resources. A rancher used to just have to deal with the cows. Now I go to the rural areas, such as Wells, Nevada, and there is a rancher with an antenna hooked up with the Chicago Board of Trade. Now that rancher has to be an expert at numerous things. It depends on what kind of jobs there are and also the productivity of the people you hire. If it is a simple thing, yes. However, with the more competitive, more high-tech jobs, you need a special kind of person. Hopefully, what we are doing helps with comparing occupation to occupation and skill levels, because a person who works building houses is totally different from a person who is in road construction. That takes a different type of construction worker. It is more complex than what first meets the eye.

**Assemblyman Stewart:**

In your study, did you consider the unemployment factor? In other states, their unemployment is much lower than Nevada. Was prevailing wage considered a factor in that at all?

**Thomas Harris:**

We looked first at the difference between two states that had prevailing wage and then repealed it versus states that have kept the prevailing wage. You can look at those two states and get a difference in wages. As we know, with what is going on with the recession, there is also pressure on wages going down. What we tried to do, while we had these results, is look at the difference between blue-collar jobs versus blue-collar jobs, but also look at the difference caused by a downward pressure by a non-blue-collar job. The true difference would be not only the prevailing wage, but you may also have a cost decrease caused by the recession. That potentially would reflect the unemployment rates in each state.

**Assemblyman Ellison:**

What percentage of the workforce is Davis-Bacon Act prevailing wages compared to a standard commercial workforce? Davis-Bacon actually used the same individuals to work either on a school or building a commercial building. What is the percentage difference?

**Thomas Harris:**

I do not have that information on the top of my head. I will have to go back and look.

**Assemblyman Ellison:**

I think that is important and I would like for you to get that to me. Also, is it not 85 percent of the mainstream workforce market that are still the same people?

**Thomas Harris:**

If we were looking at the workforce, yes. But if you are trying to define the prevailing wage for different classes of contractors, people who work as laborers, you want to compare occupation to occupation. Within the occupation, you want to compare skill levels because skill levels can differ within occupations. You are comparing apples to apples. By doing that, we were able to take a look at what the difference in prevailing wage would be.

**Assemblyman Ellison:**

You have seen the scenario with Assemblyman Hardy and the other individuals. They still pull from the same workforce pool. Assemblyman Hardy may be bidding on the same project these other contractors are, but they are still using the same pool of individuals or subcontractors. I would like to get the difference there and I would like to see the salary ranges, if I could. I think that is going to be important, not only on this bill but other bills that are going to be coming before this body in the next few weeks.

**Chairwoman Benitez-Thompson:**

I want to make sure I understand your comment when you talked about not looking just at the occupation but also at the skill level. I am a social worker, but there are different levels of education; a bachelor's degree versus a master's degree versus a licensed clinical social worker. There are varying degrees within the scope of a profession. Is that how I should think of it?

**Thomas Harris:**

Right. You might think a nurse is a nurse, but an operating room nurse is different from a doctor's office nurse.

**Chairwoman Benitez-Thompson:**

Just like a registered nurse is different from a licensed practical nurse. I just want to make sure I understand that. Within a profession, we need to look at the skill and training within that profession.

**Thomas Harris:**

I believe what Assemblyman Ellison is talking about is we need more data when we look at the wages, which is also important. Only from data can we make decisions. In the model versus the mean, the mean can be influenced by extremes. If you look at the average unemployment rate in Nevada for the last five years, it would be different than it was in the '80s. We need to look at those kinds of things. Procedures and other methods that go into these studies may also need to be looked at.

**Assemblyman Ellison:**

I think Dr. Harris is 100 percent correct. I will get you some notes to try to explain what it is I am looking for in better detail. If we go on a construction project, we are using the same people we would be using on a school versus a two-story commercial building. They are still the same qualified individuals, but one is prevailing wage and one is not.

**Paul McKenzie:**

If I may, Madam Chairwoman, help Assemblyman Ellison with his question. We would have liked the professors at the university to do a comparison between private and public works and be able to analyze the difference in costs based on the wages that are paid in the private sector. The reason they could not specifically do that for Nevada was because there is a lack of data in Nevada. We do not have the documentation to show the private sector work for the nonunion sector in comparison to the public works.

As far as a union contractor, he is going to pay the same wage whether he is building a building at the University of Nevada or if he is building a casino for John Ascuaga. His wages are not going to vary depending on what job he does. When Assemblyman Ellison works on a project at Great Basin Community College, he may pay his workers one rate, and when he is building a building for the Commercial Hotel, he is going to pay a different rate. That information was not available to the professors. They would have liked to have done that analogy, but the information and data was not there for them.

**Assemblywoman Swank:**

As a social scientist, I appreciate your study and all the work that went into it. Going back to the question Assemblywoman Neal had earlier, on page 9 you talk about the 9.4 percent not being statistically significant, and on page 33,

you talk about the 1.7 percent not being statistically significant. Could you talk a little bit about what it means to not be statistically significant?

**Thomas Harris:**

When we do things in econometrics, we look at factors that can impact our dependent variables. I am going to go back to my agricultural days. If I am looking at the price of beef, what happens if we have an increase in consumption by China? Should we be concerned about the Chinese market? What I would do is use the Chinese demand to come up with an estimated coefficient. We do some analyses to see if that is a significant variable. In other words, if it is insignificant, that means the coefficient is zero. What we do is use data in sufficient quantity and in statistical methods to test to see if our resulting coefficients, such as 1.4 percent, is truly statistically significant; if it is different from zero. Insignificant is zero.

**Assemblywoman Swank:**

To clarify, that means if it is not statistically significant, that particular variable did not impact what we see changing?

**Thomas Harris:**

Right. We report it, but we want to say statistically it is not different from zero.

**Assemblywoman Swank:**

So we would have to look at other factors that were impacting it?

**Thomas Harris:**

Yes.

**Assemblywoman Neal:**

On page 20 of your study, dealing with the summary you had on page 4, you made the summary of the differential between the wages of black workers and white workers. You stated, "Kessler and Katz (2001) provide the most comprehensive analysis of this issue. They show that black-white wage differential shrinks following repeal of prevailing wage law. However, they also found that even though relative incomes of blacks increased, the absolute income does not." First, what is the definition of "absolute income?" Secondly, the last sentence states, "In other words, repealing the prevailing wage law reduces wages of all workers, but it reduces the wages of white workers more than the black workers, thereby reducing the relative difference." If the wage differential shrinks because whites lose income and then they become closer to the blacks, then there must have been an inequity. Where is that coming from?

**Thomas Harris:**

We have gone through a lot of changes in the United States. Initially, there were not as many blacks in union jobs as there were before. As the country has progressed, more and more of the minorities are represented in the labor force. It takes time to get into these professions. The study from Kessler and Katz shows the relationship of the participation rate of blacks has increased, but what has happened is that not as many of them have been in union jobs as there were at the time of the initial study. What happens is when the prevailing wage was decreased, you saw more impact with white employees, mainly because there were more white employees, and the wage between blacks and whites were converging. It is really more of a reflection on what has happened with the changing participation rates of minorities in the labor force, in higher paying jobs, and also in union jobs.

Regarding "absolute income," what Kessler and Katz looked at was total incomes with black families and white families. When you start off with black families having median income lowered, it would be more of an impact.

**Assemblywoman Neal:**

On page 18, black workers were about 5.8 percent of all construction workers in states. I understand there was a difference in southern states versus western states. Was there a difference, under prevailing wage law, in how much they were paid versus whites and was there a difference because of the skill set or training that they did or did not have?

**Thomas Harris:**

Basically, what Kessler and Katz would be looking at was the prevailing wage in total with blacks and whites and looking at when the prevailing wage declined how the percentage would decrease. I would say that becoming a union worker in some of these occupations, the skill level would increase. Therefore, you would get those declines. It may not get specifically to the question you are asking, but their study was similar to ours; they just looked at wage rates and the number of wages with the different occupations and looking at differences between time. Yes, the occupational skill levels of blacks have been increasing, but what that is attributed to is not in the study.

**Assemblywoman Neal:**

Maybe we need another study. I just know that there had to be inequities in the wages regardless of a recession or not. I want it to be stated outright.

**Assemblyman Munford:**

Are there opportunities for apprentice training to bring up the skill level? Is there outreach taking place? That has been the primary problem in employment

for minority workers, specifically black workers; specifically, their lack of skills. Prevailing wage emphasizes skill level and that is, perhaps, why a lot of blacks have been excluded. There needs to be more training and more available opportunities. Am I off base?

**Thomas Harris:**

I would say that unions are actively recruiting blacks to get into training so they can be at the higher skill levels. Would that be a true statement?

**Paul McKenzie:**

Assemblyman Munford, I know the apprenticeship programs have outreach to high schools throughout the state. The apprenticeships actively seek opportunities to attend career days that are held at high schools in order to recruit and get those high school graduates into apprenticeship programs. That has significantly declined with the economic conditions of the state because there is no reason to recruit any apprentice if we cannot put them to work. An apprenticeship program, unlike a university program or junior college program, requires we have a working element. We have to have a job to put an apprentice in to indenture him. That outreach has been reduced considerably because of the economic conditions, but the outreach is there. Besides the fact that every one of these apprenticeship programs is under a federal mandate to reach out to minorities or they lose their status as an apprenticeship.

**Assemblyman Munford:**

I can see the impact the economy might have on some things. I understand.

**Chairwoman Benitez-Thompson:**

I think that is a whole other area for study. As I read page 18, it looks like in those states with strong prevailing wage laws, black workers had about 5.7 percent of the construction jobs. However, in states with average prevailing wage laws, black workers were only 4 percent of all construction. For me, the interesting question is in a state where there are very weak prevailing wage laws, then you have a high number in construction work. I think you could beg what is happening in states with weak laws. It definitely shows that strong prevailing wage laws have better employment numbers than states with average prevailing wage laws.

Are there any further questions from the Committee?

Ms. Sankovich, are you going to be speaking specifically to the colored charts at the back of the study?



**Lauren Sankovich, CPA, CFE, Muckel Anderson CPAs:**

Yes. The Building & Construction Trades Council of Northern Nevada conducted an analysis and asked Muckel Anderson CPAs to do an independent review of that analysis. Their analysis was this: They took nine construction projects within the northern Nevada area and from certified payroll reports from all employers on all nine projects. They summarized total project costs and total wage costs, which includes wage benefits and burden. They were attempting to come up with a percentage of total labor costs as a percentage of total project costs. These nine projects were conducted in northern Nevada and they included both union and nonunion contractors.

The total project costs for all nine projects approximated \$137,250,648. Total wages, benefits, and burden across all nine of those projects was approximately \$31,229,055. That is 23 percent. Total labor costs were 23 percent of the total project costs across all nine projects.

What we were asked to do was independently look at what they had summarized. We took a sample of what they had done. Our sample was based on the American Institute of Certified Public Accounting Standards. We made sure the information they were pulling off the certified payroll reports was accurately summarized in their analysis. We were checking for things like errors in the information, any bias on their part, and if they were making assumptions from the numbers on the certified payroll reports that looked biased. We were looking at formulas and calculations to make sure the wages on each project and for each employer were being calculated the same, so there was a consistency across all nine projects and all contractors.

Our analysis was basically that they had entered the information from the certified payroll reports accurately. There was no bias in how they were determining those numbers coming off the certified payroll reports. We did agree, based on their analysis, it did appear that labor costs were 23 percent of the total project costs for all nine of these projects. We independently said yes, we agree that this analysis was prepared accurately.

**Chairwoman Benitez-Thompson:**

Would you like to walk us through what all the columns and numbers are on the different colored charts ([Exhibit G](#))?

**Paul McKenzie:**

I believe we can do that unless Ms. Sankovich would prefer to do it. We can tell you what each column was for as we get further into our testimony.

**Chairwoman Benitez-Thompson:**

Are there any questions for Ms. Sankovich?

**Assemblyman Daly:**

The wages which were taken off certified payroll reports, which contractors have certified they actually paid on the job, included the amount of wages, any amount that might have been paid for benefits, and then the burden, which is the roll-up costs for federal withholding, unemployment, worker's compensation, and all of the costs associated with labor. If they showed overtime, that was also included. So this was giving an accurate amount of costs of a project that went toward labor? Is that what you did?

**Lauren Sankovich:**

That is correct.

**Assemblyman Daly:**

I have heard people say repeatedly that we can save 25 cents out of every dollar if we did not have to pay prevailing wage. Being a person who is an expert on numbers, is there any way on earth, based on the numbers you looked at, you could ever save that much without having the workers pay the employers?

**Lauren Sankovich:**

Based on the study, it does not appear that you could save that much.

**Chairwoman Benitez-Thompson:**

Mr. McKenzie, would you walk us through each page?

**Paul McKenzie:**

There is another attachment on NELIS. I should have brought your attention to this before Professor Harris got started on the study. There is a cover page of the research agreement between UNR and the Building & Construction Trades Council of Northern Nevada ([Exhibit H](#)) for the commission of this study. You will notice there is a scope of work portion on the second page, which refers to an appendix of that agreement, which is page 3. You can see what the professors agreed to look at when they did this study and how they were commissioned to do the work.

I planned to walk you through this study and point out the highlights. I had a long testimony prepared, but I am going to skip it because you folks did a better job of analyzing this study than I did. I would like to go directly to the appendix into the jobs and do a walk-through to give you a little explanation of

what we are looking at on those projects. You can then analyze the true cost of labor on projects.

Beginning on page 50 of [Exhibit G](#), the first two projects listed are asbestos abatement projects for Jessie Beck Elementary School and Traner Middle School. They were performed at the school district, one by a union contractor, Diversified Demolition, and one by a nonunion contractor, Advanced Insulation, Inc. On page 50 of [Exhibit G](#), the total cost of the project (at the top right of the column) for Jessie Beck Elementary School was \$68,500. Below that figure, it shows that 59 percent of the cost of that project was labor. Those of us in the construction industry know that the labor costs on asbestos abatement are intentionally high. Besides labor, there are materials to protect the workers and to prevent the escape of asbestos from the area they are working in, then to dispose of the material once it has been removed. On a similar project, page 51, the labor costs for the Traner Middle School project were 47 percent.

The next three projects (pages 52 through 57) were vertical construction projects. Again, the general contractors were union and nonunion. The subcontractors were a mixture of union and nonunion. The total cost of the projects is in the top right hand corner. There is a breakdown by subcontractor of their total portion of the project, a breakdown of the total wages on the project, the burden, and the benefits they paid their employees. Also listed are the total labor costs of the project and the percentage of those labor costs.

The first of the three projects was West Coast Contractors, which is a nonunion general contractor. Their labor costs were 30 percent. The next project was United Construction Company, which was a Washoe County School District project. Their labor costs were 26 percent. The final project was at the Molecular Science Building at UNR by Clark and Sullivan, a union general contractor. Their total labor costs were 24 percent.

We have heard several times this session that we could save 25 percent on the project cost by eliminating the prevailing wage. If you look at these projects, in order to save 25 percent on the projects, the employees would have to be paying their employers to work on the projects.

The numbers that were given by Assemblyman Hardy this morning were a little closer, but you would still have to cut people's wages by 50 percent. That is a major difference in wages that I do not think we will see across the board on these projects, even if we were to eliminate prevailing wage, to save the 11 percent that was stated earlier.

The next two projects (pages 58 and 59) are vertical construction projects done in Reno. Vertical projects in town are more labor intensive than highway projects because you have more traffic control, you have to deal with curb and gutter, et cetera. The first project is the union contractor and his labor costs were 23 percent for labor. The second project was a nonunion contractor and his labor costs were 17 percent. Again, we are getting closer to the 11 percent that was given earlier this morning and getting closer to the employees having to pay the employer to work on these projects.

The final two projects (pages 60 and 61) were Department of Transportation (NDOT) projects, which are probably the least labor-intensive projects that we do in the state under prevailing wage. They are vertical construction, long lines of road, and there is not nearly as much traffic control on these projects. Traffic control is out there, but they do not have to move it around as much once they have the lanes locked up. We are using heavier equipment to do this type of work, so it is more equipment-intensive work than it is labor-intensive work.

The first project was a union contractor and their labor costs were 9 percent. The second project was a nonunion contractor and their labor costs were 15 percent.

The findings in this study show that in states that have eliminated prevailing wage, the first thing that was eliminated were the health and welfare benefits and the pensions. We have talked numerous times during this session concerning the social impacts of our decisions. If we cut people's wages, we eliminate their health and welfare benefits, and we eliminate their pension, then the social network that is going to have to replace these wage and benefit cuts to the employees is going to be a burden to the state and counties. I think that is a side effect of the elimination of prevailing wage that we do not look at often enough, and it is depicted in this study.

There is a portion of the study that discusses a review of things that occurred in the Appalachian Mountains when the coal industry lowered wages for the employees. From those results, they found the number of people on welfare increased significantly, specifically the number of single women with children. I do not imagine that contractors would lower their wages enough that their employees would have to go on welfare, but I believe it would create a burden on a number of employees to the point where they may have to. The less scrupulous of employers out there, those who have access and do not have a level playing field to bid these jobs, will create a race to the bottom that will create a bigger burden on the social fibers of this state.

In conclusion, the truth is that the opponents of prevailing wage either have no idea or are refusing to be truthful about what the true savings to the public bodies would be by the elimination of prevailing wage.

We have heard numerous numbers. On March 7, 2013, the supporters of this legislation stated during interviews with KOLO TV that the elimination of prevailing wage would save 25 percent on public works. That same supporter was quoted this legislative session on KTVN TV saying it would save 10 percent. During the same news cycle, another supporter of this legislation said it would save 20 cents on the dollar. In this very room in 2009, I listened to a supporter of the repeal of prevailing wage. I hate to disagree with my friend Warren Hardy, but it was one of his colleagues who sat at this table and said the repeal of prevailing wage would save this state 60 percent on projects. The attacks on prevailing wage in this session of the Legislature and in past sessions have nothing to do with the saving of public money and everything to do with the attack of Nevada's construction unions and their signatory contractors. As stated by one supporter of this legislation on March 7, 2013, "Prevailing wages do nothing but line the unions' pockets." We need to get the facts straight. The elimination of prevailing wage on public works projects may save a minor amount in the short run on construction projects, but in the long run, the resulting effects will create a reduction of revenues to the state, increase the burden on the social networks provided by the state, and an added stress on the education of our state as students try to attend school but have parents who are not making a living wage. Those will put an even bigger stressor on our already overburdened and underfunded education system. Assembly Bill 318 is a lose-lose for the State of Nevada. I would happy to answer any questions.

**Assemblyman Ellison:**

The workforce that follows the prevailing wage projects, do they work all year long, every year, or is it based on what the economy is and what projects can be funded? I pay my employees a pretty good wage and I am sure Assemblyman Hardy does also. They work five days a week all year long. They have been working all year long for 20 years. What we are trying to say is we might be able to get some of the workforce out there working longer versus working shorter hours for higher wages. I would rather see those people supporting their families. No disrespect to my colleague, but he needs to get out in the construction field. If we could keep more people working and supporting their families, I support that 10,000 percent. The contractors are chasing project after project hoping it will be funded. We are just saying, we might be able to get more people working if that threshold was lower. That is all we are trying to do. We are not trying to attack the system, we are trying to say we have to get people to work. This is a work/job bill, to me. I would like

to see your numbers and how many people out there are working. If you asked them, they would rather be working every day, five days a week, trying to support their families. I think that is important.

**Paul McKenzie:**

Assemblyman Ellison, you have been in the construction industry long enough to know the workforce is going to fluctuate in construction. I am sure you have a base crew of electricians that you keep 365 days a year. I also know that if you got a job bid at Newmont Mining Corporation to wire a crusher, you would probably have to hire more electricians to work on that job. When the job was complete, those electricians would have to go somewhere else to work because your work would not maintain the extra employees you had to hire for that project. That is the same with every contractor in this state. They have a base group of employees that they work 365 days a year.

The difference between the union employees that are working under collective bargaining agreements and the workers who are working out from under collective bargaining agreements, is those workers get the same wages and benefits all 365 days a year. Those contractors do not complain about that. They know it is a cost of doing business and being a responsible contractor. They pay their employees well and pay them benefits. They also know if they have a big project come up, they are going to hire people they have no intention of keeping on 365 days a year. They are going to put them to work and those workers will work until that project is done. Those workers then have to go back on the books and wait for the next big project.

Those workers are working on the average of 750 to 1,000 hours a year now. During the boom, those workers were working between 1,500 and 2,080 hours a year. When you extrapolate out the wages these workers make on these projects, and you take 1,000 hours a year, those workers make \$28 an hour on their check, they have a benefit package which gives them a pension and health and welfare. That health and welfare is paid in by hours worked. They get to bank hours worked if they work excessive hours to utilize when they are unemployed. When we were working 1,500 to 2,080 hours a year, they were banking hours and if they were unemployed, they always had health insurance. They did not have a big burden on their checkbook when they were out of work. They could live on unemployment and they did not have a big burden for their health and welfare. When they went to the doctor, it was the same as when they were working. They were able to keep reserved savings for disposable income, which builds jobs in the community around them.

If you reduce that to 1,000 hours a year, it becomes a little longer stretch. The worker is barely at the limit of whether he has enough hours for insurance for

the year, he does not have as much money to go into his savings account and carry him over in those times when he is unemployed. Now you are talking about cutting his wages by 25 to 30 percent. When you start adding the cost of health care on a person who is making less money, he cannot cover the health care. He has to feed his family first. If he cannot cover the health care, then the State has to cover it. You are talking about putting that burden back on the State to cover his health care that Assemblyman Daly was assuming through his health and welfare plan because his employees were making enough money to pay that health and welfare.

The unintended consequence that we get from this is not from your fully employed electricians that are working 365 days a year, it is from the transient force that you bring in to cover the big projects. They may get 500 hours a year or 1,000 hours a year. Those are the people who are going to be the burden on society.

**Chairwoman Benitez-Thompson:**

I want to be conscious of time because we do have a presentation for the Committee. I know we are taking testimony in opposition now, but I want to make sure we get Committee member's questions answered about the appendix to the study. What we will then do for the rest of the opposition is anyone who wants to come up can say "ditto" or "I oppose" so we can keep the statements brief. We may even have everyone who is in opposition stand as their position. The same will go for Las Vegas. Are there any further questions from the Committee regarding the charts?

For clarification, at the top of the charts you have pensions, health and welfare, training/other, and burden, which are the federally required deductions from the checks, correct?

**Paul McKenzie:**

Yes, Madam Chairwoman. The burdens are the social security, Medicare, State unemployment, workers compensation, and the employee tax employers pay to the State.

**Assemblyman Daly:**

The burden is not a deduction from employee wages. The burden is paid by the employer for federal match, workers compensation, unemployment, et cetera. It is the amount that every employer has to pay on their employees. It is partly based on wages, but it is not out of the employees' wages or benefits at all.

**Chairwoman Benitez-Thompson:**

Because I do not know construction, are these burdens for union and nonunion jobs? Does this capture all of the different costs associated with wage and labor? Is there another number that might be floating out there that these do not consider?

**Paul McKenzie:**

The numbers that are reflected under pension, health and welfare, and training/other are what were reflected on the certified payrolls. The burden is a computation based upon the hourly wage that was paid that an employer has to pay over and above wages. If there is a number floating out there, it is a number that was not reported after the contractor signed the certificate saying he had reported everything.

**Chairwoman Benitez-Thompson:**

I think what is most interesting to me, especially being from Washoe County, is I know statewide we have a lot of different capital construction costs for schools. I am looking at the two side-by-sides you provided on South Meadows Middle School and the high school Academy of Arts, Careers and Technology (AACT) projects. Is the United Construction Company union or nonunion?

**Paul McKenzie:**

United Construction Company is a nonunion general contractor.

**Chairwoman Benitez-Thompson:**

Is West Coast Contractors a union or nonunion company?

**Paul McKenzie:**

West Coast Contractors is also a nonunion general company. The UNR Molecular Science Building was built by Clark & Sullivan, which is a union general contractor.

**Chairwoman Benitez-Thompson:**

We do not see the rest of the costs associated with the project, but we do see the percentage of the labor costs.

**Paul McKenzie:**

For example, on the AACT building by West Coast Contractors, the purple column is the total cost of the project, down the side is the total labor cost per contractor, then it is totaled and given a percentage of the total project.



**Chairwoman Benitez-Thompson:**

Are there any further questions on the labor costs specifically? [There were none.]

**Danny Thompson, representing Nevada State AFL-CIO:**

I think you can see the length we went to provide you with accurate, timely, regional information; not a study from Kentucky, California, or Oklahoma. We went to great lengths to be open, honest, and fair. For me, to sit and listen to the study presented by NPRI with the opening statement that Assemblywoman Pierce read would be laughable if it were not so insulting that it would actually be considered by this Committee. It is insulting to me and I cannot believe the first statement you make is made like that. I think it speaks volumes to the study.

I do want to clarify a couple of things, though. I have a little history in this building and there were references made as to how this was changed, so I am going to tell you how this was changed.

In 1985, the Republican Party took control of the Nevada State Assembly for the first time in I do not know how long prior to that. The Chairwoman of the Labor and Management Committee, Republican Barbara Zimmerman, introduced a bill to eliminate prevailing wage in Nevada, Assembly Bill No. 376 of the 63rd Session. Prior to this attempt, the state prevailing wage threshold was \$2,000, which is what it was in the beginning. The federal prevailing wage threshold was \$2,000, and it is \$2,000 today on a federal project. I know this because I was on the Labor and Management Committee at that time. There were three hearings held on this bill; one in Winnemucca, one in Las Vegas, and one in Reno. One thousand people showed up to the hearing in Winnemucca and said do not change this law. In Las Vegas, you could not get in the parking lot. In Reno, you could not get in the building.

As a result of the outcry by the public, the bill was amended from outright repeal. Instead, a \$100,000 threshold was put into the bill. That was the last time the Republicans held this house since 1985 and that was the last time it was done.

The assertion that somehow, by the elimination of prevailing wage, you are going to diversify your economy and solve the school problem is asinine. In the past ten years, there has been \$1 billion taken out of the school budget. Today, in the current budget the Governor has put out, you are putting back \$50 million, but you have taken out \$1 billion over ten years. You have the worst graduation rate in the nation. You have the highest classroom size in America. If you understand the state budget at all, you understand that

50 percent of the money in the state budget goes to fund education, kindergarten through twelfth grade and higher education.

If you look at the cost savings that may or may not occur, which by my calculation varies between 3 percent and maybe 8 percent, thinking that somehow you are going to solve that problem is virtually impossible, further understanding that union workers have insurance. I sat in this Committee for so many years talking about creating jobs for Nevada that are sustainable jobs, that are good jobs, that will help employees take care of themselves and not be a burden to the state. And yet, if you look at this data, what you are talking about is eliminating people's health insurance. What happens when people do not have health insurance? They become part of the second largest cost to the State of Nevada, which is Medicaid. The more people you drive off their own insurance, that someone else is paying for, you have increased the burden on the State. What you are really doing here, if you pass this bill, is shifting the burden from a private employer to the State of Nevada to take care of their employees. Is that what you really want to do when you cannot pay for the education system that we have? I know there are a lot of reasons for that, but I just cannot sit here and listen to these assertions that somehow this is going to help the problem. The only thing that is going to help this problem is to diversify the tax base. You are totally dependent on a single source or taxes to pay our bills.

**Chairwoman Benitez-Thompson:**

I would like to ask the folks in Clark County that oppose this bill to please stand. We will do a wide pan for the Committee so we can see all who are standing. I will do the same here in northern Nevada. I am doing this in lieu of having everyone come up to put comments on the record. We do not have the discretion of time for that. All those opposed here in northern Nevada, please stand.

We will make sure to note in the minutes that everyone was standing in northern Nevada and in southern Nevada. For those who do feel compelled to have their comments on the record, I can give you each about ten seconds. I appreciate your understanding that I have to move the Committee along.

**Samantha Draper, Research Analyst, Smart Cities Prevail, Sacramento, California:**

We are a nonprofit that specializes in research and education on prevailing wage. We are opposed to this bill. I want to quickly focus specifically on the erroneous claims that were made by the Nevada Public Research Institute report. A lot of the claims are driving debate on these bills that are circulating in the Legislature right now that seek to undermine prevailing wage.

This partisan report, entitled *Who Really Prevails Under Prevailing Wage*, draws reckless conclusions that are completely inaccurate. It claims that prevailing wage inflates labor costs by 45 percent and it costs hundreds of millions of dollars to taxpayers over a two-year period. This is an absurd claim and it flies in the face of decades and decades of peer-reviewed academic research on the subject of prevailing wage.

What the peer-reviewed academic research tells us is that prevailing wage does not raise the cost of public construction. To give you a quick look at some of the major flaws of this study, it starts with the assumption that labor costs are 50 percent of total construction costs. That is a grossly inaccurate number. According to the economic consensus of construction, labor costs only comprise about 25 percent of total construction costs. I believe you heard the auditor today in line with that, where she saw 23 percent labor costs. Immediately, this bad assumption throws this report's numbers off by hundreds of millions of dollars.

Also, the report compares the Department of Education, Training and Rehabilitation (DETR) mean hourly wages, which the gentleman was talking about OES wages to the prevailing wage rate. These mean hourly wages include apprenticeship rates and workers that are not highly skilled in the profession yet. The prevailing wage rates include only journeyman workers who have been working in the profession for years. It also includes all industry for the mean hourly rate, where the prevailing wage rate only includes commercial building and some of the more highly specialized building. It is not an apples to apples comparison. Additionally, it just uses a wage differential approach. It does not factor in productivity. This type of economic research has been debunked because what is shown when you just compare one wage that is lower to a higher wage, typically prevailing wage workers have been found to be more productive, more efficient, and higher skilled, and you have fewer accidents and cost overruns on your projects. Therefore, the difference in wage basically vanishes.

**Chairwoman Benitez-Thompson:**

Are you reading from written comments?

**Samantha Draper:**

Yes.

**Chairwoman Benitez-Thompson:**

Perfect. I would like the rest of your testimony on the record, but I will have you give it to the Committee Secretary so we can get it on NELIS for the Committee members to review ([Exhibit I](#)).

**Jack Mallory, representing International Union of Painters and Allied Trades  
District Council 15:**

I oppose the bill. I want to speak about something that no one else has mentioned and that is the eight-hour day. Construction is hard, manual labor and because of the nature of the work, the longer you make someone work during the same day, the greater chance there is for injury. There is also a greater loss of productivity the longer you make someone work.

Mr. Hardy, in presenting the bill, brought up the consumer price index (CPI). If the federal Davis-Bacon rate had been indexed in 1931, the federal prevailing wage threshold today would be \$30,548.16. The other point to make about that is folks have complained about what the actual prevailing wage rates are. If you use the CPI calculator, the buying power of the average construction worker in this state has maintained, according to the CPI, over the last 30 years.

**Andrew Barbano, Vice President, Reno-Sparks NAACP:**

As nationally, in the state, and locally, the NAACP stands with labor in opposition to erosion of the prevailing wage law.

**Chairwoman Benitez-Thompson:**

I will close the hearing on Assembly Bill 318. I will call Assemblyman Hardy back to the table for closing comments.

**Assemblyman Hardy:**

I appreciate all the spirited debate and all the comments that have been made today. I appreciate Mr. Thompson, who was the only one who addressed anything to do with this bill, in my opinion. We were discussing the 40-hour workweek, the change in the threshold, and the definition of maintenance. Those are the three things in this bill that we need to look at. What I really think this debate brings up is maybe we should look at a true interim session discussion with a work committee. I think that may be what we are looking at down the road.

**Chairwoman Benitez-Thompson:**

With that being said, Assembly Bill 318 is closed. I will welcome to the table the presenters for the National Wireless Public Safety Broadband Network. Committee members, the reason why this information is important is as you all serve your full terms and future terms, we are going to be hearing a lot of different conversations and perhaps different bills regarding the National Wireless Public Safety Broadband Network.

I will welcome Sheriff Michael Haley from Washoe County, Christopher Smith, Chief of the Division of Emergency Management, Department of Public Safety; and Chris Magenheimer, Battalion Chief of North Lake Tahoe Fire Protection District.

**Michael Haley, Sheriff, Washoe County Sheriff's Office:**

I will guarantee you that we will be as brief as humanly possible. I am here today representing the State of Nevada Network Committee. This committee was formed under the oversight of the Department of Homeland Security, where I sit as vice chair to the Governor.

We are here today to present on House of Representatives Bill 3630 (H.R. 3630), a telecommunications infrastructure project created by congressional act. As you will learn today, this is one of the largest telecommunication projects undertaken in this nation in our lifetime.

With me today is Battalion Chief Chris Magenheimer, who is the manager of the committee. Committee memberships include both state, local, and private sector actors. Committee members are also here today; Chris Smith, Chief of the Department of Emergency Management. Together, we will provide you with details we believe will give you a good overview of this national communication broadband project.

The State of Nevada Network (SoNNet) Committee was formed for the purpose of reviewing the National Broadband Plan, responding to questions which will ultimately be used by an organization called First Responder Network Authority (FirstNet) to build a public safety broadband network within the United States and, more specifically, within the state of Nevada. In order to carry out the act, Congress authorized the National Telecommunications and Information Administration (NTIA), located within the Department of Commerce, to establish the First Responder Network Authority.

FirstNet is the body SoNNet communicates with on a continual basis as they work to define and then build this network. FirstNet is tasked with establishing the public safety portion of the broadband network. Our task is to ensure that public safety has access to broadband and as many residents of Nevada as possible have access to broadband networks. FirstNet's task is to ensure they replicate that success in every state in the United States.

Like electricity a century ago, broadband is a foundation for economic growth, it is a job creation mechanism, it is a global competitiveness project, and in essence, a better way of life for folks who have access to that network. It is enabling entire new industries and unlocking vast new possibilities for existing

organizations and companies around the state of Nevada and the nation. It will change, and is changing, how we educate our children, deliver health care, manage energy, ensure public safety, engage governments, and access, organize, and disseminate knowledge within this state and other states within the union.

Congress also required that this plan include a detailed strategy for affordability and maximizing use of broadband to advance consumer welfare, civic participation, public safety and homeland security, community development, health care delivery, energy independence and efficiency, education, employee training, private sector investment, entrepreneurial activity, and economic growth. It is a very, very large project.

Nevada has a rich history of success in the development of voice radio communications structures. As such, we have been successful in creating a multistate collaboration to further our efforts in the state of Nevada.

I will now defer to a slide presentation with Chris Smith and Chris Magenheimer narrating for you ([Exhibit J](#)).

**Christopher B. Smith, Administrator, Division of Emergency Management:**

As we move forward into what this FirstNet project is, they are legitimately attempting to cover every square meter of the nation with broadband service, which includes the highest mountaintops in Nevada and our lowest valleys. Nevada would actually present quite a challenge to the FirstNet group, given our geography [([Exhibit J](#)), page 2].

Where the funding comes from and where this really derives from is the Middle Class Tax Relief and Job Creation Act. As part of that act, there was the establishment of the National Interoperable Wireless Public Safety Broadband Network. This network will be designed to allow first responders to travel throughout the states, cross jurisdictional lines, and still maintain their ability to receive lifesaving data that they need to conduct their jobs. As you know, each and every day public safety officials rely on this type of data. This capability will be largely used across all the jurisdictions in the state of Nevada.

Ultimately, we could allow secondary users onto these networks as well, such as utilities, potentially schools, universities, even hospitals [([Exhibit J](#)), page 3].

The funding for this initiative comes from spectrum auctions. This is how the federal government will help seed the states to ensure we are able to build this network out. Currently, they anticipate roughly \$7 billion of revenue with radio spectrum auctions that are in the process of being leased out. Currently, there

are \$2 billion immediately available to states for planning grants. Nevada is expected to receive, in these planning grants, roughly \$2 million dollars. There is no purchase of any equipment with these planning grants. It is solely to develop our foundation of how we move forward as a state.

The states have an option, at some point, to opt out or opt in to this program. FirstNet would encourage and allow the governor of each state to take a look at these programs and determine what would work best for their state as far as the federal resources that would be available to them. At the end of the day, there is still an expectation that every state has an established network to interact with other states for the first responders who move throughout their jurisdictions. Regarding opting in and opting out, you still have to have a network in your state, it is just how you go about building it [([Exhibit J](#)), page 4].

The FirstNet Board that oversees this at the national level includes the Secretary of the Department of Homeland Security, the U.S. Attorney General, and the Director of the Office of Management and Budget. There is representation of states on this board, including localities and tribes, as well as individuals from public safety, who also represent the nation's interests in this FirstNet board at the federal level. At the state level, we have established a board that mirrors the federal level, with a variety of subject matter experts and jurisdictional representatives from around the state to ensure we are applying our planning process holistically across the state [([Exhibit J](#)), page 5].

I will now turn it over to Chris Magenheimer, who will discuss a little bit more about what Nevada is doing to implement the act.

**Chris Magenheimer, CEM, Project Manager, Regional Communications Operation Coordinator, North Lake Tahoe Fire District:**

I am the Battalion Chief of the North Lake Tahoe Fire Department, and I am currently assigned to the Washoe County Sheriff's Office working on interoperable communication projects across the state.

The act, H.R. 3630, was signed into law by the President in February 2012. Our state, through the Homeland Security Commission, established the SoNNet Committee on April 26, 2012. The SoNNet Committee is chaired by the vice chair of the Homeland Security Commission. The group decided to establish the SoNNet Committee with the existing infrastructure of the land mobile radio users in this state.

The State of Nevada Department of Transportation operates the Nevada state radio system. The Washoe County Sheriff's Office, the Washoe County

Shared Radio System, the Las Vegas Metropolitan Police Department, the Southern Nevada Area Communication Council, and NV Energy are the groups that are on the existing SoNNet Committee.

I was appointed as the project manager and my job is to try to figure out what is going on with the federal FirstNet Committee and keep our SoNNet Committee informed of all the different things that are going on.

The National Telecommunications and Information Administration (NTIA) filed a notice of inquiry to their first meeting and asked for input of what the states were looking for. The state of Nevada reached out to our region, Oregon, Idaho, Utah, Montana, Wyoming, and South Dakota, and filed joint comments. We were the only group, or region, that filed joint comments to the NTIA on the FirstNet and what was going on. Since then, that collaboration has increased. We have increased now to 11 states, with California, Wyoming, Arizona, and New Mexico all coming on board and becoming part of what we are now calling the Western States Alliance [([Exhibit J](#)), page 6].

The NTIA and FirstNet accepted grant applications for the state and local implementation planning grants. Those were due last Monday. The state, working through the Division of Emergency Management, filed our grant request. On March 14, 2013, at the International Wireless Communications Expo in Las Vegas, the Western States Alliance was able to have a personal meeting with three FirstNet members to try to get an understanding of what FirstNet is looking at as they start to implement this and what each state would be obligated to. We had a very good meeting with FirstNet regarding their plans. We learned that they intend to have a business model rolled out within 60 days so the states will start to have an idea of what will be required. They also gave us little tidbits. They did hire a business manager at the FirstNet level, who is putting a staff together. We have started to anticipate becoming able to see some of the different things they will require of the states and regions as we move forward.

Our key is looking forward to working with public/private partnerships. If you can envision one of the AT&T or Verizon commercials where they show the picture of the United States with all their coverage, and start to envision that there will also be a FirstNet network that will cover much of the same area, then you start to realize how much work is ahead of us in order to establish that as we move forward [([Exhibit J](#)), page 7].

As we look forward to that, SoNNet must provide FirstNet with different information in order for us to move forward. We are leveraging a lot of work that the Governor's Broadband Task Force has done here in the state. They



work with Connected Nation and have done a lot of the infrastructure mapping and identifying the different things that FirstNet will be looking at for us. SoNNet is leveraging as many of the partnerships that are currently out there as they can [([Exhibit J](#)), page 8].

We have to be prepared because when FirstNet brings a plan to the state, the Governor has three months to decide how he wants to proceed with deploying this network in the state of Nevada. The Governor has the ability to opt out of that and the state would be able to apply for grants and build our own network, or the Governor can opt in and be part of what the national plan would be as developed by the FirstNet Board.

There are a lot of different technical requirements that still need to be approved by working with the Federal Communications Commission (FCC) because of their different regulations [([Exhibit J](#)), page 9].

I know the last page of the presentation is a little difficult to see in the handouts [([Exhibit J](#)), page 10]. We did some engineering here in the state and each one of those dots you see on the map is an eight-mile radius, which is what a normal cell tower distributes for a good signal. There are 150 dots on the map. You can see we have very limited coverage in the state. The ultimate goal for FirstNet is that every square meter of the nation be covered. This is just to inform you that there is a project that is out there, that is coming down from the Federal Government, and we are working very hard to plan for that here in the state.

**Michael Haley:**

Our intent today is to inform. We will continue to inform as this project moves forward. Most importantly, and the reason we wanted to be here today, is this project cannot happen without legislative action. It is a complex program. If you look at AT&T and Verizon setting up a national network, that is actually what each state has to do and then join with that national network. Again, we wanted to keep our presentation short and we are available for questions.

**Assemblyman Oscarson:**

I want to make sure that you are working with Lindsey Niedzielski and her group at Connect Nevada, and that you are working with the Nevada Hospital Association, which also has a broadband initiative that they are in the process of trying to wrap up. My question is, is this going to be a redundant circuit that is going to be in addition to those, or are you going to tie into those? How is that going to work with these projects that are already in place and running, rather than reinventing the wheel?

**Michael Haley:**

We have had Connected Nation present in front of the SoNNet Committee. They were also at the International Wireless Communications Expo where they were a party to a multistate conversation. They are a wonderful group and they have done a tremendous job in Nevada about helping us understand connectivity, what our needs are, and where we have a good connectivity. The Nevada Hospital Association is part of the Nevada Department of Homeland Security Commission and we present there in addition to the SoNNet meetings. We are all interconnected and we will absolutely follow in that path you mentioned.

**Assemblyman Oscarson:**

I know we are back on track with the Connect Nevada project. There were some delays due to some Bureau of Land Management (BLM) constraints. You might want to check with Ms. Niedzielski at Connect Nevada to see where she is. We had a meeting and were able to get everyone together and I think that will be a significant help to what you are trying to do as well.

**Assemblywoman Neal:**

I was looking at the map you provided and this is going to go all across Nevada. How have you engaged some of the rural communities that this could be happening in their area? I remember in 2011 when we started talking to a couple of rural counties about broadband and they did not want it. How are you doing in those conversations?

**Chris Smith:**

When we receive the \$2 million in planning monies that are being delivered to the state is when we will start this outreach to all the jurisdictions in the state. It is our expectation that utilizing the similar outreach that Connect Nevada has with the rural jurisdictions and the cities, we will tag team with them and ensure that everyone has an opportunity to understand the project, understand what benefits it brings to their local jurisdiction, and how we move forward together. That outreach effort starts when the federal support comes to us, and then we can initiate from that point on.

**Assemblyman Livermore:**

Do you anticipate that there will be a fiscal impact to the local governments?

**Chris Smith:**

At this time, with this initial phase, there is no impact to local government. However, there is a business plan that is being developed by FirstNet, but we are not quite sure what that looks like yet. We believe at some point in the future, when this network is built out, there are going to be costs and entities

will have an option to participate, but certainly those costs are not really realized yet and we are not certain what they will look like, but it is on the horizon.

**Chairwoman Benitez-Thompson:**

Are there additional questions from the Committee? [There were none.] Do you have any final comments?

**Michael Haley:**

I would just like to thank you, Madam Chairwoman, and the Committee for taking the time to listen to us today.

**Chairwoman Benitez-Thompson:**

Thank you for making the presentation short due to our decreased time frame. Is there any public comment at this time? [There was none.]

This meeting of the Assembly Committee on Government Affairs is adjourned [at 11:07 a.m.].

RESPECTFULLY SUBMITTED:

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Lori McCleary  
Committee Secretary

APPROVED BY:

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Assemblywoman Teresa Benitez-Thompson, Chairwoman

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

## **EXHIBITS**

**Committee Name:** Committee on Government Affairs

**Date:** March 27, 2013

**Time of Meeting:** 8:06 a.m.

<b>Bill</b>	<b>Exhibit</b>	<b>Witness / Agency</b>	<b>Description</b>
	A		Agenda
	B		Attendance Roster
A.B. 318	C	Assemblyman Hardy	Written testimony
A.B. 318	D	Assemblyman Hardy	Links to studies referenced in testimony
A.B. 318	E	Geoffrey Lawrence, Nevada Policy Research Institute (NPRI)	NPRI Policy Study
A.B. 318	F	Assemblyman Hardy	List of awarded contracts for school districts and higher Ed for the last three public works years
A.B. 318	G	Paul McKenzie, Building & Construction Trades Council of Northern Nevada	Report on the Direct and Indirect Effects of Prevailing Wage Legislations on Society
A.B. 318	H	Paul McKenzie, Building & Construction Trades Council of Northern Nevada	Research Agreement
A.B. 318	I	Samantha Draper, Smart Cities Prevail	Written testimony
	J	Michael Haley, Washoe County Sheriff's Office	PowerPoint presentation for the National Wireless Public Safety Broadband Network