

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

**Seventy-Seventh Session
May 20, 2013**

The Assembly Committee on Ways and Means was called to order by Chair Maggie Carlton at 5:46 p.m. on Monday, May 20, 2013, in Room 3137 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at nelis.leg.state.nv.us/77th2013. In addition, copies of the audio record can be purchased through the Legislative Counsel Bureau's Publications Office (email: publications@lcb.state.nv.us; telephone: 775-684-6835).

COMMITTEE MEMBERS PRESENT:

Assemblywoman Maggie Carlton, Chair
Assemblyman Paul Aizley
Assemblyman Paul Anderson
Assemblyman David P. Bobzien
Assemblyman Andy Eisen
Assemblywoman Lucy Flores
Assemblyman Tom Grady
Assemblyman John Hambrick
Assemblyman Crescent Hardy
Assemblyman Pat Hickey
Assemblyman Joseph M. Hogan
Assemblywoman Marilyn K. Kirkpatrick
Assemblyman Randy Kirner
Assemblyman Michael Sprinkle

COMMITTEE MEMBERS EXCUSED:

Assemblyman William C. Horne, Vice Chair

GUEST LEGISLATORS PRESENT:

Assemblywoman Irene Bustamante Adams, Clark County
Assembly District No. 42
Assemblywoman Dina Neal, Clark County Assembly District No. 7

Minutes ID: 1217



STAFF MEMBERS PRESENT:

Cindy Jones, Assembly Fiscal Analyst
Michael J. Chapman, Principal Deputy Fiscal Analyst
Janice Wright, Committee Secretary
Cynthia Wyett, Committee Assistant

Chair Carlton presented the members of the Assembly Committee on Ways and Means with a token of her appreciation for their hard work and dedication during the 77th Session (2013). She thanked the members and said she was proud of their work. There were several bills listed on the agenda to be heard and several more bills scheduled for the work session. She opened the hearing on Assembly Bill 294 (1st Reprint).

Assembly Bill 294 (1st Reprint): Revises provisions relating to economic development. (BDR 27-777)

Assemblywoman Irene Bustamante Adams, Clark County Assembly District No. 42, testified that during the interim she had the opportunity to work with a group of Nevada small business owners on solutions to barriers to conducting business with state government. The small business owners questioned how much money was leaving Nevada because of state procurement contracts with out-of-state businesses. The group wanted to stop the outflow of funds and capture more of the supply chain for Nevada's small businesses.

Assemblywoman Bustamante Adams presented Exhibit C that showed the revenue that was leaving Nevada. The nonrevenue contracts for fiscal year (FY) 2012 totaled \$863,000,848.47. Nonrevenue contracts were generally completed as a standard process for services needed by the state from independent contractors. The Purchasing Division, Department of Administration representatives did a good job of awarding 59 percent of the nonrevenue contracts to Nevada businesses. If the state could increase that percentage by 3 percent, approximately \$24 million would be earned by Nevada vendors.

Assemblywoman Bustamante Adams said Assembly Bill 294 (1st Reprint) proposed to increase the market share of state procurement contracts for Nevada small businesses. The goal of the bill was to define the mechanism for certification of local emerging small businesses. The state needed a method to measure the qualifications of small businesses. A small business must be in existence, operational, and operated for a profit to be eligible for certification. The requirements for certification included maintaining the principal place of business in Nevada and not being a subsidiary or parent company of a large

business. Chain companies were excluded from the definition of small businesses. A business must report its total number of employees and the annual gross receipts earned. The bill also increased the threshold of state procurement dollars for discretionary spending from \$25,000 to \$50,000 to prevent the small businesses from having to compete against large companies. The chart presented in [Exhibit C](#) showed 862 nonrevenue contracts existed, and the dollar amounts of 482 of those contracts ranged between zero and \$50,000. Small business owners needed to build capacity with contract amounts between zero and \$50,000.

Assemblywoman Bustamante Adams continued that the bill allowed the Office of Economic Development, Office of the Governor (GOED), to adopt regulations, create parameters for outreach, establish a reporting mechanism, help local and state agencies set goals, and formulate a recognition program for state agencies to embrace the concepts. She thought the policy was solid. She realized that the bill incurred a fiscal cost from GOED of \$1.2 million to hire a director and three staff for the team. She learned that the Oregon model of the program had two full-time employees, a manager and an assistant who were not paid large salaries. The GOED revised the fiscal note to \$400,000, and after further discussion with Steve Hill, Executive Director, GOED, she proposed to reduce the cost to \$100,000 per year. Those funds would allow the Office the flexibility to contract with a consultant to complete a pilot program and evaluate the benefit to Nevada before making a decision to establish the program in GOED. The program would allow the state to leverage dollars from other sources such as the federal government, local governments, and other private sector investors. After further dialogue with Mr. Hill, she determined \$100,000 was still cost prohibitive to the Office

Assemblywoman Bustamante Adams presented an amended fiscal note ([Exhibit D](#)) in response to a question from Chair Carlton about the costs, which showed a cost of \$100,000 per year or \$200,000 for the 2013-2015 biennium. The funding would allow the Office to contract with an independent contractor to develop a statewide pilot program.

Assemblywoman Bustamante Adams noted that the consultant contractor should be a Nevadan. A pilot program was developed in Clark County that had been successful, and small businesses wanted the program to be established statewide. Independent contractors in Nevada would be able to develop the pilot program for the Office and offer the program throughout the state.

Tom Akers, President/CEO, Akers & Associates, Inc. testified that the program established in Clark County was a success. The program in Clark County began with the idea of using existing statutes to take advantage of informal bid

opportunities with public entities. The group decided to identify local small businesses and asked whether those businesses would be willing to do business with Clark County if the cost was only \$5. The local small businesses were interested to pursue that opportunity. The premise of the program was to allow small businesses to operate within their capacity and build relationships. The program had generated \$11 million in contracts since it began. That amount might not seem like a lot of money in the state budget, but the threshold of \$50,000 or less meant many local small businesses were able to enter into the system. The program allowed small businesses to build relationships and generate more business. Small businesses hired 200 job seekers looking for work. Those firms hired the job seekers because the businesses had contracts and were able to build capacity. The program allowed businesses to build relationships with hundreds of persons who were not procurement agents but were department staff with the ability and latitude to request quotes.

Mr. Akers continued that the program created a "most valuable department" award. The program recognized staff for a willingness to allow local small businesses to enter into contracts with governmental agencies. Many local businesses in the community had not been engaged in the purchasing process with public agencies. During the last four years, 80 percent of the small businesses in the program stated that the program was the first opportunity to contract with the public sector. That trend should continue around the state.

Mr. Akers said the small businesses that had graduated out of the Clark County program were thriving in southern Nevada as a result of the program. Mr. Akers read the names of businesses that provided letters of support ([Exhibit E](#)) for the bill:

DONROSS Construction Services
ATA Architecture, LLC
Electrical Systems Integration, Inc.
Entourage VIP Protective Service, LLC
V Square Company
Mojave Java and Tea
Those Guys Inc.
Top Notch Electric Inc.
The Creative Octopus, LLC
All Hose
Stay Kool Heating and Cooling, LLC
Deziner Originals
Ramirez Group

Steve Hill, Executive Director, Office of Economic Development (GOED), Office of the Governor, testified in support of Assembly Bill 294 (1st Reprint). The program benefitted small businesses and provided value to Nevada, and allowed Nevada funds to be spent at Nevada businesses. The United States Economic Development Administration (EDA) invested in the program in Clark County. The GOED would ask EDA to match the state money to help the program grow statewide. The EDA appreciated the efforts of the Clark County program and considered the program a success. The state investment in the program had the opportunity to grow with the addition of the federal money.

Assemblyman Hogan said he was delighted to hear about the progress being made in Clark County. He wondered whether other counties were encouraged to participate by extending their requests for bids to the types of emerging businesses that were participating in Clark County.

Mr. Hill replied that the program was relatively new in Clark County and had been a success. He thought that the public relations efforts would help spread the word to other counties. The Clark County program was not currently available to businesses in other counties. The work completed by GOED would be available to other counties throughout the state during the next biennium.

Hearing no response to her request for further testimony in support of or in opposition to the bill, Chair Carlton called for public testimony. There being no public testimony, she closed the hearing on Assembly Bill 294 (1st Reprint) and opened the hearing on Assembly Bill 419.

Assembly Bill 419: Revises provisions governing the Public Employees' Benefits Program. (BDR 23-1119)

Martin Bibb, Executive Director, Retired Public Employees of Nevada (RPEN), testified that Assembly Bill 419 increased the size of the Board of the Public Employees' Benefits Program (PEBP) by one person, specifically a retiree. The RPEN represented 9,000 retired public employees and supported Assembly Bill 419. Of the 40,000 current members of PEBP, about 23,000 were active members and 17,000 (42 percent) were retirees. The Board was currently composed of nine members. Two members were from the private sector and seven members were members of PEBP from the public sector. Of those seven Board members, six were active employees and one member was a retiree.

Mr. Bibb said there had been many drastic changes related to PEBP in recent years, and the number of retirees increased dramatically during the last several years. The RPEN supported Assembly Bill 419 and believed a second retiree

member on the Board would bring a more representative voice to retirees in PEBP.

Marlene Lockhard, Principal, The Lockhard Group, testified that she also represented RPEN. She was appearing on behalf of James T. Richardson, J.D., Ph.D., Professor, University of Nevada, Reno, representing the Nevada Faculty Alliance (NFA). Dr. Richardson asked Ms. Lockhard to offer NFA's full support for the measure to the Assembly Committee on Ways and Means. Ms. Lockhard stated that Priscilla Maloney, Labor Representative, American Federation of State, County and Municipal Employees (AFSCME) Local 4041, also asked her to speak in support of the bill for AFSCME.

In response to a question from Assemblyman Kirner, Mr. Bibb said the cost of Assembly Bill 419 was \$4,596 per year. The RPEN represented the active members who belonged to PEBP and retirees who were Medicare eligible and pre-Medicare eligible. Members came from the ranks of state employee and the local government employees. Assemblyman Kirner had expressed concern about an even number of members on the Board, and Mr. Bibb said he was comfortable with an even number of members on the Board.

In response to a question from Assemblyman Hickey, Ms. Lockhard replied that NFA supported Assembly Bill 419. When Assembly Bill 419 was first heard by the Assembly Committee on Government Affairs, Dr. Richardson had a misunderstanding about the number of Nevada System of Higher Education (NSHE) representatives on the Board of PEBP. Currently, NSHE had one representative on the Board and was filling a second Board position that was vacated by a local government that removed itself from PEBP. The NSHE had been neutral on Assembly Bill 419, but now supported the bill because it knew it had two members on the Board. The NSHE recognized that retirees represented 42 percent of the PEBP population.

Chair Carlton said she had received an unsolicited fiscal note and would share it with the members. The expense included the compensation for pay for boards and commission members, \$46 for the workers' compensation expenses, and training and travel expenses. The total cost to add one more member to the Board was \$4,596 for each year of the 2013-2015 biennium.

Patrick Sanderson, representing Nevada Alliance for Retired Americans, testified that unlike others, he believed that an even number of members on the Board contributed to better conversation. The additional member would improve the ability of the Board to address problems because the Board members must work together on the problems. The Alliance supported Assembly Bill 419.

Bernie Anderson, member of RPEN, testified in support of Assembly Bill 419. He thought it would be helpful to expand the Board membership. He was a retired public employee and believed the difficult problems during the last several years for retirees needed more attention. He hoped the expanded Board would be more receptive to addressing the problems faced by retirees.

James R. Wells, Executive Officer, Board of the Public Employees' Benefits Program (PEBP), testified that the breakdown of the fiscal note included the \$80 per day board and commission pay times the average number of meetings. The Board generally held ten meetings each year. The Board was required to pay workers' compensation in the amount of \$46 per member. The training that was required pursuant to *Nevada Revised Statutes* (NRS) 287.0428 required the Board members to attend at least 16 hours of continuing education each year. Generally, the registration fees and travel expenses totaled between \$2,500 and \$4,500 each year per member. The PEBP averaged those costs for Board members over the last several years and projected the average cost of \$3,750 used in the fiscal note for Assembly Bill 419.

Mr. Wells said the PEBP Board voted to oppose Assembly Bill 419 for two reasons. The first reason was a concern about an even number of members and the potential for tie votes that would create problems with the Board's ability to effectively provide policy direction to the staff. The second reason was the challenge of getting a quorum at the meeting. The nine-member Board needed a quorum of five members. The ten-member Board needed a quorum of six members. The Board had problems during the past year in getting a quorum. One member expressed concern about constituent representation in general, stating a Board member should represent the plan and all of its participants. But the position taken by the Board was that the composition and makeup of the Board was within the purview of the Legislature.

In response to a question from Chair Carlton concerning the opinion of the Board, Mr. Wells replied that the Board was opposed to an even number of members on the Board but was receptive to changing the makeup of the existing nine Board members. The costs of the Board members were built into the PEBP rates. The next time adjustments were made to the rates, PEBP could include the new costs of the additional Board member. The budgets were already closed so PEBP must use its reserves to pay for the additional expenses. The new costs would be included in the budget for the 2015-2017 biennium. The rates were already established for next year, but the \$4,596 cost was insignificant for PEBP.

Hearing no response to her request for further testimony in support of or in opposition to the bill, Chair Carlton called for public testimony. There being no public testimony, she closed the hearing on Assembly Bill 419.

Chair Carlton wanted to present a bill to the Assembly Committee on Ways and Means and asked Assemblywoman Kirkpatrick to temporarily assume the duties of the chair. Assemblywoman Kirkpatrick opened the hearing on Assembly Bill 247 (1st Reprint).

Assembly Bill 247 (1st Reprint): Enacts the Nevada Buy American Act.
(BDR 28-190)

Assemblywoman Maggie Carlton, Clark County Assembly District No. 14, testified that Assembly Bill 247 (1st Reprint) would enact the Nevada Buy American Act. The bill was amended by the Assembly Committee on Government Affairs that removed the manufactured goods provision in the bill. She realized the difficulty of retaining the manufactured goods provision in the bill. As an example, she pointed to a sprinkler head in the ceiling for the fire system. The sprinkler head had multiple components in it. Some of the components might be made in the United States (U.S.) and some might not. Behind that sprinkler head was black steel, and black steel was made in the U.S. Assemblywoman Carlton wanted to address the steel that was being made in the U.S. versus the little bits and pieces of products that would be difficult to address.

Assemblywoman Carlton said the concerns expressed at the earlier hearing by the Assembly Committee on Government Affairs resulted in the removal of the manufactured goods provision. Some other persons talked about exemptions that were needed. Most of those concerns had been resolved. The remaining provisions related to the openness of the manufactured goods provision and the regulatory process to address those problems. Stakeholders wanted their specific manufactured items listed. However, she said that listing each item caused problems. As an example, she cited that when a new item was developed, the new item could not be added to the list for 18 months until the Legislature met again. She convinced those persons that they were better off with the openness of the language. As technology changed over the next several years, new items could be addressed.

Assemblywoman Carlton proposed an amendment ([Exhibit F](#)). She said the bill originally had a large fiscal note, but the first amendment reduced the fiscal note. The next amendment reduced the fiscal cost even more. The most recent proposed amendment ([Exhibit F](#)) changed the percentage from 25 percent to 15 percent. American made products would increase the cost of

a project by no more than 15 percent. Currently buying American steel for a project would probably increase the cost of the project by 7 percent to 9 percent. The amendment added 15 percent to the total cost of the project, and that figure might not need to be increased in the future. The change from 25 percent to 15 percent was the only change made in the amendment. She thanked Gustavo Nuñez for his assistance and asked him to explain some of the issues.

Gustavo Nuñez, P.E., Administrator, State Public Works Division, Department of Administration, testified that there were three main things that the amendment addressed. A definition of iron and steel products was included in the amendment. The definition related to the structural system of a building. A design team for the structural system of a building would be instructed to buy American products, or a contractor would be directed to buy American products. The contractor would go to a mill requesting a certification for American products, and there was an existing process for certification known to contractors. The structural system for a building usually was about 15 percent of a project's average cost.

Mr. Nuñez had spoken with a number of steel suppliers and structural engineers, and the consensus was that American products would increase the cost of a steel building by about 7 percent to 9 percent.

Mr. Nuñez stated the next problem addressed in Assembly Bill 247 (1st Reprint) was to require the bidders of projects to base the bids on the bid documents to allow for an accurate comparison. It would be difficult to have one bid based on the bid documents but another bid subject to certain waivers. In his experience, differences in bids resulted in controversy, and controversy led to protests and possible court actions. The design process included informing contractors to bid the documents with no waivers, which would allow the bids to be easily compared. The Division would be in a position to properly award the bids.

Mr. Nuñez said the amendment reduced the additional cost percentage from 25 percent to 15 percent for American products. Most buildings would not exceed the 15 percent. The cost difference would probably be about 7 percent to 9 percent. He said a project included in the 2013 Capital Improvement Program (CIP) was a new building for a tag plant for the Department of Motor Vehicles (DMV) that was a pre-engineered steel building. The additional cost for American products for the tag plant would be about 11 percent to 12 percent. The tag plant would comply with the requirement in the bill. The original fiscal cost was \$20 million for the \$100 million total for the 2013 CIP because it was assumed that everything

must be an American product. There was only one building in the 2013 CIP that was subject to Assembly Bill 247 (1st Reprint). The \$20 million fiscal cost could probably be reduced to about \$200,000 to \$300,000. Mr. Nuñez was ready to submit the revised fiscal cost for the 2013 CIP as soon as he knew the outcome of Assembly Bill 247 (1st Reprint).

Mr. Nuñez stated he wanted to include a contingency provision in the bill in case something went wrong with a project. The requirements for American products could be specified during the design process. However, during construction, problems could occur at a steel mill, at the business plant of a steel supplier, or somewhere else. If something unexpected occurred during the construction process, Mr. Nuñez recommended a contingency provision be established to resolve the problem quickly. The original waiver process could delay a project during construction by two or three months, which was not good for the project, the owner, or the contractor. A delay of two or three months would be expensive to absorb, and a public agency would most likely need to pay the extra costs. The best way to provide for a contingency process was to permit the contractor to use the change-order process on the job. The change-order process was something that could be completed within 30 days to allow the project to proceed. The change-order process must be documented with the properly explained reasons for the exceptions based on real circumstances. The agency could make a decision whether to approve the change order and move ahead or not. Generally, construction projects could address contingencies during the design process with no issues arising during the construction, but unexpected problems might occur and Mr. Nuñez thought it best to include a contingency process in case something happened.

In response to a question from Assemblyman Hickey concerning the availability of steel, Mr. Nuñez replied that American steel was available for all the projects proposed for the CIP. The provisions of Assembly Bill 247 (1st Reprint) were applicable, workable, and would not have a negative effect on the CIP.

Mr. Nuñez said that the cost of American products for the DMV tag plant steel building would increase the total project cost by \$200,000 to \$300,000 based on consultations with various suppliers. He had received a large spread in the projections from the suppliers. There was a steel supplier in Carson City that provided that type of cost range. The subcontractor would typically be selected by the prime contractor who would determine the markups to be applied. The \$300,000 estimate was on the high side, and Mr. Nuñez used that on the 2013 CIP. He projected that the structural system of a building would cost about 15 percent of the total project cost, and that cost would increase by about 7 percent to 9 percent for the purchase of American products.

He thought those projections should be used for future building projects when funds became available to build.

Assemblywoman Kirkpatrick said the state did not know whether companies that were building might already be using American products. That type of information was not requested. When the state issued a request for proposal (RFP), a request for American products was not specified. She questioned the fiscal note on an item that was unknown, because the contractor might already be using American products.

Mr. Nuñez replied that most of the steel for the state came from a mill in Fontana, California. Most of the steel made on the West Coast came from recycled scrap metal. Not all of the shaped forms that were typically used in a building were made on the West Coast from recycled steel. In some cases a project might need to obtain steel from a mill on the East Coast. Shipping costs to bring steel from the East Coast to Nevada, bundling requirements for shipping, and scheduling issues must be included in the design process. Decisions must be made during the design process that might affect the rest of the structural system.

Assemblywoman Kirkpatrick expressed concern about assuming there would be increased costs associated with using American products. She said change orders were used all the time. For example, sometimes problems arose in getting concrete from China. She wondered whether the assumption about increased costs resulted from speculation only. She commented that materials for Leadership in Energy and Environmental Design (LEED)-certified buildings were already required to come from within 500 miles of where the project was built. She wondered whether the fiscal note was overstated and whether the difference would revert to the General Fund. She thought a press release should be issued saying the state saved money if the assumption about increased costs proved to be incorrect.

Assemblywoman Carlton explained that the goal behind Assembly Bill 247 1st Reprint was to create Nevada jobs. Legislators talked about jobs: American jobs and Nevada jobs. The state should buy American products, which might cost a little more. When the state paid a steel worker in California, or a steel worker in Pittsburgh, that money benefitted the entire country and Nevada also. She would like to have more steel workers visiting Las Vegas and Reno and spending money because the state's economy relied on tourism. When the rest of the country was comfortable with its earnings, those persons would be more comfortable spending money in Nevada. The state would be proud to get a quality American product, and would be helping those persons earn money who might become customers in Nevada.

Assemblywoman Carlton appreciated Mr. Nuñez addressing the opening bid process and the design process. That was one of the biggest problems discussed when the bill was heard in the Assembly Committee on Government Affairs. She was pleased that the problems were addressed thoroughly. Every contractor who wanted to bid would know exactly what was required. The contractors would not be put in the position of getting partway through the project and being unable to complete the project. The steel from Fontana, California, for example, was recycled, which was acceptable as long as it was recycled by American workers. The goal was to keep Americans working, and additionally she was aware of the potential increase in cost for American products. She was unaware of how much American steel was in the projects already, and the 7 percent to 9 percent increased cost seemed accurate.

Assemblywoman Carlton said most of the fiscal notes submitted were zeros. A couple of large fiscal notes were submitted before the amendments were proposed, and those would be revised for the Assembly Committee on Ways and Means. She would not mislead the Assembly Committee on Ways and Means and claim the bill would be revenue neutral, because it was not. Assembly Bill 247 (1st Reprint) would put money in the pocket of the American workers and that was the goal.

In response to a question from Assemblyman Sprinkle concerning reinforcement steel (rebar), Assemblywoman Carlton replied that the amendment change to 15 percent would not eliminate rebar from the bill. She said that she would communicate the amendments to interested parties and work on revisions to the fiscal notes. She believed it inappropriate to discuss the amendment before presenting the amendment to the Assembly Committee on Ways and Means. Now she would work with the parties to determine how the amendment would affect the parties and revise fiscal notes. Some fiscal notes were from school districts that had no money in the bond fund to build facilities for the next two years. She did not expect the bill would have much of an effect on any new building for several of those school districts.

Danny Thompson, representing Nevada State AFL-CIO, testified that the manufacturing base in America had been decimated by trade agreements that the federal government made without consideration for American workers. He said the United States could not compete with a country that had no child labor laws, environmental laws, or worker safety laws. A person in some other countries that raised his hand to complain about conditions could be shot. Free trade with China meant doing business with a communist country. It was unrealistic to expect an American worker to compete with a worker in a communist country.

Mr. Thompson supported the bill and said Assembly Bill 247 (1st Reprint) was a step in the right direction to return jobs to Americans. The economy in Nevada had been depressed for years. The East Coast where steel was formerly produced was now referred to as the "Rust Belt." The United States had become an exporter of raw materials to other countries that sent back finished products that Americans bought. He accepted that American products might cost a little more. Those increased costs would be paid by tax dollars from the persons who paid taxes to the state. The way to put persons back to work was to start doing things such as passing Assembly Bill 247 (1st Reprint). He understood the Assembly Committee on Ways and Means wanted to help small businesses, and he suggested the state spend a little money to put Americans back to work.

Patrick Sanderson, representing Laborers International Union Local #872, AFL-CIO, spoke in support of Assembly Bill 247 (1st Reprint).

Paul McKenzie, representing the Building and Construction Trades, Council of Northern Nevada AFL-CIO, spoke in support of Assembly Bill 247 (1st Reprint). He testified that any contractor that opposed buying American products should not complain about out-of-state contractors coming into Nevada and stealing work in the state.

Jack Mallory, Assistant Business Manager/Secretary-Treasurer, Director of Government Affairs, International Union of Painters and Allied Trades, District Council 15, testified in support of Assembly Bill 247 (1st Reprint). He preferred that the concepts evolve further in the future to include manufactured goods, and he supported the production of a greater percentage of materials in the United States and in Nevada. The bill created a good opportunity for American products.

Ray Bacon, representing Nevada Manufacturers Association, apologized to Assemblywoman Carlton because he thought of an idea two hours earlier and presented [Exhibit G](#) as a proposed amendment. He said there were multiple variables involved in the American products concept, and no one knew how the program would evolve. The Legislature might wish to reevaluate the program, but he supported the ideas presented in Assembly Bill 247 (1st Reprint). He suggested the Assembly Committee on Ways and Means consider a sunset of the program in 2015 or 2017. He thought a sunset was good policy because the Legislature could look at the program from the fiscal perspective. There was only one state building subject to the bill so a sunset in two years might be too soon; however, the local governments had some projects scheduled so maybe two years was appropriate. He said the reason for the amendment including a sunset provision was to allow the Legislature the opportunity to

examine the efficacy of the bill. The Legislature might decide to continue the program or make changes in the next legislative session.

Hearing no response to her request for further testimony in support of or in opposition to the bill, Assemblywoman Kirkpatrick called for public testimony. There being no public testimony, she closed the hearing on Assembly Bill 247 (1st Reprint).

Chair Carlton reassumed the duties of the chair and opened the hearing on Assembly Bill 58 (1st Reprint).

Assembly Bill 58 (1st Reprint): Revises various provisions relating to veterans. (BDR 37-303)

Caleb S. Cage, Executive Director, Nevada Office of Veterans' Services, testified that Assembly Bill 58 (1st Reprint) accomplished five things. It changed the name of the Office from the Office of Veterans' Services to the Department of Veterans Services. The bill created the Office of Veterans Policy and Coordination in the Office of the Governor, and created the Interagency Council on Veterans Affairs. The bill also created the Gift Account for the Veterans Home in Northern Nevada that was requested in the Capital Improvement Program (CIP). Assembly Bill 58 (1st Reprint) revised provisions relating to donations for veterans homes, requiring the Division of State Parks, State Department of Conservation and Natural Resources, to issue annual permits for the free use of state parks and other recreational areas to certain veterans.

Mr. Cage suggested two amendments to the bill. He requested that sections 8 and 9 be deleted. Those two sections created the Office of Veterans Policy and Coordination in the Office of the Governor. He suggested amending section 11 that made the Executive Director of the Office of Veterans Policy and Coordination the chair of the Interagency Council on Veterans Affairs. He believed that the chair should be the Director of the Department of Veterans' Services.

Mr. Cage continued that the fiscal note was \$2,500 for letterhead revisions that would need to be made if the bill passed. He submitted an amended fiscal note that showed the cost was zero. The Office could make most of the letterhead changes digitally and would not need an appropriation. The Office could use existing stationery stock and reorder new envelopes and business cards with the changes as needed. The key information such as the address and telephone numbers would not change. He understood that the fiscal note from the

Division of State Parks, State Department of Conservation and Natural Resources, had been removed as well.

In response to a question from Chair Carlton, Mr. Cage replied that no amendment had been prepared, but he would provide a proposed amendment.

Hearing no response to her request for testimony in support of or in opposition to the bill, Chair Carlton called for public testimony. There being no public testimony, she closed the hearing on Assembly Bill 58 (1st Reprint) and opened the hearing on Assembly Bill 169 (1st Reprint).

Assembly Bill 169 (1st Reprint): Revises provisions relating to contracts with a governmental entity. (BDR 27-793)

Assemblywoman Dina Neal, Clark County Assembly District No. 7, testified that the best way to describe Assembly Bill 169 (1st Reprint) was to explain it in two parts. Sections 2 through 15 dealt with sole-source contracts. Those sections were developed in response to abuses relating to consumer charges that were assessed without the consumer's knowledge. She cited an example of unemployment benefits for 110,000 Nevadans who were out of work. The unemployment insurance (UI) benefits were provided to the recipients via a debit card. The vendor charged \$1.75 per ATM transaction, and that fee was not disclosed to the consumer. The charge was deducted from the UI benefits. She knew of several examples of undisclosed fees being charged by vendors. Contractors with governmental agencies should disclose fees to the consumer. Assemblywoman Neal believed there should be a renegotiation of contracts, and the state should examine the market rates before extending a contract. The state must ensure there were no costs that were unknown and passed on to the consumer. She had included a code of conduct in sections 2 through 15 of the bill.

Continuing, Assemblywoman Neal explained that section 16 dealt with reporting requirements. The local entities and the Nevada System of Higher Education (NSHE) were required to report contracting data, including the race and gender of successful bidders. Section 16 was a compromise between different groups and generated most of the fiscal notes. She managed to reduce 11 of the 16 fiscal notes submitted; only two or three fiscal notes remained. One fiscal note from the Clark County School District (CCSD) estimated the cost at \$1 million, but the cost was reduced to \$55,000 for one new position because of the public works language in the bill. There was a conversation about how the CCSD's public works process differed from public works under Gustavo Nuñez, P.E., Administrator, State Public Works Division,

Department of Administration. There was little difference between the public works process, but CCSD said it needed additional staff.

Assemblywoman Neal said the Department of Administration submitted a fiscal note for \$500,000 that had been reduced to \$90,000 for additional programming. After the 2013-2015 biennium, the programming cost would decrease significantly. The system created by the Department of Administration would be able to collect the data, but reports must be queried from the data in the system. She said the main fiscal notes remained, and the other fiscal notes were eliminated or reduced significantly. The Assembly Committee on Ways and Means was presented with a revised supplement to amendment 8260 ([Exhibit H](#)) to Assembly Bill 169 1st Reprint.

Chair Carlton reviewed the documentation that was provided and said she appreciated the information. She understood the reductions and eliminations of the fiscal notes from the different groups. The City of Henderson reduced its fiscal note to \$11,000. The Office of Economic Development, Office of the Governor, eliminated its fiscal note.

Assemblywoman Neal added that the City of Henderson sent an email on April 22, 2013, with an initial cost of \$11,000, and now the cost was reduced. The City of Henderson had three or four contracts, and the City was currently required to submit a one-page report. There was no additional cost to prepare the existing report, and the updated email informed the Assembly Committee on Ways and Means that the fiscal note was withdrawn. The Clark County School District still had a fiscal note on the bill ([Exhibit I](#)) showing a cost of \$55,000 each year to pay for a clerical position to collect and report the required data.

Jeff Mohlenkamp, Director, Department of Administration, testified that he revised the fiscal note, and the cost in fiscal year (FY) 2014 was \$97,977 and in FY 2015 was \$48,870. About \$62,500 of the costs for FY 2014 was included to change the contract entry and tracking system that was used for contract management in the state. The FY 2015 costs were related to the administrative assistant to help manage the data that came with the reporting process. That fiscal note was reduced significantly because of the revisions to the bill.

Chair Carlton asked Mr. Mohlenkamp to submit a revised fiscal note.

James R. Wells, Executive Officer, Board of Public Employees' Benefits Program (PEBP), testified that he had worked with Assemblywoman Neal on Assembly Bill 169 (1st Reprint) but had concerns with section 9.

He said PEBP would be unable to comply with the requirements because of trade secret matters, protected health information, and fees charged directly to its participants. Section 10, subsection 2 stated, "Nothing contained in the section shall be deemed to require the disclosure or reporting of any proprietary information." He requested that the same language be added to section 9 of the bill to exempt PEBP from the requirements.

In response to a question from Chair Carlton concerning the exemption of PEBP from disclosure of information, Mr. Wells replied he had not seen the amendment that added PEBP to section 6.5 as exempt from the definition of a using agency." His concern was the language in sections 9 and 10 required PEBP to fully disclose to the using agency any fees charged by an independent contractor for services within the scope of the contract. Those fees were different for PEBP depending on the individual circumstances of the member. For example, a person's voluntary life insurance, home insurance, and auto insurance had very different premiums for each individual based on his unique circumstances. Trying to comply with that provision was difficult for PEBP. He said PEBP entered into contracts with networks of medical providers. Those subcontractors charged fees directly to PEBP participants. He did not want to disclose those exact fee amounts. He interpreted section 10 as violating the trade secret agreements in the network contracts. Mr. Wells said his concerns could be addressed through an amendment to section 6.5 of the bill.

Hearing no response to her request for further testimony in support of or in opposition to the bill, Chair Carlton called for public testimony. There being no public testimony, she closed the hearing on Assembly Bill 169 (1st Reprint) and opened the hearing on Assembly Bill 270 (1st Reprint).

**Assembly Bill 270 (1st Reprint): Revises provisions governing minority affairs.
(BDR 18-130)**

Assemblywoman Dina Neal, Clark County Assembly District No. 7, testified that Assembly Bill 270 (1st Reprint) revised provisions governing minority affairs. It added permissive language for an investigator for the Ombudsman of Consumer Affairs for Minorities in certain circumstances. She worked with Bruce Breslow, Director, Department of Business and Industry, to develop amended language regarding the investigator. The language would allow the Department of Business and Industry to share an investigator with the Ombudsman of Consumer Affairs for Minorities to do additional work if an investigator was approved. The costs for the investigator were already included in the Department's budget along with an administrative assistant. The bill must be reconciled with the fiscal note to allow those two things to work

together. Mr. Breslow sent an email saying that he was comfortable with the amended version and how the investigator could be shared in the future.

In response to a question from Chair Carlton concerning additional costs of the shared investigator, Assemblywoman Neal replied that the investigator was included and the costs processed with the budget closing. Section 3 would no longer be in effect because PEBP received the investigator position in its budget. The Legislative Counsel Bureau withdrew its fiscal note on section 3 that would require an allocation from the Contingency Account.

Hearing no response to her request for testimony in support of or in opposition to the bill, Chair Carlton called for public testimony. There being no public testimony, she closed the hearing on Assembly Bill 270 (1st Reprint), and opened the hearing on Assembly Bill 308 (1st Reprint).

Assembly Bill 308 (1st Reprint): Revises provisions relating to the Southern Nevada Enterprise Community. (BDR S-557)

Assemblywoman Dina Neal, Clark County Assembly District No. 7, testified that Assembly Bill 308 (1st Reprint) revised provisions relating to the Southern Nevada Enterprise Community. She was appointed to and chaired the Southern Nevada Enterprise Community Board. The bill provided some structural changes for the Board and added some human infrastructure items. The previous language focused on economic development and revitalization, and the intent of the bill was to shift the language to incorporate more human conditions. There was a fiscal note and the appropriation was deleted. The goal of the bill was to transfer the administrative support responsibility for the Southern Nevada Enterprise Community from the City of Las Vegas to the Legislative Counsel Bureau (LCB). Currently, the City of Las Vegas provided the administrative support and no longer wished to do so. She was more comfortable with receiving administrative support from LCB. Richard Combs, Director, Legislative Counsel Bureau, sent a letter explaining LCB could provide administrative support as long as the meetings were held in the Grant Sawyer State Office Building. The Southern Nevada Enterprise Community always held its meetings at the Grant Sawyer State Office Building. Assemblywoman Neal projected the Board would hold eight meetings during the biennium.

Hearing no response to her request for testimony in support of or in opposition to the bill, Chair Carlton called for public testimony. There being no public testimony, she closed the hearing on Assembly Bill 308 (1st Reprint).

Chair Carlton said that concluded the Assembly Committee on Ways and Means' hearing on the bills listed on the agenda.

Assemblywoman Kirkpatrick provided an update on Assemblyman Horne, who had taken ill. He was improving and would return to the Legislature tomorrow or the next day. She suggested the Assembly Committee on Ways and Means proceed with its work in his absence.

Chair Carlton said the Assembly Committee on Ways and Means would hold a work session on several bills. She wanted to begin with Assembly Bill 461.

Assembly Bill 461: Enacts provisions governing the management of sagebrush ecosystems. (BDR 26-1194)

Assemblyman David P. Bobzien, Washoe County Assembly District No. 24, presented an amendment as Exhibit J to Assembly Bill 461. He met with Leo M. Drozdoff, P.E., Director, State Department of Conservation and Natural Resources, to discuss his concerns. The bill did not represent everything that he wanted, but in the spirit of not wanting to let the "perfect be the enemy of the good" and to keep it moving to the next house, he was willing to process the bill.

Assemblyman Bobzien said section 3, subsection 2, paragraph (a) of the amendment made it clear that nongovernmental organizations could be involved in providing awards of credits to persons for work of the Sagebrush Ecosystem Council. He wanted to ensure that the award process was open and a large number of partners could engage in the process.

Assemblyman Bobzien said section 6, subsection 1 addressed the membership of the Sagebrush Ecosystem Council. He was not comfortable with the balance of the Council, because he thought the Council was skewed toward industry. He liked the provision that enumerated nonvoting members. The biggest change was the addition to the Council of one Senate member appointed by the Majority Leader of the Senate and one Assembly member appointed by the Speaker of the Assembly, and those ex officio members would remedy the balance of power. It was good to keep the Legislature connected to the critical sage grouse efforts.

Assemblyman Bobzien said he had concerns with the cost recovery language in section 6, subsection 6, paragraph (c). He believed that the bill was good and would move the state in the right direction during the next two years. Several things must occur to keep the program operating correctly.

Assemblyman Bobzien stated the following language should be included: "Consider and require the recovery of costs related to activities prescribed by paragraph (d) of subsection 2 of section 3 of the act pursuant to

NRS 701.600 to 701.640 inclusive or any other authorized method of recovering such costs." He said the language from Assembly Bill No. 307 of the 76th Session (2011) allowed for cost recovery when agencies reviewed plans of projects that might affect the sagebrush ecosystem. There was a similar cost-recovery system at the federal level with the National Environmental Policy Act (NEPA). A project proponent entered into a cost-recovery relationship with a regulatory agency. The regulatory agency would conduct the science and review.

Leo Drozdoff, P.E., Director, State Department of Conservation and Natural Resources, testified he agreed that the enemy of the good should not be the perfect. He believed Assembly Bill 461 would allow sage grouse work to continue and be funded. The Department had sufficient funds in the current biennium, but some of the money that was now available would be unavailable in the future. He was pleased the Council would include two members of the Legislature. Having a member of the Senate and Assembly was a good idea, and he believed the members would add even more credibility to the work being done.

Chair Carlton said information and communication made everyone more comfortable as the work of the Council moved forward. The results would be better with more persons involved at the beginning of the effort.

ASSEMBLYMAN SPRINKLE MOVED TO AMEND AND DO PASS AS
AMENDED ASSEMBLY BILL 461 WITH PROPOSED
AMENDMENT 9115.

ASSEMBLYWOMAN KIRKPATRICK SECONDED THE MOTION.

THE MOTION PASSED. (Assemblyman Horne was not present for the vote.)

Assembly Bill 74 (1st Reprint): Establishes provisions governing document preparation services. (BDR 19-84)

Chair Carlton said Assembly Bill 74 (1st Reprint) was heard by the Assembly Committee on Ways and Means earlier in the day. The bill established provisions governing document preparation services. A one-time appropriation of \$150,000, the initial cost, should be amended into the bill, which would change Assembly Bill 74 (1st Reprint) into a one-shot bill. One-shot bills were processed and sent to the other house to be held until the differences were reconciled. The bill could move forward depending on how much money was available to fund it.

ASSEMBLYMAN EISEN MOVED TO AMEND AND DO PASS AS AMENDED ASSEMBLY BILL 74 (1ST REPRINT).

ASSEMBLYMAN SPRINKLE SECONDED THE MOTION.

THE MOTION PASSED. (Assemblyman Horne was not present for the vote.)

Assembly Bill 138 (1st Reprint): Revises provisions governing the partial abatement of certain taxes. (BDR 32-113)

Chair Carlton reported that the fiscal note attached to Assembly Bill 138 (1st Reprint) had been withdrawn. The hearing on the bill, she said, would be rescheduled because costs still associated with the bill required additional work.

Assembly Bill 145 (1st Reprint): Provides for retrofitting of roads and streets in consideration of different types of users. (BDR 43-662)

Chair Carlton said Assembly Bill 145 (1st Reprint) included some programming costs.

Cindy Jones, Assembly Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau, stated that the Department of Motor Vehicles (DMV) said a minor amendment was needed to make the fiscal effect neutral on the bill. A conceptual amendment would be provided to the Assembly Committee on Ways and Means.

Chair Carlton said the proper action for the Assembly Committee on Ways and Means would be to amend and do pass with the conceptual amendment that was proposed. The amendment would revise the bill to specify that the only circumstance under which a person could make the \$2 voluntary contribution to fund complete streets would be if a person registered a vehicle via the DMV website or kiosk. The amendment would also change the effective date to as soon as practicable. The DMV needed time to complete the programming required. The amendment would reduce the fiscal effect to zero.

ASSEMBLYMAN HARDY MOVED TO AMEND AND DO PASS AS AMENDED ASSEMBLY BILL 145 (1ST REPRINT).

ASSEMBLYMAN EISEN SECONDED THE MOTION.

THE MOTION PASSED. (Assemblyman Horne was not present for the vote.)

Assembly Bill 454: Requires that certain information be transmitted electronically to the Department of Motor Vehicles. (BDR 43-1161)

Cindy Jones, Assembly Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau, stated that Assembly Bill 454 was originally heard by the Assembly Committee on Ways and Means on April 24, 2013. The bill provided that certain information would be transmitted electronically to the Department of Motor Vehicles (DMV). The bill required certain sellers of vehicles to transmit certain information in an electronic format. The DMV said that if decision unit Enhancement (E) 225 was approved in budget account 4741, the budget would have sufficient funds to pay the costs of the automation project. That decision unit was approved and closed by the Assembly Committee on Ways and Means and the Senate Committee on Finance.

Chair Carlton said the proposed amendment would change the effective date from July 1, 2013, to July 1, 2014. Chair Carlton asked whether the effective date would be appropriate with the budget closing.

Ms. Jones replied that the proposed effective date reconciled with the budget closing because the funds were included in the second year of the 2013-2015 biennium and not the first year.

ASSEMBLYMAN EISEN MOVED TO AMEND AND DO PASS AS AMENDED ASSEMBLY BILL 454.

ASSEMBLYMAN HAMBRICK SECONDED THE MOTION.

THE MOTION PASSED. (Assemblyman Horne was not present for the vote.)

Assembly Bill 308: Revises provisions relating to the Southern Nevada Enterprise Community. (BDR S-557)

Chair Carlton said she needed to wait to obtain some additional information on Assembly Bill 308 before the Assembly Committee on Ways and Means could take action on the bill.

Cindy Jones, Assembly Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau, stated that she wanted to obtain some clarification from the Department of Business and Industry before the Assembly Committee on Ways and Means took action on Assembly Bill 308.

Chair Carlton said she must also wait to receive clarification on several other bills before the Assembly Committee on Ways and Means took action on those bills. She asked the Assembly Committee on Ways and Means members to remain available tomorrow for a hearing.

Chair Carlton called for public testimony, and there was none. There being no further business before the Assembly Committee on Ways and Means, Chair Carlton adjourned the meeting at 7:37 p.m.

RESPECTFULLY SUBMITTED:

Janice Wright
Committee Secretary

APPROVED BY:

Assemblywoman Maggie Carlton, Chair

DATE: _____

EXHIBITS

Committee Name: Assembly Committee on Ways and Means

Date: May 20, 2013

Time of Meeting: 5:46 p.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
A.B. 294 (R1)	C	Assemblywoman Irene Bustamante Adams, Clark County Assembly District No. 42	Nevada Non-revenue Expenditures Fiscal Year 2012
A.B. 294 (R1)	D	Assemblywoman Irene Bustamante Adams, Clark County Assembly District No. 42	GOED Revised Fiscal Note
A.B. 294 (R1)	E	Tom Akers, President/CEO, Akers & Associates, Inc.	Letters of support
A.B. 247 (R1)	F	Assemblywoman Maggie Carlton, Clark County Assembly District No. 14	Proposed Amendment
A.B. 247 (R1)	G	Ray Bacon, Nevada Manufacturers Association	Proposed Amendment
A.B. 169 (R1)	H	Assemblywoman Dina Neal, Clark County Assembly District No. 7	Proposed Amendment 8260
A.B. 169 (R1)	I	Assemblywoman Dina Neal, Clark County Assembly District No. 7	Letter from Nicole Rourke, Executive Director, Government Affairs, Clark County School District regarding reduction of fiscal note
A.B. 461	J	Assemblyman David P. Bobzien, Washoe County Assembly District No. 24	Proposed amendment 9115