

**MINUTES OF THE
SENATE COMMITTEE ON COMMERCE, LABOR AND ENERGY**

**Seventy-Seventh Session
April 5, 2013**

The Senate Committee on Commerce, Labor and Energy was called to order by Chair Kelvin Atkinson at 12:36 p.m. on Friday, April 5, 2013, in Room 2134 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to Room 4412E of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Kelvin Atkinson, Chair
Senator Moises (Mo) Denis, Vice Chair
Senator Justin C. Jones
Senator Joyce Woodhouse
Senator Joseph P. Hardy
Senator James A. Settelmeyer
Senator Mark Hutchison

GUEST LEGISLATORS PRESENT:

Senator Barbara K. Cegavske, Senatorial District No. 8
Senator Aaron D. Ford, Senatorial District No. 11
Senator Pat Spearman, Senatorial District No. 1

STAFF MEMBERS PRESENT:

Marji Paslov Thomas, Policy Analyst
Dan Yu, Counsel
Wayne Archer, Committee Secretary

OTHERS PRESENT:

Lydia Ball, Clean Energy Project
Robert Johnston, Western Resource Advocates
Joe Johnson, Toiyabe Chapter, Sierra Club
Kyle Davis, Nevada Conservation League

Senate Committee on Commerce, Labor and Energy
April 5, 2013
Page 2

Marnee Benson, Black Rock Solar
Rose McKinney-James, Energy Works, LLC; Bombard Electric; Clean Energy Project
Judy Stokey, NV Energy
Bobby Hollis, NV Energy
Danny Thompson, Nevada State AFL-CIO
Michael Hazard
Wendy Ellis
Steve Polikalas, Unique Infrastructure Group, LLC
Stacey Crowley, Director, Office of Energy, Office of the Governor
Josh Griffin, MGM Resorts International; Barrick Gold of North America
Fred Schmidt, Southwest Energy Efficiency Project
Anne-Marie Cuneo, Director of Regulatory Operations, Public Utilities Commission of Nevada
Dan Jacobsen, Technical Staff Manager, Bureau of Consumer Protection, Office of the Attorney General
George E. Burns, Commissioner, Division of Financial Institutions, Department of Business and Industry
Melissa Ameluxen, Nevada Credit Union League
William Uffelman, Nevada Bankers Association
Daniel Stewart, Southern Nevada Association of Providers
Tray Abney, The Chamber
Jack Mallory, Southern Nevada Building and Construction Trades Council
David Goodheart, Asurion Insurance Services
Adam Plain, Insurance Regulation Liaison, Division of Insurance, Department of Business and Industry
Vance Farrow, Health Care Industry Specialist, Office of Economic Development, Office of the Governor
Lawrence Matheis, Nevada State Medical Association
Denise Selleck Davis, Nevada Osteopathic Medical Association
Marlene Lockard, Nevada Chiropractic Association
Brian Gresh, State Board of Osteopathic Medicine
Helen Foley, Marriage and Family Therapists Association of Nevada
Peter Krueger, Chiropractic Physicians' Board of Nevada
Elisa Cafferata, Nevada Advocates for Planned Parenthood Affiliates
Bill Welch, Nevada Hospital Association
Regan Comis, Board of Medical Examiners
Mary Walker, Carson Tahoe Regional Hospital

Chair Atkinson:

I will open the hearing on Senate Bill (S.B.) 252.

SENATE BILL 252: Revises provisions relating to the portfolio standard for providers of electric service. (BDR 58-775)

Lydia Ball (Clean Energy Project):

I am the Executive Director of Clean Energy Project (CEP), which is a nonpartisan, nonprofit organization that engages policy leaders to drive the clean-energy economy forward. Nevada was one of the first states to enact a Renewable Portfolio Standard (RPS). Since the RPS was implemented in 1997, the State has continued to support clean energy resources. Presently, the RPS is set at 15 percent of retail sales. By 2025, the RPS will increase to 25 percent. To ensure economic diversification and energy independence, the State must continue to review and improve the RPS. An investment in renewable energy is an investment in Nevada's natural and human resources. The RPS has been the major driver of clean energy development, innovation, job creation, private investment and tax revenue for the State. The State has no need to build new renewable energy resources to meet the RPS. The Legislature must now decide whether the State has reached its potential or if this success is just a glimpse of what it can do.

Last month, the CEP commissioned a study of the RPS. The study was conducted by Carl Linvill, a former energy advisor to then-Governor Kenny Guinn, and Jeremy Aguero, a principal with Applied Analysis of Las Vegas. The study considered three ways to improve the RPS. The first scenario involved cleaning the RPS by removing deductions and loopholes, such as the energy efficiency standard and the photovoltaic multiplier, which allowed NV Energy to meet the RPS. The second option was to increase the RPS to 35 percent of retail sales by 2025. Finally, the third option was a combination of the first two scenarios. The CEP has determined the best path forward is to remove the deductions and loopholes. This will create demand for clean energy sooner, and it will stabilize energy rates. Additionally, this option will align Nevada with other western states' energy policies and help the western renewable energy market thrive.

The CEP has proposed an amendment to S.B. 252 ([Exhibit C](#)). In developing the amendment, the CEP sought to avoid eliminating any existing benefits from ratepayers or the utility companies. Based on feedback from stakeholders, the

proposed amendment needs some improvements. The CEP is committed to working with the Legislature, the utility companies and associated industries to clean up the RPS.

Section 6, subsection 1, paragraph (k) of S.B. 252 would increase the RPS to 35 percent by 2025. Under the amendment proposed by the CEP, the RPS would remain at 25 percent. While the CEP supports energy efficiency measures, we have proposed removing the energy efficiency standard from the RPS. Energy efficiency is the cheapest, fastest and quickest way for the State to meet its demand for energy. The energy efficiency standard dilutes the RPS and limits energy efficiency's potential through the 25 percent cap. The CEP advises the Committee to address efficiency through a separate energy efficiency standard. I am working with the utilities and other stakeholders to identify the best way to phase out the energy efficiency standard. Energy contracts typically last 10 years, which means contracts approved last year will be affected. We want to identify a way to remove the energy efficiency standard without affecting contracts already in place.

Senate Bill 252 inserts new language in section 7, subsection 2, paragraph (b), proposing in *Nevada Revised Statutes* (NRS) 704.78213 to extend the 2.4 multiplier to certain solar projects. The multiplier was established nearly 10 years ago when photovoltaic technology was much more expensive. The solar multiplier is no longer needed, and our amendment would remove the multiplier for solar projects. The cutoff date in S.B. 252, section 9, subsection 2, is July 1, 2013. To avoid conflicts with existing contracts, our amendment proposes to extend the cutoff date to July 1, 2014.

Our amendment also would also change section 8 of S.B. 252 to limit the use of station use credits for systems placed into operation after January 1, 2015. This energy is used to operate certain renewable energy facilities, and it is required as a parasitic load. I have been informed the language in the amendment related to station use credits does not fully protect existing contracts. I will work with the geothermal industry to identify a way to remove the station use credits that will not impact existing contracts.

In recent years, NV Energy was able to purchase short-term portfolio energy credits (PECs) to meet the RPS. The CEP does not have a problem with NV Energy purchasing PECs from outside the State. However, we are concerned that many of these PECs were from old renewable energy projects.

Presently, the utility companies can carry forward surplus credits indefinitely. The proposed amendment would limit carryforward energy credits to 25 percent of retail sales beginning in 2016.

Senator Settlemeyer:

Energy efficiency is a large portion of the RPS. By my calculation, S.B. 252 would increase the RPS by 20 percent. Is that correct?

Ms. Ball:

Currently, 25 percent of the RPS can be met with energy efficiency. The utility has been using the full 25 percent.

Senator Settlemeyer:

The Legislature felt this was the most cost-effective way to save energy. Is it still more effective to conserve energy rather than construct new sources of power?

Ms. Ball:

Energy efficiency is a key component of the clean-energy economy. It is the cheapest, fastest way to meet our energy demand. We support energy efficiency measures, but we would like to see a "clean" RPS. The driving force for the CEP is the ability to align our portfolio with other states to create a western market for states to buy and sell energy.

Senator Settlemeyer:

What is the differential in cost between improving efficiency and constructing new energy resources?

Ms. Ball:

I cannot answer your question, but it depends on which energy efficiency measure you are implementing.

Senator Jones:

Does your proposal mesh with S.B. 123?

[SENATE BILL 123](#): Revises provisions relating to energy. (BDR 58-106)

Ms. Ball:

We are communicating with NV Energy to determine how we can merge the two proposals. I think they are willing to come to a compromise.

Chair Atkinson:

I can attest that NV Energy is willing to compromise.

Senator Hutchison:

Have you considered the unintended consequences for consumers of removing the energy efficiency from the RPS?

Ms. Ball:

Absolutely. We determined removing the energy efficiency standard from the RPS would result in a 2.5 percent rate increase over 20 years. There is still a net economic benefit across the State. This is a question for the Committee and the Legislature to consider.

Senator Hutchison:

NV Energy has informed the Committee there will be a 4 percent increase over a period of 20 years. Will the elimination of the energy efficiency standard from the RPS result in an additional 2.5 percent increase?

Ms. Ball:

It is difficult to say, since the two proposals are very different and the benefits may overlap.

Senator Hutchison:

Has there been any economic analysis of the benefits of keeping energy generated in Nevada here in Nevada?

Ms. Ball:

I cannot answer your question at this time, but that was an issue considered during the study.

Robert Johnston (Western Resource Advocates):

Western Resource Advocates (WRA) operates water, energy and land programs in seven states, including Nevada. Our mission is to advocate for western electric systems that lower electricity costs, reduce risk and protect the environment. The WRA supports S.B. 252, although we have not reviewed all

of the amendments. We support elimination of the energy efficiency component of the RPS and the elimination of the 2.4 multiplier and station credits.

There is a common public perception that energy rates have increased as a result of Nevada's transition away from fossil fuel. The two charts on page 1 of our presentation ([Exhibit D](#)) show the rates have actually fallen over the last 10 years. Chart 1 on page 1 of [Exhibit D](#) shows that after adjusting for inflation, rates for Nevada power are lower than they were 10 years ago. Chart 2 on page 2 of [Exhibit D](#) shows that even without adjusting for inflation, rates for NV Energy are lower during this same period. After adjusting for inflation, NV Energy rates are substantially lower.

The two charts on page 2 of [Exhibit D](#) are broken into two categories. The first category is the Base Tariff Energy Rate/Other (BTER/Other). These bill riders are passed through to consumers. The utility companies earn no profit and may not recover these fees from ratepayers. This category includes all fees related to renewable energy and energy efficiency. It also includes money spent on distributive generation. The second category is the Base Tariff General Rate (BTGR), which includes all the other costs of doing business.

The BTER/Other component has decreased over the last 10 years for three reasons. First, the price of natural gas has fallen to historic lows. Second, the State is generating power more efficiently. Even if the price of natural gas had remained constant, the BTER/Other category would have fallen. Finally, the utility companies are purchasing less power than they had to 10 years ago. Over the last decade, the State has made great progress in developing renewable energy and increasing efficiency without increasing rates.

Chart 3 on page 3 of [Exhibit D](#) shows the NV Energy RPS Forecast through 2026 under the current regulatory environment. The blue section represents the Demand-Side Management Credits, which is commonly referred to as the energy efficiency standard. The energy efficiency standard is set at 25 percent of the RPS and grows with the entire portfolio. The green section represents credits generated during the particular year, while the yellow section represents the carryforward energy credits.

In May 2012, NV Energy filed an 8-K statement with the Securities and Exchange Commission ([Exhibit E](#)) that projected renewable energy would account for 32 percent of all retail sales by 2015. Chart 4 on page 4 of

[Exhibit E](#) shows that of this 32 percent, 15 percent is achieved through credits. This means renewable energy will only account for 17 percent of total retail sales. I would equate it to grade inflation. As long as the energy efficiency standard is included in the RPS, utility companies have no need to add any further renewable development between now and 2026.

The two charts on page 5 of [Exhibit D](#) show the impact of short-term purchases from Idaho Power Company and PacifiCorp. NV Energy requested authority from the Public Utilities Commission of Nevada (PUCN) to make short-term purchases. In doing so, NV Energy overfilled the gaps.

Chart 4 on page 4 of [Exhibit D](#) shows how rates will be impacted if [S.B. 252](#) passes. If [S.B. 252](#) passes, the energy efficiency standard will be eliminated and the demand-side management credits and the carryforward energy credits will phase out. New renewable resources will have to be developed for the utility to meet the RPS by 2016. This supports the argument that energy efficiency is more cost-effective than generation, regardless of technology.

The State has not invested in renewable energy. Instead, it has acquired its renewable energy through long-term purchase contracts from third-party providers. The utility companies will not embrace renewable energy if they cannot earn a profit from it.

Senator Hutchison:

Why are you proposing to remove the energy efficiency standard if conservation is superior to generation? What will replace the incentive for NV Energy and ratepayers to conserve energy?

Mr. Johnston:

There are several ways to incentivize conservation. Some states have implemented an energy efficiency standard separate from the RPS. Traditionally, the PUCN has based the energy efficiency standard on projected demand. If [S.B. 123](#) or [S.B. 252](#) does include an energy efficiency standard, there will be no incentive to conserve energy.

Joe Johnson (Toiyabe Chapter, Sierra Club):

The Toiyabe Chapter, Sierra Club supports the elimination of the energy efficiency standard from the RPS, contingent upon legislation that would address efficiency. We anticipate legislation will be introduced to address the

recovery of expenses. Historically, the State has only allowed the utility companies to recover direct expenses plus an equity adder. This was changed to apply only to lost revenue. Natural gas was then decoupled, and I would expect legislation to address this issue as well.

I want to direct your attention to chart 1 on page 1 of [Exhibit D](#), which shows there has been a very large increase in BTGR. The BTGR includes recovery construction expenses for fossil fuel generation. If the State's natural gas price projections are inaccurate, it could significantly increase the BTGR. The risk is further increased under S.B. 252 because of the emphasis on natural gas.

Kyle Davis (Nevada Conservation League):

Senate Bill 252 is one of the Nevada Conservation League's top legislative priorities. We support S.B. 252, but we urge the Committee to implement a separate energy efficiency standard.

Marnee Benson (Black Rock Solar):

Black Rock Solar supports S.B. 252 and the amendment proposed by Ms. Ball, but I do need more time to evaluate the removal of the multiplier. We support removing the energy efficiency standard from the RPS as long as conservation is addressed in another manner.

Rose McKinney-James (Energy Works, LLC; Bombard Electric; Clean Energy Project):

I support S.B. 252 as the start of an important policy discussion, but the Committee should understand it impacts more than those who have the opportunity to testify today. I am actively engaged in a dialogue with other stakeholders, especially those in the energy efficiency sector. Nevada is one of only two states with an RPS that includes an energy efficiency standard. The energy efficiency standard has provided a greater emphasis on conservation.

Judy Stokey (NV Energy):

NV Energy initially opposed S.B. 252, but we have worked with Ms. Ball on her amendments. We have proposed an amendment to S.B. 252 ([Exhibit F](#)) focusing on the energy efficiency standard. We do not support an energy efficiency standard.

Bobby Hollis (NV Energy):

NV Energy's primary goal has been to modify the bill, while preserving the relationships and the value we have obtained from customers. Many of the changes proposed by Ms. Ball, including the multiplier, preserve this value. Going forward, we will have to approach our contracting in a different manner.

Senator Hutchison:

Is NV Energy opposed to the concept of removing the energy efficiency standard from the RPS completely, or are you just asking for more time to make the transition?

Mr. Hollis:

Energy efficiency is a vital part of the RPS. Energy efficiency and the RPS work in tandem. The energy efficiency standard and the RPS are logical complements. The RPS is based on load. The energy efficiency standard reduces load. A reduction in load reduces the energy efficiency standard. The State should have a discussion about the best approach to maintain efficiency within the standard.

Danny Thompson (Nevada State AFL-CIO):

The AFL-CIO was not asked to be involved in drafting S.B. 252, even though we have a strong interest in renewable energy. You may recall the AFL-CIO sponsored the original solar set-aside. The AFL-CIO opposes S.B. 252 because we were not allowed or asked to participate. We are deeply skeptical about job creation in the renewable energy sector, and we will oppose S.B. 252 until we are able to participate in the discussions.

Senator Hutchison:

Can you comment on the removal of the energy efficiency standard from the RPS?

Mr. Thompson:

Conservation is the cheapest and most efficient way to reduce energy consumption. Among other things, the purpose of the RPS was to create jobs for Nevadans. Those jobs went to foreign workers. If the efficiency standard is removed or expanded, we want to be a part of that discussion.

Chair Atkinson:

The Committee is considering an omnibus energy bill to address a range of issues, particularly those covered in S.B. 123 and S.B. 252. Although the AFL-CIO opposes S.B. 252, you testified in support of S.B. 123. Would you support an omnibus bill?

Mr. Thompson:

I worked on the RPS before it was "cool." I have a long history with renewable energy, and the idea was that renewable energy would create job opportunities for Nevadans. Renewable energy has not been self-sufficient. Ratepayers have subsidized the RPS. With regard to the NV Energy's "NVision" plan, the AFL-CIO has a long history with NV Energy. They hire Nevadans. That has not been our experience with renewable energy companies.

Chair Atkinson:

Are you saying you would not support an omnibus bill?

Mr. Thompson:

It is possible the AFL-CIO could support an omnibus bill, but I cannot say for certain because we have not been a part of the discussion.

Senator Jones:

The State has not structured renewable energy projects properly in the past, but that does not prevent the State from structuring them correctly in the future. Are labor and renewable energy projects inherently incompatible?

Mr. Thompson:

You are correct. The State has given the farm away. I have a list of examples where the State funded renewable energy construction projects that hired foreign workers. That is my concern, but there may be an opportunity to pass an omnibus bill that creates jobs for Nevadans.

Senator Settelmeyer:

Based on your experience, have the State's energy policies created more jobs related to energy efficiency or renewable energy projects?

Mr. Thompson:

It depends on which type of energy. For example, there have been some combined cycle plants that have created jobs for Nevadans. On the other hand,

all of the photovoltaic projects have been constructed using foreign labor. I made an error when I wrote the first solar set-aside bill. I used the term "solar" instead of "photovoltaic," which made it easier to hire foreign workers. The first solar plant was a concentrated solar plant, and it was constructed using workers from Nicaragua. I know they were Nicaraguans because I salted the job with a journeyman ironworker. I had a photographer take pictures in the parking lot for 2 weeks. That was a hard pill to swallow. The job creation potential varies with the type of technology used.

Michael Hazard:

If S.B. 252 passes, the State will force ratepayers to buy wind and solar energy, which is four to six times more expensive than natural gas. Removing the energy efficiency standard from the RPS will force NV Energy to construct a transmission line to sell renewable energy to meet the standard. This cost will be borne by ratepayers. I question why the State is pushing for higher RPS standards when other states are considering reducing their RPS requirements.

In June 2011, NV Energy proposed a 24 percent rate increase. Much of the increase was the result of the RPS. NV Energy has stated there will be a 15 percent rate increase in 2015.

Wendy Ellis:

I oppose S.B. 252 because states that have implemented an RPS have higher energy rates. If renewable energy is so great, why does it have to be legislated? Why are ratepayers forced to buy renewable energy? The facilities NV Energy will have to build will be subsidized by ratepayers. The State should not provide incentives for specific industries.

Steve Polikalas (Unique Infrastructure Group, LLC):

We are opposed to S.B. 252, but have not had a chance to review the amendment proposed by Ms. Ball. The Unique Infrastructure Group is developing the Reno Technology Park, a 2,200-acre data center campus in Washoe County. We are concerned about a number of the provisions in S.B. 252, particularly the removal of the energy efficiency standard and the multiplier on solar. We would like to be a part of the discussion if the Committee pursues an omnibus bill.

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

The Office of Energy is neutral on S.B. 252, but the strength and relevance of the State's RPS is important. The State seeks to provide consistency to the renewable energy industry while balancing economic growth and rate impacts. I will continue to work with stakeholders on these issues.

Senator Hutchison:

Has Governor Sandoval taken a position with regard to the removal of the energy efficiency credits from the RPS?

Ms. Crowley:

Not yet, we want to look at the spectrum of energy bills to analyze how they would affect ratepayers before we took a position.

Josh Griffin (MGM Resorts International):

MGM Resorts International (MGM) is neutral on S.B. 252. Five percent of all power sold in the State is sold to MGM. The MGM supports the idea of building a more robust energy and environmental policy, and we appreciate the opportunity to work with the sponsors. We have some concerns about implementation and the potential cost, but we applaud the objectives.

Senator Hutchison:

How will the removal of the energy efficiency standard from the RPS impact MGM?

Mr. Griffin:

I am not certain. The MGM has taken a number of steps to increase energy efficiency at our properties because we believe it is the right thing to do and because it creates value for the company. How MGM responds to the removal of the energy efficiency standard will depend on how the gap will be filled. I will have to read the amendment Ms. Ball has proposed to determine how it will directly impact MGM.

Senator Hutchison:

Is there anything MGM would do differently if S.B. 252 passes?

Mr. Griffin:

I cannot answer your question at this time.

Josh Griffin (Barrick Gold of North America):

Barrick Gold of North America is neutral on S.B. 252. In 2001, the Legislature added chapter 704B to the NRS. Under NRS 704B, certain “eligible customers” as defined in NRS 704B.080 could exit the utility system. Barrick exited the utility system in 2005. At the time, the electric utilities did not have adequate generation or transmission facilities. The process of exiting the system was very expensive. The transition occurred over a period of 3 years with the understanding they would meet the RPS as part of their business plan. The RPS is changing, and it is difficult for the mining industry because it depends on a reliable supply of energy to run its business.

Barrick is concerned the removal of the energy efficiency standard from the RPS could interfere with our suppliers and vendors. It could eliminate the possibility of using geothermal heating as an energy efficient resource. In prior sessions, energy industry advocates argued that geothermal heating systems were energy efficiency measures and not renewable energy systems. As a result, geothermal heating counted towards the 25 percent cap. Barrick was required to make significant expenditures to qualify for the Elko Heat Company’s District Heating System. Senate Bill 252 would severely reduce the energy efficiency credits available to Barrick.

We urge the Committee to consider some accommodations before it removes the energy efficiency standard completely from the RPS. Specifically, the 10 percent cap on the carryforward energy credits in section 11 of S.B. 252 could be harmful to customers like Barrick. We plan to meet our compliance by purchasing PECs in renewable energy over time. In addition to acquiring new energy, we have a surplus each year that is carried forward to subsequent compliant years. Barrick is not in the business of buying and selling energy. We are simply trying to maintain a steady supply of reliable energy to run our business. We plan to submit an amendment to exempt companies operating under NRS 704B from section 11 of S.B. 252.

Fred Schmidt (Southwest Energy Efficiency Project):

I am neutral on S.B. 252, but I am concerned about the provision removing the energy efficiency standard from the RPS. I have worked with Ms. Ball and NV Energy over the last 6 months to identify a way to remove the energy efficiency standard from the RPS while promoting energy efficiency. From 2009 to 2010, NV Energy was leading western states in energy efficiency savings. As of 2013, NV Energy is near the bottom. We do not object to removing the

energy efficiency standard because the 25 percent cap substantially exceeds the total. If the Committee removes the energy efficiency standard, it should establish a specific energy efficiency standard into NRS. Although we have not reached a compromise, we have been working with NV Energy to develop a standard. We suggest beginning at a 1 percent annual in 2014, and ramping up to 1.5 percent in 2015. The RPS is the only provision in NRS mandating energy efficiency. Efficiency reduces energy bills, which is far more important to consumers than the price per kilowatt-hour. The cheapest hour of energy is one not used.

Anne-Marie Cuneo (Director of Regulatory Operations, Public Utilities Commission of Nevada):

The PUCN is neutral on S.B. 252, but we have included a fiscal note due to the cost of renewable energy tracking systems. The PUCN uses a rudimentary tracking system based on Microsoft Excel. The PUCN has asked the utility companies to help us develop a renewable energy credit tracking system. Our system will be unable to track the various multipliers along with different vintages of renewable energy systems. The fiscal note is based on a request for proposal issued in 2007.

Senator Hutchison:

Does the PUCN have a position on the removal of the energy efficiency standard from the RPS? If the energy efficiency standard is removed, will the PUCN do anything differently?

Ms. Cuneo:

The PUCN has not taken a position on the removal of the energy efficiency standard. Removing the energy efficiency standard from the RPS would reduce workload because fewer hours would be required to track those credits.

Dan Jacobsen (Technical Staff Manager, Bureau of Consumer Protection, Office of the Attorney General):

The Bureau of Consumer Protection (BCP), Office of the Attorney General, is neutral on S.B. 252. We appreciate the amendment proposed by Ms. Ball because it reduces the cost of energy for consumers. If the energy efficiency standard is removed from the RPS, there will be pressure to adopt a stand-alone energy efficiency standard. The BCP would oppose such a move. Energy efficiency is scalable. Efficiency is different from building a plant, which requires an enormous investment. Energy efficiency is volatile and can be used to

address changes in demand. If the Committee removes the energy efficiency standard from the RPS, the BCP would request the Committee also give the PUCN and the utilities the capacity to modify the amount of efficiency to meet load.

Ms. Ball:

I will work with Mr. Thompson to get the support of the AFL-CIO.

Chair Atkinson:

I will now close the hearing on S.B. 252 and open the hearing on S.B. 326.

SENATE BILL 326: Revises provisions relating to the renewable energy portfolio standard. (BDR 58-766)

Senator Pat Spearman (Senatorial District No. 1):

I am here today to introduce S.B. 326. I will read from my written testimony ([Exhibit G](#)). I have vetted this against other bills and found no conflicts.

Senator Hutchison:

Can you explain how S.B. 326 will benefit utility customers?

Senator Spearman:

Presently, excess PECs carry forward. This does not benefit anyone. The utility companies are requesting the ability to sell those credits. The proceeds would be returned directly to utility customers.

Senator Denis:

What happens if the utility sells credits but needs to turn around purchase credits later?

Senator Spearman:

Ideally, the utilities would not sell all of the credits. Rather, they would sell only the excess credits and become more involved in renewable energy projects. I will let NV Energy provide additional details on this for the Committee.

Senator Denis:

Is there anything in S.B. 326 that would require the utilities to construct any additional facilities for renewable energy?

Senator Spearman:

Section 2 of S.B. 326 directs the PUCN to study the benefits of participation in a regional market for the sale of PECs. The results of the study will give the State quantifiable data to understand how effective it will be.

Ms. McKinney-James:

There is a need to deal with these surplus credits. Rolling them over is one step towards continuity, but S.B. 326 gives the utility companies the opportunity to sell them. In so doing, we have to balance the needs of ratepayers. In the absence of compliance, a penalty is administered through the PUCN. This incentive program encourages greater participation in advancing renewable energy. The PUCN should have the opportunity to determine the best way to balance the surplus and develop a structure for those penalties.

Mr. Hollis:

NV Energy supports S.B. 326. NV Energy has proposed an amendment to limit the surplus in a way that provides the greatest value to customers ([Exhibit H](#)). State law creates risk that must be mitigated. The other component is the RPS. The RPS is based on load. With the economy beginning to grow, there is a good chance NV Energy will need the surplus credits accrued during the recession to meet the RPS in the future. Once the growth occurs, NV Energy will not then be penalized if it lacks credits because it will already have sold the credits and returned the value to customers.

Senator Hutchison:

Will the value really be returned directly to the consumer, or will the increased revenue go to reducing expenses for existing operations?

Mr. Hollis:

The proceeds would reduce the fuel costs, which are passed directly to the consumer. In theory, every dollar collected from the sale would be returned to the fuel account, which reduces the amount we collect from customers.

Senator Hutchison:

Are you saying it will be a direct benefit to the customer?

Mr. Hollis:

It is a direct and immediate benefit to the customer.

Senator Denis:

Can you explain how NV Energy will mitigate the risk?

Mr. Hollis:

The market for PECs is small and finite. The market is confined to Nevada. It will be a challenging environment because NV Energy will not be able to demand full price. This policy recognizes the market price of those credits will not be the full value.

Ms. Ball:

I support S.B. 326.

Ms. Cuneo:

The PUCN is neutral to S.B. 326. Section 2 of S.B. 326 directs the PUCN to study the benefits of participation in a regional market for the sale of PECs. This is the reason for the fiscal note we included.

I represent the State on the Western Renewable Energy Generation Information System. This is the renewable energy credit tracking for the Western Interconnection. There is a fairly robust tracking and trading system in California. The State uses its own system as a result of the RPS requirements in NRS.

We would like to comment on the proposed amendment from NV Energy, which amends section 1, subsection 2, paragraph (b) of S.B. 326, proposing to address the pricing of credits. The PUCN does not believe the average price is an appropriate pricing model. The PUCN would like to work with NV Energy to develop an appropriate pricing model.

Chair Atkinson:

I will now close the hearing on S.B. 326 and open the hearing on S.B. 310.

SENATE BILL 310: Revises provisions governing financial institutions. (BDR 55-702)

Senator Aaron D. Ford (Senatorial District No. 11):

I am here to introduce S.B. 310, which addresses automatic teller machine (ATM) fee disclosure requirements and derivative transactions. Federal law requires financial institutions to disclose ATM fees via an on-screen electronic

prompt before the transaction can be finalized. However, NRS 660.052 requires written notice of ATM fees to be physically posted on ATMs in addition to an on-screen disclosure. Section 3 of S.B. 310 deletes the requirement that financial institutions must disclose the fees on or in clear view of ATMs. The electronic opt-in would remain, giving patrons notice of any fees in order to move forward with the transaction. The physical disclosure requirement resulted in situations where individuals would remove the disclosures from the ATMs, opening the financial institutions to class-action lawsuits.

Senate Bill 310, section 4, subsection 1, paragraph (f), authorizes state-chartered banks to engage in derivative transactions only if they receive written approval by the Division of Financial Institutions, Department of Business and Industry. Under federal law, state-chartered banks may only engage in derivative transactions if applicable state lending laws take into consideration credit exposure from derivative transactions. Section 5, subsection 1 of S.B. 310 provides that for the purpose of calculating the lending limit of banks chartered in Nevada, the total outstanding loans of such banks must include the credit exposure arising from derivative transactions. Senate Bill 310 will conform State law to federal law so that State-chartered banks are not at a competitive disadvantage to national banks. At the same time, S.B. 310 keeps regulatory oversight through the Division.

Senator Jones:

I represented a local bank in a dispute where an enterprising young man removed the physical disclosures from many ATMs. The institutions ended up settling for several thousand dollars. I can attest that this happens, and I support S.B. 310.

Senator Hutchison:

Does section 5 of S.B. 310 go beyond federal law?

Senator Ford:

We are attempting to bring State law into conformity with federal law, but I will refer further questions to the commissioner of the Division.

George E. Burns (Commissioner, Division of Financial Institutions, Department of Business and Industry):

The definition of a derivative used in section 5 of S.B. 310 is the same definition used by the U.S. Office of the Comptroller of Currency (OCC). The

intention of the bill is to mirror the OCC with regard to derivatives and achieve parity for our State-chartered banks.

Senator Settelmeyer:

Does this apply to credit unions as well?

Mr. Burns:

This will apply to credit unions indirectly. State law permits credit unions to offer the same products State-chartered banks offer.

Melissa Ameluxen (Nevada Credit Union League):

The Nevada Credit Union League supports S.B. 310. Many credit unions have been involved in litigation resulting from the removal of physical disclosure requirements. We believe these thefts occur in the afternoons because the disclosures are inspected in the morning. Senate Bill 310 will reduce frivolous lawsuits.

William Uffelman (Nevada Bankers Association):

The Nevada Bankers Association supports S.B. 310.

Mr. Burns:

The Division supports S.B. 310, and I want to assure the Committee that any consent granted by the Division will be done in conjunction with federal regulators. The Conference of State Bank Supervisors reports that 45 states have adopted similar parity provisions for state-chartered banks.

Chair Atkinson:

I will now close the hearing on S.B. 310 and open the hearing on S.B. 254.

SENATE BILL 254: Makes various changes relating to employment. (BDR 53-889)

Senator Barbara K. Cegavske (Senatorial District No. 8):

Senate Bill 254 revises provisions governing compensation for overtime for those who provide jobs and day training services, as defined in NRS 435.176, or supported living arrangement services, as defined in NRS 435.3315.

Daniel Stewart (Southern Nevada Association of Providers):

The members of Southern Nevada Association of Providers (SNAP) provide supportive living arrangement services and day training services for more than 8,000 individuals with developmental disabilities. We support S.B. 254.

Supportive living arrangement services are a unique subset of what are commonly described as "group homes." The people we serve pay for their own room and board, but we provide in-home care. Most of our clients require care 24 hours a day, 7 days a week. The only time they are not in our care is when they are at work or attending day training.

The sole source of revenue for this intensive care comes from Medicaid reimbursement, which is set at \$18.86 per hour. The last increase to the reimbursement rate occurred in 2004, but the cost of doing business has increased dramatically. Our staff members make minimum wage, and our house managers earn approximately \$13 per hour. For house managers earning a base rate of \$13 per hour, the hourly overtime rate would be \$19.50 per hour. That is 60 cents more than what we are reimbursed by Medicaid.

Most of our employees are part-time students who prefer to work 12-hour shifts. This results in high overtime costs. Our members are not seeking an exemption to the Fair Labor Standards Act (FLSA). We are only requesting an exemption to the overtime requirements in NRS 608.018. This would allow our members to manage our employees efficiently while providing our clients with a greater continuity of care.

In many respects, SNAP would prefer not to change overtime under the provisions of NRS 608.018, but it is highly unlikely the Medicaid reimbursement rate will increase in the near future. This means we operate at a loss for many hours of the day. If the Medicaid reimbursement rate were higher, we would have no need to request an exemption from State overtime laws.

Senator Hutchison:

Under section 3 of NRS 608.018, the overtime provisions in sections 1 or 2 would not apply to members of SNAP. However, reading NRS 608.018 with the provisions of the FLSA, SNAP does not qualify for the exemption. Am I interpreting section 3 correctly?

Mr. Stewart:

You are correct. The FLSA requires employers to pay overtime when an employee works more than 40 hours per week. State law is more restrictive and requires employers to pay overtime to workers when they work more than 8 hours in a single day.

Senator Hutchison:

Since SNAP members serve people with severe developmental disabilities, would S.B. 254 allow SNAP members to provide more consistent care?

Mr. Stewart:

Yes, it would allow us to provide more consistent care. The easiest solution would be to increase the Medicaid reimbursement rate.

Senator Jones:

How can the Committee ensure employees do not feel compelled to work 12-hour shifts?

Mr. Stewart:

That is an excellent question, but I cannot answer your question. I would be happy to work with the Committee to ensure employees who do not want to work more than 8 hours without getting overtime can do so. We do not want to force people to work hours they do not want to work.

Tray Abney (The Chamber):

The Chamber supports S.B. 254. I urge the Committee to perform a comprehensive review of State overtime laws and bring State law into conformity with the FLSA. Only Colorado, California and Nevada have daily overtime laws more restrictive than federal law.

Jack Mallory (Southern Nevada Building and Construction Trades Council):

I oppose S.B. 254 because it is a further erosion of overtime for low-income workers.

Chair Atkinson:

I will now close the hearing on S.B. 254 and open the hearing on S.B. 496.

SENATE BILL 496: Revises certain provisions governing portable electronics insurance. (BDR 57-1095)

David Goodheart (Asurion Insurance Services):

Senate Bill 496 makes it clear marketing materials for portable electronics insurance policies will not be subject to filing and approval requirements with the Division of Insurance, Department of Business and Industry. This makes the treatment of portable electronics insurance marketing materials consistent with the industry generally. The actual insurance policies will continue to be filed with the Division.

Senate Bill 496 will also strike language in NRS restricting changes to terms and conditions of a group or master policy of portable electronics insurance to only once in a 6-month policy. These policies entice customers to stay with their wireless carriers. As technology changes, carriers want more flexibility to offer competitive insurance premiums to keep customers on the same plan. Under S.B. 496, customers must be notified if a policy is changed within a 6-month period. A consumer may cancel the coverage if he or she does not agree to the changes and receive a prorated refund for any premiums paid.

Pursuant to S.B. 496, the Commissioner of Insurance, Division of Insurance, may request litigation history. I have proposed an amendment that would limit this request to only proceedings related to the business of insurance ([Exhibit I](#)). Additionally, insurers issuing a policy to a vendor will be deemed to have received premiums from the vendor's customers upon payment of the premium by the customer or the vendor.

Adam Plain (Insurance Regulation Liaison, Division of Insurance, Department of Business and Industry):

The Division is neutral on S.B. 496. The Division is agreeable to Mr. Goodheart's proposed changes to NRS 691D.200 and NRS 691D.320. We are somewhat concerned about the proposed changes to page 3, lines 14 through 18 of S.B. 496. The Division is required to use certain forms, and this change could bring us out of compliance. The Division will work with Mr. Goodheart to come to an acceptable arrangement.

Chair Atkinson:

I will now close the hearing on S.B. 496 and open the hearing on S.B. 324.

[SENATE BILL 324](#): Revises provisions governing professions. (BDR 54-701)

Vance Farrow (Health Care Industry Specialist, Office of Economic Development, Office of the Governor):

I would like to direct the Committee to page 2 of my presentation ([Exhibit J](#)). Senate Bill 324 would codify Executive Order 2012-11 into State law. Specifically, S.B. 324 authorizes boards in NRS chapters 630 through 641C and 644 to expedite health professional licensure for veterans, spouses of veterans and widows/widowers of veterans. It also authorizes such boards to enter into reciprocal licensure agreements for licensees to practice both in Nevada and in one or more other state. Senate Bill 324 also authorizes medical facilities to contract with physicians to provide health care to patients of that facility. It implements a 60-day time line and suggests requirements for expedited licensure for health professionals in allopathic, osteopathic and podiatric medicine.

Nevada has a shortage of medical professionals, and the State's education institutions will be unable to satisfy the need. At the current pace, it would take approximately 10 years to produce enough physicians to treat our population, provided there is no further population growth. The recruitment of medical professionals to Nevada requires a significant focus. Further, an additional 78,000 individuals will become eligible for Medicaid under the Affordable Care Act (ACA). Nevada's Medicare population will see a steady increase of seniors over the age of 65 during the next 20 years. Additional measures are aided by expedited licensure to recruit medical health professionals to address our growing needs.

The chart on page 8 of [Exhibit J](#) provides greater detail on the population forecasts and resulting shortages of medical professionals.

The chart on page 9 of [Exhibit J](#) compares population growth trends for various sectors in the medical industry. For example, the number of surgeons and psychiatrists has fallen sharply since 2007. The chart located on page 10 of [Exhibit J](#) compares the shortage in Nevada to the national average.

Senator Joseph P. Hardy (Senatorial District No.12):

I have proposed an amendment to S.B. 324 to refine the medical licensure process for veterans and their spouses ([Exhibit K](#)). I want to draw the Committee's attention to the proposed changes to section 17 of S.B. 324, which deals with the hiring of physicians. My amendment would replace the word "hospital" with a "medical facility" to expand its applicability. Likewise,

my amendment would include such physicians in the credentialing and peer review process in accordance with *Nevada Administrative Code*.

Senator Hutchison:

Mr. Farrow testified 78,000 individuals more will be eligible for Medicaid under the ACA. Is there a reason why S.B. 324 is limited just to veterans? Have you considered expanding eligibility to others?

Senator Hardy:

Only two states have residency requirements for medical licensure that are longer than Nevada's 36-month requirement. This precludes the State from recruiting from other states. There is a bill in the Assembly that would address this issue, and I hope it will make it to the Senate.

Senator Hutchison:

Does the projected increase in the number of Medicaid recipients include the people who opt-in for expanding Medicaid, or can we expect even more recipients?

Mr. Farrow:

The 78,000 is only an estimate, but it does include the Medicaid expansion. The increase could be larger depending on how the ACA affects small businesses.

Lawrence Matheis (Nevada State Medical Association):

The Nevada State Medical Association supports S.B. 324. The State needs to expand its medical workforce at all levels. Senate Bill 324 encourages all of the professional licensing boards to review how they impose standards. We need to review the amendment related to hospital employment, but we believe it is on the right track and support the other amendments.

Denise Selleck Davis (Nevada Osteopathic Medical Association):

The Nevada Osteopathic Medical Association supports S.B. 324. We submitted an amendment related to osteopathic medicine to Senator Hardy that adds the State Board of Osteopathic Medicine to S.B. 324 ([Exhibit L](#)). It has been incorporated into Senator Hardy's amendment.

Marlene Lockard (Nevada Chiropractic Association):

The Nevada Chiropractic Association supports S.B. 324.

Brian Gresh (State Board of Osteopathic Medicine):

The State Board of Osteopathic Medicine supports S.B. 324.

Helen Foley (Marriage and Family Therapists Association of Nevada):

The Marriage and Family Therapists Association of Nevada supports S.B. 324. I plan on working with Senator Hardy to submit an amendment at a later date.

Peter Krueger (Chiropractic Physicians' Board of Nevada):

The Chiropractic Physicians' Board of Nevada supports S.B. 324. Mr. Farrow's testimony did not reference NRS 634 which concerns chiropractors. I want to clarify that chiropractors will be included under section 2, subsection 1 of S.B. 324. I will also work with Ms. Foley on her amendment because some of the smaller boards may have a challenge processing the paperwork required by S.B. 324.

Elisa Cafferata (Nevada Advocates for Planned Parenthood Affiliates):

I support S.B. 324 because it will help address the State's medical workforce shortage.

Bill Welch (Nevada Hospital Association):

The Nevada Hospital Association supports S.B. 324 and the amendment proposed by Senator Hardy. I have proposed an amendment ([Exhibit M](#)) and will meet with Mr. Matheis to work through his concerns.

Reagan Comis (Board of Medical Examiners):

The Board of Medical Examiners supports S.B. 324 and the proposed amendments.

Mary Walker (Carson Tahoe Regional Hospital):

Carson Tahoe Regional Hospital supports S.B. 324 and the proposed amendments.

Senate Committee on Commerce, Labor and Energy
April 5, 2013
Page 27

Chair Atkinson:

I will now close the hearing on S.B. 324. The Committee is adjourned at 3:41 p.m.

RESPECTFULLY SUBMITTED:

Wayne Archer,
Committee Secretary

APPROVED BY:

Senator Kelvin Atkinson, Chair

DATE: _____

<u>EXHIBITS</u>				
Bill	Exhibit		Witness / Agency	Description
	A	1		Agenda
	B	6		Attendance Roster
S.B. 252	C	9	Lydia Ball	Proposed Amendment
S.B. 252	D	6	Robert Johnston	Charts
S.B. 252	E	5	Robert Johnston	NV Energy 8-K
S.B. 252	F	3	Judy Stokey	Proposed Amendment
S.B. 326	G	5	Senator Pat Spearman	Written Testimony
S.B. 326	H	2	Bobby Hollis	Proposed Amendment Judy Stokey
S.B. 496	I	2	David Goodheart	Proposed Amendment
S.B. 324	J	13	Vance Farrow	Presentation
S.B. 324	K	2	Senator Joseph P. Hardy	Proposed Amendment
S.B. 324	L	1	Denise Selleck Davis	Proposed Amendment
S.B. 324	M	17	Bill Welch	Proposed Amendment