

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

**Seventy-Ninth Session  
April 11, 2017**

The Committee on Government Affairs was called to order by Chairman Edgar Flores at 8:06 a.m. on Tuesday, April 11, 2017, in Room 4100 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4406 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at [www.leg.state.nv.us/App/NELIS/REL/79th2017](http://www.leg.state.nv.us/App/NELIS/REL/79th2017).

**COMMITTEE MEMBERS PRESENT:**

Assemblyman Edgar Flores, Chairman  
Assemblywoman Dina Neal, Vice Chairwoman  
Assemblywoman Shannon Bilbray-Axelrod  
Assemblyman Chris Brooks  
Assemblyman Richard Carrillo  
Assemblyman Skip Daly  
Assemblyman John Ellison  
Assemblywoman Amber Joiner  
Assemblyman Al Kramer  
Assemblyman Jim Marchant  
Assemblyman Richard McArthur  
Assemblyman William McCurdy II  
Assemblywoman Daniele Monroe-Moreno  
Assemblywoman Melissa Woodbury

**COMMITTEE MEMBERS ABSENT:**

None

**GUEST LEGISLATORS PRESENT:**

Assemblywoman Heidi Swank, Assembly District No. 16  
Assemblywoman Jill Tolles, Assembly District No. 25



**STAFF MEMBERS PRESENT:**

Jered McDonald, Committee Policy Analyst  
Jim Penrose, Committee Counsel  
Lori McCleary, Committee Secretary  
Cheryl Williams, Committee Assistant

**OTHERS PRESENT:**

Kathy La Plante, Senior Program Officer and Director of Coordinating Program Services, National Main Street Center, National Trust for Historic Preservation, Pembroke, New Hampshire  
Wes Henderson, Executive Director, Nevada League of Cities and Municipalities  
David Cherry, Communications and Intergovernmental Relations Manager, City of Henderson  
Thomas A. Dallaire, P.E., Town Manager/Engineer, Town of Gardnerville  
Steven Conger, representing City of Mesquite  
Mary C. Walker, representing Carson City and Douglas County  
Brian McAnallen, Government Affairs Manager, Office of Administrative Services, City of Las Vegas  
Scott F. Gilles, Legislative Relations Program Manager, Office of the City Manager, City of Reno  
Dagny Stapleton, Deputy Director, Nevada Association of Counties  
Jolene M. Supp, City Manager, City of Wells  
Connie Billington, Interim Executive Director, Main Street Minden  
Nathan Strong, Interim Director, Churchill Economic Development Authority  
Peter D. Krueger, representing City of Fernley  
David C. Peterson, Deputy Director, Division of Tourism, Department of Tourism and Cultural Affairs  
Valerie Glenn, Chief Executive Officer, The Glenn Group  
Jeffrey Haag, Administrator, Purchasing Division, Department of Administration  
Tray Abney, Director of Government Relations, The Chamber, Reno-Sparks-Northern Nevada  
Paul J. Moradkhan, Vice President, Government Affairs, Las Vegas Metro Chamber of Commerce  
William Stanley, Executive Secretary-Treasurer, Southern Nevada Building and Construction Trades Council  
John Wiles, Director, Unified Construction Industry Council  
Dan Musgrove, representing Mechanical Contractors Association of Las Vegas; and Sheet Metal and Air Conditioning Contractors' National Association of Southern Nevada  
Greg Esposito, Government Affairs Director, Plumbers, Pipefitters and Service Technicians Local 525; and representing Southern Nevada Building and Construction Trades Council

Nathan R. Ring, representing International Union of Painters and Allied Trades,  
District Council 15 and District Council 16  
Laura C. Rehfeldt, Deputy District Attorney, Office of the District Attorney,  
Clark County  
Brian Reeder, representing Nevada Contractors Association  
Leandra Cartwright, representing Nevada Chapter Associated General Contractors  
Robert A. Conway, Business Agent, Ironworkers Local 433, International  
Association of Bridge, Structural, Ornamental and Reinforcing Iron Workers  
Laurie A. Thom, Chairman, Yerington Paiute Tribe

**Chairman Flores:**

[Roll was called. Committee rules and protocol were explained.] I am going to limit testimony in support, opposition, and neutral to two minutes for all bill hearings today. I will open the hearing for Assembly Bill 417.

**Assembly Bill 417: Creates the Nevada Main Street Program within the Department of Tourism and Cultural Affairs. (BDR 18-1053)**

**Assemblywoman Heidi Swank, Assembly District No. 16:**

I am here today with Kathy La Plante of the National Main Street Center. She will give the Committee a brief presentation on the Main Street America program. After the presentation, I will walk the Committee through the bill and answer any questions.

**Kathy La Plante, Senior Program Officer and Director of Coordinating Services, Coordinating Program Services, National Main Street Center, National Trust for Historic Preservation, Pembroke, New Hampshire:**

As the Director of Coordinating Program Services, I help states, counties, and urban areas start Main Street programs. I have been working in the Main Street field for over 28 years, working with downtowns as small as 450 in population and as large as a half million in population. I am here to express our support for the start-up of the Nevada Main Street Program. This is a 38-year-old movement nationwide, and we think it brings great economic benefit. You can see by the photos that I have provided on Main Street areas [page 2, ([Exhibit C](#))], there are depressed areas, vacant storefronts, and buildings that are dilapidated, unused, underutilized, and underappreciated on the tax rolls as well.

Why are downtowns important [page 3, ([Exhibit C](#))]? They are important from many different economic levels. It is not just that they are the heart and soul of communities, but that is a primary reason. It is also pride and history that people take when they know their downtown is vibrant. It is the heart of the community with public spaces and where parades are held. Having a healthy downtown is the key to competitiveness. As I travel around the country, what Nevada has in shopping malls are the same as in New Hampshire. It is what is in the downtown area that makes cities unique and makes a greater tourism generator for the state. In addition, downtowns provide a great place and affordable space for new business start-ups. It is also for people to live downtown and create it as the center and hub of the community. Most of the businesses in downtowns are locally owned, independent

businesses. Those businesses return far greater dollars to the state and the communities. I often do workshops and many people have told me they shop on Amazon.com. I ask them if they know the kind of fiscal impact that has on their city. It is zero because those dollars leave the community. When people shop at a local mom-and-pop business, about 65 to 75 cents of each dollar stays and circulates in the community.

The National Main Street Center also works on rehabilitating historic buildings [page 4, ([Exhibit C](#))]. When we do that, it brings about greater job growth locally with jobs for local carpenters, contractors, and suppliers. New construction usually comes from outside the community. Also, because cities have already invested so heavily in the infrastructure in downtown areas, it makes sense to protect that investment. The downtowns are not going to go away. They are either going to look tired and old or the city can invest and make them more valuable in the communities.

Donovan D. Rypkema is a consultant who works with the National Main Street Center, and he wrote *The Economics of Historic Preservation: A Community Leader's Guide* [page 5, ([Exhibit C](#))]. He is an international speaker who speaks about reusing historic buildings. About the Main Street program, he says there is simply no more cost-effective economic development program of any type, on any scale, anywhere in the country than Main Street. We feel really good someone says that about our program.

You can see the numbers here [page 6, ([Exhibit C](#))]. Our program is about 38 years old. Over 2,200 communities have implemented this program nationwide. In those 2,200 communities, we have generated over \$61 billion worth of new reinvestment, creating over 500,000 new jobs, over 120,000 new businesses in those downtowns, and we have rehabilitated or saved over 250,000 historic properties. We think those are significant numbers.

We also have an example of Oklahoma [page 7, ([Exhibit C](#))]. They recently did a big study on the fiscal impact of their program, recognizing the investment that you are considering today. The Oklahoma program had a net fiscal impact of \$2.4 million from 2015 to 2016. The average local program generated \$72,000 more in sales tax revenue than the amount of state funding it received. That is what we want. We want you to leverage the private dollars that this program can do. We also have information about our urban program in Boston. The Boston program had a net fiscal impact of \$5.5 million in that same time, generating \$275,000.

I also have the example of New Mexico [page 8, ([Exhibit C](#))]. New Mexico recently undertook a study. They had \$11.6 million invested in the New Mexico Main Street Program since 1985 that leveraged over \$1 billion in local investment, creating over 11,000 new jobs, and 3,200 new businesses opened in those New Mexico Main Street communities. They calculated the cost of a new job. A new job cost them \$1,127 and only \$3,900 to start new businesses. The leverage ratio there was that for every \$1 the state put into its Main Street program, they were seeing a return on investment of over \$44. That is why we say Main Street is the best economic development program going on.

Another example is North Carolina. Since their program started, they have seen \$2 billion worth of reinvestment. They have over 4,700 new businesses and 18,000 new jobs. In North Carolina, for every \$1 the state invested into the Main Street program, they are seeing a return on investment of \$127. That is why Main Street is a great economic program as well.

This is what the map of our Main Street America communities looks like [page 9, [\(Exhibit C\)](#)]. We are working our way through the West. Our newest program is Idaho. We also started a program in Portland, Oregon. We are currently talking with South Dakota, Rhode Island, and Massachusetts on starting their programs. There are communities across the country that started with 70 percent vacancy rates in their downtowns, and they are now down to 5 to 10 percent vacancy in those communities.

How we do this is through what we call the Main Street Four-Point Approach [page 10, [\(Exhibit C\)](#)]. It is not just a matter of throwing a lot of money at a community, rehabilitating one building, and expecting people to come. It is not about just putting up historic light poles. We have to do a comprehensive approach, and that is why our program works so well. It is finding the money and the people. These are grassroots organizations. If we cannot find the resources, it is going to be tough to get these things done, but the private sector working with the public sector has been very successful in doing that. It is about promotion, marketing the downtowns, getting more people using the downtowns, and promoting it as the center of the community. It is about design. How does it look, feel, and function? When I come into a downtown, am I going to get the impression that I want to stop, get out of my car, and spend money? Maybe even open a business?

The next point is economic vitality. That is the tough one. How do we find the businesses that are going to make the downtowns vibrant? We do a lot of work with communities on identifying opportunities.

I wanted to give you a local example [page 11, [\(Exhibit C\)](#)]. Rawlins, Wyoming, is one of our Great American Main Street Award communities. Every year we recognize the top three Main Street programs in the country. They decreased their vacancy rate to 10 percent from 40 percent when they started the program. They created over 200 new jobs and 28 new businesses. Using other money is really fueling the revitalization organization there. They have done a phenomenal job in Rawlins.

We have to build a sense of ownership in our communities [page 12, [\(Exhibit C\)](#)], and that is why the Main Street program is a great public/private partnership program. We have communities take ownership. Local leaders develop their goals and they work with us. We know when the downtowns are special, more businesses want to come in and more people want to live and work in the downtown as well.

The National Main Street Center is an advocate. We are a national nonprofit organization. We do not receive federal funding. We survive on memberships and grants that we get as we go along. We provide training to our coordinating programs and to our local Main Street programs. We have a lot of knowledge. I often tell communities that whatever they want to do in their downtown, somewhere someone has done it already. We share that with them, and we help them figure out how it will work in their own communities. We have a great network nationwide. Also, our Main Street programs have been able to receive grants. Twice now, we have done grants with projects for public spaces. If you had a coordinating program, you would be eligible to take advantage of those benefits.

Lastly, we are a great advocacy organization. There are several things we are working on, including the U.S. Department of Housing and Urban Development's Community Development Block Grant Program funding and maintaining historic tax credits as well that help communities revitalize their downtowns. I would like to thank you for having me here today.

**Assemblywoman Swank:**

I will give a brief overview of the bill. As you heard from Ms. La Plante, this program is not just for small towns or just for big cities; it is for a range of folks. I am thinking about projects I know of that are going on in Nevada. This program is something a town as small as Wells can benefit from. I think we have someone here from Wells in support of this bill. Wells has had many issues given the earthquake they had in 2008 that significantly damaged their downtown. This would provide Wells with resources to rebuild and revitalize the downtown area. In Las Vegas, for those of you who know the little part of Main Street just south of Charleston Boulevard known as the 18b Arts District, the area has really seen a revitalization. However, for a very long time, when I lived in Las Vegas, it was a bunch of empty storefronts. If the Main Street program had been in place for something like that little part of Main Street in Las Vegas, we would not have had that period in which these buildings just sat vacant.

I want to mention that this bill will create a position at the state level to coordinate with the National Main Street Center office. We are proposing to locate that position in the Department of Tourism and Cultural Affairs. I have been speaking with Director Vecchio, and she is very supportive of having this position in the Department. Her idea is to situate it within the rural programs, as well as with the Governor's new initiative on heritage tourism, and find those synergies in that way so they would all work together in that area.

If you look at section 5 of the bill, it creates the program. Section 6 states the Director will develop regulations that are in keeping with the National Main Street program. We do have a minor amendment in section 6 ([Exhibit D](#)), which adds "or assigned program coordinator." Section 7, subsection 1 of the bill creates the Account for the Nevada Main Street Program. Section 7, subsection 2 of the amendment adds "or assigned program coordinator." Section 7, subsection 7 of the bill states, "Any money in the Account remaining at the end of

a fiscal year does not revert to the State General Fund, and the balance in the Account must be carried forward to the next fiscal year." The money would remain in the program in order to build up those funds over the biennium.

That is pretty much the entire bill. It is a short bill, and we are happy to answer any questions you may have.

[Assemblywoman Neal assumed the Chair.]

**Vice Chairwoman Neal:**

Are there any questions from the Committee?

**Assemblyman Ellison:**

Can you walk us through the funding, where the funding is going to come from, and where it is going to go? I read section 5 of the bill and I do not understand. Does the state contribute a certain amount of money?

**Kathy La Plante:**

The money comes back to the state. When new businesses are created, greater sales tax is generated. When states invest in Main Street programs by offering incentives or encouraging rehabilitation of properties, it helps to raise the property value, which increases property tax. It also creates new jobs. It comes back from the investment by the private sector.

**Assemblyman Ellison:**

Where does the funding come from to start these projects? Do the communities apply for grants through the state?

**Kathy La Plante:**

Do you mean the grants to the property owners?

**Assemblyman Ellison:**

Yes.

**Kathy La Plante:**

We have programs that will get grants from private banks or different economic development entities. Sometimes Main Street programs run fund-raising events that will provide grants to the property owners as well. Sometimes we are also able to get grants from national corporate sponsors, like American Express Company, which is working with us as a partner in preservation as well. The funding for grants can come from a number of different sources. I know in North Carolina, not only do they have the operating budget for their Main Street program, they also have a set-aside where I believe the state provides up to \$50,000 per community. The state makes that money a grant as well. I will use Smithville, Tennessee, as an example. I was recently working there and they entered the Main Street program. It is a fairly small town. After they went through the introduction of the Main Street program, they learned about the Main Street Four-Point Approach, they

organized locally, and they started doing projects. The state gave them a small \$15,000 grant for project implementation—not to support the staff but for specific project implementation. They decided to use the money in \$500 minigrants and advertised that property owners in downtown who wanted to rehabilitate their historic building, make a sign or make some sort of visual improvement to the exterior of their building, would receive \$500 as long as they matched it with at least \$500 more. That \$15,000 leveraged \$250,000 in private sector reinvestment. Although the \$500 was a small amount of money, most of those property owners spent well over that amount of money. The leverage was quite phenomenal.

**Assemblyman Daly:**

I have similar questions to Assemblyman Ellison. I know you talked a lot about cities, but this is going to be a state program. Are most of these run as state programs and then cities and towns can apply to the state program?

**Kathy La Plante:**

We have nine programs that operate statewide as nonprofit organizations. Some of those include Missouri, Mississippi, and Ohio. When I ran the program in New Hampshire, we operated as a nonprofit organization. However, 75 percent of our programs are state-sponsored. They are housed in departments such as tourism, economic development, commerce, or rural development. Most of the programs are state-sponsored programs. Once a statewide program exists, there would typically be a competitive application process. All the downtowns cannot be brought in at one time. Most states select three to five a year and grow the program because a whole set of intensive services is needed when the program starts, from what is Main Street to how to form a board of directors in a nonprofit organization. Locally, most of the programs set themselves up as nonprofits. They could also be membership-based organizations, but we encourage they apply for 501(c)(3) tax-exempt status so they are better able to apply for grants. People can also take tax deductions when they contribute to those programs.

**Assemblyman Daly:**

If this is a state program, the local programs would not have to worry about being a 501(c)(3) unless there was some spinoff organization.

**Kathy La Plante:**

Not at the state level, but at the local level. If Gardnerville or Minden has nonprofit organizations locally, that is how they would run their program locally because they would hire an executive director and have to have an operating budget as well.

**Assemblyman Daly:**

But you are not talking about having separate nonprofits. The nonprofit would be at the state level. I am trying to figure this out. Could there be a local nonprofit?



**Kathy La Plante:**

How it works is the statewide program is set up. The state then selects communities. Gardnerville and Minden have people who are their downtown managers who raise additional money to do additional projects. The state would provide technical assistance, training, advice, and perhaps grants as part of that budget. The communities will also have their own budgets locally to do marketing projects and work with the city on physical improvements. If a community were to do historic light poles, that is not necessarily something the state would pay for. The community would work in conjunction with the city on that project. Locally, to be in the Main Street program, they will have to have a hired position, whether part-time or full-time, so there will be organizations forming around the state program.

**Assemblywoman Swank:**

The new position at the state level sets up the Nevada Main Street America Program and then coordinates things between the national program and the local programs. It provides a less hectic connection between the national and the local levels. The state position would be able to bring information in from the Main Street America program and provide it to the local Main Street program. That is the structure that usually happens.

**Assemblyman Daly:**

I understand that. States can have some money and provide expertise and potentially can provide grants or assistance for the smaller organizations to apply for grants, or they could put local money into the program if they chose to. It is not going to be set up like a redevelopment agency where there is an increment coming back. That is what I am trying to figure out. I have seen a lot of downtowns in a lot of small towns that are worth preserving. When they are completed, it is pretty cool. However, in a lot of similar downtowns it is lost as development goes forward. I see the value in trying to do some of this, especially if the community is trying to build character. I was trying to figure out how it works. I know you also mentioned memberships. Are there dues the state would have to pay to the national organization?

**Kathy La Plante:**

Yes. As part of being a designated coordinating program, we have a membership level for our coordinating programs that is currently \$4,500 a year. Local membership is \$350 a year. It provides great access to all the resource tools we have. We provide a new coordinator orientation, so whoever would be hired in this position would be trained. That is all included in the membership fee. We have meetings twice a year for coordinators, so they would get together with all the other states as well. The membership level would just be at the local level.

**Assemblywoman Joiner:**

I appreciate you being here. I did not know this program existed. I think it is a wonderful idea. I have seen the revitalization in my own town with some of the older buildings. Are there multiple local areas such as nonprofits, cities, and counties, and do they develop different boundaries, or are they usually coordinated so it is all together? Do you find their focus starts growing?

**Kathy La Plante:**

How they start out is we work in communities. The focus is on the historic downtown which would typically be considered the heart of the community. The program will only be successful if it partners with everyone locally. The city needs to be a financial player in the program, but also a partner on projects. If historic light poles are going to be implemented, maybe there is a way to combine that with a Department of Transportation project that is coming through or transportation enhancement grant money, et cetera. In small communities, sometimes the Main Street program is for the entire town. In Lake City, Colorado, which is the smallest town I have worked in and is more of a seasonal community, everyone is onboard. Their Main Street director is half-time Main Street and half-time economic development coordinator. It is a comprehensive effort.

I was a local Main Street executive director when I started in 1989. We had our downtown area, but as we got that in good shape, we started bringing in more to the area and it was an outgrowth from there. We think of our program as the umbrella organization that pulls all the partners together in a community. It is all about economic development. How do we bring more economic vitality to our cities?

**Vice Chairwoman Neal:**

Is the appropriation intended to be used to fund the position?

**Assemblywoman Swank:**

We are working with the Department of Tourism and Cultural Affairs. They believe they might be able to absorb this in the position. We are still in the process of sorting that out. Director Vecchio is currently on a trip to China. When she returns, we will finish those talks.

**Vice Chairwoman Neal:**

Typically, Main Street or downtown is part of the redevelopment area because of blight. When this has worked in other communities, has the leveraging of funds been an overlay between the redevelopment areas and whatever state money has been given? I know in Nevada it is squarely in the redevelopment area.

**Assemblywoman Swank:**

I believe so, yes. I think one of the challenges we have with some of our older buildings, such as the Bridger Building in downtown Las Vegas that used to be the Clark County Courthouse, have sat vacant for over a decade. There are a lot of costs into getting that rebuilt, so we would have to leverage dollars from different places in order to make it work for the community.

**Assemblyman Marchant:**

If the Department of Tourism and Cultural Affairs cannot absorb this position, how will it be paid for? Would it require a tax increase?

**Assemblywoman Swank:**

I think we would look for other avenues to fund the position, but I do not anticipate there would be a tax increase.

**Vice Chairwoman Neal:**

Seeing no additional questions from the Committee, I will open testimony in support of the bill.

**Wes Henderson, Executive Director, Nevada League of Cities and Municipalities:**

I would like to thank Assemblywoman Swank for bringing this bill. We had a very similar bill last session [Senate Bill 51 of the 78th Session] that unfortunately did not make it out. We are big supporters of the Main Street program. The program touches many areas that are vital to the state's economy, including tourism, historic preservation, economic development, and quality of life.

I know when people travel, they will look on the website for *Diners, Drive-Ins and Dives* to see where Guy Fieri has been in certain cities and go to those restaurants. People also do that for the Main Street program. They will search for the cities that have Main Street programs and make it a point to visit. This program would work in all cities in the state. When you think of Henderson, Boulder City, Lovelock, downtown Elko, and Reno, the program would work in both big and small cities throughout the state.

This is an investment in Nevada. It will take a few public dollars to get it started, but as Ms. La Plante said, there is an incredible return on investment with this program. I would be happy to answer any questions.

**David Cherry, Communications and Intergovernmental Relations Manager, City of Henderson:**

This Saturday, April 15, is actually Henderson's annual Heritage Parade and Festival. It will mark 64 years since Henderson became an incorporated city, which happened on April 16, 1953. I say that because the parade takes place in historic downtown Water Street. Of course, we invite everyone to join us for the parade and celebration. More important, that is the historic heart of our community. In southern Nevada, we may not have the kind of history other places in the country may have. It may be shorter, but it is equally important that we find ways to preserve those little gems like downtown Henderson in our Water Street area. It is a redevelopment area, and we are working hard to bring new economic development to the area. We certainly see this new program, this concept, as another arrow in our quiver. We support A.B. 417 as a way for interested communities to take advantage of the resources that would be provided through the Nevada Main Street Program, including things like grants, technical expertise, and training for local Main Street programs.

**Thomas A. Dallaire, P.E., Town Manager/Engineer, Town of Gardnerville:**

We have had a Main Street program running and operating in our town for the past eight years without the support of the state. We have had support from them, but not officially. This program at the state level would allow us that extra link, extra training, and extra support at the national level and also allow us to coordinate with other Main Street programs throughout Nevada moving in the same direction in redevelopment. I want to make sure you understand our support of the bill.

**Steven Conger, representing City of Mesquite:**

We support this bill.

**Mary C. Walker, representing Carson City and Douglas County:**

We rise in support of A.B. 417. In my previous life as Carson City's Finance Director, it is a small community so I did many jobs. One of the jobs was redevelopment director at a time when Carson City did have a local Main Street program. It was that program and working with private parties that really helped a lot. In the mid-1990s in Carson City, there were 25 empty buildings in the downtown area, including the St. Charles Hotel, Mom & Pop's Diner, The Basil Restaurant, Garibaldi's Ristorante Italiano, and the Coldwell Banker Select Real Estate building. I could go up and down Carson Street to name others. I was working as the redevelopment director at the time, and providing the funding and working with our small Main Street program was how we were able to leverage our dollars in redevelopment.

Our Main Street program disbanded a few years later. I think if we had the structure of the state and the support from the state that this bill has, it would have revitalized the Main Street program and kept it going in Carson City. I think it is an important bill, and I appreciate Assemblywoman Swank for bringing it forward.

**Brian McAnallen, Government Affairs Manager, Office of Administrative Services, City of Las Vegas:**

We would also like to go on record in support of A.B. 417.

**Vice Chairwoman Neal:**

In section 9, subsection 1 of the bill where it allows the appropriation of \$500,000 to provide grants for designated local Main Street programs, how would that work with the redevelopment area in Las Vegas? The City of Las Vegas already has a downtown revitalization. How do you envision it working? Would you supplant some of the money you already have working in the redevelopment area downtown? You really would not need that money.

**Brian McAnallen:**

I am not sure we would necessarily head in the direction of the Main Street program that is established in this bill. We are here to support this along with our other fellow cities and counties because we believe there is some benefit to this throughout the state. Specifically to the redevelopment area in downtown Las Vegas, I think we would follow the same process

we are doing right now for working on revitalizing those areas, not necessarily falling under this particular program. We are just here in support because we think there would be benefit throughout Nevada.

**Vice Chairwoman Neal:**

Thank you for that. I was wondering because I would not want the City of Las Vegas to apply for a grant when I know it has the money to take care of it through other funds.

**Scott F. Gilles, Legislative Relations Program Manager, Office of the City Manager, City of Reno:**

We support A.B. 417 as well. The Main Street program is a program that our city council has been looking forward to trying to utilize for a few years. We appreciate the sponsor bringing the bill forward. To Vice Chairwoman Neal's question regarding our redevelopment district, at this point, as I testified a couple of weeks ago, there really is currently no positive revenue to use in our redevelopment districts. However, we have also identified some other areas in town where this program could potentially be used that is not a redevelopment district, specifically, the Midtown District in Reno.

**Dagny Stapleton, Deputy Director, Nevada Association of Counties:**

We are also in support of this bill. Many of our counties contain historic downtown areas that are actually in unincorporated portions of those counties. This bill would also enable counties to apply for the Main Street designation and the benefits that go along with that.

**Jolene M. Supp, City Manager, City of Wells:**

Wells is a city of 1,400 people, so it is certainly the smallest city being represented in this room. I just wanted to show you some of the materials provided by the Main Street program that lay the bricks, if you will, with the implementation [held up materials]. Some of the things we are doing at the local level are selling memorial bricks for Western Heritage Park to build funds to create downtown development. As was mentioned earlier, in 2008 Mother Nature threw us a left-hand curve with a 6.0 earthquake. Our downtown area became a brick pile. We have definitely worked diligently since then with the private sector to put some dollars into revitalization. Unfortunately, being such a small town, it is a limited project. It has been nine years now in rebuilding our downtown. We very much support A.B. 417 because it could provide a catalyst for that redevelopment.

**Assemblyman Ellison:**

When the earthquake hit Wells, it was devastating. It is amazing what you have done. Even though some of the buildings crumbled, the bricks were sold. I have some of those bricks in my office. You have done everything in the world to bring that little city back to life. You have done a great job, but you still have a long way to go. I can understand why you are here supporting anything that would help get that city back on its feet.

**Jolene Supp:**

Your compliments are very flattering. I do have before-and-after pictures if anyone is interested in seeing what we have done at this point in the game. The Main Street program would really help put things together.

**Assemblyman Ellison:**

One of the things Ms. Supp did not mention is the city hall was destroyed, parts of the schools were destroyed, and the businesses were destroyed. That earthquake did massive damage to Wells.

**Assemblywoman Bilbray-Axelrod:**

You held up a pamphlet from the National Main Street Center. Is this something that you and the City of Wells have already taken part in and you are only here to support Nevada?

**Jolene Supp:**

We have kind of robbed the building bricks from the national program, but because Nevada is not part of the Main Street America program at this point, we are not as eligible as we would like to be.

**Assemblywoman Bilbray-Axelrod:**

Have you paid any dues? Do you just get what you can have for free and are not able to take advantage of the resources?

**Jolene Supp:**

Correct. We have not paid the dues.

**Connie Billington, Interim Executive Director, Main Street Minden:**

I am the executive director of the second Main Street program in Nevada. We are currently affiliated members of the Main Street program. On behalf of the board of directors, I would like to ask for your support of A.B. 417. We are a year and a half old, and we are struggling. It would be nice to have a state program behind us.

**Nathan Strong, Interim Director, Churchill Economic Development Authority:**

I had the pleasure, and it was actually a thrill, to attend the National Main Street Center's annual conference last year. Thanks to the generosity of U.S. Bank, I am able to return this year. As far as plugging into the national program, it is incredible networking. As Ms. La Plante mentioned, it is where communities get ideas and steal them. Imitation is the highest form of flattery. Returning with those ideas, we have been able to mobilize the people who care in our community. Assemblyman McCurdy was a guest at an event in our historic downtown. He saw the charm and he knows the charm of it. There are other areas as well. I would encourage you to think of those areas where each of you come from and where you represent your constituents so you can see the applications of this program. I would restate what Mr. Henderson said about Main Street being a recognizable brand. The trend in economic development now is to develop and retain our workforce talent. Unfortunately, in Nevada we are growing our workforce, so we need to attract and retain our

workforce. I believe for those who come and see a state program, as well as these local Main Street programs, it will be very attractive to the workforce we need to develop. I would ask you to support and move this bill forward.

**Peter D. Krueger, representing City of Fernley:**

While we hear a lot about Fernley, this is an excellent program that will help the city do for itself a lot of the Main Street redevelopment that is needed in another small rural community. We urge your passage of A.B. 417.

**Vice Chairwoman Neal:**

Is there any further testimony in support of the bill? [There was none.] Is there anyone wishing to testify in opposition to the bill? [There was no one.] Is there anyone wishing to testify in the neutral position?

**David C. Peterson, Deputy Director, Division of Tourism, Department of Tourism and Cultural Affairs:**

The Department of Tourism and Cultural Affairs is neutral on this bill. Should the Main Street program be implemented, the Division of Tourism within the Department of Tourism and Cultural Affairs can house this program. The Division of Tourism currently administers two grant programs. At present, the Rural Marketing Grants Program is approximately \$1.65 million a year. Those funds are allocated to rural communities engaged in tourism marketing and programming.

The second program we administer is the Projects Related to Tourism Grants Program. This is \$200,000 per biennium and it is allocated for infrastructure projects for tourism-related structures.

We anticipate that this program being discussed today will be administered through a similar process to the two programs I just mentioned. We believe we can administer this program using current staff. Director Vecchio will continue working with Assemblywoman Swank to determine if we do need an additional position.

**Vice Chairwoman Neal:**

Is there anyone else wishing to testify in the neutral position? [There was no one.] Does the bill sponsor have any closing remarks?

**Assemblywoman Swank:**

As you can see, we have bits and pieces of the Main Street America program. We have folks in Minden, Gardnerville, and Wells who are trying to tap into this program at the national level. What we really need in order to make this grow and to help a lot of our small towns and big cities is to have a position at the state level that can really be the conduit between the national program and the small individual programs at the city level.

I would like to reiterate a statistic that Ms. La Plante gave. For every \$1 spent in New Mexico, the return on investment was \$44. I think that would be fabulous here in Nevada. After the Great Recession, especially in Las Vegas, we have had high vacancy rates. We have seen in other states a reduction from 70 percent vacancy to 5 percent vacancy. These numbers are powerful. I think this is an easy program that will not cost the state very much to implement and can bring a lot of benefit to all communities, large and small.

[Exhibits submitted but not discussed were ([Exhibit E](#)), ([Exhibit F](#)), ([Exhibit G](#)), and ([Exhibit H](#)).]

**Vice Chairwoman Neal:**

I will close the hearing for A.B. 417.

[Assemblyman Flores reassumed the Chair.]

**Chairman Flores:**

I will open the hearing for Assembly Bill 318 and invite Assemblywoman Tolles to the table.

**Assembly Bill 318: Revises provisions relating to state purchasing. (BDR 27-741)**

**Assemblywoman Jill Tolles, Assembly District No. 25:**

I want to thank the Committee for hearing this bill. I also want to especially acknowledge Assemblyman Frierson. He presented Assembly Bill 280 before this Committee last week. We are both attempting to accomplish the same goal and work together as a result of our mutual efforts toward supporting Nevada-based businesses and jobs. I also want to acknowledge that Senator Cannizzaro also has a similar bill in the Senate [Senate Bill 317]. We have had discussions about collaborating together. I am honored to be able to present my bill before you today.

I would like to start by giving a little bit of background, and then I would like to invite my constituent, Valerie Glenn, to testify from Las Vegas to share her story as to the background of the importance of this bill. I will then pass it over to Mr. Haag, the Administrator for the Purchasing Division, Department of Administration, who will walk us through the amendment ([Exhibit I](#)).

Economic development incorporates three main aspects, the first of which is bringing new businesses from out of state to Nevada. The second is stimulating entrepreneurship and new start-up growth. The third is supporting and expanding existing Nevada-based businesses. Assembly Bill 318 is about supporting businesses, creating jobs for hard-working Nevadans, and keeping revenues in Nevada to support a stronger state.



The Purchasing Division closes approximately 300 contracts a year. Many of these are multimillion dollar, multiyear contracts. In a highly competitive bidding process, the decision often comes down to a very narrow margin in the difference between two companies of equal caliber and pricing. This bill adds an evaluation factor to measure the economic connection between the bidder and the state to avoid awarding close bids to out-of-state companies that would not generate additional revenue for the state. We have had numerous examples over the past few years of very close competitive bidding processes where, because of the way it was calculated, the business went to an out-of-state company instead of keeping those jobs and that revenue here in Nevada.

With your permission, I would like Valerie Glenn to give her testimony to explain the importance of this effort.

**Valerie Glenn, Chief Executive Officer, The Glenn Group:**

The Glenn Group is a statewide creative marketing agency with offices in Reno and Las Vegas. I happen to be working out of our Las Vegas office this week. We have been in business for nearly 50 years. We are a family business, and I am proud to say we span three generations.

I am here today to encourage you to support A.B. 318. By way of background, I would ask you to allow me to share a quick story that really demonstrates the importance of the passage of this bill. I want to take you back to 2011. Nevada was in the depths of the Great Recession. Many businesses around the state, including our business, were struggling. The Purchasing Division issued a request for proposal (RFP) for a multimillion dollar marketing contract for the Department of Public Safety. That was an account we had been representing for the previous five years. We responded to the RFP only to find out that the contract ended up being awarded to a firm in Utah. I was obviously disappointed that our firm had not been successful, but I was more concerned that this very lucrative contract went out of state at a time when businesses all over Nevada were struggling. I was very curious to see the actual scores that were assigned through that evaluation process that led to the contract being awarded to an out-of-state firm. My belief was, and continues to be, that there are many highly qualified marketing communication firms right here in Nevada that are very capable of handling the work the Department of Public Safety and other state agencies need. If the Utah firm had demonstrated it was clearly that much better than all of the firms in Nevada, then the state deserves to have the very best and the Utah firm should be hired. However, if the scores were close, I had a problem with our state sending business out of our state, especially at a time when we were all trying to rebuild our economy.

After requesting the scores from the Purchasing Division, I received the following information: Basically, the overall average score of the No. 1 placing firm—Penna Powers, the Utah firm that was awarded—received a 7.7 average overall score. The Glenn Group, my company, had an overall score of 7.6. R&R Partners had a 7.2 overall score. As you can see, The Glenn Group placed second by one-tenth of a point.

I do not question the fairness of the process or the scoring, but unfortunately, there is nothing in the Purchasing Division process that allows for a judgment call in a case like this, all things being relatively equal, to allow the scoring committee to say, Gee, we obviously have two highly qualified firms here, and the scoring worked out to be so close. But one is a Nevada firm and one is out of state. We should keep this business in the state. For a one-tenth point difference, we should award it to the Nevada firm.

After I received the score sheets, I sat down with Governor Sandoval and shared my concerns with him. While sympathetic, he helped me understand the purchasing system does not allow for these kinds of judgment calls. That is why I am suggesting a bill like this needs to take place in order to change that process to support the businesses that exist here now.

As Assemblywoman Tolles said, we, as a state, spend a lot of time working to bring new businesses to Nevada in the interest of diversifying and growing our economy. I am a past chairman of the board of the Economic Development Authority of Western Nevada, so I totally understand and support economic development and growth, and I fully support the efforts of the Office of Economic Development, Office of the Governor, but our lowest-hanging fruit as an economy is the businesses that exist here now. We need to support those businesses and the people they employ.

To put it into real terms specific to the loss of the Department of Public Safety (DPS) account for The Glenn Group, that translated into four jobs that were lost in our company. That was about 10 percent of our workforce. Those jobs were lost in Nevada, in addition to whatever trickle-down effect it had on Nevada-based printers, photographers, producers, and other vendors our company would have used in the production of work for DPS. I suspect that the Utah firm tends to use its own vendors in Utah, not Nevada companies, for much of its work.

Simply put, the purchasing process, as it sits today, does not allow for any leeway or the ability to inject some judgment into the selection process that would favor supporting doing business with Nevada companies. This bill would allow for that preference and, had it been in place in 2011, would have given that extra bit of weight to a firm like ours in the DPS example that would have swung the business our way and kept those jobs and that business here in Nevada. Thank you for your time. I do encourage you to support this bill, and I am happy to answer any questions. [Also submitted was written testimony ([Exhibit J](#)).]

**Assemblywoman Tolles:**

I want to thank Mr. Haag from the Purchasing Division who has made efforts to help support these Nevada-based businesses. He came to me early on to work through some of the details of my bill and ways to make it even better for flexibility at the Purchasing Division level in order to ensure it meets its intended goals.

**Jeffrey Haag, Administrator, Purchasing Division, Department of Administration:**

I would like to thank Assemblywoman Tolles for her leadership and collaboration on this initiative. Like Assemblywoman Tolles, Assemblyman Frierson, and Senator Cannizzaro, I share the sense of responsibility to put Nevada companies first. However, I feel equally

responsible to learn from the long history around local preference in state and federal government. For the sake of time, I will refer the Committee to my written comments submitted regarding Assembly Bill 318 and Assembly Bill 280 ([Exhibit K](#)) around the impact of local preference and talk specifically about A.B. 318 and the recommendations I have made to amend this bill.

This bill adds additional criteria to *Nevada Revised Statutes* Chapter 333 that requires the Purchasing Division to consider a company's connection to the state of Nevada and evaluating the potential award of a proposal. The bill calls for the Purchasing Division to consider a company's connection based on the amount of taxes paid to the state or political subdivision, the number of buildings in the state which the person submitting the proposal owns or leases, the number of persons in the state whom the proposer employs or engages with in relation to the contract, and the amount of goods or commodities for use in the proposal which are produced or manufactured in the state.

In section 1, subsection 5, we come to my first recommended amendment ([Exhibit I](#)). Initially, the bill had recommended we set the weight of this factor at one higher than the lowest scoring weight within those criteria. I am recommending we remove the weighting of these criteria. I think it is important to note that none of the other criteria that have been in statute historically are given a weight. On the contrary, statute today prevents us from posting the individual weights of respective criteria, which in my professional opinion significantly disadvantages the state and those vendors who are engaging to propose. I am recommending that we remove the artificial weight of these new criteria and we remove the limitations of posting all of the weights for all of the criterion in the solicitation. This would allow us to post the individual weights allowing companies wishing to propose to understand how the state values each of the criteria, including the criteria of the vendor's connection to Nevada so we can weight it appropriately based on the competitive nature of those responding to the solicitation.

Lastly, in section 1, subsection 7 of the amendment ([Exhibit I](#)), I am recommending that we add the ability for the Purchasing Division to develop regulations around these new criteria. One of the things we have learned from states that have gone before us in implementing local preference laws is they tend to unintentionally disadvantage small business. In requesting the amendment to add additional language to develop regulations around these criteria, we hope to mitigate that risk to ensure this law has the intended benefit that all of us desire.

**Chairman Flores:**

Are there any questions from the Committee?

**Assemblyman Daly:**

Thank you for your last comment, which was part of my question when I was reading the bill. If you have those criteria weighted and those criteria change depending on the order, theoretically agencies would know, based on history, and pick the contractor. There would have to be something assigned to the score for the local preference. There can be a balance. Other states do things for star companies. We have to find the right fairness so there will still

be people bidding and there is still competition. We do not want to lock out the bidding or go to sole-source contracting, which is already against state principles. How would you actually carry this out and how could we strike the right balance? I am not opposed to trying to incentivize Nevada businesses, but we do not want to stifle competition either.

**Jeff Haag:**

I agree with your comments, your commentary, and your question. This is a difficult dance. To expand on one of your comments, should any of these local preference laws pass, it is going to trigger a reciprocal preference or retaliatory laws in more than 30 states across the country and an inverse preference for Nevada companies who bid on those solicitations. I think that is something we need to be mindful of. One of my recommendations in removing the weight in statute and allowing us to access the weight on a per-solicitation basis is to allow us, through data, to analyze who is actually available within the competitive landscape for that particular solicitation, what companies within Nevada are registered in our vendor management system, and what companies have the ability and desire to compete on the solicitation. I think we are then going to have to take a very thoughtful approach in understanding how the weight is actually applied and the actual weight that is given to these specific criteria for that respective solicitation.

It has been my experience over the last 20 years in working with government on contracting opportunities that these local preference policies, when applied globally, rarely have the impact that they need to have. What we are trying to accomplish here is the ability to still require that we evaluate a respected business connection to Nevada, but be able to assess the weight of that criteria on a case-by-case basis based on the viability of Nevada companies really competing. In today's environment, we do not really know what Nevada businesses are competitive or their desire to bid on our contracts. We are hoping through this legislation that we can take a thoughtful approach and make data-based decisions on how we apply this criteria and the weight to which we give it.

**Assemblyman Daly:**

I would like more information on what you said about 30 other states passing retaliatory laws. Is there an agreement in place already? I know with local governments within the state, if they bid on pickup trucks or whatever and get a price, other local governments can join in on that contract. Do we have those same types of joinder agreements with other states on their purchasing various things? Is that where we would potentially be affected on what you were saying about the 30 other states?

**Jeff Haag:**

You actually reminded me of another potential consequence. We do have cooperative contracts available. We always include joinder language within state solicitations to allow local governments within the state to participate within those contracts. We also participate extensively in a national cooperative that all 50 states participate in. Local preference policies like this jeopardize our ability to participate in those national cooperatives. There is

benefit to the state in participating in those cooperatives, as you can all imagine, because it allows us to leverage the spend of multiple states on one particular contracting opportunity. We need to be mindful of that.

Second, there are federal regulations that, in most cases, limits local preference on any contract that includes federal dollars. I will not go deep on all of this. I have submitted this to the Committee in writing ([Exhibit K](#)). The inverse preferences or the retaliatory legislation that I reference in that testimony is actually different and is an additional potential consequence that I think we need to be mindful of. That is, specific laws—inverse preference laws—that have been passed in more than 30 states essentially say that if we give a company a 5 percent preference in Nevada, their bid will be artificially inflated 5 percent in that respective state. Those inverse preference laws exist in all of Nevada's bordering states with the exception of Arizona. However, Arizona is considering an inverse preference law now through its legislature and, as I mentioned, 30 other states. That is why I have made the recommendation to Assemblywoman Tolles' bill and have had the privilege of working with Assemblyman Frierson on his bill. We need to be mindful of those inverse preferences and the impact on cooperative contracting and federal funds to do what I think we all agree we need to do and we want to do. But again, we want it to have the intended impact and we want to make sure everyone is aware of these inverse preferences and how they could impact companies like The Glenn Group should they bid on contracts in other states.

**Assemblywoman Neal:**

This bill has an uncanny resemblance to Senate Bill 325 of the 78th Session, which died on this side of the house. I am trying to figure out what is different, because there were many concerns and there was a huge fiscal note Ms. Tarter had put in the record. I do not see a fiscal note on this bill. What is different? What has changed between 2015 and now that allows this to be more manageable?

**Jeff Haag:**

I was not here during the 2015 Legislative Session, but I am aware of the fiscal note. I take a different approach to how we would apply this legislation. Not to make a shameless plug, but I have a bill that will be heard before this Committee tomorrow, Assembly Bill 480, that is proposing an administrative fee that will allow us to implement some much-needed technology within the procurement function. That would allow us to automate this piece of legislation, or Assemblyman Frierson's bill, whichever is passed, which will dramatically limit the physical resources needed to apply this legislation. I believe S.B. 325 of the 78th Session was for four full-time equivalents. I have put a fiscal note of one full-time equivalent on this bill. However, I also feel if A.B. 480 is approved and we are able to implement this technology, it may not need any additional staff. That is what has changed from the fiscal perspective. One, I think it is a personnel change and how we look at it and, two, I think the fiscal note I submitted is contingent on the technology project we are also looking for approval on.

**Assemblywoman Neal:**

If one of the criteria or nexus is the amount of taxes paid in the state the preceding five years, then what do we do with new businesses or businesses that are two or three years old? How do we treat them? It seems there could be a discriminatory pattern. If a new business has only paid \$300,000 in taxes but an older business paid \$700,000 in taxes, the criteria works against the new business. How do we make that work?

**Jeff Haag:**

This is precisely why I have made the recommended amendments that I have made. It is an incredibly slippery slope. What I have seen personally and what I hear from my counterparts across the country is that when language is left this broad, it has precisely the impact you are articulating. That is why I have asked Assemblywoman Tolles to entertain the amendment that allows us to develop some regulations around this. How I see that being applied is we would need to add additional language that recognizes start-up businesses and small businesses versus a medium- or large-sized business. I think we need to look at whether it is important to us that a business is based in Nevada versus whether a business has just set up a large satellite operation within the state. Again, it is a very important initiative, but executing it in a way that does not negatively impact some and benefit others is difficult.

**Assemblywoman Tolles:**

Thank you, Assemblywoman Neal, for those questions. I think they are dead-on in terms of what is different from last session in this discussion. Thank you for referencing that S.B. 325 of the 78th Session was brought forward to accomplish the same goal and, as you stated, was not successful. We still felt this was an important issue that needs to be revisited. I am very thankful for the input on the amendment because the intent of this bill is when we are taking a look at state contracts and when we look at price, the quality of the service, and how well it matches with the RFP, all things being considered, if a Nevada-based business is competing against an out-of-state business, we would like to see that business stay in Nevada.

However, Mr. Haag did point out that sometimes there are complications with reciprocity with other states, with state compacts, or with cases where there are two Nevada-based businesses, one larger and one smaller, and it may unnecessarily disadvantage the smaller business. Sharing that same concern, we have had many discussions about this amendment ([Exhibit I](#)) and felt it was much more appropriate to bring in that same intent and yet transfer over on the regulatory side within the Purchasing Division the ability to have that discretion so we could address those very same concerns. I appreciate that question, and thank you for giving us the chance to clarify that on the record.

**Chairman Flores:**

Is there anyone wishing to testify in support of A.B. 318? I will limit everyone's comments to two minutes.

**Valerie Glenn:**

I just want to make a comment. I really appreciate Mr. Haag's perspective and the amendment he has put forth ([Exhibit I](#)). I think he totally understands the intent of this legislation and what it can do for companies like ours. We are not adverse to competition whatsoever, but if you picture a scoring committee of five people assigning a 1, 2, 3, 4, or 5 in various categories and someone could score a 4 versus a 5, that could create the one-tenth of a point difference that happened with us. I think Mr. Haag is spot-on with what he is trying to accomplish through the amendment. It is intended to allow for those judgment calls in those very close situations. We certainly do not want to compromise the state or inhibit their ability to work with the best firms, whether they are in or out of state, nor correct unfair competition amongst firms within the state. I also think to just acknowledge companies that truly are Nevada businesses, whether they are new businesses or long-term businesses like ours, and not allowing or giving credit to companies that simply show up in the state and hang out a shingle in order to get the business.

**Tray Abney, Director of Government Relations, The Chamber, Reno-Sparks-Northern Nevada:**

I would like to thank Assemblywoman Tolles for this important bill and Mr. Haag for working with her on this. This is a great way for this Legislature and this state to support Nevada-based businesses. Remember, these businesses still have to prove themselves, so we are not giving them an unfair advantage. They still have to go through all the steps and prove that they can do the work that the contract calls for. This bill says the state is going to support those businesses because they have been paying taxes and employing people in Nevada. We think that is a great step.

**Paul J. Moradkhan, Vice President, Government Affairs, Las Vegas Metro Chamber of Commerce:**

The Las Vegas Metro Chamber of Commerce would like to thank Assemblywoman Tolles for her efforts, along with Mr. Haag. Mr. Haag did a great job in laying out a balanced approach with the amendment in front of you today ([Exhibit I](#)). From the Chamber's perspective, over the years many of our members have discussed this issue regarding out-of-state companies. Of course, you want to create a balanced approach, but you also want to ensure Nevada companies have an opportunity to be competitive in the process. I think Ms. Glenn has done a phenomenal job outlining her perspective of how it impacts small and medium-sized businesses here in Nevada. They are invested and they are engaged with the community. We want to be able to support those companies. We think the amendment helps address those policy concerns.

**Chairman Flores:**

Is there anyone else wishing to testify in support of the bill? [There was no one.] Is there anyone wishing to testify in opposition to the bill? [There was no one.] Is there anyone wishing to testify in neutral? [There was no one.] Are there any closing remarks from the bill sponsor?



**Assemblywoman Tolles:**

I want to thank the Committee for considering this bill. I know all of us went to our constituents and said we want to support Nevada jobs, hard-working Nevadans, and Nevada-based businesses. I think this is an opportunity to collaborate. I am thankful to Assemblyman Frierson for his desire to collaborate as well so that we can all come together and support our Nevada-based businesses and jobs.

[Submitted but not discussed was ([Exhibit L](#)).]

**Chairman Flores:**

I will close the hearing on Assembly Bill 318. I will open the hearing for Assembly Bill 433.

**Assembly Bill 433: Revises provisions relating to public works. (BDR 28-1013)**

**Assemblyman Chris Brooks, Assembly District No. 10:**

Today, I am here to discuss Assembly Bill 433, which would revise some procedures governing the award of certain contracts for a public work. Currently, existing law requires that a public body award a contract for a public work for which the estimated cost exceeds \$100,000 to the lowest responsive and responsible bidder. This bill would authorize the public body to award a contract for a public work for which the estimated cost exceeds \$100,000 to the responsive and responsible bidder offering the best value bid if, after the notice and a public hearing, the public body or its authorized representative determines that the public work represents a unique or complex construction challenge. The bill also sets forth the criteria that a public body may consider when determining the responsive and responsible bidder offering the best value bid.

I would like to walk through the bill using the section-by-section explanation table I have provided to the Committee ([Exhibit M](#)) and the conceptual amendment ([Exhibit N](#)) that has very simple changes. I will then turn the presentation over to Mr. Stanley and then answer any questions the Committee may have.

Section 1, subsection 6 of the bill adds the following provision:

The public body or its authorized representative may award a contract to the responsive and responsible bidder offering the best value bid if, after notice and a public hearing, the public body or its authorized representative determines that the public work presents unique and complex construction challenges. In selecting the responsive and responsible bidder offering the best value bid, a public body shall consider the following criteria:

- (a) The estimated cost to complete the project;
- (b) The qualifications, experience and technical expertise of the contractor, subcontractors and key personnel thereof;
- (c) The quality of the services, materials, equipment or labor offered in the bid;



- (d) The reputation of the contractor and subcontractors for safety, quality and timeliness of completion of projects;
- (e) The history of customer satisfaction on previous projects completed by the contractor;
- (f) The history of the contractor in initiating change orders or modifications to projects;
- (g) The history of the contractor in completing projects within the budget or with minimal increases to the budget;
- (h) Any past experience that the public body has had with the contractor or subcontractors;
- (i) The uniqueness and complexity of the construction challenges; and
- (j) Any other criteria that the public body determines is relevant.

In section 2, subsection 2, the words "or best value" are added to existing law. Section 3, subsection 5 has the same provisions that section 1, subsection 6 adds "except regarding local government or its authorized representative. Section 3, subsection 7, paragraph (d) adds "or the responsive and responsible bidder offering the best value bid, as applicable" to existing law that "A local government may let a contract without competitive bidding if no bids were received in response to an advertisement for bids and: . . . (d) The contract is awarded to the lowest responsive and responsible bidder." Section 4, subsection 2 adds the words "or best value" to existing law. Section 5 makes the act become effective July 1, 2017.

There is a conceptual amendment ([Exhibit N](#)). In the Legislative Counsel's Digest on line 12, the amendment changes "and" to "or." In section 1, subsection 6, on line 37, the amendment changes "and" to "or" and on line 39 changes "shall" to "may." In section 1, subsection 6, paragraph (i), the amendment changes "and" to "or." In section 3, subsection 5, on line 18, the amendment changes "and" to "or" and on line 20 changes "shall" to "may." In section 3, subsection 5, paragraph (i), the amendment changes "and" to "or." Changing "shall" to "may" makes the bill permissive.

I will turn the presentation over to Mr. Stanley, who will give some background on why we feel this is necessary and what we believe it will accomplish.

**William Stanley, Executive Secretary-Treasurer, Southern Nevada Building and Construction Trades Council:**

What is best value contracting? Quite simply, there is a tremendous amount of literature out there on best value contracting and best value procurement. Sometimes they are interchangeable throughout the literature. There has been a wealth of best practices written about best value contracting. The Associated General Contractors of America and the National Association of State Facilities Administrators have drafted a best value document that we have relied on. I think they come up with a very good definition of what best value contracting is, and one of the better ones I have seen in literature. Best value contracting is a best value selection process for construction services where total construction costs as well as other noncost factors are considered in the evaluation, selection, and final award of construction contracts.

What other criteria are we talking about when we say noncost factors? Those criteria could be things like contracts for designs. Other selection processes could be things like consistency; reliability; and responsiveness from the contractor; meeting preferences favoring veterans, minority-owned companies, women-owned companies, small businesses, local purchasing, et cetera; and all costs identified through a lifecycle cost analysis. Those are the types of criteria we are talking about other than the price. Using Great Basin College as an example because the college has a construction management course, another type of criteria one might entertain could be that the local community decides, in the construction of a local school, it would put in the request for proposal (RFP) that the construction company would need to hire an intern from Great Basin College to work on the project to gain experience in his community in order to build his resume moving forward. Or a school district may decide apprenticeship standards are required in the construction of its project. They could build that into their RFP. Those are the types of things we are talking about. This legislation is permissive: it is not required.

Where is it being used today? This type of legislation is being used in all 50 states, the District of Columbia, Puerto Rico, and the Virgin Islands. That information is from the *2015 State Statute Report* from the Design-Build Institute of America. We are not reinventing the wheel. This is something that is done throughout the country. We believe Nevada contractors and Nevada businesses could benefit by another construction delivery method other than the lowest responsible and responsive bidder. Having another delivery method could benefit the state.

What are we doing in Nevada? Currently, we have construction manager at risk and design-build, two of the construction delivery methods in Nevada. I would like to point out that both construction manager at risk and design-build have, as their main element, a best value contracting element in that a criteria is developed in both methods. That criteria goes out in the RFP that notifies contractors what the awarding body or public agency is going to consider in awarding the bid. Where best value contracting is a step between lowest responsible bidder and either construction manager at risk or design-build, we simply take the cost of the project, the criteria developed, and award the bid on the same bid-opening day. In construction manager at risk, a construction manager, preconstruction services, and the other things are built into the criteria and the bid is awarded based on that. The price is developed at a later stage. Design-build has the same structure: the awarding body develops the best value criteria it thinks is important and it goes out in the RFP. Engineering services, architectural services, all those other types of professional services, and the contractor are all awarded in one bid. That is oversimplistic, but that is the concept for design-build. What we are trying to do in this bill is place a different delivery method between lowest bid, construction manager at risk, and design-build.

Why different delivery methods? Quite simply, we believe one size does not fit all. Truly, each awarding body, whether it be in the rural areas, the metropolitan areas, schools versus universities versus counties and cities, building infrastructure projects either horizontal or

vertical, a one-size delivery method does not fit all. We should be awarding contracts for construction in Nevada that derive the best value for not only the awarding body, but ultimately the taxpayer.

There are many delivery methods. We have only talked about a few of them here today. What we are talking about here is also described in literature as design-bid-build. That means the project is designed by an architect or engineering firm, the project is bid based not only on the price but the criteria, and then the project is built. That is where we are today.

I have had several people over the last week say this seems to be vague. They want to know what the criteria are that we are talking about and how the criteria are going to work. I will draw your attention to *Nevada Revised Statutes* (NRS) 338.1723, subsection 2, paragraph (h), which is for awarding contracts to design-build. It says, "A list of the factors and relative weight assigned to each factor that the public body will use to evaluate design-build teams who submit a proposal for the public work." It is criteria that has been developed by the awarding body and the agency, they assign a weight to it, and it goes out in the RFP. It is similar to NRS 338.1692, subsection 2, paragraph (h) where it says, "A list of the selection criteria and relative weight of the selection criteria that will be used to rank proposals pursuant to subsection 2 of NRS 338.1693." As you can see, it is basically the same premise, which is the awarding body selects criteria that is relevant to the public body, relevant to the taxpayer to get the best value out of the contract, and it is awarded based on those terms. Obviously, there is a lot to this bill. If you have any questions, I would be happy to answer them.

**John Wiles, Director, Unified Construction Industry Council:**

Unified Construction Industry Council is a labor-management committee. I represent the Southern Nevada Building and Construction Trades Council and some of their signatory contractors. I am here to answer any technical questions if they come up in terms of the legal issues involved.

**Assemblyman Kramer:**

I know in working with Carson City over the years, we had many cases where we worked with the low bid. The low bid was the low bid up until the change orders came in and suddenly they were not the low bid anymore. We knew going into it that the firms we were dealing with had a history of contentious change orders. I can see why this is needed. My problem with it is when you start deciding one bidder from the other bidder based on a history of contentious change orders, now you are perhaps being arbitrary. To me that says lawsuit and contested bid. How do you address those types of issues in the selection process?

**John Wiles:**

I think it is no different than construction manager at risk or some of the other aspects of Nevada bidding where criteria are developed as long as they are applied in a uniform and consistent manner. Those are matters of discretion and evaluation. You have heard

testimony today about how that scoring is done and how you can separate applicants by one-tenth of a percentage point. I cannot tell you today there will not be a lawsuit, but as long as the criteria are developed and applied uniformly, there should be no problems.

**Assemblyman Brooks:**

Assemblyman Kramer, you have identified one of the main reasons this is being introduced. There are situations where low bid is not actually the low bid by the end of the contract so the awarding agency does not get the product it wanted at the price it thought it was going to pay. There is currently the ability for bidders who felt they were treated unfairly through that process to either appeal or litigate. That would apply to this as well. Those things exist today, so I do not know if this would make it any worse. I think it would help agencies address the issue that you and many others have brought up. There is a bait and switch sometimes with lowest bid. That is what this bill is trying to address.

**Assemblywoman Neal:**

What is confusing me, when I look at the criteria in section 1, subsection 6, paragraphs (a) through (j), is if I were a new business trying to get in, it would eliminate my chances because of the criteria, especially paragraph (h), "Any past experience that the public body has had with the contractor or subcontractors." If a new business has never done the work but is trying to get a foot in the door, this is a disadvantage in the application.

**Assemblyman Brooks:**

That is one criterion that an awarding agency may decide to look at if that was something it felt was important in awarding the project. I am sensitive to that because I started out as a small business trying to do public works projects and other state projects. If a contractor does not have a history, it sometimes makes it difficult. However, if an awarding agency wanted to encourage new start-up businesses in their area, this gives them the ability to look at several different criteria when making an award, not necessarily just the lowest price. I do not know if that is necessarily a disadvantage. If the awarding agency wanted to look for a proven track record, and I can see reasons why they would, this also allows them to do that as well.

**Assemblywoman Neal:**

That is why it is confusing because I do not really know how the factors work. The sentence in section 1, subsection 6 on line 39 states, ". . . a public body shall consider the following criteria." It does not say, "consider any combination thereof" to see if the criteria work together. How are the combination of factors supposed to be reviewed?

**Assemblyman Brooks:**

The amendment that I have proposed ([Exhibit N](#)) changes "shall" to "may," which makes it permissive. It would allow the awarding agency to look at any one of those criteria when making awards, in addition to lowest price.

**Bill Stanley:**

An awarding body may determine that some social engineering is beneficial to the community and award based on small business, disadvantaged business enterprises, et cetera. As we have seen in Senate Bill 1 of the 30th Special Session and what will happen with the construction of both the convention center and the stadium project, there was a 15 percent small business set-aside that was mandated. Those are the types of things with this type of legislation that would allow those things to happen by law even in contracts that are not as sophisticated as design-build or construction manager at risk.

**Chairman Flores:**

Seeing no further questions, I will open testimony for those wishing to testify in support of A.B. 433.

**Dan Musgrove, representing Mechanical Contractors Association of Las Vegas; and Sheet Metal and Air Conditioning Contractors' National Association of Southern Nevada:**

We are signatory subcontractors who perform life-safety work on these kinds of projects. Assemblyman Kramer took a bit of my testimony because he captured part of the issues of low bid in that the contractor makes it up on the change orders. The other area that potentially low bid can eventually end up costing a project is the fact that they will use less labor to make sure they meet the low bid. That means less hands, less productivity, and it takes longer to do a project. When an awarding body has the opportunity to look at a contractor's track record or other options besides low bid, there will be a better project. We are very much in favor of this bill, and we appreciate the sponsor for bringing it forward.

**Greg Esposito, Government Affairs Director, Plumbers, Pipefitters and Service Technicians Local 525; and representing Southern Nevada Building and Construction Trades Council:**

I do not have any testimony to add to what has already been said. We are in full support of the bill and appreciate Assemblyman Brooks for bringing it forward. We feel it is an improvement to the bidding practices and will be an improvement to the construction industry.

**David Cherry, Communications and Intergovernmental Relations Manager, City of Henderson:**

I am here in support of A.B. 433. We appreciate the sponsor making this bill permissive so we have the choice to utilize the bill's mechanism with regard to projects that require special knowledge or skill. Selecting a contractor who possesses the ability to fulfill these requirements could offer a cost savings through reductions in change orders and project delays, as well as decreased lifecycle costs, while also offering a better overall product for our dollar.

**Nathan R. Ring, representing International Union of Painters and Allied Trades  
District Council 15 and District Council 16:**

We stand in support of A.B. 433 for the reasons stated on the record by several other people, but mostly, best projects are not the cheapest projects. There are more things that go into bidding a project and building a project than just the cheapest price, and that is why this bill is important to Nevada and to the construction trades.

**Laura C. Rehfeldt, Deputy District Attorney, Office of the District Attorney,  
Clark County:**

I am here on behalf of Clark County. Our position on this bill is a bit of a hybrid. On behalf of Clark County, we support it in concept. As far as the bill goes, we are a bit more neutral with some concerns as to its effectiveness based on the way the bill is written. The concern would be that there could be some challenges as to some subjectiveness that could result in protests and delays in the award and commencement of construction. I spoke with Mr. Stanley and Mr. Wiles yesterday and have a better fundamental understanding of this bill. I have some areas of concern and I am willing to work with them and produce some proposed amendments.

I will briefly go through our areas of concern. First of all, the best value bid would apply to unique or complex projects. It is unclear what unique or complex projects would be. This vagueness places the public entity in a position of defending challenges to the use of this option, and that would be as to whether it is being applied to a unique project or a complex project. Again, this can result in the delay of an award or delay in the commencement of a project. It can tie the project up in litigation rather than on the ground. It requires an additional notice and hearing just for this one bid alternative. The notice and hearing process is built into bid advertisement and award of job, and this additional hearing could result in delay of proceeding with the awarded project, particularly if there are challenges.

I spoke with Mr. Wiles about this at length yesterday. The inclusion of the best value bid, the definition of best bid in NRS 338.1389 for work over \$250,000, is not making sense to me. It seems perhaps to undermine the purported intent of the best value bid to be a stand-alone bid alternative. Mr. Wiles indicated he would look more closely at that to make sure it mirrors his intent and is applicable. I am hoping we can continue to work in that direction.

I think there should be some safeguards included in the statute. I know this mirrors Minnesota's statute and would also mirror what is already in the construction-manager-at-risk provisions in NRS Chapter 338. These safeguards would be to include language requiring the public body to state what the selection criteria would be used to evaluate a specific bid, the weight given to the selection criteria, and perhaps some written findings by the body that the best value bid is in the best interest of the public.

**Chairman Flores:**

I am going to change your testimony to opposition. I do not think any of what you have brought up has been approved by the bill sponsor. I do appreciate you working with the bill sponsor. Is there anyone else wishing to speak in opposition?

**Brian Reeder, representing Nevada Contractors Association:**

Nevada Contractors Association represents more than 600 members throughout the southern Nevada construction industry. Nevada Contractors Association is opposed to this bill. We think it will lead to higher costs on projects, it could lead to the same contractor getting multiple projects over and over again, and it could lead to protests and delays on projects. What this bill is doing is attempting to address something we believe is already addressed in NRS with different project delivery methods. Our concern is that this turns design-bid-build, which is low bid contracting, on its head because a public body could throw out the low bid for virtually any reason it sees fit. Specifically, "unique or complex" is subjective and is not defined, so we are not clear what that means. When we worked down the list of criteria in section 1, subsection 6, that the public body "may" consider, according to the amendment, how is the quality of service, materials, equipment, and labor determined? In section 1, subsection 6, paragraph (d), what does the "reputation of the contractor" mean? In paragraph (e), "customer satisfaction," is again, subjective. Paragraph (f) concerns change orders. Change orders are something that occur in the construction industry. It is not always a bait and switch. We would argue that does not happen that often. Change orders are always approved by the public body. In paragraph (h), "past experience" and in paragraph (j), "any other criteria" are very subjective. There are many small contractors who do not do construction manager at risk or design-build; they only do hard bid. Their game is finding out who has the sharpest pencil and they win the job. They are honest contractors who use good workers and do not have any problems. We would hate to see them thrown out simply because someone at a public agency does not like the person or may have had a bad working experience that is not related to how the person performs on the job.

I would like to say that I did meet with the bill sponsor and Mr. Stanley. I appreciate their time. We had a good, lengthy discussion about our concerns with the bill. I would be happy to answer any questions.

**Leandra Cartwright, representing Nevada Chapter Associated General Contractors:**

I am grateful to testify after Mr. Reeder. I would like to say ditto and echo his comments. I thank the bill sponsor for meeting with us.

**Assemblyman Ellison:**

Has any local or state jurisdiction requested anything in this bill that you are aware of? I will ask the sponsor the same thing. It seems to me the bidding process is fair and open, which is why we have bonds and these kinds of procedures.

**Brian Reeder:**

That might be a better question for the bill sponsor. We have not heard of any request for something like this from the public bodies. There are bonding requirements. The State Public Works Board of the Department of Administration and the local entities do prequalify contractors. Some of those criteria are similar to what is found in this bill. We think that covers snuffing out the bad guys.

**Robert A. Conway, Business Agent, Ironworkers Local 433, International Association of Bridge, Structural, Ornamental and Reinforcing Iron Workers:**

I am speaking in favor of Assembly Bill 433. It is ironic just how much this bill dovetails out of Assembly Bill 318 that was just heard by this Committee in regards to best value for procurement. Done once, done right carries a lot of weight. There have been comments about bonds and making sure one contractor is not used over and over again, but many of the low bids do not comply with the requirements for the job. At the back end of the job, the contractor ends up taking advantage of the change orders to make up for the low bid. I think that is the biggest part in regard to best value.

**Chairman Flores:**

Is there anyone else wishing to speak in opposition to the bill? [There was no one.] I would like to urge the opposition to reach out to the bill sponsor if you have not had an opportunity to do so. If you have been working with the bill sponsor, I appreciate that. Is there anyone wishing to testify in the neutral position? [There was no one.] Does the bill sponsor have any closing remarks or response to the opposition?

**Assemblyman Brooks:**

I would like to thank the Committee for allowing us to bring this bill forward. I would like to remind the members that this proposed legislation is permissive and it would allow the agency to use some of the criteria for evaluating a proposal, but it would also allow them not to. To Assemblyman Ellison's question, if the agencies felt comfortable with how things are working now, they would not need to use the criteria. However, if there are problems in their processes, then they could adopt this. To address an earlier comment about the subjectivity of "unique or complex," those are words that are currently used in the construction-manager-at-risk statute in evaluating contracts.

[Submitted but not discussed was ([Exhibit O](#)).]

**Chairman Flores:**

I will close the hearing on Assembly Bill 433. I will pass the Chair to Assemblywoman Neal because I will be testifying on the next bill.

[Assemblywoman Neal assumed the Chair.]

**Vice Chairwoman Neal:**

I will open the hearing on Assembly Bill 435.



**Assembly Bill 435: Designates October 16 as Sarah Winnemucca Day in Nevada.  
(BDR 19-1141)**

**Assemblyman Edgar Flores, Assembly District No. 28:**

I am going to do something I typically do not do, which is open with testimony and then pass it on, but I am doing that today for a whole host of reasons. Sitting next to me is Ms. Thom, who has been an incredible member of our community here in Nevada. She has worn many different hats and has been incredibly involved with our Native American community. I asked her to be here and am very grateful she is here today. I am here to present the Sarah Winnemucca Day bill, Assembly Bill 435.

I think we all recognize the contributions of the Native American community to Nevada. In fact, we recognize in our history that they were here long before this was the state of Nevada. It is appropriate for many reasons that we do this now and that we recognize Sarah Winnemucca by honoring her on a day every year as a reminder of her contributions to this state. With that, I will pass it on to Ms. Thom so she can walk you through the history of Sarah Winnemucca, why she is so important to our history in Nevada, and what she means to us.

**Laurie A. Thom, Tribal Chairman, Yerington Paiute Tribe:**

*Nu Laurie Thom mee nane'a.* [I am called Laurie Thom.] *Nu taboose tukadu u agi ducutta.* [I am of the taboose eaters and trout eaters.] *Nu taboose waytu numa.* [I live where the taboose people live in Mason Valley.]

I am from the Yerington Paiute Tribe and the Walker River Paiute Tribe. I live in the Yerington and Mason Valley area. I also represent the Yerington Paiute Tribe as the Tribal Chairman. I have been an advocate for the Native American people for quite some time. I was a tribal police officer on the reservation. I was a victims-of-crime advocate on the reservation. I also did environmental services within the reservation. I am now serving as Tribal Chairman. I had another term as Tribal Chairman in 2005.

The reason I am supporting A.B. 435 is because I was here when we dedicated the Sarah Winnemucca statue by Benjamin Victor in 2005. I was also able to visit the statue in Washington, D.C., during a trip there. The importance I see in supporting this bill and supporting the declaration of October 16 as Sarah Winnemucca Day is because there is a long history of the contributions she gave for the state of Nevada, the U.S. government, and the Paiute people. She was a translator for the U.S. Army. She was also a translator for Indian agents when the relocation of the tribes happened in the late 1800s in Nevada. A number of the nomadic bands were designated for reservation use, basically, through the Bureau of Indian Affairs, U.S. Department of the Interior.

Through her travels, Sarah Winnemucca was able to help interpret for the Paiute people, as they did not know the English language. Again, that was a big contribution later on because she did write an autobiography, *Life Among the Piutes: Their Wrongs And Claims*. The book is basically her memoirs of what she saw happening to the Indian people during the

relocation period in Nevada. She did try to advocate for those tribes. There is some controversy with some of the tribes around Sarah Winnemucca, but it is my personal belief what that comes back to is that as native people, we were forced to balance our lives in two cultures. We lived in two lives. We have our cultural practices, our beliefs, and how we believe we should be self-determined and have our sovereign nations, but we also have to live in the other world of the nonnative people. We have to be able to navigate, we have to learn the system, and we have to understand that English is the primary language. We have to do both, and that balance is very difficult. I think when we look back at some of Sarah Winnemucca's memoirs, she said her most difficult job was to balance within the two cultures that she was trying to bridge to promote and advocate for the Paiute people here in Nevada.

Sarah Winnemucca was known for an incident where she traveled 200 miles in a short period of time to deliver papers. She tried to save reservation people, which was noted in *The New York Times*. Her obituary was also in *The New York Times*. She traveled and gave lectures trying to bring focus to what was happening to the Indian people during her time.

To be able to dedicate October 16 would show the future generations of Native Nevadan children that it is difficult to walk in both worlds, but it can be done. They can advocate for their people and not lose their culture, and the state of Nevada recognizes the importance of the native people.

**Assemblyman Flores:**

If I may add, when we designate a day in this state, it is a reminder to all of us of the contributions made. When I was in kindergarten through twelfth grade, I do not recall really ever studying anything about Native Americans. I know it is different in southern Nevada than it may be in the north, and it might be different from school to school. I think we, as a state, have not done enough to recognize the contributions of our Native American community and how important they are to our history, and how rich our history is because of those contributions. When we designate a day, what it does is every time we hit that day in our schools, K-12, there is a conversation to remind everyone of those contributions.

**Vice Chairwoman Neal:**

Are there any questions from the Committee?

**Assemblyman Ellison:**

I spent most of my life on the Diamond A Desert all the way down to McDermitt and through Winnemucca. I spent every summer out there cowboying. My best friends and best memories come from that area, the people we worked with along with the Paiutes from Elko. I thank you for the bill, and I think it is good to honor someone who put so much back into our community.

**Assemblyman Kramer:**

I am feeling the same way as Assemblyman Ellison. I grew up and went to high school in Fernley. Warren Emm was one of my coaches and mentors growing up. We had presentations when I was in school about Dat So La Lee, how Truckee got its name, about Sarah Winnemucca, the different tribal entities here, and the fortuitousness of the Shoshone visiting the Paiutes in the battle on the Truckee River. This bill does give recognition, and I am happy to see it come forward.

**Vice Chairwoman Neal:**

Are there any additional comments or questions from the Committee? [There were none.] Is there anyone wishing to testify in support of A.B. 435. [There was no one.] Is there anyone wishing to testify in opposition to the bill? [There was no one.] Is there anyone wishing to testify in the neutral position? [There was no one.] Are there any closing remarks from the sponsor?

**Assemblyman Flores:**

All I will say to our Native American community members is, thank you to all. I know we do not do enough to always recognize everything you contribute to this state. I am not implying or suggesting that giving you a day is enough. I am saying, however, that I recognize and the state of Nevada recognizes your history and your contributions. This is one way of saying that, but we have a long way to go.

**Laurie Thom:**

I just have one last thing. *Pesha' U* [thank you] to all of you.

**Vice Chairwoman Neal:**

I will close the hearing on A.B. 435.

[Assemblyman Flores reassumed the Chair.]

**Chairman Flores:**

Before we begin the work session, I would like to recognize our youth legislators in the audience. I thank you for being here. I know you are working hard, and I welcome you to our Committee. I will now open the work session for Assembly Bill 154.

**Assembly Bill 154: Revises provisions relating to prevailing wages. (BDR 28-747)**

**Jered McDonald, Committee Policy Analyst:**

The first bill on work session is Assembly Bill 154, sponsored by Assemblyman Brooks and others, and was heard in this Committee on March 8, 2017. Assembly Bill 154 decreases the minimum threshold for the applicability of prevailing wage requirements on public works projects from \$250,000 to \$100,000. The bill also removes the 90 percent prevailing wage rate exception for public works constructed by school districts and the Nevada System of Higher Education. Finally, the bill eliminates the prevailing wage exemption for public works constructed by charter schools (Exhibit P). There are no amendments for this bill.

**Chairman Flores:**

I will entertain a motion to do pass Assembly Bill 154.

ASSEMBLYWOMAN MONROE-MORENO MADE A MOTION TO  
DO PASS ASSEMBLY BILL 154.

ASSEMBLYMAN DALY SECONDED THE MOTION.

**Chairman Flores:**

Is there any discussion?

**Assemblyman Ellison:**

I will be voting no on this bill. I still have a problem with the charter schools.

**Assemblyman Marchant:**

I will be voting no on this bill.

THE MOTION PASSED. (ASSEMBLYMEN ELLISON, KRAMER,  
MARCHANT, McARTHUR, AND WOODBURY VOTED NO.)

**Chairman Flores:**

Assemblyman Brooks will take the floor statement. We will move on to Assembly Bill 169.

**Assembly Bill 169: Revises provisions governing certain fees collected by county  
recorders. (BDR 20-832)**

**Jered McDonald, Committee Policy Analyst:**

The next bill on work session is Assembly Bill 169, sponsored by Assemblywoman Jauregui and others and heard in this Committee on March 16, 2017. The bill revises the fees collected for recording a document from a fee for each page of a document and each portion required to be indexed to a flat fee of \$36 for each document. The bill also increases the additional fee collected for recording certain documents from \$3 to \$5. The measure allows a county recorder to accept and record a document that does not meet formatting requirements, and removes the fee charged for documents that do not comply with formatting requirements ([Exhibit Q](#)).

We do have an amendment that was brought forward by Assemblywoman Jauregui. It was discussed during the hearing. The amendment begins on page 2 of the work session document ([Exhibit Q](#)). The amendment revises the recording fees from \$36 to \$10 for the first page and \$1 for each additional page for mining-related recordings. For all other recordings, the fee is \$25 and \$1 for copying any record. Finally, the amendment changes the effective date to October 1, 2017.

**Chairman Flores:**

I will entertain a motion to amend and do pass Assembly Bill 169.

ASSEMBLYMAN DALY MADE A MOTION TO AMEND AND DO PASS  
ASSEMBLY BILL 169.

ASSEMBLYMAN KRAMER SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

**Chairman Flores:**

Assemblyman Carrillo will take the floor statement. We will move on to Assembly Bill 301.

**Assembly Bill 301: Provides for the confidentiality of certain communications between parties during a peer support counseling session. (BDR 23-186)**

**Jered McDonald, Committee Policy Analyst:**

Assembly Bill 301 was sponsored by Assemblyman Sprinkle and heard in this Committee on March 24, 2017. The bill provides that any communications made between parties during a peer support counseling session are confidential and may not be disclosed or admitted in any judicial, administrative, arbitration, or any other adjudicatory proceeding. The bill creates a testimonial privilege allowing a counselor or participant in a peer support counseling session to refuse to disclose or prevent any other party from disclosing any communication made during a peer support counseling session. The bill also provides that any notes, records, or reports of any peer support counseling session are not public records ([Exhibit R](#)).

We do have an amendment from this bill submitted by the sponsor beginning on page 2 of the work session document ([Exhibit R](#)). The amendment clarifies what communications are not confidential and what may be disclosed by any person participating in a peer support counseling session. The amendment also focuses the scope of the bill to peer counselors rather than counselors in general. Finally, the amendment provides that an employer of a law enforcement or public agency that provides an employee assistance program or a peer support counseling program to its employees is not liable for a breach of confidentiality by a participant in a peer support counseling session or peer support counseling program.

**Chairman Flores:**

I will entertain a motion to amend and do pass Assembly Bill 301.

ASSEMBLYWOMAN MONROE-MORENO MADE A MOTION TO  
AMEND AND DO PASS ASSEMBLY BILL 301.

ASSEMBLYMAN McCURDY SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

**Chairman Flores:**

Assemblyman Sprinkle will take the floor statement. We will move to Assembly Bill 310.

**Assembly Bill 310: Revises provisions governing public administrators. (BDR 20-103)**

**Jered McDonald, Committee Policy Analyst:**

Assembly Bill 310 is sponsored by Assemblywoman Titus and was heard in this Committee on April 3, 2017. The bill requires the board of county commissioners in certain counties where the salary of a public administrator is not set by law to set and pay the annual compensation of a public administrator for certain costs and expenses. This bill also authorizes such public administrators to retain all fees provided by law for public administrators ([Exhibit S](#)).

There is an amendment that was discussed during the hearing and is on page 2 of the work session document ([Exhibit S](#)). The amendment proposes to remove the \$12,000 floor for the compensation level to allow counties to pay compensation below \$12,000.

[Submitted but not discussed was ([Exhibit T](#)).]

**Chairman Flores:**

I will entertain a motion to amend and do pass Assembly Bill 310.

ASSEMBLYMAN ELLISON MADE A MOTION TO AMEND AND  
DO PASS ASSEMBLY BILL 310.

ASSEMBLYMAN KRAMER SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

**Chairman Flores:**

Assemblywoman Titus will take the floor statement. We will move to Assembly Bill 337.

**Assembly Bill 337: Revises provisions governing termination of the employment of members of the National Guard. (BDR 36-1134)**

**Jered McDonald, Committee Policy Analyst:**

Assembly Bill 337 is sponsored by Assemblyman Elliot T. Anderson and was heard in this Committee on April 4, 2017. The bill prohibits the employer of a member of the National Guard of another state who is employed in this state from terminating the member's employment because he or she is ordered to active service or to perform duties as a member of the National Guard of that state. The bill also allows a member of the National Guard of another state who is employed in this state who believes that his or her employment was terminated unlawfully to seek a hearing before the Labor Commissioner, Office of Labor Commissioner, Department of Business and Industry. The bill allows the member to bring a civil action in district court against his or her employer if for any reason the Labor Commissioner does not determine that the employment of a member of the Nevada National Guard or the National Guard of another state was terminated unlawfully. The bill also provides that if the Labor Commissioner determines the employment of

a member of the Nevada National Guard or the National Guard of another state was terminated unlawfully, the member is entitled to immediate reemployment in the position in which he or she would have been employed; immediate restoration to seniority and benefits; and receipt of all wages and benefits lost as a result of the termination. Finally, the bill also requires the award of attorney's fees and costs to the member under certain circumstances ([Exhibit U](#)). There are no amendments on this bill.

**Chairman Flores:**

I will entertain a motion to do pass Assembly Bill 337.

ASSEMBLYMAN CARRILLO MADE A MOTION TO DO PASS  
ASSEMBLY BILL 337.

ASSEMBLYMAN DALY SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

**Chairman Flores:**

Assemblyman Elliot T. Anderson will take the floor statement. As you know, we have suspended the rules. Is there any opposition to voting on Assembly Bill 435, which is the Sarah Winnemucca Day bill? [There was none.] I will entertain a motion to do pass Assembly Bill 435.

**Assembly Bill 435: Designates October 16 as Sarah Winnemucca Day in Nevada.  
(BDR 19-1141)**

ASSEMBLYWOMAN BILBRAY-AXELROD MADE A MOTION TO  
DO PASS ASSEMBLY BILL 435.

ASSEMBLYWOMAN MONROE-MORENO SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

**Chairman Flores:**

Assemblywoman Neal will take the floor statement. Is there anyone here for public comment? [There was no one.] Having no further business, this meeting is adjourned [at 10:30 a.m.].

RESPECTFULLY SUBMITTED:

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Lori McCleary  
Committee Secretary

APPROVED BY:

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Assemblyman Edgar Flores, Chairman

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



## EXHIBITS

[Exhibit A](#) is the Agenda.

[Exhibit B](#) is the Attendance Roster.

[Exhibit C](#) is a copy of a PowerPoint presentation titled "Establishment of Nevada Main Street Program," presented by Kathy La Plante, Senior Program Officer and Director of Coordinating Program Services, National Main Street Center, National Trust for Historic Preservation, Pembroke, New Hampshire regarding [Assembly Bill 417](#).

[Exhibit D](#) is a proposed amendment to [Assembly Bill 417](#) presented by Assemblywoman Heidi Swank, Assembly District No. 16.

[Exhibit E](#) is a letter in support of [Assembly Bill 417](#) to members of the Assembly Committee on Government Affairs from Jan Vandermade, Executive Director, Carson Valley Visitors Authority.

[Exhibit F](#) is a document titled "In the New Mexico Tradition, The Impacts of Mainstreet 1985-2013," dated February 2014, submitted by Kathy La Plante, Senior Program Officer and Director of Coordinating Program Services, National Main Street Center, National Trust for Historic Preservation, Pembroke, New Hampshire regarding [Assembly Bill 417](#).

[Exhibit G](#) is a document titled "Getting Results: The Economic Impact of Main Street Iowa, 1986-2012," dated May 2013, submitted by Kathy La Plante, Senior Program Officer and Director of Coordinating Program Services, National Main Street Center, National Trust for Historic Preservation, Pembroke, New Hampshire regarding [Assembly Bill 417](#).

[Exhibit H](#) is a document titled "Establishing a Main Street Coordinating Program Service Schedule," submitted by Kathy La Plante, Senior Program Officer and Director of Coordinating Program Services, National Main Street Center, National Trust for Historic Preservation, Pembroke, New Hampshire regarding [Assembly Bill 417](#).

[Exhibit I](#) is a proposed amendment to [Assembly Bill 318](#), presented by Jeffrey Haag, Administrator, Purchasing Division, Department of Administration.

[Exhibit J](#) is written testimony submitted by Valerie Glenn, Chief Executive Officer, The Glenn Group, dated April 11, 2017, in support of [Assembly Bill 318](#).

[Exhibit K](#) is written testimony submitted by Jeffrey Haag, Administrator, Purchasing Division, Department of Administration, dated April 4, 2017, regarding [Assembly Bill 318](#).

[Exhibit L](#) is a position statement in support of [Assembly Bill 318](#), dated April 7, 2017, submitted by Aviva Gordon, Legislative Committee Chairwoman, Henderson Chamber of Commerce, and Amber Stidham, Director of Government Affairs, Henderson Chamber of Commerce.

[Exhibit M](#) is a section-by-section explanation table regarding [Assembly Bill 433](#), dated April 10, 2017, presented by Assemblyman Chris Brooks, Assembly District No. 10.

[Exhibit N](#) is a proposed conceptual amendment to [Assembly Bill 433](#), dated April 10, 2017, presented by Assemblyman Chris Brooks, Assembly District No. 10.

[Exhibit O](#) is a position statement in opposition to [Assembly Bill 433](#), dated April 7, 2017, submitted by Aviva Gordon, Legislative Committee Chairwoman, Henderson Chamber of Commerce, and Amber Stidham, Director of Government Affairs, Henderson Chamber of Commerce.

[Exhibit P](#) is the Work Session Document for [Assembly Bill 154](#), presented by Jered McDonald, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit Q](#) is the Work Session Document for [Assembly Bill 169](#), presented by Jered McDonald, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit R](#) is the Work Session Document for [Assembly Bill 301](#), presented by Jered McDonald, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit S](#) is the Work Session Document for [Assembly Bill 310](#), presented by Jered McDonald, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit T](#) is a letter dated April 10, 2017, in opposition to [Assembly Bill 310](#), to Chairman Flores, authored by H. Pete Olsen, Chairman, Churchill County Commissioners.

[Exhibit U](#) is the Work Session Document for [Assembly Bill 337](#), presented by Jered McDonald, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.