

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

**Seventy-Ninth Session  
April 12, 2017**

The Committee on Government Affairs was called to order by Chairman Edgar Flores at 8:08 a.m. on Wednesday, April 12, 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:**

None



**STAFF MEMBERS PRESENT:**

Jered McDonald, Committee Policy Analyst  
Jim Penrose, Committee Counsel  
Carol Myers, Committee Secretary  
Cheryl Williams, Committee Assistant

**OTHERS PRESENT:**

Angela Dykema, Director, Office of Energy, Office of the Governor  
Suzanne Linfante, Energy Program Manager, Office of Energy, Office of the Governor  
Timothy W. Farkas, Finance Director, Ameresco, Inc.  
Mac Bybee, President and Chief Executive Officer, Nevada Chapter, Associated Builders and Contractors, Inc.  
Brian McAnallen, Government Affairs Manager, Office of Administrative Services, City of Las Vegas  
Casey Coffman, Regional Vice President, Agricultural and Commercial Division, Sunworks, Inc.  
Tom Polikalas, Nevada Representative, Southwest Energy Efficiency Project  
Pam Stuckey, Owner, Renewable Envoy, LLC, Las Vegas, Nevada  
Louise Helton, Vice President, 1 Sun Solar Electric, LLC, Las Vegas, Nevada  
Rajeev K. Chhabra, Las Vegas Area General Manager, Simon Property Group  
Jim Kingzett, Private Citizen, Gardnerville, Nevada  
Jennifer J. Gaynor, representing Nevada Credit Union League  
Samuel P. McMullen, representing Nevada Bankers Association  
Matt Walker, Chief Executive Officer, Southern Nevada Home Builders Association  
Jeffrey Haag, Administrator, Purchasing Division, Department of Administration  
Steve Weinberger, Administrator, Division of Internal Audits, Office of Finance, Office of the Governor  
Shelley Hendren, Administrator, Rehabilitation Division, Department of Employment, Training and Rehabilitation

**Chairman Flores:**

[Roll was called. Committee rules and protocol were explained.] We will take the agenda in order. First, the bills and then the work session bills. For those attachés listening, we will hear the bills in the following order: Assembly Bill 5, Assembly Bill 480, Assembly Bill 481, and Assembly Bill 483. Bill sponsor, please come forward. I will open the hearing on A.B. 5.

**Assembly Bill 5: Provides for the creation of certain local improvement districts.  
(BDR 22-233)**

**Angela Dykema, Director, Office of Energy, Office of the Governor:**

Assembly Bill 5 concerns property-assessed clean energy, commonly known as PACE. I have two people with me today, Suzanne Linfante, our Energy Program Manager with the Office of Energy, Office of the Governor, and Tim Farkas, Finance Manager with Ameresco, Inc., an energy services company, who brought this recommendation to the New Energy Industry Task Force. They will be able to address the technical finance questions.

As most of you are aware, last year Governor Sandoval issued an executive order to convene the New Energy Industry Task Force with the primary directive of making the recommendations on the best energy policies for Nevada's future [Executive Order 2016-04]. The Task Force was asked to address policies that encouraged the development of clean energy sources; integrate renewable technologies into Nevada's energy sector; foster the creation of a modern, resilient, and cost-effective energy grid; and support distributed generation in storage with a specific focus on rooftop solar and net metering.

Assembly Bill 5 was drafted out of the unanimous recommendations of this Task Force. It is one of the recommendations selected by Governor Sandoval to be introduced as legislation by the Office of Energy. In addition to being one of the Task Force recommendations selected by the Governor, this legislation also aligns to our agency's mission of encouraging renewable energy production and energy efficiency opportunities in Nevada. We have provided a proposed amendment ([Exhibit C](#)). I will walk through the amendment as well as a section-by-section breakdown of the bill ([Exhibit D](#)).

I would like to start with an overview of PACE. This is a financing mechanism for energy efficiency and renewable energy projects. It is a financing structure through which a building owner repays a loan for the energy efficiency improvements, solar panels, or a renewable energy project in the same way that property taxes are collected via a new lien on a building. The PACE liens typically sit senior to all other tax liens on a building, including the mortgage, which significantly reduces the repayment risk.

A PACE loan can be made by any lender if a state has passed PACE legislation and a municipality within that state is willing to administer a PACE program. The lender provides the capital to implement the energy efficiency improvements, and the tax collecting agency places a new lien on the building equal to the loan repayment. The repayment is collected through the taxing agency and remitted to the lender.

Assembly Bill 5 is PACE-enabling legislation, which specifically provides for the creation of a special improvement district (SID) by a local government for the purpose of financing an energy efficiency or renewable energy project on private property. Currently, most SID improvements are made for common area improvements. This legislation would allow for improvement unique to private property by amending our existing SID statutes in *Nevada Revised Statutes* (NRS) Chapter 271 to attach a lien to a property that is superior to the mortgage and runs with the property.

In order for a PACE program to be implemented, the local government that created the SID must adopt a resolution for the creation and administration of a PACE program for the purpose of financing energy efficiency or renewable energy projects. The legislation does not mandate a local government to adopt a PACE program. It is strictly voluntary, but it does require that the resolution be adopted and procedures be put in place if the local government chooses to implement a PACE program. This bill requires the written consent with provisions outlined in the bill of each landowner in which a project is located.

One of the questions that has been asked about PACE is where the money comes from. The financing for the project typically comes from conventional lenders such as a bank, credit union, or a private investor. It is considered assessed property, but it is independent of the local government's balance sheet. This means that the local government is not responsible for providing the capital or recovering any losses. It simply acts as a conduit issuer between the property owner and the lender. This bill does not detail the mechanics of the loan program or require that the local government adopt a procedure for a PACE program. It allows the local government to adopt a procedure for a PACE program should they desire. Before we go through the bill sections, I would like to go over the proposed amendment ([Exhibit C](#)).

As the legislation currently stands, it would allow for commercial and residential PACE programs. However, with residential PACE programs, there have been a few concerns relating to the superpriority of the lien of the mortgage and the ability of mortgage lenders to resell the loans on the secondary market. In July 2016, the U.S. Department of Housing and Urban Development (HUD) issued guidance to address a misconception with the lien position of a PACE loan. The guidance clarifies that only the amount in default of a PACE loan would cause concern with the lien position. For example, if a property owner fails to pay the homeowners' association (HOA) dues, a lien for the amount owed is placed in a superior position to the mortgage. A PACE lien is no different; it is always there but only becomes an issue if the PACE loan becomes delinquent. We have been working with representatives of the Nevada Bankers Association and the credit unions regarding some concerns with the legislation. With guidance from HUD, we believe it would be in the best interest of all parties to introduce PACE-enabling legislation for commercial properties only.

There are over 30 states with active PACE programs, but the majority of those programs are commercial only. There are only a few residential PACE programs that we are aware of in 3 of the 33 states. Therefore, our proposed amendment would allow for commercial PACE only and address concerns over priority status of the lien by requiring lender consent. We have also included a few other provisions in the proposed amendment in an effort to address concerns by the credit unions and the Nevada Bankers Association. This includes a clarification that property backed by federally guaranteed financing, which does not allow for federal loans to be subordinated, would not be eligible for a PACE loan, and an energy audit must be performed prior to issuance of any PACE loan. This is standard practice with most PACE programs.

Section 1, subsection 1 allows for the governing body of a municipality to create a district to finance one or more energy efficiency or renewable energy projects if it adopts by resolution a procedure for the creation and administration of the district. The proposed amendment for commercial PACE only is included in section 1, subsection 1, paragraph (a). That portion was added into the proposed amendment [page 1, ([Exhibit C](#))] where it states, "... for qualifying commercial or industrial real property." Then, a "qualifying commercial or industrial real property" is explained.

Section 1, subsection 1, paragraph (b) of the bill requires each participant to consent in writing that each property owner's participation is voluntary. Section 1, subsection 1, paragraph (c) outlines those requirements for written consent, and our proposed amendment adds more consumer protections [page 2, ([Exhibit C](#))].

Section 1, subsection 1, paragraph (d) of the bill requires that all liens recorded on the property prior to the PACE lien not exceed 90 percent of the fair market value of the property. This added lien through a SID or a local improvement district cannot cause the property to be underwater. This proposed addition is the requirement for lender consent [page 2, ([Exhibit C](#))] along with the requirement for an energy audit and/or a renewable energy feasibility study. Additionally, the proposed amendment adds a follow-up section 1, subsection 1, paragraph (e) to allow the existing lien holders the first right to offer a loan. We thought this was a safer lending mechanism.

Section 1, subsection 2 of the bill requires that the liens be recorded in the office of the county recorder in which the project is located. Section 1, subsections 3 and 4 establish that the local municipality may create a district at any time for tracts which have recorded consents pursuant to subsection 2. The resolution adopted to create the district must describe the type of improvement or installation.

Section 1, subsection 5 requires contractors to be licensed in Nevada. We are confident this will help the growing industry of small commercial retrofits in Nevada, which is important to our agency. It also requires that the total contract price not exceed 80 percent of the estimated maximum benefit. That is because there must be some kind of limit to what the loan amount can be in relation to the benefit that is expected. The issuing municipality has the discretion to create the rules around that, as well as the other rules regarding the issuance. This establishes some guidance.

Section 1, subsection 6 requires that these improvements be considered the property of the owner. This is an important distinction. It is different between the proposed amendments and how local improvement districts currently function. Section 1, subsections 7 and 8 list the powers the issuing municipality has concerning the adopted resolution. Section 1, subsection 9 states, "A bond or interim warrant issued for a district created pursuant to subsection 1 must not be secured by a pledge of the general credit or taxing power of the municipality or by the surplus and deficiency fund established pursuant to NRS 271.428." This removes the option for an issuing municipality to provide a municipal form of security such as a budget revenue or general obligation of that entity. The concern of the effect on the books of the municipality or local government is a concern that is often brought up around PACE programs. This proposed legislation prohibits that from happening altogether.

Sections 2 and 3 explicitly define energy efficiency and renewable energy. Section 4, subsection 4 refers to the requirement for any listed owner to be notified or to provide their written notification that they consent to the project. This means if more than one party is listed on the deed, the project could not be done without the consent of all parties listed on the deed. That is important for commercial projects because there is often a primary user of the property, an investment party, or a partner that is not engaged in daily activities listed on the deed.

Section 5, subsection 3 requires that payment and reimbursement for the issuance to be clearly evidenced, either in writing that the installation is complete or verification through an inspection. It gives the discretion to the issuing municipality to determine what they would prefer. Section 6 establishes language on interest rates on any bonds pursuant to NRS Chapter 271.

**Chairman Flores:**

Thank you for the presentation and for working with the stakeholders. It is my understanding that you went back and forth and worked with a lot of people to get everybody on board.

**Assemblyman Kramer:**

An HOA collects payments when a resident is delinquent on their dues. The HOA will file foreclosure papers to try to recoup the dues. It appears with a PACE loan, the county treasurer receives the payments from the homeowner and remits them to the lender. I do not see a representative from the Nevada Association of Counties. Have they weighed in?

**Angie Dykema:**

We reached out to the county treasurers for feedback. I will let Ms. Linfante speak to that.

**Suzanne Linfante, Energy Program Manager, Office of Energy, Office of the Governor:**

We reached out to Washoe County upon hearing your initial concern. Washoe County refers to SIDs as "special assessment districts." They are managed by a third party but do have minimal in-house procedures. Clark County and Washoe County SIDs are managed by a third party.

**Assemblyman Kramer:**

The bill states there is no effect on local government. Will the extra workload be managed by the third parties? I realize Washoe County and Clark County contain most of the commercial property in our state, but there are still 15 other counties and they may not lease the management of their SIDs. Is it a moot point because there may not be many applications? This is a concern for me, and I do not feel like it has been addressed.

**Assemblyman Brooks:**

I noticed this applies to commercial properties only. The county must set up the parameters of the SID before a PACE loan is granted.

**Angie Dykema:**

The PACE program is voluntary. Assembly Bill 5 is enabling legislation. It does not mandate the counties to participate. If a county had concerns about administrative burdens, they would assess that on their own. It is up to the local municipality or county to set up the program.

**Assemblyman Brooks:**

Please walk me through a scenario so I can envision what this would look like.

**Suzanne Linfante:**

It is a little different for every state. It is our understanding that it functions like most energy efficiency programs. An owner applies to their local district stating they would like to do energy efficiency or a renewable project. The local district approves or denies based on its own criteria. If approved, a contractor is assigned by the local government. That relationship might be a request for a proposal or a list the county uses. A loan is issued, and the contractor is paid. A lien for the full value of the loan is placed on the property, and then annual payments would become due. If the owner sold the property after five years and was only obligated for the five years' worth of payments, the lien passes to the new owner, and they are obligated for the time they own the property. The lender is guaranteed payback essentially because it survives ownership. This is a traditional upgrade, but the payback mechanism is a little bit different.

**Assemblyman Daly:**

My concern with this bill is the process of selecting a contractor. It is not required to follow any public bidding laws. The public bidding laws have a requirement to pay the prevailing wage for construction. A former legislator, Assemblywoman Peggy Pierce, always said that if this is truly entrepreneurship and there is no public financing, they would not need to be in this building to request anything. For the record, there is some public backing, and the guarantees are through tax collection. We need to uphold the standards of the law.

**Angie Dykema:**

The local government's participation is as a conduit issuer. They are serving as the collection agency for the repayment of the loan to the private lenders. There is no public capital involved in a PACE program. Typically, we see things like prevailing wage requirements included with public money, tax incentives, or tax abatement programs. It is not included in this legislation because private lenders are providing the funds. Local government's role is limited to being a conduit.

**Assemblyman Daly:**

I would respectfully disagree that there is not public assistance needed, and I am not supporting a bill that does not have it.

**Assemblywoman Neal:**

You mentioned that a government might create a district, but it does not say how many. In section 1, subsection 1, paragraph (c), subparagraph (3), sub-subparagraph (I) of the amendment ([Exhibit C](#)), the contractor agreements and terms, such as application fees and costs, total amount financed, annual percentage rate, et cetera, are discussed. I need a little more explanation on the contract terms.

**Angie Dykema:**

That language was suggested by the Nevada Credit Union League to add standardized contract terms for a little more consumer protection.

**Assemblywoman Neal:**

I need some context around this section because when I read the amendment as written, it states, "the contractor agrees to construct, acquire and install the installation or improvement identified in the consent at a total price which does not exceed the limitation set forth in subsection 5" [page 1, ([Exhibit C](#))]. Is subsection 5 referencing the construction pursuant to subsection 1? My concern is what the calculated total prices are. I question it because there are bond-related costs, but there is no explanation of how the bond will be dealt with in the bill. How will the bond be funded? If you could walk me through this section, then I can formulate a proper question.



**Angie Dykema:**

The amendment language is in section 1, subsection 1, paragraph (c), subparagraph (3), sub-subparagraph (I). It seemed like a good place to put the language. The Legislative Counsel Bureau may have a different idea of where it should be located in the bill. That section is describing the terms between the contractor and the owner of the tract of the SID and seemed like a good place to include the consumer protection language such as "any terms, including but not limited to application fees and costs, total amount financed," et cetera.

**Assemblywoman Neal:**

There are many pieces, and the language seems a bit confusing. There is the interest rate tied in, the "total amount paid over the life of the assessment, appraisal fees, bond-related costs, annual administrative fees, closing costs, credit reporting fees and recording fees." The amendment [page 1, ([Exhibit C](#))] states, ". . . does not exceed the limitation set forth in subsection 5," and that is a really big category. What would that amount be?

**Angie Dykema:**

The amount of a typical PACE loan is \$25,000, but it depends on the type of project. It can include anything from energy efficiency improvements such as attic insulation or window replacement. A renewable energy project might be solar panels on the roof. The loan amounts will range in size, but a typical PACE loan is around \$25,000.

**Assemblywoman Neal:**

Does the \$25,000 include all of the pieces listed such as application fees and costs, et cetera? Or, is the amount \$25,000 plus all the fees?

**Suzanne Linfante:**

This section was aiming to encompass a typical loan disclosure, which provides the total cost of a loan. When someone borrows \$25,000, there are interest rates and other fees on top of the principal amount. It is important to know the total cost of the loan over the life of the loan. It may not be completely applicable to the person if the property is sold in a couple of years. The person is not responsible for the loan over the life of the loan. This section is providing general disclosure to the consumer so they understand what they were signing up for. It may not be the correct place for the language, but we were aiming for consumer disclosures.

**Assemblywoman Neal:**

I would like to talk with you offline. If I saw that language, I would be in the office or bank asking a lot of questions about what that means to my property. What is the dollar amount of the bond-related costs? Is that an additional \$5,000 over 20 years? What does that mean to the consumer? I did not hear when the lien is removed. Does it come off after repayment or when the property is sold? The property is encumbered not only with the loan but all the items included in the price of the loan. Potentially, someone could walk away with a \$75,000 lien on his or her property.

**Suzanne Linfante:**

The PACE loan is no different from traditional lending. If someone takes out a mortgage today, there are additional costs associated with the loan. A \$200,000 mortgage may actually cost \$500,000. Lenders disclose those fees and costs, but that is not the face value of the lien on the property.

**Assemblywoman Neal:**

Section 1, subsection 8, paragraph (b) of the bill states, "A reserve of money for the bonds issued for the district, the method of funding the reserve and the disposition of any interest earned upon or the principal of the reserve that is not needed to repay any bonds or interim warrants . . . ." I would like a real-life explanation about that provision and the mention of limiting the municipalities.

**Angie Dykema:**

These are additional procedures the local government might consider when they are establishing the program. I will defer to Tim Farkas, who introduced the concept to the task force.

**Timothy W. Farkas, Finance Director, Ameresco, Inc.:**

Section 1, subsection 8, paragraph (b) is typical language for escrow. There is always a question if money is in some form of escrow whom the interest belongs to. A lender does not want to make money on that money. It must be defined up front, if interest accrues, to avoid arbitration issues. It is an indication that it is programmatic and cannot be swept by a contractor, banker, or somebody like that.

**Assemblywoman Neal:**

Is there any other security for the bonds or interim warrants?

**Timothy Farkas:**

Let me back up a little to explain what is meant by a bond issue. In Nevada, we have a track record of using local governments as conduit issuers for private activity. It is sometimes perceived that the local government is backing the financing. The bond documents will state that the local government is not backing the debt and it will appear in bold type on the front page. In this situation, it is contemplated that the county designates its entire area as a SID. Properties would opt in or opt out on a voluntary basis. Your neighbors are not affected other than by your property value possibly going up due to the improvements. Your property drops out of the district automatically once the last debt service payment has been made.

Every 60 days or so, loans that are going to be part of the district must be approved by the local government and a conduit issuance would be issued. The bond document itself would be very short, probably two or three pages. It would state this is a bond solely repayable by the revenues of the project and the project is defined by the loan documents. In no way does this impune or include the credit rating of the city, state, et cetera. It would be very clear to all parties that this is a bond that would be repayable by the cash flows generated by the private loans. The reason for the statutory help is to have the senior lien. This solves

the problem of a commercial property being able to take out a long-term loan. That is the holy grail of energy efficiency and why more commercial properties are not doing energy efficiency right now. They do not have an appetite for long-term debt. This mechanism provides the ability to enter into long-term debt, but it is considered by accounting firms to be off the balance sheet, and that debt transfers to a new owner at the time of sale. Those are game changers for financing energy efficiency projects.

**Assemblywoman Bilbray-Axelrod:**

Could you provide us with a big picture and tell us the value of the program?

**Timothy Farkas:**

Public buildings have statutes called "performance contracting." Public agencies have an appetite for long-term debt. Energy improvements are great ways to save money, great ways to improve capital, and they pay for themselves in savings over time. Currently, in the commercial sector, most property managers are prohibited by their boards or the owners of the company to enter into any new financing that does not pay for itself within 18 months.

This solution provides a property manager the ability to enter into long-term financing for improvements. It improves capital and energy efficiency, which makes the properties more efficient and cheaper to operate, driving value to the property. This is done in a way that does not affect the company's balance sheet. If the property is sold, the improvement debt transfers to the new owner. Property managers can adhere to the parameters given by the decision makers but get the potential benefit in savings above their costs every year.

It is a game changer. We have the opportunity to learn from the best practices of other successful commercial PACE programs in the nation. In Nevada, we will be able to build programs that take advantage of our tremendous sun resource. Our hot weather lends itself to air conditioning efficiency, which saves electricity. Because of Nevada's location, we could very well be at the forefront of this industry.

**Assemblywoman Bilbray-Axelrod:**

Please explain to the Committee why residential is not included in A.B. 5? Did you mention A.B. 5 was based on Connecticut's legislation?

**Angie Dykema:**

Yes, we incorporated some of the language of Connecticut's legislation for the lender consent requirement. We did research to find gold standard PACE programs and pilfered that language to include in A.B. 5.

We eliminated residential PACE because of the concerns from the Nevada Bankers Association. Those concerns were the ability to resell the mortgage on the secondary market, the lender backing the loan, and the issues with Congress concerning residential PACE programs. We feel it is in Nevada's best interest to begin with a commercial program that we know will be successful. We can learn from the program and model a residential PACE program after it in the future.

**Chairman Flores:**

Is there anyone in Carson City or Las Vegas wishing to speak in support of A.B.5?

**Mac Bybee, President and Chief Executive Officer, Nevada Chapter, Associated Builders and Contractors, Inc.:**

We are in support of this bill. We believe it is an innovative way to finance retrofits and energy efficiency, which will benefit construction in our state.

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

As many of you know, the City of Las Vegas has been recognized nationally as a sustainable and energy-efficient city, and we are interested in doing everything we can to move our city forward in that arena. We believe A.B. 5 will be another tool in our toolbox to do that. We have heard from a number of our businesses that they are interested in heading in this direction. We would support this measure, as it is permissible and would allow us to provide this opportunity for those businesses.

**Casey Coffman, Regional Vice President, Agricultural and Commercial Division, Sunworks, Inc.:**

To say the last 16 months have been a challenge would be an absolute understatement, but I do not want to spend all my time talking about history. I am sure you have heard plenty of that already. I am here to support A.B. 5 and the potential help it would provide not only in my industry but any industry that helps customers lower their energy bills and their carbon footprint.

Currently, the financing options that are available to residential customers for solar energy projects are less than ideal. Since 2015, the solar industry boom in this state has been largely driven by solar leases. This is not the most advantageous financing option to use for a solar project. Other options include paying cash up front, which eliminates most people, or obtaining an unsecured solar loan product with either high interest rates or possible high contractor fees. The PACE financing lowers the barrier of entry for many homeowners and businesses by opening another attractive financing option. The savings provided by the PACE-funded project more than offsets the PACE loan payment, meaning these projects are effortless for customers to budget for and can provide significant dollar and carbon savings in the long term.

For these reasons, PACE financing has already been a great success in many states across the nation. Communities benefit from well-paying jobs in renewables and energy efficiency with lower unemployment rates, increased tax revenue, and reduced carbon emissions. Nevada needs to ensure we keep our reputation as a state dedicated to renewable technology and high-tech jobs. This financing is another piece to the puzzle that helps solve many issues that face the citizens of Nevada.

**Tom Polikalas, Nevada Representative, Southwest Energy Efficiency Project:**

The Southwest Energy Efficiency Project is a public interest organization working to advance energy efficiency in six western states. I am here to support A.B. 5 as one way to unlock tremendous opportunities for saving energy and money, particularly in the small business sector. I would like to point out, or remind folks, that 72 percent of Nevadans voted for energy choice, and this is one related issue that provides municipalities a choice. It is not a mandate that has been described that any particular municipality has to do, whether it be the City of Sparks, the City of Reno, or the City of Las Vegas, but it provides us more local control. It encourages the advancement of another financing tool to unlock energy efficiency savings which creates jobs, and that is the point I would like to address.

On March 31, 2017, the American Jobs Project came to the U.S. Senate Committee on Energy and Natural Resources Subcommittee on Energy and presented a study that was Nevada-focused. They examined the opportunity to create jobs in advanced technologies that included solar batteries. Their goal was to address the problems of middle-class jobs not only in Nevada but across the nation.

Their study specific to Nevada [*Nevada Jobs Project: A Guide to Creating Advanced Energy Jobs*, March 2016] found that Nevada is well-positioned in advanced energy technologies, which could create 28,000 jobs and help our manufacturing sector. This is just one other tool in the toolbox. The American Jobs Project recommended that PACE financing is one of the policy options that Nevada's policymakers move forward in order to unlock the tremendous job potential and the energy savings potential that is available to us.

**Pam Stuckey, Owner, Renewable Envoy, LLC, Las Vegas, Nevada:**

I am going to "ditto" what everyone who is in support said. It is a great opportunity. I do hope that we consider adding residential, if not in this session, in future sessions. I think it is a very important aspect of this legislation.

I would like to make a couple of points. The primary concern expressed by federal mortgage regulators was that the property tax liens integral to PACE financing alter traditional lending priorities. The primary argument for PACE programs, therefore, is that homeowners or owners of commercial properties can confidently invest in energy improvements knowing that the burden of repayment will follow on future owners of the home if the property is sold. In other words, the transfer of financing obligation is cost-free. Altered traditional lending priorities and cost-free do not fit into the current system. In other words, they are not getting their piece of the action. Assembly Bill 5 is legislation that is providing the opportunity to finance energy efficiency, renewable energy, and water efficiency, thereby using less energy, saving money, and supporting a clean energy future.

**Louise Helton, Vice President, 1 Sun Solar Electric, LLC, Las Vegas, Nevada:**

We are a family-owned-and-operated solar company here in Las Vegas. I am also a member of the Nevada Sustainable Energy Coalition. This coalition recognizes Nevada's prospects for growth, development, and prosperity, and depends on a solid foundation of renewable energy, energy efficiency, sound building practices, and environmental conservation. Understanding that these are ambitious goals, we tried to bring together a coalition of stakeholders who are interested in moving our state forward based on a business proposition.

In the interim legislative years, we have held legislative forums gathering our members and asking them what they feel are the most significant legislative opportunities we could come up with that would improve business and job opportunities for our citizens. Without exception, PACE has risen to the top. It has always been a focal point of our efforts and support.

We testified at the 2013 Session and the interim session as well as being here today. We are confident this program will provide the same economic boost to our state as it has in other states. We hope you will review the policy brief that we developed ([Exhibit E](#)). It demonstrates how this program can create jobs and strong economic development for our state and allow businesses to enjoy the benefits of sustainable energy. I would encourage Assemblyman Daly to reconsider the prevailing wage aspect. That would be another nail in the coffin for small business owners in this industry, which already has incredibly high overheads based on soft costs.

**Rajeev K. Chhabra, Las Vegas Area General Manager, Simon Property Group:**

I am the Area General Manager of the Las Vegas North Premium Outlets and Las Vegas South Premium Outlets. I want to offer a short comment about why this is so important to our property and many other properties like those that I manage. This legislation establishes a foundation from which we can work to achieve several goals for our centers. First, it allows us to adequately address critical infrastructure and upgrade various systems at our centers. In addition, we would have a stronger ability to complete projects that otherwise might not generate an adequate return on investment. Perhaps most importantly, it promotes a dedication to energy efficiency and through the execution of these projects creates local jobs. We have always been committed to bidding our projects to local contractors. Legislation like this cultivates an expansion for energy efficiency and promotes growth in the local economy. We greatly appreciate your support of this legislation.

**Jim Kingzett, Private Citizen, Gardnerville, Nevada:**

My wife and I have been involved in the renewable energy business in Nevada, primarily in geothermal, for 20 years. In 2000, we bought, saved from the bulldozer, renovated, operated, and subsequently sold the oldest hotel on the west coast of Florida, a genuine historical gem. In 2013, PACE came to us. The PACE program was approved in the state of Florida and Pinellas County and our local municipality of Gulfport, next to the City of St. Petersburg.

They told us of this incredible opportunity to completely energy retrofit our property with an increase in our property taxes. Our bank was delighted with this. We had a mortgage with them, we were tapped out, fully subscribed to that, and had a credit line that was totally utilized. This was an opportunity to acquire funds, 100 percent financing to retrofit our building, advertise to our customers that we were green, and provide jobs for people in the community who were going to do the retrofits. This is truly an amazing program.

Today, we are involved in three or four states with CleanFund Commercial PACE Capital in Sausalito, California, that funds these types of projects. There are four or five companies in the United States that also fund. It is an amazing program, and it will be great for Nevada. My wife is on the board of QM Resorts in Sparks. They have seven properties in Nevada, and they are dying to do PACE retrofits to all of their properties. We would like to offer our support. If you would like to ask any questions about PACE and how they came to us, I would be happy to answer them.

**Chairman Flores:**

Is there anyone in Carson City or Las Vegas wishing to speak in opposition to A.B. 5? [There was no one.] Is there anyone in Carson City or Las Vegas wishing to speak in the neutral position?

**Jennifer J. Gaynor, representing Nevada Credit Union League:**

We have moved from very strong opposition to this bill as it was initially written based on issues that we have seen, in particular with residential programs in other states. As lenders, credit unions do remain generally opposed to superpriority liens as a general policy concept for reasons I am sure you understand. We do appreciate that the Office of Energy took a lot of time to meet with us, discuss our concerns, and made some very major amendments.

We are now neutral with the proposed amendments, which address our most significant concerns including limiting the bill to commercial properties, requiring lender consent in writing, requiring energy audits, not allowing PACE liens on property that is backed by government financing that would prohibit such liens, and including greater consumer disclosures and protections.

I heard a couple of questions about residential or adding it in the future. We are strongly opposed to adding residential in the future because there are too many issues around residential PACE programs. I would be happy to meet with anyone on the Committee or anyone who has questions on why and provide more detail. It includes that the Federal Housing Finance Agency will not provide loans for properties that have a PACE lien. You will see in other states stories about homeowners who found themselves having to pay off a \$20,000 lien on their house before they could sell or refinance their property. There are some very big issues with residential PACE programs.

**Samuel P. McMullen, representing Nevada Bankers Association:**

We became involved with A.B. 5 because it involves lenders, finance issues, and first and foremost, it is not necessarily about Nevada lenders. We really appreciate the Office of Energy working so hard, and they quashed most of our main concerns relating to the residential issues, but there are some issues on the financial side.

If you understand the genesis of PACE loans and who is behind them nationwide, you can see our concern. These started as Berkeley, California, municipal funds as an alternative to solar bonds. The financing has been taken up by three major companies that are worth billions of dollars. Those people figured out if they put some money into it and got some particular protections in the law, that would give them a first priority and a first position that they could actually spend these funds and make money on them. You can hear on the radio going home at night advertisements for these funds. Do you want to invest in the new world of geothermal energy? Then support these funds. Those funds are huge, and their security is first. That is why it is a superpriority.

There has been no discussion today about interest rates. The credit union has told us that when we make our own energy improvement loans, the interest rate that people will pay is effectively in the 8 percent to 10 percent range when, in fact, there are loans given out on an energy improvement basis through banks and credit unions today that are 3 percent to 5 percent lower than the rate that is charged through this tax mechanism to justify the superpriority. That is why we are opposed to the superpriority.

The money comes with lenders, but the lenders come with contractors. In fact, Mr. Farkas, who testified today, is with a national firm that is working around the country to make sure this happens. We really want it to be Nevada industries and Nevada installers, but the things we have seen done in other states, particularly residential, there is always a linkage. "Well, do not worry because we have your contractor for you." We have worked hard in Nevada to build an installer industry, to build energy efficiency, weatherization, and all sorts of businesses that can do that. Hopefully, they will be used.

**Assemblywoman Neal:**

Why do we need public bonding if the financing is private? Why are we getting into the business to expand what is already private dollars for this?

**Samuel McMullen:**

That is what grabbed us first. By creating SIDs, they get the fact that it is a tax lien and a superpriority. We have solved that for commercial businesses because the lenders have to sign off. That was part of how they structured it. The people who put the money in need to ensure they will be paid back because sometimes they do not. You can call the energy audit consumer protection but in commercial, most people are very knowledgeable, and maybe they do not need it. However, it makes sure we are actually looking at whether it provides the value in the building that the financing ends up paying for and whether or not the people get it back.



This is a loan that stays with the property. It is not really a loan. It is an assessment, and so every buyer from then on will look at this amount of governmental assessment, and to them, it will be a charge against the property that they will have to assume. Hopefully, the savings match and there is energy efficiency of all the kinds of things that do it. We are neutral, but we have lots of concerns.

One concern is that they are using the SID across the state, but these are energy efficiency special improvement districts. This is not curbs and gutters. We have asked that there be a standardized model, and Mr. Farkas has said he wants to build them county by county. We do not think that is the way to do it. We do not want to be in every local government arguing about what this district should look like. There should be, from your point of view, some standardization. It is an energy efficiency district; it should have energy expertise and there should be some people who understand lending. This is a whole new animal for SIDs, and we want it standardized, and we want the kinds of things in there that say as citizens it is programmed to make these things work.

**Matt Walker, Chief Executive Officer, Southern Nevada Home Builders Association:**

I want to extend my sincere gratitude to the Office of Energy for working with us to address our concerns. I would like to point out a few things for the record. First, energy efficient mortgages and PACE programs administered by the federal government are available for single-family residential homes. Those utilize best practice models such as having an independent energy audit report or independent auditor that has no business relationship with the lender. I think programs like that are key to protecting consumers to make sure they are getting the bargain they are looking for.

There is additional legislation regarding consumer protection around solar installation on residential units [[Senate Bill 145](#) and [Senate Bill 392](#)]. If those are successful this session, I think that would certainly be a key component to any residential solar retrofit program. I want to clarify for the record, multifamily condominiums may be considered commercial for zoning purposes, but individual mortgages are taken out. Anytime there is a superpriority lien with the ability to extinguish first senior deed of trust, we are always a little bit concerned. That means all those concerns can be taken care of through the regulatory process, and we have been assured by the Office of Energy that they are willing to continue to work with us. We want to express our support for the concept and thank everyone for the work that has gone into this bill.

**Chairman Flores:**

Are you speaking in support of the bill with the amendment?

**Matt Walker:**

Yes, but with some additional clarifications and some things that are really important to us in the regulatory process.

**Chairman Flores:**

I know you came up in neutral, but I think you were in opposition and now you are in support. I want to make the record clear.

**Samuel McMullen:**

We reviewed the lending side but did not get through the energy side of the bill, which is how the districts are created. We did tell the Office of Energy that we had additional concerns.

**Chairman Flores:**

I appreciate the spirit of everyone working together. Being in opposition does not mean that they do not want to work with you, it just means that we are all not on the same page at the same time. Bill sponsor, please come back up for closing remarks.

**Angie Dykema:**

I want to thank you all for the opportunity to introduce the bill. We have tried really hard to get to a consensus, recognizing the different concerns. We look forward to addressing some of those concerns, such as the issue concerning SIDs issuing bonds if it is private financing. I want to make clear for the record that the local municipality is only acting as the conduit issuer. They are not issuing any bonds. It is conduit financing only; they act as the pass-through. The loan is not backed by the government; it is backed by private financing.

**Assemblywoman Neal:**

Who is on the hook for the default?

**Timothy Farkas:**

The process of what happens in default does not change under the current NRS Chapter 271. We did not touch that. Currently, if someone exercises a lien, there is a process that the county goes through. We are not touching that. We are not asking for acceleration or interfering with that process. If a lien is exercised, the property owner has a period of making good on the lien, and in several states, the property can go to auction. If the auction occurs, whoever is in line is paid back first; senior lien and junior lien, typically, but depending on who is exercising the lien. If only one party is exercising the lien, maybe only one party is paid on the lien. That process is not affected. The local government is not on the hook for repaying the loan under any scenario. There is not a foreseeable scenario where the local government is going to be expected or somehow be obligated to pay. That is explicit in the bill.

In response to your question as to why we are using any form of public financing, we are amending NRS Chapter 271 to use its apparatus to have a senior lien process. The local government must be the conduit issuer. Any costs incurred by the local government in the issuance of the financing or in the collection of the debt may be recouped. The local government can charge fees for this program if they incur any costs. That is the way SIDs

work now. Third parties administer the servicing of the loans, and if the county incurs any costs, they charge the third parties the fees. The county can choose to collect those funds and distribute them on their own. That is up to them. We think this process provides the counties the flexibility to not only make those decisions for themselves but also to cut the program off at any point.

[([Exhibit F](#)) was submitted but not presented.]

**Chairman Flores:**

I will close the hearing on Assembly Bill 5. I will open the hearing on Assembly Bill 480.

**Assembly Bill 480: Authorizes the assessment of an administrative fee on certain public purchases. (BDR 27-899)**

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

This bill proposes changes to *Nevada Revised Statutes* (NRS) 333.313, allowing the Administrator of the Purchasing Division of the Department of Administration to assess an administrative fee on good-of-the-state contracts ([Exhibit G](#)). Good-of-the-state contracts are those that represent a statewide need. The fee will not be assessed on contracts that meet a specific agency's needs. The fee will pay for and support an online bidding or eProcurement system for Purchasing. All state agencies and local governments will have access to the majority of the system at no cost to local government. In fiscal year 2016, the Purchasing Division facilitated more than 250 solicitations, resulting in hundreds of contracts, and representing more than \$430 million in state spending. As a result, all of these solicitations and the contracts awarded were done in a completely manual environment by 24 hardworking procurement staff.

An eProcurement system will provide much-needed automation to the state's procurement function. This automation will allow us to ensure consistency and uniformity in Nevada's solicitation and contracting process that does not exist today. It will also allow us to manage state contracts better and collect the analytics allowing us to understand how much we are spending, whom we are spending it with, and where state funds are going. You may be asking yourself why we should impose a fee on vendors to pay for an eProcurement system. First, as all of you may realize, rebates in the industry are not new. They are not new to Nevada. As a very large participant of a nationwide cooperative called National Association of State Procurement Officials (NASPO) ValuePoint, the cooperative contracting arm, which is a \$12 billion organization, is by all 50 states. That organization is funded by administrative fees.

As I stated, this technology will provide significant benefit to Nevada, but it also directly benefits the industry. Most importantly, the fee will only be imposed on contracts that represent a statewide need. It will also provide the following direct benefits to industry through the vendor self-service portal: the system will allow vendors 24/7, 365-day access to current and future business needs with the state; the system will provide vendors with a one-stop-shop way of conducting business, access to pull purchase orders, get status on

invoices, and review current and future solicitation opportunities; the system will allow contracts awarded on behalf of vendors to be easily visible and orderable; the system will provide an online catalog which will allow small businesses providing goods and services to the state to be put on a level playing field with large organizations that we contract with; the system will provide a single location to view open procurement opportunities across the state; most importantly, the system will provide transparency—the ability to view award information and unsuccessful offers without preparing a records request; and the system will also provide transparency into state contracts and what has been spent on those respective contracts to not only vendors, but the general public who choose to peruse the site and see where the state chooses to spend its money.

In recommending this legislation, Nevada is following 30 other states that have implemented similar fees. The specific fee language proposed is currently under NRS 334.025, allowing the Department of Employment, Training and Rehabilitation to assess a fee on vendors in the preferred purchase program. Although the bill authorizes a fee up to 4 percent, we anticipate a 1 percent fee to support the system.

Upon approval, the eProcurement System will be a complementary component of the state's enterprise resource planning (ERP) project, which is currently under review this legislative session. As a result of the larger ERP project, eProcurement will be phased in with Phase 1 rolling out later this summer with five modules. Those modules will include sourcing, vendor self-service portal, catalog, contract management, and business intelligence. Integration into the state's financial system will come in Phase 2 once the state's ERP project implements a new financial system; hopefully, in the next one to three years.

Thank you for the opportunity to present Assembly Bill 480. I strongly feel this bill will provide much-needed technology support for the state's procurement function while increasing access and accessibility to industry on current and future bidding opportunities. This system will also allow a layer of transparency into the state's contracting process that is only available through a public records request today.

**Assemblyman Marchant:**

Is this opt in or is it mandatory for the vendors? Will the vendors have a special login to access the features you mentioned?

**Jeff Haag:**

Every vendor will be required to register with the system. All procurement functions will be facilitated through this system. However, the fee will only be assessed on good-of-the-state contracts. There will not be a fee for the vendors to register with the system, access the content, or for vendors to propose to solicitations that are available in the system. The fee will only be assessed to those vendors who are awarded a contract that represents an enterprise need for all state agencies and includes the needs of local government.

**Assemblyman Marchant:**

Have you spoken with the vendors about this? How do they feel about this?

**Jeff Haag:**

We have spoken to the vendors at length. This is nothing new to them, and they see a tremendous value to adding a layer of technology and transparency to the procurement function. They see that this provides them real-time access to potential opportunities within the state. They see tremendous value for the Purchasing Division to coalesce all of the state's buying power around this technology solution, and providing them with a one-stop-shop for all business opportunities within the state, whether it is an Executive Branch agency, constitutional office, or local government.

**Assemblyman Daly:**

Currently, there is a provision for agencies to join together in contracts. This opens it to the vendors to include local governments and not just the state agencies. It enhances the opportunities for the local governments and those businesses to get access to other agencies through this one portal and strengthens the rules of joinder. It is a win-win and enhances the purchasing effort and probably saves money. Is that a good assessment?

**Jeff Haag:**

You are spot-on. One of the objectives we are trying to accomplish through this technology initiative is to, for the first time, really develop a true statewide cooperative within Nevada. We participate heavily in a couple of national cooperatives, primarily the NASPO ValuePoint that I mentioned. There is a real need in Nevada to organize around this technology and, to your point, advocate the statewide needs of Nevada and provide easy access to our vendor community of those statewide needs.

**Chairman Flores:**

Is there anyone in Carson City or Las Vegas wishing to speak in support of A.B. 480? [There was no one.] Is there anyone in Carson City or Las Vegas wishing to speak in opposition to A.B. 480? [There was no one.] Is there anyone in Carson City or Las Vegas wishing to speak in the neutral position? [There was no one.] Will the bill sponsor please come back up for closing remarks?

**Jeff Haag:**

A profound thank you to the Committee for hearing A.B. 480. It was a privilege to present it to you. I appreciate the engagement and the questions around it. We hope this is a technology solution that we can report back on next session and share the successes with you.

**Chairman Flores:**

As you know, anytime we are implementing a new technology we are always concerned about ensuring we have the best vendor for the contract. I will close the hearing on Assembly Bill 480. I will open the hearing for Assembly Bill 481.

**Assembly Bill 481: Revises provisions governing the Division of Internal Audits of the Office of Finance. (BDR 31-898)**

**Steve Weinberger, Administrator, Division of Internal Audits, Office of Finance, Office of the Governor:**

This bill reclassifies an unclassified position that we have to a classified position. The unclassified position is the Manager of Internal Controls to the Division of Internal Audits of the Office of Finance, Office of the Governor. The Manager of Internal Controls was created in 1995. About five years later, the Division of Internal Audits was created. The Division was created with an unclassified administrator and several classified executive branch auditor positions. The Internal Controls Manager was absorbed into the Division. As a result, there is a division with an unclassified administrator, auditors who are classified, and this position of Internal Controls Manager—that pays less than some of the auditors—is unclassified. We want to reclassify that to a classified position to align all the positions within our Division ([Exhibit H](#)).

**Chairman Flores:**

Is there anyone in Carson City or Las Vegas wishing to speak in support of A.B. 481? [There was no one.] Is there anyone in Carson City or Las Vegas wishing to speak in opposition to A.B. 481? [There was no one.] Is there anyone in Carson City or Las Vegas wishing to speak in the neutral position? [There was no one.] Are there any closing remarks? [There were none.] I will close the hearing on A.B. 481 and open the hearing for Assembly Bill 483.

**Assembly Bill 483: Revises provisions governing the Program to Encourage and Facilitate Purchases by Agencies of Commodities and Services From Organizations. (BDR 27-911)**

**Shelley Hendren, Administrator, Rehabilitation Division, Department of Employment, Training and Rehabilitation:**

The short name for the Program to Encourage and Facilitate Purchases by Agencies of Commodities and Services From Organizations is the Preferred Purchase Program ([Exhibit I](#)). It allows government entities to contract for goods and services with nonprofit entities whose billable labor force is composed of at least 75 percent by persons with disabilities. Under those circumstances, the Preferred Purchase Program is granted an exception to the competitive bid process. The government entities are authorized to contract in and award contracts for goods or services, purchase supplies, materials, equipment, or labor directly from the Preferred Purchase Program nonprofit entity.

There are 24 states that have this form of a state-use program. Several of those are housed within their state purchasing divisions—for example, Delaware, Georgia, Kansas, Ohio, Oklahoma, Washington, and Wisconsin. The federal equivalent is called the AbilityOne Program and is part of the U.S. AbilityOne Commission. It is also considered a procurement program.

In Nevada, the Rehabilitation Division of the Department of Employment, Training and Rehabilitation (DETR) was established as the oversight agency for this program. The statutes that are dictating the program are found within the Purchasing Division's statutes, *Nevada Revised Statutes* Chapters 332, 333, and 334. Furthermore, the Rehabilitation Division does not place its consumers within the vocational or rehabilitation programs into employment with these nonprofit entities for Preferred Purchase Program contracts, as it would be contrary to federal law that governs the vocational rehabilitation program.

Title IV of the Workforce Innovation and Opportunity Act (WIOA) are amendments to the Rehabilitation Act of 1973; WIOA was signed into law in July 2014. One change that is within the law has to do with the definition and requirement for competitive integrated employment for anyone going through the vocational rehabilitation program. There is a conflict of interest for the Rehabilitation Division to manage this program because most of these contracts do not meet the definition of competitive integrated employment.

The Preferred Purchase Program is self-funded, and we can charge up to a 4 percent fee. Currently, 1 percent of the cost of their contract is charged to the nonprofit participants in the program. The fee funds staff time to maintain the program, facilitate it, and make marketing materials. There are currently 119 Preferred Purchase Program contracts in the amount of \$765,440. Assembly Bill 483 would transfer the statutory authority to oversee and promote this program to the Purchasing Division of the Department of Administration. I have to my right Jeff Haag, Administrator of the Purchasing Division, who would like to make a couple of comments.

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

My comments are brief. We support the transfer of the program. This is the only direct purchasing authorization that is provided in the statute. It is our opinion that it is best served within the Purchasing Division of the state. We feel we can appropriately manage this program, grow the program, and manage the contracts with our existing staff.

**Assemblywoman Bilbray-Axelrod:**

Is there anything in policy that provides those workers receive at least minimum wage?

**Shelley Hendren:**

There is currently no requirement that the workers must be paid a competitive wage. In fact, some of the contracts do not. Those are mostly the order fulfillment contracts that do not necessarily pay minimum wage.

**Assemblyman Carrillo:**

When you say the program does not require a minimum wage, does that mean whoever receives the contract can pay whatever they want? If it is not a requirement, then is there a potential to award the contract to a business that is paying 10 cents an hour? Would that be okay?

**Shelley Hendren:**

These nonprofit organizations have a certificate under the Fair Labor Standards Act of 1938. The certificate is called a Section 14(c) which is a subminimum wage certificate that allows them to pay a subminimum wage under certain circumstances. They have to undergo a study to determine the productivity of the individual performing the work as compared to a person without a disability at full productivity. They are then able to pay a wage based on that study, but that is determined by the Fair Labor Standards Act. That is one of the conflicts the Rehabilitation Division and the Bureau of Vocational Rehabilitation within the Rehabilitation Division that DETR has. All of our work and our federal grant that pays for goods and services for people with disabilities to become employed requires us to place them into competitive integrated employment.

**Assemblyman Carrillo:**

Why does the federal minimum wage standard not affect the 14(c)?

**Shelley Hendren:**

The 14(c) is granted by the federal government [Wage and Hour Division, U.S. Department of Labor] and it allows for wages that are less than the federal minimum wage. However, most of these contracts, if any, currently do not pay subminimum wage, but there is that possibility. Perhaps order fulfillment contracts would fit within that contract. The conflict for the Rehabilitation Division is the competitive integrated employment. A lot of the work performed was not considered integrated into the new WIOA definition.

**Assemblyman Carrillo:**

I am viewing it as a business could be awarded a contract and pay subminimum wage. The individuals are not getting the full wage they would get in the real world.

**Shelley Hendren:**

Several of these jobs actually pay above minimum wage. The contract is able to be negotiated either through the Rehabilitation Division or directly by the government entity working with the nonprofit organization. The contract itself should be competitive to the market. There is a required quarterly report that indicates the wages paid to employees within these contracts.

**Assemblyman Ellison:**

At the start of your presentation, you mentioned the word "audit." For clarification, was there an audit that brought this situation forward?

**Shelley Hendren:**

I did not mean to mention an audit. This was not a result of an audit. It was a result of the WIOA, which was signed into law in July 2014, and strengthened the emphasis for vocational rehabilitation programs to place people into competitive integrated employment.



**Assemblywoman Neal:**

Since the Purchasing Division will be responsible, how much money will be rolled over from DETR? Will the Purchasing Division be taking over activities that were placed with DETR?

**Shelley Hendren:**

The money is fees that have been collected. We collect a 1 percent fee, which is the minimum allowed by statute. It is used to facilitate and manage the program, meet with the nonprofit entities, and collect and report on the quarterly data. That collection would be transferred to the Purchasing Division. For example, staff salaries would be coded to the Preferred Purchase Program when they are working on that program.

**Assemblywoman Neal:**

Section 3, subsection 2, paragraph (e) allows for a 4 percent fee to pay the cost of administering the program. Will that go to the Purchasing Division?

**Shelley Hendren:**

That is correct. The fees collected will go to the Purchasing Division to implement the program. We are currently charging 1 percent but have a maximum of 4 percent.

**Assemblywoman Neal:**

There is no fiscal note. How much money is that?

**Shelley Hendren:**

This is a budget bill, and there is a transfer of funds, but there is no cost to the Purchasing Division. We submitted to transfer in \$139,157 for the fiscal year 2018. That is the amount we have in reserve from the fees collected for this program. In fiscal year 2019, \$168,821 will be earned. As far as I know, there is no plan to increase the fee above 1 percent. If this bill passes, the Purchasing Division will have the authority to modify the fee, but that is not part of the bill.

**Assemblywoman Neal:**

The law allows you to charge up to 4 percent, but you are only charging 1 percent. Is there any thought to limit yourself in law?

**Shelley Hendren:**

We have always elected to charge the minimum. If this program grew to a magnitude that perhaps it needed more staff time for training, as an example, it provides them the latitude to charge more. We could certainly cap that if you are not comfortable with the up to 4 percent. We have only exercised the minimum in the Rehabilitation Division.

**Assemblywoman Neal:**

I think you should consider limiting it because the divisions are changing.

**Chairman Flores:**

Is there anyone in Carson City or Las Vegas wishing to speak in support of A.B. 483? [There was no one.] Is there anyone in Carson City or Las Vegas wishing to speak in opposition to A.B. 483? [There was no one.] Is there anyone in Carson City or Las Vegas wishing to speak in the neutral position? [There was no one.] Will the bill sponsor please come back up for closing remarks?

**Shelley Hendren:**

Thank you for your time and allowing us to present this bill for your consideration.

**Chairman Flores:**

I will close the hearing on A.B. 483. I will open the work session on Assembly Bill 100.

**Assembly Bill 100: Revises provisions governing contractors. (BDR 54-194)**

**Jered McDonald, Committee Policy Analyst:**

Assembly Bill 100 was sponsored by Assemblywoman Swank and heard in this Committee on March 20, 2017.

Assembly Bill 100 removes a provision that requires a contractor to waive a right to damages or an extension of time as a result of a delay caused by certain actions by a public body. Instead, the bill makes applicable an agreement between a public body and a prime contractor for work and labor on a public work a provision of existing law that provides that in an agreement between an owner and a prime contractor, a provision that requires the prime contractor to waive a right to damages or an extension of time acquired as a result of certain disruptions or other events, is void and unenforceable ([Exhibit J](#)).

We received one amendment that was proposed by Craig Madole, Chief Executive Officer, Nevada Chapter, Associated General Contractors, and this was approved by the sponsor. That amendment [pages 2 and 3, ([Exhibit J](#))] was discussed at the hearing. The amendment removes changes proposed to *Nevada Revised Statutes* (NRS) Chapter 624 (“Contractors”) and revises NRS Chapter 338 (“Public Works”) to clarify that provisions of the bill only apply to public works contracts.

**Chairman Flores:**

I will entertain a motion.

ASSEMBLYMAN DALY MOVED TO AMEND AND DO PASS  
ASSEMBLY BILL 100.

ASSEMBLYMAN McCURDY SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

**Chairman Flores:**

Assemblywoman Swank will take the floor statement. I will close the work session on Assembly Bill 100 and open the work session for Assembly Bill 120.

**Assembly Bill 120: Revises provisions relating to school construction. (BDR 34-779)**

**Jered McDonald, Committee Policy Analyst:**

Assembly Bill 120 was sponsored by Assemblyman Daly and heard in this Committee on March 1, 2017.

Assembly Bill 120 requires the board of trustees of a school district to provide to the board of county commissioners a statement of the impact on the school district of the proposed construction or development of an apartment house, five or more residential dwelling units, or five or more lots for mobile homes within the school district. The bill also extends the authority to request the imposition of the tax on residential construction to all school districts and requires the board of county commissioners to approve such a request unless the board finds that the request was not justified. The measure expands the purposes for which the proceeds of the residential construction tax may be used to include modernization of school buildings and the acquisition of furniture, fixtures, equipment, and necessary appurtenances and incidentals.

The bill imposes additional qualifications for a school site set aside by a subdivider of land; namely, that the location be within the proposed subdivision and appropriate for a school based on public safety and convenience; and the physical characteristics are suitable for use as a school site and for construction of a school in a manner that is economically sound and feasible. The bill requires the board of trustees and the subdivider to negotiate over the share of the costs of infrastructure required for the development of a school.

The bill extends the period for setting aside land from five to ten years in a county whose population is 100,000 or more but less than 700,000 (currently Washoe County). Finally, the bill extends the period for placing land in use as a school site for 10 to 20 years, after which time the school district must offer to sell the land back to the subdivider ([Exhibit K](#)).

We received one amendment from the bill sponsor [pages 3 through 7, ([Exhibit K](#))]. The amendment makes the following changes to sections 1 and 2 of the bill: the amendment reduces from 30 to 10 the number of days a local government has to notify a school district of an initial filing of an application for a proposed construction or development containing an apartment house, a project involving five or more residential units, or five more lots for mobile homes. It clarifies the use of the money collected through a residential construction tax. It removes low-income housing from the provisions if the property meets certain conditions. It reduces from 20 to 15 the number of years the school district has to build a school before it must be offered to the subdivider for purchase. Finally, it reduces from 10 to 8 years the time a school district must purchase land set aside for a school.

**Chairman Flores:**

I will entertain a motion.

ASSEMBLYWOMAN JOINER MOVED TO AMEND AND DO PASS  
ASSEMBLY BILL 120.

ASSEMBLYMAN DALY SECONDED THE MOTION.

**Assemblywoman Neal:**

For the record, I asked about the word "modernized" and how it may be used differently in the context of this bill versus the 2016 Washoe County Question 1 (WC-1). I felt there needs to be some clarification. I requested several changes, and the bill sponsor made the changes. One was in section 1, subsection 3 to strike out the language "to acquire furniture, fixtures . . . ." It came to my attention last night about the word "modernized" and how it is used here without limitation, but in WC-1 there are limitations. Because WC-1 is a ballot question, I do not know if it can be reconciled with A.B. 120 through statutory construction. That is a question for legal. What do we do if the term is used one way in a ballot question and another way in Nevada statute?

**Assemblyman Daly:**

My understanding is WC-1 is for Washoe County only. It is not in Nevada statute. The Ballot Question Committee framed the initiative to limit what the funds could be used for. There is only a small amount of money that can be used for "modernization." This bill is a statewide bill and a measure that allows for these particular funds, separate from WC-1 funds, to be used to build new construction or modernize existing schools impacted by development. Washoe County Question 1 has restrictions, but one has nothing to do with the other. The WC-1 modernization limitations are included in this bill to fill that gap.

**Assemblywoman Neal:**

Is there a willingness to provide a limitation of what "modernization" means so there is some flexibility? Clark County is currently using the redevelopment school funds. I do not want to see a free-for-all for modernization activity that is being funded through another revenue stream.

**Assemblyman Daly:**

Are you asking if there should be a definition for "modernization"?

**Assemblywoman Neal:**

Yes. The limitation would provide for the other school capital improvement funds for modernization to be used first before the redevelopment funds would kick in.

**Assemblyman Daly:**

I think that would be going against the intent of the bill. The money collected in A.B. 120 must be associated with development. The assessment is on a residential unit in a development that would impact a school associated with or adjacent to the development. The school district identifies the schools impacted and requests payment for the area to be assessed by the county commission. If there are other available funds, the school district may not ask for them because they do not need them. If there were funds available to expand the school and not just for modernization, they could ask for that as well. I think it would go against the bill's intent because it is specific to a specific area based on where the impact of the development is.

**Assemblywoman Neal:**

I have a final comment. Is there any way to ensure that there is some kind of line item discussion around the funds derived from this revenue stream? It would be helpful to understand what revenue stream is used for the various projects so there is no overlay. If everything is in the same bucket, then we cannot determine what funds were used for what. I am in support of improving schools, but at the end of the day, I do not want this to turn into a slush fund where we cannot figure out if the money was used appropriately. Some kind of reporting mechanism would be helpful to provide a breakdown of each revenue stream to avoid supplanting because Clark County has different issues than Elko.

**Assemblyman Daly:**

I believe that at your request that specific language was put in the amendment. The school district must identify the areas of the county for which the funds will be used. Specifically, at your request, a map with a list of the schools in the area affected must be submitted. The funds must be deposited in a separate account and used only for the purposes that were identified on the submitted map. I believe that covers all the issues we discussed.

**Assemblywoman Neal:**

Thank you, Assemblyman Daly. I appreciate the changes that were made, and I did ask for all those changes. I did not realize that the word "modernization" would open this up to vagueness.

**Assemblyman McCurdy:**

I want to go on record as saying I will vote yes to move the bill out of Committee, but I would like to reserve my right to change my vote if I feel it appropriate.

**Assemblyman Ellison:**

I will be voting no on this bill. I think this will have an overreaching effect on some of the areas in my district, and I have some concerns with that.

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

**Chairman Flores:**

Assemblyman Daly will take the floor statement. I will close the work session on A.B. 120 and open the work session for Assembly Bill 246.

**Assembly Bill 246: Revises provisions relating to the creation of a local improvement district and tax increment area. (BDR 22-705)**

**Jered McDonald, Committee Policy Analyst:**

Assembly Bill 246 was sponsored by Assemblyman Kramer and heard in this Committee on March 14, 2017.

Assembly Bill 246 extends the authority of two more counties to create an improvement district for the acquisition of certain projects, including a park project, street project, or commercial area vitalization project, and to finance the cost of any such project through the issuance of bonds and the levy of assessments upon property in the improvement district. The bill similarly authorizes the governing bodies of two or more municipalities whose boundaries are contiguous to enter into an agreement to create a tax increment area for the acquisition or improvement of a street project whose boundaries encompass all or part of each municipality ([Exhibit L](#)).

We did receive an amendment to the bill [pages 2 and 3, ([Exhibit L](#))], which was discussed in the hearing. It amends the bill to remove references to “street project” and thus authorizes local governments to jointly create a tax increment area for any project for which a tax increment area may be formed.

**Chairman Flores:**

I will entertain a motion.

ASSEMBLYMAN KRAMER MOVED TO AMEND AND DO PASS  
ASSEMBLY BILL 246.

ASSEMBLYWOMAN BILBRAY-AXELROD SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYWOMAN NEAL VOTED NO.)

**Chairman Flores:**

Assemblyman Kramer will take the floor statement. I will close the work session on Assembly Bill 246 and open the work session for Assembly Bill 271.

**Assembly Bill 271: Revises provisions governing collective bargaining by local government employers. (BDR 23-290)**

**Jered McDonald, Committee Policy Analyst:**

Assembly Bill 271 was sponsored by Assemblyman Carrillo and heard in this Committee on March 23, 2017.

Assembly Bill 271 provides that the findings and award of the fact finder are final and binding on the parties engaged in collective bargaining negotiations. For labor disputes involving firefighters and police officers, the bill provides that unless the parties to the dispute agree to make the findings of the fact finder final and binding, the report of the fact finder must include recommendations for settlement of the dispute, in lieu of an award; and the findings and recommendations of the fact finder are not binding on the parties.

The bill clarifies that leave provided by a local government employer to an employee for time spent by the employee in performing duties or providing services for an employee organization is a mandatory subject of collective bargaining. The bill also provides that unless the terms of the agreement between a local government employer and an employee organization provide otherwise, if the local government employer agrees to provide such leave, there is a rebuttable presumption that the full cost of such leave has been offset by the value of concessions made by the employee organization ([Exhibit M](#)). There were no amendments to this bill.

**Chairman Flores:**

I will entertain a motion.

ASSEMBLYMAN DALY MOVED TO DO PASS ASSEMBLY BILL 271.

ASSEMBLYWOMAN MONROE-MORENO SECONDED THE MOTION.

**Assemblyman Ellison:**

I have great respect for the sponsor of this bill, but I have a few issues. We worked on some of those last session. I will be voting no.

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

**Chairman Flores:**

Assemblyman Carrillo will take the floor statement. I will close the work session on Assembly Bill 271 and open the work session on Assembly Bill 390.

**Assembly Bill 390: Makes various changes to state governmental administration.  
(BDR 23-102)**

**Jered McDonald, Committee Policy Analyst:**

Assembly Bill 390 was heard in this Committee on April 6, 2017, and was sponsored by Assemblyman Elliot T. Anderson and Senator Woodhouse.

Assembly Bill 390 authorizes a State of Nevada officer or employee who acts in good faith to communicate or seek to communicate, personally or in his or her official capacity, with the Legislature or a legislator on any matter. The measure further prohibits a State of Nevada agency from taking any reprisal or retaliatory action or threatening or intimidating action against the State of Nevada officer or employee for communicating or attempting communication with a legislator. Additionally, the bill provides an annual salary of \$20,000 for each member of the Board of Regents of the University of Nevada. Finally, the bill creates the Spending and Government Efficiency Commission for the Nevada System of Higher Education. The Commission is required to make periodic recommendations to the Governor identifying areas in which the public costs of the system may be reduced; areas in which increased efficiencies in the system may be found; and any means by which the system may be improved ([Exhibit N](#)).

There is one amendment to the bill [pages 2 through 8, ([Exhibit N](#))]. The amendment clarifies that communication between a State of Nevada officer or State of Nevada employee is limited to a disclosure that false information was disseminated by or on behalf of the employer or a disclosure of evidence of illegal activity of the employer. The amendment also deletes section 3 of the bill, which makes changes to the compensation for the members of the Board of Regents.

**Chairman Flores:**

I will entertain a motion.

ASSEMBLYWOMAN BILBRAY-AXELROD MOVED TO AMEND AND  
DO PASS ASSEMBLY BILL 390.

ASSEMBLYMAN McCURDY SECONDED THE MOTION.

**Assemblyman Kramer:**

I heard the comments from Mr. McDonald, but when I look at the amendment, I do not see where section 3 was struck out.

**Chairman Flores:**

I direct your attention to page 5 of the amendment [page 6, ([Exhibit N](#))].



**Assemblyman Ellison:**

I think section 3 was a very important section. I am going to vote yes, but I would like to reserve my right to change my vote on the floor.

**Assemblyman McArthur:**

I will vote yes, but I reserve my right to change my vote on the floor.

**Assemblywoman Neal:**

I will vote yes, but I have some hesitation because I am not sure what is being gained by this measure is actually captured in the language. The bill sponsor persuaded me to vote yes.

THE MOTION PASSED UNANIMOUSLY.

**Chairman Flores:**

Assemblyman Elliot T. Anderson will take the floor statement. I will close the work session on Assembly Bill 390. I will entertain a motion on Assembly Bill 480.

**Assembly Bill 480: Authorizes the assessment of an administrative fee on certain public purchases. (BDR 27-899)**

ASSEMBLYWOMAN MONROE-MORENO MOVED TO DO PASS  
ASSEMBLY BILL 480.

ASSEMBLYWOMAN BILBRAY-AXELROD SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Assemblywoman Monroe-Moreno will take the floor statement. I will close the work session on Assembly Bill 480. I will entertain a motion on Assembly Bill 481.

**Assembly Bill 481: Revises provisions governing the Division of Internal Audits of the Office of Finance. (BDR 31-898)**

ASSEMBLYMAN McCURDY MADE A MOTION TO DO PASS  
ASSEMBLY BILL 481.

ASSEMBLYWOMAN BILBRAY-AXELROD SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

**Chairman Flores:**

Assemblyman Marchant will take the floor statement. Is there anyone in Carson City or Las Vegas for public comment? [There was no one.] Having no further business, this meeting is adjourned [at 10:23 a.m.].

RESPECTFULLY SUBMITTED:

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Carol Myers  
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 proposed amendment to [Assembly Bill 5](#) presented by Angela Dykema, Director, Office of Energy, Office of the Governor.

[Exhibit D](#) is a document titled "Section By Section Explanation For Bill Draft Language Proposed By the Governor's Office of Energy A.B. 5 – 2017 Legislative Session," presented by Angela Dykema, Director, Office of Energy, Office of the Governor.

[Exhibit E](#) is a policy brief titled "Creating a stronger and more prosperous economy through Sustainability and clean energy," submitted by Louise Helton, Vice President, 1 Sun Solar Electric, LLC.

[Exhibit F](#) is a letter dated April 11, 2017, in support of [Assembly Bill 5](#) to Chairman Flores and members of the Assembly Committee on Government Affairs, authored and submitted by Andy Maggi, Executive Director, Nevada Conservation League.

[Exhibit G](#) is written testimony authored and submitted by Jeffrey Haag, Administrator, Purchasing Division, Department of Administration, dated April 12, 2017, in support of [Assembly Bill 480](#).

[Exhibit H](#) is a copy of a PowerPoint presentation titled "ASSEMBLY BILL NO. 481, Governor's Finance Office, Division of Internal Audits," submitted by Steve Weinberger, Administrator, Division of Internal Audits, Office of Finance, Office of the Governor.

[Exhibit I](#) is written testimony submitted by Shelley Hendren, Administrator, Rehabilitation Division, Department of Employment, Training and Rehabilitation regarding [Assembly Bill 483](#).

[Exhibit J](#) is the Work Session Document for [Assembly Bill 100](#), presented by Jered McDonald, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit K](#) is the Work Session Document for [Assembly Bill 120](#), presented by Jered McDonald, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit L](#) is the Work Session Document for [Assembly Bill 246](#), presented by Jered McDonald, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit M](#) is the Work Session Document for [Assembly Bill 271](#), presented by Jered McDonald, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit N](#) is the Work Session Document for Assembly Bill 390, presented by Jered McDonald, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.