

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

**Seventy-ninth Session
April 10, 2017**

The Senate Committee on Commerce, Labor and Energy was called to order by Chair Kelvin Atkinson at 8:38 a.m. on Monday, April 10, 2017, in Room 2135 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to Room 4412E of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Kelvin Atkinson, Chair
Senator Pat Spearman, Vice Chair
Senator Nicole J. Cannizzaro
Senator Yvanna D. Cancela
Senator Joseph P. Hardy
Senator James A. Settelmeyer
Senator Heidi S. Gansert

STAFF MEMBERS PRESENT:

Marji Paslov Thomas, Policy Analyst
Bryan Fernley, Counsel
Daniel Putney, Committee Secretary

OTHERS PRESENT:

Helen Foley, Nevada Assisted Living Association
Will Pregman, Service Employees International Union Local 1107
Marcus Conklin, Nevada Mortgage Lenders Association
Scott Whittemore, Deputy Commissioner, Division of Mortgage Lending,
Department of Business and Industry
Bill Wellman, Las Vegas Paving Corporation
Todd Koch, President, Building and Construction Trades Council of Northern
Nevada
William Stanley, Southern Nevada Building and Construction Trades Council
John Wiles, Director, Unified Construction Industry Council

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Greg Esposito, Plumbers, Pipefitters and Service Technicians Local 525
Nick Vassiliadis, Southwest Regional Council of Carpenters
Dan Musgrove, Mechanical Contractors Association of Las Vegas; Sheet Metal
and Air Conditioning Contractors' National Association of Southern
Nevada
Lindsay Anderson, Washoe County School District
Reid Kaiser, Assistant Director, Operations, Director's Office, Nevada
Department of Transportation
Warren B. Hardy II, Associated Builders and Contractors, Inc., Nevada Chapter
Craig Madole, Associated General Contractors, Nevada Chapter
Lance Semenko, Q&D Construction, Inc.
Dave Backman, K.G. Walters Construction Company, Inc.
Frank M. Lepori, Frank Lepori Construction
Darren L. Schulz, Director, Public Works Department, Carson City
Fred Reeder, President, Reno-Tahoe Construction
Steve Walker, Douglas County
Jessica Ferrato, Granite Construction
Aaron West, CEO, Nevada Builders Alliance

CHAIR ATKINSON:

I will open the hearing on Senate Bill (S.B.) 468.

SENATE BILL 468: Makes changes relating to the calculation of hours worked
for certain domestic service employees. (BDR 53-149)

SENATOR JOSEPH P. HARDY (Senatorial District No. 12):

During the Interim, the Legislative Committee on Senior Citizens, Veterans and
Adults with Special Needs met. One of the Committee's recommendations was
this bill. I submitted a summary of the Committee's recommendations
([Exhibit C](#)).

Senate Bill 468 deals with residential establishments and live-in employees. The
major provisions of S.B. 468 are based on federal regulations for domestic
service employees who reside in the households where they work. Domestic
service employers may exclude from their employees' wages certain periods for
meals, sleep and other periods of complete freedom from all job duties.
Likewise, if a period excluded from an employee's wages is interrupted by a call
of duty from the employer, the interruption must be counted as hours worked,
which must be compensated.

HELEN FOLEY (Nevada Assisted Living Association):

The Nevada Assisted Living Association is comprised of many large assisted living centers that have up to 150 beds. However, the bulk of the organization is comprised of small residential facilities for groups. These facilities are in neighborhoods and have no signage. Most of the time, these facilities are larger homes. Many of these facilities' workers live where they work. If a facility houses dementia or Alzheimer's patients, there is someone on duty 24/7. Ninety percent of the people who live in these facilities pay privately. There are a lot of individuals who do not have people to take care of them during the day.

I submitted a proposed amendment ([Exhibit D](#)) that contains the following language:

The employee and the employer may enter into an agreement to exclude overtime requirements for the domestic service employees who reside in the household where employed. This exemption does not excuse the employer from paying the live-in worker the applicable minimum wage rate for all hours worked.

I would like S.B. 468 to comply with Part 552 of the federal Fair Labor Standards Act. This bill, as written, does not specifically mention the federal law.

WILL PREGMAN (Service Employees International Union Local 1107):

We support this bill as amended. We represent home health care workers who fall under the domestic service employee category. This bill codifies federal labor standards into Nevada law. We will always support making the obligations of the employer and the employee clearer.

CHAIR ATKINSON:

I will close the hearing on S.B. 468 and open the hearing on S.B. 498.

SENATE BILL 498: Revises provisions relating to mortgage brokers and mortgage bankers. (BDR 54-484)

MARCUS CONKLIN (Nevada Mortgage Lenders Association):

We support S.B. 498. We submitted a proposed amendment ([Exhibit E](#)) and supplemental information ([Exhibit F](#) and [Exhibit G](#)).

When we initially requested S.B. 498, we wanted to combine *Nevada Revised Statutes* (NRS) 645B and 645E. However, we no longer want to pursue the consolidation of these two NRS chapters.

There are provisions in statute, referenced in sections 19 and 58 of this bill, that require annual continuing education. However, State law does not change annually, and sometimes it does not change biannually. Most states require one or no annual hours of continuing education. According to [Exhibit F](#), the majority of states do not have annual requirements for continuing education under state law. We would like to eliminate the annual continuing education requirement.

Sections 20, 24 and 68 speak to the elimination of annual examinations. In Nevada, on an annual basis, the Commissioner of the Division of Mortgage Lending is mandated to conduct a full examination of every licensee in the State. This provision has been in place since the early 1990s. I am unsure if the Division has ever been able to audit every State licensee in a year. There are more than 400 licensees. We have set the Division up for failure because the mortgage lending industry has grown over the last 20 to 25 years. This bill seeks to eliminate the annual requirement and leave the decision to examine a licensee at the discretion of the Commissioner. These changes would allow the Commissioner to manage his or her workflow in terms of auditing licensees on a regular basis and would free up resources so that he or she could audit problem areas. A mandated annual audit takes away resources that could be used for audits that come up during the ordinary course of business, such as when consumers complain about how a loan process is working or about a particular licensee. Because resources have been spread so thin, the Division is not always able to respond to these types of problems. The Commissioner would be able to approach problems in a more timely fashion without necessarily eliminating his or her opportunity to regularly audit licensees.

[Exhibit G](#) discusses mortgage lending examination frequency across the U.S. An annual audit would be the most restrictive audit process in the Country.

The Commissioner currently requires a monthly report of every licensee. The report contains certain mortgage lending information. This is a way to track the mortgage lending industry and to identify any problems. We had originally requested to eliminate the report because the majority of information contained in it is available through the Nationwide Mortgage Lending System database.

However, after discussions with the Commissioner, it is clear that the Division is gathering additional information through the report. We are asking that the Commissioner have the ability, at his or her discretion, to waive the requirement of this monthly report if substantially similar information becomes available from another source in the future. This gives the Commissioner flexibility to deal with such matters.

We request that the definition of commercial mortgage loan in NRS 645E.030 be realigned to match Regulation Z of the federal Truth in Lending Act. Suggested language would read, "'Commercial Mortgage Loan' means a loan secured by a mortgage, deed of trust or other equivalent consensual security interest on real property, primarily for business, commercial or agricultural purposes."

Senate Bill 498 is mainly a matter of modernizing NRS 645B and 645E. We have been working with the Commissioner on this bill. The Division is unaware of any opposition to the changes in the proposed amendment.

SENATOR SETTELMAYER:

Is anybody from the Division here? It is odd to have a change without a representative from the Division testifying.

SCOTT WHITEMORE (Deputy Commissioner, Division of Mortgage Lending, Department of Business and Industry):

We have been apprised of these issues, and we have had plenty of time to work through them. We are neutral to S.B. 498, but this bill gives discretion and does not limit the Division's power. This bill codifies some of the Division's processes without limiting power or authority.

SENATOR SETTELMAYER:

Do you believe the removal of the annual continuing education requirement would cause any problems?

MR. WHITEMORE:

As part of the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008, there are significant requirements for pre-licensure education and continuing education. Under Nevada law, four hours of education prior to licensure is required. In many instances, State law codifies federal law and gives us the ability to investigate and examine with federal guidelines in mind. The

removal of the continuing education requirement is a reasonable request from the mortgage lending industry.

MR. CONKLIN:

There was a fiscal note attached to this bill that was only related to the consolidation of NRS 645B and 645E. Eliminating the consolidation of these chapters from the bill would help with the fiscal note.

CHAIR ATKINSON:

I will close the hearing on S.B. 498 and open the hearing on S.B. 357.

SENATE BILL 357: Revises provisions governing the use of apprentices on public works. (BDR 53-534)

SENATOR KELVIN ATKINSON (Senatorial District No. 4):

I submitted a proposed amendment to this bill ([Exhibit H](#)).

An apprenticeship is recognized as one of the oldest and established methods of training. It is a process whereby individuals earn while they learn to become highly skilled workers. An apprenticeship is a combination of on-the-job training and related classroom instruction in which workers learn the practical and theoretical aspects of a highly skilled occupation. There are individuals who do not go to college, so we need to create environments where they can participate in our State, be employed and take care of their families.

It is no secret that many older construction workers are reaching retirement age. We may not be able to fill these vacancies in the future if we do not have a trained workforce. Apprenticeships are an effective means to develop a trained workforce. This bill will create and expand training opportunities for apprentices in Nevada so that they can enter careers that provide family wages.

The proposed amendment deletes sections 1 through 3 and makes significant changes to section 4. The provisions in section 4 do not apply to contractors or subcontractors with fewer than 25 employees engaging in horizontal construction or 6 employees engaging in vertical construction on a public work. For reference, horizontal construction and vertical construction are defined in section 5.

If a public body determines that a contractor has not met the requirements of the contract concerning the use of apprentices on public works for a minimum percentage of hours in the prior calendar year, the contract will not be awarded to the contractor. The contractor will also be barred from bidding on future public works jobs for a period of six months for the first violation and up to a year for subsequent violations. Furthermore, if a public body determines that a contractor has exceeded the apprenticeship requirements, the contractor must be awarded a preference in bidding equal to 1 percent for each percentage point above the minimum requirements, not to exceed 5 percent.

Section 5 retains the provisions to expand the definition of offense. The definition will include the failure to ensure an apprentice is used for the required minimum amount of hours.

This bill is trying to get individuals in our State to a position where they can work and be trained in some of these highly skilled occupations. Some of our State's industries have been hit hard, particularly the construction industry. We are seeing these industries come back at a rapid pace. African Americans have made huge gains in the construction industry, but these gains only amount to about a 1 percent increase. Constituents ask me what I am doing to create opportunities for individuals who do not want to go, or do not have the resources to go, to college. In some families, the children help pay bills and take care of their siblings. Some individuals become parents earlier than others.

The concept of this bill is a little different than what I proposed last Session. There has been some discussion regarding a change in the effective date.

SENATOR SETTELMAYER:

I appreciate the changes in this bill compared to last Session's bill. Would the 5 percent in bidding preference be stacked onto other bidders' preferences, or would the 5 percent be by itself?

SENATOR ATKINSON:

It would be alone.

VICE CHAIR SPEARMAN:

One of the things overlooked in discussions about higher education is the fact that some people do not want to pursue what is traditionally considered higher

education, such as college. Apprenticeships are certainly part of higher education.

BILL WELLMAN (Las Vegas Paving Corporation):

Not everybody will agree with S.B. 357, but I have worked with Senator Atkinson to ensure this bill is workable from the standpoint of the contractor. Senator Atkinson called together a meeting of about 18 construction industry representatives. In the meeting, we discussed how to make this bill work. We did not intend to gut Senator Atkinson's bill, but we have tried to make it workable, which is why there is the proposed amendment.

The bidding preference idea arose because Senator Atkinson wanted to incentivize apprenticeship programs. In regard to Senator Settelmeyer's question from earlier, any additional bidding preference would be added on top of bidding preference already in place. The intent was to stack bidding preference.

There is some more work to do with this bill and S.B. 516, which relates to the Governor's plans for workforce development.

SENATE BILL 516: Revises provisions governing workforce innovation and apprenticeships. (BDR 53-913)

The intent of this bill is to qualify contractors. Changing the effective date would allow contractors to prepare for the processes outlined in S.B. 357.

TODD KOCH (President, Building and Construction Trades Council of Northern Nevada):

We support S.B. 357. Going forward, this bill is going to be important to our workforce development. If we cannot build projects, a new Nevada cannot come.

Regarding the requirement for apprentices for vertical construction, the numbers are not as high as we would have liked. Ten percent is not going to invigorate training to the level we would like to see, but we needed to start somewhere. Most apprenticeship standards allow for one apprentice for every three or four journeypersons, so one apprentice for every ten workers would not be difficult to achieve.

The bill as amended contains the reward of bidding preference. It is important to have this incentive. There is also the penalty for contractors who do not use apprentices.

Apprentices would have to be registered in the State, so more Nevadans would be used on projects. We need to leverage public dollars to train and employ these Nevadans who will build a new Nevada. In northern Nevada, we have a severe shortage of trained construction workers. Many construction workers are growing older. When somebody gets to a certain age after working in construction for his or her whole life, that person's body becomes worn out, and he or she has to retire. For the most part, people in the construction industry cannot work until age 65.

This bill would force the building trades to step up apprenticeship training.

WILLIAM STANLEY (Southern Nevada Building and Construction Trades Council): Many compromises have been made with this bill. Senate Bill 357 is in the best interests of the construction industry.

Apprenticeship was the original four-year degree. Apprentices become skilled in various trades, and they have the opportunity to later matriculate at community colleges in Nevada.

Public work, at its genesis, was designed to provide opportunities to underserved and underrepresented communities. Public work was also designed to train a local construction workforce. A significant portion of construction labor goes toward public works projects. As we vertically align workforce development from the Office of the Governor downward, it is imperative that we leverage public works to create opportunities for individuals, whether that be through the kindergarten through Grade 12 system or through apprenticeship readiness programs in the prison system.

We also want to ensure the backfill for retiring construction workers is met. The economic development we have experienced throughout the State is not going to continue without a trained construction workforce. If I were a business owner and wanted to relocate to Nevada, I would go somewhere else if the State could not provide access to a trained construction workforce.

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JOHN WILES (Director, Unified Construction Industry Council):
This bill is essential to Nevada's workforce development efforts. I urge the Committee to support S.B. 357.

GREG ESPOSITO (Plumbers, Pipefitters and Service Technicians Local 525):
We support S.B. 357. I represent three different apprenticeship programs. We put a lot of time and effort into each apprenticeship curriculum. There is a lot of science and math in our curricula. Our students earn associate's degrees when they graduate. This bill is a step in the right direction when it comes to economic development in Nevada.

NICK VASSILIADIS (Southwest Regional Council of Carpenters):
We support S.B. 357. We recognize the importance of this bill.

DAN MUSGROVE (Mechanical Contractors Association of Las Vegas; Sheet Metal and Air Conditioning Contractors' National Association of Southern Nevada):
We support S.B. 357.

LINDSAY ANDERSON (Washoe County School District):
We are neutral to this bill. We have no problem with the intent of S.B. 357, but we want to ensure Nevada's school districts are not in the position of policing this bill. We will continue to work with Senator Atkinson to make sure the language is clear.

REID KAISER (Assistant Director, Operations, Director's Office, Nevada Department of Transportation):
I will read from my prepared testimony in neutral to this bill ([Exhibit I](#)).

WARREN B. HARDY II (Associated Builders and Contractors, Inc., Nevada Chapter):
I intended to speak in neutral today because Senator Atkinson proposed an amendment addressing our concerns. However, we have some concerns with the amendment, so I am speaking in opposition to S.B. 357.

The concept of training is critical to the construction industry. When the economy starts to take off, the biggest challenge we have is putting qualified individuals on worksites. We have no quarrel with training. Our concern is that not every member of the nonunion construction industry has access to apprenticeship programs. There is generally some confusion with the term

“apprenticeship program.” We tend to use apprenticeship program interchangeably with all sorts of training programs. An apprenticeship program is the original four-year degree. There are other nationally accredited training programs that do not take as long. Every contractor has access to these sorts of programs, but not all contractors have access to apprenticeship programs. This bill would disproportionately impact small businesses, women-owned businesses and minority-owned businesses that overwhelmingly choose to work nonunion. The proposed amendment excludes these businesses from participating in the types of programs I mentioned earlier. The original bill provided exemptions for businesses that did not have access to apprenticeship programs. Additionally, if we are going to use bidding preference, we should also provide such preference to contractors that employ individuals who are in other types of accredited training programs.

CRAIG MADOLE (Associated General Contractors, Nevada Chapter):
We have some significant concerns with the bill as amended.

We support the use of apprentices on all construction projects. It has been alluded to that we have a workforce development problem. The Great Recession lasted so long that we missed an entire generation of construction employees. Frankly, there was no work available. This bill does not do anything to address the workforce development need. We need opportunities to reach out to kids to get them excited about the building and construction trades. We could reach out on social media. Senate Bill 357 specifically mandates the use of apprentices, which are not available in northern Nevada, and punishes contractors for not being able to comply with the bill’s regulations. More than half of the contractors in the State do not have access to apprenticeship programs. There are apprenticeship programs for plumbers and electricians, but those are the only two trades currently available for nonsignatory employers.

What was in section 4, subsection 4 of the original bill has been stricken in the proposed amendment. This subsection provided exemptions for contractors that did not have access to apprentices. There are numerous trades—at least four I am aware of in northern Nevada—that no apprenticeship programs exist for. The amendment appears to offer preference to general engineering and horizontal construction contractors. The exemptions for these types of contractors are significant.

Also, per the amendment, every public body would have to track compliance with S.B. 357 on a contract-by-contract basis and then certify the compliance with the contractor. It would be a significant administrative burden for both the contractor and the public body to have a debarment process occur on a contract-by-contract and municipality-by-municipality basis.

We will continue to work with Senator Atkinson to try to make this bill agreeable.

LANCE SEMENKO (Q&D Construction, Inc.):

We oppose S.B. 357.

We need to educate not only children but also parents. We find that everybody still wants his or her child to go to college. We have to change this perception.

Q&D Construction is a vertical and horizontal contractor. If the horizontal side works on the vertical side, 10 percent of the workers must be apprentices, although regular public works projects only require 3 percent. These numbers seem skewed.

Some of the unions we work with do not have any apprentices, or they do not have any apprentices in their existing apprenticeship programs. In our biggest construction union in northern Nevada, which has 1,200 members, only 3 percent to 3.5 percent of the employees are apprentices. I go out every day to try to get kids into the union, but I cannot force them to enter the union.

DAVE BACKMAN (K.G. Walters Construction Company, Inc.):

I oppose this bill. Senate Bill 357 is a worthy pursuit, but there are not enough apprenticeship programs to support the efforts of this bill. Senate Bill 357 could have unintended consequences, and it would cost the State a lot of money in an indirect way. Contractors would have to comply with the regulations set forth in S.B. 357. Unions would be pushed to furnish apprentices. This is not an appropriate way to handle public money.

SENATOR GANSERT:

In northern Nevada, we have the Academy for Career Education (ACE). A number of students who go to this school want to work in the building and construction trades. How well is this school acting as a feeder for well-trained young people in the construction industry?

MR. SEMENKO:

We get very few students from ACE. Students who graduate from ACE have many different options available to them. The school has a lot of different programs, some of which do not relate to the building and construction trades.

SENATOR GANSERT:

It sounds as if many students who graduate from ACE do not necessarily join a union. Do these students eventually end up working in the trades?

MR. SEMENKO:

A certain percentage of the students do, but I do not know exactly what that percentage is. It is probably a fairly small number.

SENATOR ATKINSON:

Are you all aware of the Governor's plans for workforce development that are referenced in S.B. 516? I can see you are all shaking your heads no. I find it laughable that you are opposed to S.B. 357, but you have not heard about S.B. 516.

MR. MADOLE:

We have seen the legislation.

SENATOR ATKINSON:

You all shook your heads no.

MR. MADOLE:

I believe the other opponents were confused about your question.

SENATOR ATKINSON:

My question was clear.

MR. MADOLE:

Senate Bill 516 relates to a variety of things regarding workforce development.

SENATOR ATKINSON:

These things would help S.B. 357.

MR. MADOLE:

Senate Bill 516 could be helpful to S.B. 357, but there are still some things to work out with S.B. 516. My primary concern is that the workforce development component is not addressed in S.B. 357.

SENATOR ATKINSON:

Senate Bill 516 and S.B. 357 could work hand in hand. I am hearing that the construction industry is all right in northern Nevada, but there is still a problem. I do not know what the numbers are for the amount of African-American construction workers in northern Nevada, but in general, the numbers are abysmal. Some things are not working. I am talking to actual people who want the opportunities to work in construction and other trades. There are ways to better encourage workforce development in the construction industry. I am open to discussions. If contractors feel they are being adversely affected, we need to talk about that. We are trying to grow business, not kill it.

VICE CHAIR SPEARMAN:

Social media is a great idea to get people interested in the building and construction trades. There is an emerging demographic of green consumers. This demographic includes a lot of young people who are concerned about sustainable development and green building practices. I suggest you all look at the Green Bank Study. There are opportunities for skilled labor, investment and development in our State, much of which is in the construction industry. There needs to be a way to reach out to young people better in regard to the building and construction trades. With the implementation of clean energy programs in Nevada, we are going to need a lot of skilled labor with respect to electricians, carpenters, plumbers and other trades. There may be more to S.B. 357 that could benefit you all.

MR. BACKMAN:

There is a gap in skilled construction workers. We are going to be living with this gap for a while. Incentives are great, but we should not penalize contractors for not fulfilling the requirements of this bill. The trades have not been able to furnish workers. I do not see how S.B. 357 is going to work out for us, especially in the short term.

VICE CHAIR SPEARMAN:

Mr. Wellman mentioned a date change to offer more time to implement this bill. We have time to discuss your concerns and try to work things out. This bill may

not seem like it would help, but holistically, there could be benefits. The building and construction trades are going to benefit immediately from Nevada's new green economy. I cannot speak for Senator Atkinson, but I believe he would be amenable to changes and open to discussion. I am asking you to not shut down this bill right away. I want you to think about what may be coming for the trades.

SENATOR ATKINSON:

The proposed amendment includes language for an exemption based on impracticality. We could take a look at this exemption.

SENATOR SETTELMAYER:

It is each union's problem to find and provide apprentices.

MR. MADOLE:

The original bill, in section 4, subsection 4, provided exemptions for contractors that did not have access to apprentices. I was wondering if this language could be brought back into S.B. 357.

SENATOR CANNIZZARO:

Would consideration of other accredited training programs alleviate the need for an exemption?

MR. MADOLE:

A lot of nonsignatory employers have in-house training programs that are not recognized by the State or the State Apprenticeship Council. In these instances, the contractors that train their own workforces pay journeyperson rates to their employees. The individuals in these training programs are not eligible to be paid apprenticeship rates. Contractors pay a surplus to train their employees. Currently, there are only two trades active in their apprenticeship programs: electricians and plumbers. There is no capacity for nonsignatory employers from other trades to obtain recognized apprentices under the State Apprenticeship Council.

SENATOR CANNIZZARO:

If there were a provision in this bill that included these training programs, would that alleviate your concerns? You have told us there may be a need to allow nonsignatory contractors to utilize such training programs without being penalized. I am wondering if there is a solution so that we can encourage

apprenticeship programs, recruit people into the trades, engage in workforce development and provide career opportunities while also recognizing there are not always the same apprenticeship programs, but they fulfill the same need.

MR. MADOLE:

We would love to see that. However, State accreditation for these training programs is a very cumbersome and difficult process.

SENATOR CANNIZZARO:

Should a word other than "accredited" be used in this bill?

MR. MADOLE:

Yes.

SENATOR CANNIZZARO:

You have mentioned there are two trades with nonsignatory contractors that can use apprentices. Why are there not additional opportunities to use apprentices in other trades? Why is the use of apprentices limited to two trades? Is there anything we can do to improve this?

MR. MADOLE:

The lack of hiring during the Great Recession shut down the majority of apprenticeship programs in other trades. Unfortunately, there were no jobs, and there was no ability to recruit apprentices to justify the costs of these programs.

SENATOR CANNIZZARO:

Because we are seeing additional opportunities for these types of programs to exist and for us to recruit apprentices, why are there still only two trades that have programs? This bill is ultimately trying to encourage the use of apprentices and workforce development. Some of my constituents are wondering how to obtain good-paying jobs that lead to careers. Senate Bill 357 seeks to do something good. I understand what the opposition is saying, but we could expand this bill so that more trades are able to use apprentices. I am trying to determine a way other than an exemption that would accomplish the goals of this bill. An exemption says that contractors do not have to invest in apprentices.

MR. MADOLE:

We would commit to work with everybody to that end. We want to ensure there is not the unintended consequence of banning people from participating in public works.

SENATOR CANNIZZARO:

That is not the intent of S.B. 357. Hearing that the solution is simply getting the exemption back is troublesome.

MR. BACKMAN:

I do not know if the exemption would be applicable because it was a 90-day decision period. We usually see a bid four to six weeks before the bid date. How do contractors place bids for projects not knowing if they are able to comply with this bill's regulations? I am unsure as to why there is a liability attached for not being able to comply. It is difficult to find workers regardless of apprentices. I do not want the contractors to be handcuffed. I like the incentives but not the penalties.

MR. HARDY:

Senator Cannizzaro is on the right track with her thinking. Apprenticeship programs can be complicated. Unions do a fantastic job of training their employees; they have wonderful programs. However, there are disincentives in the way things are set up. An individual who is being trained who is not an apprentice has to be paid a journey person rate. If there were some sort of reasonable training program available, that would incentivize nonunion contractors to be involved. Nonunion apprenticeship programs are only economically feasible for contractors on public works projects that can pay higher wages. We need to look at ways to make such programs economically feasible for nonunion contractors.

Another important part of the discussion is that there has been a downturn in the economy and the construction industry. Over time, when the economy improves, we can change the law to incentivize nonunion contractors' use of apprenticeship programs. The training programs nonunion contractors have are equal in quality to the training programs union contractors have. We would love to have apprenticeship programs, but there are issues with this bill. We need to find a way to include nonunion contractors that do not have access to traditional apprenticeship programs. We need to consider training more broadly.

SENATOR ATKINSON:

How do we get more people involved in apprenticeship programs? Construction is the No. 1 growing industry in the State. With renewable energy coming to Nevada, there will be more jobs available. How can we provide incentives to contractors to offer more and encourage apprenticeship programs? We are trying to create careers for people. We had similar discussions last Session, but contractors have not done anything to improve. Are we going to maintain the status quo? I do not want to make this issue about union contractors versus nonunion contractors.

MR. HARDY:

The construction industry is starting to come back, but some contractors are still struggling. The perception is that things are better, but in reality, that is not the case. Union contractors and nonunion contractors alike are struggling to find work for their journeypersons. There is a problem going forward because we are going to start receiving more work, but we are not going to be prepared for it. A good start would be to focus on training rather than apprenticeship programs specifically. Some of the in-house training programs are not accredited by any national or State organizations, but in most cases, the curricula are accredited. A lot of these training programs use curricula from accredited programs. We use training interchangeably with apprentices to the detriment of some of the policies brought forth. Apprenticeship programs will take care of themselves over time. Unless there is a thriving public works economy, it is difficult for nonunion contractors to provide apprenticeship programs.

VICE CHAIR SPEARMAN:

Is there a significant difference other than pay between training programs and apprenticeship programs?

MR. HARDY:

There is a significant difference. An apprenticeship program lasts about four years. When a student goes to a university, it is the student's responsibility to take care of himself or herself. In an apprenticeship program, the employer takes on significant responsibilities. We call this indenturing an apprentice. When we do this, we commit to provide the apprentice with an education, a job and benefits. Unions are able to absorb the costs of these things better because of their dues. The obligation of the employer to provide an education, a job and benefits is a big difference. However, the training itself is not that different; curricula often come from accredited programs. If our objective is to focus on

training, we can accomplish that with training programs, not only apprenticeship programs. We should aspire to have apprenticeship programs, but our economy is not in the best place.

MR. MADOLE:

In 2016, the U.S. Department of Labor recognized 1,063 apprentices in the State. In October 2016, specifically, there were roughly 70,000 construction employees in Nevada. These data highlight the fact that there are not enough apprentices in any program to be able to commit to the policies set forth in S.B. 357, but there are plenty of people being trained.

VICE CHAIR SPEARMAN:

To me, the issue is how to take what appears to be a negative and make it a positive. According to the Green Bank Study, the opportunities for skilled labor in our State are astronomical, especially as Tesla ramps up battery storage. Perhaps the construction business model should be revisited. Disruptive technology forces us to look at some of the ways we conduct business. Various trades are going to benefit from Nevada's new green economy. I do not want to see the construction industry left behind.

MR. HARDY:

You are correct in identifying the need for skilled construction workers in Nevada, but based on the current application of apprenticeship programs, the construction industry will not meet that need. If we provide the right regulatory policies and incentives, we can provide the training necessary for skilled construction jobs. However, our current focus is on apprenticeship programs. We need to continue these programs, but we need to be able to move more quickly. Regrettably, apprenticeship programs cannot achieve the training we need today, but there are training programs that could. I would like the Committee members to divorce in their minds the concept that anything that is not an apprenticeship program is not a valid or important training program.

FRANK M. LEPORI (Frank Lepori Construction):

I oppose S.B. 357. With the rules and regulations in this bill, my company, which does a lot of public works projects, would not be able to do so. I have 55 employees. We do both horizontal and vertical construction. Even without an apprenticeship program, we train our employees, and we do a great job. I do not have the ability to provide an apprenticeship program. This bill would penalize

my company. We have done nothing wrong, and we do good work. With this bill, we would not be able to bid on a public works project.

DARREN L. SCHULZ (Director, Public Works Department, Carson City):

This bill makes the awarding body responsible for monitoring and enforcing requirements, which would require additional staff from us. Perhaps a document submitted with a bid certifying the contractor has an established training program would resolve this. Bidding preference costs our residents money. Stacking this on top of other bidders' preferences makes a huge impact on those of us trying to do construction projects in Carson City. We are not opposed to apprenticeship programs, but we are opposed to public bodies being required to enforce the regulations in this bill, and we are opposed to additional bidding preference.

FRED REEDER (President, Reno-Tahoe Construction):

Although this bill has good intentions, the unintended consequences could put my company out of business. We have struggled to stay afloat for the past eight years. I would hate to see a bill like S.B. 357 hurt my company. I am mainly concerned with the requirement to supply apprentices. When I looked at the eight public works projects my company is working on, I only had one apprentice; all other apprentices were working on private projects. If public works dollars left my company, it would be a death sentence. While the incentives seem good, this bill is pushing the limits. Also, California would not be allowed to come into Nevada because the state's apprenticeship hours would not transfer.

The construction industry is taking the necessary steps to encourage workforce development. To legislate the use of apprentices damages a contractor like me.

STEVE WALKER (Douglas County):

Douglas County is concerned with the compliance issue of this bill.

JESSICA FERRATO (Granite Construction):

Granite Construction uses apprenticeship programs regularly, but we have some concerns with this bill. Senate Bill 357 is punitive because we are already struggling to fill job openings. More work needs to be done to encourage our youth to consider fulfilling jobs in the construction industry. Apprenticeship programs became somewhat nonexistent during the Great Recession.

Granite Construction supports efforts to fix complicated workforce development issues and encourages looking at other avenues to solve these issues. I appreciate Senator Cannizzaro's comments about a potential waiver. We should not be penalized if we are trying to hire apprentices, but there are no apprentices available.

SENATOR ATKINSON:

People in the construction industry have told me there is a lot of work available; contractors simply do not have the employees to do this work.

MS. FERRATO:

We have job openings we cannot fill because there are not enough people to fill them.

SENATOR ATKINSON:

What other issues are out there? Mr. Reeder mentioned potential issues with California construction workers in Nevada, but some people may be happy about that. Our goal is to hire Nevadans and to provide them with the skills to obtain jobs. Could you help me understand why some contractors are opposed to this bill?

MS. FERRATO:

It is our goal to hire local workers, but we have challenges finding enough workers in the State. I could get you more information regarding the problems Granite Construction is facing. There are not enough people working in the construction industry. It has been difficult for people to come back to the industry after the Great Recession. We lost a lot of people. There is a nervousness about the industry.

SENATOR CANCELA:

If it is true there is a struggle to find workers in the construction industry, then it seems like there is an incentive for more apprenticeship programs, not less.

MS. FERRATO:

We need to provide incentives to our youth to work in the construction industry. Many parents push their children toward college, but that may not be the right fit. Granite Construction wants to participate in workforce development, but we do not want to be penalized in the case an apprentice is not available.

VICE CHAIR SPEARMAN:

What principal work does Granite Construction do?

MS. FERRATO:

We primarily do horizontal construction and public works.

VICE CHAIR SPEARMAN:

What sorts of public works does Granite Construction do?

MS. FERRATO:

We work on roads and bridges.

VICE CHAIR SPEARMAN:

Considering the integration of Nevada's green economy, it seems like that would be a boon for the construction industry. This bill is going to be a challenge, but we can get it done, and we should work together to accomplish the goals of this bill.

AARON WEST (CEO, Nevada Builders Alliance):

We oppose S.B. 357. Our No. 1 effort is in the area of workforce development. We work daily to try to dispel some of the misconceptions about working in the construction industry. When communicating with people, we advocate for as many pathways as possible and flexibility. We have these things in the industry. Twenty-five percent of kids do not make it through high school; we do not want to exclude these individuals. We want to provide every opportunity to get people the training they need to put them on pathways toward productive careers. There are barriers to entry into apprenticeship programs. I work daily with Nevada's community colleges to try to develop training programs for individuals who may not be destined for apprenticeship programs. We can still get them the training and education necessary to be productive and develop careers.

VICE CHAIR SPEARMAN:

Aviva Gordon of the Henderson Chamber of Commerce submitted written testimony in opposition to this bill ([Exhibit J](#)).

SENATOR ATKINSON:

Do apprenticeship programs have requirements for outreach?

MR. STANLEY:

Our apprenticeship programs are required to do outreach.

We have an apprenticeship readiness program at Mojave High School in Las Vegas. I fear that when the students from this program graduate in May, I will not have a place to put them. This is not because we do not have construction jobs; it is because contractors are not hiring apprentices. Contractors' margins are low, and training costs money. Until contractors start to see their margins increase, the likelihood of them to engage in training efforts is low. This bill is trying to leverage public works dollars to create opportunities for students in apprenticeship readiness programs. Do we lie to these students? We say they have opportunities to work in the construction industry, but when they graduate, there are no jobs for them. If we had an apprenticeship requirement on public works projects, we could place students into career paths that lead to middle-class jobs. The contractors who do not want to have apprentices do not want them because of the costs. In apprenticeship programs, there is recourse through the State Apprenticeship Council. There are no obstacles to the contractors who said their access to apprentices was limited. That is a lie. It is expensive to have apprentices, but the contractors should not complain and say they want to do something kind of like an apprenticeship program. Also, there is nothing prohibiting reciprocity among states. We have apprentices in the surrounding states.

SENATOR SETTELMAYER:

Do you give preference to Nevada union employees or apprentices over California workers?

MR. STANLEY:

Yes.

SENATOR SETTELMAYER:

Could you provide me with information relating to that? I want to ensure that if we are giving a 5 percent bidder's preference, the apprentices from Nevada receive priority.

MR. STANLEY:

Because an apprenticeship program is bifurcated education, and because such education requires a certain amount of classroom time and on-the-job training, we have had apprentices who completed all of their classroom hours but did not

have enough on-the-job training hours to graduate. In those cases, we sent the students to different states to obtain their required on-the-job training hours. Normally speaking, reciprocity is not required with an apprentice, so it is usually not an issue, but I would be happy to talk to you about how many apprentices we have transferred outside of the State to finish their apprenticeship programs.

SENATOR SETTELMAYER:

I do not think it is compelling to give bidding preference to non-Nevadans.

MR. HARDY:

There are two nonunion apprenticeship programs available to workers. I have said the issue is money. Businesses are running on 2 percent margins. I have never disagreed with the idea that we should encourage incentive programs. We have a lack of journeypersons because they are retiring or leaving the State. We can employ apprentices, but they are not the sort of workers we need at this point. We can quickly train individuals through nonaccredited training programs.

MR. STANLEY:

It is a lie to say access to apprenticeship programs does not exist for nonunion contractors. Nonunion contractors can do the same things union contractors can do. Nonunion contractors are not limited by the State Apprenticeship Council. A lot of times, contractors do not like training apprentices because they are not at-will employees; these apprentices have rights guaranteed to them by the State Apprenticeship Council. I have been told these rights do not fit in with the construction business model.

SENATOR ATKINSON:

How many of you have accepted an apprentice from another state? I can see some of the contractors in the audience raising their hands. If we are accepting apprentices from other states, then it demonstrates there is a problem. Money is an issue, and I understand that, but we do not have enough apprentices.

MR. ESPOSITO:

During the Great Recession, our apprenticeship program had to send apprentices to Phoenix because there was no way for students to obtain the necessary hours to graduate. More often than not, we send students to other states rather than bring them into Nevada. We did, however, take in apprentices from other areas when a demand was present.

I will have my training coordinator go to any church group, school or organization that wants to understand what building and construction apprenticeships offer the community. We pride ourselves in being as diverse as possible.

MR. HARDY:

There is no barrier to apprenticeship programs from the State Apprenticeship Council or anywhere else; however, there are other barriers. We do not have access to apprenticeship programs because we do not meet other requirements, which are mostly economic in nature. Contractors have the right to work union or nonunion.

MR. KOCH:

We have heard this morning that there are not enough construction workers in northern Nevada. Enticing journeypersons from outside of Nevada to work here is only one part of the solution. A major part of the solution has to be training our next generation's workforce. If we do not do anything now, we will be back at the Legislature next Session saying the situation is even more dire.

SENATOR ATKINSON:

We will leave this bill open for discussion, but we have to move S.B. 357 out of this Committee by Friday, April 14. I intend to do so. I hope we can have as many people support this bill as possible, but I am still going to support it. The answer will not be no. There is some truth to what Senator Settelmeyer has said regarding bidding preference, and we can further discuss that issue. It is our job to try to fix the apprenticeship problem.

VICE CHAIR SPEARMAN:

I will close the hearing on S.B. 357.

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CHAIR ATKINSON:
I adjourn the meeting at 11:00 a.m.

RESPECTFULLY SUBMITTED:

Daniel Putney,
Committee Secretary

APPROVED BY:

Senator Kelvin Atkinson, Chair

DATE: _____

EXHIBIT SUMMARY				
Bill	Exhibit / # of pages		Witness / Entity	Description
	A	1		Agenda
	B	5		Attendance Roster
S.B. 468	C	6	Senator Joseph P. Hardy	Summary of Recommendations
S.B. 468	D	1	Helen Foley / Nevada Assisted Living Association	Proposed Amendment
S.B. 498	E	1	Marcus Conklin / Nevada Mortgage Lenders Association	Proposed Amendment
S.B. 498	F	1	Marcus Conklin / Nevada Mortgage Lenders Association	Supplemental Information
S.B. 498	G	5	Marcus Conklin / Nevada Mortgage Lenders Association	Supplemental Information 2
S.B. 357	H	7	Senator Kelvin Atkinson	Proposed Amendment
S.B. 357	I	1	Reid Kaiser / Director's Office, Nevada Department of Transportation	Written Testimony
S.B. 357	J	1	Senator Pat Spearman	Written Testimony of Aviva Gordon of the Henderson Chamber of Commerce