

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

**Eightieth Session
March 8, 2019**

The Committee on Government Affairs was called to order by Chair Edgar Flores at 8:37 a.m. on Friday, March 8, 2019, 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/80th2019.

COMMITTEE MEMBERS PRESENT:

Assemblyman Edgar Flores, Chair
Assemblyman William McCurdy II, Vice Chair
Assemblyman Alex Assefa
Assemblywoman Shannon Bilbray-Axelrod
Assemblywoman Bea Duran
Assemblyman John Ellison
Assemblywoman Michelle Gorelow
Assemblyman Gregory T. Hafen II
Assemblywoman Melissa Hardy
Assemblyman Glen Leavitt
Assemblywoman Susie Martinez
Assemblywoman Connie Munk

COMMITTEE MEMBERS ABSENT:

Assemblyman Richard Carrillo (excused)

GUEST LEGISLATORS PRESENT:

Assemblyman Jason Frierson, Assembly District No. 8

STAFF MEMBERS PRESENT:

Jered McDonald, Committee Policy Analyst
Asher Killian, Committee Counsel
Mark Peckham, Committee Secretary
Trinity Thom, Committee Assistant

OTHERS PRESENT:

John Wiles, Director, Unified Construction Industry Council
Jeff Waddoups, Private Citizen, Las Vegas, Nevada
Mandi Wilkins, Executive Vice President, Mechanical Contractors Association of Las Vegas; and representing Sheet Metal and Air Conditioning Contractors National Association of Southern Nevada
Danny Thompson, representing International Union of Operating Engineers, Local Union No. 3; and International Union of Operating Engineers, Local Union No. 12
Al D. Davis, Business Manager and Financial Secretary, International Brotherhood Electrical Workers, Local 357
Paul McKenzie, Secretary-Treasurer, Building and Construction Trades Council of Northern Nevada
William Stanley, Executive Secretary-Treasurer, Southern Nevada Building Trades Unions
Rusty McAllister, Executive Secretary-Treasurer, Nevada State AFL-CIO
Nick Vassiliadis, representing Southwest Regional Council of Carpenters
Tom Pfundstein, representing Painting and Decorating Contractors of America Nevada Council
Robert A. Conway, Business Agent, International Association of Bridge, Structural and Ornamental Ironworkers, Local 433
Warren B. Hardy II, representing Nevada League of Cities and Municipalities
Craig Madole, Chief Executive Officer, Nevada Chapter, Associated General Contractors of America, Inc.
Brian Reeder, representing Nevada Contractors Association
Michael Pelham, Director of Government and Community Affairs, Nevada Taxpayers Association
Shannon M. Chambers, Labor Commissioner, Department of Business and Industry
Brian Kerzetski, Vice President, Universal Plumbing and Heating Co., Las Vegas, Nevada
Zach Conine, State Treasurer
Kim Shafer, Deputy Treasurer-Investments, Office of the State Treasurer
Chaunsey Chau-Duong, Public Affairs, Southern Nevada Water Authority
Tammi Davis, Treasurer, Washoe County; and representing Association of County Treasurers of Nevada
Connor Cain, representing Nevada Bankers Association

Chair Flores:

[Roll was taken. Committee rules were explained.] We are going to take the agenda in the order it appears. I am going to open the hearing on Assembly Bill 136.

**Assembly Bill 136: Makes various changes relating to public construction.
(BDR 28-145)**

Assemblyman Jason Frierson, Assembly District No. 8:

Good morning to the Assembly Committee on Government Affairs. I have before you Assembly Bill 136, and I thank you all for your time and attention as we go through this bill.

As some of you will recall, in 2015 there were many measures passed regarding public construction and the application of prevailing wages. Those bills sought to weaken the law with respect to prevailing wages with the goal of realizing some short-term benefits; however, I believe that in doing so we accomplished more harm than good. We undermined Nevada's workforce, and while we were trying to achieve short-term gains, I believe that we also raised long-term costs by lowering the quality of public construction. The bill reverses many of those changes from 2015 and attempts to return the law to its pre-2015 status. I have to say, I believe that in strengthening these laws our state will benefit in a number of ways in providing assurances regarding construction of government buildings. By requiring payment of prevailing wages on public projects, we not only support our local labor force by providing competitive wages, but we also attract the most qualified workers. When it comes to public work projects, especially schools, we want buildings that are safe and will last a long time with minimal maintenance and repairs. In order to do this you have to hire the most highly qualified workers.

Public works projects paying prevailing wages attract local, experienced construction workers who deliver high-quality work on time and on budget. Prevailing wage laws allow for more competition among contractors for construction projects, and this ensures projects will end up with more highly skilled workers and a better product in the end. Of course, that is what we all hope to achieve, particularly in the buildings where our public are appearing in high numbers, we want to make sure those are the places that we take every measure we can to make sure that they are safe and that they are safe for a long time, and we do not have to come back either to deal with it when it gets off schedule or to make repairs.

I want to provide a brief overview, and then I am going to invite some folks who know this stuff far better than I to go into detail. I will hang out for a little bit, but with your indulgence I will finish my comments and hand it off to some experts and go about my way. I am happy to answer any questions afterwards.

Overall, this bill makes a few changes to existing law. Number one, it removes the requirement to pay wages at 90 percent for projects constructed by school districts and the Nevada System of Higher Education. It lowers the threshold at which the prevailing wage law applies from \$250,000 to \$100,000. It eliminates the language prescribing the manner in which the Labor Commissioner must determine the prevailing wage if the wages are the same for more than 50 percent of the total hours worked. It subjects charter schools to the same prevailing wage requirements as other public construction projects.

I want to be very clear because I know there have been some concerns with respect to fiscal notes—this bill does not go into effect until July 1, 2019, so it does not impact current projects, including contracts awarded for construction between now and July 2019. With that, I also want to say, before I hand it off to some folks who will be going through this in detail, I am aware of some concerns—I have been approached with some concerns about the threshold number going from \$250,000 to \$100,000, and also about the notion that only certain schools are subject to this and others should not be. My interest in being a policymaker here is to have fruitful conversations and be open to constructive directions we can go in to make any piece of legislation better. I have yet to see how their proposals make it better. I have yet to see why certain schools should be constructed more soundly and others should not.

I think as we talk about choices in Clark County in particular, but in Nevada as a state—we talk about choices and we talk about making sure every family and every child has access to the same quality opportunities. I do not know why one building should be constructed with fewer assurances of quality and long-term maintenance than another. While I am open, I am looking forward to an explanation as to why there should not be that same assurance with respect to those projects.

With that, I would like to introduce John Wiles of the United Construction Industry Council who is going to go through the bill piece by piece, and also Dr. Jeffery Waddoups from the University of Nevada, Las Vegas, who is a professor of economics, to talk about it as well. I am tremendously thankful for these gentlemen being here to help answer questions and go through the meat of this proposed legislation. While I am still here, I am happy to answer questions about intent, and I am certainly happy to hear from stakeholders about ways to improve this proposed legislation. With your permission, Mr. Chair, I would like Mr. Wiles to go through the meat of the bill, and Dr. Waddoups as well.

John Wiles, Director, Unified Construction Industry Council:

I am director of the Unified Construction Industry Council. That is a labor management cooperation commission composed of trade associations that have collective bargaining agreements (CBA) with the southern Nevada building trades unions. They include the Mechanical Contractors Association of Las Vegas, the National Electrical Contractors Association, the Western Wall and Ceiling Contractors Association, and the Painting and Decorating Contractors of America. Collectively we have come together to advocate for the interests of working men and women in this state. I had intended to go through the bill as Assemblyman Frierson mentioned, and I will certainly do that, but I do not know what space he left me because he really summarized it very well. If, Mr. Chair, you would like, I can go through it, or I can refer you to Dr. Waddoups who, in anticipation of this debate we are having today about what to do with prevailing wages and how to handle them and what to do in the aftermath of Assembly Bill 172 of the 78th Session, commissioned this study ([Exhibit C](#)) so you would have data-driven answers and not opinions. He is here today to discuss that, so let me know how you would like to proceed.

Chair Flores:

I am comfortable with whatever you prefer. I have no preference. Either route works.

John Wiles:

In that case I would like to refer to Jeff Waddoups at this point in time so that he can go through the results of his study for you.

Jeff Waddoups, Private Citizen, Las Vegas, Nevada:

I am a professor at University of Nevada, Las Vegas (UNLV), but I do not represent UNLV today, I want to make that clear. I am working with one of my partners who is also an expert in labor economics and who has published a lot of work on labor economics, and in particular the economics of the construction industry. That is where we are coming from.

We were asked to study this issue; we were asked to estimate the impact of A.B. 172 of the 78th Session, which reduced prevailing wage rates for school construction to 90 percent of the standard rate and increased the coverage threshold from \$100,000 to \$250,000. To do this, we estimated the impact of prevailing wages on construction costs using data from 2013 to 2017. Using received methods that exist in the peer-reviewed literature, we found that there was no statistically significant impact of prevailing wages on construction costs. What this suggests to us is that A.B. 172 of the 78th Session did not deliver on its promise to lower construction costs on schools. Now, this was not surprising to us because these findings are consistent with the results of most of the other peer-reviewed studies that look at how prevailing wages impact construction costs. In fact, my coauthor, Dr. Kevin Duncan, did a comprehensive review of the literature on prevailing wages. According to his findings, 83 percent of peer-reviewed studies show no impact of prevailing wages on school construction costs. If there is no impact, then our findings are also consistent with the assertion that reducing the threshold from \$250,000 to \$100,000 will also not raise costs.

Another thing we found was that there was an unintended consequence of A.B. 172 of the 78th Session, and that unintended consequence was to undermine the training system that produces our skilled construction workers. What we found is that signatory contractors were substantially less likely to pursue construction on schools after A.B. 172 of the 78th Session. For example, in roofing and asphalt we found that the market share was down 41 percent for signatory contractors between 2013 and 2017. What that means is that there were fewer apprentices working on Nevada's schools learning how to become skilled construction workers that our state needs.

In the way of a definition, joint apprenticeship programs are programs operated by a cooperative agreement between a group of contractors and a trade union, whereas unilateral programs are apprenticeship programs operated generally through a trade association without a trade union's cooperation. We found there is a very big difference in the joint programs versus unilateral programs. Joint programs train workers in a wide range of skills—by my count there were 24 apprenticeship programs. The unilateral programs are only confined to electrical and plumbing. Joint programs registered 91.5 percent of apprentices in the past 17 years in Nevada. A vast majority of apprentices come through joint programs.

Joint programs trained 92.4 percent of journey workers in the past 17 years. Also, joint programs contribute to diversity. Joint programs trained 2,604 Hispanic apprentices over that 17-year period versus 117 in the unilateral programs; 517 African-American journey workers were trained versus 36 on the unilateral side; 317 women were trained as journey workers on the joint side, only 12 on the unilateral side; 530 veterans versus 36 who graduated from unilateral programs. What you see is that the joint programs contribute to diversity in our construction sector. Again, A.B. 172 of the 78th Session was found not to reduce costs according to our evidence, and it had the unintended consequence of undermining training just when we need training the most based on the aging of the construction workforce—no offense to the people in the audience. We need to train up a new generation of highly skilled workers. We do not need to be putting up obstacles to that.

Chair Flores:

I think you may have put yourself in some deep water with those statements. I do not know if there were any additional remarks you would like to make now, or whether you are ready to open it up to questions?

John Wiles:

If you want to proceed with questions, that is fine with us.

Assemblyman Hafen:

I do appreciate your bringing this bill forward today. There are parts of the bill I agree with and there are parts of your presentation and this bill that I am going to have to respectfully disagree on. I would like to touch on the portions that I agree with. I think that everyone agrees that every kid and every student deserves a quality education. Therefore, I look forward to hearing about our Opportunity Scholarships [Nevada Educational Choice Scholarship Program] and our education savings accounts in future hearings. I agree that our schools should be built to a high quality and a high standard. It preserves the integrity of our institutions.

I am going to ask a couple of questions on portions I disagree with: I disagree that it was in 2015 that going to \$250,000 was for short-term goals and gains. If you look at when the \$100,000 threshold was put into place, that was 1985. If you do a simple consumer price index (CPI) increase, it brings it to \$250,000 in today's dollars. All we did was take the same projects in 1985 and say, Hey, we want to continue to do the same projects.

My biggest concern with the language is the effects on the rural communities. I am sure you have seen the fiscal notes and the comments that have been received from the rural counties and the rural school districts. The concern is that it is going to increase the projects somewhere between—I think the low end was 10 percent and the high end was 40 percent. Some of the numbers came back in the millions of dollars range. As most people know, I represent a large portion of the rural districts, including Clark County. I know that I have mentioned that I hope that we could have an amendment to this bill to carve out the rural counties from this language. I do not know if you would be amenable to that.

I guess most of it is just a statement unless you would like to consider my friendly amendment.

Assemblyman Frierson:

I will say this before I digress into the actual bill—one of the dangers of venturing outside of the parameters of a bill or the Committee is you have some landmines you do not realize you are walking into. So if we want to talk about the CPI from 1985, I would welcome a conversation about other things like minimum wage and thresholds for criminal penalties. That is not what we are here for. What we are here for today is this bill. While I understand there may be some concerns about the rural counties, what I did not hear—aside from I would welcome an opportunity to consider amendments before the hearing—what I did not hear was any data to counter what was presented about the failure to achieve gains. What we have, whether it is rural or urban, is statistical information about the goals the measure in 2015 sought to accomplish which were not achieved. Not only were they not achieved, but we saw significant steps backwards in other areas that are important, like our apprenticeship programs and the diversity that we welcome.

I was not going to respond about our aging workforce, but here in the Legislature we have to also bring up new legislators. I did not start out here with gray hair, and we only have a short amount of time; I think we have a responsibility to make sure that we are allowing those industries to flourish and bring up new folks—bring up new folks with the proper supervision so that we have quality products, but we are also creating expansion in the workforce. I have seen nothing that would suggest that we should carve out any particular part of the state. I have not seen any benefit to that presented, but I would certainly welcome a conversation about any policies that make this proposed measure better.

Assemblyman Ellison:

Thank you for the presentation. In some of the rural areas you talk about there is not really a difference—the problem is the workforce. It is not about getting larger union projects because when they do have larger projects, they do show up. We are talking about maintenance—a lot of this stuff is maintenance. Look at the Nevada League of Cities and Municipalities brief that they put out ([Exhibit D](#)), and all of the projects under \$250,000. In these larger cities you have a larger workforce you can go to. I mean there are licensed contractors out in these smaller communities, but a lot of people will not travel that far for a \$120,000 project or whatever, and it is a maintenance project, not a construction project.

If you look at this list ([Exhibit D](#)), it goes down through the City of Las Vegas—I hope you guys have seen this, I do not know if it is on Nevada Electronic Legislative Information System (NELIS) or not—but when you get down to Sparks, I see no project over \$250,000 in Sparks. I see in the City of Henderson there was nothing over \$250,000. When you get to the City of Elko they had one, which was a water air gap system, a union project. They came in and did that for \$710,000. Most of these are \$120,000, \$170,000, \$180,000, \$140,000. What I am saying is, it is harder to get the workforce out there on these smaller projects; these are not construction projects, these are maintenance projects. These are changing some air conditioners, some busted lines, or whatever. I do agree that this fix will not fix all.

I mean, like Winnemucca, Ely, Eureka—we cannot even get contractors out there to do maintenance like change a light switch or faucet or whatever. On these small school projects, anything under \$100,000 was usually never heard of, but anything from \$100,000 to \$200,000 makes a heck of a difference on getting workforce down to these areas.

I really appreciate the Nevada League of Cities and Municipalities. They did a great job on this briefing. I do understand the \$250,000—I agree. I mean these projects—they have got the workforce, they have got good skilled labor, they have got great equipment, I do not ever belittle that. But on some of these things that are maintenance projects like changing out a couple of air conditioners, it might be \$105,000 or something, and it is hard to get people down there in these areas to do those kind of projects. Thank you for allowing me to speak.

Assemblyman Frierson:

I appreciate that perspective. I would be interested in any contrast between the pre-2015 ability to get work done and the post-2015 ability to get work done, but again I will defer to some experts on responding to the technical aspects of that throughout the state.

John Wiles:

We have a number of members in various trades, and they travel often all over the country to meet the demands of work. When we experience a downturn here—we have travelers if you will—we do maintenance work. We believe we have the workforce that is readily available; I cannot speak to whether or not the contractors come out there. I will let the contractors speak for themselves. We believe we have the workforce, we have people who want to go to work and would, I think, enjoy a visit to the rural counties—I certainly do.

Assemblywoman Hardy:

I just wanted to talk a little bit about the projects that this would affect. Do you have numbers about how many projects are under the \$250,000 threshold? How many are under the \$100,000? Do you have any information about what percentage of those would be affected with the change?

John Wiles:

No, I do not.

Assemblywoman Hardy:

Would there be a way that you could get those numbers to us?

John Wiles:

I believe that the public entities would be the best source for that information. They should have a listing of their projects they should be able to provide to the Committee. We would certainly welcome reviewing it.

Assemblyman Frierson:

I do think it is incumbent upon the Nevada League of Cities and Municipalities to include that information to justify their position on that. I would look to them to identify

projects that they believe were impacted between 2015 and now, what the status was before 2015—because we were certainly constructing and maintaining prior to 2015—and being able to look at any damage that they perceive, not anecdotally but actual projects that they perceive would have been impacted by this.

Assemblyman Leavitt:

I appreciate your coming forward and trying to fix this issue. I think we all believe that there is an issue with prevailing wage and how it is operating and the costs that are associated with building schools and various other projects of that nature. My first question is, do you believe that this is a permanent fix to this situation? Is this a Band-Aid? Is this something that we are going to continue to work towards in the future? I think there are a lot of issues with prevailing wage that we need to look at, and this report ([Exhibit D](#)), I read it, and it is really comprehensive and a great report. The unintended consequences of the previous legislation were not foreseen—apprenticeship programs, that was not foreseen—the fact that people would walk away from jobs and then another company would have to take over and we would have to pay more money—that was an unintended consequence. I want your perspective on whether this is a permanent fix or not, because I do not see it. I see it as maybe solving some of the problems that you have seen in the interim while we were under this current legislation. I do not know that we are any better off either way. That is where I am coming from.

Assemblyman Frierson:

I would say that if there were ever a permanent fix, we would not have to keep coming back to the Legislature. We come back every two years to make adjustments. I certainly believe that the 2015 fix was almost by definition a Band-Aid to accomplish a very narrow purpose. I certainly think that this is a much longer-term solution to some of our challenges. Essentially, what we have is a piece of legislation from 2015 that proposed to have an impact on the industry that four years later has not happened. That was an attempt to fix something in a way that was never achieved. Prevailing wage is not new. This has been around since 1866. I think there is a track record of providing competitive wages and we see now evidence of expanded apprenticeships and diversifying the workforce that were hurt by the 2015 legislation. While I do not think anything we do here is a permanent fix, I certainly think that this is more long-term than the efforts from 2015 that did not accomplish their goals.

Assemblyman Leavitt:

I would agree with that statement. I hope that we can work towards a more permanent solution in regards to prevailing wage and extend it beyond just this narrow scope that we are looking at here. One thing that I did have a little issue with was the charter school portion. As charter schools are not built with public money, they are built with private money, how do you reconcile that with the bidding process and the workforce in that area?

Assemblyman Frierson:

While not all charter schools are built with public money, they use public money and we have a responsibility to make sure that anyone who is getting public dollars is held to similar

standards. If a building is built, and it is not built with public money but it is using public money to operate, I believe that they should have a similar amount of accountability with respect to operations and with respect to making sure that people who are in those buildings, who are members of the public, are just as safe as those in the publicly constructed buildings.

Assemblyman Leavitt:

Are you saying these schools are built better simply because of the wage that we are paying the workers? I find that a little hard to believe, that because we are not paying a prevailing wage to a worker, the school is somehow built insufficiently. Is that really what you mean, or am I misunderstanding it?

Assemblyman Frierson:

That is absolutely what I mean. In no uncertain terms, I believe that projects built with prevailing wage are consistently better, better constructed, and require less maintenance in the long term. I believe that to be the case.

Assemblyman Leavitt:

Do we have data to support that?

Assemblyman Frierson:

We have several people here to testify to that.

Assemblyman Hafen:

Mr. Speaker, your comments on the private businesses receiving public funds—it slightly concerns me because one of the businesses that my family owns and operates is a commercial building and we actually lease space to the federal government. My uncle happened to build the building and did a lot of the work for us and gave us a family discount, and I respectfully disagree. I think he did an excellent job building the building—and I appreciate the family discount. Are you suggesting that all buildings leased to government entities should be built with prevailing wages and not necessarily receive a family discount?

Assemblyman Frierson:

I think that that is a complete stretch of what I said. I think that is absolutely not what we are talking about, and I also think your example is a problem. Your analogy of a family discount is the problem. We do not have that benefit statewide to allow for hookups and connections to do projects cheaper. We have services that are being provided for members of the public and there has to be a way statewide to make sure that folks who work on those projects are paid fairly and that there are standards put in place that are consistent throughout the state in buildings that members of our public are going to be in.

I understand your concern and I know that not every county in Nevada is the same; we have to pass legislation for the entire state. Again, I believe that this study showed that the impact of the 2015 legislation not only did not accomplish the goals that they set forth to accomplish, but hurt other areas. We are simply trying to go back to a more robust

apprenticeship community, a more diverse construction community, and an assurance that we have fair wages in our projects that involve the public.

Chair Flores:

With that, thank you, members, for your questions, and thank you, Mr. Speaker, for ensuring that we move away from the idea that we have some people who are winning through hookups and that we are addressing the state in general and helping everybody. With that, I am going to ask everybody to step back please, and I am going to invite those wishing to speak in support of A.B. 136 to please come up.

Mandi Wilkins, Executive Vice President, Mechanical Contractors Association of Las Vegas; and representing Sheet Metal and Air Conditioning Contractors National Association of Southern Nevada:

As the only female sitting in this room today down here, I would like to give a nod of celebration to my female counterparts in the north in recognition of International Women's Day. Celebrate us today. Aside from that, I would like to thank you for the opportunity to appear before you in support of Assembly Bill 136.

In short, I represent contractors. You heard testimony from Speaker Frierson today talking about the importance of returning the prevailing wage back to its status prior to 2015, and he talked a lot about the consequences for the workforce. I am actually here today to talk about that intermediary, which is the contractors, who employ that workforce. The contractors who I represent are union contractors and they are signatory to the UA Local 525 Plumbers, Pipefitters, and Service Technicians and the Sheet Metal Workers International Association Local Union No. 88; these contractors are thereby bound through collective bargaining agreements negotiated with these respective unions. Also in my capacity as executive vice president for the Mechanical Contractors Association of Las Vegas, I serve as the head management trustee on the joint apprenticeship training committees set up to train the workers and the future workers in these trades.

I guess the best way to describe prevailing wage is that it is a minimum wage for construction workers employed on a public work. Both the federal and Nevada prevailing wage laws were adopted in the 1930s. The primary purpose of which—if you did have the opportunity to read the study and any other literature on the subject of prevailing wage—is to protect local compensation standards from competition by nonlocal or low-wage contractors who are attracted to areas with large government projects. The bottom line is that prevailing wage laws create a level playing field allowing all contractors to compete while maintaining these local compensation standards. Another reason this is important, from the government's perspective, is in order for a government-funded public work to attract the highest quality of worker, it must be prepared to pay the worker the same or a very similar wage that the worker can command on a private work project in the same geographic area. Otherwise, there is no incentive for the worker to provide his or her knowledge and skillset of his or her trade to the public work project.

While I believe Assembly Bill 172 of the 78th Session was born of good intentions—it aimed to reduce the overall construction costs and stimulate increased competition for school and university construction—I am here to tell you that I also believe it was cloaked in whimsical assumptions and opposed to meaningful data because here we are, four years later, and these assumptions are not the evidence found in the wake of its passage.

Here is what we know: We know that labor costs are actually a low percentage of total cost of construction in the industry. In Nevada the average construction project's labor cost is 22 percent of the total cost of construction. We also know that construction efficiency and productivity actually increase with the introduction of a minimum wage in the construction industry because contractors make productivity-enhancing adjustments when confronted with higher wage rates. We know that the passage of A.B. 172 of the 78th Session, as alluded to by Mr. Waddoups, has actually decreased bidder competition. I can sit here before you today and attest that reducing the prevailing wage has succeeded in reducing bid competition, specifically bid competition offered by the unionized industry.

Today I only have one mechanical contractor that continues to bid on school and university projects. Assembly Bill 172 of the 78th Session has left a plethora of union contractors, skilled union labor, and apprentices who are trying to learn the trade sitting on the sidelines. As you know, because I mentioned it earlier, these union contractors have prescribed wage and benefit packages negotiated and outlined in their collective bargaining agreements. In order to accommodate a law like A.B. 172 of the 78th Session, union contractors must ask for concessions from the union either through a reduction in wages and benefits—and that is of course assuming that a union worker is actually willing to work for less, that they are not already gainfully employed on a full-scale prevailing wage project or a private project—or the contractor must accept a lower profit margin. Just to add some dimension to this conversation, a contractor's profit margin is typically less than 5 percent. If you add a 10 percent reduction on top of the already challenging competitive business practices, this really eliminates the ability to compete.

Depending on where union contractors find themselves on any given year in relation to the Labor Commissioner's prevailing wage survey, the wages and benefits in a collective bargaining agreement may already be greater than the established prevailing wage rate. If you add this mandated discount on top, it becomes an impossibility for union contractors to compete with nonlocal or low-bid contractors not obligated by a collective bargaining agreement.

Let us talk a little bit about this world that we really do not talk about when we are discussing prevailing wage—the world of fabrication shops. This bill does not address anything about fabrication shops; I am just adding another piece to the puzzle for you. When we talk about fabrication shops and the challenges with that, a union contractor really slips even further into the abyss. Allow me to explain: My union contractors have invested millions of dollars into equipment that enables them to produce products for construction projects in a controlled environment. These, simply put, are known as fabrication shops.

Under current law, work performed in a fabrication shop for a public work is not subject to the prevailing wage. This means that a prevailing wage does not have to be paid to a fabrication shop, yet a union contractor is obliged to pay CBA rates to its workers in a fabrication shop, while the nonlocal or low-bid contractors can pay their fabrication shop workers any way that they see fit because they are under no obligation to pay them at least the prevailing wage.

This further compounds the union contractor's competitive disadvantage so they simply do not bid. This is bad news for both the Nevada System of Higher Education and the school districts because a whole population of bidders has been eliminated. That is what A.B. 172 of the 78th Session has done, it has eliminated a whole population of bidders—a population, mind you, that possesses a highly skilled workforce, and a population that has invested millions of dollars to train that workforce. The bidders left standing are not being forced to sharpen their pencils to win these jobs competitively.

In closing, the Mechanical Contractors Association of Las Vegas and the Sheet Metal and Air Conditioning Contractors National Association of Southern Nevada extend their gratitude to the Speaker for sponsoring A.B. 136. This is a very important piece of legislation to my contractors. We look forward to bringing competition and quality back to school and university construction projects.

Chair Flores:

We will come back to Carson City now. I would like to remind you that if she stated points that you intended to hit, we respect and appreciate a "Me too." There is no need to repeat the same points.

Danny Thompson, representing International Union of Operating Engineers, Local Union No. 3; and International Union of Operating Engineers, Local Union No. 12:

Unfortunately, when Dr. Waddoups talked about the old guys in the room, he was talking about me. I want to give you a little history lesson here. In a former life, I served five terms in this body. In fact, this is my fortieth year here in this building. In 1985, I was in my third term as a state assemblyman. In those days there were only 40 Assembly members; because of reapportionment you have grown to 42, but then there were 40 Assemblymen and 20 Senators. In the 1982 election and the 1983 Session, the Democrats controlled the Assembly overwhelmingly. In the 1984 election, the Republicans took control of the chamber significantly. It was like 28 to 12.

One of the first bills introduced was a bill to eliminate the prevailing wage. When that bill came forward, the chairman agreed to hold hearings statewide. In those days there was no Internet. You could not videoconference to Las Vegas, so we held a hearing in southern Nevada, in Reno, and in rural Nevada. As I recall, the meeting in rural Nevada was in Winnemucca and 1,000 people showed up to testify against that bill, and they were workers. That year, the federal prevailing wage threshold was set at \$2,000 and the prevailing wage in Nevada was \$2,000. The response was so overwhelming from the public that the chairman

of the committee was trying to find a compromise on the bill. This \$100,000 threshold was literally pulled out of the air. There was nothing magic about that. And the \$100,000 stayed in the law until A.B. 172 of the 78th Session came into play. I would just tell you all today that the federal prevailing wage threshold is \$2,000.

I think the significant thing for me looking back at what happened with A.B. 172 of the 78th Session—and I think Ms. Wilkins said it very succinctly and there is no need to repeat it—is that it did more to harm these training programs because all of these different organizations, these different unions, have the best training programs in America. In many ways these training programs are better than the schools we have for our children because they take in these kids who may or may not know math. The most important thing today if you want to be a skilled tradesman is, you have to know math because if there is a pipe coming out of the wall over there and a pipe coming out of the wall over here and you have to hook them together, you have to be able to calculate with a pencil and piece of paper how to hook those two pieces of pipe together. It is that complicated. They take these kids and start them back at one plus one and then do on-the-job training. This bill and this provision which was sold to the Legislature—that it would be this big cost-savings—actually had a negative effect on training.

If you are a skilled tradesman who went to school for four years—because these are four-year programs, and in the case of International Brotherhood of Electrical Workers, it is a five-year program—these people have to go to school during the week and work on the job for five years in order to get their certification. You are not going to go to work for 90 percent of your wage. If you are an attorney or you are a doctor, and somebody offers you a 90 percent or a 100 percent job, you are not going to go to the 90 percent job; that is just the way it is. On behalf of the Operating Engineers, we support this change and urge you all to vote in favor.

Al D. Davis, Business Manager and Financial Secretary, International Brotherhood Electrical Workers, Local 357:

I represent over 4,000 skilled craftsman and their families. I am a graduate of the Electrical Joint Apprenticeship and Training Committee for Southern Nevada. I also have been a trustee for the last 18 years on that committee and represent 400 indentured apprentices learning this trade.

There are three major points here as a leader in this industry. The first is that we do provide diversity and that has been damaged by A.B. 172 of the 78th Session. The second thing is that my apprenticeship has been damaged and that means the skilled workers who we need for the future of this state have been damaged. The last thing is exactly what Ms. Wilkins said, we have lost bidders to these projects; when you lose bidders, it does not matter if they are union or nonunion, you lose competition. I agree with everything that has been said today.

Paul McKenzie, Secretary-Treasurer, Building and Construction Trades Council of Northern Nevada:

In the interest of time, I have a number of affiliates behind me here who, rather than have them come to the dais to testify, I would ask that they raise their hands to show support for this legislation. Speaking on their behalf, I would like to thank Speaker Frierson for bringing this bill. We believe that the study ([Exhibit C](#)) testifies to the damage that was done in the 2015 Session by changing the prevailing wage laws. There has been a lot of discussion here about the particulars of this bill that they do not think they should apply. We can argue those all day, and we are going to have differences of opinion about, for example, the limit or whether charter schools should be built using prevailing wage. Those are different opinions that probably the person who holds that opposite opinion of me right now I probably cannot convince to change their mind.

We support the legislation. We believe it is beneficial to helping us get more bidders on school construction. I sat on Washoe County's Local Government Oversight Committee for four years as a Reno city councilman, and I watched the cost of construction escalate almost 300 percent on schools. One of the main reasons was because we did not have competition of bidders. We just bid an elementary school in Washoe County; we had one bidder on that school and that bid came in almost \$10,000,000 over the engineer's estimate because there was one bidder. He does not have a reason to sharpen his pencil. This has done more damage than good because it has reduced competition for work, and I believe that is throughout the state and not just in the metropolitan areas.

Chair Flores:

For the sake of clarity, when Mr. McKenzie asked members to raise their hands, there were approximately 11 stakeholders, industry leaders, and union representatives who raised their hands in support of this bill.

William Stanley, Executive Secretary-Treasurer, Southern Nevada Building Trades Unions:

For the sake of time, I support this legislation. I appreciate Speaker Frierson's bringing the legislation forward. I agree with the study that was performed by Dr. Waddoups and Dr. Duncan ([Exhibit C](#)). I appreciate the work they did. The Southern Nevada Building Trades Unions support this legislation.

Assemblywoman Bilbray-Axelrod:

You or any of the gentlemen at the dais can answer this. I know some of my colleagues have brought up the fact that people are not bidding on these projects. Is there anything in this bill that would prevent them from going over a prevailing wage because that would probably help as well, right? I mean, if they are not getting people to bid on their project, maybe they need to be paying more in general.

William Stanley:

In our current construction environment, we see an escalation in wages, because contractors start a competitive process for journeyman workers. We have seen that in some of the

exhibits that were submitted for this ([Exhibit C](#)), specifically Washoe County School District—they talk about how the competition for skilled craft workers has already driven up the cost of school construction in Washoe County because folks are demanding more than the prevailing wage rate. Contractors do that regularly. In 2006, 2007, and 2008 in southern Nevada, where construction was having its biggest boom cycle known to mankind, with the construction of CityCenter and that sort of thing, construction workers regularly made more than what was the negotiated rate either in their collective bargaining agreement or in the prevailing wage rate. That is just market demand for labor. With school construction specifically, the prevailing wage is, as Ms. Wilkins said down south, the minimum wage. We believe having contractors compete on their skills and not on their ability to lower construction wages is a better approach. I hope that answered your question.

Rusty McAllister, Executive Secretary-Treasurer, Nevada State AFL-CIO:

In the interest of time, I would also echo the other experts who have gotten up before me and supported this legislation. It is a great effort to correct some of the issues and damage that was done during the 2015 legislation. With that, I would be happy to support this legislation.

Nick Vassiliadis, representing Southwest Regional Council of Carpenters:

Like my labor brothers and sisters, I am here to say ditto. We think this is a great piece of legislation and it undoes some of the damage that was done in 2015.

Tom Pfundstein, representing Painting and Decorating Contractors of America Nevada Council:

We represent 75 contractors who do framing, drywall, painting, and plastering. I have had enormous numbers of conversations with our contractors as far as getting them back to the table and bidding these works. I can assure you that our contractors are ready to come back and bid this work, but they need to come back and do it at a competent wage and get everybody back even again.

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

I will just say, in the interest of time, I feel the same way that everybody else does who has presented this morning.

Chair Flores:

Is there anyone else in Las Vegas who wishes to speak in support? [There was no one.] I do not see anyone else wishing to speak in support in Carson City although, again, I will acknowledge that there was a whole host of individuals who raised their hands in support of this bill.

I would like to invite those wishing to speak in opposition. I will echo the comments I made to those who testified in support: If the first speaker addresses your issues, a "me, too" is more than sufficient.

Warren B. Hardy II, representing Nevada League of Cities and Municipalities:

When my now-27-year-old daughter was about in the third or fourth grade, I went to her class on employment day; I tried to explain to a group of fourth graders what a lobbyist did. One of the questions they always ask you is, How much school do you need? My answer was that my education was done when I could count to 63 and knew what a majority was. For that reason, I am not going to rehash the prevailing wage argument that we have done for many years in this Legislature.

I have to respectfully provide a counterpoint to Dr. Waddoups. I have looked at and read every study on prevailing wage probably in the last 50 years in this country, and they are very divided. There are absolutely studies that show what Dr. Waddoups says, but there are studies that show the other side. I am here to speak with regard to one portion of this bill, and it relates to the threshold.

I want to bring the Committee's attention to 2015 when this bill passed for the members who were not here. I just want to give a brief reminder of history. The Legislature in 2015, at the very beginning of the session, passed legislation that completely exempted public school construction from the payment of prevailing wage. That went into law, was signed by the Governor, and was in effect for a number of weeks. Subsequently the Legislature came back, undid that legislation, and did *Nevada Revised Statutes* Chapter 338, which appears before you now. In the interim of that, between the time that the legislation exempting schools was passed and then repealed, K.O. Knudson Middle School put out a project and bid it under nonprevailing wage. It came back; the winning bid on that was \$2.7 million. Subsequently, the Legislature changed the public policy, so they went back and redid the bid under prevailing wage and the winning bid came back at \$3.3 million.

I am not here to argue the bill. I do not disagree that the policy ought to be consistent across the state. I appreciate Speaker Frierson's bringing this forward. But I would like to say a word on behalf of local governments and the threshold. The threshold is something that is established in law; it is in a lot of areas of law. It is pretty well established as a mechanism in statute. In fact, in most sessions we deal at some level with thresholds. We are dealing with this bill this session. We are dealing with Senate Bill 245 that deals with the threshold for tort awards for local governments. I am just going to suggest that this Committee consider the concept of taking all of these thresholds that are in statute and indexing them to inflation or some other reasonable standard so that the Legislature does not need to come back every session and deal with the threshold. I think that is a way to deal with this that is fair, that raises the rate in a way that is somewhat in concert with what is happening in the economy.

With regard to the rural question, I was not really planning to speak to that—but I would just like to say one thing. This is really the crux of the problem with prevailing wage—you will notice I am not here today representing the Associated Builders and Contractors Nevada Chapter because we are not taking a position on this. We do not have an issue with this. Here is the problem as it exists in the rural counties. I am just going to use an example of three of my clients. The City of Mesquite, the Moapa Valley Water District, and the Virgin Valley Water District all reside in Clark County; therefore, they are subject to

the Clark County prevailing wage, regardless of how it is calculated, regardless of how it is determined, regardless of what it is. Those communities pay the prevailing wage that exists in Las Vegas because that is where the wage is determined. Now, if any of you have ever been to Moapa Valley, Virgin Valley, or Mesquite, I am going to submit to you that it is a very different labor market; it is a very different economy. The rates that prevail in Las Vegas, Nevada, are very different than the rates that prevail in Mesquite, Logandale, or Overton. In addition to that, the way the prevailing wage is set up, other rural counties, if they do not establish a prevailing wage within their rate, the law requires them to go to the next county. Anybody that surrounds Clark County, anybody that surrounds Washoe County, is impacted by the dilemma I am talking to you about today.

I have another piece of legislation, if the Chair will permit me to briefly address it. Senator Hardy has introduced Senate Bill 243 which attempts to deal with this, and hopefully you will have a chance to look at this as it goes forward. That is really the issue that drives a lot of the concerns of local governments and small cities regarding this. I would simply request that you consider indexing this to something that makes sense, so we do not have to deal with it. I do want to mention the document that has been spoken about that the Nevada League of Cities and Municipalities provided ([Exhibit D](#)), that is simply a list of projects that we have done that are between \$100,000 and \$250,000, that was simply in anticipation of a question from the Committee about what projects are impacted by this.

Assemblyman Hafen:

I agree with everything you said. I appreciate your testimony today. You mentioned fairness across the state; I really appreciate that because I am going to ask you this question. I appreciate your comment about counties that are adjacent to Clark County because that would be my district. There is also an add zone rate, which is sometimes as high as \$10 per hour in addition to the prevailing wage, and a lot of it is based on mileage from the city hall of Las Vegas. This one specifically is 56 miles, which basically everywhere in my district would fall into that category. Could you explain the add zone rate, how that works, and how it is determined?

Warren Hardy:

No. I am going to have to ask one of my friends in labor. I have never really understood that. I would be happy to yield my chair if somebody from labor can answer Assemblyman Hafen's question.

Chair Flores:

As we move through the opposition, if somebody has a response to that, that would be appropriate. But we do have another question.

Assemblywoman Hardy:

Thank you, Mr. Hardy, for providing some of the background information to some of us freshman legislators who are trying to get a handle on this whole prevailing wage issue. During the presentation of the bill they were talking in regards to schools and they said that

using union work leads to lower maintenance costs overall. Do you have any information about that? Do you find that to be true?

Warren Hardy:

I do have information on that. I did not intend to bring any of that forward. I will simply say that things like safety and quality of work generally have more to do with the size of the company than whether they are union or nonunion. With respect, many times it is the same worker who may be working on a construction project, let us just say at the 7-Eleven in the morning, and then in the afternoon will shift to a public works project. It is the same individual, the same tool belt, the same truck. He is just going from one project to another to receive a higher rate for the same set of skills, frankly.

You know, now I am switching hats a little bit because it is sort of a construction-related question. The Associated Builders and Contractors Nevada Chapter are not here because we do not oppose prevailing wage. We think there should be a fair living wage that should be paid to folks, commensurate with the work, time, and education they have put in. As my friend Danny Thompson suggested, it is a commitment of time to become educated, but there are things within the prevailing wage that we think could be fairer for the taxpayer, fairer for the worker, but there is information—again, it is sort of all over the board. I hesitate to say this: I do not know if the professor was an economist, but in my experience, if you ask two economists a question, you will get four different answers. There is data to show that it is related to other factors.

Assemblyman Ellison:

I did not know if you were coming up with the Associated Builders and Contractors or with the Nevada League of Cities and Municipalities, so I apologize, but I did read this report from the Nevada League of Cities and Municipalities ([Exhibit D](#)). One thing that got me was the prevailing wage threshold right now is \$250,000, and this bill would change it to \$100,000. If you look at most of these that are below \$250,000, they are not construction projects, they are maintenance projects. If you look at some of these, in Sparks it is resurfacing a tennis court, barrier repair inspections, generator replacement, and stuff like this. These were not large construction projects, they were maintenance projects, were they not?

Warren Hardy:

Yes, that is correct. That is why we want to provide that list, just so the Committee could get a feel for the types of projects we are talking about. Again, I have gotten side-tracked because of some questions. On behalf of the Nevada League of Cities and Municipalities, we would just like the Committee to consider the idea of indexing the threshold going forward. You are correct though, Assemblyman Ellison.

Assemblyman Ellison:

If this was prevailing wage stepped in at \$100,000, would every one of these projects be built?

Warren Hardy:

Yes, they would be constructed; they would just be done under prevailing wage. For the rural counties, I do not know enough about the issue that Assemblyman Hafen brought up to be able to speak officially on it, but that is one of the things that compounds and adds to the cost of doing local jobs. It is an even higher rate, depending on where the workers are coming from. This is a real problem for the rural counties. I think if the focus of the Legislature can be to address that issue and how this impacts the rural counties, then we may never have to talk about prevailing wage again.

Craig Madole, Chief Executive Officer, Nevada Chapter, Associated General Contractors of America, Inc.:

My opposition is specific to section 4 of the bill which would require all charter schools to pay the prevailing wage rate, regardless of the funding source for their capital improvements. As many of you are likely aware, the majority of charter schools are required to do private fundraising to improve their leased or rented facilities and to maintain or improve those facilities. It is my opinion that anything that would be privately funded in those improvement projects should continue to be exempt from the prevailing wage rates.

Brian Reeder, representing Nevada Contractors Association:

We represent about 600 members throughout the southern Nevada construction industry, including both signatory and nonsignatory companies. The Nevada Contractors Association is not opposed to prevailing wage at all. We understand and appreciate what the sponsor is trying to do with this bill. The Nevada Contractors Association supports prevailing wage and made that clear in 2015 when, on today's date, a school could bid a construction project without a prevailing wage, period—no threshold, nothing. You just could not have prevailing wage on school construction. On this date in 2015. After that bill passed, the Nevada Contractors Association worked in a bipartisan fashion with both houses to make sure to bring back prevailing wage on school construction and make sure that prevailing wage still existed in the state of Nevada. We still support prevailing wage today. The positive change we saw in 2015 was increasing that threshold to \$250,000 and that is simply because that had not changed since 1985, and the costs of pretty much everything have changed since 1985. For example, if Mr. Madole, Mr. Hardy, and I want to go see *Mary Poppins* today, it is going to cost about \$9 a ticket, whereas in 1985 it was \$3.55. Nevada Contractors Association is in support of prevailing wage, but we take the position that \$250,000 is a more appropriate threshold in 2019.

Michael Pelham, Director of Government and Community Affairs, Nevada Taxpayers Association:

We are here to oppose A.B. 136 on the grounds that the money available for maintenance and repair of state and local government facilities will decrease. As a former student of Mr. Waddoups, I respectfully disagree that the building costs will increase, and I echo Assemblyman Hafen's point of a 10 to 40 percent increase in those costs, as well as Assemblyman Ellison's point on the workforce in the rural areas.

Chair Flores:

Thank you. The professor may change your grade after that statement. Is there anyone else wishing to speak in opposition here in Carson City or in Las Vegas? [There was no one.] I would like to invite anyone speaking in the neutral position.

Shannon M. Chambers, Labor Commissioner, Department of Business and Industry:

I am here to speak in neutral on A.B. 136. We strongly support the concept of this bill. Of course, we will work with all the parties who testified here today, both those for the bill and those in opposition. I do want to clarify one particular issue. On normal maintenance, there is nothing in Assembly Bill 136 that would take out the exception for normal maintenance that already exists in the law. [Written testimony was submitted ([Exhibit E](#)).]

Chair Flores:

Is there anyone else here in Carson City who wishes to speak in the neutral position? [There was no one.] We will go to Las Vegas.

Brian Kerzetski, Vice President, Universal Plumbing and Heating Co., Las Vegas, Nevada:

We are an open-shop contractor, and we are members of the Plumbing, Heating, Cooling Contractors of Nevada (PHCC of NV) which represents open-shop and union contractors. We are also the state chapter for the national Plumbing-Heating-Cooling Contractors Association. Just a little bit of background, the Plumbing-Heating-Cooling Contractors Association was founded in 1883 and is the longest continuously running trade association in the nation. We are very proud of that. We fight for the trade and for the industry, specifically plumbers and the importance that plumbers play in construction.

We are not taking a position in opposition or in favor of this bill. We do not necessarily have an issue with prevailing wage, per se, but after reading the study ([Exhibit C](#)), I had some points that I wanted to make. One of the issues that they brought up is to set off the cost of prevailing wages would just require small changes in labor productivity. I do not necessarily disagree with this, but this suggests that we are only going to use the top skilled workers and we are going to offset some of our crew with technology. This is not necessarily a bad thing, but I see this causing—perhaps setting aside those workers who, while they are able to do quality work, maybe they just are not the best plumbers, electricians, mechanics, what have you—to meet the budget we just cannot afford to have them on. We cannot afford to pay them a premium wage. I see prevailing wage, in general, being a negative thing to that worker who is a fine plumber but just not the best.

It was mentioned that we pay more for doctors—I do not necessarily look at the price point when I go to the doctor. I want the best doctor, not necessarily because he makes the most money, but the doctor who does a good job because he wants to do a good job, just like the plumber does a good job because he wants to do a good job, and he shows that he is worth the X amount of dollars and that is fine.

Another point I would like to make is that bidding by signatory contractors has decreased, as was mentioned. The current construction market has been in a little bit of a boom lately and has increased. It is certainly possible, I would think, that the government work has to now compete with private work, and the prevailing wage possibly is not the cause of union contractors or signatory contractors not bidding on public works or school district work. The same goes with open-shop contractors. It is just possible that the thought process is, You know what? We just do not want to deal with the public entities and there is plenty of private work out there, we are going to go in that direction. I do not necessarily have anything to back that up but that is what I have seen, and I know there is work out there.

Another thing to bring up is, as the PHCC of NV, we have our own joint apprenticeship training committee, and we train our apprentices. We are glad to provide that to our members. I am not quite sure where the trouble is in the training. Since the economy has picked up, we have seen a boom in training. We have been inundated by people wanting to be plumbers. In fact, our enrollment has exploded; we had to add a new class just to handle all the people wanting to come in and be apprentices and plumbers, which is a great thing. I am having trouble seeing where the problem is or what has happened. On our end, we are seeing an influx.

The last thing I would like to say is, one of the things that was mentioned was that the quality of training is indicated by wage increases. I do not doubt that the unions have a fantastic training program. I would say that the PHCC of NV has a fantastic training program. Yes, training does warrant some wage increases, but it is not the end-all, be-all. Just because you show me that you have a diploma from Harvard, it does not necessarily mean that what you do is quality work. That needs to be shown by experience and by the work that you produce. While, yes, training is important, it is not necessarily the end-all, be-all to wages.

Chair Flores:

Pursuant to Assembly Standing Rule No. 54, it sounds to me like you are saying you do not support prevailing wage. You stated your reason as to why, so it sounds to me like you are in opposition because this bill is 100 percent pushing for prevailing wage. I think your testimony is more opposition than neutral, but thank you for your testimony. Is there anyone else wishing to speak in the neutral position? [There was no one.] Mr. McDonald, we did have somebody write a letter?

Jered McDonald, Committee Policy Analyst:

I just wanted to make note of a letter we received from the Sierra Nevada Academy Charter School. Kimberly Regan sent in a letter to the Committee ([Exhibit F](#)). That is available on NELIS for your review, and it will be added to the record.

Chair Flores:

Presenters, you may come back up with any closing remarks.

John Wiles:

Thank you very much for hearing this bill. We think it is an important bill, and we appreciate your consideration.

Jeff Waddoups:

Thank you for allowing me to present the results of my research. If you have any questions, please reach out to me.

Chair Flores:

Thank you both for the presentation. I would like to thank Speaker Frierson for bringing this bill forward. I think one of the things we have often argued in this building is that when we have a prevailing wage, it also ensures that we keep our jobs here in Nevada, that we are hiring Nevadans. We often see that when we do not have a prevailing wage, we have individuals who come from out of state. I can tell you that I would rather have my school built by my neighbor who I can look in the eyes if anything ever happens and that person would be held accountable, as opposed to an individual who comes here, builds something, and leaves. I cannot hold that person accountable. On that basis alone, prevailing wage is absolutely necessary in the state of Nevada.

[([Exhibit G](#)) was submitted but not discussed and will become part of the record.]

With that, I would like to close out the hearing on Assembly Bill 136. We have our State Treasurer coming up for a presentation. We have two bills. I want you to refrain from asking any questions pertaining to those bills. We will keep a very wide scope on the presentation, some questions as to that, and then we will move into the actual bill presentations.

Zach Conine, State Treasurer:

Good morning, Chair and members of the Committee. I would just like to thank you for inviting me to give this 57-minute presentation on the work of the Office of the State Treasurer. Following that, there is a 42-minute bond presentation and we will move into our bill presentations. I hope everyone brought lunch.

Thank you so much for being here today. I wanted to get into a brief overview of what the Office of the State Treasurer does before I get into some bills that would help us do that job a little better. On page 2 ([Exhibit H](#)) you can see a list of the statutory responsibilities of the State Treasurer. I will not go through all of them, but we do serve on the State Board of Finance. We are a member of the Executive Branch Audit Committee. Importantly, we administer and are the fiduciary for all of the different college savings plans, and in what was a surprise to my wife and me, I am apparently the administrator of the Fund for a Healthy Nevada.

As for the functional areas of the office, we oversee cash management and merchant services, debt management, investments and savings programs, college savings programs, and the unclaimed property administration functions. There are 43 individuals in the Office of

the State Treasurer, including me. They are split approximately 50 percent between Las Vegas and Carson City. On International Women's Day, I think it is worth mentioning that our chief deputy, one of our two senior deputies, and every departmental level deputy position in the office is held by an exceptional woman. In fact, exceptional women make up more than 75 percent of our staff in the Treasurer's Office, a tradition that was started back with State Treasurers Seale and Krolicki, and continued with State Treasurers Marshall, Schwartz, and luckily me.

One of our main functions is cash management and merchant services. We function as the state's general bank, including reconciliations of the state's bank transactions and accounting records. That includes 32 bank accounts over 4 banks, primarily with Wells Fargo, but we also have Washington Federal, Nevada Bank and Trust, and Nevada State Bank. We administer the state's check distribution program, including payroll, benefits, vendors, et cetera. That is hundreds of millions of dollars of checks cut, thousands a month. We also administer the state's banking relationships. We manage the state's credit card and electronic payment process. That includes about 4 million credit card transactions a year, totaling about \$800 million of revenue into the state. We oversee day-to-day budget administration processes for all Treasurer divisions within that cash management division. So if you ever pay with a credit card and that is going to the state, whether it is the Office of the Secretary of State, the Department of Motor Vehicles, or paying at a state park for entrance, that all runs through our office. We manage those contracts.

Next is debt management on page 5 ([Exhibit H](#)). We are responsible for the issuance and the maintenance of all the general obligation debts put out by the state, which currently are about \$2.2 billion. We also do the work to tell the state how much money we have every year to put out in new bonding, which is called the *General Obligation Debt Capacity and Affordability Report*. This year, for reference, that is about \$200 million of new debt. That also covers the debt services we have to pay at any given year.

Our investments division is responsible for the investment accounting activities for the State's General Portfolio, which hovers today around \$2.69 billion; the Local Government Pooled Investment Fund, \$1.27 billion; the State Permanent School Fund, \$364 million; Nevada Higher Education Prepaid Tuition Trust Fund, \$293 million; Nevada Enhanced Savings Term, \$118 million; and Nevada Capital Investment Corporation, \$50 million. We monitor and maintain those portfolios on a daily basis. For instance, since I was inaugurated, we had \$1.762 billion worth of investments made out of the office, including \$132 million since you all woke up today.

We manage the Achieving a Better Life Experience (ABLE) Act of 2014 accounts for the state. It is a program that helps individuals with disabilities save beyond the Medicaid limit, so they do not lose their benefits but can still have a better quality of life. That program was launched in Nevada after the federal law passed. It was launched here in 2017. We have a bill outstanding, [Assembly Bill 130](#) with Assemblywoman Cohen, that would allow for additional marketing of those ABLE accounts.

We manage all the college savings programs. The 529 college savings programs are all backed by the state, and Nevada has some of the largest. We have responsibility of looking at the investments in those programs, specifically the funds that they are being invested in and the managers of those monies. We make sure Nevadans have access to the best college savings programs available. We currently manage 850,000 accounts nationwide, which includes 18,656 accounts in Nevada and over \$24.5 billion worth of assets, making us the third-largest in the country.

We also manage the Nevada Higher Education Prepaid Tuition program which enables families to lock in future college tuition prices at today's rates. The program is 1 of only 11 programs nationwide. It is 142 percent funded, which makes it exceptionally solvent. We currently have 12,328 active accounts and \$293 million in college savings. Since inception, the program has paid out more than \$85 million to Nevadans attending college. We have helped about 21,041 attend college through this program.

We also have Nevada College Kick Start Program started by my friend and your current Lieutenant Governor Kate Marshall. The Treasurer's Office launched this program in 2013. It established a \$50 college savings account for all public school kindergarten children in Nevada, not using public funds but using funds that come in through our endowment partners. As of February 7, 2017, there were 172,964 student accounts in the program with more than \$10 million in college savings.

One of my favorites is the Governor Guinn Millennium Scholarship Program. The Treasurer's Office is responsible for the administration, and we believe administration includes financial security of the Millennium Scholarship. Thanks to all of your help, hopefully we are going to get a bill through that creates a permanent funding solution this time around. In its 20-year history, the Millennium Scholarship has helped just under 125,000 Nevadans attend college—it is 124,854 as of this morning.

We also manage unclaimed property for the state. The state currently holds about \$850 million, in case anyone is wondering—\$853,116,314.10 of physical, liquid, stock, and mutual fund assets in trust for the state. How unclaimed property works, for those of you who do not know, is if property becomes lost—say, a bank can no longer connect a bank account with an individual, or a safety deposit box is lost, or a payroll check is not cashed—those businesses or institutions have a responsibility to turn that property over to the state, at which point we enter it into the system and try to find the actual owner. We then hold onto that property in trust in perpetuity. In 2015 it took about 120 days for the unclaimed property division to process a claim. Currently our average is about 31 days.

A little bit on the focus of the office: We are focused on continuation of successful investment practices, working with the college savings program to increase opportunity to all communities, and we have some legislative priorities. Our legislative priorities are Senate Bill 44 which creates a permanent funding solution for the Governor Guinn Millennium Scholarship and which has passed out of the Senate Committee on Judiciary. We have Senate Bill 75 for the collection of U.S. savings bonds for unclaimed property,

which passed unanimously out of the Senate the other day and I believe is coming in front of this body in the future. We have adequate funding of marketing for the Nevada College Savings Program, which is Senate Bill 82. We have two bills which we will talk about today, Assembly Bill 34 which gives us some additional investment tools, and Assembly Bill 39 which gives us additional protection for Nevada depositories. We have our marketing for ABLE bill in Assembly Bill 130. We are helping some of your colleagues in the Assembly and the Senate with the grant procurement process, cannabis banking, increased opportunity for domestic violence victims, fresh food financing, teacher reimbursement, and various Nevada savings accounts.

Assemblyman Ellison:

One of the unclaimed casinos down there should just go to me, thought I would let you know on the record.

Assemblyman Assefa:

Thank you for the presentation. You are a good friend and a very enjoyable presenter. You did say that you manage unclaimed property. How much unclaimed property is there in the state's custody? You said you hold onto it for perpetuity. Does that mean that the state cannot utilize those forever, or is there some point at which we could tap into that?

Zach Conine:

That is a great question. We have \$853 million of outstanding unclaimed property obligation. That means at some point property has come to us and it is not yet returned to the person; we hold onto that into perpetuity. From a cash perspective every year, last year, for instance, we pulled in about \$74 million worth of unclaimed property and returned about \$42 million. After administrative costs to the office are paid and \$7.6 million statutorily goes into the Millennium Scholarship Trust Fund, the remainder goes into the State General Fund for the general welfare. Like all other states that I am aware of, we hold onto that money in perpetuity so if somebody shows up in 30 years, we can give them their money back, but we do not hold it in the bank for 30 years.

Chair Flores:

I do not believe we have any additional questions. I would like to go ahead and close out the presentation, and open the bill hearing for Assembly Bill 34.

Assembly Bill 34: Revises provisions governing the investment of money held by the State or certain political subdivisions of the State. (BDR 31-476)

Zach Conine, State Treasurer:

It is my pleasure to be here this morning to present to you Assembly Bill 34. Broadly speaking, Assembly Bill 34 adds new investment options to the State's General Portfolio, as well as the Nevada Higher Education Prepaid Tuition Trust Fund, the State Permanent School Fund, and the Local Government Pooled Investment Fund. It allows the state to become more diversified, increase returns, and mitigate risk. Further, the bill aligns Nevada's investment abilities with a number of other states such as California, Arizona,

Washington, Oregon, Utah, and New Mexico. In doing so it allows Nevada to remain competitive on a national level. Pursuant to *Nevada Revised Statutes* Chapter 226, the Office of the State Treasurer is responsible for the investment of public monies, and in performing those duties is limited by law as to what investments are permitted.

Assembly Bill 34 updates Nevada's investment capabilities by doing three things. First, Assembly Bill 34 provides two new allowable investment classes to the state's investment options, both of which exceed credit rating restrictions currently in place for Nevada investments. The two classes are as follows: sovereign bonds—or Yankee bonds—which are bonds issued by a foreign entity such as a bank or company, but issued and traded in the United States and denominated in U.S. dollars. These bonds require a credit rating of AA or better. The second class is supranational bonds, which are bonds issued by an international organization such as the World Bank, that are issued for the purpose of promoting international development. Supranational bonds, like Yankee bonds, are denominated in U.S. dollars and are rated AA or better.

Next, Assembly Bill 34 increases the maximum share of the State's General Portfolio allowed to be invested in commercial paper, notes, bonds, or other obligations of certain corporations and depositories operating in the U.S. from 20 percent to 25 percent.

Finally, Assembly Bill 34 provides local governments and agencies with the ability to invest in similar securities at an aggregate rate of 25 percent. This parity has been requested by our local partners and will increase fluidity of investment management.

To show how Assembly Bill 34 may impact Nevada, our office ran a purchase comparison and included the proposed provisions of Assembly Bill 34 over the course of three days in the last few weeks. The results show that had the state been able to invest in these options, we would have made an additional \$62,174 on our investments during those three days. That is \$30,382 for the General Portfolio and \$31,792 for the Permanent School Fund. These changes have the potential to generate hundreds of thousands of dollars per year in additional returns, but more importantly, I want to emphasize that in allowing these additional types of investments, this permits the state's various portfolios to further diversify assets, which will help mitigate risk in any single issue or class of assets. Further, these instruments meet or exceed the state's credit rating safeguards currently in place.

Our office is offering an amendment on sections 3 and 4 of the bill ([Exhibit I](#)). The amendment seeks to clarify language about what the State Treasurer's responsibility is if a security, postpurchase, has a change in value or credit criteria that places it out of compliance with our guidelines. The new language proposed in our amendment protects public money while providing our office with the flexibility needed to avoid unnecessary losses.

This concludes my presentation, and I thank you for the time and consideration of Assembly Bill 34 this morning. I am happy to answer any questions you may have regarding this bill and will point out that Kim Shafer, our deputy treasurer, who is much smarter than

I am, is in attendance here in Carson City and is willing to answer any questions you may have as well.

Assemblyman Ellison:

I do not know if you mentioned the STAR [sales tax revenue] Bonds—do you still follow them? You know, like, community STAR Bonds?

Zach Conine:

We do not. Ms. Shafer is shaking her head in a way that makes me think we never have.

Assemblyman Ellison:

They are community bonds, but I thought the state also followed them.

Kim Shafer, Deputy Treasurer-Investments, Office of the State Treasurer:

We do have allowable municipal investments, so we do invest in municipalities as part of the General Portfolio and our other portfolios, but I am not familiar with the term "STAR Bond."

Assemblyman Ellison:

Sparks, when they did the projects down there, they did the baseball stadium and some of them. I did not know if the state followed them or just municipalities.

Zach Conine:

We typically do not.

Assemblyman Hafen:

I appreciate your comments on being able to look your neighbor in the eyes, which ties right into this bill, because I like to keep my money local when I can—just personal philosophy. I do not like investing in foreign entities, mainly because I do not know them. I know we have an AA bond rating that was required. If they were to drop lower than that, would they automatically be pulled out of our funds?

Zach Conine:

I have three points, if I may: One, in the current global economic universe, it is difficult to invest in these types of fixed income assets on a complete U.S.-focused opportunity. I think that would increase risk and reduce return for the portfolio. Two, as far as the idea of knowing who your neighbor is, we do know who these bonds are. All of these bonds go through the exact same process which requires our three rating agencies to look at them to evaluate their ability to pay us back and everything else. I would argue we know more about these businesses than some of the other businesses that we have talked about today. Three, with all securities that we hold, we have a process where, if at some point the bond rating or one of the other criteria we are required to maintain dips, if it is these assets or any other assets, they go on a watch list. Then we make a decision subject to the investment guidelines put forward by the State Board of Finance that says, Are we going to hold this for the period of time until maturity, which is our preference, or do we need to liquidate?

The language in the amendment and the language in the investment policies lean towards protection of capital. For instance, a few months ago we had a position in General Electric and they had a bond decrease that brought the specific security out of compliance. There was a robust internal conversation that predated me about whether we should hold that until maturity until it was paid off or if we should sell it. We held it until maturity, it paid off, and we were fine. Some of our outside managers who held that position with a longer maturity date chose to sell. We have an incredibly robust process where we are looking every day, both myself, Ms. Shafer, and the rest of the investment team to make sure that these assets are as robust as when we purchased them. If they move out of that compliance, we have a process to make sure we keep the state protected.

Chair Flores:

Members, are there any additional questions? [There were none.] I think we are good for now. If you could have a seat, we will invite those wishing to speak in support to come forward. I do see someone in Las Vegas; we will start there and then come back to Carson City.

Chaunsey Chau-Duong, Public Affairs, Southern Nevada Water Authority:

We are in support of this bill. We had the opportunity to work with the Treasurer's Office during the interim. We appreciate that this bill has come to fruition. We fully support this bill and look forward to its passage. We are happy to answer any questions if there are any.

Tammi Davis, Treasurer, Washoe County; and representing Association of County Treasurers of Nevada:

I am here today testifying in support of A.B. 34 on behalf of the Association of County Treasurers of Nevada. The State Treasurer's Office has included us in the process as they have drafted this language, and we appreciate that opportunity and are here in support. Thank you.

Chair Flores:

Is there anyone else wishing to speak in support? [There was no one.] Is there anyone wishing to speak in opposition? [There was no one.] Is there anyone here wishing to speak in the neutral position? [There was no one.] Are there any closing remarks?

Zach Conine:

I would just like to thank the Committee for taking the time to hear the bill. [([Exhibit J](#))] was submitted to become part of the record.]

Chair Flores:

Thank You. I am going to close the hearing on Assembly Bill 34 and open the hearing on Assembly Bill 39.

**Assembly Bill 39: Revises provisions relating to governmental financial administration.
(BDR 31-477)**

Zach Conine, State Treasurer:

Good morning, again, Mr. Chair and Committee members, I promise this is the exciting one. Under *Nevada Revised Statutes* (NRS) 356.350, the State Treasurer is required to establish a program for the monitoring of collateral of public funds. The Nevada collateral pool program, which was established through Assembly Bill 13 of the 20th Special Session, offers state and local government agencies an efficient, cost-effective, and safe alternative method for securing public funds. The primary objective of the program is to reduce risk while, at the same time, decreasing the overall collateral requirements for depositories. By centralizing the administrative and reporting functions, through the Investment Division of the Office of the State Treasurer, government agencies and depositories recognized cost savings in terms of operational support and collateral efficiency by participating in the program. Each financial institution is required to maintain acceptable securities having a fair market value that is at least 102 percent of the amount of the aggregate uninsured ledger balances of the public money held by the depository. Participating financial institutions must report the total amount of the deposits held and the value of the corresponding pledged collateral every day. Any undercollateralization must be rectified by the financial institution by the close of business that very same day.

What does that mean? In situations where we are holding public funds, we are making sure that that money is safe. At the end of fiscal year 2018, there were 307 public entities throughout the state participating in the collateral pool program with the deposits in 14 financial institutions and a balance of \$1.384 billion, with pledged collateral of \$1.858 billion. Since its inception in 2003, the collateral pool program has done an exceptional job providing safeguards against fraud and abuse, while also giving local governments the flexibility to shift the burden of managing and processing pledged collateral to the state. Currently, all 50 states have a collateral program, and the Treasurer's Office is committed to making sure Nevada has the necessary tools to strengthen and preserve the program going forward.

Broadly speaking, Assembly Bill 39 is proposing minor changes to the collateral pool program that will help to increase overall compliance among the state's financial partners. These changes will enable the Treasurer's Office to work more efficiently with public depositories while also offering additional custodial options such as brokerage firms registered with the Securities and Exchange Commission (SEC). Additionally, A.B. 39 is seeking to provide the state with enhanced regulatory oversight to ensure that any collateral in the program is protected and available to participants in the unlikely event of bank insolvency. Under current law, all public money is required to be deposited in state or national banks, insured credit unions, insured savings and loan associations, or insured savings banks.

Sections 1 and 3 of the bill make conforming changes to clarify that public money must be deposited in an insured state or national bank. As the law exists today, trust companies, the

trust department of a state, or a national or Federal Reserve Bank are eligible to serve as third-party depositories in the collateral pool. Sections 2, 4, and 5 standardize that language throughout the statute. Additionally, these sections would amend NRS Chapter 356 to allow public depositories to choose brokerage firms that are registered by the SEC to operate as our custodian. This change was originally requested by our friends at Nevada Bank and Trust in Caliente, and we are looking forward to working with them going forward.

Sections 6, 7, and 8 of the bill help to clarify the depositories to which the collateral pool program applies. Specifically, section 7 provides the Office of the State Treasurer the ability to independently verify the collateral with a third-party depositor, while also requiring these depositories to submit monthly reports. This will allow our office to compare agency lists with depository lists to ensure that all accounts are collateralized. We believe that this provision of the bill is critical to help better ensure that public money is preserved and protected if we see another great recession here in Nevada.

This concludes my presentation. [(Exhibit K) was submitted to become part of the record.] I thank you for your time and consideration of Assembly Bill 39 this morning. Again, I am joined by Kim Shafer, our deputy treasurer for investments if you have any questions.

Assemblywoman Bilbray-Axelrod:

The last section that you talked about—can you explain why that is necessary?

Zack Conine:

Yes, I can, broadly, and then I will turn it over to Ms. Shafer. Broadly, this gives us additional ability to compare what the bank is saying is collateral with what the depository is saying is collateral, and allows them to overlap so we are able to see that the money is actually pledged when it is supposed to be pledged.

Kim Shafer, Deputy Treasurer-Investments, Office of the State Treasurer:

In addition to that, in the last recession a number of banks went under—none of them happened to affect our collateral pool, but if they had been in our collateral pool we would have that 102 percent of collateral to liquidate to give those deposits, over and above the Federal Deposit Insurance Corporation limit, back to those entities that the public money is for.

Chair Flores:

I do not believe there are any additional questions. If you can sit back for now, we will invite anyone here to speak in support of Assembly Bill 39 to please come forward.

Connor Cain, representing Nevada Bankers Association:

I am here on behalf of the Nevada Bankers Association to testify in support of A.B. 39. In addition to some of the protections that were referenced by State Treasurer Conine, A.B. 39 would give some of our local, state-chartered banks that have public money deposited by entities like counties more options to hold certain securities as collateral. This is particularly helpful for our banks that are too small to offer residential lending and as

a result are not members of the federal home loan bank and cannot pledge a line of credit. I would like to thank State Treasurer Conine, Ms. Shafer, and Mr. Erik Jimenez [Senior Deputy Treasurer-North, Office of the State Treasurer] for all their work on this bill. The State Treasurer was willing to speak with us and one of our smaller banks as recently as last night to discuss this bill, and that was something that we greatly appreciated.

Chaunsey Chau-Duong, Public Affairs Southern Nevada Water Authority:

I think I am the last person, so I am just going to say we support the bill. Thanks for having the hearing.

Chair Flores:

Is there anyone else in Las Vegas? [There was no one.] Is there anyone here to speak in opposition to Assembly Bill 39? [There was no one.] Is there anyone wishing to speak in the neutral position? [There was no one.] If I could have you come back and make any closing remarks, State Treasurer Conine.

Zach Conine:

I just wanted to thank the Committee and Chair for taking the time to read these bills. I know it has been a long day so I appreciate it.

Chair Flores:

Thank you. I am going to go ahead and close the hearing on Assembly Bill 39. There are some students from Truckee Meadows Community College who are joining us. Thank you and welcome to our Committee. This is the best Committee in this building. There was an independent study conducted by myself and I found that it is in fact the best Committee ever. Is there anyone here for public comment? [There was no one.] This meeting is adjourned [at 10:29 a.m.].

RESPECTFULLY SUBMITTED:

Mark Peckham
Committee Secretary

APPROVED BY:

Assemblyman Edgar Flores, Chair

DATE: _____

EXHIBITS

[Exhibit A](#) is the Agenda.

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

[Exhibit C](#) is a report titled "The Impact of Nevada's Ninety-Percent Prevailing Wage Policy on School Construction Costs, Bid Competition, and Apprenticeship Training," a study by Jeffrey Waddoups, Ph.D., Professor of Economics, Department of Economics, University of Nevada, Las Vegas; and Kevin Duncan, Ph.D., BCG Economics, LLC and Professor of Economics, Hasan School of Business, Colorado State University-Pueblo, submitted by John Wiles, Director, Unified Construction Industry Council.

[Exhibit D](#) is a document titled "NLC&M Issue Brief: Public Works," submitted by Wes Henderson, Executive Director, Nevada League of Cities and Municipalities.

[Exhibit E](#) is neutral written testimony on [Assembly Bill 136](#), submitted by Shannon M. Chambers, Labor Commissioner, Department of Business and Industry.

[Exhibit F](#) is a letter dated February 7, 2019, to Chair Edgar Flores and members of the Assembly Committee on Government Affairs, authored by Kimberly Regan, Chief Executive Officer, Sierra Nevada Academy Charter School, in opposition to [Assembly Bill 136](#).

[Exhibit G](#) is a letter dated March 7, 2019, to members of the Assembly Committee on Government Affairs, submitted by the Nevada State Education Association, supporting [Assembly Bill 136](#).

[Exhibit H](#) is a copy of a PowerPoint presentation titled "State's Treasurer's Office Overview," dated March 8, 2019, presented by Zach Conine, State Treasurer.

[Exhibit I](#) is a proposed amendment to [Assembly Bill 34](#), submitted by Zack Conine, State Treasurer.

[Exhibit J](#) is a document titled "[Assembly Bill 34](#) – Investments," submitted by Zach Conine, State Treasurer.

[Exhibit K](#) is a document titled "[Assembly Bill 39](#) – Collateral Pool," submitted by Zach Conine, State Treasurer.