

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

**Eightieth Session
March 28, 2019**

The Committee on Government Affairs was called to order by Chair Edgar Flores at 8:36 a.m. on Thursday, March 28, 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 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
Assemblyman Greg Smith

COMMITTEE MEMBERS ABSENT:

Assemblyman William McCurdy II (excused)
Assemblyman Richard Carrillo (excused)

GUEST LEGISLATORS PRESENT:

Assemblywoman Heidi Swank, Assembly District No. 16

STAFF MEMBERS PRESENT:

Jered McDonald, Committee Policy Analyst
Asher Killian, Committee Counsel



Mark Peckham, Committee Secretary
Trinity Thom, Committee Assistant

OTHERS PRESENT:

Scott Hammond, Director of Research, National Energy Management Institute Committee; and Member, International Certification Board Technical Committee
Kennedy Sanders, Field Supervisor, P1 Group Inc., Las Vegas, Nevada
Randy Soltero, representing Soltero Strategies
Dan Musgrove, representing Sheet Metal and Air Conditioning Contractors National Association, Southern Nevada Chapter
Rusty McAllister, Executive Secretary-Treasurer, Nevada State AFL-CIO
Thomas Morley, representing Laborers International Union of North America, Local 872
James Halsey, representing Southern Nevada Building Trades Union
Fran Almaraz, representing Teamsters Union Local 631; and Teamsters Union Local 986
Todd Ingalsbee, Legislative Representative, Professional Fire Fighters of Nevada
Terry Taylor, representing Fire Prevention Association of Nevada; and Nevada Chapter of the International Arson and Fire Investigators Association
Mark Regan, representing Northern Nevada Fire Chiefs Association
Jeffrey Proffitt, Business Manager, Sheet Metal Air Rail and Transportation Workers Union Local 88; and representing Sheet Metal Training Center
Misty Grimmer, representing Nevada Resort Association
John Fudenberg, Coroner, Government Affairs, Office of the Coroner-Medical Examiner; and representing Clark County
Mike Cathcart, Business Operations Manager, City of Henderson
Jeffrey Kinder, Deputy Administrator for Sustainable Materials Management Program, Division of Environmental Protection, State Department of Conservation and Natural Resources
Kyle J. Davis, representing Nevada Conservation League
Tara Pike, Private Citizen, Las Vegas, Nevada
Alexis Motarex, representing Associated General Contractors, Nevada Chapter
Bob Coffin, Councilman, City of Las Vegas

Chair Flores:

[Roll was called. Committee rules were explained.] Good morning, everyone. There are two announcements before we move to the agenda. I know today is Local Government Day at the Legislature, and I recognize that we have a few elected officials in the audience. If I could have you stand so that we may recognize you. Good morning, we share a lot of the same constituents, so we appreciate your being here this morning, and I hope we have an opportunity to sit down and share a few words and thoughts on how we can work better.

Also, as you may have noticed, we have a new member in our Committee. We are incredibly happy to have him here. Assemblyman Smith, you may not know this, but you are now a member of the hardest-working committee in this building. Welcome. I would like you to share a few words about yourself and introduce yourself to the Committee.

Assemblyman Smith:

I think I know many of you here in this room. Those who do not know me probably at least know my history and a little bit of my wife's background. I hope to come close to doing what she accomplished; I may not, but I will sure try. I am going to try very hard, and you should all know that my office is open. Please feel free to reach out, and I look forward to working with all of you.

Chair Flores:

I think this building knows how remarkable your wife was, and if she is a testament of anything you bring to the table, we are looking forward to working with you. We know you will be amazing.

We have two items on the agenda, and we are going to take them in the order they appear. I would like to open the hearing on Assembly Bill 297.

Assembly Bill 297: Revises provisions governing fire safety equipment. (BDR 42-1051)

Assemblywoman Susie Martinez, Assembly District No. 12:

Good morning, Chair Flores and members of the hardest-working and most amazing Committee on Government Affairs. I would like to thank the Committee for their consideration of Assembly Bill 297.

I would like to give you a brief background regarding this bill. Assembly Bill 297 is a public safety measure designed to protect the public in the event of a fire. Over the years, the design of buildings has evolved to mitigate the effects of fire. The advancement and adoption of new technology and components have made buildings significantly safer for the public. In addition to fire sprinkler systems and fire alarms, other components in any fire prevention system include fire and smoke dampers and smoke control systems. These are devices that work in coordination within heating, ventilating, and air conditioning (HVAC) systems that automatically prevent the spread of smoke, flames, and heat during a fire. When heat and smoke are detected, damper blades in a vent-like device automatically close, thereby separating the movement of heat and smoke within a building. The devices are required under international building codes and have been adopted by the state and many local governments. As effective as these devices may be, they are useless if they are not operating or are operating incorrectly. To ensure proper operation, fire and smoke dampers and smoke control systems should be inspected on a regular basis. This is where A.B. 297 comes in. I would like now to provide a brief, section-by-section overview of what the bill does.

Section 2 of Assembly Bill 297 requires the owner or operator of a building equipped with a fire or smoke damper or combination of the two to have the unit inspected by a certified

technician as often as required by the *International Fire Code* published by the International Code Council. Section 2, subsection 2 requires the owner or operator of a building to make the certification of inspection available for inspection upon request of the State Fire Marshal.

Section 3, subsection 1 details the contents of the inspection, including the condition of specific components of a fire or smoke damper, or combination of the two. Subsection 2 requires a technician to report malfunctions or defects discovered during the inspection to the building owner or operator and the State Fire Marshal. Subsection 3 requires a technician to provide a certification of inspection to the building owner or operator containing (a) the location of the device, (b) the date of the inspection, (c) the results of the inspection, and (d) the certification number and the name of the technician. Sections 4 and 5 make conforming changes regarding the inspection and certification of smoke control systems.

Section 6 authorizes the State Fire Marshal to adopt regulations relating to the maintenance and testing of fire dampers, smoke dampers, and a combination of fire and smoke dampers, and smoke control systems.

Section 7 states, "This act becomes effective on July 1, 2019."

I would like to turn it over to Scott Hammond with the National Energy Management Institute Committee, and Kennedy Sanders with the P1 Group who will be able to answer any technical questions about the bill.

Scott Hammond, Director of Research, National Energy Management Institute Committee; and Member, International Certification Board Technical Committee:

Throughout the country there have been several locations that have adopted legislation or ordinances that require an International Certification Board-accredited certification to perform the fire and smoke damper inspections related to the HVAC systems and smoke control systems in buildings. The state of New Mexico earlier this week passed statewide legislation for those requirements. The City of Pittsburgh, Pennsylvania; City of Evansville, Indiana; Lansing, Michigan; and in Ohio, 18 citywide or countywide ordinances require the certifications to perform the inspections, as well as two school districts that have put policies in place that require the certifications to perform the periodic inspections.

I will give you a little bit of background on the International Certification Board's (ICB) certifications. We have developed two separate certifications with regard to these dampers. The first is for fire and smoke dampers not related to smoke control systems. There are levels of competence to do the work: we have the technician level, the supervisor level, and then the contractors themselves have to be certified to perform the inspections. There is also a smoke control technician, supervisor, and contractor status. All of these certifications are recognized by the American National Standards Institute (ANSI), which has a very high level of compliance that we as an organization have to keep up with. We go through a yearly review, and a five-year accreditation process that we just passed at the end of 2018, and that

accreditation is good for five years. Our accreditation has been in place since 2003, so we have been through the process on several different cycles.

The International Certification Board utilizes a developed knowledge base utilizing manufacturer installation guidelines as well as industry codes and standards through our technical committee, and we utilize subject matter experts from around the country to develop our exams. The ICB-certified techs and supervisors must complete up to 16 hours of training, including a pass/fail examination. It is not 100 percent—not every individual who takes the exam passes—we have about a 78 percent pass rate on the exams. Certified contractors must employ certified technicians and supervisors. They need to provide names of at least three fire or smoke damper projects with references that can attest to the contractor's integrity and knowledge to perform the work. Each certified contractor, supervisor, and technician must comply with a code of conduct as a requirement for maintaining certification. Violations of the code of conduct are grounds for suspension, withdrawal, or nonrenewal of certification. If our people or contractors are not doing what they are supposed to be doing in regards to the inspections, there is a procedure in place to suspend or withdraw certification if need be. It does not happen very often, but that is in place for peace of mind for end users.

Certified fire and smoke damper technicians as well as the smoke control technicians have to complete four hours of continuing education units every two years. Supervisors are required to do eight hours of continuing education units every two years.

The *International Fire Code* has been adopted or recognized in 42 states, including Nevada. This code recognizes standards that have been established by the National Fire Protection Association (NFPA). In particular, in regards to fire and smoke dampers, NFPA standards 80, 92, and 105 apply. National Fire Protection Association standards 80 and 105 require a fire and smoke damper to be inspected one year after initial installation and every four years thereafter, except for hospitals, which have a six-year frequency for damper inspections.

National Fire Protection Association standard 92 deals with the smoke control systems. They are to be inspected every six months for a dedicated system—dedicated meaning that system is only used in the event of a smoke evacuation. Then there are nondedicated systems that will be part of the HVAC system. They are utilized more, being part of the HVAC system, so they are only required to be inspected annually rather than every six months. Additionally, under NFPA standard 80, under section 3.3.95 the standard talks about a "qualified person." It says, "A person who, by possession of a recognized degree, certificate, professional standing, or skill, and who by knowledge, training, and experience has demonstrated the ability to deal with the subject matter, the work, or the project." We feel that with our accredited certifications, our people have demonstrated the skills and abilities required to perform these inspections thoroughly and to the best of their abilities.

With that I am going to turn it over to Kennedy Sanders, and if you have any questions at the end, we will try to answer them to the best of our abilities.

Kennedy Sanders, Field Supervisor, P1 Group Inc., Las Vegas, Nevada:

I am here today to educate you a little bit about the smoke system—how it functions, the components—to make sure you guys understand when we say inspections, what we are inspecting. Currently I have two different devices on display [Kennedy Sanders displayed two devices, photographs of which are labeled as ([Exhibit C](#))] and I will share with you some of the components, and when we say inspection, what it entails, to give you more of an idea when we say smoke/fire damper inspection. When you look at a smoke/fire damper, that is this component. This component is installed in the HVAC system throughout the building. This is what controls your smoke and your fire throughout the building. So as a certified technician, when we apply certification requirements, we inspect the fusible link—this device has a fusible link in it. We inspect the actuators, that is this device that sits on the side that operates the blade position inside the smoke/fire damper. We inspect the blade, which is this part inside; it opens and closes upon demand. Inside you have what they call a heat sensor that detects the heat inside this duct. If a fire enters the duct system, it has two safety backup features to allow determination. Heat and fusible links protect the smoke/fire damper in case fire enters into this duct system. When we inspect, we certify these; we certify the actuators; we inspect and certify the end switch. The end switch is a switch that allows the smoke control panel to know the position of the damper inside. That blade operates in an open or a closed position, and that is what we verify to make sure the functionality of this damper is in proper specifications and operation. Failures happen, and so that is why we inspect all of these. Access doors is another; we inspect the access doors for this component. This is all part of that safety. When we say inspection, this is what we are doing per smoke/fire damper.

This device [pages 1 and 2, ([Exhibit C](#))] is a fire damper, not a smoke/fire damper. Again, these are components installed throughout the HVAC duct system. There is no motor operation needed. In this case you only have what is called a fusible link that triggers the closure of this particular damper. We also inspect the operation of this fire damper. You have a combination of both: you have the smoke/fire damper within the system, and you also have a fire damper. The inspections throughout the system detail both components. When failures happen to existing or new construction, and I am speaking of a smoke/fire damper, I will show you the normal activation. I am going to activate this device and show you what happens when it is working properly. This damper will move, as you hear. It is going to change the state of that blade on the inside. It is going to go to an open position or a closed position. As it changes positions, we are here to verify that operation. There are two ways to judge a damper. You have what they call a "normi-open" position and a "normi-closed" position. In either case, that particular damper should switch states. As you can see, this damper is 100 percent open now, and we would verify that status: When I say verify, we physically inspect it by access points. We look inside the ductwork to make sure that position has changed.

There are two failures. At the smoke control panel, you will indicate a light that also reflects the changes. But we do visual as well as light inspections. This controls the fire throughout the building. If this component malfunctions, it triggers that failure and will go into a default closed position. It takes a certified technician to determine why the failures happen.

There are multiple reasons why a smoke/fire damper can fail. When the fire is inside the ductwork, the heat can cause it to malfunction. This actuator motor typically is about 60 percent failure. This motor on the side is typically one of the points of failure.

There are two things that can happen with a noncertified technician: this motor is interchangeable as far as a fix. I will share an example of what I am exposed to on a weekly or biweekly basis while I am inspecting these systems. I am not going to name any particular entities, but at the same time, when these actuators are replaced, if they are not replaced by a certified technician, you can put one that is too big or too small on a smoke/fire damper, and that is where some of the problems are presented because these sizes are based off of the capacity of the smoke/fire damper. What I witness is when repairs are made, they put anything on the size. This is just a small mock-up; these damper sizes can be as large as 60 inches, 70 inches, 80 inches wide. When you put in a small, incorrect actuator motor because it is cheaper, then you have deficiencies. If you are not educated to know that all motors are not interchangeable, these are some of the problems that are occurring in the industry. When you come upon a smoke/fire damper and you see that the motor has been changed, that is one of the common problems that exist. As of last week, I certified a facility, and the emergency generator did not work in the building. So when we say inspection, our technicians' knowledge is pretty complex; that is why these are called special inspections, because we are testing the complete smoke control system. The failure was we tested the shunt building and the generator did not work, so the building went black. In case of a real fire event, multiple lives would have been in jeopardy. Why are we doing this test? That is a fine example. Just last week we had a failure of the emergency generator system during a smoke/fire damper inspection, so it is highly important to perform the test. Did we know that existed before we started? No. The importance is pretty high.

With that said, I will turn it over to the Committee for any questions they may have.

Chair Flores:

Thank you for that presentation. I appreciate the visual; I think it makes it a lot easier for us to understand what you are talking about by doing that, so thank you.

Assemblyman Ellison:

I have a couple of questions. I am reading the bill and, Mr. Hammond, how often do you require inspection on the fire dampers? Once a year? Once every two years? Once every six months?

Scott Hammond:

The *International Fire Code*, under NFPA standards 80 and 105, has a requirement of one year after initial installation, and then every four years thereafter, except for hospitals that have a six-year frequency. If it is a dedicated smoke control system that is just utilized for the evacuation of smoke in the event of a fire or smoke event, that dedicated system needs to be inspected every six months. A nondedicated system that is also part of the HVAC system requires an annual inspection, and that is under NFPA standard 92.

Assemblyman Ellison:

The reason I am asking this question is you have got some of these small areas or small casinos or restaurants or whatever that have a system and might be in Tonopah or Battle Mountain, and they cannot get inspectors down there. I am a hundred percent familiar with these systems because our company is an electrical contractor; we run power to these. To get inspectors out into some of these areas way out there, it is really hard to get somebody certified to do that. These are really small communities. We had a major fire in a casino in Elko. They went in and did the ANSUL system and when they did, they left rags in there and it caused a fire in the casino which did major damage. The problem is getting certified people out to these rural areas. How would you deal with that?

Scott Hammond:

I believe, and you guys can correct me if I am wrong, there is a population cap by county.

Assemblyman Ellison:

It shows population there, but I do not know if that is going to change. I was hoping the sponsor of the bill would address the population cap that is on the bill.

Chair Flores:

I am sure the Legal Division of the Legislative Counsel Bureau can answer that question. In the interest of time, I am going to table that question to allow our team to get the answer to that.

Assemblywoman Munk:

I have a question about the people who are qualified and certified. I understand that they have to have a lot of technical information. Is there currently a group that is certified and trained to do this?

Scott Hammond:

There is a group. We are also waiting to hear what happens with this bill because we have other contractors and potential candidates to go through the training. We can get people through the training in less than two weeks, and then the certification process will take about 30 days. We would work to build those numbers up.

Assemblywoman Munk:

Is there currently a group that does this? Obviously there are inspectors. Is there currently a group involved in this?

Scott Hammond:

Yes, just like Mr. Sanders and his employer, they have individuals who are certified. Those numbers need to grow. We have plans in place to do concentrated training and get more people onboard.

Randy Soltero, representing Soltero Strategies:

I am looking at section 6 of the bill. I believe that is the section that describes the requirement. I know it applies to counties with a population of 100,000 or more, so there are some counties in the state that will not have this precisely for the reasons Assemblyman Ellison stated.

Chair Flores:

For the sake of clarity, page 5, lines 8 and 9, refer to that population cap. However, that is now existing law and it is not something that is being altered or modified in any way by this bill.

Assemblywoman Bilbray-Axelrod:

Thank you for bringing this bill. I will never forget, when I was a little girl, seeing the MGM fire, and what that can do to our tourism industry. I am just trying to wrap my head around how many units we are looking at. One of these systems, is it for a group of rooms? In a typical hotel in, say, Las Vegas, how many units like this would we be talking about?

Kennedy Sanders:

As an example, when you are looking at this device, it is based off the design criteria. You have what Mr. Hammond was representing was a dedicated smoke control system, a nondedicated smoke control system, you have what they call a smoke zone control, and you also have a smoke management system. These are really complex systems, and it depends on the design criteria of the building. It is not a one-damper-per-room. It is based off the design criteria of the building itself and the engineering. There is no standard. You can have anywhere from 50 per building to over 1,000, so it can be very complicated. When I certify a building as large as an MGM property, they have over 3,000 dampers, and when that system is certified, every single one of those dampers has been inspected to the standards that have been set. It is very detailed. When you get 4,000 or 5,000 dampers in a complex system, when these devices are activated, there are multiple components or accessories that are interlinked with this smoke/fire damper. You have smoke/fire heads, you have water flow tamper switches, so there are a lot of different components throughout a building that activate the smoke control system.

Assemblyman Leavitt:

Something that you said sparked a question. Does Nevada currently follow the *International Fire Code* standards? Have we adopted that? Are those regulations that we currently follow?

Scott Hammond:

The *International Fire Code* has been adopted in Nevada. This is not exclusive to Nevada; some jurisdictions are better about enforcement than others. Enforcement throughout the 42 states that have adopted the code is not 100 percent as the NFPA standards require you to do the inspections.

Assemblyman Leavitt:

I am just trying to grasp the need for the legislation. Is it because Nevada does not fully follow the standards we have adopted; is that what the need is? Is it that we have not adopted this portion of the standards? What is the need for the legislation if we have the standards currently?

Scott Hammond:

The section of NFPA standard 80 that addresses qualified personnel to perform the inspections is a big part of the bill. We are trying to help protect the building owner, the occupants of the building, and making sure that people doing the inspections are qualified to do them, rather than two guys who show up in a truck and do not have any formal training to perform the inspections.

Assemblyman Leavitt:

Thank you for that clarification.

Assemblywoman Gorelow:

I understand that there are a lot of different types of dampers, but on average, how long does it take to inspect one of the dampers?

Kennedy Sanders:

The complication of inspection is that it varies based upon the location of the device. Some devices are 30 feet above the ceiling, and some are 8 feet. So when you say inspection of a particular component of a damper, some properties we can complete within a two-week duration, some properties, four months. Every damper has a design function, and each one is different. They are not all doing the same thing. Some are opening and some are closing. That is what creates a complication. When we are inspecting these dampers, we have to follow the fire/smoke matrix system. That system will identify the location of the damper, the functionality of the damper, at what given point within the smoke control. It varies, and it is a little bit too complicated to just say it is going to be five minutes or ten minutes. It is based off the functionality of that particular smoke/fire damper within the integrity of the system.

Assemblywoman Gorelow:

Thank you. It sounds rather complicated.

Assemblywoman Hardy:

I just wanted to follow up on your comment that you are trying to get more people certified to do the inspections. Mr. Sanders, how many companies are there like yours that do this, or say, in hotels, do they have certified people within the hotel who can do these inspections? You are talking about 5,000 units that need to be inspected. How many people or companies currently do these?

Kennedy Sanders:

That is one of the issues that we are confronted with. A lot of times we receive calls from a hotel after the fact, because they will have engineering staff that will try to inspect it, they will get to a point that they do not know what to do, and they will call us for help. Also, you go to other properties and you have nonqualified individuals inspecting dampers and they also get to a point of no return and they call us for help, because they are not the experts. We have been through special training not only to inspect, but to repair and test. Who is creating problems? A little bit of everybody: nonqualified personnel, engineering facilities that are not trained. It is a broad problem, not just an isolated group of people.

Assemblyman Assefa:

Thank you for keeping the public safe. Just a technical question: this has nothing to do with the bill or what you do—you inspect, repair, and certify the device as designed—but I noticed the actuator motor is operated electrically. What happens in cases of electrical failure? Does the device default to a closed position or what happens in that scenario you described earlier when the backup generators fail?

Kennedy Sanders:

That is an excellent question. A smoke/fire damper will always default to a closed position to isolate a fire. That is the design of any smoke/fire damper system, so if there is a failure and this damper is in the open position, electrical-wise, heat-wise, it will default if the electricity is disrupted to a closed position. How that happens is the damper has a spring default built into it. Smoke/fire dampers have a backup; they have a spring just in case power is disrupted. The spring will take over and close the blades inside to isolate the fire and the smoke.

Assemblyman Hafen:

I am confused, so I am hoping you can help me understand. When this bill was explained to me a couple of weeks ago, I was under the impression that these devices were not being inspected at all. What I am hearing today is that we have already adopted the *International Fire Code*, and these devices are being inspected in counties over 100,000 in population. So I am confused with the language because the language to me looks like it is requiring these inspections, but we are already doing them. We have already adopted the *International Fire Code* that requires the inspections. I am confused about why we are here today, and if somebody could help me understand better, I would appreciate that.

Scott Hammond:

The *International Fire Code* has been adopted in the state of Nevada, and 41 other states have adopted or recognized it. In many jurisdictions these are falling through the cracks; they are not being inspected. In some jurisdictions they are. I am not from Nevada; I cannot tell you where they are or are not being inspected. This is a nationwide issue, it is not exclusive to Nevada. A lot of people should be asking for the documentation that these are being inspected. When we approach a city council or a county commission in Ohio, where I am from, they are not doing it anywhere. I cannot tell you which jurisdiction is or is not inspecting the fire dampers. Are they 100 percent across the board? I would highly doubt

that that is happening. Are they happening in all of the provisions that are in the bill at the 100,000-population level? I doubt that that is happening. Mr. Sanders may be able to address it more because he deals with it more.

Randy Soltero:

Up until early this morning, we have been working with the State Fire Marshal to make sure their concerns are met, some of the counties, some of the municipalities, to make sure everyone's concerns are addressed. With that, late this morning, with the input of all of those stakeholders, we will be offering a formal amendment ([Exhibit D](#)) for your consideration prior to the work session.

If I may, Chair, I would like to go on the record with those changes.

In section 2, subsection 1, we will be adding the words "most currently adopted" and eliminating the word "latest" for the *International Fire Code*. The reason for that is because fire codes come out almost every year with new standards but the municipalities and different districts sometimes adopt different versions of that, maybe earlier versions, and so we want to make sure that all the jurisdictions, especially the State Fire Marshal, have that ability to go off of what has been currently adopted in the state for the *International Fire Code*. That was something that was important to all the stakeholders. Also in that same section, after the words "International Code Council," we would add the words "an approved testing agency in accordance with national standards with NFPA and ANSI acceptable to the State Fire Marshal Division and the Agency Having Jurisdiction." These are things to address those concerns for the different stakeholders. We will be eliminating "a fire and smoke damper technician certified by the International Certification Board through a program accredited by the American National Standards Institute under the standards of the ISO/IEC 17024 of the International Organization for Standardization." The prior part that I spoke of will cover all of that that is going to be eliminated, and I will be giving the Legal Division, Legislative Counsel Bureau (LCB) a copy of this as soon as we get done here.

After that, you will see in section 3, subsection 2, eliminating the word "and" after "State Fire Marshal" and adding "and the Agency Having Jurisdiction."

Lastly, in section 3 we create a new subsection 4 saying, "Have a licensed fire alarm technician present or have a current fire alarm license issued to conduct an inspection or test the fire damper, smoke damper or combination fire and smoke damper." We have talked just this morning with folks from the North Tahoe Fire Protection District, and the State Fire Marshal as well. When there is a system that has a fire alarm system integrated into it, the request is to have that fire alarm technician present when the inspections are being made of the smoke/fire damper. It is another technical addition we wanted to make to satisfy the stakeholders.

In section 4 you will see a repeat of that language. That is about it. Again, we will be sharing these amendments with the LCB Legal Division as soon as we get done here. I apologize for bringing this late, but we were making sure that everybody involved, the State

Fire Marshal, the municipalities, the counties that were interested, all had their concerns met. I am happy to answer any questions on those changes.

Chair Flores:

We will make sure we provide all the members with copies of that amendment ([Exhibit D](#)) so that everybody has an opportunity to view it. We do not have any more questions. Please sit back, and I will invite those wishing to speak in support of Assembly Bill 297 to come up.

Dan Musgrove, representing Sheet Metal and Air Conditioning Contractors National Association, Southern Nevada Chapter:

I would like to lead off really quickly with answers to a couple of questions that were brought up by Assemblyman Ellison and Assemblyman Hafen. It is interesting. This is exactly the role that the state needs to play. Some of you know my background as a lobbyist. I come from local government, and I used to lobby on behalf of local governments. Local governments like to talk about autonomy for their own jurisdictions, but this is exactly the reason that the state steps up and looks at passing codes that are consistent from jurisdiction to jurisdiction. Candidly, we are going to sit here in a building in a county that is around 50,000 in population, so why should this building be less safe than a building in Washoe or Clark County? Now we understand the challenges that smaller counties have, and obviously this bill is making an allowance for that. But I think Mr. Sanders' demonstration of how important this equipment is goes to show why in fact probably every building in Nevada needs to have them and be inspected on a periodic basis. The people whom I represent are the employers, the contractors who do the work to employ the experts like Mr. Sanders. We absolutely support this life safety equipment.

To Assemblywoman Bilbray-Axelrod's statement, I was standing on the corner of Flamingo Road and Maryland Parkway headed to the University of Nevada, Las Vegas when I saw the smoke starting to rise from the MGM. Nevada was cutting edge when it came to life safety. I think we can be one of the cutting edge states in implementing this.

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

We are in support of this legislation. We think anything that will increase the safety of residents and visitors to the great state of Nevada is important legislation. In my earlier life as a firefighter, my experience shows that most people who die in buildings that are on fire do not die from being burned; they die from smoke inhalation. Smoke dampers play an important role in removing that smoke. One of the first things we would do is go to a fire control room and have an operating engineer take over control of the smoke control systems so that we could strategically move smoke from one part of the building to another or clear floors of smoke. Making sure that those safety devices are operational and secure is very important, not only to life safety for the residents and visitors but for the firefighters themselves. For those reasons, Mr. Chair, we support this bill.

Thomas Morley, representing Laborers International Union of North America, Local 872:

I feel that we need to protect our tourism industry and keep our visitors safe, and I want to say, Me too.

James Halsey, representing Southern Nevada Building Trades Union:
We are in support of this bill.

Fran Almaraz, representing Teamsters Union Local 631; and Teamsters Union Local 986:

We also support this bill. I want to reiterate something that Assemblywoman Bilbray-Axelrod said. I was there in 1980. Over 80 people died in that fire, mostly because of the smoke. I think this is important legislation that we need to do as a state.

Todd Ingalsbee, Legislative Representative, Professional Fire Fighters of Nevada:

Ditto to what everybody says. Life safety is of the utmost importance, not only to our members but to the citizens and visitors to the great state of Nevada.

Terry Taylor, representing Fire Prevention Association of Nevada; and Nevada Chapter of the International Association of Arson and Fire Investigators:

I think I am the last person left from the group who was hired by the Nevada State Fire Marshal after the MGM and Hilton fires. I was on the fire scene at the Hilton as an investigator. I am here to say that this fits into our post-MGM/Hilton fire retrofit scheme as well as the current construction scheme. As a longtime fire inspector in a smaller jurisdiction just down the road in Douglas County, I have seen numerous times these devices were bypassed by maintenance workers. I have seen them locked open with sheet metal screws. I have seen computer wiring run down the chassis so they cannot close. We basically do not have a good scheme for testing these devices. In smaller buildings, oftentimes these systems sit by themselves and are not tied into fire alarm systems. In the high-rises, they are. It is vitally important that we have fire alarm people involved in this and that they know what they are doing. The idea is real that smoke kills people more than fire does. By adding some of the amendments we have discussed, I see this bill as another example of having qualified people doing it.

Assemblyman Ellison brings up a point about being in the rural areas. I worked in rural areas extensively when I worked for the State Fire Marshal, and yeah, it is difficult to get trained people out there. But interestingly enough, our friends in the mining industry have helped us out because they use these very devices in many of the mining operations to control smoke down below. They have companies that do this work and so there are, in fact, resources available for small businesses in the rural areas. In effect you are developing a market. I just wanted you to be aware of this. I have looked at literally hundreds of these things that do not work. I have seen them in schools, I have seen them in movie theaters, I have seen them in our public buildings, jails, you name it; I have seen them where they are not working and have been bypassed.

Assemblywoman Bilbray-Axelrod:

You said you sometimes see screws and computer wire? Could you please expand on that? That is alarming, to say the least.

Terry Taylor:

What happens is that one of these devices will quit working properly, so it shuts off the air flow to a whole section of the building. So they will bypass it, they will jimmy it over and drive in some sheet metal screws to keep it open. That is called maintenance. In the case of computer wiring, these make a great place to run computer wiring, phone wiring, coaxial cable, and that sort of thing. People will run wire through there, so if it is supposed to close it will not, and if it is supposed to open, they will literally punch a hole in the bottom and run wire through it because it is sheet metal.

Mark Regan, representing Northern Nevada Fire Chiefs Association:

This is something we have been trying to tackle for the last 15 years, trying to get certified individuals testing these fire dampers. We are in support of A.B. 297 with the changes that were read earlier. We do support this.

Jeffrey Proffitt, Business Manager, Sheet Metal Air Rail and Transportation Workers Union Local 88; and representing Sheet Metal Training Center:

Many of you have been to our training center and you have seen what we offer and how we do things. I want to address one of the questions of how we are going to get enough manpower. Currently in Nevada we have about 92 individuals who are certified to do this work and are ready to go to do the level of work we are doing. We can get to any level that we need to immediately. The National Energy Management Institute Committee and a few other organizations that we deal with are ready to back us up. I got a call yesterday morning from a few people who will move hell and high water to get people certified and ready to go. Most of the people, the installers whom we are certifying, already have experience in this area. Now they just need to take their certification one step further. We are here, obviously, to approve and support this bill.

Chair Flores:

Is there anyone else wishing to testify in support of this bill? [There was no one.] Is there anyone wishing to speak in opposition? [There was no one.] Is there anyone here to testify in the neutral position for A.B. 297?

Misty Grimmer, representing Nevada Resort Association:

Obviously, the safety of our guests and our employees is of paramount importance to all of the properties. I have been in several conversations with the proponents of the bill and have seen the amendments. We would just appreciate a little bit more time to work through the amendments and see how they affect the properties and get feedback from our people on the ground. We are in neutral, but obviously supportive of anything that is going to keep our guests and our employees safe.

John Fudenberg, Coroner, Government Affairs, Office of the Coroner-Medical Examiner; and representing Clark County:

We are also in support of the concept. We look forward to working with the sponsor. The amendment that was mentioned earlier was created by us in conjunction with the State Fire Marshal, and the sponsor seems to agree with those changes. We are in support of the concept.

Mike Cathcart, Business Operations Manager, City of Henderson:

We just want to associate ourselves with the comments from our colleague from Clark County. We would also like to thank the sponsors for bringing the amendment. That allays any of the concerns that we had, and we are supportive of anything that furthers safety in our community.

Chair Flores:

With that, I do not think we have anyone else wishing to speak in the neutral position for Assembly Bill 297. I will have our bill sponsor come back for any closing remarks.

Assemblywoman Susie Martinez:

In closing, Nevada has suffered a number of major structure fires over the years that have resulted in loss of life and property. Going forward, the least we can do is reduce the risk of fire and its effects on our citizens and visitors to ensure that fire safety equipment in our buildings is in good working condition. Piggybacking again on Assemblywoman Bilbray-Axelrod, all of us always remember that MGM fire. So now moving forward, if we have our buildings safe, we have nothing to worry about. We can just provide good memories and let people know we have a lot of good things to offer in our state. I appreciate the hardest-working Committee's consideration of this bill and urge the Committee to support A.B. 297.

Chair Flores:

Thank you, Assemblywoman Martinez. As you move forward with the dialogue with those who came up in neutral, I ask that you please invite Assemblywoman Hardy and Assemblywoman Duran into those conversations. With that, we are going to close the hearing on Assembly Bill 297, and we will open up the hearing on Assembly Bill 353.

Assembly Bill 353: Revises provisions governing the disposition of certain types of materials and waste produced by certain governmental entities. (BDR 40-623)

Assemblywoman Heidi Swank, Assembly District No. 16:

Good morning, Mr. Chair. I feel at a deficit; we have no props. I am here to kick things off for Assembly Bill 353. As we all know, electronic products are now an omnipresent part of our daily lives, and they have changed the ways that we communicate and access information. Although used electronics make up a relatively small percentage of the overall waste stream, their disposal is a source of concern for several reasons. The production of electronic devices requires a significant amount of resources, many of which can be recovered through recycling. This uses a fraction of the energy needed to mine or refine

these precious resources. In addition, the presence of hazardous material such as lead, nickel, and mercury in some electronics makes safe disposal particularly important, as these metals can pose a risk to human health or the environment if improperly handled.

What we are proposing here with A.B. 353 is an expansion of a recycling program for state agencies. With that, I am going to kick it over to Mr. Kinder to take you further into the bill.

Jeffrey Kinder, Deputy Administrator for Sustainable Materials Management Program, Division of Environmental Protection, State Department of Conservation and Natural Resources:

Currently the Legislative Counsel Bureau, state departments, school districts, and the Nevada System of Higher Education (NSHE) are required to recycle paper and paper products. Assembly Bill 353 would extend recycling requirements to include electronic waste and other recyclable materials. Additionally, A.B. 353 would allow the Legislative Counsel Bureau, state departments, and school districts to retain proceeds generated from their recycling efforts to directly support their recycling programs.

In 2009 the Legislature passed Senate Bill 137 of the 75th Session, effectively granting the Nevada System of Higher Education the ability to retain recycling revenue to supplement the recycling program costs. Because of S.B. 137 of the 75th Session, NSHE has been able to increase its recycling efforts on its campuses statewide, and has been able to implement new projects such as recycling at the Sam Boyd Stadium. Nevada's Division of Environmental Protection's team has been working with the High Desert State Prison within the Nevada Department of Corrections to increase their diversion of waste. In the summer of 2017, High Desert started a recycling program. By the end of that year, High Desert had recycled about 48 tons of material and generated a total revenue of about \$3,600. Currently these funds do not go back to High Desert to assist them with their recycling efforts. Instead these funds are diverted to the State General Fund. If A.B. 353 is approved, High Desert could further enhance and expand their recycling efforts with the funds generated from their recycling program. Assembly Bill 353 also would require state departments to report annually to the Division of Environmental Protection the amount of material recycled. In turn, the Division would include this information in a report to the Legislature each session.

The Division of Environmental Protection, State Department of Conservation and Natural Resources, has proposed an amendment that would clarify a few things in the bill ([Exhibit E](#)). With the Committee's indulgence, I will now walk through the bill with the proposed amendment. The amendment adds new sections 1, 2, and 3. Section 1 adds the definition of "electronic waste." The definitions of electronic waste and other recycled materials are referenced in each *Nevada Revised Statutes* (NRS) section of the bill. Sections 2 and 3 consolidate the definition of paper and paper products in NRS Chapter 444A and delete the definitions referenced in other NRS sections. Section 4—that was previously section 1 in the original bill—requires the State Department of Conservation and Natural Resources to prepare a report on recycled material reported by state agencies and submit it to the Legislative Counsel Bureau.

Section 5 adds "electronic waste and other recyclable materials" to recycling requirements. Section 6 clarifies that if the Legislative Counsel Bureau (LCB) determines that the requirements of the bill are unreasonable and place an undue burden on the LCB, they are not required to comply with these requirements. Further, section 6 eliminates the need to draft regulations and instead requires LCB to consult with the State Department of Conservation and Natural Resources on how to implement the provisions of this section.

Section 7 clarifies that if a state agency determines the provisions to the bill are unreasonable or burdensome, they do not have to comply with the provisions of the bill. Again, it requires consultation with the State Department of Conservation and Natural Resources. Section 7, subsection 4 allows state agencies to retain the proceeds generated by their recycling programs. These proceeds must be accounted for separately and used to carry out the recycling programs. Section 7, subsection 5, requires state agencies to submit an annual report on the amount of material recycled by the agency to the State Department of Conservation and Natural Resources. Section 7, subsection 6, removes various definitions and adds references to the consolidated definitions outlined in sections 1, 2, and 3 of the bill. Lastly, sections 8 and 9, which refer to school districts and the Nevada System of Higher Education respectively, make similar changes to those discussed in previous sections of the bill, including eliminating the requirement to adopt regulations, adding the requirement to consult with the State Department of Conservation of Natural Resources, and adding electronic waste and other recyclable materials to the recycling requirements.

Just to wrap up my testimony this morning, a few last statements. There are numerous benefits to recycling. Recycling reduces the amount of waste sent to landfills and incinerators, conserves natural resources, increases economic security by tapping a domestic source of materials, prevents pollution by reducing the need to collect raw materials, saves energy, and helps create jobs in the recycling and manufacturing industries. Nevada's Bureau of Sustainable Materials Management, Division of Environmental Protection, stands ready to assist our fellow state agencies in identifying recycling opportunities and implementing recycling programs. Lastly, please visit our website at nevadarecycles.nv.gov to learn more about our recycling efforts.

With that, I would be happy to answer any questions.

Chair Flores:

Thank you. I really appreciate your walking us through the sections. I think that makes it a lot easier for us to follow. Members, do you have any questions? [There were none.] I am going to ask anyone wishing to speak in support to please step forward. We will start in Carson City and then go to Las Vegas.

Kyle J. Davis, representing Nevada Conservation League:

We are here today in support of Assembly Bill 353, along with the amendments that were presented by the bill's sponsor. This is an issue that I have worked on for a number of sessions. Certainly with the addition of electronic waste, that is something we have tried to get a handle on with a number of different policies we have considered over the years. But I

think this is a really good step forward to put it on the radar of our state agencies and increase our electronic recycling rate. This is an important policy area. We need to be seeing more of our electronic waste being diverted into recycling, and this is a good step forward. We are in support of the bill and are happy to answer any questions.

Tara Pike, Private Citizen, Las Vegas, Nevada:

I started the Rebel Recycling Program while an undergraduate studying environmental studies at University of Nevada, Las Vegas. I am in support of this bill. University of Nevada, Las Vegas (UNLV), University of Nevada, Reno, and all of the universities have the luxury of maintaining and keeping their revenue from recycling through a previous bill. It is very important to be able to divert that revenue back into the system; we use our revenue to pay for our student workers to continue to go out onto campus and collect the material. Our program costs a lot more than the revenue we bring in, but it does help to expand the program, it helps to keep the program going, and in our situation, it helps to fund jobs for students. I think it is very important that other state agencies get the opportunity to reinvest their revenue into increasing recycling as UNLV has gotten to do.

Chair Flores:

I would like to invite anyone speaking in opposition to A.B. 353.

Alexis Motarex, representing Associated General Contractors, Nevada Chapter:

We are not opposed to the intent of the bill, we just have some concerns with the way solid waste is defined. We have been working with the sponsor.

Currently the definition that it references includes construction waste, and we would like to see that amended out or addressed separately since it would not be relevant to this bill.

Chair Flores:

Is there anyone else wishing to speak in opposition to A.B. 353? [There was no one.] Is there anyone wishing to speak in the neutral position? [There was no one.] Assemblywoman, please come back to make your closing remarks.

Assemblywoman Swank:

We are aware of the Associated General Contractors' concerns. I have already met with them, and we will sort that out as the bill moves along. Thank you and recycle on.

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

Chair Flores:

With that, we are going to close the hearing on A.B. 353 and open up public comment.

Bob Coffin, Councilman, City of Las Vegas:

I have been where you are. I envy you, I pity you, I admire you, I despise you, I am a citizen. Everything else happens. We feel this way, just as you felt about us so many years ago.

I served 28 years here, which is 14 regular sessions and uncountable special sessions. I can only say that I like what you are doing, and I am pleased to be able to testify before you for the second time this week. That was incredible. I will not keep you late, I know you have got other stuff to do. I am very sorry if I did intrude on you with my bad manners. I admire all of you. Assemblyman Smith, I think of Debbie and I cannot get her out of my mind right now. I am going to dedicate my day to her today, the late Senator Debbie Smith.

I think that your job is hard and I know that you are far away from home and family—I hope you bring family up as much as possible; I did not do much of that. I regret that. But I have gotten the fever, and I just remembered that I have eight years left under the term limits legislation. I could come back to the Assembly for eight years. I am sure that will really excite you. I was known to be verbose and a really long speaker, but in the rules of this house, you cannot do that. I served four years here, so trust me, I know how the steamroller goes. I can tell you this: I never served on the Government Affairs Committee and I wish I had, because all my time was spent on the money committees, either Ways and Means or Finance.

Consequently I am learning right now what I should have learned 30 years ago as a councilman because it is all about zoning and the rights of people with their property. It is not just potholes and weeds in the yards. The stakes are extremely high, and the pressures are very hard on local government officials. Ours is nonpartisan, we do not caucus, and we have no personal political staff. We do not have a lot of those support systems that are here and greatly needed, and I wish they could be done. But let us face it, we are truly nonpartisan; I get along fine with wingnuts like Michele Fiore and Bob Beers; we are really friends. They think I am the wacko liberal and that is good, because in the end, we all get together in a nonpartisan fashion, and we do not have to count out any leadership. We are, unfortunately, the leader and that means that your vote stands out like a sore thumb.

Again, thank you, and if you have any questions about local government, I can tell you this: the only training for local government is prior elected service, specifically legislative, because that is where you see pressure, and you learn to say no to your friends and your biggest contributors. You learn it here; it is hard but you have to do it. The pressures of local government, all the millions and hundreds of millions riding on your vote, then you know why you were here. It is an honor to be here with you.

Chair Flores:

Thank you, Councilman Bob Coffin, we appreciate your being in your home, and I encourage our members to have an opportunity to sit down with you for a good 30 or 40 minutes in your office. You have a lot of information, we appreciate you. With that, is there anybody else wishing to come up for public comment? [There was no one.] This meeting is adjourned [at 9:56 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 photographs of fire and smoke/fire dampers, presented by Kennedy Sanders, Field Supervisor, P1 Group, Inc., Las Vegas, Nevada, submitted by Bart J. Chambers, Chief, State Fire Marshal Division, Department of Public Safety.

[Exhibit D](#) is a proposed amendment to Assembly Bill 297, submitted by Bart J. Chambers, Chief, State Fire Marshal Division, Department of Public Safety.

[Exhibit E](#) is a proposed amendment to Assembly Bill 353, submitted by Assemblywoman Heidi Swank, Assembly District No. 16.

[Exhibit F](#) is a letter, dated March 28, 2019, submitted by Brian Beffort, Director, Toiyabe Chapter, Sierra Club, in support of Assembly Bill 353.