

**MINUTES OF THE
SENATE COMMITTEE ON GROWTH AND INFRASTRUCTURE**

**Eighty-first Session
April 5, 2021**

The Senate Committee on Growth and Infrastructure was called to order by Chair Dallas Harris at 3:33 p.m. on Monday, April 5, 2021, Online. [Exhibit A](#) is the Agenda. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Dallas Harris, Chair
Senator Chris Brooks, Vice Chair
Senator Pat Spearman
Senator Scott Hammond
Senator Keith F. Pickard

STAFF MEMBERS PRESENT:

Susan Scholley, Policy Analyst
Eileen O'Grady, Counsel
Paula Peters, Committee Secretary

OTHERS PRESENT:

Margi Grein, Executive Officer, State Contractors' Board
Tim Geswein, General Counsel, State Contractors' Board
Sara Birmingham, Solar Energy Industries Association
Stephen Lassiter, Sunrun
Mark Krueger, Chief Deputy Attorney General, Bureau of Consumer Protection,
Office of the Attorney General
Sean Sever, Administrator, Division of Management Services and Programs,
Department of Motor Vehicles
Molly Lennon, Administrator, Division of Central Services and Records,
Department of Motor Vehicles
Connor Cain, Copart
Jennifer Atlas, Insurance Auto Auctions
Ellen Zuckerman, Utility Program Director, Southwest Energy Efficiency Project
Dylan Sullivan, Senior Scientist, Natural Resources Defense Council
Matt Rubin, Western Energy Advocates

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William Pregman, Battle Born Progress
Sarah Steinberg, Advanced Energy Economy
Mary House, D.D., D.H., President and CEO, CHR, Inc.
Bryan Howard, American Council for an Energy-Efficient Economy
Emily Duff, Ceres
Elspeth Cordua, Sierra Club
Andrew Sierra, Nevada Conservation League
Marie Steele, NV Energy
Ernest Figueroa, Consumer's Advocate, Bureau of Consumer Protection, Office
of the Attorney General
Alexander Logemann, People for Bikes Coalition
Susan Fisher, People for Bikes Coalition

CHAIR HARRIS:

We will open the hearing on Senate Bill (S.B.) 303.

SENATE BILL 303: Revises provisions relating to professions. (BDR 54-669)

SENATOR CHRIS BROOKS (Senatorial District No. 3):

Senate Bill 303 and my proposed amendment ([Exhibit B](#)) are based on a consensus with the Nevada State Contractors' Board (NSCB) and the residential rooftop solar industry.

The Bureau of Consumer Protection (BCP) has submitted amended language the office wishes to be included, and I am working with BCP to incorporate those concepts into a proposed amendment.

Twenty years ago, I started one of the first solar electric companies in the Country. In my first year in Nevada, I installed the first net-metered systems in Nevada, and I have owned a rooftop solar net meter at home for that entire time.

One of the reasons I wanted to become a Legislator was to restore the rooftop solar industry and provide Nevadans with clean and efficient ways to create their own energy.

The demand for residential rooftop solar systems has skyrocketed since the passage of A.B. No. 405 of the 79th Session. Increased demand has created an increase in bad actors in the industry. During 2017, many consumer protections

were put into place which have become a model for the rest of the Nation, but more needs to be done to protect consumers.

Many of us have been approached by salespeople, received calls and text messages and have been bombarded with advertisements for solar. Many of the businesses are unlicensed and are misrepresenting themselves to consumers.

Several have posed as government agencies and electric utility companies. Others have referenced a fictitious Nevada law that requires the purchase of their solar products. Many have claimed free energy and nonexistent State rebates. In addition to deceptive advertising, several of the companies are taking monies in the form of huge deposits and never performing the work.

Senate Bill 303 will prohibit these advertising practices and protect consumers.

The majority of residential rooftop solar companies in Nevada are ethical companies, and I appreciated the help they provided in crafting the language. The NSCB, the Public Utilities Commission of Nevada (PUCN), the BCP and ethical solar companies have contributed to the drafting of the bill.

MARGI GREIN (Executive Officer, Nevada State Contractors' Board):

I am the Executive Officer for the NSCB. The Board supports S.B. 303, which enhances protections for consumers engaged in the installation of residential solar systems.

The Board contributed to drafting S.B. 303 and agrees the industry needs additional safeguards for consumer protection. The high numbers of residential solar installation in 2019 is attributed to the passage of A.B. No. 405 of the 79th Session and S.B. No. 358 of the 80th Session.

According to the Solar Energy Industries Association (SEIA), there are over 84 solar companies employing over 7,000 workers in Nevada. The increase in solar activity has led to consumer protection concerns regarding misleading sales practices, unrealized energy savings, financing, down payment practices and workmanship-related practices.

Since 2016, the Board has received 331 license complaints of which 4 percent were filed against solar contractors. Of the 226 Board-revoked licenses, 9.2 percent were solar contractors. The damages validated through the Board

Residential Recovery Fund process illustrates the concern for public welfare and safety.

Recovery Fund claims of over \$3.1 million have been awarded to homeowners since 2016. There have been 174 claims against solar contractors, resulting in over \$767,000 awarded. That represents 63 percent of the total claims and 25 percent of the total claims awarded.

The total amount of awards would have been greater if not for the monetary limitations in place for the Recovery Fund. At issue in several cases is acceptance of large down payments and requesting full payment up front as high as \$50,000, followed by project abandonment or substandard workmanship.

Language in S.B. 303 closely aligns with statutes and regulations adopted in the late 1990s for similar issues with the pool industry. By enhancing the requirements and expectations of contractors engaged in residential photovoltaic product projects, a noticeable decrease in the number of complaints filed with the Board will be seen.

Consumers will be afforded greater access to information before making decisions, and they will be adequately protected with regard to financial options and down payment loan limitations. They will proactively be made aware of their right to file a complaint with the NSCB in the event issues arise throughout the project. The bill will provide a more standardized contracting practice within the solar industry allowing the Board to hold the industry more accountable and ensure consumers are treated fairly throughout the residential solar process.

TIM GESWEIN (General Counsel, State Contractors' Board):

I am General Counsel for the State Contractors' Board and will discuss the proposed amendment, [Exhibit B](#), to S.B. 303. The bill was closely modeled after pool industry statutes enacted in the late 1990s. The Board realized two differences.

The pool industry in the late 1990s is different from the residential solar photovoltaic system industry of 2021. The public policies around Nevada's ideas on renewable energy including the 2017 changes and portfolio standards are important.

Section 5 defines the residential solar photovoltaic industry. Changes have been made regarding what the definition is, but more importantly, at the industry's request we have added section 5, subsection 3 defining what this is not.

The amendment will continue to allow the industry to gather leads regarding solar photovoltaic work for those homeowners in Nevada who wish to have solar systems at their homes. There are protections to ensure that individuals who are offering these systems do not inadvertently, or intentionally, become contractors in Nevada.

Section 7 is a conceptual change to ensure that homeowners understand that under section 7, subsection 1, paragraph (c), the work must meet all requirements imposed by the PUCN or any electric distribution system to which the work will interconnect.

The statutes, regulations and industry standards are important for a safe and functional solar photovoltaic system. Section 9, subsection 2 provides a detailed list of required mandatory information for solar contracts. Several changes have been added, but in large part they model the pool industry rules, which the Board has implemented successfully. Further review may see additions to the list.

Section 10 changes the Board's ability to file and propagate regulations regarding solar photovoltaic systems and their advertising.

The pool industry regulations were in place before the statutes were created. Since the solar bill will be passed with regulations following, the language is not needed. You will see numerous strikeouts in the amendment.

Section 11 in the proposed amendment, [Exhibit B](#), is stricken. Funding arrangements, lease agreements and solar buybacks on the construction projects make financing regulations difficult to put in statute.

Section 12 simplifies language since there is no reference to third-party financing. Homeowners will understand the loans they are obtaining and the opportunity to terminate the agreement under State law and the federal Truth in Lending Act.

Section 14 is the final change. Because the pool industry regulations preceded the pool industry bills, the penalties were captured in other sections of *Nevada Revised Statutes* (NRS) 624. The bill will simplify and refer to standards of NRS 624.700 and NRS 624.750 for penalties for contracting solar work without the required NSCB license.

SARA BIRMINGHAM (Solar Energy Industries Association):

Solar Energy Industries Association is the national solar trade association and supports S.B. 303. The solar industry is growing in Nevada, especially since the 2017 legislation, and we want to ensure that the growth occurs in a responsible and ethical manner.

Consumer protection is a top priority for SEIA. It will work and collaborate with State, local and federal policymakers to increase consumer understanding and ensure that those who do not follow the rules will suffer the consequences.

Residential solar relies on word of mouth for success. Consumers who understand what they are getting are more likely to have good experiences. Misleading claims and bad actors will poison consumers' experiences with solar, and their friends, family and neighbors will hear about it.

Solar Energy Industries Association continues to develop resources designed to safeguard customer rights and provide a forum for members of the press, government and other stakeholders to access material relevant to consumer protection and establish consumer protection guidelines for the solar industry to enhance consumer protection.

At the heart of its work is the SEIA solar business code which the 1,000 SEIA member companies must abide by. The code represents approximately 80 percent to 90 percent of residential transactions and exemplifies the right way to advertise, market and contract.

The residential guide by SEIA is a powerful tool providing tips on evaluating whether a home is right for solar, different ways to go solar and difficult questions to ask solar companies. It is important that efforts complement the hard work of regulators, Legislators, the State Contractors' Board and the Bureau of Consumer Protection in the Office of the Attorney General (OAG).

The SEIA supports the intent of S.B. 303 and will continue to collaborate on this important matter.

STEPHEN LASSITER (Sunrun):

Sunrun is the largest residential solar storage and energy services company in the Country with more than 500,000 customers including thousands in Nevada.

Sunrun employs 100 Nevadans at our office and warehouse on East Gate Road in Henderson, which is one of two national Sunrun training centers. Hundreds of Sunrun employees from across the Country visit Henderson each year to receive training on everything from home battery installation to flying drones for home audits.

One of Sunrun's most important values is to be human-centered, which means customer-centered, and has decades-long relationships with customers. Ensuring customers have a positive experience is a top priority.

Sunrun views consumer protection as a serious issue and frequently works with policy makers in the Country on consumer protection issues. Sunrun supports S.B. 303 as amended and appreciates the opportunity to work and collaborate with policy makers to advance these critical consumer protection issues.

SENATOR BROOKS:

Mark Krueger from the BCP will complete our presentation and highlight changes not included in the amendment that we would like to have included.

MARK KRUEGER (Chief Deputy Attorney General, Bureau of Consumer Protection, Office of the Attorney General):

The Bureau of Consumer Protection in the AOG is neutral on S.B. 303 as written. The BCP proposes changes to the proposed amendment, [Exhibit B](#), to ensure harmony between the provisions governing the regulation of rooftop solar by the NSCB and the BCP.

The provisions for the contracts for rooftop solar are in NRS 598, the Deceptive Trade Practices Act. Enforcement of the Act is under the jurisdiction of the BCP. Contractors who sell and install rooftop solar are under the jurisdiction of the Board.

The BCP proposed rooftop-solar statute changes to section 3 will harmonize the definition of "contract" as used by the NSCB and the BCP. Additionally, the edits provide a synchronized definition for the term "residential solar photovoltaic system," as would be used in NRS 624 as amended by S.B. 303, and the term "distributive generation system" as used in NRS 598.9804. Both are residential rooftop solar systems.

The BCP proposed changes to section 5 include third-party advertisers and solicitors of solar photovoltaic systems within the definition of work. It is important as many solar companies use third-party advertisers and solar solicitors.

In section 6, BCP proposed changes are similar to section 5. The intent will include third-party advertisers and solicitors who work for contractors, particularly in an advertising and marketing capacity or in facilitating contracts.

In section 8, BCP proposed changes incorporate critical provisions of NRS 598 into the requirements of the work associated with the contract, thus harmonizing the section with relevant solar consumer rights outlined in NRS 598.

Section 9 captures the provisions of NRS 598 to ensure that if the Board elects to adopt the regulations in NRS 598 for distributed generation systems, they will include rooftop solar requirements.

The BCP proposed changes include information clarifying payment due dates and acknowledgement of the deadlines articulated in section 8.

The BCP would establish a requirement that the contractor is responsible for the acts, statements and representations of third-party advertisers or solicitors. The edits include additional notice provisions regarding owner's rights to seek the advice of an attorney to understand the contents of the contract in the negotiated language. We have seen this problem in complaints that are now coming forward.

The edits impose a requirement that the contractor provide the owner with a form that is signed by the owner and contractor. The form acknowledges that the owner received the fully signed contract, all associated documents and a receipt.

The BCP proposed change in section 10 clarifies that the work performed under the section captures contractors and third-party advertisers and solicitors acting on behalf of contractors as described in section 6.

The section 10 BCP proposed change includes that a violation of the NRS chapter is a violation of NRS 598, the Deceptive Trade Practices Act, and subject to penalties. The change allows the Board and BCP to continue to work together to ensure that the industry provides consumer protections.

SENATOR PICKARD:

I wanted to be an early adopter and asked a contractor about having a solar system installed in my home. He told me that my house orientation was such that it would not generate enough electricity to be cost-effective. I got a second opinion, and the contractor said that the first contractor did not know what he was talking about. I got a third opinion and learned that the first opinion was right. Solar panels have increased their efficiency and I could benefit from having them.

In section 6, regarding the licensing requirement, is it the C-2 license, or a new license that they will be required to obtain? If it is a new license, do we grandfather in those who have been doing the work under a standard C-2 license?

SENATOR BROOKS:

The license is the Contractor's Board license for that type of work.

SENATOR PICKARD:

Section 8 requires that the contractor will not start the project until 30 days after the building permits are issued. In my experience, once a customer has the contract and permits in place, he or she wants to start work immediately, why are we making the contractor wait 30 days?

SENATOR BROOKS:

The contractor shall start the work within 30 days of getting the permit. That practice is common within the industry to facilitate scheduling installations, permitting, materials, and the like.

SENATOR PICKARD:

Section 10 of the amendment strikes the bait and switch advertising prohibition. Why would we strike that? That is where a lot of the consumers have issues. The advertising they read makes promises and they then get something different.

SENATOR BROOKS:

I will comment and then direct that question to Mr. Geswein from the NSCB. The Board may adopt regulation standards for advertisements used by contractors in connection with the solicitation of the work.

The language that is being stricken could be considered duplicative of that first statement and what already exists in NRS 598 on the work we did in the Seventy-ninth Session.

MR. GESWEIN:

I concur with Senator Brooks. By making section 10, subsection 1 permissive, which the NSCB recommends, it is unnecessary to give the detailed instruction on what those regulations should say. If the Board should enact regulations, ideas about bait and switch would be included in those prohibitions. Likewise, the existing standards of NRS 598 should be considered, and they already provide protections.

SENATOR PICKARD:

I am hesitant to make the language permissive instead of mandatory. We often see advertisements making bold promises and then delivering something different. By making the language permissive and striking out language, my fear is that we are creating a legislative history that makes these kinds of provisions optional.

The language change could be a mistake because in my personal experience with general civil litigation, these were the types of issues that would be brought—contractors made promises in their advertising, or they made promises in their contracts, and then they did not fulfill the contracts—and if we delete the language, there appears to be a course of legislative history that would suggest we do not want to prohibit bait and switch activity.

The intent of the language is not to avoid prohibiting bait and switch but merely to leave it up to the Board to include it in regulation. Is this fair?

MR. GESWEIN:

That is correct, to leave it, not to foreclose it forever but to leave it to sound discretion as these matters move forward.

SENATOR PICKARD:

However, Senator Brooks suggested that we are already prohibiting in other statutes, we have already prohibited bait and switch and that we enforce the contracts that are in place, and that this will continue.

MR. GESWEIN:

My understanding is that it will continue.

SENATOR BROOKS:

When Mr. Krueger from the BCP was walking through BCP suggestions, most of the suggestions tie the language back to NRS 598, which makes misleading advertising illegal under the Deceptive Trade Practices Act.

SENATOR PICKARD:

Mr. Krueger, can you talk about what types of bait and switch complaints you are pursuing? I want to tie that into the legislative history which we are being told is not necessary.

I pursued bait and switch cases for clients where the contractor had failed to honor a promise made in a contract. In one case, the Board declined to hear the case and the justice court suggested that it would not pursue the matter because the Board declined to hear the case, and the OAG had exclusive jurisdiction over the bait and switch issue.

Is there sufficient statute in place to enforce the bait and switch complaints? Can you explain how the OAG pursues the cases under the statute?

MR. KRUEGER:

The changes to the amendment that we are proposing would harmonize both the protections that exist under NRS 598 with the protections under NRS 624. This would not impinge upon the authority of the Board in any way, but rather complement it with the protections that are in place.

You are correct. There are bait and switch prohibitions contained in NRS 598, and by allowing the cross-penalization, we can either pursue a person who employs the tactics or the Board can pursue underneath the licensee.

Sometimes the third-party dealers are not necessarily licensed at that point. We are trying to capture the unlicensed dealers so that we can continue to have that joint enforcement authority with the Board.

To answer your specific secondary question, complaints are often routed through the PUCN to the BCP. The BCP also receives complaints from citizens and other State agencies. The BCP is in regular communication with the NSCB as well.

Complaints received can be for a variety of reasons. As you mentioned, they are usually for the bait and switch type situations. One of the complaints received was for a company active, particularly in Las Vegas area, where the employees were implying that they were from a city or county and using those kind of marketing tactics to make their sales. We took action by entering into an assurance of discontinuance to stop the prohibition with fines and suspended fines which stopped the activity.

The BCP has been working with the solar industry and has developed a good working relationship. The BCP relies on the industry to manage and address individual complaints and correct hidden mistakes.

There are a variety of ways the BCP, the industry and we are working together to address complaints. Enforcement provisions are important and help avoid these types of situations. In situations of noncompliance, the BCP will take enforcement actions.

SENATOR PICKARD:

In view of what the justice court told us, am I correct that in terms of bait and switch and those types of deceptive trade practices, it reserved jurisdiction to the OAG and the Board, and there is no private right of action as to those violations?

MR. KRUEGER:

I am not certain what the justice court did other than what you represented to me. I do not have the particular facts regarding the circumstances and can

speak in general to NRS 598 which does leave primary enforcement jurisdiction with the BCP. However, it carves out a private right of action for individuals as well. There is a unit under the Department of Business and Industry that has coenforcement authority too.

SENATOR BROOKS:

Senator Pickard, having worked with you in 2017 on the language, what we are attempting is to take that private right of action, deceptive trade practices under the OAG and enhance the tools the Board has available to them—and tie all three together to filter out the bad actors and protect the consumer.

SENATOR PICKARD:

I support that effort.

SENATOR BROOKS:

I appreciate Senator Pickard for his insightful questions which clarified issues. We need to take action on these important issues, and I urge your support of the bill.

CHAIR HARRIS:

We will close the hearing on S.B. 303.

VICE CHAIR BROOKS:

We will open the hearing on S.B. 371.

SENATE BILL 371: Revises provisions relating to motor vehicles. (BDR 43-837)

SENATOR DALLAS HARRIS (Senatorial District No. 11):

Senate Bill 371 will revise provisions in the Department of Motor Vehicles (DMV) pilot program enacted in the 2019 Legislative Session. Assembly Bill No. 483 of the 80th Session created a seven-year pilot study that requires reporting odometer readings in connection with vehicle registrations and smog checks.

The odometer readings are being used by the DMV to compile and report data on vehicle miles traveled. The data is part of an effort to better understand highway usage and to lay the groundwork for changes to transportation funding.

Assemblyman Howard Watts was the sponsor of A.B. No. 483 of the 80th Session. Concerns were brought to his attention, and he proposed three changes to the legislation. I am sponsoring S.B. 371 to make the changes.

I want to thank the DMV who helped with working out the details of the bill while being neutral on the measure.

SEAN SEVER (Administrator, Division of Management Services and Programs, Department of Motor Vehicles):

Senate Bill 371 is a revision to the provisions governing the DMV pilot program. The program requires the DMV to gather mileage data relating to certain motor vehicles, including body type, fuel type and weight.

The following three changes could improve the recording and collection of odometer readings:

The DMV collects and reports odometer readings for recreational vehicles (RVs) for the mileage gathering pilot. The bill will exempt owners of RVs from reporting their odometer readings. Excluding RVs will simplify compiling the report and will paint a picture of the general population's mileage for a year since RVs do not represent normal driving habits or high use of alternative fuels.

The DMV provides vehicle information reports to the insurance industry including odometer readings. The bill will allow the DMV to exclude odometer readings from the vehicle information reports to avoid misuse of data which could impact customers' insurance premiums. For example, if I drive 20,000 miles per year, my insurance company could charge me a higher rate than someone who drives 10,000 miles a year.

There are no administrative penalties built in for failure to report the odometer readings as required. The bill will provide the DMV the option to apply administrative fines to improve customer compliance and mileage data collection. We would not be required to implement fines, but we have the option if we ever need it.

Molly Lennon, who serves as the DMV manager of the program, is with me to answer any questions.

SENATOR PICKARD:

You explained that the driving distances are different for RVs and including them may not capture a good picture of the general population's mileage.

I am wondering, RVs are ubiquitous and they put miles on the roads. They are not quite as heavy as a big rig, but they are heavier than normal automobiles. If we are trying to get a total picture of mileage rather than that of a typical driver, why would we exclude RVs? I do not see how excluding RVs removes them from the picture as to how they impact the roads and how many miles they drive on our roads. I see RVs on the road all the time. Can you expand on why we are excluding RVs?

MOLLY LENNON (Administrator, Division of Central Services and Records, Department of Motor Vehicles):

With regard to RVs, they are predominately used seasonally, and the data being used is to get an average picture of miles driven. Because RVs are used seasonally, it makes more sense to remove them from the pilot.

The way data is set up for programming purposes, it is difficult to break down RV data with good accuracy because there are so many body types in our system. Add that to the mix and the data that comes forward for RVs makes that information less accurate.

SENATOR PICKARD:

I expected that answer but living in southern Nevada, I see more RVs year-round than you might see in northern Nevada. They are putting a lot of miles on the road, but if the data is being used in such a way that will skew the numbers, the exclusion makes sense.

CONNOR CAIN (Copart):

Copart is neutral on S.B. 371. Copart has a proposed amendment ([Exhibit C](#)) to amend section 2, subsection 6, which is ambiguous. The amendment will clarify that the DMV cannot disclose information in connection with activities relating to the rating, underwriting, cancellation or nonrenewal of insurance required by NRS 485.185. In our opinion, the proposed amendment simply clarifies the existing language and it completely comports with the intent of S.B. 371.

JENNIFER ATLAS (Insurance Auto Auctions):

Insurance Auto Auctions is neutral on [S.B. 371](#) but supports it with the proposed amendment from Copart for clarification on disclosure of insurance information.

SENATOR HARRIS:

The bill is simple and provides clarification on the pilot study and makes it more effective.

VICE CHAIR BROOKS:

We will close the hearing on [S.B. 371](#).

CHAIR HARRIS:

We will open the hearing on [S.B. 382](#).

[SENATE BILL 382](#): Revises provisions governing energy efficiency programs.
(BDR 58-834)

ELLEN ZUCKERMAN (Utility Program Director, Southwest Energy Efficiency Project):

I am the Utility Program Director for Southwest Energy Efficiency Project (SWEET) and will present [S.B. 382](#) and the proposed amendment ([Exhibit D](#)).

Southwest Energy Efficiency Project is a regional nonprofit organization working in six southwestern states to advance energy efficiency to save customers money, protect the environment and build a robust economy.

I have been working with SWEET wearing different hats for more than a decade to advance energy efficiency. My background is in low-income and multifamily low-income energy efficiency.

I will outline the benefits of [S.B. 382](#), which will affect all Nevadans, in the visual presentation ([Exhibit E](#)). The bill proposes for NV Energy to expand its energy efficiency programs. The programs save money, improve air quality and keep power running during any weather situation.

Energy efficiency reduces costs, creates local jobs and provides for a more resilient grid system. Energy that never has to be generated is the cheapest

energy. Every dollar applied to energy efficiency means direct savings to customers' utility bills.

Engaging in energy efficiency practices displaces the need for expensive utility investments. Senate Bill 382 proposes to double funding for low-income Nevadans to ensure benefits for all Nevadans, especially those struggling and vulnerable.

The bill will allow the creating of local jobs. As noted on page 5 of [Exhibit E](#), nearly 12,000 Nevadans work in the energy efficiency sector, and the work is inherently local. An example is hiring a contractor for attic insulation with a local contracting firm, often a small business. Expansion of energy efficiency programs creates more jobs in Nevada.

Building a more resilient grid system is supported by the bill. We all remember the extreme heat wave this past summer and recognize the need to conserve energy. It underscored the need for energy efficiency in our power system. It will allow for a better response when extreme heat events become more frequent as a result of climate change.

Often energy efficiency is thought of as programs or incentives to replace lighting in homes and businesses. Energy efficiency is comprised of hundreds of technologies and strategies helping residential, business and industrial customers become more energy efficient.

Page 6 of [Exhibit E](#) identifies the various available programs. Home energy checkups enable a trained energy auditor to diagnose home issues and offer services and repairs for savings on utility bills.

Efficient construction programs ensure new homes are built correctly. Programs working with large industrial customers help with efficient production and manufacturing in all stages of their processes.

Senate Bill 382 identifies a four-pronged concept to advance energy savings. It will put NV Energy in a position to deliver greater energy savings for its customers. The bill directs the utility to produce electricity savings through energy-savings program delivering at least 1.3 percent in savings of their retail sales. Peer utilities in Colorado and Arizona and other states have this policy in place.

The bill ensures dedicated focus on low-income customers and customers in historically disadvantaged communities. It doubles the funding for programs directly serving those communities.

Any investment made in energy efficiency will be required to be cost-effective. Every dollar going into programs must demonstrate a return of more than \$1 back to customers. The requirement ensures all Nevadans will see lower utility bills as a result of S.B. 382. New performance-based earning opportunities for NV Energy will be instituted to ensure that the programs and services offered are superior, successful and deliver strong performances.

The four-pronged concept is implemented in 27 states. Colorado, New Mexico, Arizona, Maryland and New Jersey will advance and extend the concepts over the next decade.

DYLAN SULLIVAN (Senior Scientist, Natural Resources Defense Council):

I am a Senior Scientist at the Natural Resources Defense Council which is a nonprofit national environmental group with 25,000 members and activists in Nevada. I will walk through the bill and the proposed amendment, [Exhibit D](#).

Section 2 of S.B. 382 aligns the definition of "historically underserved community" with definitions used in other legislation. The definition is based on federal and State definitions and data allowing for easier identification of the communities and assists utility companies and PUCN to ensure energy efficiency investment is equitable.

Section 5 alters the definition of "energy savings" to mean the annualized kilowatt-hour energy savings. Savings must be measured relative to the appropriate baseline which represents what energy use would have been in the absence of the program or measure. The purpose of annualized savings is for measuring progress toward the 1.3 percent goal as identified in section 6, subsection 2, paragraph (a), subparagraph (1).

If a customer replaces an air conditioner in September with a high-efficiency unit using the utility incentive program, NV Energy should measure energy savings from the air conditioner as if it were installed January 1 of that year. This simplifies the process of measuring estimated savings because NV Energy does not keep track of when the new air conditioner was installed in the year. It

allows the utility to get extra credit in the first year, but it is balanced by credit not received the second year.

Many of the changes being made to the section of the law were originally added by S.B. No. 150 of the 79th session. The original law required the utility companies to focus on gross savings versus net energy savings. The requirement is being deleted by S.B. 382 and the proposed amendment [Exhibit D](#). Although well intentioned, measurements were difficult to determine and evaluation of customer involvement in the program was complicated.

The framework resulting after the 2017 change showed that the electric utility companies did not have sufficient guidance in law to design programs to push the market forward beyond levels of efficiency.

Section 5 of the bill requires savings be measured relative to the appropriate baseline, which ensures utility program performance is measured to reflect the levels of efficiency that the market would have delivered without its incentive programs. It is important to point the utility companies in the right direction.

To give you an example on using an appropriate baseline: If the utility company evaluator measured savings from a new incentive-driven program providing for highly efficient new commercial buildings in Las Vegas, under the framework that evaluator would need to look at two things; how much energy the building would have used if it met the local building code and the market average level of efficiency in that area for that type of building.

If the market average new building is already more efficient than the building code requires, it is not the utility that delivered that extra measure of savings, it is the market.

The utility should not be able to claim credit for being under savings that is between the minimum standard and the market-average efficiency. It is a technical framework but ensures that the utility companies focus programs on places where incentives and coordination efforts can deliver additional savings.

Section 6, subsection 1 requires the PUCN to establish energy-savings goals, and subsection 2 sets the form of those goals. Electric utilities are required to aim for energy savings of an average of 1.3 percent of sales per year over the resource plan period.

NV Energy, and any other electric utility having two operating companies, is allowed to use a weighted average across the two utilities to demonstrate performance relative to the goal. Savings cannot go below 1.08 percent on average over three years of the utility's resource plan. The calculation is based on lower achievable saving opportunities in northern Nevada.

An electric utility will demonstrate performance relative to the goal in the final year of the resource plan by the sum of annualized savings from energy efficiency measures it installed in the first, second and third year of the resource plan. This determines the impact of savings goals in the final year of the resource plan. The long-term savings will be determined to accomplish climate change goals.

Section 6, subsection 2, paragraph (a), subparagraph (2) requires the electric utility company to go further if more cost-effective achievable energy efficiency is in the market than is reflected in the 1.3 percent goal per year.

Section 6, subsection 2, paragraph (b) requires electric utility companies to direct at least 10 percent of total expenditures in energy-efficient programs to low-income households and residential customers in historically underserved communities. The national average is close to 10 percent.

If a multifamily affordable housing complex is in a historically underserved community, NV Energy can serve that complex with its programs or work with other community service agencies to serve the complex and improve its energy efficiency without having to verify residents' incomes or federal antipoverty program status.

Section 6, subsection 3 retains existing law allowing the Commission to modify energy-savings goals during a recession. The change adds a notice and opportunity for a hearing to ensure a public process.

Section 6, subsection 4 makes changes regarding the amendment process. Electric utilities will need to reflect the new goals for program years beginning on or after January 1, 2023.

To meet the goal over the next three years, the electric utility will need to achieve annualized savings in 2024 of 3.7 percent normalized sales from

measures they installed in 2022, 2023 and 2024. The benefit of this will allow consumers to see benefits next year instead of five years, which is too long.

Any building built that is not efficient, every 15-year life appliance without incentive programs for efficiency is a lost opportunity; benefits need to be realized quickly.

Section 6, subsections 5, 6 and 7 clarify the cost-effective standards. The electric utilities' energy proficiency portfolio as a whole include pilot programs and low-income programs which might be more expensive than a mass-market program. The portfolio as a whole has to be cost-effective and lead to energy bill savings that meet or exceed the cost of writing the programs. Extensive discussion with PUCN influenced the provisions of the section.

Section 7 deals with financial issues. It requires disincentives to be offset by either an amount equal to the costs reasonably incurred by the electric utility multiplied by its overall rate of return or applying a rate adjustment designed by the PUCN.

It is basically asking NV Energy to sell less of their product. Utilities have fixed costs and regulations that allow it to collect an amount to offset lost revenues. The section allows the Commission to implement a decoupling as an alternative to the lost revenue offset.

Section 7, subsection 2 establishes a positive incentive capped at 5 percent of program costs to encourage good utility performance. The design of the performance incentive is at the Commission's discretion, and NV Energy will be arguing in dockets and in rule makings that the incentive should be designed in a manner that gives the utility more incentive if it does a better job at implementing programs. This is national standard practice.

To achieve good utility performance and energy efficiency, the utilities should collect the program costs, incentives and coordination costs incurred in running programs. Something must be done about lost revenue to provide a positive incentive.

SENATOR PICKARD:

I do not know whose national standard practice you are referring to. Are they from the utility or one of the energy efficiency groups?

Will S.B. 382 allow utilities to pass on the costs of stranded assets to the consumers, or will they still be required to absorb that in their operating costs?

MR. SULLIVAN:

Twenty-seven states have robust energy efficiency policy frameworks in place and it is very common for state policies to offset the lost revenue issues. The lost revenue offset in the bill is a modest amount of money for the benefits the customers will be receiving.

SENATOR PICKARD:

It may be standard practice for the 27 states that adopted that policy, but from a national perspective, including all 50 states and territories, it is not a national standard practice.

When the PUCN puts the bill's technical requirements in place, how will it impact the average consumer's bill?

The representations are that the bill will save money, but I have seen economic models that do not show that happening in the short term. The models indicate that as we adopt the new requirement and programs, we will see an increase to the average bill until we get cheaper renewables.

Can you go through the economic models that show us that the bill will save consumers money, despite what the utilities are telling us?

MS. ZUCKERMAN:

Southwest Energy Efficiency Project will soon be releasing a cost-benefit analysis of S.B. 382, and the total net economic benefits for consumers will be approximately \$1.7 billion over the next decade.

SENATOR PICKARD:

Many of my constituents are on fixed incomes and living in retirement communities. They care about two things: that they have the energy they need and that they are not paying more for it than they did yesterday.

It would be helpful for the Committee to have that analysis so we can see where we will be saving money. If NV Energy agrees with your results, then you have a winning combination.

MS. ZUCKERMAN:

Southwest Energy Efficiency Project will share that analysis when it becomes available. Energy efficiency programs do cost money. The estimated cost to implement the efficiency programs will be \$65 million to \$75 million, but it will bring billions of dollars in benefits to Nevadans over the next decade.

SENATOR PICKARD:

I applaud SWEEP's cost-benefit approach.

SENATOR HAMMOND:

Mr. Sullivan, during your presentation you described the consumer buying an air conditioner in September but then adjusting the purchase to January 1. Could you walk me through the timeline?

MR. SULLIVAN:

It is an administrative simplification used when evaluating the savings of a process. You treat the measures that you installed during the year as if they were installed January 1. It makes the process of evaluating savings trackable.

SENATOR HAMMOND:

So you are using an algorithm to calculate the savings you accumulated over a 12-month period, no matter what point of the year you initiated the measure.

CHAIR HARRIS:

The rule making at the PUCN set in place energy-savings goals. Diligent work was required to determine if the goals should be Statewide, per utility or otherwise. How will we know if the rule-making process not working, given that we recently started with these kinds of new regulations in place?

MR. SULLIVAN:

The urgency to address climate change was not the same in 2017 as it is now, and the climate crisis has become severe. Prior to 2017, there was not a high priority to have cost-effective energy efficiency. In 2017, there were numerous different definitions of cost-effective energy efficiency. The PUCN did not have a lot of policy guidance to use when it was setting goals.

The Natural Resources Defense Council and other partners prepared a "Pathways and Policies to Achieve Nevada's Climate Goals" analysis of how the State needs to dramatically accelerate efforts to increase energy efficiency to

meet climate goals and reduce emissions. The State also needs to direct more effort to low-income customers and historically underserved communities.

The State needs to become resilient in the face of climate change. For example, during a heat wave if your building is properly insulated and has a high-efficiency air conditioning system, your demand spikes less.

MS. ZUCKERMAN:

Each year from 2012 to 2018, NV Energy was the region's lagging major electric utility for the first-year energy savings for energy efficiency. Subsequent to the 2017 legislation, NV Energy is starting to catch up with regional peers. The 2017 legislation was foundation, and S.B. 382 builds on that great history and takes the State to the next level.

CHAIR HARRIS:

Why are we passing a new bill rather than petitioning the PUCN to consider opening a new rule making process on the energy savings goals? Or why not have the fight in the Integrated Resource Plan (IRP) process where the goals are set, and we will see them in the IRP?

MS. ZUCKERMAN:

I have been involved in many IRP processes in many states. A typical frustration for consumers and efficiency advocates is when the energy efficiency program is the least expensive investment and yet the outcome from the IRP process is not to fund the energy efficiency investment.

The combination of a statute like this with the strong process of the PUCN can provide assurances that a minimum level of energy efficiency can be expected moving forward and that there is a commitment to affordable electricity. It provides the platform for utility regulators to direct utilities to go above and beyond and deliver significant savings for rate payers.

MATT RUBIN (Western Resource Advocates):

I am an Energy Policy Analyst for Western Resource Advocates which is a nonprofit organization dedicated to protecting the West's land, air and water. Western Resource Advocates support S.B. 382 and its goal to increase the energy efficiency to 1.3 percent energy savings as advocated and stated in the energy efficiency plan.

Electric utilities in Nevada are regulated to have a savings goal of 1.1 percent averaged over the planning period.

Colorado Public Utilities Commission set energy efficiency goals for both Xcel Energy and Black Hills Energy that ramped to 1.68 percent in 2020. The Arizona Corporation Commission imposed a 1.25 percent annual electricity savings goal in 2011 for investor-owned utilities and began advancing the target up to 2 percent in 2013. Setting the 1.3 percent energy savings goal proposed by S.B. 382 would bring Nevada in line with other states in our region.

Western Resource Advocates commends the bill for defining "historically underserved community" and "low-income household" and addressing the disproportionate burdens vulnerable groups endure.

Directing 10 percent of energy efficiency expenditures to these demographics will double the amount of energy efficiency funds these communities receive and reduce electricity bills for Nevada's more vulnerable populations by reducing their usage through conservation measures that the households cannot afford to implement on their own.

Western Resource Advocates urges the Committee to support S.B. 382.

WILLIAM PREGMAN (Battle Born Progress):

Battle Born Progress supports S.B. 382. The bill allows utilities to offer programs to consumers to lower their energy uses and power bills. Energy efficiency is one of the best ways to lessen energy usage and save money while producing the same quality of heating, cooling and lighting that we rely upon.

The bill requires NV Energy to increase funding for energy efficiency programs for low-income households which will help customers use rebates and services to retrofit old air conditioners and other appliances. Newer devices use less energy, therefore saving customers money while creating jobs for the installation and maintenance of the systems.

As Nevadans work to achieve our ambitious State climate goals, these types of programs are key priority in the fight against climate change. We urge the Committee to support S.B. 382.

SARAH STEINBERG (Advanced Energy Economy):

Advanced Energy Economy (AEE) is an industry association comprised of businesses dedicated to make the energy we use secure, clean and affordable and includes those involved in energy efficiency products, software and programming.

Advanced Energy Economy supports S.B. 382. Energy efficiency delivers a range of benefits, including direct bill savings, greater grid resilience and reliability, and improved health and comfort in the face of increased ambient and extreme heat.

The energy efficiency sector is an engine of economic activity and in 2019, provided 11,000 jobs. Modeling that, last fall AEE conducted a hypothetical study. A public investment of \$2.5 billion spent on energy efficiency would add \$38 billion to the gross State product, creating 210,000 job-years and save residential and commercial customers over \$2.4 billion annually.

Senate Bill 382 will harness the opportunity and prepare the State to meet growing energy demand. Advanced Energy Economy supports codifying the annual savings target of 1.3 percent. The target is in line with targets that utilities are achieving across the region and creates regulatory research and development that allows for better planning of both short-term and long-term efficiency investment.

Advanced Energy Economy supports targeting at least 10 percent of energy efficiency program expenditures on vulnerable communities that will benefit the most from a reduced energy burden and have the least means to access efficiency upgrades.

The use of energy efficiency performance incentives will encourage the utility to exceed its statutory and regulatory energy efficiency obligation, which helps to better align the utility business model with State energy policy goals. Advanced Energy Economy requests your support for S.B. 382. I have submitted a letter of support ([Exhibit F](#)).

MARY HOUSE, D.D., D.H. (President and CEO, CHR, Inc.):

I am the President and CEO of CHR, Inc., and the "First Lady" of Mountaintop Faith Ministries. I support S.B. 382.

Energy efficiency is one of the simplest modest investments we can make to help struggling families save money, reduce harmful air pollution and meet the State's climate goals.

You will not have a more passionate advocate and fierce supporter of the energy movement than me. Our church is powered by solar energy and I am the proud owner of an electric vehicle.

My starting point toward a cleaner and healthier lifestyle started with reducing energy in my home, my office and my place of worship. I have replaced lighting with LED bulbs, upgraded to smart thermostats, sealed leaks, and repaired ducts. The changes resulted in cost savings.

It is important for us to use new and improved technologies so we do not get stuck in the past and continue to make progress. It should be a top priority for our State Legislators and leaders to help homeowners and businesses save money and the environment.

I support S.B. 382 which will ensure that NV Energy invests more in programs that serve low-income customers to make energy-efficient improvements. It is these families who spend larger percentages of their income on utility bills and whose lives can be changed by accessing modern cost-saving technology that improves the quality of life and eases the financial burden.

Nevada should not have to choose between keeping their lights on or paying their rent. There should be more focus on low-income efficiency programs, but S.B. 382 is a step in the right direction.

BRYAN HOWARD (American Council for an Energy-Efficient Economy):

The American Council for an Energy Efficient Economy (ACEEE) is a nonprofit organization that conducts research and analysis on energy efficiency. The ACEEE supports S.B. 382.

Energy efficiency is on average the least costly resource available to electric utilities. It is cheaper than adding new supply and typically delivers \$3 to \$4 in energy cost savings for every dollar spent.

As consumers and businesses struggle to recover from the pandemic's devastating impacts, strong efficiency targets are needed now more than ever to help customers lower their energy bills.

Senate Bill 382 would make important improvements to Nevada's efficiency and conservation rules, often called energy efficiency resource standards. The standards are a quantitative, long-term energy savings target for utilities. Eighty-three ACEEE researchers found that the targets are critical to encouraging long-term and near-term savings.

The ACEEE tracks efficiency policies closely in the ACEEE State Energy Efficiency Scorecard. The higher targeted legislation will bring Nevada in line with its neighbors Arizona, Colorado and California, which have the same or higher energy savings targets.

Deeper investment in our historically underserved communities and low-income households is needed, and S.B. 382 will aid in the effort. In 2020, ACEEE released an updated analysis on household energy burdens, i.e. those that pay more than 6 percent of income on energy bills. The research examined burdens in the Las Vegas area and found troubling results.

In the prepandemic Las Vegas metropolitan area, ACEEE found that the median-energy burden of low-income households was twice as high as nonlow-income households, and 25 percent of low-income households had energy burden five times higher than the national average.

As designated by the bill, at least 10 percent of total utility expenditures will be for energy efficiency in the low-income households and historically underserved communities. It will serve as an important investment to assist the commonly overlooked and underinvested populations. Provisions of the bill establishing performance incentives will be beneficial to achieve the goals of S.B. 382.

Incentives are becoming a more common practice throughout the country. The ACEEE scorecard found that nearly 30 states, including Arizona, California, Colorado, New Mexico and Utah, offer performance incentives for at least one major electric utility.

American Council for an Energy Efficient Economy urges the passage of S.B. 382. I have provided a letter of support ([Exhibit G](#)), which includes additional information.

EMILY DUFF (Ceres):

Ceres runs the Business for Innovative Climate and Energy Policy Network, a coalition of nearly 70 major employers, leading consumer brands and Fortune 500 companies, including many with operations in Nevada. Ceres also manages a separate work group of more than two dozen companies focused on enhancing opportunities for energy efficiency at the state level.

Ceres members recognize that climate change poses a significant risk to the long-term economic success of the business community and have set goals to reduce emissions.

Businesses are interested in finding ways to systematically improve their emissions performance and the emissions performance of our electricity and gas systems. As a result, Ceres members support policies and programs that can help them and their supply chains eliminate energy waste and reduce peak demand.

I submitted a letter ([Exhibit H](#)) to the Committee in support of building ambitious decarbonization policies. It is signed by 45 major businesses, institutions and associations across the West, including household names such as Adobe and Ben and Jerry's, and major businesses and institutions with facilities in Nevada, such as Dignity Health-St. Rose Dominican, PayPal, eBay and IKEA Retail US. These businesses recognize that energy efficiency is an important tool to facilitate building decarbonization in their facilities.

Given the imperative to take immediate action to combat climate change and help the State recover economically from the Covid-19 pandemic, strong utility leadership on energy efficiency is needed now more than ever.

Investment in efficiency is good for businesses. It is a simple way to improve the bottom line, and when they do more with less, they can save money, increase profits and create more jobs. The benefits of energy efficiency compounds across the supply chain.

Efficiency helps suppliers keep costs down so businesses can offer better products and more competitive prices. For many businesses, it is difficult to invest in efficiency projects unless they pencil out in one to two years. Many efficiency projects have a longer payback period.

Utility programs provide a mechanism to take the longer view to facilitate businesses making investments that have long-term gains. The investments benefit everyone—even those who do not participate directly in utility programs.

Efficiency is generally understood to be the least expensive way to meet energy needs. Investing in efficiency results in all businesses and consumers paying less than it would cost to generate or procure the same power from expensive alternatives.

Ceres members support local jobs and cleaner air and water and encourage your support of S.B. 382.

ELSPETH CORDUA (Sierra Club):

The Sierra Club has 40,000 members and supporters Statewide and urges the Committee to support S.B. 382.

Energy efficiency is good for the environment and saves customers money. The Sierra Club is excited that the bill will require the utility to dedicate additional energy efficiency programs to low-income households and historically underserved communities. The bill will provide programs to those who need it the most.

ANDREW SIERRA (Nevada Conservation League):

The Nevada Conservation League is a diverse coalition of over 20 of the State's leading conservation and environmental groups.

Senate Bill 382 is a priority for the Nevada Conservation Network. The Network identified the bill as one of the five priority bills that were proposed during the 2021 Legislative Session. All these bills are strong steps for advancing conservation and the protection of Nevada's environment.

The bill will deliver energy and cost savings to Nevadans, bolster energy efficiency programs to support low-income customers, create local jobs and help us reach our ambitious carbon reduction goals.

Nevadans overwhelmingly support bold aggressive action that can confront climate crisis, including energy efficiency. Eighty-two percent of registered voters support initiatives that provide assistance for homeowners and renters to increase energy efficiency of their homes.

Nevadans are calling on Legislators to prioritize policies that help plan for the future with clean energy in our State. The Sierra Club urges your support on S.B. 382.

MARIE STEELE (NV Energy):

NV Energy opposes S.B. 382 as introduced. NV Energy was involved in the crafting of the bill with stakeholders and looks forward to continued conversations. NV Energy has not finished reviewing the proposed amendment, [Exhibit D](#).

NV Energy supports energy efficiency and the important role it plays in supporting the State's climate goals and growing its clean energy economy. Most importantly, we support our customers' ability to save money and reduce their carbon footprints by reducing energy consumption, especially those who are the most vulnerable and historically disenfranchised.

Given the time constraints I will describe NV Energy's four largest concerns, but that does not imply agreement with other matters.

First, NV Energy is unable to define the financial impact to our customers because the bill provides the PUCN optionality on the method to be used to remove the disincentive. We are in agreement that the regulatory treatment of the energy efficiency and demand-side management programs does not align with the programs important to our climate, economy and customers.

The two options put forth in the bill are not the only two alternative rate-making frameworks available to policy makers and the PUCN. NV Energy is strongly opposed to one of those two options presented in the bill commonly referred to as decoupling, and the presenting stakeholders have been made aware of that.

Second, there is uncertainty on how other energy efficiency legislation may impact the bill, which is exacerbating the ability for NV Energy to define the financial impact to customers, specifically A.B. 383 which is the client efficiency standard put forth by Assemblyman Howard Watts, Vice Chair of the

Assembly and Growth and Infrastructure Committee. NV Energy raises the issue now, as we did with A.B. 383, to ensure Committee members are aware.

ASSEMBLY BILL 383: Establishes provisions governing the energy efficiency of certain appliances. (BDR 58-490)

Third, NV Energy believes the PUCN already has the authority to address many of the key issues presented in the bill. The bill will put the burden on already constrained resources at the PUCN. Senate Bill No. 150 of the 79th Session gave the PUCN authority to set targets and regulations. Should they need to be reevaluated, that authority already exists.

The PUCN is working on regulations to enable alternative rate making. The work is made possible by S.B. No. 300 of the 80th Session. A broad group of regulatory experts, utility employees, consumer advocates, large commercial customers, environmental advocates and industry experts have spent the past two years discussing alternative rate making that aligns to the shared priorities and objectives defined by the diverse group of stakeholders that participated.

NV Energy is sorry to have missed Mr. Sullivan and Ms. Zuckerman in those workshops, but that does not negate the voices of the parties that participated.

Fourth, and most importantly, the bill falls short of addressing the full opportunity and the complexities of energy and climate policy for the built environment, whether that be energy efficiency, demand response, electrification, building codes, and such. To realize the full potential of the opportunity in the bill to benefit all Nevadans will require a broader inclusive conversation that encourages strategic and responsible energy planning. NV Energy has expressed that preference to the stakeholders.

NV Energy understands the frustration. Regulatory processes take time and the Legislature meets every two years. NV Energy is asking the Legislators to use the tools that the PUCN already has regarding energy efficiency targets and alternative rate making.

NV Energy will have new energy efficiency and demand response programs as part of the IRP filing in June. Many of the environmental advocates before you have helped shape NV Energy's IRP as part of our demand-side management collaborative.

NV Energy appreciates all the comments the stakeholders brought forth today and the passion and expertise of the bill presenters. NV Energy looks forward to continuing its work with the Committee on the energy policy for the built environment and its importance to all Nevadans.

ERNEST FIGUEROA (Consumer's Advocate, Bureau of Consumer Protection, Office of the Attorney General):

I am the Executive head of the Bureau of Consumer Protection and have been involved in utility matters with the OAG since 2005.

The Consumer's Advocate and the BCP are charged with the statutory duty to represent residential rate payers in complex utility proceedings and advocate for customers' interest to ensure rate paid dollars are spent prudently and effectively.

The BCP appears regularly before the PUCN and has been an essential partner in many discussions concerning energy efficiency demand-side management (DSM) programs, such as those contained in S.B. 382.

In 2019 the PUCN ordered the creation of a DSM collaborative and the BCP engaged in multiple discussions about many of the issues contained in S.B. 382.

While the BCP has taken a position of opposition to S.B. 382 as written, the opposition is limited to certain sections of the bill, most importantly section 7 which is in direct conflict with the interest of Nevada ratepayers for a number of reasons.

Section 7 unnecessarily revokes the important and hard-fought ratepayer consumer protection that has been developed over the years in rule makings and previous dockets. The language in section 7 appropriates hard-earned ratepayer money to incentivize the utility to do what it already has the duty to do, which is to follow the law.

The language is not necessary and allows the utility to overearn while following the law underneath the incentive at the ratepayers' expense. This is problematic and can lead to bad policy with large corporate actors rewarded for complying with the law.

If section 7 becomes law, our underserved and low-income communities could pay the highest percentage of their income to the utilities for utility compliance.

It should be noted that alternatives in section 7 will have the same effect with no additional cost to ratepayers. For example, in other jurisdictions, such as Pennsylvania, the utilities are penalized when they do not meet their efficiency targets.

I look forward to working with stakeholders to amend S.B. 382 to better align with the interest of ratepayers and consumer protection.

MR. SULLIVAN:

Ramping up energy savings programs is critical to addressing climate population in Nevada and doing so in an equitable manner. The bill will increase electric utility energy efficiency program savings to reasonable norms. It will increase focus on the households in communities who need the most help. It maintains existing consumer protections in the form of the cost-effectiveness standards, and it makes it in the utility's business interest to save more energy.

CHAIR HARRIS:

We will close the hearing on S.B. 382. We will open the hearing on S.B. 383.

SENATE BILL 383: Revises provisions relating to electric bicycles. (BDR 43-835)

ALEXANDER LOGEMANN (People for Bikes Coalition):

The People for Bikes Coalition is the trade association for suppliers, manufacturers, and distributors of bicycles and bicycle products in the U.S. The Coalition supports S.B. 383, which is legislation that will revise provisions relating to electric bicycles.

Three important takeaways from the legislation are: The bill will align the definitions for electric bicycles with the laws of 30 other states, the federal government and important State agencies; clarify key operational and safety rules in the U.S. Department of the Interior; and maintain the foundational regulatory system which treats electric bicycles as bicycles.

The People for Bikes Coalition is a Colorado-based organization that represents companies of all different sizes. The companies make all types of bicycle products, not only electric bicycles. They make everything from an affordably

priced children's bicycle that you might find in your local big box retailer to a \$10,000 racing machine that you might find in a local bike shop. They also make bicycle accessories and components.

Electric bicycles look and are equipped like regular bicycles. If you saw one, it would probably be difficult to distinguish it from a regular bicycle. You would see the exact same kinds of components in terms of the shifting and brakes and what the frame and handlebars look like. All those different components are identical to a regular bicycle except an electric bicycle has three additional components. It has an electric motor, a battery and a control system that allows you to control how much power the battery provides to the motor.

There are two main types of electric bicycles. The pedal-assist bicycle in which the driver must be pedaling for the motor to engage and the motor will shut off if you stop pedaling. The other type is the throttle-assist bicycle. The throttle-assist bicycle has a switch or throttle on the controller and if held down, it enables the driver to propel the bicycle regardless of whether he or she is pedaling. The bicycle typically has a pedal-assist mode, and the driver can pedal and receive assistance like a pedal-assist bicycle.

In terms of who is driving these products, who is using these products, and what the goals are, all types of people are using our products. Electric bicycles are an increasingly important market segment for the U.S. bicycle industry.

We see significant potential for electric bicycles to be increasingly integrated into all types of bicycle sales and all across the range of products, whether they are a beach cruiser, commuter bike, mountain bike, or road bike. Electric bicycles are being integrated into every single product base that is out there.

The initial adoption of electric bicycles was higher among people over the age of 50. That curve is flattening out in terms of the different demographic groups that are inclined to buy electric bicycles.

Electric bicycles are commonly used for both recreation and transportation. I have one for that exact purpose. I tow my daughter around in it for both trips to the grocery store and the park.

Electric bicycles were first regulated federally approximately 20 years ago when a federal statute was passed to regulate their product safety standards.

The fundamental decision that vehicle regulators needed to make was whether electric bicycles would be treated as motor vehicles or bicycles. If treated as motor vehicles, they would be subject to the authority of the National Highway Traffic Safety Administration which governs motor vehicles. If treated as bicycles, they would be treated under the jurisdiction of the U.S. Consumer Product Safety Commission (CPSC), which is the agency that regulates the safety standards for bicycles.

Congress made the decision and determined that electric bicycles would be regulated by the CPSC. They would be regulated under the same safety regulations as bicycles, subject to any changes CPSC deems necessary.

Subsequent to that federal statute, states started passing electric bicycle legislation, but the definitions in the state laws were disjointed. Some states borrowed the language from the CPSC definition while other states slightly modified it to make it more meaningful.

Still other states made up their own definitions and had completely different standards on the wattage and the speed that might apply to an electric bicycles. Whereas the federal definition says 750 watts, other states have said 1,000 watts.

Six years ago, the Coalition decided standardized definitions and terms at the state level were needed. If a consumer purchases an electric bicycle and vacations out-of-state or moves out-of-state, he or she might not know that there is a different regulatory scheme in that state.

What you see before you today is a version of a model legislation that we have been working on for approximately six years and tailored to Nevada. Most importantly, it defines the three classes of electric bicycles, also known as e-bikes, that are predominate in the market now. They are broken down by speed and method of motorized engagement. Class 1 is the pedal-assist bicycle that you have to be pedaling for the motor to engage. It goes up to 20 miles per hour (mph). A Class 2 would be the bicycle that has a throttle that can go up to 20 mph. A Class 3 would be a pedal-assist electric bicycle that can go up to 28 mph.

The bill closes ambiguity that is in the federal law, particularly for Class 3 bicycles. The top pedal-assisted electric bicycle speed is not specified in

the CPSC law, so the bill aligns practices with what is prevalent in Europe. A Class 3 bicycle in Europe is referred to as a speed pedelec and it is capped at 45 kilometers per hour. The bicycle's motor assistance is 28 mph, which will align us with international standards for that particular product.

Senate Bill 383 will update definitions to incorporate the 3-class system. More importantly, from a use perspective, it provides additional guidance on where electric bicycles can be driven.

Electric bicycles are subject to the same rules of the road as bicycles, but where these bicycles can be driven is not specified in our law. There is a lot of confusion among drivers who are uncertain about where they can drive. For example, can they drive in a bike lane?

The bill includes additional safety provisions for the higher-speed class 3 electric bicycles. The problems we have observed in a lot of states is that when they define electric bicycles, they reference the motor vehicle standards, which is not proper. The federal law and the CPSC standards are the appropriate standards, and the bill correctly references those safety standards.

The bill adopts a labeling requirement for the three different classes of electric bicycles, which is the law in 30 states. If you walk into a bike shop tomorrow, you will see many of the bicycles labeled in this manner. When bicycles are imported into the U.S., we do not distinguish which states a new bicycle will be shipped to.

The critical pieces of the bill are in harmony with the laws of other states and the federal government. The 30 states that have adopted these definitions have also adopted the U.S. Department of the Interior's system of regulating electric bicycles used on U.S. Department of the Interior Bureau of Land Management lands, National Park Service lands and the like.

Senate Bill 383 provides clarity on where cyclists can ride their regular bicycles, subject to local authority's decisions on nonmotorized areas such as bike paths.

SUSAN FISHER (People for Bikes Coalition):

Existing law exempts electric bicycles from licensing and registration. It does not require a driver's license. It provides that electric bicycles are subject to the same traffic laws and various other requirements as bicycles.

Senate Bill 383 seeks to establish several classes of electric bikes in statute, and where the term bicycle is mentioned, the term electric bicycle will be added.

Sections 1 and 2 of the bill delete outdated definitions of electric bicycles. Section 4 informs that the new definitions for electric bicycles are in NRS 484B.017.

Section 5 provides electric bikes are allowed anywhere traditional bicycles are allowed except as otherwise provided in the section or by federal law. For example, if a local governmental entity does not allow them on the sidewalks now, they will not allowed on sidewalks. They are allowed in bike lanes but not allowed in normal traffic lanes. The bill does not add anything as far as where they can be and not be.

Section 5, subsection 2 is enabling language for State or local governmental entities to prohibit use in certain areas for safety reasons. Subsection 3 allows restrictions on unpaved paths or trails. Subsection 4 defines a shared-use path.

Section 8 sets the electric bicycle operator age at 16 or older and requires an approved helmet and allows for a passenger to wear a helmet.

Section 9 puts into statute the CPSC adopted equipment and manufacturing requirements. All new electric bicycles sold in Nevada must comply with the requirements and may not be tampered with to change the speed capability or how the electric motor engages and disengages, and they must have an operational speedometer.

The People for Bikes Coalition has proposed amendment ([Exhibit I](#)) for section 9, which will clarify that the CPSC requirements only apply to new electric bicycles at time of first sale. Section 10 describes the three classes of electric bicycles which Mr. Logemann described.

Section 14 is statutory language defining recreational activity and limits liability for the owner of a property where recreational activity is allowed. Section 14, subsection 4, paragraph (h) adds the term "electric bicycles" to the list of allowed activities.

Section 15 describes the prohibited actions against bicycles or other motor vehicles and adds "electric bicycle."

The People for Bikes Coalition learned today that Tahoe-Pyramid Trail has submitted a letter to the Committee ([Exhibit J](#)) recommending two changes.

The first is that section 5, subsection 3 be revised to add "except for occasional hydrological controls such as short bridges and previous natural patching material" after the words "no added surfacing materials." The justification is that crossing a drainage culvert or putting gravel in a mudhole should not change the characterization of a backcountry trail. The Coalition has no opposition to the change.

The second is that section 9, subsection 1, paragraph (b) be revised to add "with the classification number larger and obvious." The Coalition opposes the change because the stickers are determined by the CPSC. They determine the size, the font, and what is printed on the sticker. The bill is to bring Nevada in line with what the other 30 states have.

SENATOR PICKARD:

In section 8, I do not see where the bill differs significantly from the law except to include what the federal government has decided to do in terms of regulation. If we make the change and the federal government makes a change, then we will be out of compliance.

Section 8 will not allow people under 16 years of age to operate electrical bicycles. I see a number of kids in my neighborhood, and probably 25 percent of the kids riding bicycles to Del E. Webb Middle School are riding electric bicycles.

Kids under the age of 16 are riding electric bicycles without any problems. Can you explain the rationale of why we would prevent kids under the age of 16 from riding them?

MR. LOGEMANN:

The age limit is specific only to Class 3 electric bicycles, not Class 1 and Class 2 bicycles, which are more likely to be used by younger kids. It is less likely that a lot of kids are riding on the Class 3 higher-speed pedelecs which are designed to be commuting machines, almost a car replacement due to their higher speeds.

SENATOR PICKARD:

Is the speed difference eight miles an hour?

MR. LOGEMANN:

Yes.

SENATOR PICKARD:

When I was a teenager I would ride my bike on a three-mile downhill and peg my speedometer at 16 miles per hour. I fail to see why 28 miles per hour is significantly faster than 20 miles per hour. Unless there is significant data out there with deaths, I do not see the justification for banning kids under 16 years of age from riding them. Has there been a significant numbers of injuries and fatalities?

MR. LOGEMANN:

The coalition does not have any data demonstrating that Class 3 e-bikes pose a higher safety risk of injuries or fatalities. There is data on average speeds for the different types of e-bikes relative to a traditional bike that does not have a motor.

The Class 1 e-bike has a typical average speed of 1.8 miles per hour more than a regular bicycle. The Class 3 e-bike has a higher speed due to the higher motorized assistance. It is 7.5 mph to 8 mph more than a regular bicycle.

SENATOR PICKARD:

I would appreciate your sharing that data with the Committee. I resist legislation adding rules unless there is a demonstrated need, and I do not see that with the bill.

MS. FISHER:

The People for Bikes Coalition reached out early to the DMV with the proposed language and then later with our proposed amendment, [Exhibit I](#). Officials at DMV did not state an opinion but expressed no problems with either the bill or amendment.

The Coalition reached out to Clark County and the cities of Reno, Sparks, Henderson, Las Vegas and North Las Vegas. No comments of support, opposition or neutrality were received, so there appears to be no issues.

SENATOR HAMMOND:

I am trying to understand the difference between the three classes of e-bikes. Is there a significant price difference, with Class 3 e-bikes being more expensive, and is that why we are not seeing 12-year-olds or 13-year-olds riding around on Class 3 e-bikes?

MR. LOGEMANN:

There is a correlation, but it is not a strong correlation because people can easily spend \$10,000 or more on a high-end Class 1 mountain bike.

There is a slight tendency for Class 3 e-bikes to cost a little more than other e-bikes, due to the larger capacity battery on those bikes, especially for commuting purpose. The battery is a costly component that is manufactured to a high standard and can occasionally drive up the price for Class 3 e-bikes.

If you were strictly looking to buy the most budget-friendly electric bike, it would probably be a Class 2 e-bike, but it is not uniformly true that those are less expensive than the other classes.

SENATOR HAMMOND:

Your discussion with Senator Pickard was about speeds and the age difference. I was asking about bicycle costs to see if the Class 3 e-bikes cost was one of the reasons for the limitation of kids under 16 not being allowed to drive a Class 3 e-bike.

CHAIR HARRIS:

We will close the hearing on S.B. 383. We will move to the work session on S.B. 60.

SENATE BILL 60: Revises provisions governing vehicles. (BDR 43-307)

SUSAN SCHOLLEY (Policy Analyst):

I will read from the work session document on S.B. 60 ([Exhibit K](#)).

SENATOR PICKARD MOVED TO AMEND AND DO PASS AS AMENDED
S.B. 60.

SENATOR BROOKS SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR HARRIS:

We will move to the work session on S.B. 232.

SENATE BILL 232: Revises provisions governing the operation of vehicles on certain highways in the State of Nevada. (BDR 43-69)

Ms. SCHOLLEY:

I will read from the work session document on S.B. 232 ([Exhibit L](#)).

SENATOR SPEARMAN MOVED TO DO PASS S.B. 232.

SENATOR HAMMOND SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR HARRIS:

We will move to the work session on S.B. 285.

SENATE BILL 285: Revises provisions relating to transportation. (BDR 43-965)

Ms. SCHOLLEY:

I will read from the work session document on S.B. 285 ([Exhibit M](#)).

SENATOR PICKARD:

I appreciate the deletion of section 2, subsection 7. Other than the restoration of the three-foot passing requirement, what significant change have we made?

CHAIR HARRIS:

There is the addition of the provision requiring that driving schools teach the rules of the road as they are ushering in the new class of drivers. The bill was proposed in consultation with a group of avid cyclists who believe the legislation will move us forward with bicycle safety.

A lot of our localities have a Complete Streets policy but after conversations with those who are affected by the issues, my conclusion is that the bill will move us further toward bicycle safety.

SENATOR PICKARD:

I can appreciate that, having recently been involved in several master plan developments with the Complete Streets concept. The idea of including bike lanes and infrastructure for bicycles is in place, particularly in the City of Henderson, which appears to be the bicycling capital of the world. I am concerned that the bill could hamper that. I have reached out after our conversation to a representative of Henderson and did not receive a return call.

I am not convinced that we need the bill, and it could hinder local governments from doing what they think is appropriate in their districts. Driving schools are already teaching the rules of the road. All of my kids understood the rules.

I will be voting no today but giving you the opportunity to convince me otherwise before I vote on the floor.

SENATOR HAMMOND:

I will be voting no today but wish to discuss the bill with you later to gain a better understanding.

SENATOR BROOKS MOVED TO AMEND AND DO PASS AS AMENDED
S.B. 285.

SENATOR SPEARMAN SECONDED THE MOTION.

THE MOTION CARRIED. (SENATORS HAMMOND AND PICKARD VOTED
NO.)

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CHAIR HARRIS:

We will move to the work session on S.B. 362.

SENATE BILL 362: Revises provisions relating to public transit systems.
(BDR 22-836)

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Ms. SCHOLLEY:

I will read from the work session document on S.B. 362 ([Exhibit N](#)).

SENATOR PICKARD MOVED TO DO PASS S.B. 362.

SENATOR HAMMOND SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR HARRIS:

We will move to the work session on S.B. 387.

SENATE BILL 387: Provides for the regulation of certain suppliers that provide an inmate calling service. (BDR 58-1015)

Ms. SCHOLLEY:

I will read from the work session document on S.B. 387 ([Exhibit O](#)).

SENATOR HAMMOND:

I will support the bill, but I want to have a conversation with you at a later date to gain a better understanding before the bill goes to the Floor.

SENATOR PICKARD:

I was hoping to hear back from officials at the Department of Corrections (DOC) since it is a State agency. I want to know why they do what they do. They were glaringly absent from the hearing, and I would have thought that if they cared, they would have provided testimony.

I am voting yes today with a reservation to change should the DOC convince me otherwise.

CHAIR HARRIS:

I will state for the record all of the DOC facilities have Securus Technologies providing inmate phone service and are already in compliance with the federal cap.

SENATOR PICKARD:

Then why do we need the bill other than to help the people who are providing these services generate more income?

CHAIR HARRIS:

The DOC facilities are not the only facilities where inmates are housed, and many of those other facilities charge above the federal cap.

SENATOR PICKARD:

I did not think of those facilities. I will reach out to the Clark County Detention Center.

SENATOR SPEARMAN:

I support the bill because many people incarcerated may not be guilty. All inmates should have the opportunity to afford to place calls to their relatives, especially if they are in low-wealth communities. The bill provides that opportunity.

SENATOR BROOKS MOVED TO AMEND AND DO PASS AS AMENDED
S.B. 387.

SENATOR SPEARMAN SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR HARRIS:

Having no further business to come before the Committee, we will adjourn the meeting at 6:54 p.m.

RESPECTFULLY SUBMITTED:

Paula Peters,
Committee Secretary

APPROVED BY:

Senator Dallas Harris, Chair

DATE: _____

EXHIBIT SUMMARY				
Bill	Exhibit Letter	Begins on Page	Witness / Entity	Description
	A	1		Agenda
S.B. 303	B	1	Senator Chris Brooks	Proposed Amendment
S.B. 303	B	1	Tim Geswein / State Contractors' Board	Proposed Amendment
S.B. 303	B	1	Mark Krueger / Bureau of Consumer Protection	Proposed Amendment
S.B. 371	C	1	Connor Cain /Copart	Proposed Amendment
S.B. 382	D	1	Ellen Zuckerman / Southwest Energy Efficiency Project	Proposed Amendment
S.B. 382	D	1	Dylan Sullivan / National Resources Defense Council	Proposed Amendment
S.B. 382	E	1	Ellen Zuckerman / Southwest Energy Efficiency Project	Presentation
S.B. 382	F	1	Sarah Steinberg / Advanced Energy Economy	Letters of support
S.B. 382	G	3	Bryan Howard / American Council for an Energy-Efficient Economy	Letter of support
S.B. 382	H	7	Emily Duff / Ceres	Letter of support
S.B. 383	I	1	Susan Fisher / People for Bikes Coalition	Proposed Amendment
S.B. 383	J	1	Susan Fisher / People for Bikes Coalition	Comment Letter from Tahoe-Pyramid Trail
S.B. 60	K	1	Susan Scholley	Work Session
S.B. 232	L	1	Susan Scholley	Work Session

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S.B. 285	M	1	Susan Scholley	Work Session
S.B. 362	N	1	Susan Scholley	Work Session
S.B. 387	O	1	Susan Scholley	Work Session