



# 2021

## Nevada Contractors Association

81st Legislative Session Report



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# Overview

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The 81st Session of the Nevada Legislature started much differently than any other Session in the state's history. Due to restrictions related to COVID-19, the Legislature convened on the constitutionally mandated first Monday of February with only legislators and essential staff permitted inside the legislative building.

The remote environment presented a unique set of challenges for legislators, staff, and lobbyists alike. Committee hearings were conducted online via videoconference, and all testimony and public input was constrained to 2-minutes of audio-only statements. FPA and GEM Consulting used a multifaceted strategy to ensure NCA's interests were effectively represented in this process. This included all communication methods – video/phone/email/text/communication apps and leveraging the firm's relationship network with staff, legislators, and colleagues to achieve objectives.

Prior to COVID-19, Nevada law only required registration for lobbying activities that was conducted within the walls of the legislative building. Legislative leaders passed Assembly Bill 110 to require lobbyists to register if any communication with a legislator on behalf of another person took place – regardless of where or how the communication happened. This requirement was passed by both houses and approved by Governor Sisolak on March 18, 2021, more than a month after the session began.

Despite challenges created by the pandemic, the NCA Government Affairs Committee, led by Chairman Boyd Martin, NCA CEO Sean Stewart and Committee Liaison Ann Barnett, met every Monday morning to prioritize legislation and worked with membership and the lobbying team to strategize about industry objectives. The Government Affairs committee saw robust member participation, which helped the team to prioritize issues and better understand the nuances of specific industry challenges. The importance of this cannot be overstated. This commitment by all involved led to a successful Legislative Session for the construction industry.

Thanks to extensive interim efforts, NCA passed proactive legislation to remove the sunset on CMAR, and nearly the entire CIP program was funded, including restoration of funds for the UNLV Engineering Building. NCA also made significant progress mitigating the most detrimental policies, including impact fees on commercial construction and the removal of constitutional protections that prevent Highway Fund dollars from being used for purposes other than road construction. NCA's strong relationships with legislators, other contractor and broader business groups, and labor were critical to success.

While NCA had some wins, it must also be acknowledged that many legislators in the majority did not represent or consult industry on many measures. While it is critical that we work to maintain our strong relationships with elected officials, we must be able to count on timely communication and respect for Nevada's largest employer. The NCA Government Affairs Committee will work during the interim to make sure the construction industry is well represented in 2023 – our next Legislative Session. Thankfully, there were few issues that we were unable to work with the Legislature and our colleagues to improve.

Included in this report is an overview of legislation related to NCA's highest priorities. We are available anytime to discuss any of these measures in greater detail.

Thank you for the privilege of representing your interests in Nevada.

-Ferrari Public Affairs

# Priority Bill/Issue Area Report

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## *Construction Manager at Risk (CMAR)*

**Senate Bill 141 – Removes the sunset from CMAR.**

**Signed by Governor Sisolak on May 27, 2021**

**Effective date: May 21, 2021**

After several months of hard work that began long before the 2021 Legislative Session, NCA successfully worked with Senator Chris Brooks to remove the statutory CMAR sunset to allow public agencies to continue using CMAR on a permanent basis. From the onset, the goal was to pass a bill that removed the sunset and to avoid the political drama that surrounded CMAR during previous Legislative Sessions.

Members of the NCA CMAR Subcommittee met with Senator Brooks in the fall of 2019, and he gave his commitment to sponsor the bill shortly after. This was a critical first step. Senator Brooks as a member of the majority party and the Chairman of the Finance Committee, allowed the measure to get the needed traction and trajectory to pass.

To ensure key legislators understood the value of CMAR, NCA scheduled a tour of the Las Vegas Convention Center expansion project, prior to the pandemic, which was attended by Senate Majority Leader Nicole Cannizzaro, Senate Commerce and Labor Chair Pat Spearman, and Assembly Majority Whip Daniele Monroe-Moreno. Following the legislative tour, the CMAR Subcommittee met with key stakeholders, including public entities and labor, to discuss the future of CMAR and reached unanimous agreement that the delivery method was valuable to our public infrastructure and that the sunset should be removed. The lobby team also verbally briefed Governor Steve Sisolak (who expressed his early support and familiarity with CMAR) and his Legislative Director, and the CMAR Subcommittee sent a letter to the Governor urging his support.

During the Legislative Session, the lobby team briefed all members of the Assembly and Senate Commerce and Labor Committees in preparation for hearings. Both hearings went flawlessly, with no opposition, and a strong showing of support from public entities, contractor groups and labor. Following the hearing in the Senate, Commerce and Labor Committee Chair Pat Spearman said, “job well done,” and quipped that she hadn’t seen that much affirmation since the major political parties elected their presidential nominating committees – as an indicator of how NCA’s diligent preparation paid off. A similar situation occurred in the Assembly where Government Affairs Committee Chair Edgar Flores commended Senator Brooks on his smooth handling of CMAR. The bill received unanimous support in both houses and was sent to the Governor on May 21, 2021, well ahead of Sine Die. The Governor signed the bill on May 27, 2021, and it became effective May 21, 2021.

# Priority Bill/Issue Area Report

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## *Construction Manager at Risk (CMAR)*

**Assembly Bill 410 – Prevents a CMAR from acting as a Construction Manager as Agent.  
Signed by Governor Sisolak on June 4, 2021  
Effective Date: June 4, 2021**

Originally requested by former Assemblyman Skip Daly, AB410 prohibits a CMAR from contracting with a public entity within four years after acting as construction manager as agent. When Daly lost his 2020 election to Jill Dickman in Assembly District 31, Government Affairs Chairman Edgar Flores agreed to run the bill. The issue created much debate amongst NCA members and the NCA was initially split from the AGC in Reno who strongly supported the bill and presented alongside Daly at the hearing. NCA testified in opposition at the initial bill hearing at the recommendation of the CMAR Subcommittee. Unable to reach further agreement, the Subcommittee decided to recommend that the NCA take no position and for the lobby team to not further engage on the bill. The final version requires selection of construction manager as agent based on competence and qualifications in lieu of competitive bidding (except for projects less than \$100k).

## *Public Works/ Construction*

**Assembly Bill 90 – Would have required impact fees on projects of intercounty significance.  
Bill Failed**

Requested by Assembly Majority Leader Benitez-Thompson, AB90 would have authorized local governments to impose an impact fee on new development to finance the costs of capital improvements or facility expansions attributable to a new development. The ability to charge industry for the impact of development in neighboring counties has been a priority for Washoe County legislators ever since private companies (Tesla, Switch, etc.) started developing the land east of Reno in Storey County. Despite the intended targets in Northern Nevada, the bill would have also impacted projects in Southern Nevada. It was amended to only include a study of such projects, but it later died in the Assembly Ways and Means Committee. This issue is likely to return in 2023.

**Assembly Bill 162 – Would have revised the apprentice utilization act.  
Bill Failed**

Requested by Assemblyman Ellison, AB162 would have limited the requirement that a contractor must use a certain percentage of apprentice hours on public works construction to only Washoe and Clark Counties. The argument for the bill is the lack of availability of apprentices in small counties. As expected, the bill died without a hearing.

# Priority Bill/Issue Area Report

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## **Public Works/ Construction**

**Assembly Bill 249 – Prevents an HOA from restricting construction hours.**

**Signed by Governor Sisolak on May 29, 2021**

**Effective Date: October 1, 2021**

As introduced, AB249 would have required local governments to prohibit construction start times earlier than 5:00 AM. NCA was opposed to the original version due to the need for work hours to take place at varying times throughout the year (especially summer). After speaking with the bill sponsor (Jauregui – D- LV), she clarified her intent was not to limit start times, but rather to prohibit HOAs from restricting the hours in which construction work may begin in a common-interest community starting the month of May through the end of September to protect workers from the heat. This clarification came in the form of an amendment and NCA took a neutral position on the bill.

**Assembly Bill 331 and Assembly Bill 334 – Would have forced impact fees on all construction projects.**

**Bills Failed**

AB331 and AB334 would have allowed local governments to charge a fee on commercial and residential development, the revenue from which would be earmarked for affordable housing. The fee would be set at \$3 per square foot for industrial development and \$5 per square foot for commercial. The lobby team discussed the bills with the sponsors, making the point that the commercial construction industry should not foot the bill for affordable housing. NCA opposed both bills and they died without a vote in the Assembly.

**Senate Bill 67 – Creates a pilot program to gather data on the use of job order contracts for certain public works.**

**Signed by Governor Sisolak on June 8, 2021**

**Effective Date: October 1, 2021 – June 30, 2025**

Requested by Clark County, SB67 establishes a pilot program for Job Order Contracting (JOC) for Clark County and the cities of Las Vegas, Henderson and North Las Vegas, and the Clark County Water Reclamation District. The JOC program works by allowing an entity to preselect multiple general contractors through a competitive bid process. The selected contractors would be on-call to perform work on an as-needed basis. Each entity is allowed to use the program for up to \$25 million worth of projects annually.

The contracts are required to meet the following criteria:

- a) Be for a fixed period;
- b) Provide for indefinite times of delivery and indefinite types and quantities of work;
- c) Provide for the use of job orders;
- d) Require a contractor to prepare and submit a proposal for each job order, which must include, without limitation, a proposed price for the job order, each construction task required to perform the job order, the unit price for each such task and the adjustment factor applicable to the performance of the task; and
- e) Not be for work exclusive to one trade for which a license as a specialty contractor is required.

NCA worked with Clark County and Commission Chair Marilyn Kirkpatrick on SB67 prior to the Legislative Session. The bill faced many hurdles throughout the process due to opposition from AGC Reno and labor groups, mainly in Northern Nevada. NCA's support was integral throughout the process and ultimately helped secure its passage.

# Priority Bill/Issue Area Report

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## *Public Works/ Construction*

### **Senate Bill 395 – Would have allowed small counties to increase revenues for school construction. Bill Failed**

Requested by Senator Pete Goicoechea, SB395 would have required the Board of County Commissioners of each county whose population is less than 45,000 to impose, upon the approval of the registered voters of the county, a new property tax at the rate of not more than 25 cents on each \$100 of assessed valuation to be used for school district capital projects. The new tax would have been exempt from existing caps on property tax. The intent of the bill was to help White Pine County to build a new middle school to replace the current 100-year-old building. The bill received positive hearings in the Senate and Assembly and passed the Senate with bipartisan support but was never voted out of the Assembly Ways and Means Committee.

## *Energy/Utilities*

### **Assembly Bill 380 – Would have effectively phased out natural gas. Bill Failed**

Requested by Assemblywoman Cohen (D – Las Vegas), AB380 would have eventually led to phasing out natural gas use in Nevada. NCA worked with a large collation of businesses, utilities and labor to oppose the bill. Specifically, the bill, as introduced, would have required an incremental decrease in the amount of natural gas used in homes and commercial buildings until it was eliminated by 2050 - the date Nevada is expected to emit net-zero greenhouse gas emissions according to the state’s climate strategy.

Facing significant opposition, the bill sponsor proposed an amendment to remove the elimination of natural gas but make it more challenging for utilities to get future expansion or infrastructure replacement plans approved. NCA, the business community and utilities, including NV Energy and Southwest Gas, remained in opposition. The bill died in committee without a vote.



# Priority Bill/Issue Area Report

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## Energy/Utilities

**Senate Bill 448 – Revises provisions relating to energy and utilities.**

**Signed by Governor Sisolak on June 10, 2021**

**Effective Date: Varies depending on the section but generally on June 10, 2021**

Senator Chris Brooks introduced SB448 to encourage the use of electric vehicles and to attract renewable energy development in the state. The bill was introduced in the final weeks of the Legislative Session and was the result of extensive work behind the scenes with utilities, industry, energy advocates and the Governor's Office. NV Energy and Valley Electric supported the measure along with a long list of energy advocates and stakeholders. While NCA did not take an official position, the NCA Government Affairs Committee did discuss the bill and determined that it would likely result in business opportunities for members.

SB448 makes several changes aimed at altering the energy landscape in Nevada, but there are two major components of SB448: 1) require utilities to expand transmission infrastructure; and 2) require NV Energy to invest \$100 million in electric vehicle charging stations. Expanding transmission lines is expected to result in investments in renewable energy development in the state. The electric vehicle charging infrastructure is expected to help with that the adoption of electric vehicles.

Additionally, the bill makes the following changes:

- Allows for tenant solar by clarifying that a net metering system providing electricity to multiple units on the same property is not deemed a public utility.
- Extends the Economic Development Electric Rate Rider Program, which sets aside up to 50 megawatts of capacity for which eligible businesses may receive declining percentage discounts over a period of years, through December 31, 2024, or whenever the set-aside capacity is fully allocated, whichever is earlier.
- Doubles spending on utility energy efficiency programs for low-income customers, which will help with the proliferation of residential energy efficiency investments, such as rooftop solar.
- Creates the Regional Transmission Coordination Task Force to advise the Governor and Legislature on energy transmission policies.
- Amends the definition of wage to include hourly pay and benefits for the purposes of energy-related tax incentives for certain projects.

## Prevailing Wage

**Assembly Bill 99 – Would have revised the prevailing wage threshold.**

**Bill Failed**

Requested by Assemblyman John Ellison, AB99 would have raised the minimum threshold for triggering Nevada's current prevailing wage requirements to \$250,000. By way of background, NCA worked in 2015 to successfully raise the threshold to \$250,000, however, in 2019, Speaker Jason Frierson lowered it back to \$100,000. NCA did not take a formal position on AB99 due to the significant political risks involved. This proved to be the correct decision, as the Vice Chair, an Assembly Democrat, threatened to amend AB99 to instead require the federal prevailing wage threshold of \$2,000 on all public works. The threat was not carried through, and the bill died without a vote in committee.

# Priority Bill/Issue Area Report

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## Highway Fund

**Assembly Joint Resolution 6 – Would have allowed fuel tax revenue to be used for purposes other than road construction.**

**Resolution Failed**

NCA has worked every Legislative Session to protect Highway Fund dollars, and in 2021, we saw the biggest threat to the Highway Fund in recent history in form of AJR6. It is important to understand that the Highway Fund is often viewed as a legislative reserve/slush fund, as seen during the July 2020 Special Session when the Legislature diverted all revenue generated by the Governmental Services Tax to the State General Fund (SB3; 31st Special Session). The 75% of the revenue typically allocated to the Highway Fund will again be deposited into the Highway Fund beginning July 1, 2021. This will be an ongoing issue and NCA will need to continue educating members on the fund's importance.

Fuel tax revenue is the most significant funding source for road construction. In fact, it is reserved exclusively for road construction in the Nevada Constitution. However, the Assembly Revenue and Economic Development Committee, Chaired by Assemblywoman Daniele Monroe-Moreno (D – NLV), introduced AJR6 which would have allowed fuel tax revenue to be used for any transportation-related purpose. This could mean buying buses, paying for operations, etc. The bill idea came from the most recent interim transportation study, the SCR3 (2019) Committee. NCA made it a priority to defeat this bill.

NCA worked with a coalition of labor and industry to defeat AJR6. The group met on a weekly basis to discuss a strategy to prevent the measure from moving forward. As a Joint Resolution amending the Nevada Constitution, the measure would have had to pass in two consecutive legislation sessions and be approved by voters in the general election. Stakeholders met with legislators to discuss the importance preserving fuel tax revenue as a source of money for road construction. The resolution ultimately failed to receive a hearing or be voted out of committee.

**Assembly Bill 413 – Requires an interim study of transportation funding.**

**Signed by Governor Sisolak on May 21, 2021**

**Effective Date: May 21, 2021**

The second measure to come out of the SCR3 (2019) Committee was another required study of transportation funding. AB413 requires NDOT to establish a committee of 20-30 individuals to study transportation funding in the state. The new study will, in many ways, pick up where the previous study left off, including revisiting the concept of a Road Usage Charge and a formula to capture road use by electric and hybrid vehicles. The study committee will include legislators, representatives from public entities and the private sector. NCA will be working to ensure member expertise is considered/put to use during the study.

**Senate Bill 191 – Would have imposed a fee for charging electric vehicles.**

**Bill Failed**

Requested by Senator Settelmeyer, SB191 would have imposed a 10% surcharge on electricity purchased at electric vehicle charging stations and would have required at least 98% of the collections be remitted to the State Highway Fund. NCA was in support of the concept, but it died in committee without a vote.

# Priority Bill/Issue Area Report

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## *Highway Fund*

### **Senate Bill 384 – Would have imposed a fee for charging electric vehicles. Bill Failed**

Requested by Senator Settelmeyer, SB384 would have imposed a \$0.07 tax on electricity provided by a utility to an electric vehicle charging station, including stations installed at a personal residence. It would have required the utility to separately list the tax on the consumer's billing statement and revenue would have been allocated in the same manner as fuel taxes. NCA supported the concept, but it died in committee without a hearing.

## *Highway Fund- Effect of the Nevada Supreme Court Decision*

The Nevada Supreme Court ruled in the final weeks of the Legislative Session that revenue-generating legislation that passed during the 2019 Legislative Session was unconstitutional because it did not pass with a two-thirds majority vote. The Court's ruling struck down two bills: SB542 (2019) which extended a \$1 DMV technology fee generating nearly \$14 million over the biennium and SB551 (2019), which eliminated a scheduled reduction in the state's Modified Business Tax rate, generating an estimated \$98.2 million in each 2-year budget cycle. Both bills were heavily debated during the 2019 Session and even led to a formal opinion by the Legislative Counsel Bureau (LCB) that determined the Legislature did not need a 2/3 majority to pass the bills. Republican legislators disagreed with this opinion from LCB and filed (and paid for) the lawsuit challenging the bills' constitutionality in court – an effort that was ultimately successful.

The Supreme Court's ruling had numerous impacts, including defining a precedent for the Legislature's future ability to pass revenue-generating legislation and creating a hole in the state's budget of more than \$100 million per 2-year budget cycle.

SB542 (2019) extended the \$1 DMV fee and generated nearly \$7 million per year, but due to the court's ruling, DMV was forced to pay the money back. To make matters worse, the IT projects have been delayed several years due to challenges with vendors and the contracting process, so the DMV needed to request another extension of the fee this session. Legislation was proposed to take money from the Highway Fund to backfill the unconstitutional revenue. The NCA lobby team communicated opposition to taking money from the Highway Fund with Senate Finance Chair Chris Brooks and other key members.

Assembly Bill 491 would have taken \$7.8 million from the Highway Fund to issue \$1 refunds to DMV customers and also reauthorize the DMV tech fee. Because AB491 required a two-thirds majority vote due to the extension of the fee and clarity from the Supreme Court, it was dead on arrival. Assembly Bill 490 was introduced in its place to take \$7.8 million from the Highway Fund to issue the \$1 refund, but it did not include the extension of the fee. The bill was heard in Assembly Ways and Means in the final days of session but would not receive a vote. However, the provisions of AB490 were amended into SB457 on the Assembly Floor and passed on a party line vote.

# Priority Bill/Issue Area Report

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## *Highway Fund- Effect of the Nevada Supreme Court Decision*

**Senate Bill 457 – Revises provisions related to DMV administration and the Highway Fund.**

**Signed by Governor Sisolak on June 3, 2021**

**Effective Date: May 31, 2021 – June 30, 2026**

Bill requested by the Senate Committee on Finance. Re-enacts and extends the maximum of a 27% (previously 22%) administration fee for the Department of Motor Vehicles derived from fees collected for licenses and registrations issued by the DMV. The remaining funds are allocated to the State Highway Fund and the extended duration for the reduced allocation to the Highway Fund terminates on June 30, 2026. The bill also appropriates \$7.8 million from the Highway Fund to issue DMV tech fee refunds.

## *Workforce Development/ Apprenticeships*

**Senate Bill 247 – Revises provisions related to apprentice programs**

**Signed by Governor Sisolak on May 28, 2021**

**Effective Date: October 1, 2021**

SB247 was requested by Senator Marilyn Dondero-Loop at the request of the Southern Nevada Construction and Building Trades Council. The bill revises the definition of an apprentice program to mirror federal definitions. It prohibits the State Apprenticeship Council from approving a program that already exists unless the program is equal in time or skills. Additionally, it was amended to add the ability for the Apprenticeship Council to establish a “minimum apprentice wage” and require equal “compensation” instead of equal “wage.”

NCA opposed the bill based on the requirements that new programs match the compensation of existing programs. This is considered a barrier to entry to many apprentice programs. Aside from NCA, only the Associated Builders and Contractors (ABC) opposed the bill. It passed out of both houses with all Republicans voting in opposition.



# Priority Bill/Issue Area Report

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## *Employer/ Human Resources Issues*

### **Assembly Bill 190 – Revises provisions related to paid leave.**

**Signed by Governor Sisolak on May 29, 2021**

**Effective Date: October 1, 2021**

Requested by the Commission on Aging, AB190 requires a private employer that provides employees with sick leave to allow an employee to use accrued sick leave for an absence due to an illness, injury, medical appointment or other authorized medical need of a member of the employee's immediate family. The bill authorizes an employer to limit the amount of sick leave an employee may use for such purposes to what the employee would accrue in a six-month period. The Labor Commissioner is required to enforce the bill and must provide a bulletin to employers. The bill was amended to explicitly exclude parties to collective bargaining agreements from the provisions of the bill.

While the business community has opposed similar proposals in the past, AB190 provides flexibility that will help employers to comply and provide the benefit in a way that best fits their business. Key components that set AB190 apart from past efforts include the fact that it does not force employers to grant additional leave on top of existing benefits – the employee is simply allowed to use his/her accrued sick leave – and it allows employers to limit the use of accrued leave for the needs of family member to what they would accrue in a six-month period. Due to this added flexibility, most business groups were neutral or in support of the bill.

### **Assembly Bill 222 – Would have enhanced whistleblower protections in state law.**

**Signed by Governor Sisolak on June 2, 2021**

**Effective Date: June 2, 2021**

Requested by Assemblywoman Selena Torres, AB222 sought to codify whistleblower protections in statute following a Nevada Supreme Court ruling. It proposed to add protection for employees who are fired after reporting hazards to their supervisor or refused to participate in conduct that the employee believes violates laws or regulations or presents a safety hazard. Additionally, the bill would have granted the employee the right of a prima facie showing in a civil action against the employer for violations of the protections, as well as specified damages including: an order of reinstatement, lost wages and benefits, past and future compensatory damages, punitive damages, and court costs and attorney's fees. Employers were excluded from the ability to be awarded court costs and attorney's fees if the employer was the prevailing party.

NCA and the entire business community opposed the bill based on the concern that a terminated employee would abuse the provisions of the bill to force employers into litigation. The NCA lobby team met with the bill sponsor and explained the industry's concerns and highlighted the significant safety practices on NCA member jobsites.

The Las Vegas Metro Chamber and the Nevada Resort Association worked to negotiate the bill with NCA lending support wherever possible. On the night of the second house deadline, the sponsor decided to completely amend the bill to remove any reference to whistleblower protections. In its final amended form, AB222 exclusively extends existing 90 and 180 day tolling periods for civil actions established for complaints of unfair employment practices made to the Nevada Equal Rights Commission (NERC) to complaints made to the United States Equal Employment Opportunity Commission in accordance with Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000e et seq.

# Priority Bill/Issue Area Report

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## *Employer/ Human Resources Issues*

### **Assembly Bill 246 – Would require employer notification of any potential COVID-19 exposure. Bill Failed**

Requested by Assemblyman Flores, AB246 would have required an employer who is informed of a potential exposure to COVID-19 to notify in writing certain employees, principal contractors, subcontractors and independent contractors that they may have been exposed to COVID-19. It also would have prohibited an employer from taking retaliatory actions against an employee who has been diagnosed with COVID-19 or who has to quarantine or isolate himself or herself. The bill failed without a committee vote.

### **Assembly Bill 303 – Would have extended paid leave laws to all employers. Bill Failed**

Requested by Assemblywoman Summers-Armstrong (D – Las Vegas), AB303 would have removed exemptions from existing paid leave requirements so that all employers (with more than 50 employees) not signed to a collective bargaining agreement would be required to provide paid leave at 0.01923 hours per hour. This would have removed the exemption which allows companies to have separate paid leave policies. NCA spoke with the bill sponsor and worked with other business groups to oppose the bill. The bill sponsor proposed to amend the entire bill to only require that employers could not deduct accrued paid leave for days the employees are paid but not required to work due a holiday. The bill never received a vote out of committee.

### **Senate Bill 107 – Revises the statute of limitations for an employee to bring action over wrongful termination. Signed by Governor Sisolak on May 27, 2021 Effective Date: May 21, 2021**

SB107 would have established a statute of limitations for wrongful termination lawsuits. NCA spoke with the bill sponsor and testified in opposition. The bill was amended to provide for a statute of limitations of 2 years, however the statute of limitations is tolled during consideration of any pending related state or federal administrative charge on the matter until 93 days after the conclusion of the administrative proceedings. The bill also establishes a “general” statute of limitations for all other civil actions that do not have a specified timeframe.

### **Senate Bill 209 – Requires employers to provide paid leave for employees to receive a COVID-19 vaccine. Signed by Governor Sisolak on June 9, 2021 Effective Date: June 9, 2021 and expires on December 31, 2023**

The bill requires employers to provide up to 4 hours of paid leave outside of normal accrued leave for employees to receive the COVID-19 vaccine (2 hours per dose required).

# Priority Bill/Issue Area Report

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## **Contractors Board**

The Nevada State Contractors Board had three bills introduced, only one of which passed – the Board withdrew the other two. Additionally, NCA worked with the Board on key legislation to address challenges in construction. These issues ranged from solar installation to misclassification of employees.

### **Assembly Bill 51 – Revises provisions governing the Recovery Fund.**

**Signed by Governor Sisolak on May 26, 2021**

**Effective Date: May 26, 2021**

The Board requested AB51 to clarify eligibility requirements for a homeowner to claim relief from the Recovery Fund. According to the bill, the property needs to be a stand-alone dwelling on a foundation or a condominium or townhouse that serves as the owner's residence. It cannot be a manufactured home, personal property or common areas of a condominium or multi-family dwelling. A rental unit is excluded unless it is rented to a family member. The bill also increases the penalty for a residential contractor's failure to notify a homeowner about their rights to obtain damages from Recovery Fund from \$100 to \$250 for the initial offense and from \$250 to \$500 for any subsequent offense.

### **Senate Bill 303 (Senator Brooks) – Establishes a regulatory framework for contractors who engage in the installation of residential photovoltaic (PV/Solar) systems.**

**Signed by Governor Sisolak on May 30, 2021**

**Effective Date: October 1, 2021**

The Nevada State Contractors Board worked with Senator Brooks on SB303 to address problems of deceptive practices by rooftop solar companies and solar lead generators. The framework for the bill was largely developed based on statutes addressing similar problems in the residential swimming pool industry. The Board will develop regulations based on the bill to establish certain provisions that must be included in a contract for residential solar. The NCA lobby team will be providing members with information regarding the regulatory process.

Key elements of the bill include:

- Prohibits a person from working on a residential PV system unless the person holds a valid license from the Contractors Board.
- Defines “work” for the purposes of installing residential PV systems.
- Requires construction on the solar system to commence no later than 30 days after all permits for the project have been obtained if the down payment/deposit for the project is the lesser of \$1,000 or 10% of the aggregate price of the project unless otherwise agreed to in writing.
- Authorizes the State Contractors Board to adopt by regulation mandatory elements to be included in all contracts to be used by contractors for work concerning a residential PV used to produce electricity.
- Establishes requirements and prohibitions on advertising and generating leads for residential PV systems.
- Prohibits a contractor who performs work concerning residential PV systems used to produce electricity from acting as an officer, director, employee or owner of a bonding company, finance company, or any other business entity who cosigns, underwrites, obtains a deed of trust for, issues, sells, purchases or acquires a loan to finance work concerning a residential PV system.

# Priority Bill/Issue Area Report

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## **Contractors Board**

### **Senate Bill 328 – Revises provisions related to energy storage systems. Bill failed**

NCA worked with the Contractors Board to amend SB328 to fix a critical flaw that would have disqualified a general contractor from performing energy storage system work. As introduced, the bill limited work on energy storage systems to contractors with an electrical classification. The Board suggested an amendment to the NCA to allow a licensed general contractor to perform the work, not just one with the specialty electrical license. NCA successfully worked with the bill sponsor and IBEW to include the Board's amendment on the final reprint of the bill. However, the bill failed to pass due to concerns with sections unrelated to the Board/NCA amendment.

Since the bill did not pass, the law is unchanged and general contractors can continue to perform work on energy storage systems.

### **Assembly Bill 227 – Revises provisions related to temporary employees on construction sites. Signed by Governor Sisolak on May 28, 2021 Effective Date: October 1, 2021**

The Southern Nevada Building and Construction Trades Council worked with Nevada State Contractors Board to clarify how contractors can use temporary labor. In general, the Board believes that anyone working for a licensed contractor should be a W9 employee of the contractor. Prior to the Legislative Session, the Building Trades sought Board approval for a measure that would completely eliminate the use of temporary labor on construction sites, even for menial, non-skilled tasks. NCA opposed this initial proposal at a Contractors Board meeting in late 2020. NCA then worked with the Board and the Building Trades toward legislation that allowed the use of temporary labor for non-skilled work, resulting in AB227.

The final version of the bill provides that a contractor cannot use temporary employees to perform any work that requires a contractor's license.

## **Other/Misc.**

### **Assembly Bill 184 – Creates the Office of Small Business Advocacy. Signed by Governor Sisolak on May 31, 2021 Effective Date: May 31, 2021 through June 30, 2023**

Proposed by Lt. Governor Kate Marshall, AB184 creates the Office of Small Business Advocacy within the Office of the Lieutenant Governor and authorizes state agencies to cooperate with and assist the Office of Small Business Advocacy. NCA spoke in support of the measure, as the office will complement the work of the NCA Diversity and Inclusion Council.

# Priority Bill/Issue Area Report

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## *Other/Misc.*

### **Assembly Bill 495 – Creates a new excise tax on gold and silver mining**

**Signed by Governor Sisolak on June 2, 2021**

**Effective Date: July 1, 2021**

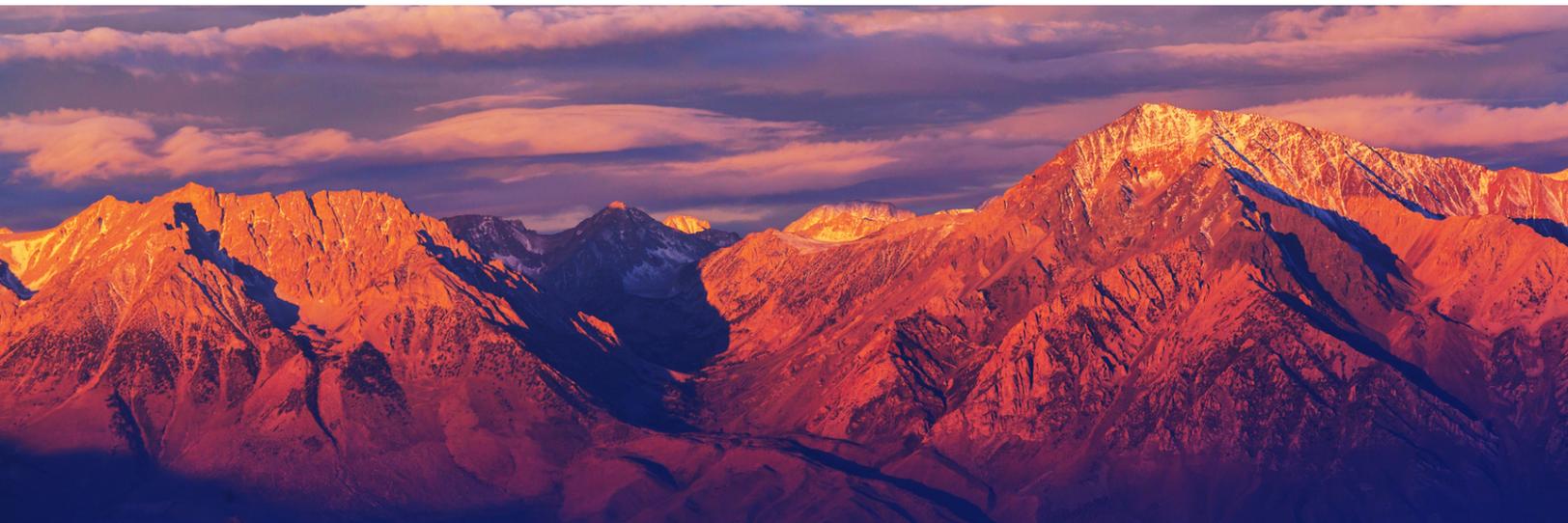
This was an “end-game” bill the mining industry negotiated to avoid ballot measures.

AB495 creates an excise tax on the gross revenue of gold and silver mines in the state at the rate of 0.75 percent on revenue greater than \$20 million and 1.1 percent on revenue greater than \$150 million. The new tax is expected to generate between \$150 to \$170 million over the biennium, all of which will be directed toward education. Additionally, the bill directs a portion of the net proceeds of mineral tax toward education.

The bill also provides \$15 million in one-shot federal funding for charter schools, \$4.75 million for the state’s school choice scholarship program, which allows businesses to take a credit on their Modified Business Tax (MBT) to fund school choice scholarship for low-income K12 students. Teachers’ unions have overwhelmingly opposed this program since its inception.

The bill is seen as a significant compromise between education advocates, mainly the teachers’ unions, and mining companies. The Nevada State Mining Association supported the measure alongside the Clark County Education Association (CCEA). The compromise will result the mining industry avoiding constitutional changes to their tax structure that may have moved forward due to measures from the most recent special session. CCEA also declared they would be withdrawing two ballot measures aimed at increasing sales and gaming taxes.

AB495, which required a two-thirds majority vote, passed 28-14 in the Assembly (2 yes votes from Republicans) and 21-16 in the Senate (4 yes votes from Republicans). The new tax provisions of the bill become effective July 1, 2021. Provisions earmarking the existing net proceeds of minerals tax for education takes effect July 1, 2023.



# Capital Improvements Budgets/ Construction Appropriations

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Senate Bill 434 – Appropriates \$25,000,000 for construction of the UNLV Medical School.

Signed by Governor Sisolak on

Effective upon passage and approval

Requested by the Governor’s Office of Finance, SB434 makes an appropriation from the State General Fund in the amount of \$25,000,000 for the construction of a medical school at the University of Nevada, Las Vegas.

Senate Bill 450 – Allows school districts to extend bonds for capital improvements.

Signed by Governor Sisolak on June 7, 2021

Effective Date: June 7, 2021

Requested as an emergency measure by Senator Cannizzaro, SB450 allows school districts to further extend bond authorization by 10 years without approval by voters. Without legislation, the bond rollover authority in the Clark County School District would expire by 2025 and would have impacted the ability to address construction needs. CCSD has identified \$10.8 billion in capital needs, half of which would be unmet without the bond extension. SB450 created \$2.9 billion in new funding capacity that will be used to build and repair schools throughout Southern Nevada.



# Capital Improvements Budgets/ Construction Appropriations

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Senate Bill 461 – COVID-19 Relief funds.

Signed by Governor Sisolak on June 4, 2021

Effective Date: May 31, 2021

SB461 establishes specific authorizations for expenditure for a portion of the federal COVID-19 relief funds and additionally establishes several broad categories for the state to direct the remaining funds for expenditure.

Specific allocations include:

- Replacement of any reduction in State General Fund revenue as permitted by the Interim Final Rule of the Department of the Treasury, 31 C.F.R. Part 35, RIN 1505-AC77.
- “\$335,000,000 to repay advances received by the Unemployment Compensation Fund under Title XII of the Social Security Act, 42 U.S.C. §§ 1321 et seq.”
- “\$20,900,000 for the public health emergency of the COVID-19 pandemic, including, without limitation, mental health treatment, substance use disorder treatment and other behavioral health services, construction costs and other capital improvements in public facilities to meet COVID-19-related operational needs and expenses relating to establishing and enhancing public health data systems.”
- “\$7,600,000 to address increased levels of food insecurity resulting from the negative economic impact of the COVID-19 pandemic on low-income families.”
- “\$6,000,000 to the Collaboration Center Foundation to augment services and programs implemented to address the negative or disparate impacts of the COVID-19 pandemic on persons with disabilities.”
- “\$5,000,000 to the State Treasurer to be administered as grants to persons with disabilities who are under 18 years of age through the Nevada ABLE Savings Program.”
- “\$4,000,000 to the University of Nevada, Reno, to establish a statewide program modeled after the Dean’s Future Scholars Program at the University of Nevada, Reno, to assist pupils who are in grade 6 or higher, are prospective first-generation college students and have been negatively or disparately impacted by the COVID-19 pandemic.”

Disbursement of the remaining funds will be made through work programs that must be approved by the Interim Finance Committee and will be allocated into the following categories:

- “Increasing access to health care and community-based services.”
- “Strengthening public education.”
- “Supporting disadvantaged communities.”
- “Strengthening Nevada’s workforce, supporting small businesses and revitalizing the State’s economy.”
- “Investing in infrastructure.”
- “Modernizing and enhancing state government services.”

The Interim Finance Committee is set to accept \$2,738,837,229 in American Rescue Plan (ARP) funds on June 22, 2021. Allocations of these funds in accordance with the provisions of SB461 will likely take place over the coming months.

# Capital Improvements Budgets/ Construction Appropriations

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**Assembly Bill 492 – Authorizes appropriations for the State Capital Improvements Program**

**Signed by Governor Sisolak on June 4, 2021**

**Effective Date: June 4, 2021**

Every Legislative Session the State Public Works Board (SPWB) prepares the capital improvements program (CIP) for the upcoming biennium. State agencies submit proposed projects and the Board, in conjunction with the Governor’s Office of Finance, determines which projects will be included in the Governor’s Executive Budget. The CIP program for the 2021-22 biennium is approximately \$480 million, similar to what it was in the previous biennium. A full list of funded projects is attached, but we have included highlights below.

- UNLV Engineering: \$73.6 million
- Advance planning for the Silverado Ranch DMV: \$6.3 million
- Advance planning for the Grant Sawyer remodel: \$4.9 million
- Great Basin College Welding Lab: \$5.7 million
- Washoe County Training Center addition for the National Guard: \$46 million
- Health and Human Services Deferred Maintenance: \$27 million
- NDOC program is about \$80 million for several projects



# Thank You- NCA Government Affairs Committee

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Aggregate Industries SWR, Inc.

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AJA Construction Services, Inc.

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