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STATE OF NEVADA
LEGISLATIVE COUNSEL BUREAU
Las Vegas Office



555 E. WASHINGTON AVENUE
SUITE 4400
LAS VEGAS, NV 89101

FAX COVER SHEET

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|---------------------|-------------------------------|-------------|
| To: | From: | |
| Assemblyman Manendo | Melisa Aguon for Holly Gordon | |
| Division: | Division: | |
| | Legislative Counsel Bureau | |
| Phone Number: | Phone Number: | |
| (775) 684-6678 | (702) 486-2800 | |
| Fax Number: | Fax Number: | |
| (775) 684-1392 | (702) 486-2810 | |
| DATE: MAY 7, 2003 | TIME: | PAGE 1 OF 3 |

MESSAGE

Hi Mark:

Holly Gordon thought the Asm. Gov. Affairs meeting was going to be video-conferenced this morning to Las Vegas. Attached is her testimony on SB 145. Please add it to the record. If you have any questions, please call me at (702) 486-2800.

Thank you...

Melisa

ASSEMBLY GOVERNMENT AFFAIRS

DATE: 5-7-03 ROOM: 3143 EXHIBIT E

SUBMITTED BY: HOLLY GORDON

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David Roger
District Attorney

Holly P. Gordon
Deputy District Attorney

Office of the District Attorney
Civil Division
500 S Grand Central Pky
PO Box 552215
Las Vegas NV 89155-2215

(702) 455-4761
Fax: (702) 382-5178
TDD: (702) 385-7486
E-Mail: GordonH@co.clark.nv.us

Holly Gordon
Deputy D.A.

SB 145
Section 1

Justification for Request:

Currently, NRS 244.277 (enacted in 1977) allows counties to agree to federal requirements for grants of right-of-way pursuant to Title V of the Federal Lands Policy and Management Act (FLPMA). Such federal requirements provide that grantees of rights of way (such as counties) must indemnify the United States against certain claims and liabilities arising from such grants. By enacting NRS 244.277, the Nevada Legislature granted counties the authority to agree to federal requirements in right-of-way grants, including indemnification of the United States.

The Recreation and Public Purposes Act (43 USC 889 to 869-4) ("RP&P Act") authorizes the BLM to lease federal land at virtually no cost to political subdivisions, and Clark County has found it fiscally desirable to lease BLM land for parks projects. The federal regulations promulgated in connection with the RP&P Act do not require indemnification from the lessee (unless the land will be used for a landfill, in which case indemnification of the United States by the lessee is required); nevertheless, the regional BLM office has included language in its leases requiring the lessee (the County) to provide the United States with a blanket indemnification for claims or liabilities arising from dust pollution and soil contamination on the proposed leasehold. The Nevada legislature has granted the counties no statutory authority to indemnify the United States in connection with RP&P leases, so entering into such leases has posed a legal problem. A series of meetings in 2001 and 2002 between the Clark County District Attorney's office and local BLM officials and the BLM solicitor finally resulted in the BLM modifying its indemnification language in park leases in such a manner that was deemed legally acceptable by both parties, enabling Clark County to legally enter into such leases. However, there is no guarantee that the BLM will not revert to the old language that was unacceptable to the County. Therefore, it is necessary to add some language to NRS 244.277 which will allow counties to agree to federal requirements in RP&P leases for parks. Additionally, the new language will authorize counties to agree to the federal regulation requiring indemnification for leases or patents of BLM land for use as landfills.

Additionally, a problem has arisen in connection with a U.S. Forest Service special use permit. Camp Lee Canyon in the Spring Mountains is a part of the Clark County park system. For many years, the County has occupied that land pursuant to a Forest Service special use permit. That permit has expired and the Forest Service is requiring that the County sign a new permit. A federal regulation, 36 CFR 251.56, requires the Forest Service to require permit holders to indemnify the United States against losses that the United States may suffer as a result of claims arising from the holder's use or occupancy of the land. The Nevada Legislature has granted the counties no statutory authority to indemnify the United States, and the Forest Service has no authority, because of the regulation, to modify its indemnification requirement and has no interest in revising or rescinding the regulation. With the regulation in its present form, in order for the County to be legally able to sign the new special use permit, it must have the legal authority to comply with that regulation requiring it to indemnify the United States. Therefore, it is necessary to add some language to NRS 244.277 which will allow counties to agree to federal requirements contained in Forest Service special use permits.