

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

**Seventy-Fourth Session
March 27, 2007**

The Committee on Government Affairs was called to order by Chair Marilyn K. Kirkpatrick at 8:03 a.m., on Tuesday, March 27, 2007, in Room 3143 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4406 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at www.leg.state.nv.us/74th/committees/. In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (email: publications@lcb.state.nv.us; telephone: 775-684-6835).

COMMITTEE MEMBERS PRESENT:

Assemblywoman Marilyn Kirkpatrick, Chair
Assemblywoman Peggy Pierce, Vice Chair
Assemblyman Kelvin Atkinson
Assemblyman David Bobzien
Assemblyman Chad Christensen
Assemblyman Jerry D. Claborn
Assemblyman Pete Goicoechea
Assemblyman Ruben Kihuen
Assemblyman Harvey J. Munford
Assemblywoman Bonnie Parnell
Assemblyman James Settlemeyer
Assemblyman Lynn D. Stewart
Assemblywoman RoseMary Womack

COMMITTEE MEMBERS ABSENT:

Assemblyman Bob Beers (Excused)



GUEST LEGISLATORS PRESENT:

Assemblywoman Debbie Smith, Assembly District No. 30
Assemblyman Joe Hogan, Assembly District No. 10
Assemblyman Marcus Conklin, Assembly District No. 37

STAFF MEMBERS PRESENT:

Amber Joiner, Committee Policy Analyst
Brenda Erdoes, Committee Counsel
Emilie Reafs, Committee Secretary
Olivia Lloyd, Committee Assistant

OTHERS PRESENT:

David Morton, Executive Director, Reno Housing Authority
Ernest Nielsen, Attorney, Washoe County Senior Services, Nevada
Housing Coalition
Douglas Bell, Community Resources Manager, Clark County
Sabra Smith-Newby, Intergovernmental Relations Director, Clark County
Robert Roshak, Las Vegas Metropolitan Police Department
Alan Glover, Carson City Clerk-Recorder
Jim Stobaugh, Lands Program Lead, Nevada State Office, Bureau of Land
Management
Ernest E. Adler, Nevada Rural Housing Authority
Eric Novak, Praxis Consulting Group
Irene Porter, Executive Director, Southern Nevada Home Builders
Association
Tim Whitright, Development Manager of Neighborhoods, City of
Las Vegas
AnnaMarie Johnson, Nevada Legal Services, Inc., Nevada Housing
Coalition
Larry Struve, representing the Religious Alliance in Nevada
Arthur Thurner, Chief of Federal Programs, Housing Division, Department
of Business and Industry,
Tom Finch, Executive Director, Citizens for Affordable Homes, Inc.
Shaun Jillions, Legislative Advocate, City of Henderson
Derek Morse, P.E., Deputy Executive Director, Regional Transportation
Commission of Washoe County

Chair Kirkpatrick:

[Call to Order, Roll Call]

We are going to take the bills out of order this morning because we have colleagues doing more than one thing this morning.

Assemblywoman Debbie Smith, Assembly District No. 30:

I am here to represent Assembly Bill 350.

Assembly Bill 350: Revises provisions relating to certain cooperative agreements entered into by housing authorities. (BDR 22-981)

This bill has quite a bit of language, but it has a very basic function, which is to allow the Housing Authority to enter an interstate insurance pool. In my district there are a lot of units that are under the Reno Housing Authority. The bill will allow a more economically sound and prudent use of dollars to serve the Authority's clients.

David Morton, Executive Director, Reno Housing Authority, Reno, Nevada:

I am also the Director of the Housing Authority Risk Retention Pool, which is the insurance pool that Ms. Smith talked about. There are two Housing Authorities in Nevada that currently participate, Clark County and the Reno Housing Authority. Under this multi-state insurance pool in which Washington, Oregon, California, and Nevada participate, we receive incredibly low rates. It is an organization of Housing Authorities that are well managed and able to keep their rates and claims low, and as a result it has been incredibly beneficial for each of us.

I was elected director of the insurance pool by my peers in California and Nevada. I am one of nine members of the Board that runs the pool. We are major players in this very successful pool. You have a copy of our last Annual Report for 2005 ([Exhibit C](#)) that shows that it has been in effect for over 20 years. It is financially solid. We have been able to operate in a profitable manner. We have ended up with large cash reserves and we were able to eliminate the need to have reinsurance in the past because we were able cover the risk ourselves.

What we are asking is to be able to participate in a pool that is able to issue bonds. The bonds would not be issued in Nevada, but in Washington State. As members of that pool, in order to participate, Nevada law has to allow Housing Authorities to be able to participate in a pool that issues bonds. That is the essence of this bill. We are not asking for new powers. We are asking to be able to participate in a pool that issues bonds for insurance purposes. The insurance pool group of which we are a member has been in effect for 20 years,

but if they were to decide to issue bonds and our law did not expressly allow it, they could exclude us from the pool. If they were to do that it would be financially disadvantageous to us. Again, what we are asking is to clarify the law so that we can participate in a pool that may issue bonds, like the other three states.

The Commissioner of Insurance was contacted and she has no objection to this. You have the letter that was issued more than two years ago and one that was issued a few days ago ([Exhibit D](#)). We are not aware of any opposition; it does not do anything in the State of Nevada except allow us to participate in a pool that could issue bonds.

Assemblyman Goicoechea:

Would these bonds be held against the State of Nevada?

David Morton:

No. The bonds would be issued in Washington State.

Assemblyman Goicoechea:

But because Nevada is a political subdivision, it would be responsible.

David Morton:

Maybe I am not the one to answer that. I am not a bond counsel or an insurance specialist. My understanding is that the bonds would be issued in Washington where the organization is chartered. For us to participate, state law would have to allow it.

Assemblyman Goicoechea:

I do not have any problems with how it works; I just do not understand how the State of Washington would hold bonds in favor of the State of Nevada.

David Morton:

I considered having the counsel here, but it is rather expensive and since the Insurance Commissioner stated she had no objection, I opted not to.

Chair Kirkpatrick:

I think the Legal Counsel can clarify this for us.

Brenda Erdoes, Committee Counsel:

We looked at this when we were drafting the bill and the way it would work is that the pool takes commitments from each of the states that commit to it. So what this bill is allowing is for the State of Nevada to commit to the portion of the payments that would be required of Nevada only. We had some

constitutional concerns if it was going to be Nevada guaranteeing the whole thing, but the way this pool is set up, Nevada would guarantee only their portion.

Assemblywoman Pierce:

Look at page 3, line 13, the part about "Neither the proceedings of the housing authority ... nor any other instrument by which such a pledge is created need be created." I looked at the statute and there is something specific about things being recorded and the proceeding being open. Can you tell me why this line is in the bill?

David Morton:

I cannot; the Legislative Counsel actually drafted the bill in conjunction with the bond counsel for the Housing Authority Risk Retention Pool.

Brenda Erdoes:

The provision is in there to say that the documents will not be recorded in this State. It is an agreement that is entered into a different way than normal by these Housing Authorities. That provision is covering that detail because this argument is different than a bonding agreement that would be entered into by just this Housing Authority in the State of Nevada.

Chair Kirkpatrick:

I would like to move to those who would like to speak about the bill.

Assemblywoman Smith:

If Committee members still have questions, please let us know and we can have the bond counsel respond in writing.

Chair Kirkpatrick:

Is there anyone in favor of, neutral, or in opposition to A. B. 350? [There were none.] I will close the hearing on A. B. 350.

We are going to move to Assembly Bill 409, Mr. Hogan.

Assembly Bill 409: Authorizes the creation of affordable housing districts in certain counties. (BDR 22-924)

Assemblyman Joe Hogan, Assembly District No. 10:

Assembly Bill 409 is a different kind of affordable housing bill. It does not create any new affordable housing; its purpose is to preserve existing affordable housing. Local officials are not compelled to take any action. The bill is intended to provide a tool, which can be used to protect and extend the

economic life of selected healthy older neighborhoods. All decisions are made locally, from selection of candidate neighborhoods to negotiation of the terms of their protection. The State only provides the authority to carry out the program.

The best way to understand the purpose of the bill is to share the experience that brought it to my attention. While campaigning last summer, constituents were telling me about real estate agents scaring residents of a healthy 35- to 40-year-old development of nearly 500 affordable homes. Although we held several community meetings and stopped the scare tactics that were intended to get people to sell out, the process which may lead to destroying a considerable amount of affordable housing was well underway.

I wondered how a city or county could protect such a valuable resource as a well-functioning, affordable neighborhood. I thought of the way we require mitigation for the loss of a natural wetland and the way we protect historic districts, particularly in some of our eastern cities that have long histories. With respect to affordable housing, it has to be cheaper to preserve and extend the life of existing stock than to try and replace it. Assembly Bill 409 is somewhat outside the box, but our shortage of affordable housing is critical and becoming worse. Preservation may prove to be a very low-cost way to extend the years of availability of successful local neighborhoods.

The urban population growth in the post-World War II period created very nice neighborhoods which are now in the 30- to 50-year-old category. Some may have deteriorated and need redevelopment, but others remain diverse and viable with active civic groups and organizations and a reasonably affordable housing stock. I recommend that you consider A.B. 409 as a promising new approach to provide housing for working families.

There are minor glitches in the bill. I was told that 60 percent of the median income should be 80 percent. That is Section 2, line 5. There is a 15-day requirement [Section 3, line 24] after a decision is made by a local authority to designate an affordable housing district. I like prompt action by government but I think that is a little quick. I am insistent that gets corrected to a longer time period to allow proper consideration. In cases where we might be asking to replace affordable housing, there is also a reference to an area within a three-mile radius [Section 4, line 6]. That is probably much too small an area. We need to change that number. Since I do not claim to be a housing expert, I am open to working with anyone who agrees with my interest in improving our stock of affordable housing.

Chair Kirkpatrick:

What other states currently do this?

Assemblyman Hogan:

In researching this, the only area that would seem to be somewhat similar is Arlington County, Virginia. It has a long history with some very old neighborhoods. They had devised, adopted, and published a procedure for protecting affordable housing by essentially the means that we adapted into this bill. There has to be negotiation to limit the amount of loss of affordable housing and/or to find ways of replacing the affordable housing, usually involving the developer or developers in that process. The third option in the Arlington plan, as well as ours, is when you cannot replace the housing, a negotiated contribution to some of the existing affordable housing funds is required.

Chair Kirkpatrick:

On page 2, line 33, we currently have an affordable housing fund that does this and we currently have targeted areas that we establish within the State. We do have the Low Income Affordable Housing Trust Fund and we have heard testimony that we would like to add to the definition the term "attainable" housing. I wanted to make sure that we are not duplicating services that we already have. Would this be an additional fund or is it something that we could incorporate in the fund that we already have in place?

Assemblyman Hogan:

This would not require a new fund to be established. It is written in a permissive way. The local authorities "may establish an affordable housing fund" if for some reason—either it was in an area that might not be served by an existing fund or might not seem appropriate, or there might be a good reason to establish a new fund—it permits them to do that. Being permissive, it also says that if a local government has a functional housing fund that is doing well and funds come in under these provisions, they would probably be better off to use the existing funds. This bill is written to hand over a tool to local authorities who know their local conditions better than we do here. I want to work with anyone so that we can write a bill that is permissive without imposing details that wind up being a problem.

Chair Kirkpatrick:

I know that Speaker Buckley has a bill in Ways and Means to address a type of fund that local governments and nonprofit organizations could work with. What I do not want is for people to say, "There is the affordable housing district over there, go the other way." I do not want to go back 20 years to when the affordable housing was distinguishable from other homes.

Assemblywoman Womack:

Do you envision this as a redevelopment bill where there are funds available for the homeowners to improve their homes as well as funds for new buyers?

Assemblyman Hogan:

Not really. I do not think of this as redevelopment; however, such a designated neighborhood should have the same access to all of the neighborhood services and the assistance that is available. Localities may want to tie in this type of housing preservation concept with services, because that would help to meet the objective of preservation. We want to continue good neighborhoods where everyone wants to be part of making it better.

Assemblywoman Womack:

What do you mean by a district? Could you define what you are saying?

Assemblyman Hogan:

This is a limited bill and it does not involve a lot of new investment by the community, although it may lead to appropriate investment. Once an area is designated and has a lot of potential to continue to provide lots of affordable housing, there would be a requirement before new zoning or new use could be approved. That requirement would be that some negotiation would have to take place between the city or county authorities and the prospective development organization to see to what extent they could avoid, mitigate, or compensate for the destruction of affordable housing. We recognize there will be development opportunities, which is fine as long as they limit the loss of affordable housing when that project goes forward.

Assemblywoman Womack:

So you are looking at the vacant land within each district?

Assemblyman Hogan:

No. Almost the opposite, I am looking at the existing housing stock. An infill opportunity presumably would not involve the destruction of any affordable housing. This bill is to preserve existing housing stocks.

Chair Kirkpatrick:

[To Assemblywoman Womack] An example near your district is off of Boulder Highway between Sam's Town and Arizona Charlie's, where an effort should be made to try and preserve those houses so that developers do not come in and tear the existing homes down and build a high-rise. If we could use the infill pieces to mitigate the situation or to spur new development, that would be the real objective. Is that what you are trying to say, Mr. Hogan?

Assemblyman Hogan:

That would be an acceptable use of the existing infill opportunities, and in most cases it would not damage or eliminate any of the affordable housing and might even enhance the qualities of the neighborhoods.

Assemblyman Stewart:

I think this would be a good thing for the buyers of these homes, but what about the seller of the home? If you have lived in a home for 30 years and you are going to retire and move and your home was designated as affordable, would that reduce the price for which you could sell it? Would that then be a detriment for those who are relying on selling their home to provide a substantial amount of their retirement?

Assemblyman Hogan:

I would hope that would not be the outcome. We establish this kind of a district to create stability for a longer period of time so there should not be a net negative effect. I am not good at predicting the future, but it seems to be a kind of compensatory effect.

The neighborhood that triggered the creation of this bill has had some houses that have been bought, but some have been boarded up. If there is a prospect of stability, it is because the authorities have shown an interest and are trying to protect the neighborhood, and these situations would not happen.

Assemblyman Settelmeyer:

I appreciate that you want to work on the "15 days" language. On the establishment of the affordable housing district, is this going to be on a voluntary basis? While my family has been in agriculture for many generations, I would get mad if someone told me that was all I could do with my land. Will there be some mitigation for the loss of equity?

Assemblyman Hogan:

The districts that would be designated are already residential and would continue to be so. It still has the potential to be redeveloped and those who own their homes stand to profit if the redevelopment proposal can cope with the affordable housing requirements and still be successful. I do not see the change from agricultural to residential use under this bill.

Assemblyman Settelmeyer:

There are several trailer parks in my district that the community is constantly trying to get rid of and those wanting to get rid of the parks are doing it in a bad way. It is taking away the property rights of the individual and it is also taking away homes.

Assemblyman Munford:

In my district we are trying to revitalize and we are looking for someone to develop housing and to get more "rooftops" in the community. How does this bill apply to my district? Also, many people are looking to purchase or upgrade to affordable housing. What are the steps to have this happen in my district?

Assemblyman Hogan:

The primary area where this concept would be applied would be a neighborhood that has not declined to the point where it would need to be redeveloped. It would be an older neighborhood that has well-maintained homes and a sense of community. If redevelopment is needed because the homes are not in great shape, then there are other programs available.

Assemblyman Munford:

Many people in my district take pride in their homes and keep them up and keep up their yards, but there is a lot of open desert with no homes. Sometimes when new homes come in it influences and encourages businesses and retailers to move in as well, bringing in new capital. Is this a way to bring new homes into the community?

Assemblyman Hogan:

When I think of the area along Owens, where there was a Vons' store, and hopefully something that will replace it, those areas need other kinds of housing treatment. The district idea would be for areas that are already built out and have a satisfactory array of existing and occupied homes. There are plenty of areas in Las Vegas and Reno that would fit this description, where preservation of what is already there could extend the life of that affordable housing for many years.

Chair Kirkpatrick:

We could work with the state agency that does the targeted areas and with Mr. [Charles] Horsey [Housing Division Administrator] and see how they target their areas. The state agency targets areas and gives people \$70,000 to move into or to stay in designated neighborhoods. Las Vegas and Clark County have a couple of these areas, so maybe we can look at that program and see if they can help.

Is there anyone here who would like to speak in favor of A.B. 409?

Ernest Nielsen, Attorney, Washoe County Senior Services, Nevada Housing Coalition:

I am here today on behalf of the Nevada Housing Coalition. We support this bill and we talked about it quite a bit. We would like to remind the Committee that this is just a tool and until Assemblyman Hogan talked about it as a preservation tool, we thought about it more as preservation of affordable housing through replacement. That is where our support lies, that when there is redevelopment of an area which has been designated like this, that there are sufficient funds to ensure that replacement housing can actually occur.

That is why we focused on Section 3, subsection 4(b); the word "may," we feel, should be "shall" if jurisdictions are going to take on districts like this. The Housing Coalition sees this fund as a direction to the local jurisdictions and we would wish then that they would not dip into the existing Housing Trust Fund to provide these redevelopment funds.

We like making the replacement jurisdiction wide rather than within three miles or some other arbitrary framework; we have talked about similar issues in our northern Nevada task force. In respect to preservation, this type of a tool would be excellent when there are a number of trailer parks closing and we want to preserve the affordability of housing. But you would have to put some dollars into the effort in order to enable anyone who redeveloped said mobile home park to actually build new affordable housing.

Chair Kirkpatrick:

Las Vegas, please go ahead.

Douglas Bell, Community Resources Manager, Clark County:

I wish to speak in support of the legislation and offer a few suggestions for your consideration.

[Read from prepared statement ([Exhibit E](#)).]

As was indicated by Mr. Hogan previously, Section 2 defines "affordable housing" as 60 percent of median income. We would support the use of the Housing and Urban Development (HUD) definition, which goes up to 80 percent of median income. Also, should there be a change in the definitions to allow an expansion for attainable workforce housing up to 120 percent, we would ask that also be considered.

[Continued to read from prepared statement ([Exhibit E](#)).]

As Mr. Nielsen said, I, too, see this bill as a one-for-one replacement as older areas are removed for growth or redevelopment. It is important to preserve our housing stock by at least having replacement units for those who are displaced.

Chair Kirkpatrick:

Is there anyone who is neutral on A.B. 409? Is there anyone who is opposed? [There were none.]

Assemblyman Hogan:

I would just like to reiterate that I want to keep the bill simple. Some of the changes that people mentioned, particularly the tie-in with existing or new types of funding, can be accommodated because we left the language open. I would like to not get a fiscal note. I have been working with Mr. Horsey and will continue to do so.

Chair Kirkpatrick:

I will close the hearing on A.B. 409. I will open the hearing on Assembly Bill 139. This was heard in work session last week, but there were several amendments.

[Assembly Bill 139](#): Revises provisions relating to local governmental administration. (BDR 20-325)

Sabra Smith-Newby, Intergovernmental Relations Director, Clark County:

I have two amendments to A.B. 139. I will start with the one about refunds for the Department of Aviation.

Currently, the Department of Aviation, McCarran and other airports issue refunds in some circumstances. I have given you all a handout with some points about this ([Exhibit F](#)). If someone loses their parking ticket and has paid for a full day's parking and later presents that parking ticket, the airport can issue a refund. In the case of a parking ticket, refunds are usually for customer service reasons, but in the case of badges, it is more of a Homeland Security issue. We would prefer to get lost badges back and give refunds, rather than have those badges "out there" floating around.

The problem now is that *Nevada Revised Statutes* (NRS) 354.220 through NRS 354.250 requires us to go to the Board of County Commissioners to get an approval for refunds. So that \$6 dollars you may have overpaid on your parking ticket has to become an agenda item before the Board of County Commissioners, and then the Board has to vote on whether or not you get a refund. Then sometime within six to eight weeks you will get a check, so this

is mostly a customer service issue for us. We would like to be able to issue refunds for up to \$100, it is usually much less than that, there at the airport.

The other item concerns indemnification for affordable housing. You all got a sheet that has a summary of the issue ([Exhibit G](#)) and you also received Public Law 105-263 ([Exhibit H](#)). That is the Southern Nevada Public Lands Management Act (SNPLMA), Section 7(b), which you will find on the last page of the handout. It refers to the ability to make affordable housing under SNPLMA; this is where the land actually goes from the federal government to a local entity and then possibly to a nonprofit. This amendment, that Doug Bell will talk more about, concerns the indemnification that is required by the federal government for the transfer of land.

Douglas Bell, Community Resources Manager, Clark County:

In 1998, Congress passed the Southern Nevada Public Lands Management Act (SNPLMA). Section 7(b) authorized the State of Nevada, local government, and public housing authorities to obtain federal land at a discount for the provision of affordable housing. To date, Clark County has completed one such land transaction with the Bureau of Land Management (BLM) and we are working on another with the nomination of the federal government. As part of the land transaction, there was a requirement by the BLM that the local government indemnify the federal government as part of the land sale. Our attorneys in Clark County indicated to us that we do not have the authority to do that. That alone could have killed our opportunity to participate in SNPLMA.

For the first pilot project, we were able to have the end purchaser, Nevada Housing and Neighborhood Development (HAND), indemnify Clark County and the federal government for this land transaction. We are looking to codify this into law so there will be no question in the future that local governments can indemnify the federal government as it relates to the purchase of federal land under SNPLMA. This is really a technical thing, it is not changing the SNPLMA process, but it will help us work more quickly on these land transactions.

Chair Kirkpatrick:

I would like to address one amendment at a time. The reason that you have your work session folders on your desk is because we wanted to make sure that you have all three amendments along with the original bill.

Assemblyman Settlemeyer:

[To Sabra Smith-Newby] I understand that the Department of Aviation does not want to go through the Board of County Commissioners. Are you going to refund cash or do you envision sending checks as well?

Sabra Smith-Newby:

I am not sure if they would refund cash or write a check. I do know that the cashiers are routinely monitored.

Chair Kirkpatrick:

What does indemnify mean?

Brenda Erdoes, Committee Counsel:

The best way to explain it in this context might be to give an example. Indemnify means to agree to cover any expense that comes as a result of whatever you are doing there. If this was going to be a lease of BLM land to Clark County for a skateboard park, what the federal government wants Clark County to do is to indemnify them against any civil liability that might occur on the basis of someone falling off their skateboard. It is agreeing to act in the stead of the federal government because they have asked to use the land. Clark County would do that by entering into an agreement with them.

Chair Kirkpatrick:

Can you give me a situation with affordable housing where this would apply?

Brenda Erdoes:

This is an open-ended provision as to what the local governments could indemnify against. In affordable housing, it would not be just negligence actions, but also any kind of civil rights litigation that might be brought based on the manner in which the affordable housing was handled or any other type of litigation brought as a result of the affordable housing being in the neighborhood. This would make the local government, who has agreed to indemnify, step in instead of the federal government.

Assemblyman Claborn:

There have been all kinds of discussion on the Southern Nevada Public Lands Management Act and about how it was to build parks and recreation areas. It was also to clean up Lake Tahoe and to spend all of this money on conservation. Since 1990, I have never heard anything about taking money out of this bill for affordable housing. I think the pretense of the bill was conservation and environmental cleanup, so it is confusing to me that they have gotten money out of this. This session is the first time I have heard about this measure. I have been on the Public Lands Committee and we meet seven or eight times a year with all the different counties and cities in the State of Nevada, and I have never heard anything about this part of the law. I would like to know when this came into effect.

Chair Kirkpatrick:

We did not know during the Interim Committee on Affordable Housing that the BLM even had that provision. The process was so cumbersome, it had never been done. I think that the BLM reworked the regulation so that it could make the process happen more easily, which is why this all of a sudden became an issue. The first project went out to bid during the Interim Committee, which is the project on Harmon and Torrey Pines.

Assemblyman Claborn:

I am for affordable housing, but it is like a dam. Once we open the gates, which we have, how much more money are they going to take out of this? There are millions of dollars in there, but what are they going to do with this money? That money was obligated for other things. I am afraid of getting away from the concept of using this money for parks and recreation areas and environmental cleanup.

Assemblywoman Pierce:

Section 7(b) was part of the original bill, correct? [Sabra Smith-Newby nodded yes.] We did not open up this law; it was just so cumbersome that no one ever looked at it before.

This would provide for the federal land to change hands, so would the liability not just go with the ownership of the land? I do not understand, when the land is no longer property of the federal government, why anyone has to indemnify them?

Sabra Smith-Newby:

To answer Assemblywoman Pierce's question, normally, yes. In normal cases when one buys a house, or land transfers from one party to another, that indemnification happens. The problem comes when one is a county government and thus a subset of the State; because of Dillon's Rule we are only allowed to do what is expressly stated in law. What we need, therefore, is for state law to specify that we can indemnify others. It is only because we have limited powers that have to be expressly set out in law that we need this change.

I did hand out the public law, it is the original. Section 7(b) was in there when it was originally passed; and Assemblywoman Pierce and Chair Kirkpatrick, you are right, it is a laborious process to use this law for affordable housing. I want to call your attention to what seems to be confusion about land and money. Yes, this law includes the fact that the BLM can use money from the sale of public lands for parks, but what 7(b) says does not concern that money, it refers to the land. It says, "The Secretary [of the Interior], in consultation with the Secretary of Housing and Urban Development, may make available, in

accordance with section 203 of the Federal Land Planning and Management Act of 1976, land in the State of Nevada at less than fair market value...." We are not actually taking money from any account to do this; it is land that is allowed to be sold for less than fair market value for the purpose of affordable housing. This amendment allows Clark County to take on the indemnification to protect the federal government or anyone else from being sued for whatever may happen on the land. It does not and cannot, nor can the State of Nevada Legislature, change federal law, which SNPLMA is.

Assemblyman Settelmeyer:

I have no problem with the State assuming liability for any actions within their control. I do not appreciate the idea of indemnification if you are talking about past acts. The federal government used to have minor military operations everywhere and sometimes they used chemicals there. I have run across three situations where the federal government had a hand in contaminating land, then wanted to be released from liability.

Assemblyman Goicoechea:

Counties and local governments have been indemnifying the federal government for years under the Recreational Public Purposes Act (RPP). We acquire RPPs all across the State for 15- to 20-year leases and then the federal government makes them available. Indemnification is a condition when the local jurisdictions move beyond the RPP and purchase the property. My concern is that we are not reaching far enough with this amendment; we are only talking about the indemnification process for affordable housing. As I read this, local government cannot meet the indemnification criterion today unless they are going to put affordable housing on that land. We need to authorize local government to be able to enter into these agreements across the board.

Assemblyman Claborn:

I do not have a problem if the local government buys the property, builds the housing, and maintains it. What if they then sell the property, are we getting into eminent domain? Is it going to be private parties that buy this land and build housing?

Sabra Smith-Newby:

Nevada HAND is actually a nonprofit and because the land goes through the local government and there is an exception to A.B. No. 312 of the 73rd Session that allows us to transfer land for affordable housing. The requirement is that the land can only be transferred to a nonprofit. These transactions and this housing is highly regulated, not only by the BLM but also by Housing and Urban Development, and the requirements are the same in terms of 80 percent of Area Median Income (AMI) at this point. All that we have done and are looking to do

is to work with nonprofits for affordable housing for people who earn less than 80 percent of AML.

Assemblyman Claborn:

What if someone qualifies to buy the home as affordable and then turns around and sells it? Does the secondary buyer have to qualify as well?

Sabra Smith-Newby:

The state law currently requires for the transfer of land an affordability period of 50 years. To get this housing built, we often have to use federal funds which carry affordability periods of 15 to 30 years, as well.

Robert Roshak, Las Vegas Metropolitan Police Department:

The amendment we are proposing is to amend the NRS that mandates that the Sheriff must either have a personal presence or a deputy in district courts. In Clark County there are bailiffs that work in the courts that are either employees of Clark County or the judge. We are asking for this exception only for Clark County.

Chair Kirkpatrick:

I would like to ask Mr. Glover to speak since he was the original sponsor of the bill.

Alan Glover, Carson City Clerk-Recorder, Carson City:

I am here on behalf of the Nevada Association of Recorders. Our non-controversial bill that was meant to clean up the existing statutes has been through quite a process. We therefore do not have any position on any of the three amendments. I talked to our district judges about the amendment that Las Vegas Metro would like to have placed on the bill and as long as it only applies to Clark County, we have no problem. My pitch is: if you like the amendments, please add them; if you do not do not like them, please do not; but one way or the other we would like our two little items in the original bill.

Assemblyman Goicoechea:

The one amendment pertaining to aviation refunds has an upper limit of \$100 and you are asking for \$5. I think this is a conflict.

Alan Glover:

If you would like to make ours \$100 we have no problem with that.

Assemblyman Goicoechea:

I think maybe some of the Supervisors or County Commissioners might have a problem with that. I understand that an amount under \$5 you would want to

write off and over \$5 you would refund. I read this amendment as saying that you can designate someone to hand out \$100 refunds. There are a lot of boards that do not want to do that.

Alan Glover:

We really have no position on any of the amendments. We put \$5 in there because the County Treasurers use that figure. It is really just to help the customers out so we do not have to return documents to them and \$5 seemed reasonable. I am not well versed on the topics in the amendments.

Chair Kirkpatrick:

For a point of clarification, the original amendment stated the amount that could be refunded was \$1,000, which is consistent with other statutes like what Parks and Recreation requires for a deposit when you reserve a park. I am the one who suggested \$100. I felt \$1,000 was a little out of line for the Department of Aviation.

Assemblyman Goicoechea:

I assume that this is enabling legislation, so that the Board of County Commissioners could do it or choose not to delegate someone to return up to \$100.

Chair Kirkpatrick:

Is there anyone who would like to speak for, against or neutral on the first two amendments by Clark County?

Jim Stobaugh, Lands Program Lead, Nevada State Office, Bureau of Land Management:

I have been asked to speak about why we require indemnification of the federal lands once we have disposed of them, as well as about implementing the Southern Nevada Public Land Management Act, Section 7(b). I testified last week to this Committee about that law and I have handed out some materials ([Exhibit I](#)), most of which has already been covered by Mrs. Smith-Newby. One of the things that I have to emphasize about this law is that the Secretary of the Interior, working in consultation with Housing and Urban Development, does look at making lands available for disposal for affordable housing purposes. The key thing to understand is that it requires the BLM to transfer the lands only to state and local governmental entities, including public housing authorities. The law is set up with the intent of transferring lands for affordable housing purposes to the local governments to provide those opportunities.

As a result of any sale or disposal, even as part of the Recreation Public Purposes Act, when we look at transferring lands out of federal ownership, the

federal government requires indemnification. We do an environmental site assessment, in which we first do a thorough records research to see what past use there was of the land, and then we do physical site inspections of those lands to make sure there are no contaminants or hazardous substances on the lands. We do full reports and have reviews of those reports. The intent behind that is to get a good assessment of the lands because we do not and cannot, by policy, convey any liabilities. At the same time, with the completion of an environmental site assessment, we are giving a snapshot in time. According to our records and physical research, at the time of conveyance the land is clean; we place indemnity language in the patents themselves. Prior to patenting, the recipient knows that such language will be appearing in the patent. This is why everyone sees indemnity language. We learned through this first affordable housing project that the language is limited to the Federal Land Policy and Management Act; it does not name the Southern Nevada Public Lands Management Act. The local jurisdictions have the ability to receive lands under the Recreation Public Purposes Act.

The Lincoln County Conservation, Recreation, and Development Act and the White Pine Conservation, Recreation, and Development Act will be two more acts in the near future in which you may face problems with local governments receiving lands from those laws.

Assemblyman Goicoechea:

Under the Lincoln County Conservation, Recreation, and Development Act and the White Pine Conservation, Recreation, and Development Act, and in White Pine County that covers 45,000 acres, will the Board of County Commissioners have to indemnify you?

Jim Stobaugh:

If lands are transferred from the federal government to a state or local governmental entity or anyone, typically the United States requires indemnity be placed in the patent. A "hold harmless" to any liability applies once we have sold the lands. The intent is to get out of the way and remove the United States from those liabilities.

Assemblyman Goicoechea:

You have already done the site assessment on those 45,000 acres?

Jim Stobaugh:

No, but we will not be patenting those lands until we have completed that assessment. It is a requirement for us to complete those transactions.

Assemblyman Claborn:

I would like to ask about amendment two, which allows Clark County to apply for and use the interest in the federal land under the Southern Nevada Public Land Management Act. Is that correct?

Jim Stobaugh:

I am afraid that I am not the one to answer that.

Chair Kirkpatrick:

Is there anyone else who would like to speak on the two amendments posed by Ms. Smith-Newby? [There were none.] Is there anyone to speak on Mr. Roshak's amendment? [There were none.] I am going to close the hearing on A.B. 139.

[Five minute recess.]

[Called back to order 9:34 a.m.]

Chair Kirkpatrick:

We will proceed with the last bill, Assembly Bill 439.

Assembly Bill 439: Makes various changes relating to developing and maintaining affordable housing. (BDR 22-1302)

Assemblyman Marcus Conklin, Assembly District No. 37:

Assembly Bill 439 is the brainchild of the Chairwoman and me. As the Chairman of the Affordable Housing Subcommittee over the interim, I learned a great many things about the need for affordable housing and some of the many roadblocks to making it happen. A lot the bills that are out there deal directly with the land, which is to a great extent out of our control. Some of the particular nuances and roadblocks to developing this housing happen at the local and state level.

What this bill is designed to do is to offer local municipalities some significant ideas and options for affordable housing. The bill gives elected officials some coverage by forcing their hands a little, and for those who do not want to participate in the development of affordable housing, the bill takes some of the Real Property Transfer Tax and puts it into the Affordable Housing Trust Fund. The bill is closing the loop to help build some affordable housing. This is not a "be all, end all" bill. Even if we doubled the size of the Affordable Housing Trust Fund and everyone did everything they could within their power, the need would still be there.

I think I made the need clear when I was before you testifying about A.B. 255, when I gave statistics for Clark County where the median annual household income, as of December 2006, is \$58,200. A household could be one worker or three. Eighty percent of that, which is the standard Housing and Urban Development (HUD) recognition of affordable housing, is about \$46,000. All the people who make \$46,000 or less, per year, technically qualify for affordable housing. A starting teacher's salary is about \$30,000, and that puts him in the lowest brackets at less than 60 percent of the area median income. I do not say this to make light of the situation, but rather to point out how great the need really is. The average new home price is about \$330,000 and the average used home price is about \$285,000, which means that you have to make 147 percent of median income to afford an older home or 170 percent to afford a new home.

In statute currently, there is language that every city and municipality must, as part of their master plan, address the needs of affordable housing. Affordable housing addressed under that plan is 110 percent of median income. There is no real definition of what needs to go into that plan and there is no hook or hammer to address that need. Section 4 reduces the income level from 110 percent to 80 percent, where there is the greatest need. Section 1 gives four options, of which three can be chosen, but which every municipality has to go after. Those four options are: "Waiving or reducing impact fees...for the issuance of building permits..." as relates to affordable housing. "Selling land owned by the city or county...to developers exclusively for the development of affordable housing at not more than 10 percent of the appraised value..." that is in line with the BLM regulations on affordable housing; "Establishing a trust fund for affordable housing..." or "Establishing a process that expedites the approval of plans and specifications relating to maintaining and developing affordable housing." We ask that the municipality pick three of those, develop them, and follow those guidelines and report annually to the Housing Division. If you do not put them into action or make respectable progress toward putting something into action, then the Housing Division has the right to take an equal amount of your Real Property Tax (RPT) that has already been placed into the Affordable Housing Trust Fund and place it into the Trust Fund. There is one thing missing from this bill, and it was my intent to include it, which was to give the municipality that has been fined or penalized first right to the money in the Affordable Housing Trust Fund. It is not so much that I want to take the money away, as I want to redirect the money to a specific need in that community. Every community has a need for this, in spite of what they may tell you. This is not a phenomenon only of Clark County; the Chairwoman and I have heard testimony from across the State about the need for affordable housing. It may differ in the sheer scale of wage versus median price, but we heard from Elko and Ely as well as Washoe County and Clark County.

Ernest Nielsen, representing Nevada Housing Coalition:

I have a few comments. Section 1, subsection 5 deals with the ability of the local jurisdictions to recapture the money that had been paid as fines, and that section may need some additional language to give those jurisdictions the right of first refusal. The Nevada Housing Coalition is in favor of this bill. We think it is an important bill because it brings local governments to the level of equal partner in the provision of affordable housing. We would have preferred to use some "carrots" to induce participation; however, we did not see any available carrots to use. We see that the jurisdictions have had a number of tools for many years, but they have not been put to use to the extent that local jurisdictions have prioritized the need. This bill will elevate affordable housing into the budget discussion processes of the jurisdictions. Federal dollars are not increasing for affordable housing, but at the state level there is a possibility of one-time funds to increase state funds. The local jurisdictions can no longer rely upon others to provide for affordable housing.

The Coalition offers three concrete suggestions. In terms of the housing element, we would like the housing agencies of each jurisdiction to report to the Nevada Division each year, so there is a repository of housing elements that people can access. With respect to Section 1, subsection 1(a), regarding the fees: we would like to expand the fees that are available to the jurisdictions for use in reducing the cost of affordable housing more than what is described here. There have been discussions about enterprise funds and how they may create problems. There is a potential for cross-subsidies such as when you reduce fees for one, you increase fees for another. We think the best option would be to use a separate fund to reduce the fees for those providing affordable housing, especially when the fees are being accounted for in an enterprise fund.

The third suggestion is we would like to make the trust fund a centerpiece of the alternatives that the cities and counties can provide and then include another two of the remaining three options. One other suggestion concerns supportive housing, and possibly a fifth item would be jurisdictions that contribute to supportive housing to count towards the criteria to prevent the secondary tax. There are other ideas in the handout I provided ([Exhibit J](#)).

Assemblyman Claborn:

[To Assemblyman Conklin] Assembly Bill 439 is the kind of bill I have been looking for, where growth pays for growth. This is a bill that I can support.

Assemblyman Goicoechea:

Low-income housing and HUD housing is not a big issue in central Nevada. In the rural counties we need some education first, and when we are talking about

attaining three of the four criteria or you lose a portion of funding, what is that again?

Assemblyman Conklin:

The current statute for the Low Income Housing Trust Fund requires that 10 cents of every \$500, automatically goes to the Low Income Housing Trust Fund. There is \$1.30 for every \$500, which is the Real Property Transfer Tax, and 10 cents of that would go to the Low Income Housing Trust Fund. The way this is drafted, if a municipality does not meet the requirement, an additional 10 cents from the Real Property Transfer Tax collected in their jurisdiction goes into that Trust Fund. The Trust Fund is funded by all jurisdictions, but the municipality that pays the additional amount that went into the Fund would have the first right to take it out of the Trust Fund, but it can only be used to develop affordable housing.

Assemblyman Goicoechea:

If they fail to comply, could that additional 10 cents be removed and issued to another jurisdiction?

Assemblyman Conklin:

That amount of money is really significant in Clark and Washoe and is much smaller in the rural counties.

Assemblyman Goicoechea:

In White Pine County, the transfer tax on \$100 million ranches is a lot of money in rural Nevada. I am concerned that White Pine County would have a hard time giving up 10 cents out of the \$500.

Assemblyman Conklin:

I have the last breakdown of money in my office.

I have been approached by three entities and two of them, Clark County and the City of Las Vegas, have been very progressive in dealing with their affordable housing issues. They have concerns but are in support of the idea and the process. One of the concerns is defining what actually complies with the statute so that they are not put into an adversarial position with the Housing Division, but rather a partnership.

Chair Kirkpatrick:

From what we learned during the Affordable Housing Interim Committee and all the studies, Nevada Rural Housing does a great job. They had more people signed up and people were truly getting affordable homes for \$140,000. As

long as we can be sure that people partner with the right groups within the entities affected, we will do a lot more good for the State.

Assemblyman Goicoechea:

I appreciate that, Madam Chair. In most of these rural communities, it is more a lack of understanding of what is being imposed than an unwillingness to comply. They can also not afford to take that kind of a hit. I will talk to some of my constituents.

Assemblyman Conklin:

Mr. Nielsen and I were conferring earlier on *Nevada Revised Statutes* Chapter 278; there is mention that this portion of the statute only applies to counties with populations over 100,000. I would ask that Legal verify that.

Assemblyman Goicoechea:

And if it is not there, maybe we could put it in.

Chair Kirkpatrick:

This bill seems a little harsh, but there are so many people that fall into this statute, it is no longer just the single mom. It is our senior citizens and college students who cannot even afford to rent apartments because they are so limited. My kids do not want to move out because they do not want to pay \$1,500 a month for a one-bedroom. There has to be a better way to market affordable housing, so that people do not say, "I do not want it in my backyard." If there are ways that local government can tell us how we can do it better, we would appreciate that.

Douglas Bell, Community Resources Manager, Clark County:

[Read from prepared statement ([Exhibit K](#)).] We support this bill. We would like to expand the evaluation criteria and get credit for other activities that local governments are doing to help create the supply of affordable housing in the community.

Chair Kirkpatrick:

If you have amendments, please submit them to the sponsor of the bill. Several things we have heard are part of the bigger legislative package of affordable housing, in which there are 11 bills. I want to keep the discussion to the merits of this bill, A. B. 439, otherwise we will get sidetracked. We are working toward the committee passage deadline of April 13, so to gut the bill and start over, absolutely not.

Ms. Erdoes, do you have an answer for us? If not, then by the end of the day.

Brenda Erdoes:

I am not finding it in the bill or NRS Chapter 278. It may need to be added.

Chair Kirkpatrick:

The other thing that Ms. Erdoes can look at is whether Nevada Rural Housing applies only to a certain section of the NRS, so we could reference that.

Is there anyone in Carson City who would like to speak in favor of A. B. 439?

Ernest E. Adler, Nevada Rural Housing Authority:

The Nevada Rural Housing Authority supports this bill. To answer Assemblyman Goicoechea's questions, there are a number of ongoing rural affordable housing projects in the State of Nevada. There is a proposal in the City of Winnemucca to donate a large area of land for affordable housing. There are a number of things going on in the rural counties. There is self-help housing being built and United States Department of Agriculture-subsidized housing as well. Currently, the Rural Nevada Housing Board is issuing \$23 million in housing bonds tomorrow for first-time home buyers, at a 5.95 percent interest rate for a 4 percent down payment assistance, which does not have to be paid back. The rural counties are doing as much, if not more than the urban counties trying to address this issue.

With the definition of 80 percent of median income as affordable, from a rural perspective, you are talking about rental housing. For people to buy, the limit would need to be raised to 120 percent of median income, even with subsidies.

Eric Novak, Praxis Consulting Group:

I am an affordable housing consultant and developer in Reno. I am also a member of the Nevada Housing Coalition and the author of a study on the housing needs in rural Nevada and the barriers to affordable housing development in Washoe County, which was commissioned and adopted by the three local jurisdictions last year.

I am here to support A. B. 439, which strengthens the housing elements requirement of the Master Plan statute and creates affordable housing incentives, many of which were recommendations of the Assembly Concurrent Resolution No. 11 of the 73rd Session (A.C.R.) Committee and of the barrier study. The A.C.R. 11 study committee documented great need for affordable housing and workforce housing across the State. Vacancy rates for rental housing in Washoe County and Clark County are hovering around 4 to 5 percent. There is virtually no new multi-family rental housing production and none anticipated in the near future. We are seeing a loss of the existing stock to conversion or redevelopment. I think local governments can do more to

remove regulatory barriers and to provide incentives for affordable housing development. The housing element law has been on the books since the early 1990s, but it has never been fully implemented. Assembly Bill 439 strengthens the housing element law and creates a toolkit of options for local governments in support of affordable housing: fee waivers, free and reduced price land, expedited permit processing, and the creation of a local housing trust fund. I think that A. B. 439 will result in affordable housing being higher on the agenda for local government priorities and will ultimately result in more affordable housing production.

Irene Porter, Executive Director, Southern Nevada Home Builders Association:

It is my pleasure to support this bill because these are the issues we have been talking about for many years in trying to assist in building affordable and attainable housing throughout the State of Nevada. We would like to submit two amendments to existing language ([Exhibit L](#)). One amends Section 1, paragraph 1(a) to read "Paying from city or county funds" and eliminating "Waiving or reducing," and then adding "all or a portion of" to "impact fees and fees for the issuance of building permits collected pursuant to NRS 278.580," and again adding "for affordable housing projects." The reason for this is because the fees established for both activities, impact fees and building permit fees, which go into an enterprise fund, assume fairness and proportionality among users.

A city or county that wishes to promulgate affordable housing should contribute all, or the amount discounted, of the fees required for affordable housing projects meeting the city or county's policy criteria. The exception is the school district, when there is an impact everybody pays for. All users pay those impact fees. If you were to waive or reduce fees for certain users, other housing would have to pay the cost.

Southern Nevada Home Builders is in a lawsuit with Nye County, which passed an ordinance waiving the fees for certain uses. Two weeks ago, we were filing for a default judgment because Nye County had not answered the lawsuit. Instead they had instituted new ordinances to waive more of the impact fees for economic development. This is why we feel this has to be fixed.

Then in Section 1, paragraph 1(c) that relates to the housing trust fund, the amendment adds "Contributing to or promoting contributions to the account for low income housing established pursuant to NRS 319.500 to be used for affordable housing projects in the city or county," eliminating the other language. The reason for this is our industry currently provides 10 cents per \$500 to the Real Property Transfer Tax. If we anticipate setting up housing trust funds in every single community, then they are going to be duplicative of

the state fund and I am not sure how the Home Builders would fund all of those. We have been pleased all of these years to be putting money into the state fund. Mr. Goicoechea asked some questions about the transfer tax; in Clark County it is a little different. We pay the 10 cents per \$500 for the Real Property Transfer Tax, the money that goes to cities and counties, plus 60 cents for school construction, and statewide we pay \$1.25 per \$500 that goes into the state revenues. Our Real Property Transfer Tax in southern Nevada is significantly higher than it is in most of the rest of the State. We are pleased with this bill and with those changes. The Home Builders have worked quietly with teachers to help provide them housing. We hope that this bill will promote affordable housing, but most of our builders do not build affordable housing projects. It is normally nonprofits and specific kinds of builders that build affordable housing. Maybe more would be interested when they have some incentive to do it.

Assemblyman Goicoechea:

[To Mr. Adler] I did not want people to think that nothing is happening in rural Nevada, because most communities are striving to provide housing. What concerned me about A. B. 439 was trying to meet three of the four criteria or suffer that penalty on the local government.

Ernest E. Adler:

I think in some counties the amount of money is going to be so small that affordable housing projects cannot be done. I am not sure that all of the counties can meet all of those criteria. Instead of writing the rural counties out of the bill, it might be a good idea to allow them to use the money more flexibly. Certain communities might want to use the money to subsidize very low-income seniors' rent or something of that nature.

Assemblyman Goicoechea:

I think that most of the rural counties have those programs in place. With the spike in mining in rural Nevada, rental property is at a premium. There simply is nothing available in the northeastern part of the State. The places that most people would not even want to live in are renting for \$700 to \$800. We recognize the need, but the fund is not going to generate that kind of money in White Pine, Lander, or Eureka County, so I need to get with Assemblyman Conklin and look at the numbers to see what the fund is doing in these rural communities. The rural communities do not have enough money to bring a project forward and then they would get penalized. Again, I am concerned that the rural communities could not meet three of the four criteria.

Chair Kirkpatrick:

As a co-sponsor of the bill, I would be more than happy to look at that. The Nevada Rural Housing Authority did a great presentation; they had updated numbers on how many people they were housing. The last thing we want to do is interfere with that. The Low Income Housing Trust Fund that is currently in place does allow for rental assistance, so maybe we can mirror some of that language.

Assemblywoman Parnell:

I wanted to let the members know that Mr. Adler is a former Assemblyman from District 40, and he was a State Senator.

Chair Kirkpatrick:

We are now going to Clark County. Is there anyone else in favor of A. B. 439?

Tim Whitright, Development Manager of Neighborhood Services, City of Las Vegas:

I am here in support of the bill and to offer comments for consideration. The city has concerns in regard to Section 1. We would like some flexibility because we work very hard in providing affordable housing and we would like to receive credit for it. We are asking that in Section 1 we have the ability to provide some amendments allowing us to develop other measures that can be added in addition to those four criteria. We would ask that the requirement of three criteria be reduced to one. The other concern is the that city would be subject to not yet developed criteria for review by the State Housing Division to determine whether or not we have made adequate progress toward maintaining and developing affordable housing. The concern is that there are barriers that are beyond our control, such as availability and price of land, construction material costs, cost and availability of labor, and market trends.

We are looking for consideration about the negative impact of waiving or reduction of impact fees and fees related to the issuance of building permits. The building department operates from an enterprise fund. These impact fees pay for the operations and provision of this necessary function, which allows for the orderly development of the community and the inspections that ensure that the structures are built in a safe manner. We took an example to see what would happen if we were to entirely waive fees. We noted that the waiving of building fees would net one unit of the 300-unit example and waiving sewer fees would net an additional four. There are fees outside of our control and there is a reason for those fees, for instance with the Las Vegas Valley Water District. If those fees were waived in total, it would pay for an additional eight units. The Department of Transportation fees would net an additional two units. We are looking for consideration of the potential impact to our

operations. We cannot draw from General Funds, and there is some conflict with state law as to waiving those fees at this time.

We already do the second option of the four criteria, the provision of land. I could list all of the acreages and lands that we have recently transferred, for no cost, for affordable housing. We would ask to not be penalized if we do not meet the criteria because we currently use funds from the Affordable Housing Trust Fund to provide affordable housing. If the funds are taken away, that is less housing that we are able to develop. With the fourth criteria, to establish a process that expedited the plans check process, we would be placing additional efforts and resources toward affordable housing. So what would that do to other permits and developments that come through our offices?

We support the effort and the intent of this bill to bring local governments beyond discussions into taking actions. We are looking for discussion as to what the criteria are for determining progress in affordable housing. We have other programs; we are assisting the Clark County School District with affordable housing and rents for teachers. We are going through the process of setting up a community land trust. These are things that we would like to get credit for as we work toward providing affordable housing in our community.

Chair Kirkpatrick:

I would not expect local government to support this bill 100 percent, but if you are neutral, can we move to the people who truly support the bill? Which one of the four criteria could you meet? I will come back to you. I am frustrated because we spent many months on this bill with local governments, and now that we have everyone's attention as to what we are trying to do, there is balking. Since 1999, there has been a plan in place that says that affordable housing has to be provided; we are trying to help local government get the plan in place. Las Vegas is doing a great job, so I am surprised that you did not talk about what you have done downtown.

AnnaMarie Johnson, Nevada Legal Services, Inc., Nevada Housing Coalition:

I am also a member of the Nevada Housing Coalition. I am in support of this bill. The Clark County Growth Task Force commissioned a study in 2005 that asked, "What are the highest priorities for managing growth in Clark County?" The study determined that the highest priority is creating and maintaining affordable housing, both for purchase and rent. A follow-up study in 2006 determined that Clark County would need 12,000 new units of affordable housing per year for the next ten years just to meet current demand. We are only providing 2,000 units per year, well under the current need.

[Read from prepared statement ([Exhibit M](#))] For my own organization to be able to recruit new people to come and work for me, this community has to have affordable housing. [Continued reading from statement]

Chair Kirkpatrick:

Mr. Whitright, did you have a chance to look at that?

Tim Whitright:

In the four measures, certainly the provision of land is something that we do right now. As examples, we have 275 units on 4.8 acres which we have donated. We have 78 rental units on 3.2 acres of donated land under construction. We have seven single-family homes on 1.1 acres of donated land. We have 2.25 acres which will be put out for a request for proposal (RFP) process for the development of 10 to 12 single-family homes. We have 12 parcels that will be put out for an RFP for affordable single-family homes, and we have a 5-acre property that we are putting out for an RFP for the development of 125 affordable housing units. We are doing a lot of work to provide land for affordable housing. We looked at the establishment of an expedited plans checking process. We could support that, but we would like some time to know how that would be implemented. Those would be two of the four criteria that we would be comfortable with at this time. There are details we would like to see worked out about what the criteria are for progress in affordable housing.

Larry Struve, representing Religious Alliance in Nevada (RAIN):

We are in support A. B. 439. This organization followed the hearings that were conducted in the interim committee and of all the bills that are being considered on affordable housing, we think this one has the most promise in trying to get meaningful results. We support the focus on families that earn 80 percent or less of median income. We think that you are correct in focusing on the role that local governments can play in trying to solve this problem. There is a handout ([Exhibit N](#)) that has the statement that RAIN has adopted on affordable housing. The dimension we bring to your discussion is that as you consider the economics and mechanics of affordable housing, we would like you to focus on the human beings affected. We quote from your interim study about the number of people in this State who have no place to live. Unless we as a society decide we are going to do something about it, it is probably not going to change.

In your bill there is an interesting provision that we strongly support and hope that it can become a building block, the beginning of the process, to get a handle on how affordable housing is affecting the people of this State. In Section 1, subsection 1, paragraph 2, which is on line 23, you will note that

there is a requirement that a report be filed by the governing body with the Housing Division each year. The report is to describe how the measures adopted under subsection 1 have assisted the city or county in maintaining and developing affordable housing to meet the needs of the community for the preceding year. We would ask, if possible, that the reporting be expanded to include how many people in their jurisdiction have been placed into affordable housing and how many people still need to be placed. The requirement currently may be satisfied by saying, "We funded x number of units" or "We did x number of projects" and the true impact of the lack of affordable housing would still not be known. We think the bill represents an important first step.

Arthur Thurner, Chief of Federal Programs, Housing Division, Department of Business and Industry:

The Division is in basic agreement with the bill. We would not want to be part of any adversarial situation between ourselves and local governments. The local governments do a great job in promoting affordable housing. The reality is that it would not serve any genuine purpose to put us in conflict with them. The overwhelming majority of the housing that gets built is done by nonprofit and for-profit builders who are backed by private investment.

Tom Finch, Executive Director, Citizens for Affordable Homes, Inc.:

I am also the Vice President of the Builders Association of Western Nevada. Citizens for Affordable Homes is a 501(c)(3) private nonprofit and our main focus is on home ownership. This bill seems to be in favor of home ownership in addition to multifamily units, both needed in the State. We have partnerships in building multifamily units, and we also have a successful weatherization program that we are involved in now. The Builders Association of Western Nevada is interested in residential construction. There is a concern that NRS as it reads now limits the bill to counties that are 100,000 to 400,000 in population. I would like to see that changed so that the rural counties can take advantage of this bill. There are some counties that have grown enormously since the last census and are in desperate need of workforce housing.

In regard to waiving or reducing impact and permit fees, the ones that we now pay in northern and southern Nevada when we build self-help homes account for about 10 percent of our total construction costs. That is significant when you are trying to qualify people to build a house and stay below the 80 percent of median income. We would like to see something done to lower these fees but not impact other construction.

Chair Kirkpatrick:

Is there anyone else in favor of A.B. 439? Is there anyone who is neutral?

Shaun Jillions, Legislative Advocate, City of Henderson, Nevada:

We want to express our appreciation for being able to participate in the A.C.R. No. 11 of the 73rd Session Committee during the interim. We look forward to being able to fine tune the language in the bill.

Chair Kirkpatrick:

Is there anyone who is opposed to A.B. 439?

Derek Morse, P.E. Deputy Executive Director, Regional Transportation Commission of Washoe County:

The Regional Transportation Commission (RTC) is supportive of efforts to encourage affordable housing; however we have some concerns regarding the way in which impact fees are used to accomplish this in the bill. The RTC is the administrator of a regional road impact fee that covers the cities of Reno and Sparks and portions of Washoe County within the urban area. Affordable housing or any other land use that we would like to encourage as a society creates impacts. This is no less true in traffic as in any other area where you would have impact fees. These impacts need to be addressed and paid for if we desire to maintain our quality of life. Line 9 on page 2 offers the option for cities or counties to waive or reduce impact fees. If this is done, who will pay to mitigate those impacts?

To require other development to pay would violate one of the underlying principles of impact fees, namely that development should pay its fair share. This could open it up to legal challenges and lawsuits. Not having anyone pay for these impacts leaves gaps in the funding needed to pay for vital infrastructure. Where an impact fee covers multiple jurisdictions such as the one we administer, the decision of one jurisdiction to waive or reduce impact fees without the consent of the other jurisdictions is a problem in terms of representation. A situation could easily arise when waiving impact fees disproportionately affects the other jurisdictions participating in the program.

We propose an amendment to Section 1, subsection 1(a) ([Exhibit O](#)) similar to the one offered by Irene Porter. Instead of allowing local government to waive or reduce impact fees, we simply said "at the expense of the governing body," that as a local government they may subsidize those impact fees in whole or in part. We think that addresses all the concerns that we have and would not then oppose this bill.

Chair Kirkpatrick:

Are there any questions? [There were none.] Are there any other speakers? [There were none.] We are going to close the hearing on A.B. 439.

Is there any public comment? [There was none.] We will adjourn. [10:43 a.m.]

RESPECTFULLY SUBMITTED:

Emilie Reafs
Committee Secretary

APPROVED BY:

Assemblywoman Marilyn K. Kirkpatrick, Chair

DATE: _____

EXHIBITS

Committee Name: Committee on Government Affairs

Date: March 27, 2007

Time of Meeting: 8:03 a.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
	C	David Morton, Housing Authority Risk Retention Pool	Annual Report
A.B. 350	D	David Morton, Housing Authority Risk Retention Pool	Letters
A.B. 350	E	Douglas Bell, Community Resources Manager, Clark County	Prepared Statement
A.B. 139	F	Sabra Smith-Newby, Clark County	Department of Aviation Amendment
A.B. 139	G	Sabra Smith-Newby, Clark County	Indemnification for Affordable Housing under SNPLMA amendment
A.B. 139	H	Sabra Smith-Newby, Clark County	Public Law 105-263
A.B. 139	I	Jim Stobaugh, Bureau of Land Management	Handout
A.B. 439	J	Ernest Nielsen, Nevada Housing Coalition	Handout
A.B. 439	K	Douglas Bell, Community Resources Manager, Clark County	Prepared Statement
A.B. 439	L	Irene Porter, Southern Nevada Home Builders Association	Proposed Amendment
A.B. 439	M	AnnaMarie Johnson, Nevada Legal Services, Inc.	Prepared Statement
A.B. 439	N	Larry Struve, Religious Alliance of Nevada	Handout
A.B. 439	O	Derek Morse, Deputy Executive Director of Regional Transportation Commission	Proposed Amendment