

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

**Seventy-Fourth Session
April 10, 2007**

The Committee on Government Affairs was called to order by Chair Marilyn K. Kirkpatrick at 8:03 a.m., on Tuesday, April 10, 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 Bob Beers
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

GUEST LEGISLATORS PRESENT:

Assemblywoman Debbie Smith, Assembly District No. 30



STAFF MEMBERS PRESENT:

Amber Joiner, Committee Policy Analyst
Scott McKenna, Committee Counsel
Emilie Reafs, Committee Secretary
Olivia Lloyd, Committee Assistant
Kelly Gregory, Senior Research Analyst, Legislative Counsel Bureau

OTHERS PRESENT:

Greg Smith, Administrator, Division of Purchasing, Department of Administration
Lynn Chapman, State Vice President, Nevada Families
Janine Hansen, President, Nevada Eagle Forum
Ernest Nielsen, Washoe County Senior Services, Nevada Housing Coalition
Robert Joiner, AICP, Government Affairs Manager, City of Sparks
Armando Ornelas, Redevelopment Manager, City of Sparks
Ann Harrington, Nevada Housing Coalition, Regional Housing Taskforce
Terri Barber, Intergovernmental Relations Director, City of Henderson
Sabra Smith-Newby, Director, Intergovernmental Relations, Clark County
Joshua G. Wilson, Washoe County Assessor
Dino DiCianno, Executive Director, Department of Taxation
Ernest Nielsen, Washoe County Senior Services, Nevada Housing Coalition
Jodi Royal-Goodwin, Community Resources Program Manager, City of Reno, Washoe County Housing Consortium
Michael Pennington, Public Policy Director, Reno-Sparks Chamber of Commerce, Nevada Housing Coalition
Bambi Spahr, Executive Director, Builders Association of Northern Nevada
Ann Harrington, Nevada Housing Coalition, Regional Housing Taskforce
Eric Novak, Principal, Praxis Consulting Group
Paula Berkley, Nevada Network Against Domestic Violence
Bob Varallo, Nevada Association of Manufactured Home Owners
Judy Dosse, Urban Community Housing Affordable Scaled Eligibility
Douglas Bell, Manager, Community Resources, Clark County
Michael Mullin, President, Nevada HAND
David Kallas, Director of Governmental Affairs, Las Vegas Police Protective Association Metro, Inc.
Joseph Turco, ACLU Nevada
Alan Glover, Carson City Clerk-Recorder
Kathryn Burke, Washoe County Recorder
Dave Evans, Nevada Land and Title Association

Jenny Welsh, Government Affairs Director, Carrara Nevada
Ginny Lewis, Director, Department of Motor Vehicles

Chair Kirkpatrick:

[Call to Order, Roll Call]

We have four bills and a work session. We are going to take the bills out of order to accommodate legislators. We are going to hear Assembly Bill 470 first.

Assembly Bill 470: Prohibits the Governor or any other state officer or employee from binding the State to the requirements of an international trade agreement without authorization by the Legislature. (BDR 19-1280)

Assemblywoman Pierce:

[Read from prepared statement ([Exhibit C](#)), presented a video ([Exhibit D](#)), and binder ([Exhibit E](#))].

Assemblyman Settlemeyer:

This differs from Assembly Joint Resolution 10 which told the government that they should not have the right to "fast track" something. This seems to be extending the concept of telling the federal government they do not have the right to discuss things for the United States.

Assemblywoman Pierce:

For those who are not on the Assembly Committee on Elections, Procedures, Ethics, and Constitutional Amendments "fast track" is legislation that was passed during the Nixon Administration which limits the debate on trade agreements which Congress may have. Congress, according to the United States Constitution, is the body that agrees to trade agreements. "Fast track" only allows Congress to make an up or down vote.

This authorization is up for reauthorization in June and A.J.R. 10 is an effort to tell Congress and the President to not reauthorize "fast track". We would rather Congress get back into the business of evaluating and debating the trade agreements the United States is entering into.

So yes, this does something different. As you saw in the video, what we do in this building can be jeopardized at any moment by one investor in a foreign corporation who feels that something we have done has negatively influenced their future profits. We need to look at these trade agreements and decide whether or not we are going to be a party to them. Mr. Smith from Purchasing, with the knowledge of Governor Guinn, has removed this State from a couple of

trade agreements. There are many other trade agreements and they seem to encompass more each time.

Assemblyman Beers:

I do not see a specific reference to one of the problems we read about, the new superhighway. I heard from a lot of people in the trucking industry who are very concerned about what that might do to our State. I also have a serious concern on our loss of sovereignty and the trend of our higher elected officials to be more concerned about interests of foreign individuals than their constituents. Will this bill address the problem of trucks being sent from the south without any oversight of what they might be carrying?

Assemblywoman Pierce:

There is information about what Assemblyman Beers is talking about in the binder ([Exhibit E](#)). One of the provisions of the North American Free Trade Agreement (NAFTA), which was signed in 1993, states that the borders with Canada and Mexico for long haul trucking had to be "porous." All trucks could come and go without being stopped. This provision was fought by the Teamsters Union, among other groups, and was not enacted until about a month ago. The Bush Administration will allow long haul trucks to come from Mexico and Canada. This means that trucks that do not have our environmental and safety standards will be on our roads. The United States has provisions about how long someone can drive a semi, but if you are crossing the border, we can only control how many more hours he can drive here. We cannot ask how many hours the driver has already driven; we cannot say that the truck does not have the necessary safety or environmental standards.

I do not say that I am an expert on these things, but what my bill says is that we have to make the decision. Section 2 says that any international trade agreements that we have been bound to before the date that this bill becomes law are invalid. Nevada would therefore no longer be bound to NAFTA. I do not know how that will play out in terms of the trucking provisions. We need to get in the game because this is serious. Imagine if we went home in June and discovered that a foreign investor has taken us to a tribunal for a billion dollars. The Legislature has the responsibility to look at the trade agreements, not an unelected bureaucrat.

Assemblyman Stewart:

What was the outcome of the tribunal regarding California?

Assemblywoman Pierce:

It took six years, but the United States won. However, the United States usually loses.

Assemblyman Stewart:

Does the United States have a majority on the tribunal?

Assemblywoman Pierce:

No, the tribunal does not necessarily have any Americans. We do not know who is on the tribunal and we do not get to choose who is on it. There are a couple of web pages on trade and I am told that all of the information on them has either been stolen or leaked. There are no open meeting laws.

Assemblyman Stewart:

I noticed in Section 1, subsection 3, that this bill does not include a trade agreement between a state and a foreign country. If we made an agreement with Mexico, would the Legislature not be involved?

Assemblywoman Pierce:

Agreements for sister cities and things like that are not affected. In my other testimony, I have a quote from a former judge of the Federal Appellate Court and Congressman, Abner Mikva: "If Congress knew what was in NAFTA they never would have agreed to it." It was about 900 pages and everyone admits that they did not read it.

Assemblyman Beers:

You mentioned that under the United States Constitution Congress deals with international trade. I am firm on states rights, so I do not think that the federal government should tell any citizen of the United States what to do. Would this bill go against what the Constitution says?

Assemblywoman Pierce:

This bill may create situations that have to be decided in the courts. Our Constitution never envisioned trade agreements like NAFTA; our forefathers never thought that foreign investors would have more rights than American citizens. Since 1993, the United States has entered a new area, but the United States Trade Representative (USTR) has come back and said to the individual states, "You want to be a part of these agreements; you want to bind yourself onto them." It took some states a while to realize what was happening. My understanding is that if Nevada did not reply to the letters sent out by the USTR's office, then they were bound. The state has to remove itself or else it is bound by default.

This law has already been passed in Maryland, and there are six or seven other states that are considering this legislation. It could be challenged by the courts. There is a growing amount of concern about trade; there are letters from about

five Governors who have taken their state out of various agreements. So, Governors are starting to do this and legislators are starting to pay attention.

Scott McKenna, Committee Counsel:

These are uncharted waters. On one side there is clearly a federal supremacy issue, but on the other is the right to govern, predicated on the consent to be governed. It may involve a great deal of litigation. What will happen in the future cannot be predicted accurately at this time.

Assemblywoman Pierce:

I would like to ask Greg Smith to come up. If you look in the binder ([Exhibit E](#)) you will see some of the letters he has written, taking Nevada out of some of the trade agreements. He has been watching out for the taxpayers without much fanfare.

Greg Smith, Administrator, Department of Administration, Division of Purchasing:

The main reason I am here is to let you know how we got to where we are. In 2003 and 2005, the State of Nevada was contacted through Governor Guinn's Office, requesting our participation in various free-trade agreements. If we did not respond negatively, we would have been participatory to them. We asked some simple questions and we did not receive good answers.

When we negotiate a contract, we like to have the terms and conditions, and the scope of work agreed up front including any amendments and concerns. Then, we sign it. We were being presented with trade agreements that had been negotiated far before the states were requested to participate. Some states did not have a problem and went along, but others, like us, started asking questions and found out that participation was irrevocable for the life of the pact once a state signed on. Our office asked if participating was in the best interest of Nevada, and it did not appear to be a benefit. It also seemed to eliminate any autonomy that we had as a state, so I recommended to Governor Guinn that we opt out. His office, through his Chief of Staff Keith Munro, authorized me to write the letter opting Nevada out.

Assemblyman Settlemeyer:

Is there a discussion with other states who are doing this or is this only by the State of Nevada?

Greg Smith:

The National Association of State Procurement Officials (NASPO) was contacted to begin working with the USTR's Office, and their senior procurement negotiator, Jean Greer, tried to work out some of these questions. The

negotiations are still ongoing and some of the states that are in are now unhappy and are trying to work out the terms and conditions after the fact. The letter sent by the USTR's Office was a blanket letter that was sent to all 50 states, even though a number of states were already considered in. Those states were asked to reaffirm their commitments.

Assemblyman Settelmeyer:

You are telling me that other states have gotten together. It really flies in the face of the Sherman Act, which states that a "conspiracy, in restraint of trade or commerce among the several States, or with a foreign nation is declared to be illegal."

Assemblyman Stewart:

I appreciate the intent of this bill. I think it is great to look after the state. In your opinion, is the Governor better able to make this decision? It seems like Governor Guinn's administration handled this well. I would be afraid that the Legislature would slow down the process.

Greg Smith:

I anticipated the question. I do not believe that I am capable of saying yea or nay to who is the best. It is a policy call. I am not here to speak in favor of nor against the bill. It is a very technical decision which would be made on the basis of a lot of information. Whether you leave it to the executive branch, bring it into the legislative branch, or a combination of the two, my office will cooperate in providing all the information you need.

Assemblyman Beers:

What was the reaction to the past refusals? Did Nevada hear anything and have we been asked since?

Greg Smith:

I am an influential member of the NASPO because I tend to be vocal with my opinions. There were a number of states that were watching what we did, and in 2003 I received a call from the United States Trade Representative's Office, asking why we sent the letter and if there were some questions that could be answered. We spent a considerable amount of time talking and it became clear that even Jean Greer was confused on what she was trying to sell us. There was a follow-up letter in 2005, when the USTR ambassador position changed hands and the new individual wanted to bring everyone under the tent. There has been no formal communication since then but NASPO does have a standing committee that continues to discuss these matters with the USTR's Office.

Assemblywoman Parnell:

What is happening at the national level to address some of these concerns?

Greg Smith:

I am not an expert. This appears to be an act now, think about the consequences later type of decision. It sounded good in theory but has caused numerous issues with the states. As an example, the terms and conditions that a state must wrap their procurements in are very complex. In Nevada, we try to keep the procurements as simple as possible to preserve the ability of local vendors to participate. Most of these firms do not have Request for Proposals response teams; they are people trying to make a living selling their products. I did not think that the complexity was in the best interest of Nevada.

Assemblywoman Parnell:

I would hope that you would try and get some message to Congress. It is the time for all of us to be more proactive.

Assemblywoman Womack:

What is the intent of this bill? If we bring the decision making on these contracts to the legislature, is meeting every other year expedient enough?

Assemblywoman Pierce:

There is no way around us meeting every other year. I did not put a mechanism for us to discuss and debate these issues. Maybe we need a standing or interim committee.

Assemblywoman Womack:

Has the Central American Free Trade Agreement (CAFTA) gone into effect?

Assemblywoman Pierce:

It has been signed.

Chair Kirkpatrick:

Since we have a State Purchasing Department and you have an organization, is this something we can work on during the interim in order to take a hard line on all the purchasing for the state?

Greg Smith:

We will assist you in any way we can.

Chair Kirkpatrick:

Do you purchase food as well as office supplies and so on?

Greg Smith:

The State Procurement Office under the Division of Administration handles approximately \$150 million in goods purchasing a year, and another \$300 million in services purchasing a year for all state agencies, with a few exceptions.

Chair Kirkpatrick:

You work with local governments as well to widen the purchasing pool, is that correct?

Greg Smith:

Yes, on an informal basis, from a legislatively created study commission, because the local governments, political subdivisions, school districts, et cetera, operate under *Nevada Revised Statutes* (NRS) 332. State Purchasing operates under NRS 333 but the two are very similar and we work closely.

Chair Kirkpatrick:

Is there anyone who would like to speak in favor of A.B. 470?

Lynn Chapman, State Vice President, Nevada Families:

We support A. B. 470. Phyllis Schlafly wrote a paper called *We Must Have Sovereignty* to celebrate our independence. She avers that the United States Constitution is based on the premise that we are a sovereign nation and we do not obey any power unless it is authorized by the Constitution.

The World Trade Organization (WTO) is an example of how trade agreements can morph into global control. The WTO is not a free-trade organization but rather a global bureaucracy and quasi-judicial system that manages world trade and has ruled against the United States numerous times. Our Declaration of Independence is in essence a declaration of American sovereignty. Americans must never accept any governing authority higher than the U.S. Constitution.

Some interesting information comes from the Central American Free Trade Agreement fact sheet prepared by Alan Tonelson, who is a research fellow at the U.S. Business and Industry Council Education Foundation. He talks about the USTR's Robert Zoellick who claimed that CAFTA "will promote U.S. exports to a large and important market." The figures in 2004 show the five Central American countries that signed on have a combined economy the size of Orlando, Florida. Mr. Tonelson also pointed out that 35 percent of the U.S. goods exported to the CAFTA six (nations) consisted of fabric and apparel pieces, the overwhelming majority of which were assembled and sent back to the U.S. Exports like this can only reduce wages and employment in the United

States and locks the United States into trade relationships with countries that are net exporters increasing the already large trade deficit.

The Legislature is our voice here in Nevada. I would rather an elected group speak for us rather than one person for international trade agreements.

Janine Hansen, President, Nevada Eagle Forum:

We fully endorse the remarks of Assemblywoman Pierce and are pleased that she has brought this bill forward. Eagle Forum has been concerned and involved in opposing NAFTA, CAFTA, the General Agreement on Trade and Tariffs (GATT), and the WTO for over 10 years. International trade has now been designed to aid international corporations, not the American people. Hundreds of thousands of jobs have been outsourced. We have an astronomical trade deficit created by these trade agreements which have nothing to do with fair trade. The other countries have advantages over us, for example, in the taxes that are charged. They found in the European Union if they were going to have trade between the nations they had to have a tribunal. You heard Ms. Pierce talk about the tribunal where we have little or no influence. I passed out some information on the NAFTA highway ([Exhibit F](#)). This is one of the latest issues coming forth about international trade.

The next big push in international trade is the North American Union or the Security and Prosperity Partnership. Congress is not even involved, but it is their Constitutional responsibility. They have abdicated their responsibilities. What is happening under the Security and Prosperity Partnership is that bureaucrats from the three nations are harmonizing our laws. That is your and Congress's job. There is also an article from the Teamster magazine about the trucking issue, particularly from Mexico. Congress does have the responsibility for trade and this bill may be challenged in court, but states must assert their sovereignty to protect their people. If you do not take a stand to protect us from international corporations and those who benefit from them, more American jobs will be outsourced and your sovereignty as state legislators to control what happens with health, safety, and environmental regulations will be signed away.

Assemblyman Settlemeyer:

How do you reconcile Section 8 of the U.S. Constitution that says Congress has the power to regulate commerce with foreign nations with this bill?

Janine Hansen:

I recognize that you are correct. Congress has abdicated their responsibilities and their representation of us. They have given it over to foreign powers through agreements like NAFTA and the WTO. As individual citizens we have

no allegiance to foreign nations, only to the United States. We need to tell Congress to stand up and do what they are supposed to do and this bill will help with that. This is an opportunity to create a dialogue.

Assemblyman Settlemeyer:

I understand what you are saying and agree that Congress has failed in a lot of their duties and interpretation of the Constitution. Yet, you understand that you are asking me to vote against the clear wording of the Constitution.

Chair Kirkpatrick:

Is there anyone who would like to testify neutral or against A.B. 470? [There were none.] Assemblywoman Pierce, I will bring you back to the table.

Assemblywoman Pierce:

I brought you a subject that most of you have probably not thought about. Most of you probably did not know about Chapter 11 in NAFTA, so I am available to answer any questions or get you any information you need.

Chair Kirkpatrick:

We need to take a recess to let staff get here for the next two affordable housing bills. I will present them, so Ms. Pierce will assume the Chair. [9:03 a.m.]

[Call back to order 9:21 a.m.]

Vice Chair Pierce:

I will open the hearing on Assembly Bill 527.

Assembly Bill 527: Revises provisions governing the planning for and funding of redevelopment and affordable housing. (BDR 20-143)

This bill was requested by the interim study on affordable housing.

Assemblywoman Kirkpatrick:

I am here on behalf of the interim study to present the next two bills. Assemblyman Conklin is in work session and cannot break away. Ms. Gregory, who was the staff person during the interim committee, is here with me.

During the interim committee we found it very hard to balance the needs of the State, because of the very different issues between the north and south. Ms. Gregory made a handout (Exhibit G) comparing the Regional Planning Commissions of Washoe County and Clark County. Although they are in

statute, they are very different. How do we get a silver bullet to address the concerns across the state without mandating particular things?

In 1997, current Speaker Buckley put in a bill with now Senator Cegavske which stated that local governments, within their Master Plans, must plan for affordable housing up to 110 percent of the area median income. That has been in law for a long time; however, when we brought the local governments together from the north and south, one could not tell where the affordable housing was. There was not a mechanism to determine what we had. Clark County had done an extensive report showing the pluses and minuses. In my frustration, I asked that a bill be brought forward to deal with the planning boards.

Northern Nevada truly relies on their Regional Planning Commission; southern Nevada does not do much with it. We need to make these boards work for the constituents and for local government. It is a little controversial, but there needs to be a discussion. One of the things the bill does is change the Housing Coalition to a Commission; the other part is about the population.

One of the things left out, but critical to the discussion, are the public facility needs. Any time there is growth the needs of the community need to be taken into account: the services, commercial zoning, affordable housing, and attainable housing. I would like to propose an amendment to gut the rest of the bill and ask that we do some real master planning. Today, the Planning Commission gets in a room says "This 120 foot right of way should be commercial." There is a lot more that goes into it, but being the final person on the commission, there is a lot of compromise. We need to address our public facilities, whether those are the fire stations, police stations, hospitals, or our roads, as part of the Planning Commission.

Vice Chair Pierce:

Are there any questions? [There were none.] I will call those in favor of Assembly Bill 527.

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

We do not take any position on Sections 1 through 5. We support Sections 6 through 14. Affordable housing is very important to senior citizens.

Robert Joiner, AICP, Government Affairs Manager, City of Sparks:

We want to thank Assemblyman Conklin and Assemblywoman Kirkpatrick for their leadership on the Assembly Concurrent Resolution No. 11 of the 73rd Session. We worked throughout that committee to support the affordable housing tenets that came through it. Each entity was asked to prepare

information about affordable housing projects. We provided a pamphlet ([Exhibit H](#)) showing redevelopment projects around the state. Page 4 highlights one of our projects. We are not required to provide affordable housing, but it is a policy of ours to provide some within the redevelopment.

Section 8 of the bill: this was one of the problems we brought to the committee: we would have more money to spend on all projects, including affordable housing, if we were to collect our full compliment of tax increment financing. A spreadsheet of the research was presented to the committee ([Exhibit I](#)). Over a period of 12 years, we noted how our tax increment was assessed, collected, and returned to us and the discrepancies in that. This spreadsheet shows an alleged discrepancy of over a million dollars. We currently have no standing to appeal to the Nevada Tax Commission. The language in Section 8 would provide it.

Clark County does annual assessments, but we do not yet do that in Washoe County. We cannot do that just for the redevelopment agency because we would need to do it for the whole county. We work closely with the county assessor; both the current and prior assessors have been helpful and insightful as to when they will have an annual assessment. We also have an issue covered under Section 11, which is the devaluation of property. This bill would allow us the ability to appeal those discrepancies if we want to challenge devaluation through the County and State Boards of Equalization. We do not have the same rights as a redevelopment agency that an individual would have. This would provide us with that opportunity.

Armando Ornelas, Redevelopment Manager, City of Sparks:

I have served as the redevelopment manager for the City of Sparks since 2002. The City of Sparks Redevelopment Agency and the City of Sparks have provided support to affordable housing projects such as the one in the publication ([Exhibit H](#)) in the past and we hope to do so in the future. In this project, the developer had responded to a request for proposals issued by the Sparks Redevelopment Agency and the Agency was asked to buy the site for the project and lease it to the developer. To help make the project feasible, Sparks did so. Such participation is possible only if the Agency has sufficient financial capacity. Sections 8 through 12 of A.B. 527 would potentially enhance the agency's ability to assure that it has financial capacity to assist these types of projects.

Assemblyman Settelmeyer:

I see the Regional Housing Taskforce for the Cities of Reno and Sparks was in favor. Have the City Councils of Reno and Sparks taken a stand on this bill so far?

Robert Joiner:

Yes, our council has supported all of the bills coming out of A.C.R. No. 11 of the 73rd Session.

Assemblyman Settlemeyer:

I know that you can answer that for Sparks, but do you know about Reno? I see someone nodding in the back. I wanted to make sure that both cities were for the bill.

Ann Harrington, Nevada Housing Coalition, Regional Housing Taskforce:

I am here to support Assembly Bill 527. As Ernie Nielsen mentioned, we are neutral on Sections 1 through 5 and support Sections 6 through 14, particularly Section 7 which would provide some additional funds for affordable housing. The project Armando Ornelas mentioned was a project that I built with 72 units for seniors who cannot afford to live in market rate housing. They are now able to live in nice housing in downtown Sparks in a place that is convenient for transportation.

Vice Chair Pierce:

Is there anyone else who would like to speak in support?

Terri Barber, Intergovernmental Relations Director, City of Henderson:

I signed in as in opposition to the bill, but that was prior to hearing the proposed amendment that the Chairwoman put forward today. As she mentioned, the regional agencies in northern and southern Nevada are very different but they do provide useful services in their own way. I would welcome the debate about how we can strengthen and change that.

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

We are in support of this bill as amended by the Madam Chairwoman. We have already been in contact with some of the planning people in the south to think of new and tried ways to improve the Southern Nevada Regional Planning Coalition (SNRPC) and how it functions.

Vice Chair Pierce:

Is there anyone else who would like to speak in support of Assembly Bill 527? [There were none.] Is there anyone who would like to speak in opposition?

Joshua G. Wilson, Washoe County Assessor:

I am here to speak in opposition primarily to Sections 8 through 12 which seem to eviscerate the tax appeal of NRS Chapter 361. This chapter requires that a taxpayer who challenges the assessed value of his property assigned by the assessor, file an appeal with the county Board of Equalization by January 15th

of the tax year in question. This amendment does away with the need to go to the county board and allows the taxpayer to go directly to the Tax Commission. It creates a right of appeal that does not exist today. It is the job of the county Boards of Equalization, then in turn, the State Board of Equalization, to determine the assessed value of property within the county. The Tax Commission only plays a role in assessment of property relative to the centrally assessed property.

The Boards of Equalization were created by the Legislature and given the specific job of property valuation. Even if the assessed value is determined by the Department of Taxation and the Tax Commissioner, it is subject to review by the State Board of Equalization. This legislation would require the Tax Commission to perform a role over which it may not have jurisdiction.

It also allows for an appeal of any action of the County Assessor. The effect goes beyond that issue and will have a significant impact on local government. Having been very involved with the State and County Boards of Equalization over the Incline Village tax matter, this puts the taxpayer in double jeopardy.

Currently, if a taxpayer has an issue with their valuation, they contact the County Assessor. If the Assessor cannot resolve the issue, the taxpayer has the option of going to the county Board of Equalization who may then resolve the issue. If they are not satisfied at the county Board of Equalization, they may then go to the State Board of Equalization for further review and then subsequently "disrecord" if they are still not satisfied. Under Section 8 of this bill if the County Assessor and the taxpayer do not come to an agreement, the county Board of Equalization may render a decision that is agreeable to the petitioner. However if the decision is not agreeable to a third party who is not an interested party in the property valuation, the taxpayer can appeal it to the Tax Commission. This now puts the taxpayer in double jeopardy because now they have to argue their case in front of yet another Board, whose job is not specifically valuation issues. The bill needs a thorough review before passage.

The county Boards of Equalization deal with the value, the Commissioner sets a tax rate, and the Tax Commission then approves those rates. The Tax Commission deals with the taxes generated through the assessed value but they do not play a role in the valuation of property, with the exception of centrally assessed properties.

Vice Chair Pierce:

Is there anyone else who would like to speak in opposition to Assembly Bill 527? Is there anyone who would like to speak neutrally?

Dino DiCianno, Executive Director, Department of Taxation:

The Department is neutral with respect to the bill, but I do want to speak about the amendments and the language contained in Section 8 through Section 11. Clearly, the aggrieved party in a contested case for property valuations is the taxpayer. It is never the local government. As Mr. Wilson indicated, the aggrieved party is the taxpayer, now that taxpayer needs a sense of finality with respect to an adjudicated property valuation.

To allow a local government to appeal what that taxpayer has already done between the county Boards and State Board of Equalization and the Nevada Tax Commission is unfair. This bill is asking to change public policy with respect to whether or not a local government has a right to appeal a determination of either a county Board or a State Board and puts the Tax Commission in a position to adjudicate a property valuation that the local government may not with agree and at the same time the taxpayer may have already agreed.

If this Body does wish to pursue this language, I would like to offer an amendment. In Section 8, subparagraph 2, it states "The Nevada Tax Commission shall, within 30 days after receipt of an appeal made pursuant to this section, decide the appeal by taking any of the actions set forth in paragraph (f) of subsection 2 of NRS 360.250." We would ask that "within 30 days" be stricken and replaced with "at its next available meeting." The Tax Commission does meet monthly; however, it is not a set schedule. In addition, we would like to offer the same amendment to Section 11, paragraph 3 where it states "within 30 days" to "at its next available meeting."

Vice Chair Pierce:

Do we have a copy of your amendment?

Dino DiCianno:

No, I apologize for that. I will get it to you.

Assemblywoman Kirkpatrick:

I did a poor job on Sections 8 through 11; I thought they were in a different bill. Let me digress a little. There are several affordable housing bills out there. We have heard three of those bills here, Ways and Means has one, Commerce and Labor had one, and Taxation has two. After working months and months we came up with some solutions that could work across the state. There is a big difference in equity. One of the concerns was that in statute it said for a population of 300,000 undergoing redevelopment, a local government must set aside 18 percent of the redevelopment funds to go for affordable housing. That has been good for the City of Las Vegas, because they are the only one in the entire state that has to do it. In trying to work with the northern areas, we

found that they did not do it. If you looked at their redevelopment pods, there were hotels that have been broke for ten years. That is a pretty good casino because I do not know how one stays in business for ten years without turning a profit. It works a little differently with hotels because they can use cash flow to offset their property value. How does someone avoid paying their fair share in the redevelopment area? How can local government plan or redevelop that area if the businesses are claiming poverty?

One of the things we wanted to address was how the assessment was done on the properties. In northern Nevada it is done every five years, and in southern Nevada it is done every year. The Committee on Taxation can explain it much better than I, so we tried to address how we do it. The Nevada Constitution says that everyone must be equal. We were trying to give local government an appeals process so they can determine the values on these properties.

Last session we heard that property taxes in Lake Tahoe were 10 times the amount that of Reno. It is very different in the north, so I was trying to bring more redevelopment downtown because the downtown and the redevelopment areas are the hub of a much bigger city. If there is not housing or businesses, there is blight. We have the infrastructure in place so it is much cheaper to bring affordable housing in to the downtown area because it requires less transportation. I have not heard the concerns until today. Addressing Taxation's concerns, I worked with the Legal Division because the language had to be specific, so I do not think the days are a problem but the language was specific for a reason.

The other part I want to address is the public facility needs. Carson City has a lot more seniors so maybe they need more fire stations or Emergency Medical Technicians (EMTs) and fewer schools.

Vice Chair Pierce:

I will close the hearing on Assembly Bill 527 and open the hearing on Assembly Bill 603.

**Assembly Bill 603: Makes various changes relating to affordable housing.
(BDR 25-139)**

It was requested by the Interim Study on Affordable Housing.

Assemblywoman Kirkpatrick:

This will have to be rereferred to Ways and Means because there is a fiscal note. I would like to go over the merits of the bill. I gave you a history of what happened in the interim committee. One of the other things that we wanted to

do was make sure we had some kind of a trust fund in place. Affordable housing is not affordable by the time the designing and permitting fees are done. We learned in rural northern Nevada that a home cost \$140,000 with the sweat equity program. That was someone who invested and did their own construction.

The trust fund would be another tool for people to feed off each other. We wanted to allow private, nonprofit organizations to be part of the program. At this time there is nowhere in statute that says local government can even work with a different group. I have spoken to the Committee as a whole on one of the other things that is controversial, and they do not want to change the percentages to 0 to 60 percent of area median income (AMI); they want to keep it at 80 percent. There was a lot of testimony that went into that decision. We decided as a group that attainable could be the next word we would use to define "80 to 120 percent," because we are all in the workforce. Attainable does not label one, it just says we are trying to get there. There is a set-aside in the bill.

Kelly Gregory, Senior Research Analyst, Legislative Counsel Bureau:

As non-partisan staff, I can neither support nor oppose the legislation. Mrs. Kirkpatrick is referring to the appropriation in the bill. According to testimony given to the subcommittee studying the affordable housing issue, there is approximately \$33 million contained in the fund for the Real Property Transfer Tax that the Committee recommended be appropriated to these three funds. These are the account for low-income housing that currently exists in Chapter 319, the newly created account for workforce housing that is referred to in this bill, and also the fund for low income owners of manufactured homes.

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

We are in support of Assembly Bill 603. Ann Harrington will talk you through some amendments that are technical in nature. I testified at length at the Assembly Concurrent Resolution No. 11 of the 73rd Session hearings, so I will repeat only that affordable housing is in great need for the senior community. Seniors are much poorer than the rest of the population; they are vulnerable and need safe and affordable housing.

Jodi Royal-Goodwin, Community Resources Program Manager, City of Reno, Washoe County Home Consortium:

As a jurisdiction and as a member of the Regional Housing Taskforce in Washoe County, we support Assembly Bill 603, but we want to voice one concern related not only to this bill, but also to a number of affordable housing bills being proposed this term. It is about the conveyance of land by the jurisdiction for the purpose of affordable housing. There were some problems that came up

in the past that resulted in the tightening of regulations for the disposal of land. Those bills, combined with NRS 268.058, which governs the conveyance of land by a jurisdiction to a nonprofit for the provision of affordable housing, limits the provision of land to nonprofits. In the north, we have a significant number of for-profit builders who meet that goal. We would like the Committee and Legislature to consider this when they are looking at the affordable housing bills and make it simpler to provide the housing.

Michael Pennington, Public Policy Director, Reno-Sparks Chamber of Commerce, Nevada Housing Coalition:

I want to speak in support of Assembly Bill 603 from the point of view of the Chamber of Commerce. The Chamber got involved because workforce housing is a major issue facing the Truckee Meadows and northern Nevada. We heard from several employers about the difficulty of recruiting and sustaining employees in the region relative to the housing cost. This is why we are engaged in the affordable housing discussion.

Bambi Spahr, Executive Director, Builders Association of Northern Nevada:

We are actively involved in the Regional Housing Taskforce. This is an extremely important issue for our part of Nevada. The median priced home for existing housing is \$350,000 and new homes are well over \$425,000. The average firefighter, police deputy, teacher, or nurse will have a difficult time buying a home. This bill will open a door for those who currently have no avenue to assist them in purchasing a home. We deal with those who are at 80 to 120 percent of average median income and the bill will make new funds available to those I mentioned.

Ann Harrington, Nevada Housing Coalition, Regional Housing Taskforce:

You have a letter that was submitted on behalf of the Regional Housing Taskforce ([Exhibit J](#)) that has a number of technical amendments proposed in it. Most of them relate to ensuring that the new proposed workforce housing trust fund would work appropriately. I would like to state that numbers 8, 9, 10, and 11 that affect Section 8 are no longer on the table; they were there because of a misunderstanding. Numbers 12, 13, and 14 in our letter deal with the funding proposed in this bill. We are asking that under Section 9.1 which is the funding for the Low-Income Housing Trust Fund, that \$3 million be added to this appropriation and have it come out of Section 9.3, which is the funding for the low income owners of manufactured homes. The reason for that is because the Fund for Low-Income Owners of Manufactured Homes receives its funding from a totally different source, is self supporting, and has the ability to raise more funds without going through the State. Second, manufactured homes are an eligible use both under the Low-Income Housing Trust Fund as well as the new proposed Workforce Housing.

We are also asking for an amendment be made that says that any funds deposited into the Workforce Housing Trust Fund that are not obligated in two years roll over to the Low-Income Housing Trust Fund. The Workforce Housing Trust Fund is new, so let us see how it works. If it does not work, the money can immediately be used in the Low-Income Housing Trust Fund.

The \$18 million we are proposing to go into the Low-Income Housing Trust Fund would leverage more than \$75 million in tax-exempt bond financing, more than \$20 million in private equity from equity providers for tax credits, and would provide about 1,000 rental housing units for seniors and families. We understand that everyone is asking for money. Housing for everyone is fundamental, and without adequate and affordable housing for the people of this state the money spent on schooling and related things would go to waste.

Eric Novak, Principal, Praxis Consulting Group:

I am the author of a study of barriers to affordable housing development in Washoe County and the *Nevada Rural Needs Assessment*. I support A.B. 603 which will provide desperately needed funds to the Low-Income Housing Trust Fund and create a new Workforce Housing Trust Fund. The current housing trust fund is heavily oversubscribed. In Washoe County, in the last round, there were \$7 million in requests for \$3 million of funds, so a lot of projects did not get funded. These funds are the critical gap financing that allows affordable housing projects to get done. Each dollar of trust fund money is leveraged many times in private investment and without it Nevada loses the opportunity to utilize some of the existing federal resources such as tax exempt bonding authority and tax credits. Given current land and development costs and the cuts in federal resources it is becoming more and more difficult to produce housing to serve our working families and seniors on a fixed budget. Assembly Bill 603 will provide an important infusion of funds to address the dire housing needs across the state that were identified by the A.C.R. No. 11 of the 73rd Session subcommittee.

Paula Berkley, Nevada Network Against Domestic Violence:

We support both Assembly Bill 603 and Assembly Bill 527. We are aware that housing is the biggest factor for low-income families, like women with children, in deciding whether or not they can leave an abusive relationship. A battered woman will stay with her abuser because she worries if she can pay rent or whether she will lose custody of her children. If she has a place to go that she can afford, where she can take and keep her children safe, then she will feel comfortable enough to leave. The Nevada Network Against Domestic Violence represents a large number of shelters and we provide emergency shelter for women who need to leave. But we have so much need that we can only offer shelter for 4 to 12 weeks.

Last year we provided services for 3,584 women and that equals 60,000 bed-nights. We do well with what we have but the next step is often the most difficult one if she cannot afford housing. As a result, they often go back to their abuser. The thing they look for most often is Section 8 housing, but that wait can be between four months and three years. Anything that you can do today to increase the number of housing, both low-income and attainable, would be appreciated by the Network and all victims of domestic violence. I will leave you with some statistics. Ninety-two percent of homeless women have experienced severe physical or sexual abuse at one point in their lives; the most frequent cause for single women and women with children to seek shelter is homelessness caused by domestic violence; at one point in Reno, 80 percent of the people in the family shelter were victims of domestic violence. Nevada advocates estimate that between 80 and 100 percent of the people they see have a housing issue, and there was a 17 percent increase in need between 2003 and 2004 for domestic violence shelter beds.

Bob Varallo, Nevada Association of Manufactured Home Owners:

Since 1973, our organization has represented the residents who live in mobile home parks and manufactured home communities. On behalf of the Association we support Assembly Bill 603.

Page 7, lines 3 and 4 of the bill, states "The Fund for Low-Income Owners of Manufactured Homes created pursuant to NRS 118B.215 the sum of \$3 million." This would change the cap presently in NRS 118B.213 from \$1 million for that specific program, which is a lot rent subsidy, and is administered by the Manufactured Housing Division. A problem with the cap change is that it changes the criteria for qualification for lot rent subsidy and the types of funding used under affordable housing are very different from that of the Manufactured Housing. The funds would have to be clearly segregated.

Judy Dosse, Urban Community Housing Affordable Scaled Eligibility:

This organization was created last year for the purposes designated in this bill. We are a nonprofit that wants to acquire and develop affordable housing. We are in favor of A.B. 603 and believe the affordable housing shortage is a social crisis and is appropriate for the government to address. It is important for there to be affordable workforce housing in our communities, especially as some employers require their employees to live in the community. In my experience I saw what happened in Aspen, Colorado. If something is not done, then in the future our employees would need to be bussed in from Pahrump.

Douglas Bell, Manager, Community Resources, Clark County:

I speak in support of this bill. Sabra Smith-Newby has provided you with a proposed amendment ([Exhibit K](#)) with a few technical adjustments to the bill.

We recently conducted a *Southern Nevada Workforce Housing Study* ([Exhibit L](#)) as part of our efforts studying the issues of affordable and workforce housing. The study by Restrepo Consulting Group, LLC, indicated that in the next ten-year period Clark County is expecting 85,934 new households at the 0 to 80 percent AMI and another 33,886 new households at 81 to 120 percent of AMI.

The federal housing funding assistance provided for affordable housing under the Cranston-Gonzales Act is for 80 percent or less of AMI. This bill will be a first step in providing additional financial support to those above the 80 percent level. We would like to suggest some language changes to the bill. Where there are references to "affordable" change it to "housing for workforce families" so it is very clear that it means the workforce or as the Chairwoman suggested, the word "attainable" so there is consistency in the language for the group that is 81 to 120 percent of AMI. There is a request in the bill that the Nevada Housing Division also include local government in the development and input for the regulations for this program. We would suggest that "local government" be added after the word "housing authorities." Last, we would ask that Section 8(2)(b)(4) be amended so that the Account for Low-Income Housing correspond to the Cranston-Gonzales level, up to 80 percent AMI so there would not be a gap between the 60 percent AMI, which is the present level, and the 80 percent level.

Michael Mullin, President, Nevada Housing and Neighborhood Development (HAND):

I submitted a letter ([Exhibit M](#)) and my comments are similar to those of Ann Harrington. I misread Section 8 and thought it pertained to the workforce housing rather than low-income housing, so I withdraw the amendments to it. The Nevada Housing Coalition primarily represents low-income households and as a further clarification to the actual appropriation, the Nevada Housing Coalition supports the increase to \$18 million rather than the \$3 million to go to the Manufactured Housing Fund, and would suggest that there be the priority for the Low-Income Housing Trust Fund, because the need is greater for affordable housing. Mr. Bell pointed out that almost three times as many units will be needed for affordable housing than workforce housing and it takes a greater subsidy to create an affordable housing unit, so we would ask that the Low-Income Housing Trust Fund be fully funded before there is funding for the Workforce Housing Trust Fund.

Robert Joiner, AICP, Government Affairs Manager, City of Sparks:

The City of Sparks is a member of the Housing Taskforce and we did participate yesterday in the meeting Ms. Harrington mentioned and we support this with her amendments. Reno participated in the meeting, but had to step out to another committee, so they asked me to offer their support as well.

Vice Chair Pierce:

Ms. Harrington suggested that she was no longer opposing Section 8.2(b). Are you also no longer opposing this?

Robert Joiner:

That is correct.

Vice Chair Pierce:

Is there anyone who would like to speak in opposition to A.B. 603? [There were none.] Is there anyone who would like to speak neutrally? [There were none.] I will close the hearing on A.B. 603.

[Chair Kirkpatrick assumed the chair.]

Chair Kirkpatrick:

While we are waiting for Assemblywoman Smith, we will have our work session.

Amber Joiner, Committee Policy Analyst:

The first document in your work session packet is Assembly Bill 253 ([Exhibit N](#)).

Assembly Bill 253: Revises provisions relating to the imposition of impact fees. (BDR 22-854)

Assembly Bill 253 clarifies that the costs of construction for which impact fees may be imposed include the cost of connecting capital improvements of facility expansions to water or sewer lines and existing facilities. This bill was sponsored by Assemblyman Goedhart and was heard on March 14th.

There was one amendment offered, which changes the definition of "service area" so that it is clear that it means a specific area directly served and benefited by the capital improvement or facilities expansion set forth in the capital improvement plan. It also makes it clear that a service area may not be an entire city or county. The language is attached and was provided during the original hearing and was proposed by the Southern Nevada Home Builders Association. We were just given another amendment which replaces the

original. The only change is that the service area cannot be a city or county except for cities or counties with a population of 10,000 or less.

Chair Kirkpatrick:

That addresses Mr. Goicoechea's concern.

Assemblyman Goicoechea:

Yes, but I want to confirm, does the 10,000 population cap really cover Humboldt County and the city of Winnemucca?

Amber Joiner:

Looking at our policy brief, under 10,000 would include Esmeralda, Eureka, Lander, Lincoln, Mineral, Pershing, Storey and White Pine Counties.

Assemblyman Goicoechea:

That is fine. I agree that Humboldt County should not be included. We need to delete it from the amendment.

Chair Kirkpatrick:

We can do that.

ASSEMBLYMAN GOICOECHEA MOVED TO AMEND AND DO
PASS ASSEMBLY BILL 253.

ASSEMBLYMAN BEERS SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Chair Kirkpatrick:

Mr. Goedhart, would you do the floor statement?

The next bill is Assembly Bill 298 ([Exhibit O](#)).

Assembly Bill 298: Makes various changes to provisions concerning school police officers. (BDR 23-1027)

Assembly Bill 298 prohibits a person who supervises school police officers from suspending a school police officer without pay until all investigations into a complaint or allegation have concluded. This would apply to investigations that could result in punitive action, but it would not apply to investigations into alleged criminal activity. This was sponsored by Assemblyman Ohrenschall and was heard on March 21st. There was one amendment to extend the provision of the measure to all law enforcement agencies, not only school police. The

language is attached and was proposed by Liz Sorenson, Communication Workers of American, Local 9111.

Chair Kirkpatrick:

We pulled this last week but today we have the bill sponsors here.

Assemblyman Settlemeyer:

The issue is still bothering me. Some counties have this as part of their collective bargaining agreement. Mr. Adams testified to that. If an agreement is already set, it is not right for the state to go in and adjust it. All of these agreements have employee contracts, county ordinances, and federal law that they have to obey. The issue of being redressed with is addressed under the Peace Officers Bill of Rights. I have a problem with tweaking something that is already under some counties collective bargaining agreements.

David Kallas, Director of Governmental Affairs, Las Vegas Police Protective Association Metro, Inc.:

I had a conversation with Mr. Adams this morning and he has not been able to locate a single collective bargaining agreement that has any contrary language to the amendment that has been proposed. As I testified, the Las Vegas Metropolitan Police Department, by policy, implements the provisions of the amendment and our purpose for coming before the legislature is to set a statewide standard as to how employees of law enforcement agencies are dealt with in terms of internal investigations.

Like any other piece of legislation, if there is a conflict, then the individual agencies, none of which have come forward to us, would have to abide by the legislation.

Assemblyman Settlemeyer:

Collective bargaining agreements are usually not public information. That is why I do not know if those terms are or are not in those agreements. I can only take the word of sheriffs that I have talked with through email who say this is an issue they deal with through their agreements. I understand that you are trying to set a state standard. I like the bill, the amendment is problematic.

David Kallas:

I am disappointed that those individual sheriffs and heads of those agencies are not here so they can give first hand testimony. The problem is, just like the issues that prompted this, what goes on in the individual agencies and how they handle issues to this extent: employee issues not subject to warrants of arrest, arrests, or indictment by a Grand Jury. If there are 6, 7, 8, or 100 different policies in the various agencies, then employees are going to be treated

differently. What we are trying to do is standardizing those policies. I am at a disadvantage to address statements made by individuals who have chosen not to come forward and give specifics.

Collective bargaining agreements are between the agencies and the cities or counties in which they are located and I believe they are subject to the provisions being made public because they are funded by public dollars.

Assemblyman Goicoechea:

As I read the language, at the point they are charged, whether it be an internal or external investigation, you could then suspend their pay.

David Kallas:

The provisions in NRS 289.090 address what happens when an employee of a law enforcement agency is arrested or indicted. It negates the provisions of the internal investigation, which would allow the agency to suspend the employee or put him on administrative leave without pay.

Assemblyman Goicoechea:

At the point when there is enough evidence in place to be charged or indicted, then this bill would not apply.

David Kallas:

We agree. We do not want employees who have, or we believe have committed crimes, on the payroll more than anyone else, especially since we are law enforcement officers.

Assemblyman Settlemeyer:

The way it was expressed to me was that if someone is under investigation, they have to be paid. If they are brought up on charges then they are not paid. We are going to the issue of suspension and some counties already have policies that if they suspend without reason, then they have to pay. If they suspend with reason, then they have the right to not pay because they have reason to believe that the person is guilty or may be guilty. That is why some counties expressed to me that if they are suspending for a reason, they want to retain the ability to not pay that individual. As for criminal investigations, which can be very lengthy, the counties felt it was right for the taxpayer to continue to pay while the investigation continues.

Assemblyman Bobzien:

The intent of the legislation is to get at that issue and if it is good enough for school police officers it should be the standard for the state.

Assemblyman Claborn:

I always thought one was guilty when proven guilty, not when I think you are guilty.

ASSEMBLYMAN BOBZIEN MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 298.

ASSEMBLYMAN KIHUEN SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMAN SETTELMAYER
VOTED NO.)

Chair Kirkpatrick:

Mr. Ohrenschall, would you like to do the floor statement?

**Assembly Bill 602: Makes various changes to the state personnel system.
(BDR 23-1148)**

Amber Joiner:

Assembly Bill 602 ([Exhibit P](#)) adds a seventh member to the Employee-Management Committee; provides that the new member serves as the Chair of the Committee; and provides for the salary, per diem, and travel of the Chair. This measure also requires that a permanent, classified worker must be granted a leave of absence without pay to serve as a full-time representative in an organization that represents state employees and must be reinstated to the former position without loss of pay or benefits after the service period. This was sponsored by the Assembly Committee on Government Affairs and was heard on April 6th. There was one amendment which was presented during the hearing by Oran McMichael and the language is attached. It changes the number of members from seven to five and eliminates the salary for the Chair of the Committee, deletes the use of the American Arbitration Association and substitutes the Federal Mediation and Conciliation Service, and adds a new section that requires the representative organization to reimburse the State for all salary and benefits of the serving officer.

Assemblywoman Parnell:

I need a clarification on the last page in the mock-up. Line 18 says "Any person holding a permanent position in the classified service must be granted a leave of absence without pay to serve as a full time representative...." Who is paying them during this time? I wanted to make sure they have some kind of salary.

Assemblyman Goicoechea:

As I read it, if the person is in a classified position with whomever, that entity would be required to pay.

Assemblywoman Parnell:

Line 19 it says "service must be granted a leave of absence without pay to serve as a full-time representative...." I wanted to be sure whoever is serving in that position is getting paid by some agency and I do not see that.

Amber Joiner:

That language was in the original bill and I have consulted with Scott McKenna [Committee Counsel] and we believe that the person would not be paid.

Assemblywoman Pierce:

I believe that person would, while on the leave of absence, be paid by the organization which represents state employees.

Chair Kirkpatrick:

I know this was a confusing bill, so we took everything out. We have two options: we could pull it back or....

Scott McKenna, Committee Counsel:

I wanted to clarify. As presently written the new language says that the person would not be receiving pay for their governmental position. As to whether they would be paid for serving the employee organization, it is simply silent.

Assemblywoman Parnell:

I am equating it to a teacher who takes time off to serve as the Nevada State Education Association (NSEA) president; they are paid by NSEA and not by the school district. I would want to reserve floor action until that is cleared up.

ASSEMBLYWOMAN PARNELL MOVED TO AMEND AND DO
PASS ASSEMBLY BILL 602.

ASSEMBLYMAN BOBZIEN SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Chair Kirkpatrick:

Floor statement will be by Assemblywoman Parnell.

We are going to check with Assemblywoman Smith if she is going to be able to present Assembly Bill 600. We could wait until 12 p.m. or tomorrow to hear the bill.

Assemblyman Goicoechea:

There are people in the audience ready to testify on the bill, so we could hear their testimony now.

Chair Kirkpatrick:

Let us wait a few more minutes. We will recess for a few minutes [10:43 a.m.] [Back to order at 10:59 a.m.]

Assemblywoman Debbie Smith, Assembly District No. 30:

I was chairing the Ways and Means K-12 Subcommittee, so I appreciate you doing other things until I could get here.

Assembly Bill 600: Revises provisions concerning the protection of certain personal identifying information. (BDR 19-774)

Assembly Bill 600 is intended to resolve inconsistencies between two bills enacted last session that deal with the protection of social security numbers and other personal information in public records and government documents. When Assembly Bill No. 334 of the 73rd Session was enacted, it prohibited governmental agencies from accepting documents that contain social security numbers unless the number was required by law. The prohibition took effect on January 1, 2007. That bill required governmental agencies to protect the social security numbers in filed or recorded documents and only allows disclosure of social security numbers in limited circumstances. The bill also required governmental agencies to remove social security numbers from pre-2007 documents no later than January 1, 2017. This bill does not change that deadline.

In 2005, there was also Senate Bill No. 347 of the 73rd Session which prohibited the disclosure of personal information on government websites except in limited circumstances. Personal information would include social security numbers, driver's license numbers, ID card number or credit card, and debit card account number in combination with a personal identification number (PIN).

After the 2005 Session, representatives of the real estate industry, as well as our County Recorders, raised a number of questions about implementation of the two bills. When I served on a legislative panel for one of the county meetings in Hawthorne last summer, I became aware of this issue and offered

to Speaker Buckley, since she was the sponsor of Assembly Bill No. 334 of the 73rd Session, to try to help to resolve some of the issues that were raised by the County officers.

The questions primarily related to inconsistencies in terminology between the Assembly and Senate bills, and there were conflicting opinions about when the disclosure of a social security numbers is permissible. Assembly Bill 600 addresses the inconsistencies between the two bills from the 2005 Session and makes some additional changes in response to concerns raised by the real estate industry, the county recorders and others. The bill amends provisions of *Nevada Revised Statutes* that unnecessarily require social security numbers in documents required to be recorded or filed with governmental agencies. Assembly Bill 600 builds upon the work done last session and represents further progress in the fight against identity theft.

Identity theft continues to be a growing problem nationally and in Nevada. In 2006, identity theft costs were estimated at nearly \$57 billion and affected nearly 9 million Americans. Nevada is second in the nation in identity theft, Arizona is first. Las Vegas ranks second behind Phoenix in per capita identity theft complaints. The Government Accountability Office has issued several reports identifying the need for better protection of social security numbers and other personal information in public records and government documents. The Federal Trade Commission has said that the challenge is to find the proper balance between the need to keep social security numbers out of the hands of identity thieves while giving businesses and government entities sufficient means to attribute information to the correct person. I was in one of the working group meetings last summer that discussed attribution as an important issue to some of the industry people, and also how you balance the need for adequate information to do the work and the consumer's desire for speed on, for example, a home loan, and the need to protect personal information.

Nevada is not the only state struggling with this issue; at least 19 states have enacted legislation that protects social security numbers in public records or documents. Ten states and the federal government allow disclosure of partial Social Security Numbers, usually the last four digits.

Section 1 changes social security numbers to personal information to resolve the inconsistencies between A. B. No. 334 of the 73rd Session and S.B. No. 347 of the 73rd Session of the 2005 Session. It also adds parallel provisions about obliterating or otherwise removing this information and adds the use of redaction software to provisions for pre-2007 and post-2007 documents to avoid inconsistencies. It protects government officials from liability for acts and omissions except for gross negligence. That was

important to the county officials. It allows individuals to request redaction of personal information from pre-2007, which may not otherwise be redacted until the deadline of 2017.

Section 2 changes the disclosure criteria in Internet display statutes to match language applicable to documents filed or recorded with governmental agencies to resolve the inconsistencies between A. B. No. 334 and S.B. No. 347.

Section 3 eliminates the requirement in state law for full social security numbers in judgments and liens that must be recorded and allows for the use of the last four digits of Social Security Number consistent with federal tax lien policy. This was critical to resolve how to do the work and still protect the consumer.

Section 4 deletes the requirement for social security numbers in Indian marriage certificates that are required to be recorded. It was one of the technical issues that did not surface until after the bill passed last session.

Section 5 allows the county recorders to give access to original documents and certified copies with personal information to family members. This section needs an amendment to include spouses, guardians, and personal representatives; you will hear that from others. There are many scenarios, you can imagine, where family members will need to request this information.

Section 6 deletes the requirement for social security numbers in the list of divorces and annulments and the state registrar reports social security numbers are not currently being collected. They are supposed to be, but they are not and this would eliminate that requirement.

Section 7 states that the last four digits of social security numbers are not considered personal information which resolves some of the issues.

Assemblyman Claborn:

Thank you for bringing the bill, I hope it does some good to stop identity theft. I have had my identity stolen, once from an account at QVC (Quality. Value. Convenience.) and once from the bottom of my checks. It is really a hardship. The hardest part is the wondering how much more money will be taken in the future. You need to look and keep track of your accounts each month. Banks are only responsible for 30 days. There is no foolproof way to protect your identity, but this bill will help some.

Assemblyman Christensen:

Thank you for telling me about the 30 days.

Assemblywoman Womack:

Does this mean that recording agencies and title companies can still use the last four digits of the social security numbers to pull up information? I know as a real estate agent, it was really important when we had things on credit reports that did not belong to the individual. The social security numbers or the last four were the most important to help verify that.

Assemblywoman Smith:

That group was a big part of the discussion for that very reason. What got my attention was when we talked about how difficult it would be to close a loan without having access to that information. I thought about all the times when one is selling one's house and buying another, and needs to close in a short time period. Any kind of hang up would be difficult for the consumer.

Assemblywoman Womack:

I think the biggest hang up is the name, like Smith.

Assemblyman Goicoechea:

I understand that hunting licenses still require social security numbers.

Assemblywoman Smith:

That has been brought to my attention and we are working on that issue. We may need to write a separate piece of legislation with those provisions. I talked to the director of the Department of Wildlife yesterday. The last four social security numbers should be acceptable for identification and should resolve some of their issues because they have the child support provision with which they have to deal.

Assemblyman Stewart:

Does the last four numbers provision also go to banks and credit unions and the like?

Assemblywoman Smith:

This does not affect private industry; only how public information is posted.

Chair Kirkpatrick:

Is there anyone who would like to speak in favor of A.B. 600?

Janine Hansen, President, Nevada Eagle Forum:

We endorse this legislation. In 2001, Nevada Eagle Forum worked with Assemblyman Bob Price to bring forth a resolution to protect identity in the State of Nevada. I served as the national privacy chairman for Eagle Forum. A great deal of this problem was created by the federal government when they

passed 42 United States Code (USC) 666 (a)(13)(A) to require states to record social security numbers on applications for driver's licenses and many other licenses. It created a greater opportunity for identity theft in our state. Part of the resolution Assembly Joint Resolution No. 9 of the 71st Session which opposed this said the collection of social security numbers from law abiding citizens causes state and local governments to violate the fundamental right of citizens to be secure from unreasonable government intrusion, surveillance, and monitoring. We are concerned about identity theft and the intrusion into people's lives.

It is also required to have your social security numbers on your marriage license, and not just for Indian marriages. We object to this. Another is the voter registration form.

Joseph Turco, American Civil Liberties Union (ACLU) Nevada:

Mr. Claborn raises a serious issue about identity theft. I suspect greater than the money and hassle was the feeling of intrusion that a victim of identity theft feels. Many people in the room have probably given out their social security numbers two or three times this month. It was probably convenient and you probably did not give it a lot of thought, but you should.

You have heard the ACLU or other civil libertarians come before you and talk about slippery slopes, or that the loss of civil rights for one is a threat to freedom for us all. Function creep is another one of these mantras because it bears itself out. Social security numbers were originally designed for the purposes of benefits, nothing else. The promise was that the number would only be used for benefits because people came out and complained that the use of a federal identification number was an anathema to freedom loving Americans. The promise was broken and continues to be broken by function creep. Social security numbers are now asked by everyone for every purpose under the sun. It has resulted in fraud and improper prying by government officials.

This is the checklist that the ACLU uses: your social security numbers should never be collected or disseminated without your knowledge and permission; you must be told why it is being asked for and it may not be used for any other purpose than is stated; it should only be held for as long as needed; you must have a right to examine, copy, and correct your personal information; there must be no national identification system; unrelated databases must be kept separate; your fingerprints, DNA, retina, and iris scans must never be involuntarily captured. The government must not prohibit or interfere with the development of technologies that protect privacy and these principals should be enforceable by law. This bill meets a number of these requirements.

Chair Kirkpatrick:

Is there anyone who would like to speak in favor?

Alan Glover, Carson City Clerk-Recorder:

I am here representing the Recorders' Association of Nevada. We have proposed a number of amendments to the bill ([Exhibit Q](#)).

In Section 1 and throughout the bill where it conforms the language and adds in "any personal information," it expands the definition of what the recorders have to do. Right now we are gearing up to remove social security numbers from documents, but you added personal information, which conforms it to S.B. No. 347 of the 73rd Session. Traditionally, default judgments and affidavits of plaintiffs have used driver's license numbers, so redacting those could involve child support issues. We would redact the entire driver's license number, and leaving the last four numbers of the social security numbers.

Our software is optical character recognition. We would run the term "driver's license" and have it search for those words and then redact that number. For social security numbers, we are asking the program to look for a nine-digit number and then we have to make the decision if it is a social security number or not. One of the county's first runs got a bunch of hits because they had at one time, used nine-digit recording numbers.

The main thing that we are asking for now, and asked for in the interim, is to delete Section 1, paragraph 6 that says that we have to redact social security numbers and now personal information from all of our old records by 2017. It is becoming clear to the recorders and clerks that it is impossible to do. The recorders are coming up with large fiscal notes to accomplish it. We cannot go through all of the court files and look for social security numbers or any other personal information. There are millions of papers that have to be scanned. The reason the Recorder's Office feels comfortable in not redacting this information is because everyone already has access to this information: all title firms have this information and it is disseminated all over the world. We are not sure it is worth Nevada taxpayer dollars for us to go back when this information is readily available from a bunch of other sources. As a court clerk, I know it cannot be done in the court clerk's office.

If you decide to leave Section 1, paragraph 6 in, then you have paragraph 7, where we are asking you to consider some amendments. Instead of someone coming into the office and asking that we take their social security numbers out of every record, please tell us which records you want redacted, like the Deed of Trust with the document number and the recording date. We cannot accommodate blanket requests.

In Section 5, paragraph 2, we would add the terms "guardian or personal representatives" and "spouse." A guardian with an adult ward may need a copy of the DD214, (military discharge) or other records. The same holds true for the personal representative of an estate.

Kathryn Burke, Washoe County Recorder:

A few facts: in Washoe County, we have been able to review documents back to June 2003, but are only able to redact the social security numbers back to 2004, after working on it for two years. The recorders do not collect the data contained in documents, so if you bring in a deed, we have to look at each page to find that information. We have redaction software, but it can only find things that can be programmed into the software. Any handwritten record must be done manually. Washoe County is estimating they will have to look through 14 million images for this project. With this new language, where we previously redacted the entire social security numbers, we will have to unredact and only then redact the first five digits. We will be looking through all of those documents again for driver's license numbers and credit card numbers with a pin.

Recorders now have to keep two sets of everything, one set that is redacted and another that is not. We keep all of the permanent records on a microfiche archival copy which creates storage and cost issues. Washoe County has estimated to have spent between \$750,000 and \$1 million so far. This includes hardware, software, labor, services, and supplies.

A similar bill was passed in Texas, and the Attorney General came down with an opinion that shut down all of the clerk-recorders offices because the Attorney General told them they were liable for sharing that information. There was uproar and the Attorney General pulled his opinion for 30 days. It is now my understanding that the Governor has signed a bill that the Clerk-Recorders are exempt from this process. There has never been a case reported that identity was stolen from a recorders office.

Dave Evans, Nevada Land and Title Association:

We are in support of this bill, especially as it pertains to Section 7. It gives us something to go on, as was discussed previously. It is a double edged sword. People do not like their privacy invaded, but when one is trying to close a transaction, and there are 10 to 15 Internal Revenue Service (IRS) liens that are recorded with the name, it is up to us to determine that none of them affects the consumer and the property. It becomes complex, if not impossible, if there is no personal identifying information. It was so bad after the passage of the bill that the websites to the smaller counties shut down because the recorders

could not publish any documents on the website until they had time to redact them or at least review them for redactions.

We have almost had to stop transactions because of IRS liens because without social security numbers, how do you tell which John Smith is which John Smith? There is not a phone number to call the IRS and ask if our customer is the one with the lien. We could not go to the courts in the smaller counties to look at these liens much less if there was information that ruled out the parties. Judgments are the same way. I understand the desire for privacy; I had my checking account rifled yesterday.

We ask consumers to give us a statement of identification so we can tell if this is the person that has a lien against them. People are hesitant to fill out that information too. We realize that it is a double edged sword, but we appreciate Section 7.

Chair Kirkpatrick:

[To Alan Glover and Kathryn Burke] I am frustrated, because I thought you were in opposition when you came up and said that it cannot be done. I was here last session when we discussed a time frame and I can tell you that Ms. Buckley had her intern do it. There was a PowerPoint presentation and booklet distributed and an hour and a half presentation. There was also that much testimony. How come government can never do anything when it takes a little extra work? If I said here is the money, you would be happy to do it expeditiously. There are high schools throughout the state. Get some of those kids and make them interns, teach them the filing system within the recorders office, so they can help. I do not support you all not doing the redacting. You cannot put a price on what is lost when someone becomes a victim of ID theft because local government cannot redact personal information.

Alan Glover:

It has been frustrating. When the bill passed last session, we tried to figure out how we were going to implement it. The sheer volume of documents is overwhelming. The recorders probably have a better handle than most, but in Clark County there are millions of records.

Chair Kirkpatrick:

Did you not know how many documents you had last session? Did you not know what you had to sort? I do not buy it. As the recorder, I would expect that you would know how many documents you have.

Alan Glover:

We know how many we have, but when we got to talking last summer, it became overwhelming how we were going to implement this. If that is your concern, we will keep working toward the goal but it is going to be expensive and may not ever be accomplished. We are trying to make the statute work, not only for the title companies, but also so we can get the information we need and do it in a cost effective manner.

Assemblyman Goicoechea:

What is the penalty if the recorder does not accomplish this by 2017?

Chair Kirkpatrick:

I do not remember, but I do remember the time went from 3 years to 5 years to the 10 year deadline. We negotiated.

Assemblyman Goicoechea:

The bottom line is that you do what you can do and get through it. If you do not accomplish it and there is identity theft from those records, then clearly the local government would be on the hook.

Assemblyman Settelmeyer:

I was not here last session, so my question is, "did you compromise as you indicated, to give the recorders until 2017 to complete this?" They have been at it for two years, and now we are saying they have to go back and redo what they have done for the past two years. Should we think of giving them more time?

Chair Kirkpatrick:

As of last session, they were no longer collecting social security numbers. I know this because we told them to not collect them because they would have to go back and redact them. We said that people are going and checking records and pulling up information. People are paid to find information on others identities. We even addressed the concerns about how some of the records are so old they would not be able to redact them, so they were left out. Originally, we wanted to go back to the oldest records. There was a lot of discussion on this.

Assemblyman Goicoechea:

The Legislature giveth and we taketh away. When we get to 2015 and we are not there, we can look at it again. I know the clerks and recorders are working on it, and we understand that it is a fiscal impact, but if you have your identity stolen it would place a real liability on the local government.

Alan Glover:

The effective date of the bill is on passage and approval. Could we get January 1, 2008? It will take some time to implement it. We are very pleased with the not collecting of numbers portion of the bill.

Chair Kirkpatrick:

I will give that amendment to the bill sponsor, but where else in statute do bills have until January?

Alan Glover:

There are several recorder's bills last time that did not go into effect until a year or a year and a half later. We need time to implement this and develop software.

Chair Kirkpatrick:

Could you get those numbers for me?

Is there anyone else in support?

Jenny Welsh, Government Affairs Director, Carrara Nevada, representing the Nevada Association of Realtors:

The realtors want to express their full support for Assembly Bill 600. We want to thank Speaker Buckley for creating a working group that consisted of the county recorders, title companies and the realtors. We wanted to get our support on the record.

Assemblyman Goicoechea:

You like the fact that they are going to use the last four of the social security numbers?

Jenny Welsh:

Yes, we do.

Chair Kirkpatrick:

Is there anyone else who would like to speak in support of A.B. 600? [There were none.] Is there anyone who is neutral? [There were none.] Is there anyone in opposition? [There were none.] I will discuss the amendments with the bill's sponsor.

Assemblywoman Womack:

I am concerned about the driver's license. I just checked mine and my social security number is not on it, but I know they ask when one goes to renew if you want your social security number to show up on your license.

Ginny Lewis, Director, Department of Motor Vehicles:

Previously a customer did have the option to have their social security number displayed on the face of the card, but that provision was eliminated from law in January of this year.

Chair Kirkpatrick:

We are going to close the public hearing on A.B. 600. Is there any public comment? [There was none.] Is there anything from the Committee? [There was none.] We will adjourn until 8 a.m. tomorrow. [11:49 a.m.]

RESPECTFULLY SUBMITTED:

Emilie Reafs
Committee Secretary

APPROVED BY:

Assemblywoman Marilyn K. Kirkpatrick, Chair

DATE: _____

<u>EXHIBITS</u>			
Committee Name: <u>Committee on Government Affairs</u>			
Date: <u>April 10, 2007</u>		Time of Meeting: <u>8:03 a.m.</u>	
Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
A.B. 470	C	Assemblywoman Peggy Pierce	Prepared Statement
A.B. 470	D	Assemblywoman Peggy Pierce	DVD
A.B. 470	E	Assemblywoman Peggy Pierce	Binder
A.B. 470	F	Janine Hansen, Nevada Eagle Forum	Handout
A.B. 527	G	Legislative Counsel Bureau	Handout: Regional Planning Differences
A.B. 527	H	City of Sparks	Pamphlet: Redeveloping Nevada
A.B. 527	I	City of Sparks	Spreadsheet
A.B. 603	J	Ann Harrington, Regional Housing Taskforce	Proposed amendment
A.B. 603	K	Sabra Smith-Newby, Clark County	Proposed amendment
A.B. 603	L	Douglas Bell, Manager, Community Resources, Clark County	Southern Nevada Workforce Housing Study, assorted pages
A.B. 603	M	Michael Mullin, HAND	Letter
A.B. 253	N	Legislative Counsel Bureau	Work Session Document
A.B. 298	O	Legislative Counsel Bureau	Work Session Document
A.B. 602	P	Legislative Counsel Bureau	Work Session Document
A.B. 600	Q	Alan Glover, Carson City Clerk-Recorder	Proposed amendment