

**MINUTES OF THE MEETING  
OF THE  
ASSEMBLY COMMITTEE ON COMMERCE AND LABOR**

**Seventy-Fifth Session  
March 4, 2009**

The Committee on Commerce and Labor was called to order by Chairman Marcus Conklin at 1:34 p.m. on Wednesday, March 4, 2009, in Room 4100 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/75th2009/committees/](http://www.leg.state.nv.us/75th2009/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](mailto:publications@lcb.state.nv.us); telephone: 775-684-6835).

**COMMITTEE MEMBERS PRESENT:**

Assemblyman Marcus Conklin, Chairman  
Assemblyman Kelvin Atkinson, Vice Chairman  
Assemblyman Bernie Anderson  
Assemblyman Morse Arberry Jr.  
Assemblywoman Barbara E. Buckley  
Assemblyman Chad Christensen  
Assemblywoman Heidi S. Gansert  
Assemblyman Ed A. Goedhart  
Assemblyman William C. Horne  
Assemblywoman Marilyn K. Kirkpatrick  
Assemblyman Mark A. Manendo  
Assemblywoman Kathy McClain  
Assemblyman John Ocegüera  
Assemblyman James A. Settelmeyer

**COMMITTEE MEMBERS ABSENT:**

None

**GUEST LEGISLATORS PRESENT:**

Assemblywoman Bonnie Parnell, District No. 40  
Assemblyman Joseph Hogan, District No. 10  
Assemblyman Tick Segerblom, District No. 9

**STAFF MEMBERS PRESENT:**

Dave Ziegler, Committee Policy Analyst  
Dan Yu, Committee Counsel  
Andrew Diss, Committee Manager  
Patricia Blackburn, Committee Secretary  
Sally Stoner, Committee Assistant

**OTHERS PRESENT:**

Ronald P. Dreher, Government Affairs Director, Peace Officers Research Association of Nevada, Reno, Nevada  
Robert L. Holley, President, Park Rangers Association of Nevada, Reno, Nevada  
P. K. O'Neil, Private Citizen, Carson City, Nevada  
Joseph L. Waltuch, Commissioner, Division of Mortgage Lending, Department of Business and Industry  
Barry Gold, Director, Government Relations, AARP, Las Vegas, Nevada  
Barry Smith, Executive Director, Nevada Press Association, Inc., Carson City, Nevada  
Gail J. Anderson, Administrator, Real Estate Division, Department of Business and Industry  
David Goldwater, President, Goldwater Capital Nevada, Las Vegas, Nevada  
Corinne Cordon, President, Private Lenders Group, Las Vegas, Nevada  
Leo M. Drozdoff, Administrator, Division of Environmental Protection, Department of Conservation and Natural Resources  
Steve K. Walker, Minden, Nevada, representing Truckee Meadows Water Authority, Reno, Nevada  
Naomi Duerr, Director, Truckee River Flood Project, Reno, Nevada  
Shweta Bhatnagar, Management Analyst, Southern Nevada Water Authority, and Las Vegas Valley Water District, Las Vegas, Nevada  
Gale Fraser, General Manager and Chief Engineer, Clark County Regional Flood Control District, Las Vegas, Nevada  
Eddie Haddad, Project Developer, HUE Lofts at Arts Central, Las Vegas, Nevada

Rocky Finseth, representing Nevada Land Title Association, Las Vegas, Nevada

John A. Schroeder, Manager, J & N Nevada, Reno, Nevada, representing Village Association of Northern Nevada

Joe Lopez, Sales Manager/Broker, TD Realty Advisors, Reno, Nevada

[The roll was taken. We will start the meeting as a subcommittee.]

**Chairman Conklin:**

We have a full slate today. We will take the bills out of order. Some general housekeeping notes for today's hearing, we have three bills and we will be going in the following order: Assembly Bill 214 first, followed by Assembly Bill 144, and then Assembly Bill 197. We have matters from a previous hearing; we left the final agenda item off the stimulus presentation. For ease of planning, we have a time certain to hear from the water, waste water, and rural water people which will be at 3:00 p.m. today. We have 30 minutes or less for each bill in order to finish our bills prior to the water presentation.

I will also remind the Committee members that on Friday there will only be one bill, and we will have a work session following that bill. We have four bills slated for a work session. We should finish in a timely fashion. For those of you who are looking at the 5:15 p.m. flight, in Reno, you should have no problem making that flight.

[A quorum was present.]

We will open the hearing on Assembly Bill 214.

**Assembly Bill 214:** Revises provisions regarding industrial injuries and occupational diseases. (BDR 53-25)

**Assemblywoman Bonnie Parnell, District No. 40:**

I am here to present to you Assembly Bill 214. This bill is exactly the same bill as Assembly Bill No. 89 of the 74th Session. This new bill has a unique distinction. It is a bill that passed both houses of the Legislature with exactly the same language in the 2007 Session, but because the Senate passed it late on the final night, it did not have time to get reported back to the Assembly.

We actually have a bill that passed both houses, no amending language that conflicted, but it did not become law. I assume that if you put yourself in the position as a sponsor of the bill, you can imagine the devastation I felt looking

at the fellows around me as we inched closer to adjournment and did not have their bill to give them.

We are back again, this time with A.B. 214, asking that parity be achieved for all Category I peace officers, with regards to heart and lung coverage. The only remaining peace officer designation that does not fall under the heart and lung coverage are our Nevada state park rangers. *Nevada Revised Statutes* (NRS) 289.260 grants the designation of Category I peace officer to our park rangers. I am not here today, nor was I last session, to debate heart and lung coverage, but to simply address the inequity of who currently receives this coverage. It seems only right to me that all who fall under the same category, Peace Officers' Standards and Training (POST) certified Category I, should be eligible for the same benefits. Assembly Bill 214 also addresses the unintended consequences of the reorganization of the Department of Public Safety in 2005. During that reorganization, 11 Category I peace officers lost their heart and lung coverage, which had been granted by NRS 617.135. This bill reinstates the coverage for the 11 Category I officers who lost coverage after the reorganization in 2005.

I have with me today, Ron Dreher representing the Peace Officers Research Association of Nevada, Rob Holley who is a Lahontan State Recreation Area ranger, and P. K. O'Neill, from the Department of Public Safety.

**Chairman Conklin:**

Are there questions for Ms. Parnell from the Committee? I see none.

**Ronald P. Dreher, Government Affairs Director, Peace Officers Research Association of Nevada, Reno, Nevada**

[Spoke from written testimony ([Exhibit C](#)). Also distributed a pamphlet ([Exhibit D](#)).]

Because they do not have this coverage anymore, the liability to the state is enormous. For example, as you will hear from P. K. O'Neill's testimony, it has been seven years since he had a heart and lung physical. He was a covered member for heart and lung physicals for a number of years, but for the past seven years he has not had this coverage. This means that if something happened to him today, it would be conclusively presumed that it happened in the line of duty. I will assure you, though not knowing Mr. O'Neill's past, if you look at his medical records, seven years ago he probably came out "smelling like a rose." If something happened to him between then and now, and it was not picked up in those heart and lung coverages, then the liability is still there for the state.

Unfortunately, the way that NRS 617.135 is worded, if you are not included in there verbatim, by title, then you do not get the coverage. When they reorganized, they mistakenly left out these positions; that is what we are trying to put back in.

[Continued with written testimony.]

**Robert L. Holley, President, Park Rangers Association of Nevada, Reno, Nevada:**  
[Spoke from written testimony ([Exhibit E](#)).]

**Chairman Conklin:**

Are there any questions from the Committee? I see none.

**P. K. O'Neill, Private Citizen, Carson City, Nevada:**

I am a Category I peace officer employed with the state. I would like to thank Ms. Parnell for bringing A.B. 214 to you. I have been a peace officer with the State of Nevada for almost 29 years and for the first 24 or 25 years I was covered under heart and lung while I have worked in such duties as narcotics, undercover narcotics investigations, rural crimes, and violent crimes dealing mainly with dead bodies. I have also spent six years in our Indian crimes task force with the Federal Bureau of Investigation and Bureau of Indian Affairs dealing with crimes that have traversed county, state, and federal lands. For the last six years I have been assigned to administrative duty. Unfortunately, for some reason, I was promoted. With any good deed, it does not go unpunished. One of the unintended consequences is the reason we are here today and that is to address the heart and lung coverage. I have been excluded along with 13 other officers within the Department of Public Safety. This occurred as a result of our reorganization.

I am assigned, currently, to administrative duty, but I would like to relate to you an incident that occurred in November 2007 that is not unusual for any of the 13 police officers in the Department of Public Safety (DPS) that are currently excluded from parity with their fellow DPS officers. One late afternoon, as I was walking around and saying goodnight to the majority of my staff, one person came to me and said there was a problem in the parking lot. They came to me for two reasons; one, because I am the division chief, and two, because I am a police officer. They thought there was a fight going on. I told the staff, who are mainly civilians, to go inside, and I would go outside to investigate what occurred. I went outside and instead of becoming the "white knight" as I thought I would be by going to this young lady's aid, I ended up being the punching bag of three individuals who were upset that I had intervened in their domestic affairs. During the altercation, while I was being punched, choked, and kicked in various parts of my body, one individual was able to retrieve my

firearm from my holster and put it to my head. He attempted to pull the trigger on several different occasions. Luckily, not only am I old, but my weapon is old. I still carry a weapon that has a safety on it. The gentleman who was trying to kill me was young and did not understand the old ways of automatics with safeties. He kept racking the slide, putting new rounds in, thinking that would make it work. Fortunately, as I know in all law enforcement, my brothers would come to my aid, and they did, eventually. As long as you can maintain, you will eventually be saved by the cavalry. They did appear, we took all three individuals into custody, retrieved my firearm, and all three of them are currently guests at 5th Street, or other state facilities. This episode is not unusual. It can occur to any of our peace officers within DPS, and all but 14 of us have heart and lung coverage. The other officers assigned to our Office of Professional Responsibility as well as the people in the Training Division, during their daily course of actions, can experience an incident where they are expected to respond as peace officers. Within the State of Nevada we are expected to do that, not only by our supervisors and our fellow officers, who have this benefit, but also by the citizens of Nevada. That is what I am paid for. That is why I have taken time off from my day-to-day to assist Ms. Parnell in supporting this bill and telling you that those in administrative positions, whether it is in Records or Technology, Training or Office of Professional Responsibility, are still primarily, and foremost, peace officers. What we are asking for is parity and the retrieval of our benefits due to these unintended consequences in the reorganization of DPS.

I hope you will vote in favor of this bill.

**Chairman Conklin:**

Are there any questions from the Committee? I see none. Is there anyone else wishing to testify in support of A.B. 214? I see none. Is there anyone wishing to testify in opposition to this bill? I see none.

ASSEMBLYMAN OCEGUERA MOVED TO DO PASS  
ASSEMBLY BILL 214.

ASSEMBLYMAN ANDERSON SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

We will assign this to Ms. Parnell for presentation on the floor.

We will open the hearing on Assembly Bill 144.

**Assembly Bill 144: Revises various provisions relating to loans secured by liens on real property. (BDR 54-89)**

**Assemblyman Joseph Hogan, District No. 10:**

This bill is to provide a measure of urgently needed consumer protection to the people of Nevada, particularly for seniors who invest their savings in hopes of earning enough to support themselves in their retirement years. There are thousands of Nevadans who lost their retirement savings to a series of failed Nevada trust deed lenders, regulated by the state. The biggest current failed operator was Las Vegas-based U.S.A. Capital. It failed owing almost \$1 billion to 6,000 unfortunate investors. Just before that, a similar company, named Global Express, failed leaving its many investors without their savings. Still earlier, a former Nevada State Legislator took hundreds of his firm's investors down when his firm also failed. All of these failures were during Nevada's better times well before our present economic problems.

There is no bill that would prevent all business failures, but there are ways to protect consumers, and this bill would provide some of those protections. The best way to protect consumers is to empower them to protect themselves. If the government has information that would enable people to make informed investment decisions, that information should be made available so consumers can do their own due diligence, whether they are seeking a safe endoscopy clinic or a reliable mortgage lender. The Nevada Division of Mortgage Lending has such information, but is prevented by the current law from releasing it to anyone if it might be unfavorable to the regulated lender. This bill would amend NRS Chapter 645B to require release of all relevant, nonpersonal information to the public. In addition to releasing examination outcomes and complaint information about trust deed mortgage lenders, helpful information concerning the value of the property that secures the loans will be required to be provided to the investors by NRS 645B.300, which is in the amendment ([Exhibit F](#)) that has been distributed to you.

An important cause of many of these loan failures is related to overvaluing some of these properties. A local investor can decide to avoid a risky local investment if he has access to the appraisal or other assessments of the property's value.

I would like to acknowledge the assistance of Joseph L. Waltuch, Commissioner of the Division of Mortgage Lending, who offered many of the amendments that will improve the accuracy and clarity of the bill. I would like to walk the Committee through the main elements of the bill and the amendment. I should mention that many amendments were needed in order to clarify and improve the language. As a result, most of what was in the original bill is in the amendment

but in an improved form. To help you identify these points, I will first run through a few of the main points in the bill and then the main points in the amendment.

On page 2 of the bill, lines 27 through 33, there is some new language including examination of the appraisals that are being used. That seemed like a good idea, but it turns out that the staff in the office doing those examinations are not really fully trained and competent to address the complexities of many types of appraisals. That has been entirely removed and is not something we need to be concerned about.

Page 3, lines 7 through 10, deals with release of the examination results. I should mention, if you have had a chance to look at the *Las Vegas Review-Journal* editorial written shortly after the last session, this is what they were talking about: that it was unfortunate that investors were unable to get any access to the results of the examinations. This bill would now make them available under the law. That language is in the amendment and I will touch on it when we get there.

Page 4, lines 12 to 15, are also key to the purpose of the bill involving the kind of information that can be made available to the public, which would be helpful in making due diligence decisions. These changes, again, have been revised and improved in the amendment on page 4, lines 22 through 31.

Finally, in the bill on page 4, lines 29 through 45, these provisions, again, are in the final form in the amendment on page 5, lines 1 through 17. There has been a kind of migration of most of these terms and they have changed.

In the amendment, I will touch on four or five points and that should wrap it up. In the amendment, page 1, lines 1 through 15, specifies standards for appraisals if they are to be provided to prospective investors. This is an important part of the information that would be helpful to investors, so it is appropriate to tighten the standards so that they are, in fact, reliable appraisals.

On page 2, lines 17 through 23, is the option the broker has to ask for a waiver of the requirement to have an appraisal. This would provide that they can do that, but they would have to provide information that could be relied upon as to how they arrived at the valuation. That is specified on these lines. It appears to me not unduly burdensome, just a sensible way to describe how that information should be provided.

Page 3, lines 19 through 23, provides the conditions for release of the results of the annual examination. This has to do with fairness, balanced with the idea of



disclosure. Fairness is applied to the broker who must have a chance to review an examination after it is completed by the Division of Mortgage Lending. If the broker has a question or a comment or a difference with what has been found, this would allow time for the Commissioner to receive that objection and give it full consideration before a release is made.

Page 4, lines 24 through 31, better defines the information that should be released to the public, and again, another aspect of that information is addressed on page 5, lines 1 through 17, which redefines the information to be released.

I think these efforts will, without unduly burdening either the agency or the regulated entities, provide an opportunity for the consumer to do some reasonable shopping among competing lenders and to ensure themselves that their investment is as safe as it can be and is in the hands of people who have a very good record in conducting their business.

I believe Commissioner Waltuch is in Las Vegas, and you might want to call on him to give his view of this.

**Chairman Conklin:**

The mock-up amendment is what you want us to consider?

**Assemblyman Hogan:**

They actually both have to be considered. I think 90 percent of the substance has moved to the mock-up. There are a few provisions that were little affected and were not changed; they did not become the subject of an amendment.

**Chairman Conklin:**

So, they are not in the mock-up but in the bill, and you want to keep them?

**Assemblyman Hogan:**

Yes.

**Chairman Conklin:**

On page 4 of the amendment, and going back to NRS 645B.090, it states "except as otherwise provided in this section, the Commissioner . . . these documents should be open to public inspection, except items (a), (b), and (c)." In looking at item (c), it reads "reveal personal information about a person including, without limitation, a social security number . . ." I do not have a problem with that; however, the term "financial information which includes personal identifying information"—I would like to know how broadly this will be interpreted. This is a person who is offering up investments. I think that in

some cases personal financial information is going to have to be made available for an investor, particularly, if it is information pertinent to the investment. You are not trying to limit that with this clause, are you?

**Assemblyman Hogan:**

We are trying to find the best course. I have been told that in the process of applying for the license and various applications that have to be made, there is a substantial requirement for personal financial information and history, which is, I have become convinced, not entirely relevant each time someone is trying to examine a particular opportunity on a particular project. We are looking for a way not to impinge, unreasonably, on the privacy rights of the lender, but we do intend to get all the information that is not identifiable to the individual owner of the brokerage.

That is the purpose. I believe in this case, the suggestion for that language came from Mr. Waltuch who had found it used successfully in other contexts. It is trying to go down the middle road without impinging, too much, on privacy and without restricting information pertinent to the investment.

**Chairman Conklin:**

This provision is exclusive to "hard money lenders," right?

**Assemblyman Hogan:**

Yes.

**Chairman Conklin:**

Are there questions from the Committee?

**Assemblywoman Kirkpatrick:**

Mr. Chairman, referring to brokers, did we not discuss this issue during the mortgage crises testimony? I am worried about subsection (c) that reads "must be performed by an appraiser who is authorized to perform appraisals in this state or in the state where the property was." I thought we had discussed the problems with that and our state being able to. . .

**Chairman Conklin:**

The provisions of NRS Chapter 645B all refer to hard money lending, but perhaps Research could check that out for us. I believe we did discuss that in reference to personal property; that is, if you are borrowing for a home loan. I am not sure if this provision covers that, or if it is exclusive to hard money lending, hard money lending contracts, and the method of handling properties. Mr. Hogan, is that correct?

**Assemblyman Hogan:**

Yes, that is also my understanding. When we have a chance to talk to Mr. Waltuch, he might be able to clarify that. I want to also make the point, in case it is not clear, that the process of hard money lending is quite different from home mortgage lending, in that it starts typically between a lender and a developer and a loan is arranged. Due to the circumstances, it tends to be a fairly high interest rate, and when that loan is in place, individual investors are offered a piece of that loan. It goes from being an arrangement between the lender and the developer to being an arrangement between the lender and a series of individual investors. The bill is intended to extend to that part of the business.

**Chairman Conklin:**

We will come back to that question later.

**Assemblywoman McClain:**

In the amendment, on page 5, line 30 of section 4, what is the logic behind changing "shall" to "may"?

**Assemblyman Hogan:**

When a new licensee is given information that his license is being approved or had been approved, sometimes it is approved to become effective in the near future. The language has been changed to "may" because when it was "shall" the Division felt that it would be possible for someone to make a mistake and think the license was already in effect and proceed to commence business. Technically, they would be in violation and, if it were purposeful, it would be a serious violation. If it is by mistake, the Division would like to have the option to use the option of "may" to employ the full immediate loss of license, which is a drastic measure, or decide for a suspension or some lesser penalty if they become convinced that it was not willful.

**Assemblywoman McClain:**

How many times would that happen? This is obviously in statute to get the "bad apples" who are pretending they have licenses or who have already had licenses revoked. But, when you look at the language, if they do not have a license or have one that is suspended or revoked, that next sentence is silly because they do not currently have a license to take away. I do not want to give somebody too much leeway in the language concerning whether or not they should revoke. I do not want to make it subjective.

**Assemblyman Hogan:**

I do not have a proposal on this, but it could be that if it remains "shall," there could be a very short phrase or two to clarify.

**Assemblywoman McClain:**

Mr. Chairman, we might want to look at that. It does not make a lot of sense, the way it is originally written.

**Chairman Conklin:**

Ms. McClain, as I read it, if there is a person who is operating without a license and the worse that can happen to them is a \$10,000 fine and to have their license revoked, the only thing that would actually happen is the \$10,000 fine. Maybe what this should say is the Commissioner may revoke it, but if a person is in violation by not having a license to begin with, they are not allowed to get one in the future. So, we fine them and then stop them from practicing business altogether. The issue for somebody who does not have a license should be stiffer than for the person who does have a license.

**Assemblywoman McClain:**

I do not want to see somebody penalized just because they have a pending license, but obviously, if someone intended to do wrong and did not have a license, then they "shall" never get one and pay the fine. If, however, someone is already on a suspended license because of some other action they did, then I think they should have it revoked. I think it could be cleaned up a little bit.

**Assemblywoman Kirkpatrick:**

One of the things that we heard during the mortgage lending discussion was the fact there was no enforcement process. Where is that piece within this bill that makes it possible to actually go out and get those brokers? We can put fines and regulations in, but without enforcement, it does not help us. I think the mortgage division testified that they did not have the ability to enforce.

**Chairman Conklin:**

Are there any questions from the Committee? I see none.

**Joseph L. Waltuch, Commissioner, Division of Mortgage Lending, Department of Business and Industry:**

I have a very short prepared statement, but in light of the questions, I wonder if you would like to first ask me any additional questions.

**Chairman Conklin:**

I think you probably can clarify for Ms. Kirkpatrick and the Committee the issue regarding section 1, subsection 2(a) and (b) and whether or not this applies to just hard money lenders or if this applies to all home loans and if we are just cleaning up the appraisal practice for everyone.

**Joe Waltuch:**

When Assemblywoman Kirkpatrick was asking her questions she turned away from the microphone and I could not hear the entire question. Could you please repeat it?

**Assemblywoman Kirkpatrick:**

To what does section 1, subsection 2 apply? Is it for all of the appraisal process, or is it just for hard money lending, because I am trying to differentiate what subsection (c) applies to. If you could clarify why we have that section, I would appreciate it.

**Joe Waltuch:**

That section, NRS 645B.300, does apply only to hard money lenders. Subsection 2(a) was to put a time limitation on the appraisal that is used to value the property for the private money investors. The one thing we do not want to happen is to use dated valuations in transactions. We want to limit the time prior to the investment during which the appraisal must be obtained.

There are federal regulations that govern appraisers. We are just setting forth that they must meet those qualifications although they could exceed them. In regard to subsection 3, 2 (c), the problem that we have encountered is that many times the private money lenders loan on a piece of property that is located outside the State of Nevada. The way the statute is currently written, if that property were located in Florida, for example, the appraiser in Florida would also have to be licensed in Nevada. All we are trying to do is to say that if the property is outside the State of Nevada, then the appraiser that is utilized has to be certified for license in that particular state.

**Assemblywoman Kirkpatrick:**

Why the 12 months? I think everywhere else in statute was 6 months. You might recall in 2005 and 2006 land prices were changing every three months, three weeks, or three days. Now they would not change that rapidly. Is there a reason why it is 12 months?

Also, in the other state where they are licensed to be an appraiser, how do we know that their standards are as good as our standards? I know there are uniform standards, but some states have higher standards. I thought our state was trying to go to the higher standard.

**Joe Waltuch:**

I cannot address the appraisal standards across the country. There are national standards, and I am sure states can go higher if they want to. We are just trying to make sure that a professional appraisal, however it is defined in that

particular state, is utilized when an appraisal itself is used in that state. I hope that answers your question. We would have to have an appraiser licensed, theoretically, in 49 other states as well as our own if the hard money lender is doing business in those other 49 states.

**Assemblywoman Kirkpatrick:**

So, about the 12 months, did you determine why we picked that time?

**Joe Waltuch:**

That is an arbitrary number. It was selected at random.

**Chairman Conklin:**

Mr. Waltuch has some testimony. Why not give us that testimony now, and we will take additional questions from the Committee.

**Joe Waltuch:**

My comments are very brief, and they are that, as amended, the Division supports the enactment of this bill. I wish to personally thank Assemblyman Hogan for taking the time to speak with me regarding the Division's initial concerns with the original version of the bill. I commend him for his efforts to provide additional information to the public, prior to the time they invest their money in hard money loans.

I understand there may be some comments from some of our licensees regarding a portion of this bill. We think the bill, itself, offers a fairly balanced approach to the interests of both the consumers and the licensees.

**Chairman Conklin:**

I had a question for Mr. Hogan regarding section 3 of the amended version that starts on page 4, lines 24 through 31. I am concerned about public access to the information that may be necessary in choosing a broker and if you believe that these lines excluded certain information that might be helpful to someone in making that decision?

**Joe Waltuch:**

To my understanding, the purpose of this language is to permit the Division to redact from documents that we are turning over to the public, that is, the personal, private financial information of the parties who are involved or whose documents are being turned over. For example, if you had filed a complaint with the Division against a particular broker, and we had in our records your social security number, your credit card numbers, or similar information, we would redact that information before turning over the rest of the information to

the public. I do not think the elimination of your personal financial information impinges the public's right to know what is happening otherwise.

**Chairman Conklin:**

That may need to be cleaned up. I want it to be perfectly clear exactly what we are excluding from public access.

Are there any questions from the Committee?

**Assemblyman Anderson:**

Mr. Hogan, in his opening presentation, mentioned the lending crises that happened with U.S.A. Capital, which is physically located here in Nevada, but I think some of the assets were out of state. I have several constituents who were financially impacted by it and who have called me about what the state was doing about it. If this had been in effect at the time, how would the public interest have been better served than it is currently, and how will the enactment of this clear up that particular problem?

**Joe Waltuch:**

I cannot answer that question. I was not located in Nevada at that time. I have no factual background on what happened or how the changes to this statute would have impacted that.

**Assemblyman Anderson:**

Does this limit your ability to determine the worthiness of the potential investment—whether it is an out-of-state real estate holding that is being held by a mortgage company so that their integrity will be judged on not just the assessment of the property, but the worthiness of the corporation that is holding it—or, does it leave us at the status quo?

**Joe Waltuch:**

In my opinion, it leaves it at the status quo.

**Assemblyman Anderson:**

So, it will not make a difference if we apply your amendment?

**Joe Waltuch:**

No, let me rephrase that. It will permit the public to make a better determination to spend money with that particular investment. If, however, the company involved is committing a crime, this bill will not address that issue.

**Chairman Conklin:**

Are there any additional questions for Mr. Waltuch from the Committee? I see none. Mr. Hogan, is there anyone else you wish to get on the record in support of this bill before I open it up to others?

**Assemblyman Hogan:**

Yes, Mr. Chairman, I believe we have a representative from the Nevada Press Association and a representative from AARP.

**Barry Gold, Director, Government Relations, AARP, Las Vegas, Nevada:**  
[Spoke from prepared testimony ([Exhibit G](#)).]

**Chairman Conklin:**

Are there any questions for Mr. Gold from the Committee? I see none.

**Barry Smith, Executive Director, Nevada Press Association, Inc., Carson City, Nevada:**

This became something of an open records issue when the *Review-Journal* requested these documents. I am in favor of this bill and I want to address, in particular, the open records part of it and the benefit that it can do for the public. The language that is proposed replaces the vague language in the existing law. The existing law allows an interpretation to be made that contradicts itself. It is open records, except it is not open records. This clears that point up very well.

I want to address one issue in the amendment, on page 4, lines 28 through 31, about the personal identifying information. In trying to be consistent with my testimony and, more importantly, with state law, we do have in the open records law the provision that protects personal identifying information. My interest is to try to keep that in one place rather than spread it throughout the statutes, and to keep it consistent in that form so that we are not going back and forth, trying to reinterpret what we mean by personal identifying information. If that is the intent, I think we are covered.

**Chairman Conklin:**

Just so I understand you, from the Press Association's point of view, the language in lines 28 through 31 is clear, they have been expounded, and you believe it has reached a level of protection for both the consumer and the press to have access to information?

**Barry Smith:**

In those particular lines, I do not think they are as clear as what already exists in law. For example, "reveal personal information including, without limitation,"



is a very broad phrase. I would prefer that we leave the definition that is in NRS Chapter 239B, in the open records law, to describe how we protect personal identifying information.

**Chairman Conklin:**

Are there any questions for Mr. Smith? I see none.

**Assemblyman Hogan:**

I would like to offer, on that last point, as the sponsor I would be happy to work out a reference back to the long-standing definition that the Press Association is referring to. I think there ought to be a reference to it, so that it is clear that that is precisely the definition intended to be applied here. I would be pleased to carry out the suggestion and accomplish that.

**Chairman Conklin:**

We would be more than happy for you to work on your amendment, as long as you know that we reserve the right to change it at any time.

**Assemblyman Hogan:**

I certainly understand that.

**Chairman Conklin:**

We will look forward to getting something back from you with a cleaner mock-up addressing those concerns. You might also wish to check in with Ms. Kirkpatrick about her concerns with section 1 of the bill and see if that needs some additional help.

Are there additional people wishing to get on the record in support of A.B. 144?

**Gail J. Anderson, Administrator, Real Estate Division, Department of Business and Industry:**

I want to clarify and respond to Assemblywoman Kirkpatrick's question about appraisal qualifications throughout the country. The appraisers are under a federally mandated program, the Appraisal Qualifications Board of the Appraisal Foundation, and so the appraisal qualifications throughout the United States are all the same—the education requirements, the experience requirements, the examinations, and, as has already been referenced, the Uniform Standards for Professional Appraisal Practice. Those standards would be consistent throughout the United States.

**Assemblywoman Kirkpatrick:**

In 2005 and in 2007 we discussed the whole appraisal process. At the time the eastern areas had a hard time getting their appraisals. What is the practice

to verify that their certificate or license is valid? I am only curious for myself. How do we know how that works?

**Gail Anderson:**

This is the one most organized entity in the country in terms of licensing. There is a federal registry. It is web-based and every jurisdiction, monthly, submits the names of every qualified appraiser who is licensed and in good standing as well as a recordation of any disciplinary action by that jurisdiction. This is monthly. Again, there is an easy way to verify that this appraiser is licensed or certified and in good standing in that jurisdiction.

**Chairman Conklin:**

Are there any other questions for Ms. Anderson? I see none. Is there anyone else wishing to get on the record in support of A.B. 144?

**David Goldwater, President, Goldwater Capital Nevada, Las Vegas, Nevada:**

In addition to having my own mortgage lending firm, I represent a small group of private money lenders and I sit on the Mortgage Advisory Committee. I have not seen a full mock-up of the bill, but testify, certainly, in support of all the concepts that Mr. Hogan is supporting. The reason records have not been open to the public in the past is to protect people's proprietary information. Also, a concern that has not been mentioned by the Committee is the use of these records in competitive situations. My guess is that people will use this open record not necessarily to research the mortgage firm, but to research their competitors, client lists, borrower lists, all those types of information that we get from our files. A little leeway to allow the Commissioner to redact is a positive thing. I would be happy to work with Assemblyman Hogan throughout this process.

**Chairman Conklin:**

Are there any questions for Mr. Goldwater? I see none. Is there anyone else wishing to testify in support? I have one person signed-in in opposition to A.B. 144 in Las Vegas. Now is the time to come forward.

**Corinne Cordon, President, Private Lenders Group, Las Vegas, Nevada:**

I am also president of Capella Mortgage, a firm that does private money lending, regular conventional residential lending, and commercial lending. I am not opposed to this bill, but I have some major items that are impacting people. What is happening is we are not looking at the reality of the businesses that are going to be affected. I would like to explain to you some of the items that will happen if this bill goes into effect the way that it is written.

I understand why this bill came about. There were companies that were doing things wrong. What this bill does, however, is allow the ratings and examination results to be made public to the media and to anyone who wants to look, before anything comes up about that mortgage broker doing something wrong. If you have ever seen an evaluation or rating from the Mortgage Lending Division, you would know it can be extremely complex. As a private lender, my records will now be made public. Some of the items on my examination, I do not understand. They are extremely lengthy, but one of the items of the three that I have been written up on, said that I was supposed to show the yield spread premium as an exact amount rather than as a range, as had been previously done in mortgage lending. On my good faith estimate I had a zero to 4 percent range. Anyone from the public looking at that is going to be extremely confused. Here we are saying that only private lenders need to show their examination results and their ratings.

It is giving an unfair competitive advantage to all of the other residential lenders, and it is not fair to the industry as a whole. There are approximately 25 hard money lenders, and we are going to show all of our results, but all of the other residential lenders that have been doing many things wrong are not showing their results. My comment would be that if we are going to show results we make everybody show their results.

There is a section in the amendment, which I just got today, that says on an appraisal, if we waive it for our investors, we "shall" write up a very lengthy explanation of how we came up with the value. My private investors are very savvy, they have been doing this for a long time, they do not take my evaluation, they go out and look at the property and do their own evaluation. It also says that I "shall" write up an evaluation almost as technical as what an appraiser would do. I would like to suggest that sentence be changed to "may." If my investors waive the appraisal, then I may provide to them an analysis of how I came up with the value. I should not have to provide that to them, especially if they do not want it.

I believe that showing the examination results and the ratings to the public before there is a problem is not going to help the investors make a better decision. I have an extremely good reputation with my investors and yet, if they were to look at my ratings, they would become very confused and possibly not lend with me. Yet, they are extremely happy with my service. I am not sure, overall, that it is a good idea to show the results of the ratings before there is a problem. I understand once there is a problem, we would all like to know what happened.

**Chairman Conklin:**

Have you spoken with the bill's sponsor prior to coming up and sharing your concerns?

**Corinne Cordon:**

No, I just received this amendment today. Until today, the bill only included private investors who had the funds and solicited money from investors for investing in notes. Today, it has been changed and modified so that all private lenders are affected.

**Chairman Conklin:**

My suggestion is that you follow up with Mr. Hogan. Share your concerns. He will be working to flesh out this amendment.

Are there any questions?

**Assemblywoman Buckley:**

One thing I would like is if Mr. Waltuch could send to our committee staff a sample evaluation with the name of the entity redacted. I would like to better understand what is in it to get a better sense of how proprietary it is. My initial inclination is this absolutely should be available to the public before there is a problem, so that it can be used as a consumer guide. We should make sure it is not revealing personal identifying information. I see this as a consumer protection issue. It draws me to restaurants, we rate them; we let everybody know what the ratings are. Does it put someone at a competitive disadvantage to be ranked as a "D" on your health rating as compared to another restaurant with an "A?" Yes. So what happens? The manager gets on the employees to be sure there are no more mistakes so that rating can go right back up. I also think about audits. I run a nonprofit organization. We have an audit. It is made available to anybody upon request. Once in a great while we forget about a new requirement. That is minor. We get an opportunity to explain. There was no embezzlement, but we have now implemented yet another new policy on quality control and here is what it is. People who look at it do not think any less because it is explained, but what a hammer it is. We never make that mistake twice, because you never want an exception, so it is a way to improve quality because no one wants a bad report. It is a way to police an industry without an infusion of taxpayer dollars, it is a way for the consumer to be better informed, and if we can ensure that we are not disclosing proprietary information, then I think we achieve all of these goals and do a good service by our public.

**Assemblywoman Gansert:**

In looking at page 3 of the amendment, it addresses the annual examination, and what was added was some feedback to determine any objections made by the mortgage broker. It looks as if there might be an opportunity if there is a report issued to a broker, where they can go back and try to remedy it or try to determine if it was a major problem or not. What I do not see in here is an appeals process before the final grade is open to the public. I am wondering if, in regulations, they need to make sure that before they provide a grade that is made public, that there is some sort of process whereby you could appeal that grade.

**Chairman Conklin:**

I think that is in there, if I am not mistaken, in both the bill and the amendment. That is also being changed to where you can appeal that. Hopefully, Mr. Hogan has taken good notes on the Committee's concerns on all of these issues, since he has requested the opportunity to fix his own amendment. We are going to grant it to him.

Are there any other questions for Ms. Cordon? I see none.

Mr. Waltuch, do you have a very brief comment? I am about to close this hearing.

**Joe Waltuch:**

Just to address the question on the appeals process, that is in our regulations. The purpose of giving the Commissioner the ability to hold off disclosing anything until after a certain time period is to give the licensee who is dissatisfied with the rating the right to go through the appeal process.

**Chairman Conklin:**

Is there anyone else wishing to testify in opposition to A.B. 144? I see none. We will close the hearing on A.B. 144.

Mr. Hogan, we look forward to hearing back from you after you have had an opportunity to digest all the comments of the Committee and our questions and concerns. I would like you to let me know once you have reached some conclusion and share them with Mr. Ziegler and myself, and it might help you.

We have a presentation scheduled for 3:00; this is the presentation that we are bringing back from Monday's stimulus hearings.

Committee members, you may recall that we had one item from the stimulus that we had to push back to Wednesday. We will take that up now. This

should last no longer than one hour, and from my recollection of a meeting I had on Monday with them, it may be only 30 minutes. We will take up Mr. Segerblom's bill immediately following this presentation.

**Leo M. Drozdoff, Administrator, Division of Environmental Protection,  
Department of Conservation and Natural Resources:**

I will keep these remarks brief. We were asked to provide an update on some of the provisions of the American Recovery and Reinvestment Act of 2009 that relate to the Nevada Division of Environmental Protection (NDEP). Those projects primarily fall into one large pot, which is our clean water and drinking water state revolving loan fund project. The Division of Environmental Protection will receive grants from the Environmental Protection Agency (EPA) totaling approximately \$19.5 million for each program, so that is a total of \$39 million. We have already applied to EPA for these grants and we plan to distribute these monies through our traditional mechanism which is loan agreements. At least 50 percent of the grant funds must be used to provide assistance that includes some form of loan subsidy including principal forgiveness or negative interest loans. In Nevada this provision will enable funding on a number of projects in disadvantaged communities that might otherwise not be built. At least 20 percent of the grant funds must be used to support projects that support green infrastructure, water conservation, or energy efficiency. Our Division solicited "shovel-ready" project proposals from municipalities and operators in December 2008. We received proposals totaling nearly \$2 billion. We have received more proposals than the money we have. However, \$39 million is more than we had a month ago.

Our plan is to publish a priority list and accept public comments on that list in the next two weeks. The projects that are highest on the list and that are most ready to proceed with construction will receive the funding, and our plan is to allocate those until the money is used up. The program is a stimulus program and our hope is that we can combine stimulus and public health protections in this process.

I can provide the Committee with a brief update on some other elements of the stimulus plan, but I know the Chairman wants us to be brief. I will leave that up to you.

**Chairman Conklin:**

We do not want to be so brief that we miss out on the opportunity to find out how much money is available to us. Right now you are saying there is \$39 million, but that comes through standard grant programs that come to you traditionally, so it is an expansion of the dollars that you get. The criteria for that money have not changed, right?

**Leo Drozdoff:**

Some of the criteria have changed. The point you make is correct. These are mature programs so we do not need any additional legislation to work them through. There are elements of this money that are now different, specifically, the 20 percent of the grant funds that must be used to support projects that address green infrastructure, water conservation, or energy efficiency. Also, 50 percent must be used to provide assistance that will enable us to help disadvantaged communities. The last point I want to make is traditionally we have had a 20 percent match on these programs and that match requirement has been lifted. It makes it more flexible.

**Assemblywoman Buckley:**

The existing revolving grant program that this money can flow into, where is that codified?

**Leo Drozdoff:**

That is codified in NRS Chapter 445. I can get you the exact cite.

**Assemblywoman Buckley:**

Then, you said 20 percent for green infrastructure, energy efficiency and what else?

**Leo Drozdoff:**

Water conservation.

**Assemblywoman Buckley:**

So, in December 2008 you listed solicited proposals, and in two weeks you will hold a hearing to establish priorities; do you have any sense of the types of proposals you think this might fund?

**Leo Drozdoff:**

Yes. On the drinking water side, or what we call the safe drinking water funds, there are a lot of smaller projects. We have some mobile home parks in rural areas that have, at times, had boil water orders or had problems with arsenic compliance. Those are the kinds of projects that would fit into the disadvantaged communities. As far as green infrastructure, we received projects from Truckee Meadows Water Authority (TMWA) to replace a mobile bypass or to use different equipment at various treatment plants that will result in what are said to be savings of millions of dollars in energy. Southern Nevada Water Authority submitted similar projects to change equipment that would generate dollar savings in energy efficiency. Those are the kinds of projects that would be part of the 20 percent of the grant funds that could be used for green infrastructure. Our traditional programs that are shovel-ready can be

anything from sewer locations or lining of treatment ponds or drilling new wells on the water side. To be clear, some of this is going to be very obvious and some will be based on our staff working with these communities to get at this whole concept of shovel-ready. We did receive \$2 billion worth of requests. I am certain there are not \$2 billion worth of shovel-ready projects. We are basically going to try to take all of those elements in a matrix format: disadvantaged communities, green energy, and shovel-ready, and put forth a document that we think represents our best thinking, make it available to the public, and then proceed from there.

**Assemblywoman Buckley:**

I think those are really good points because some of the local entities that you deal with are claiming things are shovel-ready, but they really are not. I begin to wonder if the state should require an assurance from the local governments to commit to us that the projects are shovel-ready or to expedite the permitting to ensure that the projects will be ready. If they miss the deadline, we lose the funding. Obviously, that would be a very bad development. I almost feel we should make them sign something.

**Leo Drozdoff:**

I get the point.

**Assemblywoman Buckley:**

Additionally, does the stimulus money that is coming to the state need to go through our appropriations process?

**Leo Drozdoff:**

Yes. This is money that we have applied for. The Environmental Protection Agency has the pot of money, we are applying for Nevada's share, and then we will be distributing that money through loan agreements to the communities. I do not believe that we need to go through a step of coming before the Legislature to get that \$39 million.

**Assemblywoman Buckley:**

We will ask our staff to confirm that with Legal, because, I think if the money comes directly to the state, it goes through the appropriations process. If in the federal bill it put it through a different federal agency that requires any sort of grants and applications, then the other portions of the state budget act applies. We are trying to make it clear on every division where it goes. We will double check that.

The last thing that we are seeing is there is so much money directed towards renewable energy, green energy, green infrastructure, and energy efficiency,



and while \$39 million may not seem like a lot of money in the big scheme of things of all the needs that you see, there is \$39 million, \$50 million, or \$100 million in all of these different budget accounts. Whether it is the Energy Division, water, or local government, we need to make sure we are not missing out on some broader opportunities, when you combine all of those to really get the most bang for your buck.

The last thing I would like to ask you to do is make sure in your evaluation you look at job creation and how it stimulates the economy. I think part of the money can be used not only to achieve your unmet goals, of which there are many, but to stimulate the economy and create jobs.

**Leo Drozdoff:**

I appreciate your direction. One point I would like to make is we need to make sure we are not working at cross purposes. My Division set up a program with other funders that provide similar kinds of funding. For example, United States Department of Agriculture (USDA). We have been working on this for years where we will get together with other funders and say okay, what is the general need out there and maybe NDEP can handle this and USDA can handle that. We are doing that as part of this program. That clearly will not get to all of the sub-elements of this program. To the extent that we are similar, we are working with other funders, especially USDA, who received money from the stimulus program as well.

**Chairman Conklin:**

Are there any additional questions from the Committee?

**Assemblyman Settlemeyer:**

Can these funds be used for flood walls and home elevations?

**Leo Drozdoff:**

These funds, in particular, are not used for that, but I think there is going to be a discussion on flood projects and other monies that are used for that. Our monies have been used for either drinking water or waste water projects.

**Chairman Conklin:**

Mr. Settlemeyer, we have the flood district here as well. They will be making a brief presentation.

**Assemblyman Anderson:**

In regard to the Truckee River Flood Projects which are already under way, can we expect any help with this particular project?

**Leo Drozdoff:**

Specifically to the elements of the state revolving fund, the answer is no. I do believe that there are other elements in the stimulus bill on flooding.

**Assemblyman Anderson:**

What about wells which have now moved into the incorporated areas and need to be sealed off, and the problems that it creates? In Spanish Springs we have several homeowner groups that had been in a system of their own construction and are now moving into the Truckee Meadows Water Authority. It is costing them a lot of money to do this. Would they be able to get some potential relief with this kind of stimulus package?

**Leo Drozdoff:**

Our projects will typically require a loan agreement with a municipality. If that municipality has submitted a program that says what we want to do is connect so many homeowners to a sewer system, and it is on the priority list, then that will be a project that we will look at. We will not be providing direct assistance to a homeowner. We work with the local government. What that government then chooses to do, would be up to them.

**Assemblyman Anderson:**

May I interpret that into my language? If, with the help of the stimulus dollar, the local government offered this opportunity to homeowners to attract them to TMWA, it would potentially draw those dollars through you into that program. But, in the event the dollars did not come through, then the city would still need assistance, whether you provided it or not.

**Leo Drozdoff:**

The way that this has been dealt with in the past, even before the stimulus money, is if municipalities wanted to get a low-interest loan from NDEP, and as part of that low-interest loan they wanted to then run some sort of discounted connection service with local entities, they can do that. However, our project would give Washoe County, or Sparks, or TMWA a grant and they will fund their own program out of that. I guess the answer is that it is possible. We are going to deal directly with the local government.

**Assemblyman Anderson:**

I am concerned about TMWA's part. They have jurisdiction throughout the river system, all the way from Verdi in Washoe County out to Storey County, and

includes traditional land areas that have wells that are fairly close by the river. The water quality is a concern that your agency handles. If we have an opportunity to address it, which governmental agency will have the responsibility of making sure the dollars are there? Are you using yourself as the funding agency, or are you going to do this directly. From what I hear, you are going to rely on a local governmental agency to do it directly.

**Leo Drozdoff:**

Our plan is to move forward and to have a list of projects that are broken down into these various subcategories: principal forgiveness, green infrastructure, and traditional project. These are all ranked based on shovel-ready and public health impact. The list will be the agency's best effort. Then, people can weigh in on whether they think we got it right or not. It is going to be project-driven, probably not down to the level that you just described.

**Assemblywoman Kirkpatrick:**

I have a few more questions. Please explain what part of the statute already allows you to do low-interest financing with local governments, and also, what are the criteria for that? Can they only use it on public projects? Can they use it on private dwelling, or what?

Also, can you define public safety? It is a big issue when it comes to water and we cannot find any statutory definition.

**Leo Drozdoff:**

I will have to get you the specific statutory cites. Basically, we have had a state revolving fund for clean water since 1989 that has allowed us, over the years, to provide low-interest loans to communities in the hundreds of millions of dollars, cumulatively. Typically, we get a certain amount of money in and we work with those communities, even back then, that were shovel-ready. The program is mature and it has been in place.

As far as drinking water, the state revolving fund was modeled after the clean water fund in the mid-1990s and is very similar. That program originated with the state, within the Division of Health, and just a few sessions ago that program came to NDEP. In both cases there are statutory and regulatory language that allows us to collect this money and then to provide low-interest loans with a match component to local governments.

As far as how we rank projects based on public health, we rely on projects that are either out of compliance with a federal or state drinking water standard, for example, arsenic, nitrates, or uranium or that are having problems meeting just their basic requirements in terms of disinfection. If a mobile home park or any

drinking water system shows that disinfection is a problem, we issue a boil water order. We have records of that, and it would be the kind of things that would be at the top of our list in terms of protecting the public health. That is, they are in violation of a state or federal drinking water standard.

**Assemblywoman Kirkpatrick:**

Could you please give me that statute? Is it only for public to public, or is it public to private. If you do not know the answer, I would just as soon see the statute myself.

**Leo Drozdoff:**

I will get you the statute. It is essentially public to public.

**Assemblywoman Kirkpatrick:**

So you could give it to one public agency who then could offer it to private citizens based on their criteria.

**Leo Drozdoff:**

I believe so.

**Steve K. Walker, Minden, Nevada, representing Truckee Meadows Water Authority, Reno, Nevada:**

I not only represent Truckee Meadows Water Authority, but I sit on the Board for Financing Water Projects and the loans can go to private water companies that are under the regulation of the Public Utilities Commission of Nevada (PUCN). The loans can also go to nonprofit mutual water companies. The grant program is restricted to government-run utilities.

**Assemblywoman Kirkpatrick:**

I find it amazing that local governments are going to come out the winner with this stimulus package. I would like to see, on the state level, what tools we actually have in place to make sure we get the best bang for our buck. I understand the shovel-ready part, the accountability part I worry about, but I think we have a lot of bills this session that may not be as necessary because we may already have the tools to provide infrastructure to local governments.

What tools that we currently have can we enhance?

**Leo Drozdoff:**

I think the main tools that we have had at our disposal since the late 1980s, on waste water, and since the mid-1990s on drinking water, are these state revolving fund projects. As Mr. Walker alluded to, since 1992 the state has run a state-only grant program where we have been able to provide money to local

governments for compliance with water projects. Those programs have existed for a while. The stimulus money is going to enhance those. Those are our main tools to provide assistance in the area of infrastructure.

**Naomi Duerr, Director, Truckee River Flood Project, Reno, Nevada:**

I am currently with the Truckee River Flood Project. Previously, I was the state water planner for seven years and managed the program that Mr. Drozdoff was speaking of. During that time we gave out almost \$60 million worth of grants to small water systems and those grants were just for public water systems or private systems that were under control of the PUCN. We were not able, at that time, to give any direct grants to individual homeowners. It went to the utility to improve the utility's treatment of water.

**Chairman Conklin:**

Are there any other questions for Mr. Drozdoff or do you have anything else to add?

**Leo Drozdoff:**

The only thing I would add, and I will do it in bullet form, is we received assistance in four different areas:

The first is through the Clean Water Act – we received \$194,000 in funding for water quality planning, and a portion of these funds will be passed to local governments.

The second is through the Leaking Underground Storage Tank Trust fund, where we expect to receive \$1.3 million, although that number is not finalized. In addition, grant funds could be used to clean up sites contaminated with petroleum from leaking underground storage tanks where no viable, responsible party is present.

The third benefits brownfield sites, an area where we basically clean up old, historically damaged projects to a certain level. We are eligible to compete nationally for \$100 million. We have identified assessment costs totaling \$2.6 million and we will be pursuing that.

Finally, under the Diesel Emission Reduction Act, we expect to receive \$1.7 million in grant funds to pass on to local governments to replace school buses that are older.

**Chairman Conklin:**

So, just roughly, your estimates are \$5.6 million plus \$194,000 to total \$5.8 million.

**Leo Drozdoff:**

Yes.

**Chairman Conklin:**

Of course, that is assuming the \$2.6 million of the brownfield money goes to you.

**Leo Drozdoff:**

That is correct.

**Chairman Conklin:**

Are there any more questions for Mr. Drozdoff?

**Steve Walker:**

What I want to do is be specific about Truckee Meadows Water Authority's projects that could fit under the state revolving fund programs. The Mogul bypass is the ditch that was broken by the recent earthquakes around Verdi, and it basically provides water to the major water treatment plant on the Truckee River called Chalk Bluff. With this funding, we could enhance a project that is shovel-ready because we have to fix the system now. It fits very well in the portion of the stimulus package that must be used on projects that save energy. Once this bypass is built, the majority of the flow will go to the plant through gravity, through a ditch. Right now we are pumping that water to the plant. This would save approximately \$250,000 to \$350,000 a year in electrical costs.

We also are revamping a dam at an underwater treatment plant. It is an Army Corps of Engineers cooperative project, but it also could fit into these criteria. It is ready to go. What the new dam will do is make a recreational passage for river rafts and fish that could potentially migrate. It fixes an issue in an environmentally friendly way, but it is also more mechanically efficient to divert water.

Finally, another project that is ready to go is in Assemblyman Anderson's area in the Sparks groundwater remediation project. We would look to fund the project, and it is in our capital improvement program right now to do remediation of groundwater that has impacts from both arsenic and manganese. It not only takes advantage of the stimulus fund, but also takes advantage of low construction and labor costs right now.

Those are examples of projects that are ready to go where we can use this money, and I wanted to be sure the Committee understands that.

**Chairman Conklin:**

Mr. Walker, do you have an estimation of how much those projects cost?

**Steve Walker:**

Yes, I do. The Mogul bypass is a \$35 million project. The Sparks project was originally considered to cost \$40 million, but with preliminary bids it appears that could cost \$25 million. It would be \$8 million to \$10 million for the diversion project.

**Chairman Conklin:**

The additional money in the grant program is \$39 million and the other projects that Mr. Drozdoff mentioned are a total of \$5.8 million. There is not a lot of money, relatively speaking.

**Assemblywoman Buckley:**

Are there any Clark County projects?

**Leo Drozdoff:**

Some of the projects in the area of energy efficiency were received from Southern Nevada Water Authority (SNWA), for example. They have talked about replacing various pumps and pump stations with more energy efficient ones. To get to Chairman Conklin's point, there is more demand than supply. It does not make a lot of sense to spend \$30 million on one project and say we are done. We are going to be working with TMWA and SNWA to see if the money can be equitably spread throughout the state. That is part of what we are working on now and we will present this to the public in a few weeks.

**Assemblywoman Buckley:**

I think we have been doing a good job in not breaking things down into regions, but I want to be sure that the benefits are used statewide.

**Chairman Conklin:**

I have asked Southern Nevada Water Authority to come forward because they may have some things to get on the record.

**Assemblywoman Kirkpatrick:**

I would like to know what projects are on your priority list. The northern Nevada constituents have been told by local government that there is a public safety hazard with their drinking water. I would be curious to see where they fit on your list. I am not sure that a more efficient pump is more important than making sure those people feel comfortable with their quality of life. I would like to know how you determine the priority list.

**Leo Drozdoff:**

As I said, we have not published the priority list.

**Assemblywoman Kirkpatrick:**

I have not seen a list. I just want to know how that project would fit within your criteria. I have been hearing about it for a year, and I think Mr. Anderson was trying to ask that question, and I thought I heard that they could not be helped. I understood from local government that three days out they can go in and start making changes to make it better. Sparks has 15 different things listed. I think that it would be more important than replacing a pump. How will the criteria be set?

**Leo Drozdoff:**

I have received projects from Washoe County, for example, Lemon Valley, and Desert Springs, and what I need in order to answer your question is what projects in particular you are looking at, and then I would be glad to tell you where they fall.

**Assemblywoman Kirkpatrick:**

I can get you a list.

**Leo Drozdoff:**

The only other point I want to make is that there is the 20 percent that has to be funded for green infrastructure. That is not a value judgment I am making, that is part of the money. We need to look and see who fits within the 20 percent for green energy, who falls into the 50 percent for grant subsidies and then who fits into the rest.

**Assemblywoman Kirkpatrick:**

I just want to say that water efficiency and water stability is part of the whole green energy program. I do not want to debate you, but I think a quality of life issue is just as important as doing something else.

**Leo Drozdoff:**

We have to somehow prioritize \$2 billion of requests into \$39 million of money available; we are going to see a lot of debate on that issue. The best we can do is present the most complete picture we have, explain our rationale, take comment on it, and go forward.

**Assemblywoman Gansert:**

Can we use the stimulus dollars to partially fund projects, and also, can we require some sort of matching funds?



**Leo Drozdoff:**

That is the kind of thing I was talking about. Maybe we cannot fund a \$15 million project for TMWA or SNWA but maybe there is an element of that project that we can help fund. The answer to that question is yes. The key is to make sure that we do not phase it so small that there is no real help. As far as a match, we can require it. Typically these programs have required a match. Part of the rationale in not requiring a match was, again, to have a lesser strain. We could require it, but we do not have to.

**Chairman Conklin:**

Are there any other questions? There are none.

**Shweta Bhatnagar, Management Analyst, Southern Nevada Water Authority, and Las Vegas Valley Water District, Las Vegas, Nevada:**

Just as a matter of reference, the SNWA has submitted numerous projects to the Drinking Water State Revolving Fund for consideration. In addition, the Las Vegas Valley Water District has some of its small systems projects on the state's priority list. Some of our small systems include Kyle Canyon and the Searchlight water system. The projects that we have submitted range in cost from \$2 million to \$120 million. Total projects that we have submitted for consideration are over \$400 million. In addition, the Bureau of Reclamation received \$1 billion in economic stimulus funding and we are hoping to access some of those funds for a project. Again, all of our projects are shovel-ready and can be ready for construction within the next six months to a year.

**Chairman Conklin:**

Are there questions from the Committee? I see none.

**Naomi Duerr:**

[Spoke from written testimony ([Exhibit H](#)).]

For those of you who I have not met previously or spoken to, you may or may not realize that every couple of years, the Truckee River floods and every ten years or so we have a big flood that causes about \$1 billion in damage. We have put together a plan to deal with this problem which has many elements.

[Continued with written testimony.]

Our list totals \$340 million. I did not bring the list with me today, because I thought you were more interested in focusing on the big picture. Of course, we are focused on shovel-ready or what I call near shovel-ready. Some of the agencies that we are targeting for funding do not require that the money be

spent in 120 days, in fact, they are making the money available over a two-year period.

[Distributed another handout ([Exhibit I](#)).]

I have analyzed the possibilities and prepared a matrix showing you the many programs that we are trying to analyze and target to get money for our project. This identifies the agency, the type of projects they fund, the criteria that we know about today, a quick assessment as to whether we meet the criteria, and the top flood projects options that might fit into there.

Briefly, since we are partners with the Army Corps of Engineers, we started with them. The challenge is that while they have \$4.6 billion total available, they have over \$60 billion of projects in the queue. They only made available \$25 million for what we call general investigations, which is where we are with our projects. We are not formally under construction with the Army Corps of Engineers; again we are using our own money to do this early construction. So, you need to be authorized. What we creatively came up with was to go back to an old authorization that we got in 1988, and so far it looks like it might be a door in.

Are we receiving construction money? No. We are receiving this general investigation money, so right off the bat we do not qualify. We have been working with Senator Reid's office to see if we could get a construction appropriation this coming fall, which would then make us eligible for some of the stimulus dollars. The last part is if we have a project partnership agreement in place. No, we do not. We have not been reauthorized. We are working with the Army Corps of Engineers to make this happen, but it is a steep climb. There are many varieties of projects. We are mostly looking at things like home elevation, restorations, and bridge lengthening.

On home elevation, which was the subject of a bill discussion we had yesterday, Assembly Bill 54, the Army Corps of Engineers does require a match. It is not clear to us whether home elevations on private property can be matched with public dollars. That is one of the reasons we asked for that bill, even though the money would pass through us.

In terms being funded by the Bureau of Reclamation, as was just mentioned by SNWA, that is an opportunity. We have a lot of river restoration projects. Unfortunately, in talking with people who are fairly knowledgeable about this, much of that money is preprogrammed for big projects around the country such as the central Arizona project, the CalFed project in California, and not our project. Nevertheless, it has a very similar kind of criteria, such as being

executed quickly and giving immediate high employment, and we meet many, but not all, of those criteria.

We also have been looking at federal highways and looking at Nevada's Department of Transportation (NDOT). We have 17 bridges in our flood project. We have submitted a list of all 17 bridges to NDOT. Nationally, the federal Department of Transportation has \$27.5 billion. They also identified monies for Indian lands, park roads and federal lands. We work with all of those partners, such as the Pyramid Lake Paiute Tribe and the Reno-Sparks Indian Colony, so we are going to see if there is a way in to access the monies through some of our partners.

The challenge here is that NDOT maintains a list of what is broken and in need of repair. Our bridges are not all broken, but some are in poor shape and two of the 17 may qualify for dollars.

Finally, we have been looking at the Natural Resources Conservation Service, something that I have not heard mentioned here yet. They have money potentially for levees, restoration areas, and watershed improvement projects. They have approximately \$50 million in the watershed rehabilitation and \$140 million for purchasing and restoring flood plains. Those of you who know me, know that I am pretty aggressive on stuff like this, so we have been out there meeting with them already, asking if we could access those dollars. It seems like the criteria is not quite as stringent as the Army Corps of Engineers criteria are. So, even though they do not have as much money, we might actually be eligible. We have put on our list things that are not in the Truckee River Flood Project, such as a project Reno has with the Double Diamond levee. Some of you may know that after Hurricane Katrina in New Orleans the Army Corps of Engineers went around looking at all levees they had certified before. When they looked at the levee, they declared that the levee does not meet standards and decertified it, throwing hundreds of people in northern Nevada and Washoe County into a situation where they suddenly had to pay flood insurance that they never had to before. This was just because of a change in rules. That levee will cost \$5 million to restore, and we are submitting it to every agency because of the plight of these people, but there is not a guarantee that it will be funded.

Lastly, you mentioned legislation and legislative fixes that might be needed. The only thing that comes to mind is A.B. 54 that we worked on yesterday with the Assembly Government Affairs Committee. We had quite a lengthy and detailed hearing on that. We firmly believe that the legislation is needed. Even if we do not get a dime of money from the economic stimulus package, it would enable us to use our own money to do some of these projects, putting small

contractors to work; just the people who are out of work right now. It would be our own mini-economic stimulus program.

Finally, I know one of the things you care about, because I do, is the kind of jobs that might be made available. We have actually done an economic study on our flood project and we found that for about every \$1 million we spend in the flood project, it will generate about 11 and one half jobs. In toto, the \$340 million represents close to 4,000 jobs. I heard in other committees, "How do you know what job numbers to apply?" We did a very detailed and conservative study. We probably have the lowest number of jobs per million that anyone does. If you talk to NDOT, they have two to three times as many jobs that they calculate per million. I do not know what the right number is, I just know that we are not overstating the case. If anything, we are understating the case.

**Chairman Conklin:**

Are there any questions from the Committee? I see none. Before we wrap this up, Mr. Fraser, would you like to give your brief comments?

**Gale Fraser, General Manager and Chief Engineer, Clark County Regional Flood Control District, Las Vegas, Nevada:**

I am also President of the National Association of Flood and Storm Water Management Agencies. I was fortunate to be on a conference call with Army Corps of Engineers headquarters in Washington, D.C. this morning and may add some light to the Army Corps of Engineers stimulus package, which is \$4.6 billion. Two billion dollars is for construction; this would be administered by the Army Corps of Engineers and would not go through the state. To put it into perspective with what I heard earlier this afternoon, the Army Corps of Engineers has submitted 11,000 requests, totaling \$15 billion, of which \$8 billion is competing for the \$2 billion in construction. The undertaking looks like it is nationwide. I am happy to report that we had a great working relationship with our delegation and the Army Corps of Engineers. We just wrapped up a \$336 million project, of which 75 percent was funded federally. There is more need in Clark County. It is projects on the ground, not lines on the map, that protect life and property.

**Chairman Conklin:**

Are there questions for Mr. Fraser from the Committee? I see none.

That is different than the update I was told I would get. I had heard a rumor that Clark County might not be eligible for very much money.

**Gale Fraser:**

We are not eligible because we just completed the Army Corps of Engineers project. We have no authorized Army Corps of Engineers project.

**Chairman Conklin:**

So, under the Army Corps of Engineers projects there will be no money in Clark County.

**Gale Fraser:**

You are right.

**Chairman Conklin:**

Are there any questions from the Committee? I see none. Is there any other testimony on the water portion of the stimulus package? I see none.

We will open the hearing on Assembly Bill 197.

**Assembly Bill 197:** Makes certain changes to provisions governing sales of subdivided land. (BDR 10-37)

**Assemblyman Tick Segerblom, District No. 9:**

This bill seeks to address what appears to be a loophole in our real estate laws. It was brought to me by Mr. Haddad who will speak in just a minute. Mr. Haddad is developing a high-rise condominium in downtown Las Vegas. What he pointed out to me was what has happened over the last few years in Las Vegas. There have been a lot of proposed high-rises and not many of them have been built. What happens is, under the current law, you can take a piece of property, put a sign on it, put a trailer there and advertise that you are taking reservations for a condominium in that high rise. When you do that, there is no requirement, under state law, that you have to comply with when you take that money. There is no right of automatic rescission, and there is no rule on how you would get your deposit back if the building is never built. What we are seeking to do is to take existing law, which covers the process down a little farther, and apply it to what we are calling reservations. The thought would be that if you walk into one of those trailers and they reserve a spot for you in that tower, you have five days to rescind that signing, so that you would get your money back within five days. If nothing happens within one year, then you have an automatic right to request the return of your money. The way the bill is currently drafted, it is broader than just these high-rises and you will hear some testimony from other people to try to narrow it down. We do not object to their suggestions. We are only concerned with the high-rises that are being built and the people who are buying the space and currently do not have a way to get their deposit back.

There is one final amendment that will come today, which I think is great. Right now, under existing law, if money is put into escrow, before the money can come back out, both the buyer and the seller have to sign something agreeing to return the money. The fact is that many times these developers, who are the sellers, disappear and the escrow company will not return the money to the buyer. The buyer must file a lawsuit, and the escrow company will interplead the money, which requires the buyer to hire a lawyer and go back and get it. This bill actually allows the escrow company to give you the money and absolves them of liability.

I would like Mr. Haddad to explain exactly why he brought this issue to my attention and what he is proposing.

**Eddie Haddad, Project Developer, HUE Lofts at Arts Central, Las Vegas, Nevada:**  
I am the project developer of HUE Lofts at Arts Central. I have been a Las Vegas resident for 19 years and I have been engaged in the real estate business since 1996. I am the founder of Resources Group LLC, the parent company for HUE Lofts at Arts Central. Resources Group is engaged in acquisition, development, and the rental business in Las Vegas.

[Spoke from prepared testimony ([Exhibit J](#)). Also distributed copies of a PowerPoint demonstration ([Exhibit K](#)).]

It is not my intention to affect the home builders, only vertical developments which are complex and require over one year of preparation.

[Continued with prepared testimony.]

I have been to the Real Estate Commission and it has been recommended that I come to you.

[Continued with prepared testimony.]

**Chairman Conklin:**  
Are there any questions from the Committee?

**Assemblyman Settlemeyer:**  
I would like to clarify that this bill does not affect, in any way, a right of first refusal on a piece of property.

**Eddie Haddad:**  
No, it does not.

**Assemblyman Settelmeyer:**

Okay. That is one thing I am concerned about because of the wording in *Nevada Revised Statutes* (NRS) Chapter 119. If I wanted to offer someone money for a right of first refusal on the purchase of a vacant parcel of land, whether it is 5, 10, or 20 years out, I want the right of first refusal at a fair market value price. If they agree with that, it becomes a contract. That is binding. I am a little worried that the way this is worded you might be interfering with people's contractual rights. I want to make sure this is very specifically tailored to high-rises and will not affect home building or vacant land.

**Assemblyman Segerblom:**

You will hear about that because we want to limit it to high-rises. When we went to drafting, they just took the existing statute and applied it to the process of reservations. We want to take this part and tailor it to high-rises because this is the big issue in Las Vegas.

**Eddie Haddad:**

If I may address the Assemblyman, my intent is to address vertical construction. These are the complex projects that require a year or more in predevelopment. Single home construction plans can be put out in a week or so. Once you get going on these complex projects, you cannot stop. Unfortunately, if you are not planning the project properly, a number of conditions can exist. This is why it is probably best to have your building permits first so that all the municipalities and all the architects and engineers have taken a look at all the plans and approved them before you put a shovel into the ground. But, if it is not realistic to wait for the construction documents to be fulfilled completely and building permits to be issued, somewhere toward the latter part of the development process is where presales should begin. This should be done, perhaps, when 50 percent of the construction documents and all the approvals have been achieved.

**Assemblywoman Gansert:**

Are you thinking that the one-year time frame, with which you could hold money for reservation, is what is going to help you with the very early presales when they have not completed a lot of the necessary work to offer or to build the tower?

**Eddie Haddad:**

I would be open for some modification or amendments to the bill. My intended purpose is to prevent presales from occurring too early. If this one-year rule helps us do that, then I am for it, if not, then I would defer this to my

assemblyman. My purpose is to prevent early presales on complex projects, not single-family homes or two-story condominiums, but six stories or higher which tend to be concrete and steel construction projects. I think the Housing and Urban Development (HUD) registration rule should be followed by every high-rise condominium developer of six stories or higher and not to allow any waivers such as the ones that have been issued to certain high-rise condominium developments.

Going back to your question about the one-year rule, if it helps us achieve this goal, then I am all for it.

**Chairman Conklin:**

Are there any additional questions?

**Assemblywoman Kirkpatrick:**

I do not understand why we are making a new definition as opposed to strengthening what the brokers' capabilities currently are. Looking at the definition in NRS Chapter 119, it says the developer is the landowner, which is already within the real estate statute. Why are we creating a new definition? I am concerned about everything that says "including, without limitation." I do not know what that applies to. What is the worse case scenario? Also, in subsection 5 of section 6 "the developer or any other applicable entity shall. . .", but under the definition of developer, it already says the developer is the person who has the land or his designee. What is the reasoning for any of that?

**Assemblyman Segerblom:**

I cannot answer that. Mr. Haddad came to me with the idea, I went to the Legislative Counsel Bureau (LCB) staff with the idea, and this is what we have. It certainly could be modified to more directly address these issues. But, what we are talking about are presales that occur way before the likelihood of the project being completed is there. That is what happened in Las Vegas, where there are hundreds of thousands of units which do not exist. The fact is most of them never had a chance of being built, yet the builders took reservations and took the people's money and ended up giving the whole industry a black eye.

**Assemblywoman Kirkpatrick:**

You cannot stop local governments from approving 150 different developments, even though only 10 percent of them will be built. Would we still not have the same type of problem? You could have your plans on the books, which takes about 18 months to go through the whole process. This happens frequently.



They tie up the land, it makes it more valuable, it encourages others to follow suit, so, what difference would this bill make?

**Eddie Haddad:**

You state some good points. I think the matter is two-fold. The municipalities have had a concern about why they should approve all these projects just to increase the value of the land, however, in downtown Las Vegas, you could take any piece of land and get any type of project approved. The issue at hand here is to protect the consumer and to protect the developers who do not foresee these problems coming up. Nobody foresaw that building façade would not be built. The only way to foresee something like that is to be completely detailed with your plans before you go out to sales. What I am suggesting is that a consumer know exactly what is being built before the sales office can open up and start selling units. In other words, the details are very necessary. There is a big difference between 25 pages of plans and 250 pages with all kinds of details, having worked out all the constructability issues and acquired the land that is required, acquired approvals for parking, for fire codes, et cetera. We made a tiny mistake in not consulting with the fire department as far as numbering the units and the length of the corridors. That was something that came up later on, but luckily we had not sold because we would have had to bring everybody back to explain that the units will be a different size, and the unit number will be 1210 not 1201, for example. All of these issues need to be worked out before you can even bring the concept forth to the consumer. A lot of developers did not know what they were getting into. I feel that I am fortunate. I am probably the most profitable high-rise condominium developer in Las Vegas, although I have not built anything yet; I lost the least amount of money. There are developments that have lost upwards of \$50 million on their high-rises because they missed the mark.

**Assemblywoman Kirkpatrick:**

Speaking as a former planning commissioner, that is why you go before a planning commission, because you are speculating on a project that you think is going to go forward in the future. Whether it is home sales or commercial, before you actually build, you are getting your retail slots in place. Usually you would come with this great architectural plan that states what you want to do. I get that part. Maybe there is a different way to do this. It is a common practice for developers to go out and get the sales. I think it helps with the financing. It helps you at the bank to say this is what I have coming. Should we make the broker responsible like we do with the time-share situation that it has to be in the ground and ready to go? I wonder why we would change the process that we currently use. Local government can say no to any project.

**Eddie Haddad:**

Basically, the first step in the development process is to get approval from the planning commission, at least in Las Vegas. The very last step is . . .

**Assemblywoman Kirkpatrick:**

Let me say, for the record, I am not picking on the City of Las Vegas. If we could use another city beside Las Vegas, it would be great.

**Eddie Haddad:**

It starts with the planning commission, and about a year and a half later is when building permits on these complex projects come into play. It depends on how complex and how high you are going. I do not see where any municipality is going to be able to have any control over when units are going to be sold. It is a NRS Chapter 119 issue and only NRS Chapter 119 can address the advertisement, materials, and the preparation. However, as I mentioned before, HUD project registration already has rules affecting these projects. Many of these projects in Nevada have sought and have been approved for waivers and they should not have gotten those waivers. Housing and Urban Development does a very good job at prequalifying these projects. If we just let HUD do their job and not give out these waivers to these high-rise condominium projects, then we will see better prepared projects.

**Assemblyman Settlemeyer:**

Hypothetically, if this law passes, who could avail themselves of the statute? Only new developments going forward in relation to the reservation process or would this also apply to anyone who has a development now who takes further reservations going forward?

**Eddie Haddad:**

I believe there are some projects right now that are in litigation because of lawsuits that have been filed. I have no interest in affecting anybody's project in the past. I am sitting, right now, on a project with several million dollars in investment. I have everything acquired, my plans are ready to go, when I go to sales in the next few years, whether it be two years, four or five years, I want to know that I am going to have a project that I can sell without high-rise developments outside that are promising something that they will not be able to deliver. I am looking for the future, not the past.

**Assemblyman Settlemeyer:**

So, this would not affect any development in the past, only future developments?

**Eddie Haddad:**

That is correct, as I propose it.

**Assemblyman Segerblom:**

We can make a change to reflect that point.

**Assemblywoman Kirkpatrick:**

Just to clarify one thing, would it apply to building plans already submitted? I know once you get your building plans submitted, that you have a vested right, so would it apply to those that are on the books, or just to the ones that have already been built?

**Eddie Haddad:**

I would say that a lot of the sales permissions that have been sought from the State of Nevada have probably expired. No high-rise sales are currently going on. I would propose any new application for sales must meet HUD's requirements.

**Assemblywoman Kirkpatrick:**

I am asking because there is a bill in another committee that extends the tentative maps. Would this bill include them, or not?

**Eddie Haddad:**

That is a good point. Where do we draw the line? At what point should the project be allowed to go to presales? I have spent a year and a half and several hundred thousands of dollars just in preconstruction services with my contractor alone. I will make myself available to answer some of these questions, at no cost to the state. I can bring my team of experts as well. I understand you have work sessions that you could perhaps address these issues. What has to happen prior to an approval to be able to begin sales? Where are the danger points that we must meet before allowing a consumer to reserve a unit? I am willing to work with the State of Nevada.

**Assemblywoman Gansert:**

You keep referring to the HUD requirements, but I am not seeing that in this bill.

**Assemblyman Segerblom:**

That is an issue that came up after the bill was drafted, and it is one of the changes we would like to make to the bill.

**Assemblywoman Gansert:**

So, you have amendments to offer because you want certain criteria to be accomplished before properties may take reservations. I just do not see that in this document.

**Assemblyman Segerblom:**

That is partially my fault. If the Committee has an interest, we would like to be allowed to work with some people to amend this bill.

**Chairman Conklin:**

Are there any other questions? I see none. Mr. Segerblom, you and I have a meeting in my office in three minutes. I know there are other people wishing to testify. Anyone in support of this bill, please come forward at this time.

**Rocky Finseth, representing Nevada Land Title Association, Las Vegas, Nevada:**

The association supports the concept of A.B. 197, and you have a proposed amendment in front of you ([Exhibit L](#)). In the interests of time we will work with Mr. Segerblom on working out our concerns.

**Chairman Conklin:**

It is my understanding that Mr. Segerblom has already seen that memo, is that right?

**Rocky Finseth:**

He has.

**Chairman Conklin:**

Are there any questions of Mr. Finseth? I see none. Is there anyone else wishing to get on the record in support of this bill? Is there anyone wishing to testify in opposition?

**John A. Schroeder, Manager, J & N Nevada, Reno, Nevada, representing Village Association of Northern Nevada:**

I represent the Village Association of Northern Nevada. I have been a production home builder in northern Nevada for 15 years. We were able to discuss with Mr. Haddad today the nature of the bill, and we see it would negatively impact the single-family dwellings and single-family attached low-rise dwellings which are probably a larger market and represent a large number of builders in the State of Nevada. To help clarify something for Assemblywoman Kirkpatrick, what this bill is trying to do is to take the reservation process and make it meet the same rigors that we have to meet when we want Real Estate Division approval for sales. In order for us to sell a

project, whether it is a high-rise or a single-family dwelling, there are a lot of requirements we need to meet according to NRS Chapter 119. This bill would now mean if we wanted to take reservations, we have to meet all the same requirements. That would mean we would have to have the project complete in order to move forward with the high-rise condominium.

We do not have an objection to that, and after talking to Mr. Haddad about it, we see the problem and we can agree with that. It definitely impacts negatively how we deal with reservations when it comes to single-family dwellings. There are two ways we deal with reservations. One is we often have everything done except one thing, we might not have our final map. It might be held up for a month. But we had been counting on it being ready and we have the sales trailer in place and are ready to start sales. We go to the Division of Real Estate, which has all of our documentation. They might be missing a few things, but they give us permission to do reservations. Our reservations are fully cancellable, so it really is just buyers signing up and saying we like this home and there is usually a time frame attached to the reservation. They can cancel at any time. It is a much simpler process.

The other way that we use reservations is during a seller's market. Sometimes the buyers are worried about losing an opportunity, so we reserve it for them for a week or two weeks, and then they return to enter into a purchase agreement. Again, it is fully cancellable. Those work very well in our industry. I do not think it has been a problem. We are nervous about this particular bill because as submitted, it may change that.

We have worked with Assemblyman Segerblom's office and Mr. Haddad today. We believe we can get together and clean this bill up so that it applies only to the high-rise and does not affect the rest of the industry. One of the concerns that Assemblyman Settelmeyer had about first right of refusal could be addressed. We would like the opportunity to work with Assemblyman Segerblom.

[Chairman Conklin left the room and Vice Chairman Atkinson assumed the chair.]

**Vice Chairman Atkinson:**

I understand that the sponsor will work with you. Are there any other questions from the Committee? I see none. Is there anyone else wishing to speak in opposition to this bill?

**Joe Lopez, Sales Manager/Broker, TD Realty Advisors, Reno, Nevada:**

I am the broker of record for a larger building company that does residential and commercial building, Tanamera Development in the Reno area, and we have talked to Assemblyman Segerblom's office. We are in agreement with what Mr. Schroeder said today and would like to work with him and make sure it does not affect our industry. I am also the vice president of the Builders Association of Northern Nevada.

**Vice Chairman Atkinson:**

Are there any questions from the Committee? I see none. Is there anyone else wishing to speak in opposition to this bill? I see none. I will close the hearing on A.B. 197.

[The meeting was adjourned at 4:37 p.m.]

RESPECTFULLY SUBMITTED:

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Patricia Blackburn  
Committee Secretary

APPROVED BY:

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Assemblyman Marcus Conklin, Chairman

DATE: \_\_\_\_\_

**EXHIBITS**

**Committee Name:** Committee on Commerce and Labor

**Date:** March 4, 2009

**Time of Meeting:** 1:34 p.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
A.B. 214	C	Ronald P. Dreher	Prepared testimony
A.B. 214	D	Ronald P. Dreher	Keeping Nevada's Parks Safe pamphlet
A.B. 214	E	Robert L. Holley	Prepared testimony
A.B. 144	F	Assemblyman Hogan	Proposed amendment
A.B. 144	G	Barry Gold	Prepared testimony
A.B. 144	H	Naomi Duerr	Prepared testimony
A.B. 144	I	Naomi Duerr	Truckee River Flood Project Economic Stimulus Analysis
A.B. 197	J	Eddie Haddad	Prepared testimony
A.B. 197	K	Eddie Haddad	PowerPoint demonstration
A.B. 197	L	Rocky Finseth	Proposed amendment