

**MINUTES OF THE
SENATE COMMITTEE ON ENERGY, INFRASTRUCTURE AND
TRANSPORTATION**

**Seventy-fifth Session
March 19, 2009**

The Senate Committee on Energy, Infrastructure and Transportation was called to order by Chair Michael A. Schneider at 8:11 a.m. on Thursday, March 19, 2009, in Room 2135 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to the Grant Sawyer State Office Building, Room 4412E, 555 East Washington Avenue, Las Vegas, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Michael A. Schneider, Chair
Senator Maggie Carlton, Vice Chair
Senator John J. Lee
Senator Randolph Townsend
Senator Barbara K. Cegavske
Senator Dennis Nolan

COMMITTEE MEMBERS ABSENT:

Senator Shirley A. Breeden (Excused)

STAFF MEMBERS PRESENT:

Matt Nichols, Committee Counsel
Scott Young, Committee Policy Analyst
Patricia Devereux, Committee Secretary

OTHERS PRESENT:

Susan Martinovich, P.E., Director, Nevada Department of Transportation
Paul J. Enos, Chief Executive Officer, Nevada Motor Transport Association
Dan Musgrove, Vice President, Government Affairs Group,
McDonald-Carano-Wilson, LLP
Paul McKenzie, Executive Secretary-Treasurer, Building & Construction Trades
Council of Northern Nevada, AFL-CIO

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Jack Jeffrey, Jack Jeffrey Consulting Services; Laborers International Union of North America Local 872 and International Union of Operating Engineers Local 12, Las Vegas

Richard Daly, Laborers International Union of North America Local 169, Northern Nevada

Carole Vilardo, Nevada Taxpayers Association

Steve Wiel, Nevada Representative, Southwest Energy Efficiency Project; Nevadans for Clean Affordable Reliable Energy

Debra Gallo, Director, Government and State Regulatory Affairs, Southwest Gas Corporation

Judy Stokey, Director, Governmental Affairs, NV Energy, Inc.

Sean Gamble, Builders Association of Western Nevada

Sheena Beaver, Builders Association of Western Nevada

Jay Parmer, American Strategies, Inc.; Builders Association of Northern Nevada

James L. Wadhams, Attorney at Law, Jones-Vargas; Southern Nevada Homebuilders Association

Devin Reiss, Real Estate Licensee, Broker-Owner, Realty 500 Reiss Corporation; President, Nevada Association of Realtors

Kyle Davis, Policy Director, Nevada Conservation League

Joe Johnson, Toiyabe Chapter, Sierra Club

Bob Rosinski, Chief Executive Officer, EV-Charge America

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

Ray Bacon, Nevada Manufacturers Association

Nick Vander Poel, Deputy Director, Office of Energy

CHAIR SCHNEIDER:

I will open the hearing on Senate Bill (S.B.) 247.

SENATE BILL 247: Grants to Senator William J. Raggio the use of a special legislative license plate designated "State Senator 1" as a lifetime endowment. (BDR S-725)

SENATOR RANDOLPH TOWNSEND (Washoe County Senatorial District No. 4):

This bill is a copy of what we did for Assembly Speaker Joseph E. Dini Jr. when he retired. This is Senator Raggio's last term as the longest-serving Senator and longest-serving Majority Leader. We want to show him the respect and offer him the dignity that he has earned by allowing him to retain the "State Senator 1" plate for the rest of his life.

CHAIR SCHNEIDER:

We will never again have legislators serving in Nevada as long as did Assemblyman Dini and Senator Raggio. Senator Townsend, we should wait to vote on this bill because Senators Cegavske and Nolan are not yet here. We will close the hearing on S.B. 247.

We will open the hearing on S.B. 206.

SENATE BILL 206: Establishes provisions governing the construction and operation of certain toll roads. (BDR 35-1091)

SENATOR JOHN J. LEE (Clark County Senatorial District No. 1):

I sat on Governor Jim Gibbons' Blue Ribbon Task Force panel. Public-private partnerships are becoming in vogue for states to look at ways to increase their coffers. Some say these are "pickpocket partnerships" if done incorrectly. A state can do business for 75 to 100 years and get a poor return on its assets. I am trying to make sure that does not happen in Nevada. We are working closely with the Nevada Department of Transportation (NDOT).

The amendments to S.B. 206 were crafted with the public's interests in mind (Exhibit C). It returns a fair market value to the State's motorists, and will be constructed through a clean, public process with the vetting out in the open. It would be subject to the supervision of NDOT. There would be a tolling commission to dictate how the collected fees, as set by NDOT, are spent.

States have set up public-private partnerships to fund an airport, a golf course, an amateur sports complex and a zoo. States are turning valuable assets into "cash cows." That is dangerous, but in the case of S.B. 206, if we stick with only privatizing roads, we could carve out a good deal for the State and its residents. Chicago privatized its parking meters, and the rates immediately rose by \$1 per hour. New York has a commission looking into leasing state assets, including the Tappan Zee Bridge and its state parks and beaches.

There will be an amendment to S.B. 206. We have had many meetings because we thought we had well-defined language, but want to be sure the Legislative Counsel agrees. Please pay more attention to the mock-up than the actual bill. We will hear testimony on this bill today then come back with a clarified amendment.

SUSAN MARTINOVICH, P.E., Director, Nevada Department of Transportation:
Thank you, Mr. Chair. Susan Martinovich, Director of the Nevada Department of Transportation. And ... before I get into the nitty gritty of the proposed amendment, just would like to thank Senator Lee for working with the Department and also with the other partners in coming together with what I think is a consensus in being able to move forward to look at bringing additional funding and revenue sources and opportunities to the Department for construction projects.

The ... as the Senator proposed in this write-up, we still have a couple concerns on it, but nothing ... fundamental in concept. It's just making sure that the language is clarified so that the Department's proposed Demonstration Project bill isn't in conflict with this and that we can move forward with our Demonstration Project, ... bill that will be coming out soon. So what I'd like to do is just hit a couple high points of this, of this proposed amendment.

... if you go down to ... 3, primarily where the, the, it really talks to the Projects. And what the intent of that bill, or what that section is, is that no existing roads on our streets and highways would be turned into toll roads. And what we're needing is that ... we had some concerns where it says, "at least the same number of lanes."

Well, there are some lanes that are currently in existence ... for our Demonstration Project that we will need to be incorporated into our Demonstration Project, such as the current HOV (high-occupancy vehicle) lanes on U.S. 95. So there are some specific areas that we need to provide some clarification, but just want to assure you that we are in agreement as the Department, as the State that we don't intend to take existing ro- ... lanes and turn them into toll lanes. There'll still be the opportunity for ... free lanes, that we should say are people utilizing and having the choice. There's just some lanes that all along the I-15 (Interstate 15) corridor, along the U.S. 95 corridor that we are incorporating with our project.

Some of the concern, as the Senator addressed, was ... some oversight. And the project that we're moving forward with is through a Pioneer program where we have a lot of checks and balances in how we will take care and implement and solicit the, solicit the contracting. However, what we're proposing is to create a commission, a tolling-revenue commission that will have members of the Transportation Board—four members of the Transportation Board— ... that would include the Governor or the Lieutenant Governor, who'd be the chair; the Attorney General; the State Controller and the at-large member for the local region of which the project is located. We are also proposing having the RTC (Regional Transportation Commission) executive director, the director of the Department of Transportation, a member from LVCVA (Las Vegas Convention and Visitors Authority) and the State Treasurer, who's not listed in here. It was one of our intents to put ... that position in there, as well as the Chairs of each of the legislative State Transportation ... Transportation Committees would be part of this board.

And this commission would be providing the oversight of where the funding would be allocated, and this would be the funding that's aside from the contract that we need to pay back to the ... to the tolling ... to the concessionaire that would be coming in and providing the additional capacity.

We also are working ... in that the funding that is in addition will be spent in the St-, in the region of which the funding was allocated and raised. ... so that our intent and hope is that when we are able to move forward with our Demonstration Project, that when it is a successful, as we hope it is, that the additional money will still maintain and be, be retained in the county of origin. So it would still be in Clark County and utilized on that, on that roadway.

Those were just some of the high points ... and the others are ... items that we just need to work through more as part of the legal language to make sure that we're covered statutorily, to make sure that there's no conflict with the ability for the Department to move forward with the Demonstration Project, but still to make sure that

this body has some input ... and ... is able to view the project. On top of this, there's also a requirement that the Director of Transportation will report to the Legislative Commission, or the Legislative Bureau twice a year to provide the status of what the project is. So, again, very open and transparent ... process in what we're doing. I'd be happy to answer any questions.

CHAIR SCHNEIDER:

Will you dedicate public land for a lane or lanes beside the existing highway?

MS. MARTINOVICH:

"Yes, Senator."

CHAIR SCHNEIDER:

What do the taxpayers get for use of that land? Do we just allocate the land, and a concessionaire pays for the cement and asphalt it lays upon it then pays the State a rental fee?

MS. MARTINOVICH:

Senator ... on the ... how it will work, and I can just relate to the Demonstration Project, is that ... there may be some new right-of-way that needs to be acquired or there's existing right of way within that corridor. The, the concessionaire, the private firm, will come in, actually design a project—just as we would—you know, we'll be working closely on the design of the Project. They will actually come in, fund the cost of construction and do the building of the project with, again, the Department of Transportation's oversight. In doing that, then they will also set up the technology to collect the tolls for collection and also for ... administration and enforcement. Then they will be ... they'll be actually providing that management.

So they'll not only be managing to collect the toll revenues, but they'll also be managing the highway and taking care of all the maintenance. They will not have ownership of the road, the road still belongs to the citizens in the State of Nevada. The Department of Transportation still has total control and ownership of that roadway. The issue is, is that over a period of time, we're going to agree to let them collect fees that are collected from the user fees

to pay them back for their initial investment that they put into to build the road. And the idea is that they get the—we, the citizens of Nevada—get a road because they're coming in, we, they get a road in 4 or 5 years and have access and ability to use that ... when if we were to pay it as a pay-as-you-go, we wouldn't have that ability for another 20, 15 to 20 years.

CHAIR SCHNEIDER:

Who will pick up all of the "soft costs," versus the "hard costs" of the land acquisition, in this arrangement? State and local governments will have paid for the environmental assessments and acquired rights-of-way. They will have a tremendous investment in the property. On the surface, this looks like if this were my joint venture, I would say my investment is worth a lot and ask about my return. I realize the private contractor deserves a return, but I also deserve a return, beyond the use of the road. This would be a true partnership. Just because a further bond is not required, it does not seem like the public is getting the best side of the deal.

MS. MARTINOVICH:

Senator, it's not a ... first ... it's not a matter of bonding a little more. It would be a matter of bonding a lot. We don't have the revenue source right now to, to fund a project of this magnitude, to move forward with it. And the, the issue is that a ... lot of background work on the existing roads—you're exactly correct—that, that through the right-of-way acquisition, and through the NEPA (National Environmental Policy Act) acquisition and through the construction of the existing road that we're utilizing today ... it, those aren't wasted and those aren't given up to somebody just to come in. The, the features that someone will be building are brand-new features. They're new capacity that we don't have and enjoy today.

And it just puts the whole system as a whole ... and the, the concessionaire will also come in and not only maintain the portions that they're building, they will maintain the existing lanes, thus saving the Department and the State funding of doing the overlays, doing the signing, doing the striping, just the general maintenance of that. So they'll be taking care of the public that way. Also, we're receiving additional capacity, which is time and money. ... to

be able to free up some of the congestion is that soft cost associated with it.

So this is, these are new features, and if we waited for all or nothing—and that's what we try to do at the Department, is we try to move forward and put anything down there to provide congestion relief—if we waited for all-or-nothing, we would always end up with nothing 'cuz we can't afford it all. So we do try to move forward with projects in phases, and that's what we've done consistently on the I-15 corridor and on the U.S. 95 corridors.

CHAIR SCHNEIDER:

Senator Lee referred to "pickpocket partnerships," a term I constantly hear from boards and legislators in every state who feel like they were duped with privately operated toll roads. The state gave away everything, and the new partner got a "cash cow." State lands are tied up for 100 years, and development happens along the new roads. The state is denied access to build more roads because it is then in competition with the vendor, who is collecting the money. Roads with developments are overburdened, and the state cannot go in to relieve it because the vendors have exclusive contracts. Does this plan address that?

MS. MARTINOVICH:

Senator, absolutely. Those are, those are issues that we've heard, I've heard in my travels across the country ... that, those very same issues. In fact one of them ... from Texas, they had the same thing where they lost the ability to have the control and ownership of their, their roadways. And that's where I feel very strongly that we don't do that. We, that's why we have this tolling board, ... the Department of Transportation is still a part of it, the Department of Transportation Board of Directors still has the oversight because it's still ... a State-owned roadway. We aren't giving it to a whole separate body of people. We have also hired some ... our intent is to learn from the lessons that, that this has happened.

These are all private, public-private partnerships that have been implemented and are in place and have been utilized for a couple years. So there is some history, and we have hired some very ... good experts to help us learn the plusses and minuses, and then

we're relying on other sources. So we are going to build on the mistakes that others have made.

And, again, Senators, ... before we even enter into this is, once we get the legislation, it doesn't mean we are automatically going to do a process, ... or a project, is that are so many checks and balances to, again, evaluate if the project is right for Nevada. Because we will not move forward if there's risk for the citizens of this State.

CHAIR SCHNEIDER:

When you get in bed with the guys on Wall Street, they are sharks. They will not sign a deal until they know they are pulling hundreds of millions of dollars out in commissions and profits. We have seen their actions coming home to roost for them.

SENATOR NOLAN:

I have overseen the conception of projects like this, chaired this Committee and the National Conference of State Legislatures' (NCSL) Transportation Committee and sat on NDOT's Public-Private Partnership Panel. When the Chair referred to NCSL's opinion on this issue, he was correct. When public-private partnerships were begun 20 years ago, many were ill-conceived, and states lost considerable assets. States that have recently enacted tolling legislation have capitalized on the misfortunes of some of the other states and created firewalls, which we have built in, too.

Nevada is about \$4 billion upside down in highway funding for the next 20 years. When you consider it takes 10 to 13 years from inception until asphalt is laid, although the economic downturn has afforded a reprieve from the State's growth, we are still looking at gridlock. Even though southern Nevada is enjoying the expansion of I-15, things are flowing smoothly and roads are rarely congested, we will be at gridlock with our current growth in 5 years if we do not get more capacity. The only way to do that is either raise \$400 million in revenue to bond against for a widening project, or do this responsible project that protects citizens of the State. Especially in the economic downturn, this project makes the most sense to keep southern Nevada traffic flowing.

CHAIR SCHNEIDER:

It will take \$1,750,000,000 just to get the State up to the national average of education funding. Clark County had a public-private partnership in which a private company tried to run some schools and eventually pulled out because it could not make a profit. I am very cautious about these partnerships—they often look really good up front, but on the back end, they may not be so good.

I would like Committee Counsel Matt Nichols to get on the record about a possible conflict with the Nevada Constitution.

MATT NICHOLS (Committee Counsel):

Thank you, Mr. Chairman. Senator Lee mentioned in his testimony that we worked with him on the proposed amendment to avoid some constitutional concerns identified by the Legislative Counsel. And this bill is very general, so it's not our position that toll roads are per se unconstitutional, but Article 9, section 5 of the Nevada Constitution ([Exhibit D](#)) reads, "The proceeds from the imposition of any license or registration fee or other charge with respect to the operation of any motor vehicle on any public highway in the State and proceeds from the excise tax on gasoline, except for the cost of administration, be used exclusively for the construction, maintenance and repair of the public highways of the State." And our concern is that the imposition of a user fee for a toll lane or managed lane may conflict with these provisions and ... because we don't have a specific project in front of us, we're not going to take a position on that. We'd have to take a look at the facts behind the particular project. But it's a concern that the Legislative Counsel has, and I just wanted to put that on the record.

SENATOR CEGAVSKE:

Mr. Nichols, does that apply just to existing roads? If new roads are built with tolls, does it apply?

MR. NICHOLS:

Senator Cegavske, I don't think that that's the position we would take. There's not a distinction in the (Nevada) Constitution between existing highways and new highways. The limitation in the Constitution is for travel upon public highways and the use of

the funds for public highways. If the new road were entirely private, I think that's a separate issue.

SENATOR CEGAVSKE:

Would it have to go before a vote of the people for the Nevada Constitution to be changed?

PAUL J. ENOS (Chief Executive Officer, Nevada Motor Transport Association):
Truckers are not big fans of toll roads. They do not like to pay the toll so they will avoid the roads. A fuel tax is a preferable way to raise Highway Fund revenue. We see why states are turning to toll roads with private companies managing them. How do you craft legislation that creates the firewall Chair Schneider called for without the problems of other states? There have been a lot of disasters, and our goal is to prevent the State from becoming one.

One of our biggest fears is we would take an existing road paid for by Nevada's citizens through fuel taxes or bonds and turn it into a tolled facility. This is a form of double taxation. Article 9, section 5 of the Nevada Constitution implies you cannot turn an existing highway into a toll road, and we are absolutely in favor of this. We have some issues with the mock-up of the amendment, but we will work with the stakeholders on that.

We like the accountability in this version of the bill. In other jurisdictions, there is a private tolling authority that has control. We like it that we would have people on the tolling authority who are accountable to Nevada's citizens: the Governor, Lieutenant Governor, Controller, Attorney General and the Chairs of both legislative transportation committees. These elected officials have a connection to the people paying the tax.

We have also been working on the cost-benefit analysis to ensure this project makes economic sense. Since 2007, after the passage of A.B. No. 595 of the 74th Session, NDOT has been diligently doing cost-benefit analyses to make sure we are spending our highway dollars efficiently. This bill does not authorize toll roads; it sets policy parameters.

DAN MUSGROVE (Vice President, Government Affairs Group,
McDonald-Carano-Wilson, LLP):

Today I am representing the Commercial Real Estate Development Association of Southern Nevada. The bread-and-butter of our industry is industrial

warehousing, and it is important for the clients for which we build to be able to move goods and services throughout southern Nevada and beyond. We see a real potential for the region to become a hub for the movement of goods through rail, trucks or air with the new Ivanpah Valley Airport.

My association has been an early supporter of the Pioneer Project as a viable concept to bring in private money to expand our capacity. In its first version, we thought this bill would preclude the Pioneer Project, but with the new amendments, it has come a long way. My association does not build much in Nevada, although the resort industry needs a lot of warehouses. We need an increased ability to deliver those goods and services, which this bill will help accomplish.

SENATOR CEGAVSKE:

Did you say you only support parts of the bill? Has the Pioneer Project been introduced yet?

MR. MUSGROVE:

The first version of S.B. 206 concerned us a great deal because it would have precluded the Pioneer Project. The project is a managed lane from Ann Road to the Russell Road/Highway 215 intersection. From I-95, it will go through the Spaghetti Bowl to the Bruce Woodbury Beltway. Managed lanes increase capacity by giving drivers the choice between paying a toll or, if carpooling, use the lane for free. The Legislature needs to grant NDOT the ability to toll and pursue automated enforcement. Otherwise, private companies cannot build capacity on our public roads and get a return on their investments. It is called the Pioneer Project because it is the first step in bringing in private dollars to expand our capacity—which we will not have the funds to do for potentially 20 years. A private company can do it within three or four years, which helps all of us.

SENATOR CEGAVSKE:

Are you in favor of the amendment? You are saying the “concept,” and I am confused.

MR. MUSGROVE:

We are very close to supporting the bill, with the Legislative Counsel Bureau’s amendment. There are just a few more things we would like to see included.

SENATOR CEGAVSKE:

What else do you want on the bill?

MR. MUSGROVE:

We want to make sure the work NDOT is going to do on I-95's existing HOV lanes does not preclude the Pioneer Project from going forward.

SENATOR CEGAVSKE:

What if we have a problem with the constitutionality of the Project?

MR. MUSGROVE:

Yes, this was a bit of a shocker to me.

SENATOR CEGAVSKE:

If this has to go to a vote of the people, it may be a few years.

MR. MUSGROVE:

Absolutely. We thought we could get legislation dealing with tolling and automated enforcement into this Session just for this project. We hoped to assuage Legislators' fears we were imposing tolls on existing roads throughout the State and doing red-light enforcement. We wanted to focus on this one stretch of road to show the State how well tolling can work. We worried this bill may preempt NDOT's other bill from taking effect. It is surprising no one else has questioned the bill's constitutionality.

CHAIR SCHNEIDER:

The developers in your association may get a 10-acre parcel to build a warehousing complex, but they do a development pro forma first. They then get a bank loan on the projected cash flow from the pro forma. If NDOT was to do a cash-flow projection on the State-owned highway, taxpayers would become the developer. We know the cash-flow numbers from lanes we build. Could we not borrow the money while the State runs the toll road? The State can do some things better than the private sector. Could we borrow against our own cash-flow projection? Is it legal to just borrow without a bond?

MR. NICHOLS:

Thank you, Mr. Chairman. I think I'd want some time to formulate a complete response to that. I would say that the different funding

mechanisms for a project are probably something NDOT looked at so they may, might actually be better suited to address that.

CHAIR SCHNEIDER:

This is a substantial bill with tremendous public-policy implications so we will not process it today.

SENATOR NOLAN:

The project NDOT has rolled out is one this Legislature has looked at for four years. We have had significant presentations on it, including in the 74th Session by the Senate Committee on Transportation and Homeland Security. Half of the present Committee is unfamiliar with the Project, so it is incumbent upon us to have all members review the past presentations. It would answer the constitutional issue and the Chair's question as to whether states can bond against projected revenue. Yes, they can, plus build their own roads. I have been convinced over the last five years of looking at how other states have benefitted from private toll roads—or put ill-conceived projects in place. This project is very critical to the growth of southern Nevada.

CHAIR SCHNEIDER:

We will try to arrange that.

PAUL MCKENZIE (Executive Secretary-Treasurer, Building & Construction Trades Council of Northern Nevada, AFL-CIO):

We signed in as neutral on this bill because we had not seen the mock-up of the amendment. My organization has enough concerns that we cannot support even the mock-up. There is room to work on the toll-road issue to come up with solutions we could support.

We have severe concerns with public-private partnerships, based on experiences with the implementation of other legislation. Every time we sit down in good faith to come up with something like this that is better for the public, in the end, the public gets hurt.

I see no protection in this bill for workers. I discussed with Ms. Martinovich how that could be built into the mock-up. A section talks about control by the rules of open and competitive bidding, but that does not address the fact that these will be public works projects. Or will there be language allowing the Labor Commissioner to interpret so prevailing wages need not be enforced? Or will we

claim it is not a prevailing-wage project or a public works project because someone else is paying for it without using public money? We are not totally averse to the toll-roads issue, but there needs to be really tight restrictions on public-private partnerships, and it needs to be determined if this is a public works project.

JACK JEFFREY (Jack Jeffrey Consulting Services; Laborers International Union of North America Local 872, Las Vegas; International Union of Operating Engineers Local 12, Las Vegas):

My concerns are the same as those of Mr. McKenzie. I do not see any guarantee that prevailing wage applies, and that is a major concern. We are not opposed to toll roads philosophically. If the prevailing-wage issue is addressed and there is more protection for workers, we can support the bill.

RICHARD DALY (Laborers International Union of North America Local 169, Northern Nevada):

I signed in reluctantly as opposed to the bill. As written, there are a lot of problems in it. At first, the bill says "toll roads," to which I am opposed. I am opposed to public-private partnerships because they never truly work well.

We have a funding-deficit problem, and there has not been the willpower to raise revenues to build public roads. Instead of raising taxes or applying a toll road, we think we can get private companies to put up the money, and we will pay them millions of dollars in profits over the road's lifetime. If we had the willpower, the State could just collect that money itself. This is a wrong-headed direction; we are losing millions of dollars that could be spent on other projects.

We have the same prevailing-wage concerns; that, coupled with the toll-road issues, will cause our union to come down squarely against this. We need to cut out the middleman, as suggested by the Chair.

SENATOR NOLAN:

What Mr. Daly has proposed is the option of increasing taxes on a population that is now seeing unprecedented unemployment rates, which will only get worse. We can increase gas taxes and start generating the revenue we need to pursue this project. Not only union employees will get taxed more, but everyone else, too.

In order to generate enough revenue for the State to do this project, we will have to raise about \$400 million in additional taxes above what we are already looking to use to fill potholes. Our alternative to adding additional capacity and laying highway before the five or ten years it would take a State project to be completed, due to all of the federal requirements, is to potentially use union labor. I do not know how paying prevailing wage works in other states, but the cost implications need to be discussed. We might say, "No prevailing wage, no public-private partnership—zip." We will not see additional capacity in five years, but must wait until we tax people enough to get the bonding capacity to do it in ten years.

MR. DALY:

It is a capitalization problem: Where do you get the revenue if there is no willpower to increase taxes? The same people who would pay higher taxes will be paying the toll. That is a tax, the same as taking the money out of pockets to pay for the project; it is nuance. If we are going to move forward with toll roads, the State needs to keep the collected tolls and make the extra profit. The State can administer toll collection and reapply it to its intended public purpose.

SENATOR NOLAN:

The project itself is not a toll highway on which all users throw money into a hopper; these are toll lanes. Drivers elect to get into specific lanes and pay the fee, while the rest of the motoring public enjoys existing highways paid for by taxes, less toll-lane users who have decided to pay to reach their destinations more quickly by avoiding congestion. These lanes are designed to increase capacity while users pay for them.

CHAIR SCHNEIDER:

A fee is a tax, and there is a user fee to use the lanes. You could call that a user tax. It is what it is; the money comes from somewhere. The Governor has discussed whether a fee is a tax, and has threatened to veto certain fees. It is all just wording.

CAROLE VILARDO (Nevada Taxpayers Association):

I want to make it clear to Senator Cegavske what the bill's amendments are trying to do. Cleanup language is needed, and I understand Committee Counsel's constitutional reservations, but that is covered in language in the bill about how the funding is allocated. I do not know, per se, if that question must go to the voters.

I have been frequently asked if this is a fee or a tax. A tax is generally imposed for a general government purpose. It is an involuntary, mandatory exaction from the general public. A fee can be a tax, but true fees are being paid by the people who receive the service or program. None of the fee money accrues to the General Fund. In that instance, the fee is a mandatory exaction; in this instance, the fee is totally optional. It is a cost recovery in which people choose to participate.

We eliminated language in statute for toll roads. Mark Twain wrote about toll roads. Toll roads then were privately operated and frequently used to raise political contributions. Because the State had never used the toll-road legislation—it stopped shortly after the end of World War I—it was a case of getting rid of an unused statute. That was fine until we encountered the current problem.

Not only do we not have enough money, there are questions about the federal Highway Trust Fund and how the distribution level of it will continue. There are constant efforts to change the allocation formula. Nevada benefits from the current formula allocation, while populous states do not. We have the federal Highway Trust Fund, for which we pay taxes, that may not exist in the future. The gas tax is the main funding source for roads. Roads are important for our economic health and viability for individuals and public services.

At this point, how high would you raise gas taxes—10, 15 or 20 cents?—if there was even the will? That is what we are looking at. In the 1970s, vehicles got nine miles to a gallon of gas. Now we are looking at proposed fuel-efficiency standards for vehicles and vehicles that do not even use gas. Yet that is our roads-funding source. What will we do to fund roads? Toll roads are an alternative.

The comments made today are all accurate. Some states have had major problems. I served on a public-private partnership committee, and a lot of hard questions were asked. I am comfortable with the process being open, but disagree that public-private partnerships do not work. Badly written contracts cause unintended consequences with which states have no experience. We are not selling the roads, which has been a problem in some states. We are, instead, maintaining the existing asset. In the hearings on the Pioneer Project, we heard a lot of other states' horror stories and discussed how to avoid those

traps. There is an Assembly bill addressing the Pioneer Project, and the NDOT Website has information on it.

The project committee discussed very specifically that this would be a Demonstration Project that was as transparent as possible, and in southern Nevada only. Thus, NDOT could make the necessary changes before allowing it statewide. The project is only about 16 miles long. With this legislation, the project will not happen in two years; if we are lucky, it will be four years. If this bill is passed, NDOT can start serious discussions with potential bidders to see how inexpensively things can be made to allow NDOT to make changes. Committee members can get input from constituents to craft additional safeguards. The point is, the money has to be there up front, but I am not sure we can do it. This amendment needs additional parameters. We cannot build roads because we do not have the gas tax.

CHAIR SCHNEIDER:

This Committee will have to grapple with points you raised. In 2010, General Motors Corporation will release an electric car that goes 40 miles per plug-in. It will have a small motor that gets 40 to 50 miles per gallon on gas, but the first 40 miles is free. Most commuters will drive 30 miles round-trip then plug in the car. Our highway revenues will quickly crash. This bill would be a major shift for the State, so this Committee must play devil's advocate and ask tough questions about how to avoid other states' problems. We must get ready for the next decade, when we will not have highway funds. These cars are going to fly off the shelf.

This Committee has passed legislation to enable rooftop solar panels that could run battery packs in garages for electric cars. These vehicles will be free to operate and have no carbon footprint. As we run out of money quickly, how do we pay for this? Do we turn all of our roads over to public-private partnerships, or does the State somehow figure out other revenue sources?

It will not be from gas; it may have to be from miles driven. We will have to look at the Portland, Oregon, plan in which people are taxed for the miles driven and when they drive. If you add to gridlock, you pay a higher tax. Senator Nolan stated we will be at gridlock in Las Vegas in five years. Even if we add other lanes, there will be gridlock shortly after that. The toll-road fee becomes almost compulsory, like a tax, because drivers will have to use the lanes to get

anywhere. We cannot build enough lanes; that is the whole point. We would have to double-deck the highways or build light-rail.

MS. VILARDO:

If you go back to the last two interim Transportation Issues studies, the issues of more fuel-efficient vehicles and toll roads were raised. At some point, there must be a mix of solutions, including taxing miles traveled. Regardless of the solution, we must have sufficient oversight to protect the State's interests and that of its citizens. This bill has more built-in oversight than any other toll-road bills.

SENATOR CEGAVSKE:

Ms. Vilardo, are you saying the bill needs some additional language to bring it within the guidelines of the Nevada Constitution? My staff is telling me this would have to go to a vote of the people to be changed, and that it is unconstitutional. Do you not agree that it is, at this point?

MS. VILARDO:

That is valid, but there is a way of redoing the bill's language. We need to do something to make sure the Pioneer Project is the Clark County project, which is the inference on the mock-up. We probably need a population figure in the bill. There are still some amendments needed, and the constitutionality status is for the Legislative Counsel to determine. Because the issue would be who gets the funding when and where, that might be able to be worked out. If so, the Nevada Constitution would not have to be changed.

SENATOR CEGAVSKE:

Someone must finagle some language to redo this. I question the fact that we are allowing a concessionaire to use existing roads paid for by taxpayers and the State.

SENATOR LEE:

This bill is not just a toll-road proposal, but a public-policy dialogue to attempt to stave off future problems. If, and when, we involve ourselves with these projects, I agree taxpayers must get continued use of asphalt for which they paid. A lot of money will be put into this Pioneer Project, and people have expressed interest in continuing it. This is a good piece of public policy we can continue to work on to set parameters, because when the time comes to build such a project, we will have already had the dialogues and vetted out problems.

CHAIR SCHNEIDER:

This bill involves new public policy and tough issues, and we have to be bold in looking at these things. It may be uncomfortable, but we have to address these issues in the next couple of years.

Senator Lee, will you work with everyone to try and come up with an amendment to bring back to the Committee for further discussion and possible action?

SENATOR LEE:

Yes, I will have a clean copy of the amendment by next week.

SENATOR CARLTON:

Senator Lee, do you know how much money has already been spent on the Pioneer Project? It seems that we are putting the money horse before the cart.

SENATOR LEE:

I do not know the dollar amount, but it has been worked on for four years.

MS. MARTINOVICH:

Senator Carlton, through you to the Chairman, Susan Martinovich, Director of Department of Transportation. ... as Senator Lee talked about, it's been a long discussion even to get to this point. Is that ... under the first Blue Ribbon committee that Governor Guinn proposed, public-private partnerships was something that came up as an idea of something to move forward with. When Governor Gibbons was elected, it created a transportation committee to ... roll in and talk about transportation issues. That was also one of the items that came forward, was a public-private partnership concept. So, ... he directed that we move forward with a public-private partnership. So all I'm saying is that there was a Pioneer—so the Pioneer Project that came out is that we have hired some consultants to date to at least start looking at the feasibility of it ... legal consultants, financial consultants and engineering consultants. ... their job is to take us up to, at least if we get legislation, and their, and all that—

SENATOR CARLTON:

How many dollars have been spent?

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MS MARTINOVICH:
"Five million."

SENATOR CARLTON:
Five million dollars?

MS. MARTINOVICH:
"Over the last four years, yes."

SENATOR CARLTON:
Over the last four years?

MS. MARTINOVICH:
"Yes."

SENATOR CARLTON:
I have nothing else to say.

SENATOR TOWNSEND:
We have now spent \$5 million, 4 years, 2 study groups and a number of bills on an area in southern Nevada from Ann Road to Russell Road on U.S. 95 to I-15. Is that correct?

MS. MARTINOVICH:
"Yes, Senator."

SENATOR TOWNSEND:
Most of us understand there is a constitutional prohibition against toll roads. Our Committee Counsel is now telling us that is still the case. Why are we spending money on something we do not know will be accepted by the public?

MS. MARTINOVICH:
Senator Townsend, first, a couple things is, is so that the headlines are clarified, ... this is potentially a billion-dollar project that we have identified as one of the priority needs for this State. That we went through ... in the earlier studies and said, "What does, what does this State need to take us for now and into the future for the next 15 to 20 years? What projects do we need to focus on?" This project on I-15 corridor and the U.S. 95 corridor—I-15 being the

most important corridor in this State because of the growth in the commerce and the economic viability of, of Las Vegas—is the priority. We needed to do something.

It's a billion-plus-dollar project. The money that we've spent isn't wasted, ... and assuming that we are going forward, we've been working through the environmental processes, we've been working the coordination of ... financing and working with stakeholders because we have to have all of those processes in place. We have multiple projects along that, that corridor. So the money spent hasn't been strictly for doing the Pioneer Project. It's ... the corridor that we've looked at and have put engineering into it, put analysis into it, ... getting it ready so that when we do a project, whether it's funded through public-private partnerships or it's funded the traditional way—that's 20 years out—we have all that base and background in place. And that's what we've been spending the money on.

SENATOR TOWNSEND:

That is not what you said, although maybe that is what you meant.

MS. MARTINOVICH:

"And I apologize. I tried to answer—"

SENATOR TOWNSEND:

Five million dollars spent on a toll road is, in essence, what we heard.

MS. MARTINOVICH:

No, and I apologize, and that was not—that on this project, the Demonstration Pioneer Project, that it's, but it's the corridor. ... 'cuz there's a lot of projects in the corridor, and they've all been lumped together. And so the Demonstration Pioneer Project is all the way from U.S. 95 all the way down ... through the Spaghetti Bowl down I-15 to the 215 ... Beltway. That's all been—we have spent quite a bit of money, the \$5 million, on studying that corridor, getting it ready and getting it ready for future construction. ... some of which is that if we can go forward with the Pioneer Program, that's what we're looking at doing, too.

SENATOR TOWNSEND:

Is the corollary to that based on finishing whatever NDOT is doing now?

MS. MARTINOVICH:

"Senator, we will never be finished with the I-15 corridor. There's such a—"

SENATOR TOWNSEND:

Are you not out of space, unless we start driving up to the walls of casino parking facilities? If the Nevada Constitution disallows toll roads, at what point are you finished with that until you find other means, such as mass transportation?

MS. MARTINOVICH:

Senator, that's the beauty of this project, is you're exactly right: we can't widen out to 20 lanes, and even if we did, the majority of the traffic would be in the areas to get ... on and off the ramps ... for access to the (Las Vegas) Resort Corridor. What we're proposing to do is manage the freeway, working closely with Southern Nevada RTC, ... providing the tolling facilities, providing additional capacity into the Resort Corridor.

Also, this project provides a huge benefit for transit because there'll be reliability for the transit and buses now to use a facility that they know can get from point A to point B, when today they can't. Today, Jacob Snow ... and his ... group of—that they're doing a fine job in that area—they don't utilize I-15, they don't utilize 95, there's no reliability. This is a facility that provides all of that and works in conjunction because we can't widen as many ro— lanes as we want. We have to manage—

SENATOR TOWNSEND:

The \$5 million you have spent in 4 years is on a corridor, the one we have defined, that needs to be analyzed, permitted, studied and engineered, no matter the funding source.

MS. MARTINOVICH:

"Yes, Senator, thank you. Yes, that is exactly the case."

SENATOR TOWNSEND:

The decision will be made by the Legislature and the public whether they want to use toll roads or public-private partnerships, independent from what you are already doing.

MS. MARTINOVICH:

"That is correct."

SENATOR TOWNSEND:

There is a tremendous misunderstanding and misperception, based on the testimony, that the new lane was going to be a toll lane, and that was what the whole project was about. People with multiple passengers or drivers who have energy-efficient or all-electric vehicles could use the lane for free. The rest of us would have to pay to use the lane. That is what we all heard.

MS. MARTINOVICH:

"But that is ... correct ... that is the Demonstration Project, ... where we'll be. "

SENATOR TOWNSEND:

The law says you cannot charge people to drive on State roads. What am I misunderstanding?

MS. MARTINOVICH:

Correct. And so that's where the Department has a separate bill that is moving forward to allow for us to have the ability to toll on ... user fees on additional capacity that we will be providing, ... as well as incorporating the existing HOV lane on 95 and one of the existing lanes on I-15. And that would provide us with the ability to toll and for automated enforcement. And that's a separate bill that will be coming.

SENATOR TOWNSEND:

Will that be a new lane or one on which you are now working?

MS. MARTINOVICH:

It will be a combination of both. Yes, there'll be new capacity as well as utilizing the existing HOV lane on 95. So that's an existing lane that will be ... turned into a HOT lane—a high-occupancy toll lane—as well as ... some of the lane that we're adding on I-15.

And we'll be describing that, the whole project, when we bring our bill forward and laying that out. As indicated, this bill is more of a general policy.

CHAIR SCHNEIDER:

You brought up some real problems, and I know we will have that discussion when the Assembly bill comes before us. Senator Lee, when you bring this bill back to this Committee, we will need some maps so we will know exactly what we will get for this public-private partnership. We also need maps showing the other projects, to avoid further confusion. I will close the hearing on S.B. 206.

I have a Committee introduction for Bill Draft Request (BDR) 43-1147.

BILL DRAFT REQUEST 43-1147: Revises provisions governing use of alternative fuels by fleet vehicles. (Later introduced as S.B. 332.)

This bill draft request requires the Chief of the Budget Division of the Department of Administration to adopt a policy concerning the approval of the purchase and lease of vehicles by the State.

SENATOR TOWNSEND MOVED TO INTRODUCE BDR 43-1147.

SENATOR LEE SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

* * * * *

I will open the hearing on Senate Joint Resolution (S.J.R.) 9.

SENATE JOINT RESOLUTION 9: Urges Congress to revise certain provisions of federal law relating to hybrid vehicles. (BDR R-1065)

This resolution follows up on our Committee hearings on alternative-fuel vehicle programs and Nevada Revised Statute (NRS) 486A.150. We have heard from State and local fleet managers that hybrid-electric vehicles may be some of the most-effective selections for alternative-fuel fleets. Unfortunately, federal law limits their use for meeting fleet requirements under the Energy Policy Act of 2005.

The Government Accountability Office recently found that 92 percent of federal alternative-fuel fleets run on standard gasoline. Senate Joint Resolution 9 urges Congress to enact legislation authorizing hybrid-electric vehicles to fully qualify for state compliance under the Energy Policy Act. Hopefully, the Nevada Congressional Delegation can persuade their colleagues to seriously consider this concept.

We will soon consider BDR 43-1147, which revises governing the use of alternative fuels by fleet vehicles, based on recommendations we received in earlier hearings. Hopefully, between BDR 43-1147 and S.J.R. 9, we can significantly improve our already-good alternative-fuel vehicle program.

We will hold S.J.R. 9. We will open the hearing on S.B. 242.

SENATE BILL 242: Enacts provisions relating to energy efficiency, renewable energy and building construction. (BDR 58-378)

SENATOR MICHAEL A. SCHNEIDER (Clark County Senatorial District No. 11):

Senate Bill 242 contains several important energy elements not yet heard by this Committee. Section 1 authorizes the Director of the Office of Energy to adopt minimum efficiency standards for appliances unrated under federal statutes. This provision was requested by the Southwest Energy Efficiency Project (SWEET).

You have the article, "With Flat-Screen Sales Slumping, Japan Pushes the 'Eco TV'" (Exhibit E). The market is rapidly adjusting to energy efficiency. Buildings in the United States account for 40 percent of primary energy use. According to a study by the U.S. Energy Information Administration, homes and commercial buildings use 71 percent of the United States' energy, and that is expected to be 75 percent by 2025. Most carbon emissions come from electric production, which also produces nitrogen oxides, sulfur oxides and mercury pollutants, while consuming large amounts of scarce water. With the dual threat of global warming and continuing drought in the western United States, it is obvious why buildings' energy efficiency matters.

Nevada has one of the highest per-capita energy-consumption rates in the West, as shown in this graph (Exhibit F). The other chart shows the average retail price of electricity in the West (Exhibit G); Nevada has some of the highest prices.

A consumer energy study found 86 percent of Americans would choose a home based on its energy efficiency ([Exhibit H](#)), yet 78 percent of recent home buyers say no one discussed energy efficiency with them. Sixty-two percent of people want an energy-efficient dwelling, and sixty-three percent say the increase in energy prices has caused them to rethink their consumption habits. These staggering figures are one of the reasons this bill has come forward.

Unlike California's milder climate, Nevada's desert climate requires extra energy to heat and cool buildings. We also have a large tourist population that contributes significantly to electricity use. Nevertheless, we can reduce our energy consumption while reaping economic and environmental benefits.

Section 2 of S.B. 242 provides funding for the Office of Energy. After the 73rd Legislative Session, the enactment of NRS 701.215 required the Energy Office to develop a plan to reduce energy use in Executive Branch buildings by 20 percent by 2015. This plan has not been implemented due to lack of resources. The Legislature cannot approve assignments like this without providing the funding to accomplish them.

The federal Energy Policy Act of 2005 made several changes to the State energy program, under which our Office of Energy is funded. Each state's energy-conservation plan is required to achieve a 25-percent reduction in energy use in state energy offices by 2012. Another change is that the Secretary of the U.S. Department of Energy (DOE) "shall, at least once every three years, invite the Governor of each state to review and, if necessary, revise the energy conservation plan of such state." To apply for a share of the \$3.1 billion DOE grant, as provided by the federal economic stimulus package, each state must describe how it intends to achieve that 25-percent energy reduction.

Section 2 gives a small portion of the mill tax levied on the Public Utilities Commission of Nevada (PUCN) to the Office of Energy to supplement its funding, as determined by the Interim Finance Committee. The maximum amount is 0.05 mills. Based on the Nevada utilities' \$4.6 billion operating revenue in fiscal year (FY) 2008, this would amount to \$218,432 per year, according to the PUCN fiscal note ([Exhibit I](#)). This is a cost of about 1 cent per month for the average residential customer. For FY 2008-2009, the Office of Energy would receive \$414,900 from the General Fund and \$582,000 from federal resources. The Office is set to receive another \$34,714,000 through the

stimulus package; as a result, the provisions in S.B. 242 requiring use of the mill tax may not be needed immediately.

Section 4 of the bill requires residential builders of 25 or more homes to offer renewable-energy and energy-efficiency upgrades. This is only a requirement to offer these features, not a mandate to include them. Perhaps some would say we should just leave this to the market. I quote a portion of a report on Nevada by the Geothermal Energy Association: "Most agree that it takes more than a geothermal resource to successfully develop a direct-use project. First, you need public awareness of geothermal as an energy alternative. Most agree that a lack of awareness about how to utilize the resource prevents the public from clamoring for more development." This sentiment is applicable to energy efficiency and conservation products in a home.

We recognize how powerful a stimulus energy-efficiency features can be when we see the only new homes selling today have solar systems. We need to broaden that appeal to all types of renewable-energy and energy-efficiency products by making home buyers aware of options.

Section 5 requires residential builders who finance or assist in financing homes to use lending programs that offer "green-mortgage" options. This is not a mandate; green mortgages must just be offered. By helping to heal the Nevada mortgage industry, Legislators want it to emerge stronger and better and as a force for "greening" our buildings. Energy-efficient mortgages are available in Nevada through the U.S. Department of Housing and Urban Development, Fannie Mae, Freddie Mac, the Federal Housing Administration and several banks.

Green mortgages benefit the borrower in several ways. The estimated energy savings are added to the borrower's income to allow him to qualify for a larger total mortgage amount. By increasing borrowing power, the program allows borrowers to include the costs of energy improvements in the total mortgage amount. One hundred percent of the energy improvements, typically up to fifteen percent of the home's value, may be financed and paid for over the life of the loan, preserving borrowers' cash for moving costs. The home's value is adjusted by the energy-efficiency improvements. A house that saves \$10 a month in energy increases in value by \$2,400. Studies indicate green mortgages allow an average of 6.8 percent more families to qualify for mortgages.

Section 8 requires the Real Estate Division, Department of Business and Industry, to select and make available brochures produced by utility companies to help prospective home buyers identify, evaluate and select energy-efficiency and conservation features.

Sections 11 to 13 require the Real Estate Commission, Real Estate Division, the Commissioner of the Division of Mortgage Lending, Department of Business of Industry, and the Commission of Appraisers of Real Estate, Real Estate Division, to adopt regulations for continuing education covering their respective licensees. Regulations include completing a course in energy efficiency and conservation and studying green mortgages and their financing.

I will conclude by presenting an article on energy efficiency titled "Efficiency Alone Could Cut 30 Percent of U.S. Electric Use and Avoid Need for 60 Percent of Coal-Fired Generation, New Rocky Mountain Institute Report Finds" ([Exhibit J](#)).

STEVE WIEL (Nevada Representative, Southwest Energy Efficiency Project; Nevadans for Clean Affordable Reliable Energy):

The Southwest Energy Efficiency Project requested section 1 of S.B. 242, as outlined in my handout ([Exhibit K](#)). Energy-efficiency appliance standards have been the single-most effective energy-efficiency policy in the United States for 30 years.

A study indicated that a \$2 investment by the federal government in increasing appliance efficiency resulted in a \$1,500 benefit to each household in the United States over the life of the products. The proposed standards will only apply to future purchases of regulated products.

The Association of Home Appliance Manufacturers opposes S.B. 242 because it says federal appliance standards are more effective than state standards. That is correct; the point is, you are not choosing between the two, but federal standards will come behind a backlog of current DOE procedures. There is a backlog of 22 categories of products, with 30 separate products, so it will be a long time before they will address these particular products. The State is only allowed to promulgate standards on products for which the federal government does not have standards.

We are recommending a substitution to section 1 because the four products we initially recommended to be regulated were, at the time, the most promising for energy-efficiency benefits. At the end of January, the Appliance Standards Awareness Project (ASAP) issued new model codes and assessments of those products. In this amendment, SWEEP has substituted recommended products and proposed specific language from ASAP's model codes.

The products we recommend for regulation are televisions, portable light fixtures, pool pump motors and controls, and residential spas. The amendment also specifies January 1, 2011, as the effective date when existing, inefficient products may no longer be sold. The current version specifies October 1, 2009.

Implementation of this law would not be burdensome for the Office of Energy because test procedures for the products are specified, and compliance monitoring requires manufacturers to certify performance of the products.

SENATOR CARLTON:
When was this amendment formulated?

MR. WIEL:
The amendment was submitted to Committee Policy Analyst Scott Young and Senator Schneider on January 27, 2009, after the original version had been sent to the Legislative Counsel Bureau. I did not received the ASAP model codes until January 25, 2009.

SENATOR LEE:
Are garbage disposals currently ENERGY STAR efficient? Disposals for large kitchens can have one-horsepower motors.

MR. WIEL:
I do not know.

SENATOR LEE:
Most disposals have a 0.5- or 0.75-horsepower motor.

MR. WIEL:
My comments on behalf of Nevadans for Clean Affordable Reliable Energy are outlined in a handout ([Exhibit L](#)). The association supports all of the provisions of S.B. 242.

DEBRA GALLO (Director, Government and State Regulatory Affairs, Southwest Gas Corporation):

I have provided samples of brochures and bill inserts that we produce or purchase then hand out to customers upon request ([Exhibit M](#), original is on file in the Research Library). Looking through the list of suggested items for distribution in S.B. 242, many do not affect our customers so we do not have much of that type of information.

The type of bill insert I gave you changes several times a year. They provide energy-saving tips depending on the season. The weatherization booklet is part of our Start Smart Program, produced by our Energy Services group. It deals with things that affect natural gas usage. The third item was produced by DOE, for purchase by any group. It deals with areas in S.B. 242 we do not normally cover. On our Website, customers can click on "Energy Efficiency," which takes you to DOE's Website and provides a lot more information.

JUDY STOKEY (Director, Governmental Affairs, NV Energy, Inc.):

I have given you several brochures we give customers, and we have a lot of bill inserts with the same information ([Exhibit N](#), original is on file in the Research Library). I would like to show you our Website.

CHAIR SCHNEIDER:

Can these brochures be made available to builders and Realtors?

MS. GALLO:

Yes.

CHAIR SCHNEIDER:

Are these free, and part of what you do through the PUCN?

MS. GALLO:

Currently, we just provide them to our customers and people who call our Energy Service's hotline. We will send them a packet of information and stickers. I do not know if we give them to builders or Realtors.

SENATOR TOWNSEND:

In our utilities working groups, we talked about the impact of the education system on lifestyles and developing a working knowledge of energy in homes or businesses. Are your companies helping teachers? You could write a weeklong

curriculum on the impact of energy efficiency and usage for all grade levels. A middle-school math student could bring in his power or gas bill and understand its complexities and how his family is impacted. This could make math or science classes more exciting. Do you have employees who could volunteer to help draft curricula? This bill would be more effective if consumers knew what to look for in order to change their home behavior.

MS. GALLO:

We do offer a program to schools, provide energy fairs and ENERGY STAR activities, and have age-specific educational materials.

SENATOR TOWNSEND:

The key is making education relevant to children. Some of this stuff is so generic, it is not relevant. Your employees, who understand this business, can help a teacher understand how to make it real for children. This bill says we can do certain things, but working together, we can help have an impact on the next generation. When children understand these concepts, they can convert their behavior relevant to energy into something that benefits them: saving money. You know exactly which behavioral changes limit consumption. When children bring home real-life problems, parents engage with them and think about their own behavior. You get blamed when rates go up, but this could help people understand what it takes to prevent that.

MS. STOKEY:

We do not have a formal education program, but we do present fairs and things like that. In my Junior Achievement volunteer work, I always get in as much as I can about energy. Our Website has a section dedicated to children. People can go to "Your Actual Residence" and see how much energy they use. Users can go to "My Home" and compare their energy use to that of the average home in the area. There are ways to save and improve their home's efficiency with questionnaires.

SEAN GAMBLE (Builders Association of Western Nevada):

We love the concept of S.B. 242. Sheena Beaver created Sierra Green, as outlined in our handouts, to benefit northern Nevada builders ([Exhibit O](#), and [Exhibit P](#), original is on file in the Research Library).

SHEENA BEAVER (Builders Association of Western Nevada):

As one of the authors of our residential green-building program, Sierra Green, I support the concept of S.B. 242. The Builders Association of Western Nevada is a proponent of voluntary green-building programs. This bill helps perpetuate this option for consumers while educating them about the benefits of energy efficiency.

Sierra Green is a regional, climate-specific program based on the National Association of Homebuilders' green standards. Sierra Green takes a holistic approach to home building, from site design; lot preparation; resource, water and energy efficiency; indoor environmental air quality to homeowner education.

Each Sierra Green home is required to receive third-party verification through a Home Energy Rating System rater and an independent contractor. There are four certification levels for homes and for subdivisions. Washoe County, Carson City and the Cities of Reno and Sparks have endorsed Sierra Green.

SENATOR LEE:

A lot of power is used to heat homes. Cold air comes through light switches and electrical outlets. In northern Nevada, is it required to put foam behind switches and sockets?

MS. BEAVER:

I do not know.

JAY PARMER (American Strategies, Inc.; Builders Association of Northern Nevada):

The Builders Association of Northern Nevada adopted the Sierra Green program in July 2008. We became partners with the municipal governments of Washoe County, NV Energy, Truckee Meadows Water Authority and the Western Regional Water Commission to promote green building. Somerset Builders, a master-planned development in northwest Reno, recently received City approval of a tentative site map. The map uses Sierra Green building standards in Somerset's next phase, involving hundreds of homes.

New home construction in Washoe County has ground to a virtual standstill. One factor cited is the disconnect between construction costs and home prices: what people are willing to pay and banks are willing to lend are often below

construction costs. This creates zero incentive to build. How do we achieve the goal of promoting energy efficiency in residential construction?

The home-building industry is acting in good faith by voluntarily adopting programs such as Sierra Green. Local builders and governments are discussing how best to create incentives for following Sierra Green's guidelines. Expedited project review and permit and fee abatements are among the suggestions. The home-building industry believes buyers are becoming more environmentally conscious and aware of the positive cost-benefit of buying energy-efficient homes. The resulting demand will drive rapid innovation in energy efficiency in residential construction.

Our position on this bill is neutral because we question section 4, subsection 2, lines 35-37. They state, "The Director of the Office of Energy ... shall adopt regulations establishing minimum standards of efficiency for each type of qualifying upgrade." We are concerned it may be placing the Office in a regulatory position over the home-building industry. The Office lacks the staffing and expertise to do that effectively.

JAMES L. WADHAMS (Attorney at Law, Jones-Vargas; Southern Nevada Homebuilders Association):

The Southern Nevada Homebuilders Association has developed standards of green building using ENERGY STAR and similar programs. Conceptually, we favor this bill, but there are some troublesome issues in its drafting. In section 5, we question the implied responsibility for contractors to control or deal with lending mechanisms. We can do this in a way in which contractors do not act as loan consultants. Setting an appropriate energy-efficiency standard for residential construction is a worthwhile cause.

CHAIR SCHNEIDER:

The thrust of this bill is to get participation by builders and Realtors in educating the buying public about the cost of green options.

DEVIN REISS (Real Estate Licensee, Broker-Owner, Realty 500 Reiss Corporation; President, Nevada Association of Realtors):

The Nevada Association of Realtors has some concerns with S.B. 242's continuing-education requirements for real estate brokers or broker-salespeople. Senator Schneider has agreed to work with us on these issues.

SENATOR SCHNEIDER:

We discussed that continuing education would be made available for Realtors who would be required to take a class in green energy. This will not have a big impact on Realtors who need to get up to speed on this new industry.

SENATOR NOLAN:

I need to disclose that I am a commercial real estate broker. Is there an additional requirement for licensing and certification beyond the current requirements?

CHAIR SCHNEIDER:

It should fall into the current requirements, as simply an offered class. I desire that it be required to renew a two-year license.

SENATOR NOLAN:

Mr. Reiss, would this fall within an existing requirement for licensees?

MR. REISS:

That is our concern, if the class would fall into an existing category. Would we add an "energy" category, or would it fall under the general, "additional continuing-education credit" section? If it were the latter, it would not fall under the general requirement.

SENATOR NOLAN:

As opposed to completing 28 continuing-education hours every 2 years, we could probably keep it within 24 hours.

MR. REISS:

People are allowed that leeway to decide which general-education classes to take.

SENATOR LEE:

I need to disclose that my wife is a Realtor.

CHAIR SCHNEIDER:

Real estate industry representatives, you saw the poll saying most home buyers are never offered energy-efficiency information. Realtors end up being exposed to lawsuits if buyers say, "I could have had solar panels, but my Realtor did not tell me about it."

KYLE DAVIS (Policy Director, Nevada Conservation League):

We support the energy-efficiency upgrades in this bill and Dr. Wiel's amendment. The section that provides more funding to the Office of Energy is much needed. We have asked the Office to implement regulations emanating from this Committee, including S.B. No. 437 of the 74th Session, which required energy audits upon the sale of homes. That audit remains undefined which this bill may remedy.

JOE JOHNSON (Toiyabe Chapter, Sierra Club):

We support additional funding for the Office of Energy. This is a critical issue if we are going to accomplish our energy-conservation goals.

CHAIR SCHNEIDER:

Senator Townsend and I are part of a working group on this issue. The Senator could make sure the Governor does not kill this provision, if he thinks it is a tax.

BOB ROSINSKI (Chief Executive Officer, EV-Charge America):

My company manufactures electric-vehicle charging stations, as outlined in my handout ([Exhibit Q](#)). We favor the content of the bill, but there is an inadvertent omission. Electric vehicles are not only the wave of the future, but are here today. My company has a standard-production, 2008 Toyota Prius that gets more than 100 miles to the gallon because it has a plug-in option. Major American automotive manufacturers are moving at a rapid pace to bring hybrid-electric, pure-electric or plug-in vehicles to the marketplace. Another 40-plus foreign companies are importing electric vehicles into our country.

An Electric Power Research Institute study found the average electric vehicle traveling 23 miles has saved 1 gallon of gas, which could yield a savings of 3.7 million barrels of oil per day and 600 million fewer tons of greenhouse gases annually in the United States. The cost per mile driven for an average Nevadan could drop from 13 cents a mile to about 2 cents per mile with electric vehicles.

This bill needs to incorporate electrical-vehicle charging stations. Major electric vehicle makers have adopted a worldwide, common plug standard, allowing the cars to receive fast charging through higher voltage and amperage requirements. It also eliminates the 110-volt outlet in favor of a specific charging mechanism. In sections 4, subsection 1 and section 8, subsection 1 of the bill, we would like to add electric-vehicle charging stations to the list of qualified energy-saving products recommended by builders. Information on electric-vehicle charging

stations should be added to the part requiring distribution of brochures on home-energy savings.

CHAIR SCHNEIDER:

Section 4, subsection 1 does say, "Qualifying upgrades include, without limitation," so that would be covered. However, we could include that in an amendment.

GAIL J. ANDERSON (Administrator, Real Estate Division, Department of Business and Industry):

It would be helpful to know the brochures itemized in section 7 are available at no cost to the Real Estate Division to distribute to licensees. We also need to confirm that all of the items in section 8, subsection 1, paragraphs (a) to (n), have printed material for distribution. We need to ensure that State agencies are not put in a position of promoting specific businesses or services connected to the features listed in section 8.

RAY BACON (Nevada Manufacturers Association):

There are multiple State companies that manufacture structurally engineered solar panels with a high level of efficiency. A company in the City of Reno makes a panel called Magwall that uses magnesium oxide board on the outside. The advantage over standard gypsum wallboard is that the same wall applies to both the exterior and interior, and wrapping becomes unnecessary. This reduces labor costs. Magwall has 7/16th-inch thick wallboard on the interior and exterior walls and has greater fire resistance than Sheetrock. This renders a home fireproof on the inside and outside.

CHAIR SCHNEIDER:

Someone suggested to me that we have an ombudsman whom manufacturers of green products looking to move to Nevada could contact to walk them through planning, zoning and other issues. One manufacturer ended up in Idaho, where it was easier to start a business because he got personal help in jumping through all of the local and state hoops.

MR. BACON:

There is a bill in the Assembly Committee on Taxation that deals with the tax portal and common-entry portal type of thing. That should be included in that bill when it comes to the Senate. Those types of things need to be put into one, easy package.

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NICK VANDER POEL (Deputy Director, Office of Energy):

We are neutral on this bill. It will impact the fiscal note which we initially provided to this Committee regarding the minimum standards the Office of Energy is mandated to adopt. We do not speak for the Office of the Governor.

CHAIR SCHNEIDER:

If there is no more business to come before the Senate Committee on Energy, Infrastructure and Transportation, I adjourn this meeting at 10:58 a.m.

RESPECTFULLY SUBMITTED:

Patricia Devereux,
Committee Secretary

APPROVED BY:

Senator Michael A. Schneider, Chair

DATE: _____