

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

**Seventy-Sixth Session  
May 6, 2011**

The Committee on Government Affairs was called to order by Chair Marilyn K. Kirkpatrick at 8:32 a.m. on Friday, May 6, 2011, in Room 3143 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4406 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at [www.leg.state.nv.us/76th2011/committees/](http://www.leg.state.nv.us/76th2011/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:**

Assemblywoman Marilyn K. Kirkpatrick, Chair  
Assemblywoman Irene Bustamante Adams, Vice Chair  
Assemblyman Elliot T. Anderson  
Assemblywoman Teresa Benitez-Thompson  
Assemblyman John Ellison  
Assemblywoman Lucy Flores  
Assemblyman Ed A. Goedhart  
Assemblyman Pete Livermore  
Assemblyman Harvey J. Munford  
Assemblywoman Dina Neal  
Assemblywoman Peggy Pierce  
Assemblyman Lynn D. Stewart

**COMMITTEE MEMBERS ABSENT:**

Assemblywoman Melissa Woodbury (excused)

**GUEST LEGISLATORS PRESENT:**

Senator Joseph (Joe) P. Hardy, M.D., Clark County Senatorial District No. 12  
Senator John J. Lee, Clark County Senatorial District No. 1  
Assemblyman Scott Hammond, Clark County Assembly District No. 13

**STAFF MEMBERS PRESENT:**

Susan Scholley, Committee Policy Analyst  
Cheryl Williams, Committee Secretary  
Olivia Lloyd, Committee Assistant

**OTHERS PRESENT:**

Tim Farkas, Private Citizen, Las Vegas, Nevada  
Manny Gomez, Private Citizen, Las Vegas, Nevada  
Kyle Davis, representing Nevada Conservation League and Education Fund  
Judy Stokey, representing NV Energy  
Ted Olivas, representing City of Las Vegas  
Nicole Rourke, representing Clark County School District  
Lisa Foster, representing City of Boulder City  
Craig Stevens, representing Nevada State Education Association  
Warren B. Hardy II, representing Las Vegas Ski and Snowboard Resort  
Larry Brown, Clark County Commissioner  
Kevin Stickelman, President and General Manager, Las Vegas Ski and Snowboard Resort  
Ron McMenemy, Private Citizen, Las Vegas, Nevada

**Chair Kirkpatrick:**

[Roll taken.] Please excuse Assemblywoman Woodbury. I hope she feels better. She has been ill all week, and I know she is listening on the Internet.

With that, we are going to go out of order today, because I know that the Senate Committee on Government Affairs is having a hard time keeping a quorum, so there are a couple of changes to the agenda. We will start with Senate Bill 260 (1st Reprint), and then we will do Senate Bill 92. Senate Bill 100 (1st Reprint) has been withdrawn from today's agenda, and then we will finish with Senate Bill 232 (1st Reprint).

**Senate Bill 100 (1st Reprint)**: Makes changes to provisions governing local improvement districts. (BDR 21-392)

[This bill was not heard.]

**Senate Bill 260 (1st Reprint)**: Provides an alternative procedure for the creation of certain local improvement districts. (BDR 21-126)

**Senator Joseph (Joe) P. Hardy, M.D., Clark County Senatorial District No. 12:**  
Senate Bill 260 (1st Reprint) sets forth an alternative procedure for creating a local improvement district (LID) that includes a renewable energy project or an energy efficient improvement project. The bill authorizes the governing body to adopt an ordinance creating an improvement district and ordering such a project to be acquired or approved. The governing body "may" contract with a person to construct or improve a renewable energy project or an energy efficiency project, issue bonds, or otherwise finance the cost of the project and levy assessments on assessable property.

The local government is exempt from the provisions in state law setting forth the hearing procedure on the creation of an LID if, No. 1, the governing body issues a provisional order to perform the improvement district for renewable energy project or energy efficient project, and No. 2, the governing body receives written agreement from the owners of the assessable property in the proposed LID. Finally, the bill specifies that the governing body may not include a tract in the assessable property of such an LID unless the owner or owners of the tract apply to the governing body to have the tracts included.

This bill also defines energy efficiency improvement project as a modification of real property or the facilities or the equipment on the real property that is designed to reduce the energy consumption of the real property.

The bill does not apply to the weatherization statute in Senate Bill No. 152 of the 75th Legislative Session, nor does it allow eminent domain. There is no local government financial security required, but it could be allowed. It is not affecting the definition of "renewable energy project" that was included in *Nevada Revised Statutes* (NRS) Chapter 271 of Senate Bill No. 358 of the 75th Legislative Session that limits such systems to providing their energy to a single premises on which they are located. In other words, it does not get into the new metering going somewhere else.

I would be happy to answer any questions, and if Manny Gomez or Tim Farkas is aware that we can change the rules and take things out of order, they may be in Las Vegas and they may not be.

**Chair Kirkpatrick:**

I believe they are. Welcome gentlemen.

**Tim Farkas, Private Citizen, Las Vegas, Nevada:**

Mr. Gomez and I helped prepare this bill. I think Dr. Hardy did an excellent job summarizing it, and I will leave it at that, but I would say that Mr. Gomez and I are available for questions from the Committee.

**Chair Kirkpatrick:**

Thank you.

**Manny Gomez, Private Citizen, Las Vegas, Nevada:**

I would like to thank Dr. Hardy for his work on this bill. This is the second session that Mr. Farkas and I have been working on this matter, and it looks like we are just about there. Madam Chair, we appreciate your time and attention to this matter. If you have questions for either of us, we are here.

**Chair Kirkpatrick:**

Does anyone from the Committee have any questions? I have a couple of questions, so whoever would like to answer them, may. Can you give me a scenario where this might come into play or how you envision this would work out? I am a visual kind of person.

**Tim Farkas:**

We see this as providing financing for a series of projects, probably designated all commercial or separately all residential. It would allow for properties to perform renewable energy and energy efficiency improvements and to secure the debt as a priority lien akin to a special improvement district (SID) or LID lien.

We are borrowing this model from other states. The model has been somewhat successful elsewhere. There have been some concerns and some challenges in other states that we have learned from, and we think what we have brought forth here is a bill that will work for Nevada extremely well. Mr. Gomez and I are both natives, and we are both very concerned with helping to create jobs, helping to green our communities, and helping to promote renewable energy and energy efficiency projects.

Does that answer your question?

**Chair Kirkpatrick:**

It does, but it begs another question. Last session we had Senate Bill No. 358 of the 75th Legislative Session which had exactly all these same statutes in it. The thought was to use it for a similar program to the Program for All Inclusive

Care for the Elderly (PACE) program so that property owners could finance based off of this in order to get their projects finished. Is that what I hear you telling me?

**Tim Farkas:**

This is very much a complement to that previous bill. The previous bill from last session that was part of S.B. No. 358 of the 75th Legislative Session did not quite go far enough to result in a functioning program. These are the changes to that work that was done last year, and these are very much related changes. This is essentially to make a workable program.

**Chair Kirkpatrick:**

Here is where my concerns from last session were; who is on the hook if somebody did not pay their bill as far as the bonding? As far as I know, the state is on the hook. So, what happens in those scenarios? One of the reasons that the bill from last session is written the way it is, is because at that time they were having trouble with that type of program across the nation and entities like Fannie Mae and Freddie Mac or Federal Housing Administration (FHA) loans were no longer using that information. So, if I have any local LID, I need to envision how you think this is going to happen.

Currently, in an SID everybody agrees to sign on to the area; everybody is in an assessed value. If this is similar, I need some visual of how the details of it would work once the ordinance is created.

**Tim Farkas:**

Sure. The lien would create security for the loan, so the lender would have a security provided by the improvements themselves. They could foreclose on the solar panels, for instance, or they would have an actual senior/superior lien on the property.

Imagine an industrial park with a lot of tenants where each one specifically elects to participate in the program. They could together go out and get financing in an aggregated way that would provide a better security for the lender because there are multiple recipients of the debt and multiple parties paying the debt back. Having diversification in the repayment is very attractive to lenders.

You are absolutely right that other communities asked their local governments to secure the debt, and that created delays, and it created problems. We do not foresee that happening in Nevada. We think that this can be done without the security of the state or any local government, based on the lien on the

improvements, but we do not take the right away from the local governments to secure the debt if they so chose.

**Chair Kirkpatrick:**

I do not want to take all the questions, but I have one more for you because this makes me nervous. I will just put that out there. I was not shy about it last session, and I will not be this session.

There are already companies that allow people to actually do that: to finance commercial buildings to pay back based on the energy savings. They are similar to an energy service company (ESCO) and there are private companies in Maryland that have been doing this for many years with Fortune 500 companies without having to have legislation because the companies themselves finance those.

Here local governments finance it, and that is basically what we are doing by allowing them to create the bond so that others can use it. What other states have done this?

**Senator Hardy:**

I think your question is right on target as well as it is one of the concerns we were concerned about. That is why it is permissive language—so that the local government does not have to do this, does not have to securitize it. It may, but it does not have to. So, the company, or the mix of companies, or the extended LID or the SID would be able to do these themselves. But the government entity is not obligated to securitize this in the language in the bill. Thank you, Madam Chair, and I will defer to the two gentlemen in Las Vegas.

**Chair Kirkpatrick:**

I have questions from Committee members.

**Assemblyman Ellison:**

If you go into a district, say it is a subdivision, is this going to be strictly a voluntary project that everyone has to buy into, two thirds or whatever? Can you explain how this is going to work? When I look at an improvement district or a GID or an LID, I think of roads and maintenance and that type of thing. If it is going to be a utility, how will that work? Would everyone inside the district have to be a major part of this, and does it have to be a majority of the district? Can you please explain that?

**Senator Hardy:**

This is totally, completely, voluntary on the part of the person that enters into it. There is no forcing of anyone to join or enter into that obligation. It has to be on a totally voluntary basis by the person who enters into it.

The bottom line is, there would be contiguous homes, but that does not mean that the contiguous homes would have to be forced into the SID as so defined in a renewable energy or energy efficiency project.

**Chair Kirkpatrick:**

Does anyone have any other questions?

**Assemblywoman Pierce:**

I have a question. I am confused. If the private sector is doing this, then why do we need this legislation to somehow involve government when it seems like this is an entirely private sector project?

**Senator Hardy:**

This does not take away from what has already been done, but it allows the government to create an LID. Whereas a private entity is not in a position to create an LID or an energy efficiency district, this gives them the opportunity to create a district, but not necessarily have to underwrite it in a security vein. That is how I read it, and I would defer to Mr. Farkas or Mr. Gomez to further explain.

**Tim Farkas:**

For my day job I am an energy finance consultant, and I work with those ESCO types of companies that provide the services in the private sector that the Chair mentioned. There are state laws that define those procedures and processes. State law defines what that is. It explains that the companies that make the improvements have to provide improvements that make the debt service payments.

Those are things that are codified elsewhere in the NRS. In my review of the energy finance industry, there are very few options for residential and small commercial businesses. This would be a tool, both to help build an industry and to provide a type of financing that is not available right now. Energy projects are capital heavy in the front, and they generate savings over time. Financing is a necessary thing for that type of model. There simply are not good financing options for the smaller projects.

While you are absolutely right, for the commercial industry or industrial industry for municipalities, there are companies serving the million dollar-plus size

projects, but there is very little going on in the smaller area, and this would be a tool to promote those types of projects.

**Manny Gomez:**

During the day I am a public finance civil engineer, and I have worked throughout our state as the assessment engineer for about \$2 billion worth of public financing. With traditional improvement districts we use NRS Chapter 271 to build roads and wastewater improvements all the time.

Our vision for this legislation was to simply add energy efficiency projects and renewable energy to what we can finance with that sort of tool. The thing that makes it work so well in our existing statute is that we can assign different types of improvements to different units within the same improvement district, gaining an economic scale with a soft cost.

As an example, this can be done at a jurisdictional level. We can go into an existing industrial park. The structures are there, everything is on the grid, and the jurisdiction, as an economic development incentive, could offer this sort of financing for a company or companies to come in, retrofit the buildings, add renewable energy features to those buildings, and do it all with public financing.

I agree with my colleague, Mr. Farkas. There seems to be, in my view, a vacuum for this kind of opportunity, not only with regard to financing, but with regard to offering an incentive to utilize some of the industrial and commercial properties that are vacant right now. I do not need to tell you what kind of vacancy rates we have throughout our state with these types of uses. So, our intent, our purpose here was to simply offer this opportunity as an increased incentive to help diversify our economy and put some of these vacant properties back to productive purpose, increase the tax base, and bring some diversified jobs to our state.

**Chair Kirkpatrick:**

Are there any questions?

**Assemblywoman Benitez-Thompson:**

As I look at the bill, I wonder why, when you are empowering the governing bodies and local governments to create this improvement district, there are different parts where they do not necessarily have to go through a full hearing. The vetting process would have the full hearing where amendments to ordinances and these ordinances were being considered. In a lot of places that process is taken out, and I am wondering, why?



It is on page 2, lines 32 and 33 about amending the ordinances after a single reading without hearing. It also talks about how you can proceed if an emergency existed, and I did not know what would constitute an emergency for you. Within that same section 2, on page 3, subsection 3(a) says it is not required to adopt resolutions pursuant to NRS Chapter 271, and those all deal with hearings and public hearings.

**Tim Farkas:**

These will be very small projects, and if we were to require each one to go through the full engineering process study and review individually, it would be cost prohibitive. That is a process that is expensive and time consuming that is intended for the large industrial-type SID/LID projects.

We foresee these as residential and small commercial improvements that would be somewhat similar or perhaps very similar to each other. They would involve the same types of energy conservation measures, and therefore, we would try to do them in aggregate rather than individually. That is why the abbreviated process. The emergency issue is a typical language that comes up in financing. It allows you to create efficiencies in the process that would also allow us to . . .

**Manny Gomez:**

Some years ago, we amended the statute to allow for an abbreviated procedure when everyone consented to taking the assessment. I believe that is in NRS 271.700. We have done that with traditional improvements, again with streets, storm water, et cetera for years, and all we are doing here is offering the same opportunity with renewable energy and energy efficiency projects.

I can tell you from my experience with these it does two things. First of all, it streamlines the process. Jurisdiction has a project that they really want to get going—for instance, industrial commercial, something that would bring some jobs—and everyone consents to taking the assessment, then you do not need to go through the provisional order hearing. In a traditional improvement district with other traditional improvements, the reason for that process being in there was to allow for the lodging of protests where an assessment would be forced upon a property owner. But in this case, as Senator Hardy and Mr. Farkas indicated, these improvements are all voluntary.

We are not going to force anyone to participate in energy improvements if they do not want to participate. You cannot decide that your next-door neighbor needs to do what you are doing, whether you are in a commercial or residential setting.

Therefore, we looked at what was allowed in existing statute, the abbreviated procedures, and we feel that offering an abbreviated procedures process for renewables and energy efficiency projects is simply an extension of the existing statutory authority allowed therein.

**Assemblywoman Benitez-Thompson:**

I do not see the language in the bill that would limit the scope of these projects. I know that it sounds like the intent is for some grassroots residential people coming together who want to do some stuff, but if you are talking about them being smaller, then I think I would be more comfortable seeing the language that talks about what smaller is, in terms of size or the financing of the project. If you are doing something in a residential area, is "smaller" 10 houses? Is it 30 houses?

I think the most controversial hearings that we had in Committee were actually the hearings where people came in to talk about solar panels and wind turbines, and I especially like the provisional hearings in NRS Chapter 271. I do not want to take away the only avenue that a community might have for presenting objections or complaints. Homeowners would not have to do this. It is all permissive. If you are the person living next to someone who is doing this, you might want to have some say.

**Tim Farkas:**

As far as the size issue goes, it would be difficult to put a size limit on it. Imagine a new subdivision of 3,000 homes, and the construction company or the developer decided that he wanted them all to be solar and that became an energy improvement district (EID). We would not want to limit them from doing that. If a large industrial company decided that they wanted to enter the district, that would be very beneficial to the city or county that was allowing this to occur because it would kick-start their program. Again, the city or the county that would allow this to happen is not providing any security. They are assisting or becoming a conduit to the ability to provide a superior lien on the property. That is the local government's involvement.

As to the other issue about wind turbines or solar, wind turbines are pretty strictly regulated now. You have to have a decent-size yard. If the wind turbine needs to fall over . . .

**Chair Kirkpatrick:**

Although the language was permissive, as well as allowing local governments to adopt ordinances, it is very different around the state. This would apply to the entire state. Boulder City and Las Vegas have ordinances that not every entity has.

**Tim Farkas:**

So that power would remain with the local government. This would not supersede the local government's ability to regulate how those types of projects are implemented.

**Chair Kirkpatrick:**

Okay.

**Assemblywoman Neal:**

I have been listening to the discussion, and it is like you are couching your presentation within the terms of attempting to provide additional incentives for renewable energy. But what pops into my mind is, why do you need additional incentives when there are already sufficient abatements out there that allow renewable projects within the commercial context? I am excluding the residential that you mentioned in order to actually benefit from what we provided as an arrangement to develop and flourish.

I get what you are saying about throwing a little bit of sugar on top of what we already have out there, but whenever you get into this permissive language of saying that it is voluntary that a city or county securitize a debt, I do not see strong enough revenue based on the history of what we have seen, in order to engage in this level, whether it be permissive or not. If you could deal with that, because I am a little leery about them securitizing a debt and they do not have the money for it. They are projecting, once again, some future stream that does not exist, and someone is on the hook.

I am restating what the Chair stated, but that is very real to me.

**Tim Farkas:**

The risks of repayment and security will be fully addressed by the lenders themselves before any activity or financing occurs. Lenders are not going to see this security of a superior lien as the end-all and be-all. They will require that these projects show strong cash flows from utility savings, that the property owner continues to perform his daily activities in those properties in a manner that is consistent with his past so that those savings materialize.

I can tell you that there are simply not any, or very many, good financing tools out there, and that is a huge hold up for why this industry is not doing better than it is. These energy improvements are all about financing. The reason the industrial energy efficiency industry is doing pretty well—and the City of Reno and the City of Henderson have gone through citywide energy retrofits and they have been very successful and very happy with the results—is the state codified those processes in NRS, and that is what we are asking

today. That is, to provide the same type of framework that might help create an industry here in Nevada for other types of projects that do not fit in that model, the large model. We do not see a real strong need to limit the size of these projects because, just by definition, this process will lend itself to smaller projects, we believe.

**Chair Kirkpatrick:**

Let me clarify one thing that I think you said. The state did put that language in place in 1995 so that they could do retrofits. Let us be honest about it, it is creative financing. I had the discussion last session. I had the bill last session that said that Johnny could not run the business and his wife could not be the contractor and his daughter could not be the other person.

So, within our state statute, we are very clear and very much detailed on how and when you can do that. And, honestly the state is on the hook for paying the money back, and that is the truth of it. So, if a local government goes out and chooses to do its financing and upgrade its stuff, the state is on the hook if that local entity does not pay the bill. I think this is yet a little bit different because it is an unknown person that we are securing something for. I think that is key, because how do you know within local government if you are securing a bond for someone that is going to be there?

I bet we could look around at all the SIDs that are upside down right now. I just want to be clear on the record that when the state does do that, and that was Senator Townsend's bill from 1995, and it has been successful, but it has also had some pitfalls. That is a whole different thing because it is local government to state government. We have to pay that bill regardless. For me, that is a huge difference.

I want to move on because I think, Mr. Farkas, you and I have had this discussion many times and have never agreed before, so I do not want to belabor the issue.

I do not see anywhere in the ordinance that the person who is doing the energy audit itself would have to be licensed through the state, and it would be important to me. We have a whole new system that we are trying to put in place. I do see the part in the ordinance where they are talking about the person securing the debt. Who is going to do the construction, and who is responsible for those pieces? Those are key things that local government may not think about.

I cannot imagine that is on the top of Storey County's list, until there is an incident and it is a problem, and then they come back and we have to fix it.

I could see some of the larger cities thinking that far out because we do have programs in place, at least in southern Nevada; for instance, the Green Chips program. There are four or five different programs that allow and do pilot programs with commercial industry.

I think that you do not have enough detail on what we want local government to do, and it would be unfortunate that local government got into a situation and then the state is truly on the hook, because we have to make sure that they can pay their bonds. This has been a huge topic of discussion this session. I think that the bill does not give the local government enough direction and they could tend to get into trouble if they did not have some specifics.

**Senator Hardy:**

Let me pick your brain if I might, inasmuch as your experience goes back in so many different ways and depths. The way that the bill is designed at this point, and it is obviously amendable, the local government has options to securitize or not.

Perhaps there is somewhere that has allowed these LID projects to happen through private means only without the securitization option by a local government. Should the Committee have more comfort, and I do not know if someone else has that model, but I think the Committee could consider that type of thing.

**Chair Kirkpatrick:**

I can get you the information because there are many other companies out there that have been doing that. I would be curious to see what states currently use this and what their hiccups were. Senator Hardy, I have the most respect for you, but you know the PACE program was the thing of last session that everyone had to do. Assemblywoman Smith and I met with the people from the City of Berkeley and they did not have the same transitory business here; they did not have the same transitory residents here; they had never seen some of the questions that we had asked.

If the truth be told, I had to take that piece out of Senate Bill No. 358 of the 75th Legislative Session at least three times, because there was big concern, and after not six months of being out of session the federal government stopped that. I would like to see what some other states have done.

I get what people are trying to do, and Assemblyman Kirner has a bill allowing existing buildings which is something we have not done with Leadership in Energy and Environmental Design (LEED), and that is to go in and get the property tax abatement to help those for one year because that is about when it

pays back. I guess for myself, I am happy to work with you to get some more detail and some more specifics because local government could get into trouble if we do not give them the direction, and they will be quick to blame us. They will say, "You told us we could do it." They will be back here in two years wanting help out.

**Tim Farkas:**

Madam Chair, if I could just comment a little bit further. If the local government is not securing the debt, I am unclear as to how the local government or the state would be on the hook. From my understanding, and Mr. Gomez and I have been through this many times, if the local government does not provide security for the debt, then the debt holder would have no recourse to the local government or the state, so the idea that the state is ultimately on the hook for these types of financings is something that I am not understanding in my experience in these.

**Chair Kirkpatrick:**

I am happy to sit down with you, but if that is the case, and I do not want to be argumentative, then why do you need us to allow you bond to begin with? Let us put the cards out there.

**Tim Farkas:**

We are not asking . . .

**Chair Kirkpatrick:**

Yes, you are; let me finish. We are responsible for all the bonds. Any bonds that are there, and I do not care what kind of bond it is, it affects the state credit rating if something goes wrong. We have seen that across the state, it affects it and currently some local governments are struggling just to keep their head above water, and we watch their bonds because the state could be the one helping make the payments to keep them out of trouble. I really do not want to have that argument with you. I would love to work with Senator Hardy, we work well together, but I will write it up for you, and I will get an opinion from our Legal Division to explain to you why I believe it is a problem on the bonds.

**Tim Farkas:**

Thank you very much.

**Senator Hardy:**

I have no trouble working this out and figuring out what we need to do to keep the state off the hook and make sure we protect the bond rating and recognizing that if we can do something that will allow financing in the private

world to stay private without putting a risk to local government and the state. I think we can do that kind of thing.

**Chair Kirkpatrick:**

Thank you. We have a couple of questions from the Committee, and then we are going to move on.

**Assemblywoman Pierce:**

Even with the local government not being on the hook, which is a big concern of mine, the other thing is that when you are going out and talking to individual homeowners about this, the fact that we somehow changed NRS to make this possible and there is an improvement district gives the impression that we are endorsing this particular technology, this particular solar panel made by this particular company. People are going to get the impression that we looked at an array and that we picked this solar panel out, and we think this is the best and that is not at all true. I would be worried about us giving that impression. This is a blast from the past, but there was time when guys walked up and down the street with their bags and sold homeowners aluminum siding. That is how they did it, and they sold a lot of aluminum siding. I do not know, but that seems a better model to me.

**Manny Gomez:**

I am just an engineer and this all started in my office. I would like to give you the idea where this all started. Essentially what we were looking to do was to provide an avenue to finance renewable energy and energy efficiency projects, non-product specific, as a matter of fact, not even technology specific, be it biomass, and I know in northern Nevada you have a lot of geothermal opportunities.

I went to school at the University of Nevada, Reno (UNR). Down here in the south, obviously we have the sun. This all started with the idea that we could treat those kinds of property improvements the same way we treat our traditional infrastructure: streets, water systems, and sewer systems. We finance that kind of infrastructure in this state all the time. We do it sometimes for developers or new development with NRS 271.700, using the abbreviated procedures.

The counties and the cities sometimes do it using the provisional order hearings. So, I want to be clear that we never picked a specific product and we never even picked a specific technology. All we were doing was trying to allow for another type of improvement to be financed using municipal bonds. That is where it all started.

**Chair Kirkpatrick:**

Okay, we appreciate that and thinking outside the box. Does anyone else have any questions? Senator Hardy, is there anyone else who you would like to come forward and testify?

**Senator Hardy:**

Only those people who would be supportive.

**Chair Kirkpatrick:**

Is there anyone in northern Nevada who would like to testify in support of S.B. 260 (R1)?

**Kyle Davis, representing Nevada Conservation League and Education Fund:**

We are in support of S.B. 260 (R1). I know a lot of questions have come up and a lot of good discussion has happened, and I certainly look forward to working with you, members of the Committee, and Senator Hardy to dial this into what is absolutely essential and what we can do.

The way I read it and the reason I think that this is a good piece of legislation is that the key point is that we are allowing for that private company lien to be superior to other private sector liens on the property. That is just giving more security for the improvement, as well as giving more security to the bank that might be financing this, so that it makes that financing more possible.

Certainly, I share your concern in terms of being able to put the local governments on the hook, and this is not our goal or the reason that we will be supporting this bill. We are not looking to do that. We just want to be able to give another option to make that private financing more attractive and more viable to make these projects happen. That is the key point of the bill, and if there is a way that we can dial that in to where that is the specific thing we are trying to do, I think that would help things a lot.

**Chair Kirkpatrick:**

Are there any questions? [There were none.] Anyone else who would like to testify in support? [There was no one.] Anyone who would like to testify in opposition? [There was no one.] Is there anyone who is neutral?

**Judy Stokey, representing NV Energy:**

As Mr. Davis said, this bill is specifically on financing these projects. That is the customers', local governments' and the state's issue on how this is handled. We did have some concerns with the original bill, and Senator Hardy did work with us to address those concerns. I just wanted to put on the record that this



bill does not change the net metering laws, nor does it change the definition of a utility. So, the municipality will not be a utility.

**Chair Kirkpatrick:**

Thank you. Are there any questions? I just have one question. If you put a solar facility on top of your commercial building, you cannot get any energy credit unless you have received one of our programs in the state, correct?

**Judy Stokey:**

If there is a rebate taken from our solar generations program, the credits go to the utility.

**Chair Kirkpatrick:**

Correct, so they would not see a savings on putting solar on a commercial building on their energy bills unless they received those programs and they are connected.

**Judy Stokey:**

They would see a benefit in their power bill going down because during the day they would be using the energy off of the solar panel system.

**Chair Kirkpatrick:**

But, otherwise they would have to go through . . . And that is something that is not addressed in this bill, the double-dipping. I just want to put that out there, because ratepayers are paying for it.

Is there anyone else who is neutral on this bill? [There was no one.] Senator Hardy, do you have any final words? We will close the hearing on S.B. 260 (R1) and open the hearing on Senate Bill 92.

**Senate Bill 92: Authorizes redevelopment agencies to expend money to improve schools. (BDR 22-579)**

**Senator Joseph (Joe) P. Hardy, M.D., Clark County Senatorial District No. 12:**

The genesis of S.B. 92 is the reality that we take the money in a redevelopment district from being potentially used in education. Inasmuch as I live in Boulder City I looked at the bill and I thought, why do we not have the option to put some money back in education.

We work on buildings and we make them look good and the buildings' taxes go up and so we get more money in, and that is the whole concept of the redevelopment issue. We get more money in education indirectly and eventually, but sometimes we have to look at the school as a building as well as

that happens to be involved with education, and if I can do something that would add desks, books, prometheus boards, white boards, smart boards, or things that would make the school educational experience more valuable for the student, that is what the bill is designed to do.

It is not a new bill, but it has been worked on in the last session, and had issues at the very end . . .

**Chair Kirkpatrick:**

Senator Hardy, I would be happy to tell you that I admitted it to the entire Committee when I presented my own bill that we lost it by minutes.

**Senator Hardy:**

Literally.

**Chair Kirkpatrick:**

They know the whole story, and they feel sorry for us.

**Senator Hardy:**

I will not bore you with the repeat of the story. Suffice it to say that your Chair and I are vested in this bill. Not that that puts any pressure on anyone. So, the first part of the bill, if you wanted to amend everything else out, probably belongs to the Chair, and then the genesis of the bill from my statement that was as we call it a "simple bill" back in the day is on page 3 of your mock-up ([Exhibit C](#)). Under section 4, subsection 2(d) and subsection 3 talk about the money being able to be used, and the key word is on line 12: "may" be expended. And it goes down to the redevelopment agency for the improvement of the schools in the community. It then further clarifies that it "may not" be used for any regular expenses of the school, meaning salaries, benefits, and ongoing things that are not of a temporary nature.

We then have a very friendly amendment from the City of Las Vegas on page 4 and page 5, and I would be happy to answer any questions. I would like to have the City of Las Vegas sit next me if they would like to.

**Ted Olivas, representing City of Las Vegas:**

I wanted to thank Senator Hardy for working with me on this bill, and also Ms. Scholley for helping me put this together. We are, of course, in support of this bill and certainly supportive of the use of redevelopment agency (RDA) funds to improve schools.

If I could direct your attention to page 4 ([Exhibit C](#)), section 6, there is a provision in the law, it is *Nevada Revised Statutes* (NRS) 279.685, that just

applies to the City of Las Vegas. It was added in 1993. What that provision says is that when it first started, 15 percent of the revenues from our redevelopment agency could be used for affordable housing. It was then tiered up to 18 percent to be used for affordable housing. So, what we are asking here is that we have a third time period, which is starting on line 27, and that is that we continue to set aside 18 percent of our revenues, but that we be allowed to use that for affordable housing and for educational purposes.

This wording that you see here in that section was taken from Assembly Bill 468 as it is referenced here. This gives us the flexibility to do what was intended in Senator Hardy's bill, and that is to divert some of those funds for educational purposes, which we are clearly supportive of.

Subsection 4 on page 5 talks about how we can use that money so it would be helpful to us for educational purposes. With that, I would be happy to answer any questions.

**Chair Kirkpatrick:**

Are there any questions?

**Assemblywoman Neal:**

I am on the amendment and I know this is your language and I am familiar with it. The low-income households, I know we were trying to make sure that was not going to be low-income affordable or market-rate housing so we could try to change the dynamic of those communities and allow a different kind of housing. So, we did not have a poverty cap or increase the poverty of that community by having that 50 percent and below pop.

**Ted Olivas:**

There is a definition for that in statute, so yes, you are correct.

**Assemblywoman Neal:**

So, low income is going to be deleted?

**Ted Olivas:**

No, that remains the same. With the affordable housing component, we still believe we have the responsibility per this law to do that. This just says that a piece of the money that has been set aside for that can also be used for educational purposes.

**Assemblywoman Neal:**

I am not concerned about the educational component. My understanding was that we were pretty much at our cap in the redevelopment area with

low-income housing. There was not really a need to keep increasing that, and there was a need to go beyond that to a different kind of housing so that population can go in a different area, and have a different kind of a house, not a three-story apartment building where you pay a cap rent. Do you see what I am saying?

**Chair Kirkpatrick:**

I might be able to clear some of this up. Assemblywoman Neal, I can get the definition to you. It is not low income, it is not traditional anymore as it was when this was first implemented. The dollar values have been raised over time, so I believe that low income falls under \$78,000 for a family of four. I mentioned I have that information, and I will get it for you. I think arbitrarily the federal government has changed the definition of low income so the affordable housing which we talked about earlier in this Committee actually falls within this purview. I do have that information on my desk for you.

Let me clarify that this does say that you cannot spend more than 50 percent of the 18 percent.

**Ted Olivas:**

Yes, that is true. On page 5, subsection 4, starting on line 8, it says that not more than 50 percent can be used for the low-income households and not more than 50 percent for educational purposes.

**Chair Kirkpatrick:**

One thing that I did because Ms. Buckley put this bill in place in the late 1990s, I did commit to her because it was a struggle to get her to consider the 9 percent and 9 percent would not circumvent the school district's responsibilities, and my understanding is that is not the city's intent.

**Ted Olivas:**

That is correct, Madam Chair.

**Chair Kirkpatrick:**

Senator Hardy, I promise we will not mess up your bill; it will all come off. Let me ask you this question. On page 3, section 4, subsection 3, can you clarify what would not be used on regular expenses? There is a little concern on what this means. I thought we talked last session about salaries and different things like that.

**Senator Hardy:**

The discussion that we had before and is continuing on is, the regular expenses of the schools should be considered salary, benefits, and those kinds of things

that are an ongoing expense versus the capital improvements as it were and capital improvements outside/inside or around side the school building or the immediate milieu of the student, where the student sits, and where the student learns, and/or the library, and/or the things are in the lab, and the accoutrements that go to the educational process as physical things, not animate things. Is that a comprehensive . . .

**Chair Kirkpatrick:**

That is a comprehensive discussion. Perfect. Are there any questions? [There were none.] Will all those who support Senator Hardy please come up.

**Nicole Rourke, representing Clark County School District:**

We come in strong support of this bill, and we thank the Senator and the Chair for all your hard work to bring redevelopment dollars and reinvest in schools, whether it be for facilities or grants for various projects, anything to improve schools and get funds back in the hands of kids and teachers. We truly appreciate it, and thank you so much.

**Chair Kirkpatrick:**

Thank you. Are there any questions? [There were none.]

**Lisa Foster, representing City of Boulder City:**

We are in support of this bill and appreciate Senator Hardy's trying to give some flexibility to those redevelopment dollars, especially in some of the older communities. The schools could use this extra financial boost. Thank you.

**Chair Kirkpatrick:**

Thank you.

**Craig Stevens, representing Nevada State Education Association:**

The Nevada State Education Association is in full support of S.B. 92. We do want to thank you and Senator Hardy for putting this bill forward. Redevelopment affects the look of an area, but it also affects the hearts and the minds of the residents in the area. Buy-in from the local communities is one of the most important factors in improving our schools, and if we can put some of this money in increasing those hearts and minds, it is a good idea. Senate Bill 92 will not solve all the issues facings our school, but it could be a tool that we use to go in that direction. Thank you.

**Chair Kirkpatrick:**

Thank you. Are there any questions? [There were none.] Is there anyone else who would like to testify in support? [There was no one.] One thing,

Senator Hardy, you might want to point out is the reporting method, which we have never had in the past. It is in section 5 of the bill, which is a huge tool for the state to see what is going on.

Is there anyone who is in opposition of S.B. 92? [There was no one.] Is there anyone who is neutral? [There was no one.] With that, are there any last words, Senator Hardy?

**Senator Hardy:**  
Thank you.

**Chair Kirkpatrick:**  
We will close the hearing on S.B. 92, and we will open the hearing on Senate Bill 232 (1st Reprint).

I do have a few things for the Committee. Next week we will be on a very fast pace. We have scheduled all the bills to be heard by the end of next Friday. The following week is the deadline week. We will probably only have work sessions to get the bills out, so all of the bills will be heard. We will be hearing between four and five bills a day, but then we will have them all scheduled out and we should be finished by Wednesday, which gives us a full day reprieve from this Committee for last day committee passage.

As far as the Assembly Committee on Taxation, we will have Taxation next Thursday. In light of all of the stuff that you have heard about in the newspapers, there will be a couple of those bills in our Committee. So, if you freshmen feel you did not get the opportunity to learn about 99 percent of the policy in this building, you are sadly mistaken. We will then, in Taxation, be pressed on the following Tuesday to hear the remainder of the seven bills, and then we will do work session on Thursday. The reward in all of this is the Committee deadline is a week from Friday.

With that, we are still waiting for Senator Lee and we will open the hearing on Senate Bill 232 (R1) and welcome Senator Lee and Assemblyman Hammond to the Assembly Committee on Government Affairs.

**Senate Bill 232 (1st Reprint):** Removes certain tracts of local governmental and private land from the state definition of the Spring Mountains National Recreation Area. (BDR S-181)

**Senator John J. Lee, Clark County Senatorial District No. 1:**  
Thank you for the rural housing bill. We have had a great time today.

[Read from prepared text ([Exhibit D](#)).]

For information purposes, three million people can live in the bowl of Clark County when it is finally built out. What we are trying to do now is to take a step to preserve that mountain so future and current residents will have somewhere to enjoy it.

I have hiked that mountain, biked that mountain, and I know a lot about that mountain, and I could tell you that it is a very tired mountain. It has really been beat up. Our goal today is to bring that mountain back to a sense of beauty and a pristine state, environmentally secured, and make it a good experience for people of southern Nevada.

I am so happy to be sitting next to one of your wonderful Assembly people who represent that area, and former Senator Warren Hardy who has taken a big effort to make sure that we do simply wonderful for Clark County, and I appreciate both of these gentlemen being here.

**Chair Kirkpatrick:**

Thank you, can we go to Assemblyman Hammond first?

**Assemblyman Scott Hammond, Clark County Assembly District No. 13:**

I am grateful that Senator Lee has come to me and asked my support and help with this particular piece of legislation. I think it is important. As a personal note, I take my children up to the mountain every winter. Actually, they drag me up to the mountain every winter. If you have experienced some of the snow areas that they have up there, it is an ad hoc area where people congregate and go up there and sled.

As it is right now, it is a very dangerous place. You have to go across a road that is unsupervised, traffic coming both up and down the mountain. What I think about this piece of legislation is it is a fine balance between the rights of those who live on the mountain right now, and they did participate in a lot of the talks in putting this legislation together, and the consideration of the environmental impact.

Again, as Senator Lee has mentioned, the mountain is tired. This bill is going to make sure that we protect the environmental concerns of those who live on the mountain, and those people that visit the mountain. There are a lot of Las Vegas residents who enjoy going up to the mountain and using some of the recreational facilities that we have up there: hiking, biking, and all the things that make that place an enjoyment for those who live in that very heated area in the valley. I appreciate the opportunity to speak and give my full endorsement

to this bill, and I hope that the Committee considers the bill and passes it through.

**Chair Kirkpatrick:**

Thank you.

**Warren B. Hardy II, representing the Las Vegas Ski and Snowboard Resort:**

I would like to indicate we have here in support of this bill Commissioner Larry Brown, who is in Las Vegas and will want to testify briefly after my brief presentation ([Exhibit E](#)); also Tom Thomas, who is one of the owners of the Las Vegas Ski and Snowboard Resort; Kevin Stickelman, President and General Manager at the Las Vegas Ski and Snowboard Resort; and I also believe that we have a representative here from Las Vegas Metropolitan Police Department (Metro), who has worked for us for years on these challenges we face.

As Senator Lee indicated, this is a prime example of how the community can get together to solve a problem—to get together with itself—to get together with other stakeholders, and with government agencies to solve a problem.

This is a Clark County problem. There are two million residents of Clark County who have one opportunity or one venue for a snow play area, and that is Mount Charleston. Right now there is pretty much unfettered access to the mountain, and that is a problem. That is what we are trying to address here.

As Senator Lee indicated, we have had conversations with stakeholders for over 18 months to try to find an acceptable solution. If I may, Madam Chair, some of those stakeholders include: the residents of Lee Canyon, the Mount Charleston Town Advisory Board, Metropolitan Police Department, Clark County Fire Department, Mount Charleston Volunteer Fire Department, the Bureau of Land Management (BLM), the United States Forest Service, Clark County, Nevada Conservation League, and Spring Mountain Volunteer Association, just to name a few of those that have been involved in our discussions.

The problem we have already articulated is uncontrolled use of this mountain. It is creating conditions that are not only damaging the very highly sensitive environmental areas of the mountain, but it is creating a very unsafe environment for those wishing to use the mountain.

A September 2010 article in *Pediatrics*, the official journal of the American Academy of Pediatrics, estimated that 230,000 children and teens under the age of 19 were treated at emergency rooms for sledding injuries



between 1997 and 2007, which is when the study was done. The study pointed out that those that actually visited emergency rooms are just a small percentage of those that actually receive injuries. The same study also indicated that a full 50 percent of those injuries were a result of sledding into an object.

This is just based on our own observations from the Las Vegas Ski and Snowboard Resort because they generally use our telephone to call for help, as there is limited or no cell coverage at the mountain. During the last season, 2009-2010, we were aware of 35 ambulance visits to this area of Lee Canyon for serious injuries. Based on our observation, the average response time is well over an hour to transport these people to medical help. There was sadly one fatality that we were aware of in the last season. An out-of-state tourist, who was visiting with her family, unfortunately lost her life. Metro testified in the Senate that there have been numerous other deaths on the mountain in recent years. Again, I want to point out that, statistically, most injuries do not result in ambulance transportation.

We have learned through studies in this particular area that supervision is the absolute key to safety in sledding. And in the studies that were done, supervision is second only to a recommendation that helmets and proper equipment are used to prevent injury.

I found this interesting, but I do not know where they got the information. An American Academy of Orthopedic Surgeons study indicates that 71 percent of unsupervised sledding outings ended in injuries. Seventy-one percent of all unsupervised sledding accidents ended in injuries. I joked with the Assembly that in my history in life the majority of childhood accidents begin with the phrase, "Dude, check this out," and end with the phrase, "Dude, go get my mom." That is just an unofficial study, Madam Chair; I do not have anything to back that up.

I would like to point your attention to, and I believe we provided it for the Nevada Electronic Legislative Information System (NELIS), the PowerPoint presentation ([Exhibit E](#)). It has several more photographs, but I would like to draw your attention to the handout that we provided relative to this issue.

This photo was taken in the last season. I would like to point out a couple of things on page 6. You can see that the safety net that was placed up by Clark County to prevent people from going up higher into the mountain to sled down where the obstacles are has been trampled and removed. The second photo on page 7 illustrates families crossing the road. There is very limited parking up there. It is all on the other side of the road, which requires

them to cross. If you look at the photos that I provided for NELIS, there are numerous other photos that show that these people are walking across the street. Sometimes there are small children walking across the road unsupervised. You notice on page 11 there is a photo of an ambulance trying to get through the traffic, but is blocked by the traffic.

On page 14 ([Exhibit E](#)), this photo illustrates where the parking is. You can see people putting on their sledding gear and that type of thing right in the way of traffic. That certainly creates an unsafe environment, and again, the mountain is just being abused and destroyed by years of unregulated, unsupervised use. We used this mountain all the time when I was a young person.

We do have significant volunteer groups. Many of them are led by the Las Vegas Ski and Snowboard Resort and other community groups who go in every year and clean this area, but they are just not able to keep up.

There are no restrooms available there. We have some statistics that I may get wrong because I did not write it down. On President's Day weekend, my client voluntarily rented, and took out, portable restrooms. I think the number they recorded was 71 gallons of human waste per day on this particular weekend. These restrooms are not there during normal times. I will leave it to your imagination to determine what is happening when the restrooms are not available.

I want to bring your attention to a couple of the photos that we took. These pictures were taken as the snow began to melt this year. You can see the trash that is thrown around. If you look on the web page and NELIS, you will see additional photos that I provided of the trash. There is an up-close photo on page 20 of where the barrier has been trampled by people who are using the area.

All the stakeholders have always agreed that a controlled snow play area that addresses both the safety and environmental concerns is the answer, and S.B. 232 is designed to provide the parcels of land necessary to achieve this.

I want to point out what the bill does. The bill does not place the Lee Canyon Meadow into the hands of private owners or developers. What the bill does is put that parcel, and the other parcels that we are talking about, back under the control of Clark County to provide the zoning and the entitlements necessary. Nothing here in the legislation goes around or in any way supplants the complete responsibility to go through the county. The county will have complete control over how this is used.

In addition, as Senator Lee indicated, in response to the concerns of the neighbors and the community up there, we put additional restrictions in statute to provide some assurances that this land would be used as it is intended.

On page 27 and page 28 (of [Exhibit E](#)) are pictures of the Gorzoga Tubing Park near Park City, Utah. They also operate the Soda Springs snow play area at Lake Tahoe that maybe some of you may be familiar with. You can see that this is the type of environment and facility we envision at our mountain.

We want to reduce or completely eliminate the negative environmental impact in the surrounding area due to this recreational activity. We want to create a safe environment that is using a public/private partnership that will dramatically minimize and reduce the need for any type of public taxpayer dollars to provide this type of facility.

Again, our model for this vision is the Gorzoga Park in Park City, Utah and the Soda Springs Park. They are both operated by Powdr Corp and Powdr Corp is absolutely recognized as a leader in this industry. In fact, to give you an example, they have a proven record of success. They operate three locations that are similar to what we are proposing to develop here, and during the 2009-2010 snow season they recorded over 125,000 visitors, and there was only one recorded ambulance call at all three parks, and that was for an elderly visitor who was experiencing chest pains. None related to accidents. Again, Powdr Corp has an unmatched record as a corporate leader in environmental stewardship. They were the recipient of the U.S. Environmental Protection Agency Green Power Leadership Award for being one of the nation's leaders in energy efficient and carbon footprint reduction.

I think the community will testify that they have been great neighbors up there and are operating a first class facility. With that, Madam Chair, I know that Commissioner Brown, as well as the other gentlemen, would like to say a few words and then we will stand for questions.

**Chair Kirkpatrick:**

Last session, Senator Lee, you carried the bill. You worked with this Committee, at least with Mr. Mortenson's bill, which protected about 316,000 acres, and we had worked with this same group of people in order to ensure that the whole portion was protected.

As far as the family portion of it, the first question that I will be asked in my district is, "Oh sometimes we could go for free," I would much rather have it safer. It is going to be family-friendly, dollar-wise oriented.

**Warren Hardy:**

Yes, there will still be areas up there that are available to free access. The name of the place escapes me right now, but there is one nearby where the parking for this will be. There are other areas that are accessible for free, and in addition to that, we are looking at programs and will consider programs for community events and for community organizations to be able to go utilize this for free or at a reduced cost. I can tell you this: I am involved with a Boy Scout troop and that troop for years has been going to Brian Head, Utah, on an outing every year, and this year I convinced them to go here. The cost was so much less. They just really rolled out the red carpet and the leaders of that troop said they will never go back to Brian Head, not only because of the cost, but the quality of the facility.

**Chair Kirkpatrick:**

I have done the same thing with the Girl Scouts. They actually have Girl Scout Day up there and it is pretty reasonable. The one thing and I do want to ask a question because it might alleviate other questions and maybe Commissioner Brown can answer this. Being that we saved 100,000 acres last time, what is the total acreage of this? Because last time we did have a map and we were able to tell and this is numbers.

**Warren Hardy:**

Thank you, Madam Chair. Maybe I could let Commissioner Brown address that, but as memory goes there are 34 total acres that are involved in this proposal. That is the minimum that we believe are necessary to provide not only the reasonable area necessary for the type of park that we envision, as you see in the photos, but also the parking and the other infrastructure that are necessary to support that.

**Chair Kirkpatrick:**

Yes, Commissioner Brown, are all of these parcel numbers 34 acres or how much more is it?

**Warren Hardy:**

The total combined I believe is 34 acres. I know Kevin Stickelman is there also and probably can speak to that with more authority. I think the number based on my recollection is 34 acres; that is the total acreage. Not all of that is usable for a snow play area, but it is required for parking and that kind of thing.

**Chair Kirkpatrick:**

May we please go to Commissioner Brown first?

**Larry Brown, Clark County Commissioner:**

On that particular question, the total acreage the bill calls for is 34 acres. Clark County has the five-acre parcel that I am here to testify on, and again, I appreciate the opportunity this morning to be here.

For those of you who are not aware, our five acres was deeded to the county back in 1954, and if there was a vote on the mountain of where visitors most loved to go, it happens to be our five acres. It is on the upper portion of the meadows, but is the place to go, especially in the wintertime as far as sledding.

We, the county, were approached by the Nevada Highway Patrol and Metro regarding the safety issues in Lee Canyon; in particular, on the meadow's traffic problems. I think it was referenced earlier in the testimony, the difficulty traversing the natural wash between the road in the meadows and certainly the annual injuries, primarily on our five acres.

As an interim measure, we did a couple of things with the support of the Highway Patrol, the Department of Transportation, and the volunteer fire department. We were able to put dirt and a pipe over about 50 feet of the drainage area to allow the emergency responders easier access. Likewise, it gave a better pedestrian entrance to the meadows.

Secondly, and on an interim basis, we worked with Metro and identified those trees on our five acres that seemed to be the magnets for people. We went up there and did the environment work prior to, and cut down some of the more dangerous trees and basically cleared out the area.

As was referenced earlier, we also, put up a temporary fence about halfway up the hill. What makes the topography of our five acres so attractive is it is extremely steep, and that is where the people want to go for the excitement of sledding. That temporary fence lasted less than 24 hours. It was cut down because people are up there not for safety so much, as much as for adventure. There is a lot of excitement going on at the mountain.

When the idea of the safe sledding area came up, we wanted to be part of the solution. We, representing the county now, have a couple of options on our five acres. The first option, from a liability standpoint, was to put a 10-foot chain link fence around it and keep people off. This is not reasonable, and I do not think that is what the recreational area is there for.

Secondly, further up the road the county operates Camp Lee Canyon, which some of you may be familiar with. We operate that under a special use permit with the U.S. Forest Service. We have approached them to exchange our

five acres for the land under Camp Lee Canyon. Unfortunately, they are not allowed to transfer and swap lands.

An option still on the table is that if any federal legislation comes over the next few years in the way of a southern Nevada lands bill act, we would look at that as an option.

The third is what we have here today, and that is to be part of the solution to address the public safety concerns, and that is the No. 1 issue up there. This area is the only way in and out of Lee Canyon, the box canyon, but the traffic, the sledding, the drainage, and the emergency response are concerns. We are certainly in support of the legislation because it offers a managed solution. We also feel very comfortable, especially with the input from the residents on the mountain, that we have the protections in place to ensure that the intentions that are being expressed here today are carried out.

We are very comfortable that we are protecting the work that was done by Assemblyman Mortenson and your Committee, as well as the entire Legislature last session with the intent to preserve this mountain. I will close with a comment you have heard from two of the earlier speakers. "The mountain is very tired." Lee Canyon and the meadows area are fragile; they are fragile from an environmental standpoint. They are fragile from a human safety standpoint. I think what is before the Committee today is a great step forward to mitigate some of those concerns that have been expressed.

**Chair Kirkpatrick:**

We can go ahead to Mr. Stickelman, and then we will go right into questions.

**Kevin Stickelman, President and General Manager, Las Vegas Ski and Snowboard Resort:**

It has been my pleasure to work with Senator Lee, the residents, as well as some of the other stakeholders over the course of the last several months. I am new to this position as of October 2010 and took the reins on this project from those working on it prior to my arrival.

We have gone through a vetting process that has included multiple meetings with all the residents during the Senate hearings, some of which took place in a fairly condensed time period last month. I think that we have come up with a solution and a plan for this proposed bill that addresses all the concerns of the community members, the desires and the needs of the greater population of the Las Vegas area, as well as the private land holdings that we own in Lee Canyon where we are proposing to operate the snow play and tubing area. I am available for any questions. I would just reinforce everything that

Commissioner Brown, Senator Lee, and Warren Hardy have said. I do not have much to add beyond that.

**Chair Kirkpatrick:**

Are there any questions?

**Assemblywoman Pierce:**

I find it distressing and a tiny bit disrespectful to bring a bill that is entirely coordinates and not bring me a map. I simply will not make a decision. I will not even try to make a decision until I get a map.

It is also distressing to me that the Sierra Club was not part of the stakeholder group. To focus on the bill, the last part of it says that in fact some of these pieces of land could be used for residences. It says, "Not more than one home per two acres," but you could put houses up there.

**Kevin Stickelman:**

I would like to address a couple of those issues that you just brought up.

**Chair Kirkpatrick:**

Mr. Stickelman, if you could identify yourself each time someone speaks in the south that would be most helpful.

**Kevin Stickelman:**

I would like to address a couple of those concerns. Currently, the parcels of land owned by the ski area are zoned for one unit per every two acres. So, theoretically we could go in and develop that residentially under the current zoning and use restrictions on that property.

Secondly, several of the stakeholders involved are Sierra Club members. Ms. Phillips, who is unfortunately not here today, but who testified in both of the Senate hearings on this matter, is a Sierra Club member. If you look back into the record from the previous Senate Committee hearing, she gave her full and unwavering support on this.

To address the map, I do apologize for that. We have had maps at our internal meetings, and we have referred all of the interested stakeholders of the mountain to the Clark County website that shows very specifically overhead images with the parcels and the boundaries of those parcels overlaid onto satellite mapping, so we can most definitely get you a copy of that if you require it.

**Assemblywoman Pierce:**

I appreciate that, but the Sierra Club has a way of vetting these kinds of issues and the fact that they are not at the table says something to me. The other question that I have is, the only definition of the boundaries of a national recreation area is in NRS. There is nothing in federal law that we can just . . . I find that peculiar.

**Warren Hardy:**

First of all, I want to apologize to the Chair and the Committee and particularly to Assemblywoman Pierce; the oversight on the maps resides with me. I apologize for that. We do have some maps that I will provide in the near term to the Committee. [Maps were added to NELIS later that day ([Exhibit F](#)).] The discussions we have had so far revolved around other things and not so much the area.

It is my understanding that the Sierra Club was involved, and I apologize for not listing them here, but they were involved in the discussions. And I will say that we reached out as best we knew how to every possible stakeholder. I think Senator Lee has some personal knowledge of the Sierra Club's involvement. I believe that they did have significant input in this bill. In regards to the definition, the overlay district, the Spring Mountain National Recreation was created in statute in Assemblyman Mortenson's district, which is why it is in state law as opposed to federal law.

The overlay district also provides for the residential development as it is described here. Even if you are in the Spring Mountain National Recreation area overlay district, it currently provides for the residential designation that is in here. We did not want to take that away with this statute.

**Chair Kirkpatrick:**

If I could follow up, we the Legislature—and, in fact, this Committee with Assembly Bill No. 352 of the 75th Legislative Session from Assemblyman Mortenson's bill last time—did define it in statute. If I remember, there was the Boy Scout camp, the Methodist Church issue, and one of the reasons that our Committee put this in statute was because planning and zoning was changing constantly based on local government. So the state legislators felt that a policy as to what we defined as the area that could not just be changed on a whim was why we designated this area that we as the state wanted to preserve.

So, Mr. Stickelman is correct, and he could already go out. That was a huge heated discussion within this Committee last session on the Boy Scout camp, about whether or not they could develop and currently under the current



local government zones they could already go out and do this. My understanding of the reason that it specifically says in here you cannot do these things is because there were concerns from the residents, as well as, from the people that worked hard to preserve this area that unless it was stated when we gave up these tracts of lands, they could pretty much come in and get a zone change for anything.

I believe that was the reason the neighbors felt they did not want bait and switch. So, you promise us this and, speaking for the people along the Mount Charleston way, this has happened before. Where the mini golf course was going to go in, condominiums came instead. So, this was a huge requirement from the residents; they wanted to ensure that you could not change what we already had up there. One house per two acres is really broader than we have within the little area of Mount Charleston near the lodge. They do not even have those, so this is actually very rural in its designation.

I do not want to speak on behalf of your bill, but I was on the wrong side of this bill last session at no fault of anyone. But there were some ugly times, so I specifically remember what all the discussions were. The reason I do bring out that we did preserve 316,000 acres within this proximity, and a map would be helpful, is so that people could see that we wanted to protect the beauty and what the homeowners had moved into these areas for. I do not want to speak to your bill, but I believe that is the history.

**Warren Hardy:**

That is exactly correct. The bill as we originally drafted it intended to leave all of that to the local government, and it was a carry over from those that were involved in Assemblyman Mortenson's bill.

I can tell you, in conjunction with what we are talking about here, we have no intention of doing residential. But that is exactly correct, and again, on the maps, those were included in the packet that we provided to the Senate. I just failed to pull it off my computer. I totally forgot, and I apologize for that oversight and I will correct it.

**Chair Kirkpatrick:**

Senator Lee.

**Senator Lee:**

Speaking to Assemblywoman Pierce's concerns, I do not know anyone in the Legislature that has more environmental attitude than she and I. We might not always be on the same page but we concern ourselves with those issues.

The Sierra Club, the Nevada Conservation League, everyone was at the table on this bill. We received a letter of no concern from the U.S. Forest Service to make sure they were on it. They have their own environmental people too. The environmental concerns are the most important part to me. I probably will not go up there very much, but I want to see beautiful nature. I want to see that meadow revegetated and healthy again.

I personally am a master trainer and tread lightly and leave no trace. I am continually up on mountains and teaching classes and the like. I actually took a course on the Mt. Charleston blue butterfly to know what affect this would have on the blue butterfly. It is an endangered species. We are in a great place to protect the blue butterfly up there.

Also, six years ago I was able, with Senator Rhoads, to get \$1.2 million for the Nevada Fire Safe Council to see that we did things that were proper so we would not have forest fires, and that we did not have latter fuels around residences and buildings. The environmental concerns that my friend Assemblywoman Pierce has are at the forefront of my concern. I would not have gone forward with this bill had it not been arm in arm with the conservation leagues to make sure that we did it properly. Thank you.

**Chair Kirkpatrick:**

Thank you, Senator Lee. When can we expect the map? Monday?

**Warren Hardy:**

At the very latest. I will try to provide it by the close of business today.

**Chair Kirkpatrick:**

Are there any other questions?

**Assemblyman Ellison:**

We just built a little area kind of like this for skiing up in my neck of the woods. When I look at these pictures, you want to save the environment—you want to protect your children. You have such a small area, and if you look at your geographic area down there this is really a unique area by itself. If you do not do something like this, you are going to have cars parked anywhere and everywhere, and you will have people going down every little slope, every little hill, and everywhere.

This bill really cleans this up really, really well. I think you have done a great job on this. It keeps the garbage cleaned up. It protects people and keeps the traffic moving. You moved an area back for parking because, if not, the people will just be everywhere. I think this is a great idea. You have done a great job.

It is only 34 acres that you can keep everyone in, instead of having them scattered everywhere. My hat is off to you. I think you did a wonderful job on this.

**Senator Lee:**

Could I follow up with a little history on this? I totally agree. There has been some experience on my part concerning this. The Las Vegas valley for years did not have a shooting range. I always thought that the desert was where people went out and shot. I did not even know that shooting ranges existed.

All the blight and terror that we put on the environment predicated that we do something about that, too. We built a shooting range in southern Nevada to do the same kind of thing, to put all that stuff in one safe area where people can go in and enjoy themselves, and yet we can save the pristine deserts. That is what we are doing here, and I appreciate your noticing that.

**Assemblyman Ellison:**

In the little area we just built in Elko County we had to go back and move a portion of the mountain back that was Bureau of Land Management (BLM) ground, strictly for parking. There were so many people getting stuck, running off the road, getting hurt, until we built this area. The people are going to go anyway. You guys really did a great job on this bill, and I support this 100 percent.

**Chair Kirkpatrick:**

Are there any other questions?

**Assemblyman Livermore:**

I have to echo my colleague, Assemblyman Ellison from Elko County. I sat here listening to the testimony, and I wanted to first compliment Senator Lee for his work on this, and Mr. Hardy. I think this is a great opportunity especially for Clark County residents to enjoy the environment that this provides.

Carson City residents do the same thing, except they use the top of Spooner Summit on the way to Lake Tahoe. They go up to Hope Valley, which is through Douglas County. The U.S. Forest Service has done a lot up in Hope Valley to set aside snow park areas and the like. If you get some time, you should drive up there and take a look before you leave.

A couple of things that I see in Carson City, and what I would like to speak mainly about, are the things that are restricted out of here, which is not bad. I agree with what you are doing, but I do not think that you went far enough. You did not restrict snowmobile rentals out of the bill. Someone, somewhere

along the line, will come along and want to rent snowmobiles. The other things I do not see in here, although you did talk about them, are restaurants, convenience stores, mobile catering, and things like that. They will find their way there. There are a lot of people up there on the weekend who would love to go buy hot chocolate, or whatever they may be selling up there.

Hopefully, you guys will take a look at master planning this, and really concrete what your intentions are today. Ten years from now, when the parties and the individuals have changed through whatever reasons, new, fresh ideas will come from it. I think if you want to protect what you have done, I would suggest that you do something like that.

My compliments; this is a wonderful piece of legislation. I have never been there before, but I take a look at the uses here and it makes me feel good that we can provide some avenue to permanently put this aside. Thank you.

**Chair Kirkpatrick:**

Thank you, Assemblyman Livermore. Does anyone else have any questions?

**Assemblyman Stewart:**

Unlike Assemblyman Livermore, as one that has used that area for over 60 years, with three generations of Stewarts, and as one who has spent time at the bottom of that little gulley at the end of a tubing run, I applaud this. I, like my colleague Assemblywoman Pierce, am a little confused on the makeup of this. Is the 34 acres completely around the meadow, is it all in one area, or are we just using the five acres at the present time?

Secondly, I was a little concerned, Senator Lee, that you were protecting the Mt. Charleston blue butterfly and you had no mention of the vivid dancer damselfly, so I hope you are protecting them as well. Could you please answer those two questions?

**Senator Lee:**

Well, there has never been a sighting of a vivid dancer damselfly, but if we see one, we will set out a trap to catch it because it is a parasite and we want to make sure we keep that place pristine. [Laughter.]

What was the other question you asked?

**Assemblyman Stewart:**

Is just the five acres of the county going to be developed right now, or is it the whole 34 acres and is it all in one parcel? I am having a hard time visualizing it.

**Warren Hardy:**

They are separate. There is no room for parking in the five-acre parcel. So, down the road a little bit is where the other parcel will be, which will provide the parking and other snow play areas; they are separate. We currently have a shuttle service in operation, and the shuttle service will be what provides the ride between the two properties for people to be able to participate. They are separate, and again, I should have known better. I am very embarrassed about the missing map. The map will illustrate what we are talking about when I provide the map. I have one particular map that will illustrate that very well.

**Assemblyman Stewart:**

There are only the two separate properties which total the whole 34 acres. Correct?

**Warren Hardy:**

Correct.

**Assemblyman Stewart:**

So, the meadows areas will be the actual slides and the other area will be the restrooms, the parking, and the snack bar facilities. Is that correct?

**Warren Hardy:**

That is not all entirely determined yet. We have not done the studies, we have not done the planning, we have not done the mapping, but we know for certain that the parking will be down below. We have not gotten to that point yet, but combined it will be a first-class snow play area with suitable parking and safe transportation from the parking to the facility. We do not know how that is all going to play out yet, but we are anxious to bring that plan back to you and show you how it plays out.

**Assemblyman Stewart:**

Thank you, and my grandchildren thank you as well.

**Chair Kirkpatrick:**

Thank you. Does anyone else have any questions?

**Assemblywoman Bustamante Adams:**

Can you tell me if one of the stakeholders that were involved in the discussion was the Spring Mountain Nevada Conservancy? Does that ring a bell?

**Senator Lee:**

I believe the Spring Mountain Conservancy is the organization that is the shell organization for all the shell organizations because money can be funneled to

them and they have a way . . . Yes, I cannot remember her name, but I believe it is Lisa Mayo-DeRiso and that organization were involved in these discussions.

**Warren Hardy:**

Since that name is being identified with that group, Lisa was one of the ones that helped us finalize the language as it appears today.

**Senator Lee:**

For the record, Mr. Davis from the Conservation League played a very big role in getting groups and stakeholders together.

**Chair Kirkpatrick:**

Okay, perfect. Are there any other questions? At this time, I would like to call those in support and I will start with southern Nevada.

**Warren Hardy:**

I know that Mr. Tom Thomas from the Development Group is here and wanted to know if they could speak.

**Chair Kirkpatrick:**

Okay. If you would like to testify in support you can keep filling the chairs and just be sure that only one microphone is on at a time, and you can proceed at any time.

**Kevin Stickelman:**

Tom Thomas is actually not here this morning; he was planning on it and apologizes for not being available. He had an out-of-town business meeting that came up at the last minute. If there were any questions for him, I would be happy to take those.

**Chair Kirkpatrick:**

I do not think there are any questions, I just think that we are moving to those that would like to testify in support of the bill.

**Ron McMenemy, Private Citizen, Las Vegas, Nevada:**

I am a life-long resident of Las Vegas, Nevada, and a resident of Lee Canyon. I also represent the 70-plus homeowners of the Lady of the Snows subdivision, which abuts the 29 acres where the actual snow play area will be.

There has been a lot of loving discussion over the last several weeks as we have crafted the final language on the bill. I do want to point out that Senator Lee had failed to read section 2, subsection 3, but these facilities and

this land were to be used for operations related to outdoor recreational facilities, and that was very important to us.

We also want to thank Senator Lee and Mr. Hardy for all their hard work on this, especially Tom Thomas, Kevin Stickelman of the Las Vegas Ski and Snowboard Resort, Commissioner Brown, and Chris Munhall. Everyone has come together to make this a very good starting point, and I want to point out that this is a starting point; there is a lot of work that we have to do.

We do not know what the design is going to be. We did buy homes and we have raised our families and played in Lee Canyon and the Spring Mountain area for most of our lives, and we share with everyone else the respect of the mountain. We have a long way to go with regards to the final design, but this is a great piece of legislation, everyone has worked hard, and we are in support of this bill. Thank you.

**Chair Kirkpatrick:**

Does anyone have any questions? [There were none.] Thank you for participating today we appreciate that. Is there anyone else in southern Nevada who would like to testify in support? [There was no one.] With that, we will move to Mr. Davis.

**Kyle Davis, representing Nevada Conservation League and Education Fund:**

We are in support of this piece of legislation. Senator Lee reached out to our organization last summer to start the process of putting this bill together, and there has been a pretty extensive process of working with stakeholders on the mountain, as well as environment groups, to come up with something that we think is going to solve what currently is a real problem with the use of the area.

Certainly, as has been outlined, we have a valley of 2 million people with really only one option for winter recreation. Whether we do something or not, the snow play there is going to continue, and I think the goal here is to clean up some of the problems, to organize it better, to take care of the garbage, and other types of things that are currently damaging the environment in the area.

There are cases where it makes a lot of sense and we are strong advocates of trying to preserve the areas. In this case, it is an area that is already being used, and this is a way we can use that area better. We can do a better job of protecting that fragile area.

We appreciate all the outreach that has happened on this bill. We are in support and happy to work with the Committee if there are any concerns.

**Chair Kirkpatrick:**

Does anyone have any questions? [There was no one.] Is there anyone else in southern Nevada or northern Nevada who would like to testify in support? [There was no one.] Is there anyone who would like to testify in opposition? [There was no one.] Is there anyone who is neutral on this bill who would like to testify? [There was no one.]

With that, Senator Lee, I do want to point out for the Committee this bill only makes the land available. They still have to go through planning commission, county commission, and all of that. That is just part of the process. Is that correct?

[Senator Lee nodded yes.]

With that, we will close the hearing on S.B. 232 (R1). Is there any public comment? [There was none.] Next week will be a little bit hectic, so be prepared. We will be close.

Meeting adjourned [at 10:30 a.m.] until Monday at 9 a.m.

RESPECTFULLY SUBMITTED:

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Cheryl Williams  
Committee Secretary

APPROVED BY:

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Assemblywoman Marilyn K. Kirkpatrick, Chair

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



**EXHIBITS**

**Committee Name:** Committee on Government Affairs

**Date:** May 6, 2011

**Time of Meeting:** 8:32 a.m.

<b>Bill</b>	<b>Exhibit</b>	<b>Witness / Agency</b>	<b>Description</b>
	A		Agenda
	B		Attendance Roster
S.B. 92	C	Senator Hardy	Mock-up
S.B. 232 (R1)	D	Senator Lee	Prepared Testimony
S.B. 232 (R1)	E	Warren B. Hardy II	Presentation
S.B. 232 (R1)	F	Warren B. Hardy II	Maps