

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

**Seventy-Sixth Session
June 1, 2011**

The Committee on Government Affairs was called to order by Chair Marilyn K. Kirkpatrick at 10:13 a.m. on Wednesday, June 1, 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/. In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (email: publications@lcb.state.nv.us; telephone: 775-684-6835).

COMMITTEE MEMBERS PRESENT:

Assemblywoman Marilyn 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
Assemblywoman Melissa Woodbury

COMMITTEE MEMBERS ABSENT:

None

GUEST LEGISLATORS PRESENT:

Senator John J. Lee, Clark County Senatorial District No. 1

Minutes ID: 1385

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STAFF MEMBERS PRESENT:

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

OTHERS PRESENT:

James M. Wright, Chief, State Fire Marshal Division, Department of Public Safety
David Fogerson, Deputy Fire Chief, East Fork Fire and Paramedic Districts, Minden, Nevada
Rusty McAllister, representing Professional Fire Fighters of Nevada
Steve Holloway, Executive Vice President, Associated General Contractors, Las Vegas, Nevada
John Madole, representing Nevada Chapter of Associated General Contractors of America
Peter Krueger, representing Nevada Subcontractors Legislative Coalition
Patrick T. Sanderson, representing Laborers Local 872
Dave Backman, President, Nevada Chapter Associated General Contractors of America
Ted J. Olivas, representing the City of Las Vegas
Jack Mallory, representing International Union of Painters and Allied Trades, District Council 15
Nick Vassiliadis, representing Lake Tahoe Gaming Alliance
William Vassiliadis, representing Lake Tahoe Gaming Alliance
Ross Miller, Secretary of State, Office of the Secretary of State
Kyle Davis, representing Nevada Conservation League and Education Fund
Lance Rake, Private Citizen, Las Vegas, Nevada
Jean Stoess, Chair, Toiyabe Chapter, Sierra Club
Tim Delaney, Private Citizen, Incline Village, Nevada
Casey Delaney, Private Citizen, Incline Village, Nevada
Alan W. Gertler, Senior Director, Desert Research Institute, Reno, Nevada
Sudeep Chandra, Associate Professor of Limnology, University of Nevada, Reno
Roger Wittenberg, President and CEO of Boulder Bay, Crystal Bay, Nevada:
Ann Nichols, President, North Tahoe Preservation Alliance, Crystal Bay, Nevada
Patrick T. Sanderson, Private Citizen, Northern Nevada
Jan Gilbert, representing Progressive Leadership Alliance of Nevada

Bruce Grego, Councilmember, City of South Lake Tahoe
Jenny Reese, representing Nevada Association of Realtors
Stacy Dingman, Private Citizen, Stateline, Nevada
Allen Biaggi, Principal A. Biaggi and Associates, LLC
Rochelle Nason, Executive Director, League to Save Lake Tahoe,
Keep Tahoe Blue
Nancy McDermid, Vice Chairman, Douglas County Board of County
Commissioners
Lee Bonner, Commissioner, Douglas County Board of County
Commissioners
Leo M. Drozdoff, Director, State Department of Conservation and Natural
Resources

Chair Kirkpatrick:

I am going to do a little clean up business for the Committee while we wait for the rest of the Committee. This Committee is also the Assembly Committee on Taxation.

We will be having a joint hearing tomorrow with the Senate on Senate Bill 501, which is the arena bill. We will also have Committee hearings on this particular bill on Friday and Saturday, so please clear your schedules because we will be in committee to properly vet S.B. 501.

[Roll was called.] We will take the other two bills out of order, as they should be relatively faster. We will save our time for Senate Bill 271 (R1). We will reconvene if we need to get all the comments on record.

We will now open the hearing on Senate Bill 439. I am happy to postpone this bill if no one is here to present it.

Senate Bill 439: Makes various changes relating to fire protection.
(BDR 42-1203)

James M. Wright, Chief, State Fire Marshal Division, Nevada Department of Public Safety:

Thank you for the opportunity to present S.B. 439. In the interest of time I will briefly go through the bill. The purpose of the bill is to amend the membership and duties of the State Board of Fire Services through a consolidation effort to eliminate the Fire Services Standards and Training Committee.

As it stands now, the Board of Fire Services is made up of eight members and the Standards and Training Committee also has eight members. Both committees have overlapping duties, such as responsibilities to provide advice to the State Fire Marshal and to the Legislature on matters dealing with fire protection.

We have looked at the overlapping duties and feel a consolidation of effort would bring about efficiencies. The State Fire Marshal Division basically serves a board and a committee. With this consolidation we would go from serving 16 members to serving 10 members. We would achieve efficiencies and savings from supporting this one board, instead of a board and a committee.

One of the benefits of this consolidation is that it would establish a board of appeals for matters dealing with State Fire Marshal Division responsibilities and duties. As well as efficiencies, we would gain an appeals board for the State Fire Marshal Division that we did not have prior to this.

Chair Kirkpatrick:

Are there any questions from the Committee? What is the role of this new board?

David Fogerson, Deputy Fire Chief, East Fork Fire and Paramedic Districts:

The Board of Fire Services would take on the role of both the board and the committee. It would be responsible for professional certification of firefighters, similar to the POST (Peace Officers' Standards and Training) Commission for law enforcement agencies, and it would serve as a board of appeals for the State Fire Marshal Division if a contractor disputes one of its rulings. The Board would also be involved in providing local government input to the State Fire Marshal Division as well as the Legislature about the laws within our state that would make our public safer.

Chair Kirkpatrick:

Let me follow up with that. As we have more input with local government, is that going to expedite some of the inspections and some of the different things that we are supposed to be doing?

David Fogerson:

Yes. Many local governments have entered into interlocal agreements with the State Fire Marshal Division where we conduct some of those inspections within our jurisdictions on their behalf. This way we will have one common voice to protect the public, and this is very important because we are not going back and forth with different rules and regulations to the general public.

Chair Kirkpatrick:

Lastly, can we please go over section 3, subsection 3, and talk about the Board members? Lines 30 through 32 only list members from Clark County and Washoe County; what about the other counties? I thought that was where you guys were the strongest.

James Wright:

We balanced this proposed board to provide overall coverage and we would attain membership representation from other counties through other positions such as a chief officer or a training officer from the more rural areas. The notation of representation from Washoe and Clark Counties was just to have representation from those larger counties, but not be dominated by those counties. The focus is still truly on the rural areas with representation from the urban metropolitan areas.

I would like to mention that both memberships of the Board of Fire Services and the Standards and Training Committee all voted unanimously for this consolidation.

Chair Kirkpatrick:

Could you tell me why a licensed architect would be on the board? Are they just for codes?

James Wright:

The need for the licensed architect is because we want a broad membership representation out there for the industry, and of course, in dealing with codes and regulations, it is nice to have expertise for the engineering and architectural aspects.

Chair Kirkpatrick:

Are there any questions?

Assemblyman Stewart:

I am always concerned when we have an even number on a board or commission. What do we do in a tie?

James Wright:

The State Forester Firewarden on the board is a nonvoting member. He is included as a member of the board but he does not vote, so it would be nine voting and not ten.

Assemblyman Stewart:

So, there are only nine members voting?

James Wright:

That is correct, and the State Forester Firewarden sits as a nonvoting member—I am sorry, the State Forester Firewarden is the voting member who would make the difference.

Assemblyman Stewart:

Is the Governor in support of this bill?

James Wright:

We have not had any discussion with the Governor on this bill, but I would certainly lobby his support for the consolidation of boards and committees.

Chair Kirkpatrick:

Are there any questions?

Assemblywoman Neal:

I have a question on section 3, subsection 8. It is under the listing of the people who will serve on the Board. You have a lot of full-time and part-time people who will get paid. How often do you plan on having this group meet and how will this per diem allowance work? If they are already getting paid from their job, why would we give them a per diem allowance?

James Wright:

The membership of the Board of Fire Services has always received \$60 in per diem. This per diem is to cover the member's travel to attend these meetings. In the past, because of dedication and budget issues, a lot of the members chose not to take the per diem. The members have the ability to request the per diem or not. The per diem has always been there. It was the original statute that allowed the per diem rate for meeting days.

Meeting days are set at a minimum of two per year, but more can be called by the chair if needed for any duties or appeals that may come up.

Chair Kirkpatrick:

Are there any other questions?

Assemblyman Ellison:

I thought you had an existing board that you meet with now. Is that not true?

James Wright:

That is correct. There is currently a State Board of Fire Services that meets regularly, and there is also the Fire Services Standards and Training Committee. Both currently exist.

Assemblyman Ellison:

Would this be a third board on top of those two?

James Wright:

No, sir, this is to consolidate the existing board and committee.

Assemblyman Ellison:

When I read this, I was not sure how you put it together. I had a question similar to that of Assemblywoman Neal. I totally understand that per diem is for travel, but what budget does that come out of? The Fire Marshal's budget?

James Wright:

That is correct. It is funded through the budget for the State Fire Marshal.

Assemblyman Ellison:

I would strongly encourage you to talk to the Governor's Office.

James Wright:

Yes, sir.

Chair Kirkpatrick:

Are there any other questions?

Assemblyman Anderson:

I basically want to clarify that we are not offering a salary, and there was a previous per diem of \$60 a day for members of the board and committee that will be consolidated. We are putting in the standard per diem; we are not paying a salary, correct?

James Wright:

That is correct. It is just per diem; the salaries are not paid through the State. They are borne by the jurisdiction where the individuals come from. This is either a volunteer or paid jurisdiction as they are participating in these boards or committees.

Assemblyman Anderson:

Is this considered a budget bill?

James Wright:

As far as I understand, it came out of the budget side because we had proposed this as a way of looking at consolidation and efficiencies for running our operations. There will be minimal cost savings overall to do this, but more so

on the efficiencies we can gain for the Division in supporting one body instead of two.

Chair Kirkpatrick:
Any questions?

Assemblyman Livermore:

I am looking at section 5, subsection 4, which states, "Make recommendations to the State Fire Marshal and to the Legislature concerning necessary legislation in the fields of fire fighting and fire protection." Does this mean you can take a position on two-in, two-out, three-men engine companies, and heart/lung issues? Is that what this is going to be, or is this going to be more about the standards of how the fire profession acts and functions with its duties?

James Wright:

That language was put in because it existed for both current bodies. We wanted the language to be broad enough and basically looked at the board overlay. We had situations come up in the last legislative session dealing with fire safe cigarettes and novelty lighters that related to fire and life safety. The main purpose of this bill is to deal with regulations that may be needed or legislation that may be needed to deal with fire and life safety issues.

Assemblyman Livermore:

I can appreciate that because I believe the State Fire Marshal and the committee that you are talking about here is about training and regulations. Collective bargaining is a big issue with that, and those demands have been subject to collective bargaining. I hope that you do not become a local government thorn that backs collective bargaining issues. That is why I am asking.

James Wright:

I can assure you that is not the intent or purpose of this bill. It is basically about those fire and life safety issues, as well as training requirements and things of that nature, for fire service personnel.

Chair Kirkpatrick:

I have a couple of questions. It is no secret that I have always given you a hard time because I get frustrated with what we do at the state level. Who appoints these people, and why are there not any working firefighters who might be able to assist with the training portion of this bill?

This goes back to my point of why we have an architect on the Board and why we have a chief deputy. I do not want this to be yet another coffee klatch where we do not take into consideration the guys that actually fight the fires,

because I do not see any firefighters listed on the Board, nor do I see any piece where firefighters are discussed.

Everyone on the Board is an officer, a professional engineer, or an architect. I think if we are trying to train people to do the right thing we might want to have a firefighter on the Board. Second, I am not so much worried about the regulations because with the laws we put in place this session and previous sessions, those have to come before the Legislative Commission, and even temporary regulations would now be available to people. When you hear appeals, decisions, or determinations—that increases the job description. Last session we heard there was a debate on actually getting inspections done. So, how can you take on more responsibilities when we are barely keeping afloat with what we have now, and I am sure your budget has also been cut?

James Wright:

I will try to answer those questions, and I am going to ask Chief Fogerson to help me with portions of the answer. As with other boards and commissions, these members are appointed by the Governor. We have the opportunity to make recommendations to the appointment office about individuals that would be appointed to current boards and committees.

I will jump down to the appeals portion of the bill. It is not so much that we want to take on more responsibilities, it is that we have need a need for the appeals process. Currently, I am the last resort in appeals of the State Fire Code. We wanted to make an improvement by using a board like this to offer a fair representation for anyone. Most of the appeals would come from licensed individuals that the Fire Marshal has licensed within the industry. Therefore, if we were dealing with them and took an enforcement action that they did not agree with or felt was unfair, it gives them a body to present their case in front of instead of the Fire Marshal himself. This board provides another body through which a person can pursue an appeal.

I will ask Chief Fogerson to address the representation for training and actual firefighting personnel.

David Fogerson:

Regarding your question about the representation of line staff on the committee, the fire service Training Division is typically managed by a chief-officer-ranked position. We have trained captains and personnel that are actually providing the training to our field personnel at the level below us. We are overseeing the training at the management level and that is what this committee is designed to represent; it is not to talk about how the ladder should be placed, but to look at the management oversight of those training activities.

To give you an example, the best thing we have done and the reason we want this committee folded into the Board of Fire Services, is so that we can gain what is called the International Fire Service Accreditation Council (IFSAC) certification for all professional certified firefighters in Nevada. This enables our certified personnel to travel anywhere in the United States with the exception of California, Florida, and Texas. That is the level of issues this committee is supposed to be looking at, not getting into the nuts and bolts, but at a higher level to make sure that we maintain consistency with our neighbors and we maintain a professional standard similar to peace officers' standardized training.

We follow the federal National Fire Protection Association guidelines to try to make sure our training meets that level. When you get into the nuts and bolts of firefighting, now we start playing with Clark County, which has a little different need than Washoe County, Douglas County, or Elko County, and so we try to keep ourselves at a higher level.

Chair Kirkpatrick:

That is my point. Sometimes at the higher level they forget about how it has to go down, and I get how nice it is to have that accreditation piece on the resume. I will say that I am not a fan of creating more boards when this particular Committee has heard five bills on sunseting the Commission based on the Spending and Government Efficiency (SAGE) Commission's recommendations and based on the Governor's decision about creating more boards when we are trying to get a handle on the number of boards that we already have.

I do not see anything in the bill that says you cannot serve on more than one board. So what if the members already serve on other boards, which goes back to Assemblywoman Neal's point that they should not be getting per diem if they are already getting paid for the day. That is a real sore subject with me.

I do not see anywhere in the bill that talks about if members do not comply, or do not participate, or do not show up, that we can get rid of them. I also do not see anything in the bill that talks about a time frame on how long members would be appointed for. My frustration is that I am about the nuts and bolts, and the Committee's job is about the nuts and bolts. That is our policy decision and, Mr. Wright, you know that I have always been critical of making sure that we get the inspections done. So I do not understand how these particular things were not considered. I know the Senate passed this bill out, but the details are missing.

James Wright:

I appreciate your concern. We have had many discussions about this and I understand your position. I want to remind you that this proposal was an attempt that I brought forward in looking toward the future to tighten up government. We are proposing to take two bodies and make them into one body because they have some overlapping responsibilities. We can merge them together and make it more efficient going forward.

Chair Kirkpatrick:

I do not want to belabor the fact and I do not want to cut you off, but at the same time I cannot see the value that an architect or engineer brings to this particular board at this point. Why not add a layman that is actually part of the process, because some of our best discussions have been from state employees about how we can cut dollars.

I want to move on because we only have four days to do this. It is crazy that we got this particular bill, and if it was about efficiency four days before the end of session, I think you have to go back and reconsider that.

James Wright:

Okay.

Chair Kirkpatrick:

I have issues with the way the bill is currently written. If you want to go back and reconsider or explain some issues, then maybe we can have more discussion. You have not proven to me the value of an engineer or an architect or all these chiefs on the board. We have plenty of chiefs in this building, but we need some Indians. I think that has to be considered. Whether or not you are willing to have that final discussion it is up to the Committee, but I will say for myself in creating another board—and I appreciate you are trying to be efficient—I do not care so much about the accreditation as much as I care about the work getting done. I do not understand why the Senate passed this bill out without having that discussion.

James Wright:

Quickly, because your time is valuable today, we feel that we have done a great outreach through this board and committee to the ground-level firefighter by taking input from them through their representatives to this board. This board and training committee are not closed societies that no one can participate in. We aggressively invite people to come and present ideas to these groups and to move forward to make fire protection in Nevada better.

In my nearly five years here, I have seen an increase in the training delivery that we have been able to provide to those ground-level firefighters that are saving lives and protecting property in the community every day.

I understand your concern about an architect and engineer as members of the board, but we are dealing with the overall responsibilities, and this board will provide recommendations to the Fire Marshal and to the Legislature. A big part of that is dealing with codes and regulations. We also want to make sure that we provide outreach and that our stakeholders have an avenue to approach the board and provide input as we move forward and adopt or change needed regulations. We are not adding duties, but if there is something that needs to be changed, we need the stakeholder group to have an avenue to explain that to us.

Chair Kirkpatrick:

Are there any questions?

Assemblyman Livermore:

There is a question about an architect and an engineer on the board, but I see nothing in the bill about emergency medical technicians (EMTs) and their lifesaving efforts. At least 50 percent of their service time is spent on lifesaving efforts, and I do not see anything in the bill that speaks to that. I would encourage you to look at your selection of an architect and engineer and maybe change one of those to someone that deals with emergency room physicians or transportation issues of incapacitated people.

James Wright:

To answer Assemblyman Livermore's question: the reason EMTs are not included in the bill, even though most of the people on the board now are certified in emergency medical services, is that the State Fire Marshal does not have jurisdiction over emergency medical services. That would be a mission outside of our realm of responsibility.

Chair Kirkpatrick:

Thank you. I want to ask one more question and then I want to move on. Currently you have these two boards in place and they would go away once this bill takes effect, which I believe is July 1, correct?

James Wright:

Basically, the Board of Fire Services would remain intact but would be reconfigured. We are merging committee members into the Board of Fire Services and making it a ten-member board versus two eight-member bodies.

Chair Kirkpatrick:

Legislation was passed, which is awaiting approval from the Governor, about the assets that each board owns. What happens to those assets, if there are any?

James Wright:

There are no assets. Basically, board members come to meetings, but they do not own any equipment, et cetera.

Chair Kirkpatrick:

If this bill were to pass, it says you would have two meetings a year. Is that a fiscal year, a calendar year, or a legislative year? Also, when would the first meeting be held and what would be the topic under discussion?

James Wright:

Meetings are held on a fiscal year basis because of our budget. We would work with the board to see if the members would like to hold a meeting midyear and at the end of the year, depending on the need. If an appeal comes forth we might have quarterly meetings if needed, but the basic number of meetings is two per fiscal year.

David Fogerson:

We tried to hold these meetings in conjunction with fire services conferences throughout the state, typically in the south. We will have one meeting at one conference in Las Vegas, and the second meeting is currently held with the Nevada State Firefighter's Association, a volunteer group, in northern Nevada when they meet in the spring. We try to make sure there is ample opportunity for people to provide input during those sessions.

Chair Kirkpatrick:

The bill says fire chiefs are going to submit member recommendations to the Governor. So the fire chiefs are going to appoint someone to sit on the board. Is that how it works? Would fire chiefs be precluded from putting in their own name?

James Wright:

This is currently how it works. The recommendations go through the State Fire Marshal Division to the appointments office. We solicit input across fire service representation for members to be part of the board, and we forward those recommendations to the Governor's Office. Typically, we receive many recommendations and we submit three or four names for a particular position. The resumes for applicants are then reviewed and we make a decision. The

State Fire Marshal Division does have input in the recommendation for board members.

Chair Kirkpatrick:

Are there any other questions? Did you have anyone else that you wanted to testify?

David Fogerson:

I just have one quick follow-up on what Chief Wright just said. We held different meetings throughout the state to talk to our stakeholders about this new committee, and one of the things the stakeholders wanted was for the fire service to submit the names to the State Fire Marshal Division. Current legislation says recommendations come from various fire service groups and half of those groups no longer exist. So, the fire stakeholders said why not give the power to the State Fire Marshal Division? Let the Chief take care of the recommendations instead of naming groups and committees that may, or may not, exist in the future, and then the legislation would not have to be changed again.

Chair Kirkpatrick:

Okay, the more we talk the more questions I have, so I am going to stop. Because this board reports to you, is it subject to the audit process? I think we should get together sometime today or first thing tomorrow because I have more questions and we do not have time now. If you have anyone that you would like to testify I am happy to have them.

James Wright:

That concludes our presentation. I do not know of anyone else that wanted to testify.

Chair Kirkpatrick:

Is there anyone who would like to testify in support of S.B. 439? [There was no one.] Is there anyone who is neutral on S.B. 439? [There was no one.] Is there anyone in opposition of S.B. 439 who would like to testify?

Rusty McAllister, representing Professional Fire Fighters of Nevada:

We would stand neutral on this bill. Certainly we see the benefit of efficiency in combining two boards. We also see the benefit that you brought forth of having someone in a rank-and-file position on the board as opposed to just chiefs. You brought out very eloquently, Madam Chair, that many times these appointments that take place under this board are people who are sitting on this board who have actually spent minimal time in the field. They took a path in their careers that led them into administrative positions as opposed to being

rank-and-file and actually doing line-item work with regard to the actual duties of firefighters, fire captain officers, or battalion chiefs.

Many times the people who are appointed to these boards are, for lack of better words, "resume builders." It is a good opportunity to get appointed to a board to get a resume built in order to move up the ladder in the administrative chain as opposed to actually having people who are out in the field doing the work. From that standpoint, we would certainly welcome the opportunity to have a rank-and-file member, someone who does the job on a daily basis, appointed to this board.

Chair Kirkpatrick:

Does anyone have any questions? [There was no one.] Is there anyone else who would like to testify on S.B. 439? [There was no one.] Mr. Wright, you will meet with me later. With that, we will close the hearing on S.B. 439. Mr. Wright will leave his information with the committee assistant. I will let you know when I am going to meet with him and you can stop by.

We will open the hearing on Assembly Bill 574.

Assembly Bill 574: Revises Assembly Bill No. 144 of this session and provides for related study. (BDR S-1309)

Steve Holloway, Executive Vice President, Associated General Contractors, Las Vegas, Nevada:

Assembly Bill 574 is an unusual bill in that it corrects Assembly Bill 144 (R1) that was recently passed out of both legislative houses and was signed into law by the Governor on April 27, 2011. Unfortunately, sometimes there are unintended consequences to the actions we take. Fortunately, the sponsor of A.B. 144 (R1), Chair Kirkpatrick, and Brenda Erodes, Legislative Counsel, Legislative Counsel Bureau, helped us address this serious unintended consequence.

Fortunately, we discovered this just in time—late last week. The surety companies who provide performance of payment bonds for contractors on public works projects will not provide performance of payment bonds to a contractor who applies for the bidder's preference as it is now constructed under A.B. 144 (R1).

The sureties companies took that action for two reasons. First, the 10 percent penalty was too steep and very expensive for the surety companies to cover. Second, the language regarding the apportionment of those penalties was

confusing to the companies. I believed it was clear, but it was confusing to the surety companies.

As a result, A.B. 144 (R1), which was to provide bidder preference to local contractors and ensure that local contractors used local workers, purchased materials locally, and had their vehicles licensed locally, does not now work. The people that the bill was intended to benefit cannot use the bidder's preference to apply for a public works job for the state or at the local level.

Currently, local contractors are not applying for the preference, and not using the preference when they apply for a public works job. As a result, they find themselves on an even playing field with contractors from out of state.

This bill (A.B. 574) essentially does two things: First, it corrects that problem, thanks to the mastery of the LCB Legal Division and Chair Kirkpatrick. Secondly, it calls for a study to be done in regard to the sureties and bonding of these projects in Nevada.

The crux of the changes occurs on page 4 of the first reprint that you have in front of you. Those changes make it clear that the liquidated damages provisions of this bill apply to all contracts. The provisions apply to the contract between the prime contractor and the public body and to contracts between the prime contractor and his subcontractors and suppliers. It also applies to the contracts between those subcontractors and their subcontractors and their suppliers.

I will give you an example. If you are working on a building, the prime contractor would contract with a heating, ventilation, and air conditioning (HVAC) person to install the air conditioning and heating. That HVAC contractor in turn is going to have a contract with the supplier of the materials. The prime contractor is also going to have to contract with an electrical subcontractor to install the wiring and a plumbing contractor to install the plumbing so that the HVAC works. The prime contractor is probably going to have to contract with a dry wall installer and a roofer to fix and repair both the roof and the drywall as a result of the work that has been done. The prime contractor has no contractual relationship with any of those subcontractors, and that was not clear in the original bill.

The change on page 4, subsection 6 of section 1, clarifies that the liquidated damages provisions apply to all contracts. That clarification is all the bill is intended to do. We have an amendment (Exhibit C) that we are going to propose on subsection 6, paragraph (a) as a result of discussions with the public works agencies for Clark County, the airport, and others. Subsection 6,

paragraph (a) makes it clear that the damages from a material breach are 10 percent of the cost of the contract to which the violator is a party, or \$50,000, whichever is less.

If you permit, I will present my amendment ([Exhibit C](#)) on which we have reached agreement with the aforementioned public works agencies. We would amend line 31 on page 4 by deleting the 10 percent and inserting 1 percent. On line 33, we would delete the "\$50,000, whichever is less," so that it becomes 1 percent across the board, and the punitive damage on a contract of \$100 million would be \$1 million.

Remember, if that contractor is found to have breached the contract, he also loses his bidder's preference for a year and he may, depending on the size of the contract, lose the right to bid on any public works projects for up to five years. These penalties need to be considered cumulatively.

That is the major change in this bill. We have talked with the surety companies, and they feel they can now provide the bonding that is necessary for both prime contractors and subcontractors on public works projects for the payment and performance bonds that are required by statute. If you do pass this bill, local contractors can now take advantage of the bidder's preference.

The second most important aspect of this bill as I mentioned earlier, is that the bill calls for a study so that over the interim you can review both the sureties and the bonding capabilities of the contractors throughout the state.

The other minor change that occurs on page 2, line 32, affects 25 percent of the suppliers of materials used for public works projects who are to be located in this state. It simply adds the caveat, ". . . unless the public body requires the acquisition of materials or equipment that cannot be obtained from a supplier located in this State." This is a very common occurrence. For instance, if you had a pumping station job for the Las Vegas Water District, the water district would determine the specifications for the pumps as well as the related control equipment. For example, the water district will even determine what manufacturer those pumps and related equipment would be obtained from. The bill removes that from the formula. All other supplies and materials would have to meet the 25 percent rule—I say minor, but it is important.

That concludes my presentation regarding A.B. 574. I stand open to answer any questions that you may have. I would like to impress upon you that A.B. 144 (R1) was an extremely important bill to the industry and to the state and A.B. 574 will correct the unintended consequence that was in that bill.

We do thank Chairwoman Kirkpatrick for working with us in bringing forward A.B. 144 (R1) and A.B. 574.

Chair Kirkpatrick:

For the Committee, A.B. 144 (R1) was the piece of legislation that tightened up the 5 percent bidder's preference. I believe most of you voted for it and the Senate voted for it unanimously. The bill stated that if you were going to get the 5 percent bidder's preference, you must hire Nevada workers, and you must buy 25 percent of your materials in Nevada.

The good news is that, one, the Legislature is still in session and two, there are actual jobs for people to apply for so we could have this discussion. I worked with the Senate side to help clarify the language about liquidated damages. I firmly believe there has to be a penalty if you do not do it right. I believe the gentlemen at the table know that is important to me because if a project uses public dollars in our state, then we want Nevada workers as much as possible to get the business.

We talked both on the Assembly and Senate sides about clarifying the role of the subcontractors. At the time, we said that the general contractors should be responsible to have the deal with the subcontractors; however, I did some work with some bonding companies to find out what we could do to ensure bonding because the goal is not to keep them from bonding out of a project. I know in my heart that the bonding companies are telling the truth. I know that we do not want to not have someone bond, but the fortunate part is that we are here and there are already jobs that are going out to request for proposal (RFP) and we were able to catch it. With that, does anyone have any questions?

Assemblyman Anderson:

My question is in regards to the materials provision. I certainly understand not wanting to require or mandate use of materials that cannot be found in the state, but it is my understanding from the hearings that we had, and if I understood the material provision correctly, it could include anything such as purchasing a vehicle. Why can we not say materials that can only be obtained out of state are exempted from the requirement.

Chair Kirkpatrick:

You are also confusing me, Mr. Anderson, and I will remind you that there are legal issues with this. With the 25 percent currently in law there is a mechanism that says contractors have to show proof of the 25 percent of materials they purchased in state, and they also have to show proof if they were unable to find materials within our state. This clarifies the sole sourcing of

equipment. I do not think they would be able to go out and buy trucks or larger items as much as the materials actually used for the job.

When we talked about materials in the past bill (A.B. 144 (R1)) we talked about landscaping. Fifty percent would have been good with me, but 25 percent was what I agreed to in the spirit of compromise, and I think we will see that report. I do not know if we want to exempt anything else except to clarify when a sole-source product is used.

I will use an example that I think is correct. Last session the Supreme Court came before us and requested money to buy a chiller. A chiller is something that helps keep the water going and the air conditioning going. There was only one company from which State Purchasing allowed the Court to purchase the chiller, so it would not necessarily come from a Nevada supplier. I believe that is the intent of what we are trying to accomplish. The contractor will have to show that the product could not be purchased in state, and this bill just clarifies that. Is that correct, Mr. Holloway?

Steve Holloway:

Yes, that is correct. We believe that on most projects we can meet the 25 percent requirement now as long as we do not have to consider sole-source materials or equipment such as a chiller, a pumping station, or items such as those. As far as trucks and some of the more expensive equipment, such as graders, et cetera, they can be purchased through local suppliers. Of course, they are not manufactured here, but we can and do purchase that type of equipment through local suppliers.

Chair Kirkpatrick:

Mr. Anderson, did I help you with your question or is there more to your question?

Assemblyman Anderson:

I think, Madam Chair, you pretty much covered what I was trying to get at. I was just having trouble with the language, but I feel more comfortable about it now, and if I have any other questions, I will ask when we get out of Committee. I will leave it for now because we have a long agenda.

Chair Kirkpatrick:

I want the record to stay very clear because we talked about this in the first hearing; please feel free to ask as many questions as you need to.

Assemblyman Livermore:

I am looking at the 50 percent of all workers employed. To make sure that workers have a valid Nevada driver's license or identification card, and although the bill does not say this, will you recommend that e-verify be a component part of that verification?

Chair Kirkpatrick:

Mr. Livermore, I am going to stop you right there because for one, this is already an existing bill that was effective upon passage and approval. I spoke with Mr. Hickey about that very issue when this came about. Honestly, I do not care if this bill passes, but I was trying to help the subcontractors who I believe everyone in this body was trying to put back to work. What it will do is fix the unintended consequences because it is an existing law that we just passed 25 days ago. This bill is only clarifying a couple of sections within the bill that the Governor signed.

Assemblyman Livermore:

I appreciate your comments, Madam Chair. I only asked that because of the recent development in the Department of Motor Vehicles (DMV) where an employee was selling illegal identification cards. I just think if there was more than one verification process it would ensure that we are truly hiring Nevadans.

Chair Kirkpatrick:

I do not disagree, but that is an issue for next session. I think we have to look at DMV and how they do things with driver's licenses. I am happy to work with you during the interim on that issue, but for this particular bill I am willing to withdraw it if we get away from everything else. I just made every contractor in the state very nervous after I have worked with them all weekend.

Assemblywoman Bustamante Adams:

I actually have a comment. I am encouraged about the study regarding sureties and the bonding. I know it has been a big barrier for contractors here in Nevada, and I am looking forward to that information coming forth.

Chair Kirkpatrick:

Are there any other questions?

John Madole, representing Nevada Chapter of Associated General Contractors of America:

We want to go on record as supporting Mr. Holloway's comments, and we are also in support of the bill. We would like to express our appreciation for the support and assistance in getting the necessary changes to A.B. 144 (R1) made in this bill. Thank you.

Chair Kirkpatrick:
Any questions?

Assemblyman Ellison:

You have seen some of the letters ([Exhibit D](#)) and some of the issues brought forward by the bonding companies and maybe you would want to discuss that quickly. We want to put people to work and that seems to be the biggest concern. The last couple of years there was a big push because of bonding and trying to get the bonding for the subcontractor, so maybe you can address that.

John Madole:

I would just agree that I have seen some of the letters that express concern with bonding, and I think this bill would address some of those concerns. The point that Mr. Holloway made about the owner-furnished equipment is also an important feature of this bill. We have already run across Nevada-based contractors who were bidding and were not putting in for the bidder's preference because they had concerns that they could not meet the qualifications set out by the original bill. This bill will correct that.

Peter Krueger, representing Nevada Subcontractors Legislative Coalition:

As we were in support of A.B. 144 (R1), we continue to be in support of this particular clarifying legislation (A.B. 574). We are also in support of the study that will sort out the truth and maybe fantasy that exists in the world of bonding. That is important to us and we think this bill goes towards that.

We think that because of the nature of subcontracting, and I would dare say the less sophistication of subcontractors when it comes to the provisions in section 2, subsection 1, paragraphs (a) through (e), are the things that cause a breach of contract. We want to watch very carefully through the study that subcontractors are not at more risk under the provisions of the bill.

We are also in favor of Mr. Madole's 1 percent. I think that helps along the line, and we still believe that the breach of contract should be apportioned; we will see how this works.

Chair Kirkpatrick:

Thank you, Mr. Krueger. I have committed to the industry that I will readdress the subcontractor issue next session if there becomes an issue of the longevity of the time frame. I am committed to that and I appreciate you coming forward and also agreeing to the 1 percent.

Are there any questions?

Patrick T. Sanderson, representing Laborers Local 872:

We are behind this bill because we found unintended consequences from the first bill. The reason for A.B. 144 (R1) was that we wanted local contractors, local workers, and local suppliers to keep the money within the state.

When the bonding issues came up, we realized that we were not going to allow some big out-of-state contractors to come in and secure the work. That is not what the bill was intended to do. We are 100 percent behind this bill (A.B. 574) and we hope it passes.

Chair Kirkpatrick:

Does anyone have any questions? [There was no one.]

Dave Backman, President, Nevada Chapter Associated General Contractors of America:

I am a contractor member of the Associated General Contractors of America (AGC). I am happy to see this bill because this needed to be done. Assembly Bill 144 (R1) was full of potential problems from the contractor's perspective. In my opinion, this bill (A.B. 574) has to pass because if it does not, then A.B. 144 (R1) is going to be problematic for contractors.

I turned in a bid on Friday and I actually pulled my bidder's preference out of the bid packet because of some of the provisions in A.B. 144 (R1) that I could not meet, and that was the 25 percent supplied materials clause.

I am in the wastewater treatment business and our projects are material heavy, most of which do not come from this state. A lot of the materials come from overseas. I am happy to see this bill and I support it.

Chair Kirkpatrick:

Thank you. It was never our intent to have unintended consequences. It is a good thing that we are here to fix it.

Are there any questions? [There was no one.]

Ted J. Olivas, representing City of Las Vegas:

We, too, are in support of this bill with the amendment that was presented earlier ([Exhibit C](#)). We appreciate the clarifications, and clearly it was not the intent of local governments to put contractors out of business. We think this is a reasonable amount and I am pleased to report that since the passage of A.B. 144 (R1), we have worked diligently to make sure that all contracts

advertised after that date have incorporated these new requirements in the forms associated thereto. It is moving forward smoothly.

Chair Kirkpatrick:

Thank you, Mr. Olivas, and thank you for getting those forms together regionally for everyone. I appreciate that.

Jack Mallory, representing International Union of Painters and Allied Trades, District Council 15:

I am also representing the Southern Nevada Building and Construction Trades Council. We, too, are in support of this measure. It is a rare occurrence when you have an opportunity to fix an unintended consequence during the same session. It usually takes a couple of years to fix these problems. We also appreciate this because it does improve the opportunity for our people to go to work.

One of the comments was about having the ability to get sureties bonding to begin with. In discussions with our signatory employer partners, we realize that because of the economic downturn, most bonding companies have become very risk-averse, and they put some limitations on their ability to submit bonding.

Not only does A.B. 574 help clarify issues with the original bill, it also creates greater opportunities for people to participate. Thank you.

Chair Kirkpatrick:

Does anyone have any questions? [There was no one.] Is there anyone who would like to testify on A.B. 574? [There was no one.] Is there anyone who is in opposition of A.B. 574? [There was no one.] Is there anyone who is neutral on A. B. 574? [There was no one.] Is there anyone in Las Vegas that would like to testify on A.B. 574? [There was no one.] I am going to close the hearing on A.B. 574.

For the Committee, it is not my typical style to take a motion to pass this bill; however, because we only have six days left of session and this bill still has to go through the Assembly Committee on Ways and Means, the Senate Committee on Finance, and the Senate Committee on Government Affairs, the bill needs to be expedited.

ASSEMBLYMAN STEWART MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 574.

ASSEMBLYMAN ELLISON SECONDED THE MOTION.

THE MOTION PASSED. (Assemblywoman Pierce was absent for the vote.)

Chair Kirkpatrick:

I will encourage the people that testified on this bill today to start talking to the Senate so that the bill does not get caught up at the end of the session and not be passed out.

That brings us to Senate Bill 271 (1st Reprint). Before we start the hearing, I want to lay some ground rules. This is not my first rodeo on hearing a contentious item, and it will not be the last. I ask that you please be respectful of other people's opinions. The Committee is here to decide policy; I am going to ask everyone to please be respectful, because everyone's opinion, no matter what side you are on, matters to me. With that, I am going to open the hearing on S.B. 271 (R1). We have floor at 1:00 p.m., and I will take as much testimony as possible. If we need to come back, we will come back, because I think we need to vet this bill.

Senate Bill 271 (1st Reprint): Provides for withdrawal of the State of Nevada from the Tahoe Regional Planning Compact under certain circumstances. (BDR 22-988)

Nick Vassiliadis, representing the Lake Tahoe Gaming Alliance:

We are here in support of S.B. 271 (R1). The intent of this bill is to improve bistate relations and create a more balanced governing board within the Tahoe Regional Planning Agency (TRPA) structure.

Before I highlight the key changes to the Tahoe Regional Planning Agency, please let me be clear that environmental regulations are unchanged. If you refer to Article 7 titled "Environmental Impact Statements" in the Compact and you refer to the same article in S.B. 271 (R1), you find that they are identical. Again, environmental regulations are unchanged.

With your permission, Madam Chair, I would like to walk through the bill. Section 1.5, Article 3, removes the supermajority requirement for members voting on matters considered by TRPA. As a side note, Secretary of State Ross Miller will be introducing an amendment ([Exhibit E](#)) to this to make it more agreeable between us, Nevada, and California.

[Read from proposed amendment to S.B. 271. ([Exhibit F](#))]

Section 22.5 requires the Legislative Committee for the Review and Oversight of the Tahoe Regional Planning Agency and the Marlette Lake Water System to prepare a report detailing certain issues related to, and impacts of withdrawing from, the Compact. Examples of issues related to or impacts from withdrawing would include organization and staffing of the Nevada TRPA, an annual budget, legal implications, or progress of the current TRPA to see if we would prefer to remain a member.

[Continued to read from amendment ([Exhibit F](#)).]

I would like to point out that the initial plan for withdrawal was two years, and the Office of the Governor had a two-year extension, but at the request of Senator Harry Reid, we made it three and three to ensure proper time for legislative reconsiderations. Just a side note: the Governor's office wanted this as well.

William Vassiliadis, representing the Lake Tahoe Gaming Alliance:

First let me say that we do appreciate the concerns of the environmental communities that are here. Clearly they set parameters, and on the other hand I suppose the development community also sets parameters. You as policymakers, TRPA, and other policymakers need to decide how everyone behaves. A positive here is that we all share a love for Lake Tahoe even if we have a different perspective.

Obviously, one of the concerns that we and our clients have is what is happening to the Lake Tahoe economy. First, let me note that the numbers that I am about to give you are prerecession, before the "teeth" of the recession. From 2000 to 2007, while employment grew in California and Nevada by 8.6 percent, the Tahoe Basin lost 2,000 jobs for a 5.7 percent reduction in employment. More than 9,000 residents left Lake Tahoe in that time period.

I would also like to point out the most recent unemployment figures of June 2010: 15 percent unemployment in the North Shore area and 16.7 percent unemployment in the South Lake Tahoe area.

I think what is important in this bill is that you help us compel both sides to come to the table to find a balance. We do not want to affect the Lake Tahoe environment. Clearly, we do not want to affect the quality or the clarity of the lake.

The most important reason that people come to Lake Tahoe, which benefits the businesses that we represent, is that lake. It is the cleanliness, it is the landscape, and it is the beauty of Lake Tahoe.

I would hope that with your help we can create better dialogue between the two entities. We have shown that business and environment can coexist. We have seen it in legislation, Madam Chair, with the green building legislation that you worked hard on several years ago, which has led to a lot of environmentally sensitive construction in Nevada. We have seen it in conservation programs—both water and energy. Obviously, we could push those even further. I believe with your help we can help develop a better business climate in Lake Tahoe, but at the same time, and of the utmost importance, protect the environment and the clarity of Lake Tahoe.

We have met with and had input on this legislation from the Governor, who does support the bill. Secretary of State Ross Miller will be here to propose an amendment ([Exhibit E](#)) that he believes will give further protections to how the plan can change.

We have had language presented to us from Senator Reid's office that we have accepted. I personally spoke to Senator Reid last week, and I believe he has contacted some of you to say that he has no objection to this legislation. Senator Dean Heller's office has read and reviewed the legislation, and he supports the bill. In addition, the South Lake Tahoe City Council, the Douglas County Commission, the Tahoe Douglas Visitors Authority, members of the Nevada Resort Association, and the Carson City Board of Supervisors support the bill. I know that Mayor Crowell was here a little earlier; I do not know if he was able to stay to speak in support of the bill.

An issue such as this gets very emotional with a lot of highly charged dialogue and a lot of—I do not want to say—myths, but it gets embellished a bit. Let me see if I can set aside some of the embellishments. We do not want to withdraw from the Tahoe Regional Planning Compact. Our clients do not want to withdraw, and I do not believe Nevada policymakers want to withdraw, but at some point Nevada needs to have some self-determination. There needs to be some ability to ensure that Nevada residents and Nevada businesses are looked out for by Nevada policymakers and that there is some sensitivity from the

California side as to what we need. There is no intent here to force or to push Nevada out of the Compact.

Let me also say that given the extensions requested by Senator Reid, the Governor, and others, there are going to be at least several legislative sessions where legislators can review progress, repeal this act, amend this act, and give further direction. The Governor has two bites at the apple to make sure that this is going in the direction it needs to go. The Governor can, and is empowered to, pull out of the Compact now.

The other thing that has been talked about a lot is the notion that somehow the business community wants to alter the environment. One of the things I think that we are critically concerned about right now is, just like the rest of the state, that a large majority of people are stuck in their homes because their loans are greater than the value of their homes. That has happened to an even more significant degree in Lake Tahoe.

Given how bad the economy was even before the recession, can you imagine the hardship today? Something needs to be done within the bounds of protecting the environment; within the bounds of protecting the clarity of the lake; and within the bounds of continuing to make Lake Tahoe even cleaner. Something has to happen to help build a better business opportunity and a lot more employment opportunity. Thank you, Madam Chair.

Chair Kirkpatrick:

Are there any questions? I asked Secretary of State Ross Miller to present testimony because he currently serves on the board, and I think that would be helpful.

Assemblywoman Pierce:

There is something that I would like to get on the record that I would address to Senator Lee, but he appears to not be here. This Legislature in 2003 created the Legislative Committee for Review and Oversight of the Tahoe Regional Planning Agency and the Marlette Lake Water System. This is an interim Committee and it holds four or five meetings during the interim for oversight, as the title implies, of TRPA and the Marlette Lake Water System. I have been on that Committee since its inception. These are the issues we look at.

The chairmanship of that Committee goes back and forth between the two houses and Senator Lee was the Chairman over the last interim. My question to Senator Lee, were he here today, is if this is such a long-standing problem and if we are at such a crisis point that we need to enact this extremely far-reaching and, I would say, radical legislation, why did we not have

this discussion during the interim? Senator Lee was the Chairman; he wrote the agenda; why was this never on the agenda?

The interim Committee had ten bill draft requests (BDRs) at its disposal and there was never any discussion about BDRs. Senator Lee never asked us to discuss this legislation as a BDR from the Committee. That Committee met for the last time about a year ago. I am curious as to how we suddenly have this crisis that is apparently of long-standing duration. I guess the Senator forgot about it while he was chairing the interim Committee that oversees this very area and agency, so . . .

Chair Kirkpatrick:

Ms. Pierce, I could not even tell you that Senator Lee is listening because he is at his committee and then the Senate was going to the Floor. I would be happy to meet with him today and have this discussion.

Assemblywoman Benitez-Thompson:

I understand that there is an amendment offered, but I wanted to talk about the board composition and how it is suggested in the first reprint with the amendments adopted on May 26, 2011 ([Exhibit G](#)). In looking at this, I think I understand you are making the argument that Nevada needs more sovereignty; we need more say in what happens at Lake Tahoe and the planning for the lake. The new composition of the voting structure is for, as the language says, adopting, amending, or repealing environmental threshold carrying capacities, the regional plan, ordinances and rules, and the variances from those ordinances and rules.

There are seven Nevada members and seven California members, and this language strikes out that you would need four members from each state. So, you get rid of that bistate concurrence and then you change it to eight members of the governing body for a decision to be made. Theoretically, with this language, could you not have all seven California members vote in a block with just one Nevada member and then our Nevada delegation is completely outvoted? This can swing both ways, right?

Chair Kirkpatrick:

I am going to ask Ross Miller to address that question because he currently sits on the board. I went through the agendas last night and he is a pretty active member, so I think he can help us.

Ross Miller, Secretary of State, Office of the Secretary of State:

I am also a board member of the Tahoe Regional Planning Agency (TRPA) per the Compact. There are currently 14 members that vote on the board: 7 from

California, 7 from Nevada, and 1 non-voting presidential appointee. The provisions of the Compact to which you refer requires that for adoption of the regional plan, for any amendments to the environmental thresholds for which we are charged with carrying out, for amendments to the code of ordinances or for the rules of procedure, requires 4 affirmative votes from either side. Thus, a majority of the voting members must be present to vote. Also, the way the voting structure works is if there is a vacancy—which there often is when we go to meetings—or if someone is absent, that essentially counts as a no vote; you must have 4 votes in the affirmative. That has proven to me to be a substantial barrier, and I will address that in my discussion on the areas why it is not workable and why this is a reasonable area of reform.

To Assemblywoman Benitez-Thompson's point, that is exactly right. My amendment ([Exhibit E](#)) would require nine affirmative votes, and it has been suggested that perhaps that would give one state more authority over another because Nevada could, in fact, carry its seven votes and it would only take two California affirmative votes to approve an action.

Certainly, the reverse is also true. The California voting block could move forward with seven votes and pick up two votes on the Nevada side. I think the bottom line is if you were looking at this as a blank slate, is it reasonable to put something on the table that reaches the objective of TRPA, and that requires more than a majority of the members that sit on the board to move a project forward. In other words, it would require 9 votes out of the 14 members to move something forward. I think that is an entirely reasonable position. It is something that I hope California could commit to, and it would certainly help move the goals that we are trying to achieve at Lake Tahoe forward, especially the regional plan, which has not been amended since 1987.

Assemblywoman Benitez-Thompson:

Thank you. I want to make sure that we are clear. This does give the opportunity for the Nevada delegation with this voting composition to lose its voice with the bistate concurrence piece gone. The pendulum could swing the other way, especially when it comes to adjusting environmental thresholds. We have to meet the minimum thresholds, but if the California delegation really wanted to adopt more stringent environmental thresholds, I cannot imagine how your clients, Mr. Vassiliadis, would benefit from that in the development community. I just want to be conscious that the vote could swing both ways.

As a follow up on that, Article III, section 2, page 8, starting on line 3, eliminates the voting provision completely for approval of a project. If I am correct and I am reading this right, as long as we have a statement of finding supporting this, the board would need a vote to approve a project. Is that right?

Ross Miller:

Under my proposed amendment ([Exhibit E](#)), that provision would be reinstated. I think that is a reasonable provision. Under the version of the bill as it passed the Senate, to pass anything at Lake Tahoe, there are currently three voting requirements basically under the Compact. It requires any eight votes for routine business, such as directing agency staff on matters such as litigation, irrespective of the state it comes from. It requires four votes from either state to adopt the regional plan and those other requirements that we discussed.

For specific project approval under the current Compact, five votes are required from the home state where the project is being proposed, so five of the seven have to vote in the affirmative, with nine votes overall.

Under my amendment, we would reinstate the home rule to ensure that either state is afforded appropriate deference and to respect the sovereignty between the states, but instead of requiring more than a majority for that project to go forward, we would reduce it from five affirmative votes to four affirmative votes from the home state and nine votes overall. Again, I think that is very reasonable and would prevent some of the instances that we have seen in the past where a good project has to be either delayed or ultimately fails because a member is absent or there is a vacancy on the board.

Assemblywoman Benitez-Thompson:

I have one more question. I do not know if this exhibit came from you, "Recent Development Projects Approved in the Tahoe Basin," ([Exhibit H](#)), but I am looking at these big beautiful projects that have all been built over the past few years. It looks to me like there is building going on in Lake Tahoe. It looks to me that under the current system, we have the South Lake Tahoe Convention Center and Heavenly Village and Gondola. I see a lot of big projects here, so I am wondering why the status quo is not working if we are really having new growth and development around the Lake Tahoe area.

Nick Vassiliadis:

Yes, you have pointed to instances of new development, but I think one of the key factors that have been overlooked is redevelopment. If you drove around the Basin, you would see many shops closed down and many businesses boarded up because it is difficult to get approval for a simple facade change—just a change to the exterior of the building. You are not expanding the footprint, you are not making it higher, you are not making it bigger you are just changing the front of the building. I think that also has a lot to do with it; it is redevelopment not just new development.

Chair Kirkpatrick:

Ms. Benitez-Thompson, I have several people that would like to speak as well. If your questions pertain to the board, please let me know because before we go to Floor, I would like to have Mr. Ross give us an overview.

Assemblywoman Neal:

I have a question concerning section 2 and section 17.3 as read together. Section 2 says, "All judicial actions and proceedings in which there may arise a question of the validity of any matter under the provisions of *former* NRS 277.190 to 277.220, inclusive, *must* be advanced as a matter of immediate public interest and concern, and be heard at the earliest practicable moment."

The way this reads to me, and you can clarify it, is that any person who did not bring an action before January 1, 2011, [pursuant to section 17.3] their judicial actions would then be precluded from advancement as a matter of immediate public interest because it did not occur prior to January 1, 2011.

Section 17.3 says, "This act does not become effective unless the contingent events described in section 2 of this act have occurred before January 1, 2011."

How do those two sections work together?

Chair Kirkpatrick:

I know what section you are talking about. You are talking about what was repealed. Section 2 was the first. Can you give us a page number?

Assemblywoman Neal:

I am on page 28, Article X, Miscellaneous, and section 17.3 is on page 38, lines 22 through 25. It seems to be retroactive to a time that has already passed. If the time has already passed, what then is the situation with the judicial actions and proceedings that were contingent events described in section 2?

Chair Kirkpatrick:

You move too fast.

Nick Vassiliadis:

Honestly, Assemblywoman Neal, I would have to really look at that and see what you are getting at, because I am truly unsure of what you are trying to get at.

Assemblywoman Neal:

What I am trying to get at is if there are current judicial actions and proceedings which arose, or had arisen, before the insertion of the language about January 1, 2011, what then happens to the current judicial actions that do not fit under that language? I am asking for clarification because I am not sure what it means. It seems that if judicial actions and proceedings did not become effective before January 1, 2011, those matters will no longer be advanced as a matter of "immediate public interest" because they did not occur by January 1, 2011, which was five months ago.

Chair Kirkpatrick:

I can have our Legal Division check it out.

Ross Miller:

We do not have an immediate answer for you. I have looked at that provision and have also been confused. Part of the problem is that there have been so many different versions of Compact amendments, et cetera, over the years. We would probably need to defer to the Legal Division to figure out exactly why that provision is in the bill.

Chair Kirkpatrick:

Ms. Neal, I can meet with the Legal Division and you afterwards in my office and we can ask what that provision does, and we can put something on the record for clarification for the public as well. You mentioned you had a second question.

Assemblywoman Neal:

My second question comes under Article V, Planning. There was a sentence added [section (a), subsection (2), paragraph (c)] that mandates that the regional plan ". . . reflects changing economic conditions and the economic effect of regulation on commerce." What is the proposed balance, and I get that we are moving towards trying to reach into the new century with redevelopment and some level of new occurrence of urbanization, but what is the proposed balance that is going to be sought in regard to these environmental thresholds? Because if you are mandating that the regional plan reflects the economic changes and the impact on commerce, then what is the new balance that is going to be met through ordinance? Because you can reduce your environmental thresholds through ordinance, the question is what is the new balance that is envisioned?

Chair Kirkpatrick:

Let me try and deflect some of your passion. You are coming off as very passionate. I did some reading last night and I did see that in 1987 there were

some changes. They are currently trying to adopt a plan because so many things have changed. The building codes have changed, and this goes back to public works. The 2009 building codes that have been adopted by most entities will be Leadership in Energy and Environmental Design- (LEED) friendly. I would read this to say that they have to bring all that up to date and not just stay with the 1987 changes. That is how I read it because they are using the codes from 1987 and that is so different from the newest codes that have been adopted that really make every home energy efficient. Mr. Vassiliadis, I will let you answer.

Nick Vassiliadis:

Yes, the Chairwoman's analysis is correct; but to add to that, we believe that specific provision is bringing balance to the planning. Whereas before, I do not think the economic conditions were fully reflected in the plan or even in the consideration of a new plan—but also to answer your question—the balance between economic conditions and environmental sanctity is truly left up to TRPA.

Assemblywoman Neal:

The only reason I ask is because in the policy declarations in section 6, under Article I, it says, "Maintenance of the social and economic health of the region depends on maintaining the significant scenic, recreational, educational, scientific, natural and public health values provided by the Lake Tahoe Basin." Are they currently under ordinance or is the current TRPA not taking into consideration the social and economic health of the region?

I guess that is why you want to insert that sentence, which is a mandate to make TRPA deal with the social and economic health of the lake. It is likely TRPA is not dealing with it currently because the restrictions are so tight that they are not allowing anything to occur. That is what I understood to be happening, right? If we are going to now mandate it, what is the balance? I did not see any mandatory language outside of trying to protect the actual environment itself.

Billy Vassiliadis:

What we are trying to accomplish here is to send a stronger message from Nevada that says these things must be considered, a throwaway in a 30-year-old plan. If you think about what has happened to the economy before the recession with jobs lost at the same Gondola where many like to shop. There were also a lot of shops that were not closed a couple of years ago that are now closed. There is a boarded-up casino between Montbleu and Harrah's that was not closed just a year ago.

While some new projects have improved, the economy of that area is suffering. We want that to become a primary consideration, not a throwaway in 30-year-old language, but something where we are sending a message from the Nevada Legislature. That is something you must consider. It cannot be a lopsided decision-making process. Who needs to do that? Well, it would not be us. It would be the TRPA board. We are hoping that you will send a message that this is important to you, too, and that those considerations must be given when something is approved or not approved.

Chair Kirkpatrick:

Some Committee members have questions.

Ross Miller:

I would like to address Assemblywoman Neal's first question regarding section 17.3 of the bill where we did not have an answer and referred you to Legal. Steve Robinson, who has worked on the bill with me, had a discussion with Heidi Chlarson from the Legislative Counsel Bureau, Legal Division, and provided an answer. I apologize for not knowing. When I looked through this bill there were so many sections that referred to other sections, it kind of felt like trying to unwind the rat's nest of cords behind my television. I myself have been confused by a number of sections.

That section provides that the 1987 and 1997 proposed amendments to the Compact cannot become effective because they were never ratified by the United States Congress or the State of California. So, that provision is a legal provision that helps clarify that we had attempted to amend the Compact before and it had not been ratified.

Assemblywoman Flores:

I just want to be very clear, because many of the emails and concerns that we have been getting have been related to the environmental impact that this bill could potentially have, such as keeping Lake Tahoe blue, which is a legitimate concern. At the very beginning of the presentation, Mr. Nick Vassiliadis said that the environmental standards were completely identical in this bill and the Compact.

We know that the composition of the voting structure would change, and we obviously want Nevada's concerns to be taken more into account, which is the purpose of the bill, but can you elaborate a little bit regarding how easy it will be to start developing like crazy and not take these environmental concerns into consideration. Because it sounds like you are saying that they are completely identical and that you will still be taking into consideration the same environmental standards that have been there for all these years.

Nick Vassiliadis:

I am going to say it again. The environmental standards are unchanged. The requirements that a project must meet during the approval process through our bill are the same as the Compact. Now, can TRPA elect to go through and modify them? Yes, but they could do that right now. So I do not see how we are truly unbalancing the economic versus the environmental standards, because they will remain exactly the same. The right to change those standards lies solely with TRPA, but for those changes to take place, the Nevada Legislature would have to approve it, California would have to approve it, and the U.S. Congress would have to approve it.

Assemblyman Anderson:

I want to thank all the parties for being particularly responsive when we ask our questions. This is obviously a very high-profile issue for a lot of us. I have some questions.

First of all, I want to go back and talk about redevelopment and ask you what projects and what redevelopments have been stopped; a list of those would be very helpful. I want to make sure that there is a significant reason for those projects to have been stopped before we start thinking about moving this bill forward. That would be my first question and I have a couple more.

Nick Vassiliadis:

I could provide you a list. I could not name any off the top of my head, but if you would like a list, I could do that.

Assemblyman Anderson:

That would be very helpful. I think I really need to see that before I could consider voting on this bill. I want to make sure that there is a real problem, real economic development that is being stopped.

My second question is about the environmental threshold carrying capacity. If I understand the concept right, and I was doing a lot of research online last night and looking at the TRPA website, currently those thresholds are defined as water quality, air quality, scenic resources, soil conservation, fish habitat, vegetation, wildlife habitat, noise, and recreation. Are these the correct thresholds as you understand them?

Nick Vassiliadis:

If that is what TRPA says, then yes, those are the requirements as I understand them.

Assemblyman Anderson:

Now the way I understand it is that the environmental threshold carrying capacity is what the environment can take. That means that is the extent that we can develop and do things in these areas without causing an effect. It can only hold so much, which is the idea of a carrying capacity. Is that something that normally changes? Do those carrying capacities change from day to day or are they something more long-term? My understanding is they would be more long-term. I just want to make sure that my understanding is correct.

Chair Kirkpatrick:

I went to that same website last night, so let me see if I understand your question. On the left hand side of the website it had a list of different things that are considered for TRPA. If you clicked on any one of those things then it went to another box that came down and listed the parameters that the agency considered. Is that what you are talking about?

Assemblyman Anderson:

Yes, Madam Chair. Where I am going with this is that I think that is something you would want more of a supermajority requirement on. My understanding on some other things like variances, rules and regulations, and even project by project, that is something that could have less of a requirement, but for those standards, for those requirements, that is not something that needs to change more frequently. That is really the root where the regional plan and everything else comes from, correct? Because it is taking into account those carrying capacities. Ultimately, the objective of TRPA is to protect the environment at Lake Tahoe, if I understand it right. Would it not be better left maybe with a stronger requirement because that is the root from which the regional plan and all the projects come from?

Chair Kirkpatrick:

I am still trying to find out what your question is? Is your question then that you agree there needs to be a supermajority that makes those decisions, which is Mr. Miller's amendment? I do not think they can change those discretions as much as having a supergroup. Specifically, what is your question, because you lost me?

Assemblyman Anderson:

On page 7, line 37 for adopting, amending, or repealing environmental thresholds carrying capacities is one of a number of things for which we are proposing to change the voting requirements and what the majorities are needed. My suggestion would be that maybe there is some more latitude on adopting a regional plan and the projects, but the regional plan is developed

with those thresholds in mind, and the projects are approved with those thresholds in mind.

Because that is more of a long-term concept, would it not be better left where you would need more votes versus an individual redevelopment project or an individual plan?

Chair Kirkpatrick:

Is your question on page 7, line 32, where they are changing it from four of the members of the governing body to constitute a quorum for the transaction of the business of the agency and changing it to eight and where an affirmative vote of eight members of the governing body is sufficient for any of the following purposes?

Are you saying that you agree with page 7, line 34 through line 36, or you disagree. I do not understand. This is why I wanted to get to the responsibilities of the board with Mr. Miller because those are somewhat confusing for people that do not participate in it.

Assemblyman Anderson:

As of now, Madam Chair, I would say that I would have less of a problem with an easier requirement to get approval for a redevelopment project, but I would maybe have a problem with making it very easy to change that carrying capacity. I would want a stronger vote requirement on the carrying capacity versus an individual project or a variance or anything else.

Chair Kirkpatrick:

I think then what you are saying is that you like that page?

Assemblyman Anderson:

No, Madam Chair, I do not.

Chair Kirkpatrick:

Well, you have lost me. Let me have one of these gentlemen answer it, because apparently I do not even know the question.

Nick Vassiliadis:

Madam Chair, with your approval, I would like to have Secretary of State Ross Miller introduce his amendment ([Exhibit E](#)). I think his amendment would clarify Assemblyman Anderson's concerns and maybe some concerns of other committee members.

Ross Miller:

I am here in my individual capacity and not representing the views of the Nevada delegation or board. I am urging passage of this bill with the proposed amendments ([Exhibit E](#)).

Like many of you, Lake Tahoe is one of my favorite places, and my family and I try to get up there as often as possible. However, it is also one of my least favorite places to visit on the fourth Wednesday and Thursday of every month because that is when the Tahoe Regional Planning Authority (TRPA) Board meetings take place.

Quite honestly, my role and obligation on TRPA is one of my least favorite parts of the job. It is not because I am not passionate about the issues, because I am, and it is not because I do not like interacting with other members of the board or the staff. They are some of the most committed and dedicated people that I have met. The reason that I do not like going up to those meetings is because, for the most part, it can be a waste of time. Like most of you, I think you hate to have your time wasted.

What frustrates me most is that we are not doing the things currently under the structure that we should be doing to protect the lake, despite the two states coming together every month. I personally believe that we are failing at our jobs. If you look at it historically, the voting structure that is in place has prevented us from doing our jobs to protect the lake.

As I mentioned, we are now four years overdue in having a regional plan in place for Lake Tahoe. The 1987 plan serves its purpose, but those days are gone and so much has changed since then. We have learned so much more about the lake and the measures that we can take to protect it. It is simply unacceptable that we do not have a current regional plan in place, and that we are continually delaying measures that could harm the natural human and economic environment at Lake Tahoe.

Shore zone development is another prime example. The discussion about the chapter that would deal with ordinances pertaining to shore zone development started in 1980 before I was even in kindergarten. In 1987 they took the first stab at trying to put a plan in place. When I was in middle school they adopted a regional plan and left the entire shore zone development chapter blank, with a commitment to keep working on it.

It was only last summer that I finally got a chance to vote on the shore zone development ordinances, and that was eventually overturned by the court. We still do not have shore zone development ordinances. I think that speaks to the difficulties in getting anything passed that deals with the lake.

I think with these amendments we are proposing today ([Exhibit E](#)), it is apparent that something has to give or we are never going to achieve responsible redevelopment and maintain the environmental thresholds alluded to by Assemblyman Anderson and repair the significant damage that has occurred throughout the environment.

In the 1950s and 1960s Lake Tahoe was clearly overbuilt. Projects to demolish such buildings as a gas station that was put in place in the 1950s, which are undeniably leading to the degradation of the lake, and putting in its place a LEED-certified building, are the only way we are going to reach our environmental goals.

Assemblyman Anderson asked what projects have been stopped, and there are a slew of them that have gone through process and eventually stalled. Not many of them have ultimately come to the board for a vote, and I suggest the reason for that is because the board vote and board structure is currently so restrictive. It makes it nearly impossible to get anything passed. You have to be willing to spend years, and years, and years through the planning process, which involves the concessions of staff, amending the projects, spending millions of dollars before ultimately reaching the point where the board votes. There is absolutely no guarantee that the board is going to defer to the staff's recommendation because the voting requirements are so stringent. The projects that possibly could be put in place to demolish the 1950s eyesores that are clearly leading to the degradation of the lake are not being put in place because no one is willing to take that risk.

You may hear from a couple of developers that have decided to do that. I have told them candidly that I think they must be out of their mind to want to go through the process that the board set up, or they must be extraordinarily committed to the lake to go through the process. It is clear that something has to change.

Assemblyman Anderson also talked about the impact of environmental thresholds that are controlled by the Compact. It ensures that the board has the obligation to maintain the environmental thresholds at the capacities for those different thresholds. We do that by looking at indicators on whether we are meeting those thresholds and whether any project under review would move further ahead in attaining those thresholds.

The fundamental problem there, I would argue, is that we do not have sufficient indicators to know whether we are meeting the environmental thresholds. That is argued by the conservation community and project proponents alone.

It is clear that we need more funding so we can make sure that we are, in fact, meeting those thresholds, and we have tried to do that so that decisions ultimately are not made by politics, but instead by policy. The only way we are going to do that, in my opinion, is by putting in place a voting structure that allows us to move forward.

I enthusiastically support this bill, despite the fact that I had some significant concerns when the bill first appeared. I know that Senator Harry Reid and Governor Brian Sandoval also had concerns with the bill in its original form. I believed then, and I still believe, that simply withdrawing from the Compact does not make a bit of sense. It is irresponsible, it is shortsighted, and that is why previous attempts to withdraw have failed. The fact is that we have a watershed where a line was drawn arbitrarily between two states, and we have to have shared vision between those two states to reach a point of compromise.

In my opinion, you will not be able to achieve the goals if you divide the lake and withdraw from the Compact. We must deal with the major threats that we are facing—invasive species such as the quagga mussel that may destroy the lake. How do you deal with the issues pertaining to catastrophic wildfire? How do you deal with water quality issues, air quality issues, when you have two separate states with different visions about how that should be carried out?

That is why TRPA was founded in the first place, to deal with these issues. Simply withdrawing is not going to get us anywhere. I support this bill wholeheartedly because this is an opportunity to do something that we have never done, which is to focus on the real problem—the voting structure. The current voting structure is entirely unreasonable and too restrictive to allow us to attain the environmental gains that we need.

I know I went over this, but it took me a few times and a few meetings to understand the voting structure that is in place compared to the structure being proposed.

Currently under the Compact, there are three different types of votes. Eight votes of the 14 members are required for a routine order of business—a simple majority to give staff direction on simple matters.

Four votes are needed from the California side and four votes from the Nevada side to pass a regional plan, amend the thresholds, or pass different codes or ordinances.

For a project-specific proposal, five votes are needed from the home state and nine votes overall. This would amend the process and provide more flexibility while still preserving the protections needed to ensure that only those projects and proposals that meet the objectives to protect the lake will go forward. Instead, any eight votes, which was proposed and passed by the Senate, would do away with the separate types of votes, and anything that received a majority vote of the board will go forward. This maintains the original spirit of the Compact, but clearly corrected some things that we have learned did not work over the long term.

The four-four vote would be amended to require nine votes. Under the current structure of the Compact only eight votes are required, four from California and four from Nevada. This, in fact, increases and requires an additional vote: nine votes to adopt the regional plan, which I think is the most important thing we could do. It respects the sovereignty of each state because it still requires a majority vote by the state where the project is being proposed for the project to go forward; but, it reduces the five votes, which has been problematic in many instances because of vacancies on the board, to something more reasonable while still requiring a majority vote.

With that said, I think this is a reasonable proposal. This will have to be reviewed by California for possible adoption, and eventually the U.S. Congress would need to review and pass the proposal. This is a reasonable proposal, and I do not know how anyone could oppose it. Obviously, there will be some people that will come to the table to oppose the bill. I have a great deal of respect for Rochelle Nason and the League to Save Lake Tahoe and Kyle Davis from the Nevada Conservation League and Education Fund. I understand their concerns, but this amendment ([Exhibit E](#)) brings us to the table and allows all parties to continue working, but if we pass this bill alone and do nothing else, it is not going to work.

We have an obligation if this bill passes to continue to talk together, to work together, and to ultimately put ourselves in a position where we can focus on real solutions that will allow the governing board to do its job and do the job that is in best interests of everyone, which is to protect Lake Tahoe. The days of people wanting to harm the lake are gone and everyone wants to protect the lake; we just disagree about how to do that. We need to put forward the effort that brings us to the table and focus on how to protect the lake. With that being said, I would urge the support of the bill.

Chair Kirkpatrick:

Thank you. I have Committee members with questions, but I also have people in the audience that have been sitting here since 9:00 a.m. this morning that would like to testify. We are happy to come back, and these three gentlemen are happy to come back and spend their evening with us. I need to let the people that have been sitting here for hours testify. I am going to take these last three comments and then we will come back.

Assemblyman Ellison:

When I went through the bill, I noticed several things and one of them was home rule. In an area like Lake Tahoe, who understands what is best for the environment, what is best for the towns, and what is best for everyone—it is the people who live there.

I strongly believe in home rule. I like your recommendations and I believe that there are things in place right now that protect the lake. I am talking about fish and wildlife and the U.S. Forest Service; I can go on and on. I think this is a good bill, and it appears there was a lot of work that went into the bill.

I will give you an example. If you try to get a permit in California and try to get a permit in Nevada, it is like the difference between night and day, two totally different concepts. I think this bill will help streamline the process. It will give the environmentalists and others a second shot to talk with the people in the communities rather than trying to deal with someone hundreds of miles away. I think it is a good bill and I support it. I think that if you sit down and read the bill totally, you would see that it is good for Nevada.

Chair Kirkpatrick:

Thank you, Mr. Ellison.

Assemblyman Livermore:

I do not always agree with the Secretary of State, Mr. Miller, but I do today. I think your statement was right on point, and the bill as we have it before us today contains a Legislative Counsel's Digest on the front page that lays out the four points that are essential in this plan. There are at least six local government boards and commissions here today providing representation for public hearings.

There have been numerous other public hearings. The Mayor of Carson City was here, and he emailed me and apologized for leaving. He has received a call from Carson City Supervisor, Shelly Aldean, this morning who serves on the board with the Secretary of State, and she made the presentation before the Board of Supervisors who approved the plan.

I believe this bill is not an attempt to harm the ecology of Lake Tahoe—I would not support this bill if I felt that were the case, but I believe that the plan that is laid out is well taken and the points in the digest speak to the issues. I hope that by 2017 the Governor can make a recommendation that these details have been thoroughly discussed, thoroughly vetted, and thoroughly worked out. I think there are two if not three legislative sessions that will take place before 2017 when the plan can be reviewed. I fully support the bill and I plan to continue to support the bill.

Chair Kirkpatrick:

Thank you, Ms. Pierce. I am going to let the others in the audience come up to testify, and if I need you to come back, I am sure you would be happy to accommodate them.

Assemblywoman Pierce:

We touched on this earlier. The reason that things have to be voted on by Congress is because a long time ago the people of the United States decided that Lake Tahoe was an American treasure, and that it needed something extra besides being cared for by the local people who lived around the lake. So, yes, things at the Lake are contentious.

I am sorry that people feel it is a waste of time to deal with things at Lake Tahoe. The fact of the matter is that the basic idea the American people expressed through Congress was that they wanted Lake Tahoe cleaned up and preserved.

There is an implication today that everything is at a standstill at Lake Tahoe and that is not true. The fact is that a lot of environmental work has gone on over the last couple of decades, and it has been successful, though difficult. The lake continued to lose clarity, which was how the environment was judged until just recently. In the last couple of years it appears that clarity is possibly leveling off. We might be at a turning point at the lake, but it has taken a couple of decades to put the necessary infrastructure in place to keep the water from developed land and from roads from washing into the lake.

The fact is that TRPA has been successful at what the American people wanted TRPA to do.

Chair Kirkpatrick:

I think we lost sight of this bill and now that it is here we have to deal with it. I also have a couple of points to make.

I do not disagree that Lake Tahoe is beautiful and we want to fix it, but what I have a little heartburn about is that last night I went through every agenda for the past year—I stayed here and read every single agenda. I read everything that came before the board and I can tell you by reading the agenda there was not much substance to what they were really doing. I feel frustrated in looking at the board members and reviewing their discussions from the minutes.

It does not appear that Nevada has an opinion because they do not really need Nevada's opinion the way I read the minutes, and I started from October 2010 and worked my way to the present. I only saw one Washoe County issue come up, and most were significantly from California; they also appointed new members.

I want to get back to the bill because I am a Nevadan and I care about Lake Tahoe. What is at issue on page 7 for Committee members because I think we have to talk about the bill? What is the issue about asking them to give Nevada more of a say. From four to eight votes, I cannot remember the numbers. I thought that every time I counted the votes it was ten California and five Nevada people that had a say in the process. I am wondering, why we would not want more representation. That would be my question for the Committee.

I understand the economic part; I do not think we should deviate from the environmental issue because that is there for a reason. But what I have some frustrations about is that I went back and pulled the building codes. In 1987 the environmental code would not even allow some of the newer, better environmentally friendly things to be done, such as lighting. We have learned at least that lighting is important even for some of our existing buildings.

Mr. Ross, one thing I am perplexed about is why it took them 20 years, and it appears they have two different dates for the regional plan, and the thing that concerned me the most was that they "may" adopt a plan. There is nothing that says that they absolutely will adopt a plan and that they will go further with the mission of TRPA and the Compact in 2012 if they do not adopt a plan in 2011. There seems to be no certainty and I wonder what the discussion is on that. What I think is problematic, based on what I read last night, is to deviate from the Compact. My understanding is that California is just as frustrated in the way the process works at times because Nevada also holds up plans that California wants.

I read those minutes for hours last night. My understanding, though, based on that is that if both states pulled out then TRPA takes over anyway, and then you have three entities instead of one working to try to do what is right at Lake Tahoe.

What is the reason that it is taking so long for them to do the regional plan and where are they with that? Do you know?

Ross Miller:

First off, I apologize if I offended anyone in suggesting that it was a waste of time to be part of TRPA because that is not what I meant. I am passionate about the lake. What I am saying is that things move so slowly that it is almost like watching a soap opera: you can miss a few episodes and you have not missed anything because you attend the meetings over and over again, and it is very rare that you reach a moment of action where you are able to cast a vote of any significance.

I think that is the problem that ties into your real point, which is, why has it taken us so long to submit a regional plan? Since I have been on the board, we have had these discussions first through the Pathway 2007 Project to talk about what the regional plan would contain and the different requirements. Understandably, those are complicated issues, but the problem in getting that passed is the same problem of getting anything through, which is that the voting structure as it exists almost requires a unanimous consensus among both states. You are dealing with a board that is almost a fourth of the size of the Nevada Legislature. You are not going to reach a unanimous consensus that this is the direction in which we should head. The bill makes it much more reasonable and 9 votes out of 14 is still a very significant requirement, and yet feasibly, we can put this in place.

There is simply no excuse why, four years after the deadline, we still do not have a regional plan. We are moving and making progress to be sure, and we are trying to bring the stakeholders to the table to figure out what their objections are and whether we can reach a compromise. I think optimistically that passage is still a couple of years away, but if in the future, we could amend this Compact and put more reasonable voting requirements in place, I think we would see the kind of progress that we need to see for the lake, and ultimately provide the environmental protections that everyone wants.

Chair Kirkpatrick:

Thank you. Ms. Pierce, did you have a question?

Assemblywoman Pierce:

I would like to say you brought up the shore zone situation. Yes, it took a long time to finalize the plan and as soon as it hit the deck, there were law suits. The lake is a contentious and litigious place. The lawsuits are slowing things down as much as any type of voting, but the fact is that the lake is getting cleaner and that is the point.

The other thing is that how you can build at Lake Tahoe is different from anywhere else. There is a considerable amount of science that goes into it, and it is my understanding at this point—and I know that not everyone agrees with this—the vision is to decrease the footprint, to make things more compact so that there is more open space. That does mean that some of the older buildings are going to go because current science says that is a good idea; everything is about lake clarity. I personally think that is a good idea. I think if we had not done that 20 years ago, the economy would not be good at the lake because it would be a mud hole.

You cannot just talk about redevelopment at the lake like you do someplace else, because how they built buildings 20 or 30 years ago will hurt the environment at the lake. It is a complicated place and we do not do the lake justice by trying to talk about it in just two hours.

Chair Kirkpatrick:

Ms. Pierce, let me stop you on that point and we are going to move on. Because I said this Committee would work as long as it took tonight to have a fair process. I am offended by that.

At this time I would like to call those people up who are in opposition to S.B. 271 (R1). If you could please stick to the points of the bill, I am happy to go through them with you.

Kyle Davis, representing Nevada Conservation League and Education Fund:

I also have with me today Jean Stoess from the Toiyabe Chapter of the Sierra Club, as well as Joe Johnson from the same organization.

We are in opposition to this bill today. We oppose it in its original form and as amended, although there was not really a hearing opportunity for us to do so. We certainly wanted to come to the Committee today and make our position clear about what we think the impact of this bill is and certainly discuss some of the issues that have come up in the hearing today.

I think the ultimate reason that we oppose this bill is we believe that this will result in dissolution of the Tahoe Regional Planning Authority (TRPA) Compact.

This will result in the two states going their separate ways and not working together anymore.

Essentially what this bill does is state that California must make these three specific changes as exactly outlined in this bill, and a regional plan must be adopted by a specific date otherwise we will pull out of the Compact.

First of all, this type of negotiation certainly does not seem like it would be very productive because it says California must do things exactly as we say otherwise the deal is off. That is no way to work to a consensus, and this no way gets us down the road to where we have something that everyone is on board with.

I think the bigger issue here, and the reason I believe California and Nevada as well, should not be looking at this as a positive thing is because this reduces or almost eliminates both Nevada's and California's state sovereignty. I will get into that when we talk about the voting structure, both under the bill as proposed as well as Secretary of State Ross Miller's amendment. That took it to a point where things could be approved in either state without the concurrence of the state in which the projects are located, and things such as the thresholds that Assemblyman Anderson brought up could be approved with one state disagreeing with the findings.

The other problem is that this bill gives no incentive to reach a compromise. For those on the Nevada side who would like to see us withdraw from the Compact, it is certainly in their interest to stall and delay to the point where we are no longer a part of the Compact.

The final point I will make is that we have historically seen how hard it is to adopt amendments to this Compact. This issue was addressed by Assemblywoman Neal, and the fact is we have made amendments to this Compact twice, and both times it was not ratified by Congress, and those were relatively noncontroversial amendments. Imagine if we bring forward amendments like these that are relatively controversial and create significant opposition. It seems very unlikely that these amendments will be adopted.

The final thing on this issue is that many people have come before you supporting the bill saying that no one wants to withdraw from the Compact, and that we certainly want to stay within the Compact. I would propose to you, if it is true that no one wants to withdraw from the Compact, that we take that threat out of this bill. Let us not put it on the table that we are going to withdraw from the Compact if we feel there is little value to do so. If the amendments that are being proposed are so reasonable, and I believe that

Secretary Miller said he could not imagine why anyone would think these are not reasonable amendments, then why not put these in and negotiate in good faith with California and the federal government? Why do we need this hammer of possibly pulling out of the Compact that has been so responsible for improving the quality of the environment at Lake Tahoe?

The second point that I would like to make is that withdrawing from TRPA Compact, and it is our belief that this would happen, would absolutely result in harm to Lake Tahoe and harm to the environment in the Lake Tahoe Basin. The TRPA Compact has been the single greatest force for improving the environment and restoring the clarity of Lake Tahoe. We have actually seen some successes because of the actions we have taken, and it is important for us to continue that.

This is a multistrategy approach to balancing the natural and human environment as the Compact calls for. There has been much testimony about not wanting to harm the environment of the lake. While I believe the proponents are sincere in that belief, it is not something you can just believe. It is something that is scientifically based, and you have to leave in place what has been in place for the last 20 years if we are not going harm the environment of the lake. It cannot just be something where we say we do not want to affect the lake, and then it just happens.

I think Assemblyman Anderson brought up a great point in talking about the thresholds because that is the entire building block that this is built on. That we have thresholds, and we have capacities for the lake. This is fundamental and this is why a bistate compact makes those things happen.

Realistically, the fact is that what we have right now is a great example of a public-private partnership. Lake Tahoe is a public place that is of value to the United States and the people of the world, but it is also something that we have private investments in as well. It is an example of how we could protect the national environment while still having an economy at the lake. We have been able to do this, and it is the structure that has allowed that to happen.

The third point I would make is, even if this bill passes as proposed, this is not going to solve the problems that are alleged by the proponents of this bill. We have heard a lot about these projects or that things are being stopped at Lake Tahoe, but I did not hear any specifics. I know that was asked for by this Committee. I do not know of any projects that have been stopped by TRPA and certainly not because of this voting structure. Now I know there have been assertions made, and I am not saying those are not true, but I do not know of any cases where this has happened. Yes, there may have been projects that

someone may have decided not to move forward on. That could have been because of the voting structure, it could have been because of the regulations, and it could have also been because they could not get the financing for the project, or they decided to go in a different direction. They are a multitude of reasons here, but when you look at the actual facts, there really have not been projects that have been denied, and certainly not redevelopment projects as stated, which we agree with.

Also, I am not sure the amendments that are proposed in this Compact really address the concerns that were brought up. The issue of the shore zone came up, and this was an ordinance that was passed through the current voting structure to deal with the shore-zone issue. The problem is that the courts held that it did not hold to the Compact and did not follow the law.

You can change the voting structure all you want on this board, but if ordinances are passed that do not follow the Compact, they are going to continue to get struck down in court.

About the issue of the state sovereignty and the voting structure, the way that the structure works right now does not require a super majority as has been said by many people. A bistrate concurrence is required when you are adopting a new regional plan: it requires that both states be on board with the changes. What this does is it forces compromise; it forces everyone to come to the middle. It forces all sides to get together and come together on something that can work for all parties and, as a result, reduces litigation. You are less likely to see projects challenged that have broad public support, which is what the current voting structure does. My fear is that changing the voting structure and approving projects that are not consensus projects would create more litigation. There would be a lot more lawsuits filed, and that is going to be the primary reason that projects are denied, and you will see a lot of those lawsuits being successful.

As far as the language that talks about the economy and the change to the Compact, I share the same concerns as those voiced by Assemblywoman Neal. I do not know what this means. What does it mean to take this into account? The answer that was given was that this was designed to send a message. Well the fact is that right now these things are rooted in science. When we talk about the thresholds and we talk about how that impacts the environment, those things are rooted in science, and I do not know exactly what it means to put that in there. Also, the economic arguments are based on guesses regarding what is going to actually affect the economy.

The third point I would make is that at what point do we supersede economic concerns above environmental concerns? If the charge is to protect the economy at all costs, at what costs to the environment does that come? Now, certainly, these do not always have to be in conflict, and I would argue that in many cases they are not. You can improve the economy and the environment at the same time, but if the answer to not affecting the economy is reducing the environmental thresholds, then that is going to have an impact on the environment. I think that is bad for the economy, and it certainly bad for Lake Tahoe.

Chair Kirkpatrick:

Mr. Davis, may I ask you some questions?

Kyle Davis:

Certainly, please do.

Chair Kirkpatrick:

Here is what I fear and what I was trying to avoid saying on the record. I think we look pretty stupid for bringing something to the Legislature that we cannot all agree on, when we really want to do whatever is best for Lake Tahoe. I think it sends an even bigger message to California that the Nevada Legislature cannot agree on anything, so they can walk all over us—that is what I fear.

However, having said that, I understand both sides and I am a bit frustrated at this point because it is late in the game and here we are. It is all over the news and California is watching exactly what we do here today, and if we are fighting amongst ourselves, it just gives them leverage.

I think that there is some conspiracy theory out there that we are trying to get something from both the environmental side and the business side. I think that the average constituent just wants to ensure that we do the right thing.

When you talk about the economy, and I only know this from being a former planning commissioner, sometimes it is not as economically feasible to redevelop a project as it is to tear it down and start over. I do not know that this wording is intended to say that someone cannot build something and they want to circumvent the system. I do not believe that to be true.

I want to get back to the bill. I have been down this road at the end of session on water issues, and we all came together and worked it out. You have to admit Ms. Gilbert that the water issues worked out pretty well considering how we were on opposite sides. And believe me, I am not happy that the Senate

sent over something that we cannot all agree on, because we sent them 75 pieces of legislation that they have moved out without any problems.

I do not believe that the intent is to pull out of the Compact, but it is a hammer so that California knows we are serious. I will be honest that I do not live at the lake. I have been to Lake Tahoe three times in my life, but when I drove by I have to admit that the Nevada side looked a lot worse than the California side. I do not understand that. Our buildings were older, our buildings were "1987-ish," but when you drove to other side, they were more hip and my kids wanted to go to the other side.

Is there no compromise? Is there nothing you believe we can do to send a message to California that we want equal footing, and that we want to be part of the discussion going forward so they take us seriously? Because if California pulls out because they are just as frustrated with us, you know there will be four or five people tying up what they are trying to do. From everything I have read, nobody wins, and it is a whole different group of people deciding for all of us.

I do not have any conspiracy theories of my own, but the policy needs to be right. Is there anything in this bill that we can fix at this point? I just think we look stupid by not agreeing. I just put that out there and ask is there something that we can do in the next 18 hours to fix this; I will stay here all night, and the Committee will stay all night. We will have plenty of public testimony to discuss and vet this. I think you know me well enough that I am not going to "ram and jam" something, but I want to have some real discussions about the bill.

Kyle Davis:

In response to your question, that is exactly where I was headed in discussing this. There is some very good stuff in this bill. When you look at section 22.5 regarding the issues that interim committee ought to be looking at, I would include some other things and certainly look at the impacts of the changes that are being proposed here.

I think it is a very good idea that we should be looking at these things, and that is why we have an oversight interim committee. I am certainly disappointed that if this was going to come up this session that we did not do a thorough vetting of this concept during the last interim, but absolutely, that is something that we should be looking at. As for bringing people to the table, I know for a fact, since this bill has been introduced and certainly since it passed out of the Senate to the Assembly, it has sparked a discussion between California and

Nevada about what we can do to fix some of the problems that have happened at the lake. Those things are happening and they are currently ongoing.

I guess I would come back to Secretary of State Ross Miller's statement that these are rational changes to the Compact. My argument is that if that is indeed the case, certainly let us look at the concept of maybe making these changes in the Compact, but let us not put pulling out of the Compact on the table if that is something that everyone can agree is not a desirable outcome.

I do not believe that at the point where we pass changes to the Compact that have gone through this hearing process, that we have these discussions already ongoing, and that we are proposing things that are reasonable and common sense, why the discussions could not occur in a good faith fashion with California. My argument is against the bad faith negotiating and passing something that says here are the changes, take it or leave it, which is how I read this bill right now. I am happy to work with the Committee to come up with something where we are facilitating a discussion and making changes that need to be made.

Chair Kirkpatrick:

We are going to come back at 4:30 p.m. and we will stay here until midnight if we have to, and we will have some discussion. But I do want to get the people in Las Vegas in case they cannot come back. I am not sure who is in the south. Did you want to testify one way or another?

Lance Rake, Private Citizen, Las Vegas, Nevada:

I appreciate the opportunity to speak very briefly. I am speaking as a private citizen and somebody who has been to, and loves, Lake Tahoe. I am resident of Las Vegas, and I think my main point is that Lake Tahoe is not just an issue affecting the north. It affects all of Nevada, in fact all of the west; I would say it is an international jewel.

I am also a member of the Sierra Club Toiyabe Chapter, Executive Committee, and I am also a board member of several other conservation organizations.

I want to speak in opposition to S.B. 271 (R1) today. Nevada is a state of enormous natural beauty, but there are some great jewels in this crown. Red Rock Canyon in the Spring Mountains of Las Vegas comes to mind, as well as Great Basin National Park in eastern Nevada and, of course, Lake Tahoe itself that we share with California.

Unfortunately, all three of these natural wonders are threatened: Great Basin Park by resource extraction and the Spring Mountains and Lake Tahoe by the pressure of commercial development. That threat has been there for awhile and is nothing new.

Many people living near national parks, such as Yosemite, and Yellowstone continue to bitterly resent the protected status that parklands retain, even when that protected status has provided great economic benefits such as tourism to surrounding communities. Some people will naturally chafe when told that construction for personal or commercial benefit is restricted, and let us not make any mistake here the goal of this bill is to make development easier. Given the character of the people who own property around the lake or wish to develop commercial property around the lake, it is not surprising that some of those people are among the wealthiest and most powerful people in our state: good people.

Chair Kirkpatrick:

Mr. Rake, I have families that have been waiting for four hours and it is not about who is powerful.

Lance Rake:

Okay, I just think that it is important that in the case of Lake Tahoe and in all these cases that the resources to be protected belong to the public. The lake does not belong to the surrounding property owners. The rights of property owners around Lake Tahoe stop when their activities have the potential to harm this public resource. That is why giving the economic interest of some property owner's great weight is a bad idea. This bill is a bad idea. We would be codifying to law the idea that their interests outweigh the interests of the greater communities of two states and of the United States. If you want to see where this will lead, look at Niagara Falls and if you want to see what remains as a tourist attraction jewel, look at Yosemite. I respectfully ask the members of the Committee and the Legislature to reject S.B. 271 (R1).

Chair Kirkpatrick:

Thank you, Mr. Rake. We are going to reconvene at 4:30 p.m.; however, I have some families that have been here for a very long time, and I would like to give them an opportunity to testify.

Jean Stoess, Chair, Toiyabe Chapter, Sierra Club:

I have lived in Reno for 44 years, same house, same husband, and we go to visit Lake Tahoe, but do not own any property there. I served on the Washoe County Board of Commissioners and I served on the governing board of TRPA in two positions, representing Washoe County and later as a representative

selected by the six members of the board. Today I am speaking as the Chair of the Toiyabe Chapter of the Sierra Club, which encompasses the entire state of Nevada. It has about 4,500 members, which you may have been hearing from.

I am going to speak to the issue of whether we should withdraw Nevada from the TRPA Compact.

Chair Kirkpatrick:

Ms. Stokes, I want to remind you that I am happy to take written testimony for later, or I am happy to have you come back at 4:30 p.m. We have to be on the Floor at 1:00 p.m. Give us as much information as possible, but if you need to follow up, I will be happy to help you.

Jean Stokes:

Okay, my position and the board's position is that TRPA provides important services to both states. It not only gathers data and evaluates plans, but it also oversees reclaiming of damaged areas such as the large wetlands in South Lake Tahoe years ago.

I think if Nevada were to pull out of TRPA those benefits would disappear. I do not know how a Nevada TRPA could exist with the terrible financial burdens on counties and on the state of having a building with furniture and computers and people. It does not sound feasible to me.

The one thing that bothers me is what has happened to the commitment of Nevada to TRPA.

I have a very brief story that is very interesting to illustrate the last time Nevada really exercised its commitment to TRPA. It was in 1980 and Jerry Brown, the Governor of California at the time, was threatening to turn Lake Tahoe into a national treasure, which was a bit of an incentive and it got former Senator Spike Wilson from Nevada and his counterpart in California to have a number of meetings and they created some real improvements to the Compact. Spike Wilson got it through the Senate and former legislator Joe Dini got it through the Assembly, and so great was the support for the Compact, that Governor Robert List called the Legislature into Special Session on September 13, 1980. It took four hours to approve the Compact and it was the shortest special session in history.

I just want to say that I have been a member of the TRPA governing board. I think Nevada TRPA would be both unable and unwilling to control a lot of development at the lake. A yes vote for S.B. 271 (R1) would be a vote against Lake Tahoe. [Ms. Stokes left a prepared text that she did not read ([Exhibit I](#))].

Chair Kirkpatrick:

Thank you, Ms. Stokes. Does anyone have any questions? As I said, if you want follow up, we are happy to put your information out or you can come back at 4:30 p.m.

Tim Delaney, Private Citizen, Incline Village, Nevada:

I have my daughter, . . .

Chair Kirkpatrick:

If you could please state your name for the record, and those microphones are not very loud so you will need to talk right into the microphone.

Tim Delaney:

My daughter's name is Rachel Delaney, go ahead. Are you afraid?

Chair Kirkpatrick:

Rachel, you have a little white button in front of you, you will want to turn it on and get really close to the microphone?

Tim Delaney:

[Rachel does not want to speak, her father, Tim Delaney, reads her prepared text for her ([Exhibit J](#))].

I will go ahead and speak for her.

Before my son speaks, I want to address what we are here for. Our whole central theme here is power. When I read these amendments and read S.B. 271 (R1), we are against it and we are property owners at Incline Village. I have lived there since 1974 and feel that is a transfer of power to developers from my children.

When I read this language about economy and/or changing the vote and, I saw the sovereignty issues, this weakens our ability to file lawsuits. We are looking at a situation here where we are handing all the cards to the developers and shifting that power to the developers. As homeowners, that comes to our detriment, and we are very worried about that.

There are a lot of properties like the Incline Village General Improvement District (IVGID), the beaches, the ski resort, the golf courses and what not. All of that is on the table.

I have friends that own homes all around those golf courses and now we are looking at what is going on and we are thinking—eminent domain, seizure of land and such as that, which should not be for economic gain. That should be for something like Dwight Eisenhower's transportation system when we need to efficiently move tanks and military equipment across our country to secure our borders. To take someone's home and then say we are going to build a business or an economy on your back and then we are going to gain political capital at the expense of my children, I think is highly inappropriate.

That is what I did not like about S.B. 271 (R1). I feel it was hastily set up and people are not considering these sorts of things. With respect to Boulder Bay, and the timing I felt that this influenced their vote. That was not very fair to me and a number of other homeowners in the area who were against the project.

My son has an idea, because there is so much confusion about this amendment and we view it as a land theft act against homeowners . . .

Chair Kirkpatrick:

I do not think that, because it has not passed the Legislature and we are here to talk about the policy.

Tim Delaney:

We feel that one way to deal with it is to send it back to the Senate and let them work on the wording and get the wording right before they bring it down to this level; also consider the homeowners around the Tahoe Basin that stand to lose from a situation where we would have large developers coming into our community and developing at our expense.

By the way, development has not stopped at Lake Tahoe. My children are on the Diamond Peak Ski Team and we just had our lodge rebuilt last year and our new center to handle children's skiing and tickets, et cetera. It is happening. There is development all over Incline Village and all over the Tahoe Basin.

I have friends that would probably be against me on this. They would probably support S.B. 271 (R1) and the construction. I can see they are out there: Fortress Construction, Inc. is building and fixing people's houses and redeveloping. My friend up the road who has lived there since 1974 he had his front deck plans approved without a problem, and he is building.

I do not know where the idea came from that development has stopped. The only thing that has come to a stop and that is being held up is large development, which can affect communities, and we could end up with 10,000 more people in our town. That would degrade our quality of life.

Also, there is the clarity issue. You need to wait about 15 or 20 years before you can say that you have a handle on it. Eighteen months, one year, that is not enough time, you need an entire drought cycle, a heavy rain calamity, and a huge winter cycle to see what is really going on with the lake.

One of my friends works in construction in the Los Angeles area and also owns a house up the road from me. The first thing that came out of his mouth was they need to stop adding variables into the mix. Stop the development and let the lake settle down for a while and see what it is doing. Then we can go ahead and talk about redevelopment plans and maybe changing the structure of communities.

In regard to environment thresholds, I know you are at capacity. Back in the late 1980s, I saw the Truckee River dry up; it was a muddy ditch and there were all kinds of pollution in it. One of the jokes amongst my friends when I went to college here was this name for the Truckee River; we were calling it the Truckee trickle because we were out of water.

So, I think there are some things to consider. You need to consider development at Tahoe, but also in the Reno-Carson area. If we had another 100,000 people to our region how much water can we pump from the lake?

Chair Kirkpatrick:

Mr. Delaney, I have several other people that want to speak. If there are points of the bill that you want me to evaluate specifically . . .

Tim Delaney:

I will let my son speak real quick, and he will say what he would like to do, and he will mention the amendment to the bill.

Chair Kirkpatrick:

Let me explain how the legislative process works. The bill was introduced in the Senate and was given a hearing in the Senate. The vote on the Senate Floor was 19 ayes to 2 nays. The bill was then introduced on the Assembly side and our policy is to hear the bill, but with five days left of session, I very seldom move legislation. I do not foresee this bill going anywhere today. You still have time to submit comments, but we cannot just send it back to the Senate, as much as I would like to throw it back. We cannot do that, so we have to hear the bill.

Thank you, Rachel for coming and now we will listen to your brother.

Casey Delaney, Private Citizen, Incline Village, Nevada:

[Read from prepared text and proposed amendment ([Exhibit K](#))].

Chair Kirkpatrick:

Thank you very much, Casey. Did you do this all by yourself, because I was trying to keep up with you? You were pretty fast.

Are there any questions? Mr. Delaney, I am confused by your address of San Jose, California, do you live in both places?

Tim Delaney:

Correct, I grew up in Incline Village and I went to school here, and I purchased a home in San Jose as well. Actually, the Incline Village home is my second home. I have always had a residence at the lake.

Chair Kirkpatrick:

Okay, are there any other questions? Thank you. I have a couple of people from the Desert Research Institute that I would have come up to testify. We are going to be late for the Floor; they will have to wait for us. I am trying to get to the people that do not necessarily want to come back at 4:30 p.m. I appreciate you waiting; please state your name and say if you are neutral, in support, or in opposition.

Alan W. Gertler, Senior Director, Desert Research Institute, Reno, Nevada:

I am against the bill as it is currently written. I am a research professor at the Desert Research Institute (DRI) in the Division of Atmospheric Sciences, the Senior Director of Clean Technologies and Renewable Energy Center, and the Vice Chair of the Tahoe Science Consortium Committee of Sciences at Lake Tahoe.

One of the things discussed this morning was the environmental issue and the importance of maintaining the environment at Lake Tahoe. I realize that it is late, so I am going to be very brief.

Unfortunately, the environmental quality in the Basin continues to deteriorate. If you look at things such as water clarity that has to some extent stabilized, but if you look at air quality, the Tahoe Basin is the only area in California that actually is experiencing an increase in ozone. It currently violates the ozone standard. It will violate the proposed federal standard, and that is when the economic hammer really comes down. There are some serious issues with economic and, of course, health issues. When you violate a standard and it is a health-based standard, there is an impact on human health, and there is also an

impact on the forest ecosystem leading to an increased risk of catastrophic fire. Thus, we have some fairly complex issues. How can we address those issues?

Currently, they are being addressed by TRPA. Because you are dealing with the air, you do not have boundaries and it goes from state to state. You need some type of multistate agency to deal with these types of complex issues and maintain the environment at Lake Tahoe.

Currently, TRPA serves that purpose, and again, not a scientific opinion but a personal opinion here, the threat of withdrawing from the Compact would have some serious negative consequences on air quality in the Basin, which would also have serious economic consequences that I do not think have been considered. Thank you for your time.

[Chair Kirkpatrick was busy, but remained in the room; Vice Chair Bustamante Adams took over meeting.]

Vice Chair Bustamante Adams:

Before we hear the next speaker, does the Committee have any questions?

Assemblywoman Benitez-Thompson:

You testified that there is increased ozone in the Lake Tahoe Basin area. Why is that?

Alan Gertler:

That is a good point. Most of those, at least from the work that we have done, imply that it is from in-Basin emissions. These are emissions from mobile sources such as boating activities and construction activities, which all contribute to the increasing ozone trend. Some emissions transported from Sacramento are coming across, but most of it is from in-Basin emissions and most of those emissions, at least in regard to forming ozone, come from mobile sources. So it is transportation-related.

Assemblywoman Benitez-Thompson:

When we talk about in-Basin emissions, we are talking about emissions from boats and vehicles and the like. So within the Tahoe Basin this is a real area of concern. Would more boats on the lake and would more cars on the roads create more emissions and more problem with the ozone?

Alan Gertler:

That is what it appears to be based on the work that we have done so far. That will make things worse; we have to look for various alternative transportation strategies. Also, the trend can go toward cleaner vehicles,

cleaner fuels. If you are looking at boating, they emit one of the key chemicals that winds up forming ozone. Boating is actually an under-looked aspect of ozone formation in the Basin.

If the standards are violated then obviously controls will have to be put in place. What needs to be done is to find creative ways to bring things into compliance so that there are no issues and sustainable use within the Basin can continue recreationally, along with continued growth and development. It should be done in such a manner that it does not affect these other environmental conditions.

Vice Chair Bustamante Adams:

Thank you so much. I want to make sure that I understood you. Your concern is really with section 23.5 of the bill which talks about the withdrawal from the Compact, is that correct?

Alan Gertler:

That is correct.

Vice Chair Bustamante Adams:

Thank you. Mr. Anderson did you have a question?

Assemblyman Anderson:

I was wondering, for my edification, whether you could explain to me the concept of environmental threshold carrying capacities.

Alan Gertler:

If you are looking at what is called carrying capacity you have limits. It can be environmental standard, and in this case the ozone standard, which is 75 parts per billion over an eight hour period on average. How many emissions can you have from the various sources leading to the ozone until you bump up against that standard? Emissions can continue at a lower level, but eventually there is so much that it is going to hit the top. That is your carrying capacity. That is what we mean by that, so you want to be below that level. What it really amounts to is how much you can emit before you get into trouble.

[Chair Kirkpatrick resumed as chairmanship of the meeting.]

Chair Kirkpatrick:

Are there any other questions?

Assemblyman Stewart:

Did I understand you to say that the ozone layer was increasing and this is the only place in California?

Alan Gertler:

This is what we call troposphere ozone. It is the ground level ozone that we breathe and not the ozone in the stratosphere. It is at the ground level, again the lowest level in the atmosphere. If you look at the trend in ozone concentration that is observed in the Lake Tahoe Basin it has been increasing, and that is the only air in California where that trend has been increasing.

Assemblyman Stewart:

And this is increasing under the current plan and system?

Alan Gertler:

Yes, it is.

Assemblyman Stewart:

Then maybe we should change that.

Alan Gertler:

We should look into it and look into actually implementing changes to bring it under control.

Chair Kirkpatrick:

Are there any other questions? [There were none.]

Sudeep Chandra, Professor of Limnology, University of Nevada, Reno:

I want to make sure that you understand that these are not the views of the University. These are the views of my experiences working at the lake as a member of the Tahoe Science Consortium and Scientific Community. I have concern for this legislation as proposed, especially the part about removing Nevada from the Compact. I have been working up there since 1998 assisting Nevada, California, and TRPA to restore and protect the water clarity.

I understand that challenges arise when you are trying to regulate or protect an ecosystem, but I sincerely believe that if you look back at the governance structure and the science work that has been done, the lake has received stronger protection as a result of the bistate Compact than it would have as a result of a single or sole-governance model. There is some scientific evidence provided by Noble Laureate, Elinor Ostrom, who has published quite a bit about models for governance and protection of the environment. What she finds is these types of structures, like TRPA, actually afford more protection for the environment than if entities move forward alone and try to collaborate later. She is a Noble Laureate; you would think that she knows what she is doing, and she is highly published.

I just got back from a trip to a high mountain lake in Guatemala. We are trying to advocate at some of the other lakes that we work at around the world for adoption of structures that are similar to TRPA. There is a compact, a process, and a governance structure that you can work through, rather than trying to work things out later through other bistate or multistate processes.

There is enough scientific literature that is moving in the direction of models like TRPA for environmental protection, which is important.

One other topic I will address is that the introduction and establishment of invasive species is one of the primary issues facing state and federal agencies at Lake Tahoe, including TRPA. The science literature suggests that the introduction of a single species can adversely affect and permanently change the ecology and economics of an ecosystem.

Lake Tahoe is no different in this case. The TRPA to date has been very instrumental in organizing agencies and nongovernmental organizations, private landowners, and the scientific community to work and tackle this issue through a coordination committee called the Lake Tahoe Aquatic Invasive Species Committee. The idea was to develop a joint plan to tackle this pressing issue in the Tahoe Basin. The role of TRPA extends into all aspects of aquatic and invasive species, including the implementation of programs and facilitation of prevention monitoring and post-establishment coordination from other agencies.

The TRPA, in its current structure, has been very helpful in addressing this major topic. It is a strong partner agency; the staff has exhibited strong leadership roles and provided resources; and it has unique region-wide authority. That region-wide authority might be within the Basin area, but the staff has gone out of their way to help other agencies, such as the Pyramid Lake Paiute Tribe, to try to develop programs that would help protect their lake.

What I am suggesting is that it is easy to say the current process is not working, but for this particular topical area, it is working, and that should be noted. There are examples of success of the current model within the last three years, and those should be praised and improved upon rather than damning the agency.

Again, at least on behalf of this one topical area, which from my worldwide experience is working, we are trying to adopt approaches that produce some sort of region-wide collaborative authority. I would like to not see us take a step backwards in our community by dismantling TRPA.

Chair Kirkpatrick:

Thank you. Are there any questions?

Assemblywoman Benitez-Thompson:

You talked about having a bistate approach and an agreement between two states to address concerns such as when invasive species come into the lake, and I think there has been some discussion, not in this Committee, but in other committees, about the clams [quagga mussels]. When issues such as this arise, TRPA has been helpful in trying to help both states with resources to manage those issues, because it is expensive if just one state had to do it, and you cannot necessarily draw a line in the water and say we are going to only take care of clams on the Nevada side of the lake. So TRPA helps negotiate the cost and resources for things such as that, right?

Sudeep Chandra:

That is exactly right. There are emerging issues that are regional in nature and, again, I should point to the work of Dr. Elinor Ostrom, who clearly points out that when you have governance structure that is bistate or multistate in nature, such as the Great Lakes Fisheries Commission to Protect the Great Lakes, you can implement and move policy forward at a much faster pace. You can gather resources. She writes there are stumbling blocks, and that the scientific literature suggests the public is generally resentful toward these types of agencies. But regarding progress, systems tend to stay protected more than their neighboring systems that do not have a multistate governance structure.

Chair Kirkpatrick:

Floor has been moved to 3:00 p.m. We are going to go as long as we can until 3:00 p.m., but at 1:30 p.m., I want to take a break for 15 minutes. We can finish up after the break.

Assemblywoman Benitez-Thompson:

I have this *Tahoe: State of the Lake Report 2010* in front of me ([Exhibit L](#)). I know that you did not write this, but I am not a scientist. I was wondering whether you could help me understand because section 17 of this bill says that if California does not accept what we are putting on the table, and the United States Congress does not ratify what we are putting on the table, we would leave TRPA. I am trying to think about the impact of that, not so much coming from the development or the environment side, but based on science.

The report talks about Lake Tahoe's lake clarity, which is important because that is what makes Tahoe unique. If you throw a whole bunch of sediment in it and it becomes muddy, it could be almost any other lake in the world. Lake Tahoe is called the "Jewel of Nevada" for a reason.

This report also talks about the big hit in lake clarity in 2009 because of sediment, nitrogen, and other things that I do not quite understand. It seems to be a very fragile ecosystem, and I was wondering if you could explain how TRPA protects that fragile ecosystem so we can understand what we are doing if we pull out of the Compact.

Sudeep Chandra:

The *State of the Lake Report* is produced by the University of California, Davis, with data that comes from multiple laboratories, including the Desert Research Institute, the University of Nevada, Reno, and the United States Geological Survey, and what they are basically saying is that the lake is in a really fragile state, but it is also at a potential tipping point. It is either recovering, which is what the science data suggests, or there are periods where it may not be in full recovery. I think the private homeowner that spoke before me was suggesting that you need some longer term information to see what is happening.

If you want to come to these working group meetings, they are making significant strides in the last five to ten years. They are moving faster than they have in the past trying to use up-to-date science information to plan for the future. It may not be reflective in the 1987 plan, but at the working group level, the scientists have been paired side-by-side with them to try and implement some new policies. That is just going to take time.

Alan Gertler:

That type of interaction with the scientific communities has been very recent, probably only in the past five years.

Sudeep Chandra:

Yes, among all levels: not just clarity, but in invasive species and forest management . . .

Alan Gertler:

It is actually integrating all those very diverse groups. Again, I am an air quality person, and Sudeep is a limnologist and an invasive species person. Getting us to work and talk together is needed because all of these problems are interrelated. We have to not only look at the complex science and bring those things together to get a full understanding so that we do not have unintended consequences for making one choice while making something else worse, but also to communicate with the regulatory agencies. A lot of that happens to be coordinated through TRPA.

Chair Kirkpatrick:

Does anyone have questions?

Assemblywoman Flores:

I know that you are talking about strictly the environmental issues, but I just wanted to be clear. There was a comment made that we are going to pull out of the Compact, but in reality, the bill does not say we are going to pull out of the Compact: it simply says that is a possibility if California does not ratify the changes that we are making.

It is my understanding that the amendment that Secretary Miller proposed ([Exhibit E](#)) actually would make it little more reasonable for California to ratify those changes, and if California ratifies the changes, nothing happens to the Compact at all. I just want to be clear that we are not saying that if we pass this bill, we are going to destroy the Compact, because I do not think that is what we are doing.

Alan Gertler:

No, and I think we are saying our concern, at least with dealing with the environmental problems, is that it is critical to have that type of bistate agency to implement things and protect the environment in the Tahoe Basin. The concern that we are expressing is the potential that Nevada could pull out of the Compact—not that it would happen.

Sudeep Chandra:

That is correct; the potential is there, if California does not take certain steps as written, for Nevada to pull out. That could have some unintended consequences in the long run for the conservation of the lake.

Assemblywoman Flores:

I just want to be clear that it is a potential, but nowhere does it say that is actually going to happen.

Chair Kirkpatrick:

Mr. Livermore.

Assemblyman Livermore:

I want to clarify what I thought I heard and that is you do not trust Nevada with the environmental element and you think that only the California component brings that to the Compact. I thought I heard you say that.

Alan Gertler:

No, not at all. Actually, the issue here is that it [the Basin] is an airshed that is shared by Nevada and California, and to address the problems, you cannot have California doing one thing and Nevada doing something else. The states have to work together to solve the problems. The TRPA provides a framework under

which groups can work together. It has to be a coupled program; it cannot be two things each marching to a different drummer.

Assemblyman Livermore:

But, I am thinking down the road, 10 or 15 years from now. If there were two compacts, California and Nevada, do you not believe they could work in concert under that same theory and the same belief and benefit by protecting Lake Tahoe for the treasure that it is?

Alan Gertler:

I am going to pass on that question, because I am a scientist.

Sudeep Chandra:

We have implemented conservation projects for large lakes and five different watersheds globally, and four of the five watersheds are moving toward developing some sort of multistate compact to address issues that are occurring across the United States. Ironically, Lake Tahoe is the fifth lake, and we are actually trying to move out of a bistate compact.

Again, what I am trying to say is you are right: theoretically, 15 years from now things could come back to being better, but the science and social science data suggests that multistate cooperation through an organization facilitates environmental conservation. The question has to be posed back to you: do you want to wait 15 years or do you want to improve what is there and move forward?

Chair Kirkpatrick:

Are there any other questions?

Assemblyman Stewart:

I am still concerned. Under the current bistate system, the lake is the only place in California where the ozone level has increased. You said in 2009 the clarity was worse and it just recently improved, but I am concerned that this present system is not working all that well.

Alan Gertler:

Right now the ozone trend has been up. It does violate the California standard; it does not yet violate the federal standard; however, it will violate the proposed federal standard. The focus for environmental preservation in the Tahoe Basin has been the water clarity. That is what everyone has been pursuing and what most of the programs that have been implemented to date have addressed.

When it comes to actually starting to address problems like ozone in the Basin, those programs have yet to be implemented. It is not a failure of the current system; it is just that the current system has not yet addressed those problems.

Chair Kirkpatrick:

It is almost time for a break. We are going to hear Mr. Wittenberg and then take a 15-minute break.

Roger Wittenberg, Full-Time Resident of Incline Village and Principal Owner and CEO of Boulder Bay, Crystal Bay, Nevada:

I thought it would be interesting to avail myself to you as the most recent applicant having run the gauntlet of TRPA, and you may have some questions about that experience. I would also like to briefly point out a few things that I think are important for you to keep in mind as you make this very difficult and challenging decision.

First of all, you really need to remind yourself every 15 seconds as you go through all this paperwork that there can be no new net development at Lake Tahoe. The rules prohibit that. The number of hotel rooms is fixed. The number of houses is fixed. The number of square feet of commercial space is fixed. It cannot be increased. Everything that appears in one place must disappear in another place. That is very, very important to keep in mind. It is easy to get caught up in the concept that we are going to overdevelop Lake Tahoe. That cannot happen. The worst thing that we can do is to do nothing.

A very specific example is the Tahoe Biltmore property that I bought with the intention of rebuilding it. It currently puts 30,000 pounds of sediment into Lake Tahoe every year. When this project is built according to the approval that was just given by TRPA, the sediment will be reduced by greater than 90 percent. The coverage that the property currently occupies, the impervious coverage, will be reduced by over 60,000 square feet. That is the type of thing that has to happen.

In thinking about what I would say here today, I asked myself the question: "If I had this to do over again, would I do it?" The answer that I came to was, "probably not." When I asked myself why, it really comes down to an issue of uncertainty. Anybody who proposes a significant reengineering of a property at Lake Tahoe cannot be certain of the time that it will take to go through the process and cannot be certain of the results, even if you play by all the rules.

I think, because the "built" environment is the most egregious element at Lake Tahoe, if we are going to rebuild it and invite people to do that, we must reduce the uncertainty. You are my elected officials, and I can tell from the conversation and the passionate elements involved, you care a lot about what you are doing here. I trust you to make the right decision. I know you will do that, so I put my comments down as not pro, not against, but neutral, because I think this is a difficult decision, and my advice to you is, whatever you can do to reduce uncertainty will be an improvement. With that, I would answer any questions that you might have about the experience that I just went through.

Chair Kirkpatrick:

Thank you, Mr. Wittenberg. Ms. Benitez-Thompson.

Assemblywoman Benitez-Thompson:

Thank you for your testimony. I was reading about the Boulder Bay North Lake Tahoe Project, and it looks like a phenomenal project; it is a LEED program. I believe the property you are trying to redevelop and what you are trying to put in its place is a good thing. You are scheduled for approval on April 27, 2011. You have spent three years planning this. I think three years to build an environmentally sound LEED project at Lake Tahoe that is about to be approved does not seem to be an onerous process. I look at other big projects that have been built at Lake Tahoe that have a significant environmental impact and I wonder, if the process is so hard and onerous and does not work, how are these projects coming to fruition?

Roger Wittenberg:

I do not object to the arduous process. I think you need to keep in mind that you have an excellent staff at TRPA. I can sit and talk about the science of water control and erosion control and all those things and work out any differences with the staff: TRPA has a fine staff. You need to keep in mind that you have that staff as your first line of defense: those are good people.

After working more than three years on this project, I do not object to the process itself. We went through 40 revisions in the proposed project and much of it was because of input from the community. In the end, we received substantial support from the community, of course not from everyone, but I think that is an excellent first line of defense. If there is any way to keep TRPA whole, as these gentlemen were just saying, I would fully support that.

The doubtfulness comes to play after years of working with TRPA staff on all the elements to produce a project that by far exceeds the requirements and is an excellent example of what can be done to both protect the lake and to develop an interesting visitation for the general public. It comes down to a vote

where people come from out of town, and after years of hard work, look at a project, make a decision, and leave. The question is whether that decision is fact-based and science-based. If it is fact- and science-based, I am fine with that. But, if it is politically motivated, we need to question that, because that element of doubtfulness is what keeps people like me from trying to construct a project. That is the problem. It is not what we do that is hurting Lake Tahoe right now, it is what we are not doing. We need to rebuild the built environment if we are going to make progress. There is no way around it.

I cite the example of 30,000 pounds of sediment a year that we cannot stop. It is coming off of cars, snowmelt, parking lots, and elsewhere. That will all be controlled with the reengineering of this project. We cannot do that without rebuilding the entire site. This needs to be done over and over and over again. Our project is the first project of substantial size approved in Nevada that will have public access in 10 to 12 years.

Chair Kirkpatrick:

Are there any other questions?

Assemblyman Anderson:

I am reading that your project was consistent with the existing regional plan and the existing thresholds. The problem that you faced was in the approval of the project and not in meeting the environmental standards, correct?

Roger Wittenberg:

Yes, that is correct and again, I do not object to the very significant process that has to be endured, because it is needed. As an applicant that received a 12 to 2 vote from the committee, I did not have a problem with it. The real problem that keeps people like me away is the doubtfulness of it. The rules should be weapons when they are appropriate to be used as weapons, but they should also be reliable guidelines that one can be assured that if followed, the process will be successful.

Assemblyman Anderson:

A quick comment. My concern is based on being able to easily change those environmental standards, because that is something that should not change day-to-day. But, if you are talking about a project here or there that leaves a small footprint and can improve the environment, then I do not have an issue.

I am going to review the Secretary of the State's amendment ([Exhibit E](#)) more thoroughly because I did not get a chance to review it last night. I just want to advise everyone that if a project is leaving a small footprint, I do not have a big issue with that. However, when we talk about easily changing environmental

standards, I feel what is good for the environment one day, in the absence of new scientific information, should be good for the environment the next day. That should not be changed easily.

Roger Wittenberg:

The thing I would point out, besides the excellent TRPA staff and the arduous process, organizations like the League to Save Lake Tahoe have done an excellent job over the years in protecting the very thing that you are worried about. I do not think they are going to go away. I think it is an excellent and appropriate backstop to the very concerns you have voiced, and those folks are just as dedicated as we are to doing our job.

Chair Kirkpatrick:

Are there any other questions? [There were none.] Thank you very much for staying. Is there anyone else that needs to testify before we take a break? Is there anyone in southern Nevada that needs to testify before we take a break?

Ann Nichols, President, North Tahoe Preservation Alliance; Nevada and California Real Estate Broker, Crystal Bay, Nevada:

I do not want to see the Compact changed every time we have a recession. That is a very simplistic view, but as a business owner and developer at Lake Tahoe, I am telling you that before the recession, people were rolling in dough—they were doing great.

If you are going to consider population increases, Truckee increased 24 percent from the last Census to the 2010 Census, and it has lost businesses. This is happening all over; it is not unique to Tahoe. In fact, we have too much supply. We have too many office spaces and too much commercial space. We really need to redevelop, centralize, and improve things.

We are worried about high-rise development. For instance, Mr. Wittenberg's problem was that the code was 38 feet, but he wanted to go 75 or 85 feet. That caused a delay and some concerns. It was a scenic threshold. The development was increased from 100,000 square feet to 640,000 square feet, so we were concerned about air quality and traffic. It was ultimately approved because of the economy; we have to have more jobs. But we cannot use the economy as a justification for everything. I am sure when the Biltmore was built in 1940, it was a great idea, just as the new Policy Training Oversight Division (PTOD) high-rise developments are now.

These are the things that I wanted to clarify from my view after being in the business for a long time. I have a solution, which would be an oversight committee made up of representatives from California and Nevada that had real teeth. When people feel they are ignored, they are forced to go to litigation because currently there is no court of appeal: you have to go to district court. An oversight committee made up of representatives from Nevada and California to which we could go to arbitrate our problems, and an ombudsman for just the run-of-the-mill public issues, such as "you will not let me build a deck," are what we need. I do not think it is an issue with voting: I think it is an issue of nowhere to go and the need to stop the litigation. We need leadership at TRPA that is not "we versus them" and not "us against the environmentalists." We need to all work together, and I think California and everyone is hearing your message. I think it is great. Thank you.

Chair Kirkpatrick:

Are you in support, neutral, or against?

Ann Nichols:

I am totally against. I think there is another solution other than just changing the voting, and I think the reliance on the economy is not a great idea, because we have to look at everything.

Chair Kirkpatrick:

Does anyone have any questions?

Assemblywoman Benitez-Thompson:

I would just say thank you, because you did point out that this does not do anything to end the litigation of the lawsuits that are brought forth, which is a big issue. Maybe there is a different way to resolve some of these concerns. Changing the voting structure and threatening to pull out of the Compact does not stop the litigation.

Assemblywoman Bustamante Adams:

Assemblywoman Pierce previously referred to the committee that handles some issues in the interim. Are you aware of that committee?

Ann Nichols:

I have gone to the meetings where Senator Lee asked for an ombudsman and the TRPA director said, "Well, you know we will try, but we do not have enough money." They have an \$11 million-a-year budget, but they do not have any teeth. I believe this is a leadership problem. You cannot make TRPA do anything. An oversight committee with representatives from both states that has teeth is what is needed.

Chair Kirkpatrick:

Thank you. Are there any other questions? [There were none.] I am willing to take one more. Is there anyone else before we have a quick lunch break?

Patrick T. Sanderson, Private Citizen, Northern Nevada:

In 1962 I moved to Lake Tahoe. I worked on the end of the first high rise project; I was not there at the beginning. I have worked on every high rise, every road, and every building on both ends of the lake. That is not the problem.

The thing that I am worried about is the working men and women who live at Lake Tahoe. The people who own property there cannot get any work done on their property; they cannot even repaint their property for three to five years unless they know someone, because they come up with the wrong color. You change painting companies, you change the color, it is identical on the wood, and it is approved.

The only thing TRPA is allowed to take up now is lawsuits, not common sense on how to work things out. They have laid-off all the employees that worked for TRPA and hired lawyers.

The individuals who live at the lake cannot do maintenance on their projects. I have friends who have lost their homes in the fires because they could not rake up their leaves. It is the common sense small items that really make a difference.

There has to be a change in TRPA. I am not saying that this is the best change, and I am all for an oversight committee. I have hundreds of friends who live in Lake Tahoe and have lived there all their lives, and I have many more that have moved away because they cannot maintain their homes, their businesses, or their churches. I took my wife to Lake Tahoe two years ago to show her the church camp where she had gone as a child, which was 50-plus years ago. She cried when she left. They had been waiting for seven years for a permit to do something to take the kids back to the church camp in Lake Tahoe, but they could not because they did not have the money, and they could not test the lawsuits.

Something has to be done. This is the first step. I just hope that it has the common sense in it and it will come back to the people who actually live and work in Lake Tahoe: the people who love Lake Tahoe and do not try to ruin it.

You cannot even change your business front when you have a business there. You cannot change anything. In the old days when TRPA started out, it was the person who paid off TRPA that got his building permits. This is not about big development. It is about redevelopment, maintenance of your homes, caring about what you do, and trying to live in a society where, unless you are a lawyer, you cannot compete. It needs to change. I hope this is the first step, I hope it is the right step, but staying where we are now does not help anyone. I ask for your votes for this bill, and I hope we can work something out in the next few years that makes it even better. There is nothing that I have not worked on at Lake Tahoe, and there is nothing that I do not know about because I have been there all my life. I would be happy to answer any questions.

Chair Kirkpatrick:

Does anyone have any questions for Mr. Sanderson?

Assemblywoman Bustamante Adams:

You made a statement that a lot of TRPA staff now spends time in litigation. I am not sure if you have the answer, but do you know what percentage of their budget is actually spent on litigation?

Patrick Sanderson:

That came up on the Senate side, and it was over 70 percent. That is what was said—that 70 percent of their time is spent dealing with lawyers instead of taking care of the problems.

Chair Kirkpatrick:

Are there any other questions? How many people still need to testify?

Jan Gilbert, representing Progressive Leadership Alliance of Nevada:

I will be very quick. Kyle Davis spoke for us, and we hope to work out a solution on this bill. Pulling out of TRPA is our major opposition. I would love to see this bill go back to the interim committee for more discussion and more conclusions. Thank you.

Chair Kirkpatrick:

I am sure that you will be at the table when that discussion is had.

Bruce Grego, Councilmember, City of South Lake Tahoe:

I have been a resident of Lake Tahoe for 44 years. I lived there when there was no TRPA. The way this argument is being framed for you to consider whether or not to support this bill is not right. The issue is the difference between smart planning and poor planning; the difference is between having a board that is

based on the issues, can compromise, and can come up with plans that meet multiple needs, and a board that is not functioning.

Assemblyman Anderson asked to point to some projects that TRPA has not approved—wrong question. You should come to my town, the City of South Lake Tahoe. Except for a couple of redevelopment projects, our town has been frozen in 1969 development because we are not able to modify our buildings or change the footprints, and in the process do some environmental development around the property to control run off. We are not allowed to do those things, because TRPA has not promoted plans that promote that kind of progress.

Another example was in the bill about economics. I can remember TRPA approving a project to remove a trailer park. There was a lot of discussion and one board member said, "We cannot consider economics in making our decision." Everyone is thinking it is all about the development, but it is about good planning.

Last month, the City of South Lake Tahoe passed a new multiyear general plan at an expense of \$800,000. Many people criticized us because of what was proposed in the plan, which I consider smart planning. Consolidation of development is not compatible with the 1987 plan, and no one knows what will be included in TRPA's new plan or when it is going to be passed. We are forced to stand still because TRPA, based on its defective governing board, cannot make good decisions.

Recently there were discussions by the president of TRPA, Joanne Marchetta, on how its goal is to increase the clarity in the center of the lake by another 10 or 20 feet. Yet, TRPA has not been able to address the shoreline areas where we have invasive species. In the last couple of years, TRPA has talked about trying to control boats coming into the Basin. What have they done for the last 40 years? The invasive species have established themselves during TRPA's reign, and the reason why is because the board voting structure is defective. What does this Committee have against democracy or the simple majority making decisions? That is how we govern ourselves. By creating super majorities, as being suggested by these amendments, you are empowering the minority. You are empowering the same people who are the four representatives from the state of California who vote no and have slowed down the approvals.

Your Secretary of State, Mr. Ross Miller, was complaining about the fact that nothing gets done. Nothing gets done, because the board is defective. It has to be changed. A simple majority would still be better than what is being proposed by the amendment. I do not think it [a modified supermajority] would

be as effective, but I would take it. We need some reform at the TRPA level. They are not doing their job, and they are slow in addressing their duties. I even disagree with the lady who said there has been some improvement in the last year and a half. I think that improvement has been done despite TRPA's effort. Lots of local governments are working to coordinate erosion control with TRPA, but I believe their decision-making is defective and needs to be modified. That is my view; I support S.B. 271 (R1) and I hope that this Committee approves it.

Chair Kirkpatrick:

Are there any questions?

Assemblyman Anderson:

I definitely appreciate your perspective. I talked to Miss Reese last night, and it was the first I heard that homeowners and local governments had problems with smaller projects. You have to give us time as we continue to digest this because our time frame has been relatively short on this bill. I know that you have been dealing with the day-by-day problems for years. Forgive us when we have to ask questions, but we really are trying to dig into the issue. I, too, love Lake Tahoe.

Bruce Grego:

Come to Tahoe and I will give you a tour. People come to me and say, "We cannot build a deck, we cannot add a bedroom." A gentleman came to me and said that he spent \$30,000 with TRPA and he gave up and still could not add a bedroom. I sat on TRPA as an alternate for the council, and I have been asking for drive-up windows and concessions for Americans with Disabilities Act (ADA) improvements. I believe that ADA improvements should not be considered ground coverage. I think we should allow drive-up windows because we are all getting older. The TRPA is against the automobile, they have been against drive-up windows since day one, and they do not want to make concessions for ADA accessibility. Those are the people issues that this agency does not consider.

Assemblyman Anderson:

I do understand, and I am going to put a lot of time into this. My concern is, if we do pull out, you will be stuck with the California representatives on TRPA.

Bruce Grego:

I would rather have a choice for a newer jail cell than the one I have right now. I want a roll of the dice with a better chance of doing something positive. I came to this Legislature on March 15, 2011, before this bill arose, and I asked to tie funding to a board elected by the people in the Basin: that is what I was

advocating. With all the discussion, no one from the California State Legislature has contacted me to ask what they can do.

We do have the support from California State Senator Gaines and our Congressmen in California who support this bill. We want a change. We want a different set of dice to roll to try to reform things: to have serious and responsible planning. We do not have that. The TRPA has been a failure, not a success.

Chair Kirkpatrick:

Are there any other questions?

Jenny Reese, representing the Nevada Association of Realtors:

I just want to put on the record that the Nevada Association of Realtors fully supports this bill.

Chair Kirkpatrick:

Thank you. Are there any questions? We are going to stand in recess until 2:20 p.m. and those who want to testify will testify first when we come back. Thank you. [Meeting in recess at 1:58 p.m.].

[Recess ended, meeting called back to order at 2:40 p.m.].

We have eight Committee members present; we will start as a subcommittee to allow people to continue to testify. Anyone who would like to testify please let me know where you stand on the bill.

Stacy Dingman, Private Citizen, Stateline, Nevada:

I am not sure where I am going with this; listening to all the testimony has changed my mind quite a bit. I thought I knew what I was going to say, but it has changed because we are in a bit of conundrum that we are looking at you to solve.

There are environmental needs, and there is no denying that everyone would like to maintain the lake and even improve the lake, which will take forever. But there are also governmental needs and, to complicate things, we have to share [governance] with another state. Everyone has a little bit of control-freak in them, so no one wants to give up control. But when you come down to it, we need to make some improvements and I believe the good decisions for good development are not being made, and those good decisions are what are necessary to make the good environmental decisions that need to be made. It is only through smart development, green development, and well-thought-out and well-planned development that we can also implement commensurately

with the necessary and desired environmental improvements we need to make around the lake to continue to maintain this jewel that is recognized around the world.

The third part of the conundrum that we need to solve is to make good decisions easily with a true simple majority vote that would allow no fear in making a good decision. We could then truly have the infrastructure and environmental benefits to continue to build the development and promote tourism, which would help the economy. Everyone would win, including the business owners and the employees, whose counts shrink every year as the market continues to decline because we do not have the needed environmental or structural improvements.

I am in support of passing the bill and I urge you to consider it. I have a tendency to over-simplify things. I am not a scientist; I am a mom. I have a "bazillion" kids, but I also have a "bazillion" employees, and I have owners that want to know how we can improve things.

It takes the government, the environmentalists, and everyone else to realize that we all have the same goals. We love Lake Tahoe, and we do need to work together to communicate on how we can accomplish those goals. Simplifying the voting process to allow development when it is smart and it is green, and at the same time building environmental improvements into those projects, will bring us to the destination we need for the lake to thrive and grow.

Chair Kirkpatrick:

Thank you. Does anyone have any questions?

Assemblywoman Bustamante Adams:

About the question I posed earlier regarding the amount of the budget expended for litigation fees, I believe you were in the audience and you frowned when the other person responded to the amount. Do you have any comment on that?

Stacy Dingman:

I do have a comment. I have been fortunate to have been involved in TRPA from a personal project level, as well as professionally representing my employer, and occasionally going through the processes and supporting other projects.

What I frowned at was the 70 percent that was mentioned. You had asked for a budget number spent on litigation, and we all know that 70 percent was not the correct answer. I believe the intention was to answer that 70 percent of their time rather than dollars was spent in litigation. I certainly would not have

the resources to know the intimate numbers of TRPA's budget, but certainly litigation costs are there. I also believe that the threat of litigation prevents good decisions from being made in the existing structure of the governing board.

Chair Kirkpatrick:

Are there any questions?

Allen Biaggi, Principal, A. Biaggi and Associates, LLC:

Until a year ago, I was the Director of the Department of Conservation and Natural Resources. In that capacity, I served on the Tahoe Regional Planning Agency's governing board for six years, and for three of those six years, I was its chairman.

If there is one lesson that I learned in my more than 30-year career in resource protection in Nevada, it is that the natural environment is not static; it is constantly in flux, as is our scientific knowledge and abilities to protect human health and the environment. Similarly, we all know the economics of our country and our region ebb and flow over the vagaries of local, national, and international conditions.

For well over a century, there have been tensions between the preservation of Lake Tahoe's natural environment and the desire for a viable local and regional economy. In the 1960s, TRPA was born out of the need to protect our natural resources and their surroundings. The ever-changing dynamics of Lake Tahoe resulted in the Compact being revised and modified in 1980 to better reflect the relationship between the environment and the economy.

Like 1969 and 1980, I believe we are at a similar crossroads today. Through extensive scientific research, we better understand what we must do to preserve and protect water quality, and we can envision a path forward using this information to simultaneously rebuild our urban environment, where much of the pollution comes from, and at the same time address our lagging economy.

I believe S.B. 271 (R1), as suggested to be amended by Secretary of State Miller, recognizes the changes at Lake Tahoe over the last three decades and provides a reasonable path forward to address those changing conditions by revisiting the Compact to consider the manner in which TRPA operates and the delicate balance between the social and natural environments, and providing the drivers necessary to finally complete the long-awaited and much-needed

regional plan update. In my view, S.B. 271 (R1) is another step in the constantly evolving story of Lake Tahoe.

For these reasons, I support S.B. 271 (R1) with the proposed amendment.

Just a quick editorial note—I sat through the hearing this morning, and I heard a lot of very good dialog back and forth, but I think there are a couple of points that I would like to make with a Nevada perspective in mind.

First of all, I do not believe that the environment and the economy are mutually exclusive. I think that the direction in which TRPA has been trying to go is an attempt to strike that balance and recognize that you do not have one without the other. The way the Division of Environmental Protection works in the State of Nevada, of which I was the administrator for six years, requires us to consider economic realities in our decisions regarding the environment. It makes the job infinitely more difficult, but I think it makes it better overall for the environment, for the economy, and for the people of the State of Nevada.

Finally, I would like to point out, and I am sure that Assemblywoman Pierce will remember this, that when former state Senator Mark Amodei was chair of the oversight committee, he made a rational attempt to open a dialog with the state of California regarding these issues. He approached the California legislative body and unfortunately, due to a variety of circumstances, in my opinion Senator Amodei was not treated well, and his overtures were actually rebuffed by the state of California.

I think there is a mechanism that needs to be put into place to bring Nevada and California once again to the table to talk about these issues on a bistate basis. With that, I would be happy to answer any questions you may have.

Chair Kirkpatrick:

Are there any questions?

Assemblywoman Pierce:

I do appreciate your remarks, and you have an enormous amount of expertise here, but where I come from you are not supposed to make threats you are not going to actually carry out. How do you see it if we pulled out of TRPA and we were on our own? Do you see us funding things adequately? You have been around this process a long time and I would like to know what you think?

Allen Biaggi:

First of all, I support the amended bill, which provides substantial timelines before a pullout could occur before 2017. Do I think Nevada is ready, willing, and able to fund what is necessary at this point? No, probably not. But I would like to point out that the State of Nevada, probably even more so than the state of California, has provided substantial commitments to Lake Tahoe through bonding activities of \$82 million within the last decade and, with your help last session, another \$100 million in authorized bonding for the future. The state of California has not yet done that. I think Nevada has put its money where its mouth is and is willing to go forward with the protection of Lake Tahoe and its environment.

Chair Kirkpatrick:

Are there any other questions? Mr. Biaggi, I heard earlier today there are no public hearings on the new plan that is going to be adopted. How is that process supposed to work, or do you know?

Allen Biaggi:

I am sorry, but because I am no longer on the board, I cannot answer that question. Mr. Robinson was in the audience earlier, and Mr. Miller may be here; they can answer that question better than I can.

Chair Kirkpatrick:

Thank you. If there is anyone else that would like to testify, either in southern Nevada or northern Nevada, please keep filling the chairs. I do want to hear Mr. Drozdoff from the Office of the Governor explain how we got to where we are now.

Rochelle Nason, Executive Director, the League to Save Lake Tahoe, Keep Tahoe Blue:

I am from California, but my organization includes some 5,000 households and we have members in every state of the union because people love Lake Tahoe so much. In addition, we have a Facebook following of 70,000 people from all over the world. We stand very proud of a beloved resource.

I wanted to address a few issues that have come up in testimony, and I will start by saying that we oppose S.B. 271 (R1) in its current format. I think there may be a misunderstanding about California. There seems to be some notion that redevelopment has gone forward in California but not in Nevada, and this reflects something is wrong with the voting structure of TRPA.

I am the one that passed around these pictures ([Exhibit H](#)) of recent development projects. I want to explain that in California, and under California law, communities have the option of establishing redevelopment districts and taxing themselves to fund redevelopment. In South Lake Tahoe there was such a tax passed by more than two-thirds of the voters, with strong support from the League to Save Lake Tahoe and other environmental advocates. Everyone got together and pushed it through. That is why you see these impressive redevelopment projects on the California side and, of course, the private investment. There were very strong public movements to make this happen; it was not because TRPA played favorites with California projects as opposed to Nevada projects. That did not happen.

I also wanted to touch on the remark regarding former state Senator Mark Amodei when he went to the California Legislature and was not treated well. I think people need to realize he reached out to what he viewed as his counterparts that represent the district but, unfortunately, through no fault of his own or anyone in Nevada, the people he reached out to in the California Legislature did not inform the legislative leadership. So, the legislative leadership learned from reading the newspaper that there was this historic meeting between the legislatures of the two states, and leadership was not happy about that.

In my opinion, it should not be taken as any indication of a lack of interest or lack of willingness on the part of the California Legislature to work with the Nevada Legislature. We would strongly encourage you to consider making this kind of outreach on a leadership-to-leadership basis. I think that could be extremely constructive.

Regarding the bill, we have heard the bill described in a variety of ways, including as sending a message. I think it is important to keep in mind what exactly is in front of you as you think about whether to pass the bill.

The bill makes withdrawal the default mode for Nevada. It may be that you are confident that somehow that default mode will not actually engage, it will not take place, and other things will happen, but that is what the bill actually does. If action is not taken as specified by entities over which you have no control, then Nevada will withdraw. As we read the bill, it is effectively a withdrawal from the Compact. The reason is the proposed nine-member voting structure for plans.

I want to mention that TRPA makes two different types of decisions. It makes quasi-legislative decisions, which are policy decisions and it makes quasi-judicial decisions, which are factual decisions applying those policies to particular sets of circumstances.

In its amended version, the bill requires that any nine votes can adopt policy for the Lake Tahoe Basin, and policy includes community plans and master plans. Right now in California, the plan of greatest public concern is the Homewood Ski Resort. There have been several articles in the newspapers about that project.

If this bill were to pass, to adopt it, California would have to agree that seven Nevadans and just two Californians could be the deciders of the Homewood Resort project. Passing this bill would mean you would be asking California to give up its ability to make decisions about matters of profound concern that are wholly within California, and we think that is probably unlikely. Therefore, this bill is effectively a withdrawal by Nevada from the Compact.

Beyond that, I want to say this about sending messages. Many times in my life I have said something that I later needed to clarify. We have all done that. You are thinking about passing this bill as a form of sending a message, but your ability to clarify is starkly limited, because you really do not have that opportunity for a long time to come. The message is one of withdrawal from engagement, withdrawal from the bistate effort, and I do not believe that is the message you really want to send. But I think it is the message that effectively would be put forward.

There is a lot of unhappiness and anger, and I want to be very clear that we see some very significant problems with TRPA, and we see a very important role for both state legislatures in helping TRPA get back on track, but we do not see this legislation as helping, rather we see it as probably hurting the situation.

I would like to talk about a few concrete outcomes that are likely to result. If TRPA is viewed as weakened, a number of unfortunate consequences could follow as a result. The TRPA is the administrator of the effort to prevent the infestation of aquatic invasive species. If TRPA is seen as having received a vote of no confidence from the Nevada Legislature in this matter, I think it will immediately undermine that effort.

It will also probably undermine the morale and ability of TRPA to attract and retain good people. It will also undermine TRPA's ability to bring people together to make agreements, because who is going to enter into agreement

with an agency that is not likely to be around in a few years. That is how people are going to view TRPA.

Finally, California supplies a huge percentage of the visitors to Lake Tahoe, and this could be read as a vote of no confidence in them and that Nevada somehow does not want to work with the people of California. That is really opposite to the message that we should be sending.

I would like to echo Allen Biaggi's comment that the economy and the environment are interrelated. I would take it further. We should be making Lake Tahoe an environmental destination where every person who comes to the lake is given an opportunity to sense that by visiting Lake Tahoe, they are helping Lake Tahoe—they are helping a bistate effort—they are helping to keep Tahoe blue. This bill pushes in exactly the wrong direction. Let us move toward collaboration, not away from it.

Finally, one technical item: on page 37 of the bill the language concerning lands acquired by the state is struck out. I believe, and I am not entirely positive because there is a lot going on in this bill, but I believe the language relates to lands acquired by Nevada at Lake Tahoe for conservation purposes. It states, "Before any real property or an interest in real property is transferred pursuant to this section, a declaration of restrictions or deed restrictions must be recorded as required by TRPA to ensure that rights to place land coverage on the real property are retired or otherwise terminated."

It appears that the bill, in addition to the various provisions that have been discussed today, is designed to make lands acquired for conservation purposes available for development. That is a profound concern. I am not certain that is the case, but it appears to be the case, and we would like to know if that is the intent.

Again, thank you for the opportunity to speak, and I would be delighted to answer any questions.

Chair Kirkpatrick:

Thank you. I have several questions. We are supposed to be on the Floor at 3:00 p.m., so I am going to schedule an agenda for tomorrow at 9:00 a.m., and we can take another hour or more for a hearing. We will just keep going because we are going to vet this bill.

Rochelle Nason:

I would be happy to let people who cannot come back tomorrow speak. I can come back tomorrow.

Chair Kirkpatrick:

I have questions from the Committee.

Assemblyman Livermore:

I appreciate the pictures that you sent ([Exhibit H](#)). Can you explain the number one picture on the top? Is that a redevelopment project?

Rochelle Nason:

Yes, it is.

Assemblyman Livermore:

How many years has it looked like this?

Rochelle Nason:

Hopefully it will not look like that indefinitely.

Assemblyman Livermore:

How will the Basin revive this project? Can it be revived?

Rochelle Nason:

I am not the right person to answer that question—I am sorry. We at the League strongly supported the general idea of a convention center, but there were economic reports that suggested it would not be successful. For that reason, we neither supported nor opposed the convention center; however, it was approved.

Assemblyman Livermore:

I just asked the question because it gives the impression that it is a viable, ongoing project. I just wanted my colleagues to know that the project in this picture is not ongoing and has been just sitting there.

Rochelle Nason:

I cannot really address that. If Mr. Grego is still here, he might be able to address the question.

Chair Kirkpatrick:

Are there any other questions?

Assemblywoman Neal:

You said that there were some issues within the group that handles the lake. What were the issues that you see as problematic?

Rochelle Nason:

I am sorry, the issues . . .

Assemblywoman Neal:

I do not know if you were talking specifically, I do not know what you were referring to, but you said there is some room . . .

Rochelle Nason:

We have concerns about the operations of TRPA. We are at least as concerned as everyone else that we do not have a regional plan in place. We would support efforts to try to push that forward.

I heard something today that I think has an effect on that, and that was during Mr. Miller's testimony that it is a concern to developers, and there is uncertainty because they can go through an entitlement process and then not have confidence that the board will defer to the recommendations of staff.

I think that is precisely what might be happening with the regional plan. There is concern that any eight votes could direct the staff to bring forward a regional plan, but that has not happened. I believe the problem may be that the board will not accept staff recommendations. When we are talking about the regional plan, we should keep in mind that we are talking about the quasi-legislative function.

You do not defer to staff when you are making policy decisions: you listen to staff. You take the information into consideration, but you are policymakers, and they are policymakers when they are looking at the regional plan.

It is a completely different thing when TRPA is looking at a project to determine whether that project conforms to the law. Then they should defer to staff and look at staff's determination of facts. Those are very different situations, and it could be that there is some confusion within TRPA about who is supposed to be doing what, and that is holding up the regional plan.

Chair Kirkpatrick:

Are there any other questions?

Assemblyman Stewart:

You mentioned that there are problems with TRPA, and we have heard all kinds of problems today from the City of South Lake Tahoe and other places that people cannot get permission for a deck, they cannot paint their house, and they cannot make other improvements. You say this is not the way to solve the

problem, but what is the way to solve the problem? How can we get California's attention?

Rochelle Nason:

I would say, first of all, you have California's attention. I think that the bill and its passage through the Senate are definitely getting attention. If you are not satisfied with the engagement between the Nevada delegation and the California TRPA delegation, the best way to engage would be either Governor-to-Governor or legislative-leadership to legislative-leadership. I think these are both very good options.

The Governor of Nevada is the Nevadan with the power to withdraw the State from the compact without legislation, so that would be a natural. Obviously, both Governors have a lot of other things to be concerned about, so perhaps legislative-leadership to legislative-leadership would be the way to go.

Assemblyman Stewart:

Do you really think that is going work?

Chair Kirkpatrick:

Thank you. Are there any other questions? [There were none.] I want to remind you that we were here when you came in the beginning of session, and we know you are passionate about Tahoe. This is the same Committee that heard that testimony.

Nancy McDermid, Vice Chairman, Douglas County Board of County Commissioners:

I sit on the Tahoe Regional Planning Agency governing board. This is my fifth year; I was reelected for another four-year term last November. I have lived in Tahoe with my family since the 1970s; we are three generations strong. Eight of my twelve grandchildren have been born in Tahoe; two of my five children and four of my grandchildren live there now. I have a strong connection to Tahoe.

The last four years I have been on the operations committee for TRPA. I do not believe that 70 percent of the budget has been spent on litigation. It is true that we do have quite a bit of funding that must go to litigation, primarily as a result of suits by the League to Save Lake Tahoe.

In some instances, if it is a private project, TRPA requires the applicant to pay for outside legal counsel. We had a general counsel who did not litigate, so when we were sued on the Shore Zone, we had to hire outside counsel. There

are high litigation costs. I am now on the legal committee, and I believe that somewhere close to a million dollars is being budgeted for the coming fiscal year.

The governing board has authorized the TRPA Executive Director to hire an outside legal counsel strictly for the regional plan. I have been working on the regional plan since September of 2005. It has been a long-term project. The U.S. Army Corps of Engineers has been funding much of it, and they advised the governing board two months ago that the funds were running out if TRPA did not get busy.

The other concern I have heard is whether Nevada can sustain the environmental protection and projects on the Nevada side if we are not part of TRPA. I am confident that there are already joint power agreements among the different jurisdictions for things like waste management. All nine of the Basin fire chiefs have formed working relationships. I sit on the Tahoe Transportation District, and all jurisdictions and private partners are involved. There are many other layers and ways to accomplish all of those things without going through the Compact.

I think the Compact has worked very well, but we are now in the 21st Century, and I would ask you to think about this scenario: You are a Nevadan and you have a project that meets all environmental requirements, and like with many projects, there is controversy. Some people like it, some people do not. As an elected official, it is not whether I like it, it is whether the findings of fact are there. You come before the governing board and there are seven Nevada members and seven California members. The vote is taken, and you get 10 affirmative votes out of 14. However, four Californians vote against it. It is denied so the project does not go forward and you have lost out.

We have four appointed Californians, two by the Governor of California, one by the Senate, and one by the Assembly. Those four can control everything that happens in the Tahoe Basin on either side of the state line. A California project requires five California votes.

The amendment that has been proposed to S.B. 271 (R1) by Secretary of State Ross Miller ([Exhibit E](#)) is to recognize that on either side of the state line, four votes, not five, of that state will be in favor of the project, but every other issue would require nine votes. I think it is time for the Compact to be amended, given the problems that we encounter in trying to get votes.

If you remember your history, Franklin D. Roosevelt tried to pack the United States Supreme Court. California Governor Jerry Brown, with another appointment, could remove one of the four appointed members, and you would have four votes that are going to go however they are going to go.

Chair Kirkpatrick:

Ms. McDermid, we are out of time, and I want to let Assemblyman Ellison ask a question. What I am disappointed in today across the board is we have not stuck to the merits of the bill. Tomorrow we are only talking about the merits of the bill.

Assemblyman Ellison:

Can you tell me how many times the four California votes have been implemented against the four votes in Nevada? I think that is really important, because it will show that it is not a two-way street.

Nancy McDermid:

Yes, I can give you a couple of examples. The Heavenly Valley Master Plan received approval; however, that action was changed after a reconsideration vote. The concern is that there is always a fear that you cannot get the votes you need. For instance, the redevelopment in South Lake Tahoe that Ms. Nason spoke about took ten years. I do not think we have ten years.

Chair Kirkpatrick:

Are there any other questions? Ms. Pierce, quick question and then I want to hear from you two and we will start again tomorrow.

Assemblywoman Pierce:

I just heard what you said about the current voting system. It seems to me that if you have a project in Nevada and you get all seven Nevada votes and you get two votes from California . . .

Nancy McDermid:

That is the amendment, Ms. Pierce.

Chair Kirkpatrick:

Is there further testimony?

Lee Bonner, Commissioner, Douglas County Board of County Commissioners:

I was just elected in November to the Douglas County Board of County Commissioners. One thing that I heard for the six months while I was running for office from the people at the lake was, "What are you going to do about TRPA?" We have the ability to do something now.

Chair Kirkpatrick:

If you cannot come back tomorrow, you are more than welcome to send me information.

Lee Bonner:

I will come back tomorrow.

Chair Kirkpatrick:

Perfect. Mr. Drozdoff, can you come back tomorrow?

**Leo M. Drozdoff, Director, Department of Conservation and Natural Resources,
State of Nevada:**

Sure.

Chair Kirkpatrick:

With that we are going to recess this meeting until tomorrow morning at 9:00 a.m. at which time we will continue the hearing on this bill. I would ask those that want to present testimony can bring it or email it, but tomorrow I would like to get to the nitty gritty of the bill, please.

[Meeting adjourned at 9:04 a.m. on Thursday, June 2, 2011.]

RESPECTFULLY SUBMITTED:

Cheryl Williams
Committee Secretary

APPROVED BY:

Assemblywoman Marilyn K. Kirkpatrick, Chair

DATE: _____

EXHIBITS

Committee Name: Committee on Government Affairs

Date: June 1, 2011

Time of Meeting: 10:13 a.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
AB 574	C	Steve Holloway	Amendment
AB 144	D	Steve Holloway	Letter of Support
SB 271(R1)	E	Ross Miller	Amendment
SB 271 (R1)	F	Nick Vassiliadis	Amendment
SB 271 (R1)	G	Senator John Lee	Amendment
SB 271 (R1)	H	Rochelle Nason	Photographs
SB 271 (R1)	I	Jean Stokes	Prepared Text
	J	Rachel Delaney	Prepared Text
SB 271 (R1)	K	Casey Delaney	Prepared Text and Proposed Amendment
SB 271 (R1)	L	Sudeep Chandra	<i>Tahoe: State of The Lake Report 2010</i>