

**MINUTES OF THE
SENATE COMMITTEE ON NATURAL RESOURCES**

**Seventy-Seventh Session
April 2, 2013**

The Senate Committee on Natural Resources was called to order by Chair Aaron D. Ford at 1:34 p.m. on Tuesday, April 2, 2013, in Room 1214 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to Room 4412E of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Aaron D. Ford, Chair
Senator Mark A. Manendo, Vice Chair
Senator Tick Segerblom
Senator James A. Settelmeyer
Senator Pete Goicoechea

GUEST LEGISLATORS PRESENT:

Senator David R. Parks, Senatorial District No. 7
Assemblyman Tom Grady, Assembly District No. 38

STAFF MEMBERS PRESENT:

Michael J. Stewart, Policy Analyst
Patricia Devereux, Committee Secretary

OTHERS PRESENT:

Jayne Harkins, P.E., Executive Director, Colorado River Commission of Nevada
Kendra S. Follett, Esquire, Sherman & Howard
Jim R. Barbee, Director, State Department of Agriculture
K. Neena Laxalt, Nevada Cattlemen's Association
Doug Busselman, Executive Vice President, Nevada Farm Bureau
Representative Steven Horsford, (D) Congressional District 4, United States
House of Representatives
Jeff Page, Chair, Lyon County Board of Commissioners

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Joe Mortenson, County Commissioner, Lyon County Board of Commissioners
Dagny Stapleton, Nevada Association of Counties
Kyle Davis, Political and Policy Director, Nevada Conservation League &
Education Fund
Mendy Elliott, Northern Nevada Development Authority
Patrick T. Sanderson, Laborers International Union Local 872
Timothy M. Dyhr, Vice President, Environment and External Relations, Nevada
Copper Corporation
Steve Robinson, Nevada Tahoe Regional Planning Agency
Joanne S. Marchetta, Executive Director, Tahoe Regional Planning Agency
Darcie Goodman Collins, Ph.D., Executive Director, League to Save Lake Tahoe
Marjorie Sill
Peggy Lear Bowen
Tina Nappe
John Hiatt, Conservation Chair, Red Rock Audubon Society
Brian Fadie, Executive Director, Progress Now Nevada
Mike Draper, South Tahoe Alliance of Resorts
Nick Vassiliadis, South Tahoe Alliance of Resorts
Lee Bonner, Commissioner, Douglas County Board of Commissioners
Nancy McDermid, Commissioner, Douglas County Board of Commissioners
Patrick Atherton, Chairman, Governmental Affairs Committee, Lake Tahoe
South Shore Chamber of Commerce
Bruce Grego, Esquire
Lewis S. Feldman, Esquire
David McClure
Steve Teshara, Sustainable Community Advocates
Leo M. Drozdoff, P.E., Director, State Department of Conservation and Natural
Resources
Shannon McIsaac, Membership Services Director, Lake Tahoe South Shore
Chamber of Commerce
Patrick Rhamey, Executive Vice President, Edgewood Companies
Carol Chaplin, Executive Director, Tahoe South, Lake Tahoe Visitors Authority;
Executive Director, Tahoe-Douglas Visitor's Authority
Rick Gardner
Jan Brisco, Executive Director, Tahoe Lakefront Owners' Association
Buzz Harris, Tahoe Transportation District
John J. Slaughter, Management Services Director, Office of the County
Manager, Washoe County

Chair Ford:

We will open the hearing on Senate Bill (S.B.) 438.

SENATE BILL 438: Revises provisions governing the Colorado River Commission of Nevada. (BDR S-1091)

Jayne Harkins, P.E. (Executive Director, Colorado River Commission of Nevada): You have a copy of my written testimony ([Exhibit C](#)). The Colorado River Commission of Nevada (CRC) holds and protects the rights of the State's share of Colorado River water and hydropower. The CRC represents the State before federal agencies, other states and countries on a range of issues affecting the management and operations of the River. This includes the hydropower generated at Hoover Dam.

Senate Bill 438 would revise the CRC's bonding authority to clarify it can refinance high-interest debt associated with the Hoover Dam Visitor Center. This refinancing will save millions of dollars for our customers, who are paying that debt. In *Nevada Revised Statutes* (NRS) 538.206, the CRC has broad bonding authority, which we use in cooperation with the State Treasurer. The State Treasurer's bond counsel, John Swendseid, of Sherman & Howard, developed the language for S.B. 438. We submitted it to Senator David Parks, Chair of the Senate Committee on Government Affairs, and he introduced that language as the bill.

The CRC has existed for more than 75 years to provide hydropower from the Dam for Nevada. In the 1980s, Congress authorized substantial construction at the Dam to increase the capacity of its powerhouse and build the Visitor Center. The federal appropriations were granted on the basis that they would be repaid by the Dam's customers, including the CRC. The Visitor Center costs were prepaid, and the CRC is paying off the interest debt through 2045 at an annual rate of 8.06 percent.

The bill would allow the CRC to pay off Nevada's share of the Dam obligation with bond proceeds at a substantially lower interest rate. This would save Nevada Hoover Dam hydropower customers more than \$23 million. Page 4 of [Exhibit C](#) lists those customers, including retailers in southern Nevada, municipal power districts, the Valley Electric Association, Incorporated, and the Nevada Power Company, Incorporated (NV Energy, Inc.). NV Energy, Inc. buys half of

the power, and the bill would provide savings to its customers of half of the \$23 million debt.

Section 1 of S.B. 438 would provide a legislative declaration that bonds issued are necessary for the protection and preservation of the State's natural resources and to obtain the benefits thereof under article 9, section 3, paragraph 2 of the *Nevada Constitution*. These types of bonds may be issued outside of the bond cap listed in the same section. For many years, the CRC has done its bonding through this natural resources exemption.

Section 1, subsection 2 of S.B. 438 would authorize the CRC to borrow up to \$35 million through issuance of bonds to prepay the cost of electrical capacity and energy generated at the Dam. The bonds would pay, finance or refinance a portion of the capital costs, which contribute to the ongoing costs of operating the Dam. The new bonds would be issued by the CRC no later than June 30, 2028, as general-obligation securities payable from taxes and secured with pledged revenues, special-obligation securities payable from pledged revenue or a combination of both securities.

Section 1, subsection 3 of the bill would authorize the CRC to determine the amount and timing of issuance of the securities, subject to the limitations in subsection 2. Subsection 3 also assures that those limitations do not apply to securities issued under the State Securities Law to refund the securities. Subsection 4 assures that provisions of the State Securities Law in NRS 538.206 apply to issuance of anything listed in subsection 2. Subsection 5 of the bill provides definitions of key terms in section 1.

What the CRC did not include in the bill is a reminder that we are customer funded, with no general revenue—taxpayer—funds. The bonds would be backed by taxpayers, but the CRC has never defaulted, and our customers have always paid off the bonds. The form of S.B. 438 follows language utilized by the Legislature the last time the CRC sought to address its bonding authority, in 1983. Pages 5 through 9 of [Exhibit C](#) are a copy of that legislation.

Senator Segerblom:

If the bill were enacted, how much money would the Dam hydropower customers save?

Ms. Harkins:

At an interest rate of 4.5 percent or less, the savings would be \$23 million over 30 years. That would be just under \$1 million per year.

Senator Segerblom:

Would that money go back to NV Energy, Inc.?

Ms. Harkins:

NV Energy, Inc., is a Hoover contractor from the CRC, receiving about 50 percent of the Nevada-generated power.

Senator Segerblom:

Could not that savings be given to the State?

Ms. Harkins:

No, because of contractual arrangements, our customers would get the savings. It would go to ratepayers all over southern Nevada.

Senator Segerblom:

Can the CRC go outside of the State's bonding cap to accomplish its goal?

Ms. Harkins:

The bill would set the bonding cap at \$35 million.

Senator Segerblom:

Would not the CRC be subject to the State's bonding cap?

Ms. Harkins:

No, because of the natural resources component developed from water storage and power generation at the Dam.

Senator Segerblom:

What is the definition of "natural resources" in the *Nevada Constitution*?

Ms. Harkins:

I do not know.

Senator Segerblom:

Do you know if the bonds could be used for buildings or other manmade things?

Ms. Harkins:

The bonds would have to be used for the natural resources available to the State; in this case, it is the River water and the power it generates.

Kendra S. Follett, Esquire (Sherman & Howard):

I am representing the State Treasurer's bond counsel, Mr. Swenseid.

Senator Segerblom:

Are the bonds being issued under the State's natural resources provision?

Ms. Follette:

They would be issued under the Constitutional provision relating to natural resources, which is not defined therein. There are interpretations of case law relating to natural resources.

Senator Segerblom:

Would these bonds have a cap?

Ms. Follette:

No, they would be exempted from the State limitations on bonding, as per the *Nevada Constitution*.

Chair Ford:

We will close the hearing on S.B. 438 and open the hearing on S.B. 465.

SENATE BILL 465: Revises provisions governing the special tax on certain livestock. (BDR 50-1147)

Jim R. Barbee (Director, State Department of Agriculture):

Senate Bill 465 is a budget bill draft request that would impact budget account 101-4546, the animal-identification account at the State Department of Agriculture (SDA). We felt we were going to have a shortfall in the Budget Account 101-4546 of about \$150,000 over time to be made up each fiscal year.

The SDA reached out to the Nevada Cattlemen's Association and the Nevada Farm Bureau to evaluate the livestock head tax in hopes of changing that fee. Parts of the head tax have not been changed since it began in 1961. Section 1, subsection 1 of S.B. 465 lists the proposed tax rates per head by livestock

class. The fee would go from 28 cents to 50 cents for stock cattle, 53 cents to 60 cents for dairy cattle, 7 cents to 30 cents for hogs and pigs, and 6 cents to 10 cents for goats.

In section 1, subsection 3, ranchers with fewer head who qualify for the minimum fee tier would pay \$10 in assessments. The new fees would bring in about \$54,000. The remaining \$96,000 shortfall was cut from budget account 101-4546 by eliminating a SDA position, which resulted in a \$103,000 savings. If the bill were enacted, the savings would be \$158,000.

Section 2 of S.B. 465 clarifies and strengthens the SDA's authority to collect the head tax. It is collected directly, based on brand inspections provided from the previous year and on our database of livestock producers, to whom we send a form requesting they declare their livestock numbers and pay the fee. In some cases, producers have not received a brand inspection within the year they paid the head tax, so the bill would make that collection process as equitable as possible.

Senator Goicoechea:

Section 2, subsection 1, states the SDA " ... may assess the tax at any time within the 5 fiscal years immediately following the end of the fiscal year in which it was due." Does the statute of limitations go back 5 years?

Mr. Barbee:

Within that 5-year period, if we identified someone who had not paid the tax, we could go back and ascertain how many head they had at that time and collect 5 years' worth of taxes. With the bill's added authority, we hope to collect more of those delinquent taxes.

Senator Goicoechea:

Would that affect everyone who has not paid the tax for 5 preceding years? The language is confusing to me.

Senator Ford:

We could fix that with an amendment.

Senator Goicoechea:

The way the bill reads, can you go back 5 fiscal years, despite the statute of limitations, and collect the tax? Some of the head tax increases are significant, but it is an effort by the livestock industry to pay their way.

Mr. Barbee:

The stock cattle-tax increase alone will bring in \$50,000 of additional revenue. When you add in other taxes on other livestock, the amount would be an additional \$4,000 to \$5,000.

K. Neena Laxalt (Nevada Cattlemen's Association):

We worked with the SDA to make sure head tax collection runs smoothly.

Doug Busselman (Executive Vice President, Nevada Farm Bureau):

We strongly support this fee program and want to see it continue.

Chair Ford:

We will close the hearing on S.B. 465 and open the hearing on Senate Joint Resolution (S.J.R.) 14.

SENATE JOINT RESOLUTION 14: Urges Congress to enact the Lyon County Economic Development and Conservation Act. (BDR R-1114)

Senator Aaron D. Ford (Senatorial District No. 11):

Senate Joint Resolution 14 urges Congress to enact the Lyon County Economic Development and Conservation Act. The Act was introduced in the U.S. House of Representatives as House Resolution (H.R.) 696 of the 113th Congress on February 14, 2013, by U.S. Representative Steven Horsford. The bill is cosponsored by the rest of Nevada's U.S. House of Representatives Delegation: U.S. Representatives Mark Amodei, Joe Heck and Dina Titus. A companion bill, U.S. Senate Bill 159 of the 113th Congress, was introduced by U.S. Senators Dean Heller and Harry Reid on January 28, 2013.

Senate Joint Resolution 14 expresses the Legislature's support for H.R. 696 and urges its passage. The federal legislation directs the Secretary of the Interior, Department of the Interior, to convey land to the City of Yerington to allow it to partner with Nevada Copper Corporation to develop about 12,500 acres surrounding its Pumpkin Hollow Copper Development Property. The legislation also sets forth 48,000 acres known as the Wovoka Proposed Wilderness Area.

The area has valuable cultural and natural resources worthy of protection for future generations.

According to a February 2013 position statement on H.R. 696 by the City, Lyon County and Nevada Copper, the Act would allow the City to purchase at fair-market value approximately 10,400 acres of Bureau of Land Management (BLM), U.S. Department of Interior-administered public land. Nevada Copper would finance 100 percent of those acquisition costs and retain about 37 percent of the land to develop the Pumpkin Hollow mine. The City could annex those acres and receive a share of property taxes and net proceeds of mine taxes it would not otherwise receive without a land transfer. According to the position statement, about 20 percent of the BLM land would be for infrastructure and other economic development during and after mining.

Upon completion of mining, expected to be about 18 years at full capacity, most mine facilities can be converted to other uses. The Pumpkin Hollow project is expected to create about 800 mining jobs and 500 construction jobs. Nevada Copper plans to invest \$80 million in infrastructure for the mine that can eventually be used for other land uses and economic development. The land will also be used for industrial, recreational and infrastructure purposes to create desperately needed jobs and economic development in the County.

The timing of S.J.R. 14 could not be better. On April 3, 2013, the Lyon County Board of Commissioners will begin discussing the County budget, which includes drastic cuts to vital services. The County has had the highest unemployment rate in the State for 3 years. The County has reduced its staff by 25 percent, the City has reduced its staff by 17.5 percent and the Lyon County School District has announced it must cut its budget by \$3.5 million. The passage of H.R. 696 is critical to the future of the County's residents. The Act's economic boost will bring welcome relief to one of the most economically stressed local governments in the Nation.

Representative Steven Horsford (D) (Congressional District 4, United States House of Representatives):

Senate Joint Resolution 14 will be an important message of support so Congress knows that we all believe in the Act. It will bring much-needed economic development to the County while protecting a pristine part of Nevada. The City will be allowed to purchase at fair-market value more than

10,000 acres from the BLM, a true benefit for the County that is in no way a giveaway.

The Pumpkin Hollow project will generate \$15 million to \$20 million in annual revenue for the County and its schools, the South Lyon County Hospital District, the Mason Valley Fire Protection District and the State. Nevada Copper already owns about 95 percent of the minerals to be mined on 1,500 privately held acres. The total economic impact of the project is expected to create 3,000 to 4,000 direct and indirect jobs. The mine will employ about 800 people with high-quality wages for 20-plus years. More than 500 people will be employed during construction. The County has above-average unemployment, and jobs are not readily available. The number and types of jobs from the project will transform the region. Last week, I met with County leaders and elected officials. Schools, the Boys and Girls Club of Mason Valley and senior programs lack financial support, and the Pumpkin Hollow project will help infuse investment.

Up to 63 percent of the acquired BLM land will be used for infrastructure, other economic development and recreation. The City will be able to attract additional economic activity due to the infrastructure investments, including power, water, roads and water projects. The project is environmentally sound. Studies demonstrate the mine land has extremely low habitat and grazing value. House Resolution 696 is comprehensive and includes creation of the Wovoka Wilderness Act, which will protect old-growth pinion pine and archaeological sites and preserve the region for future Nevadans.

A lot of what the Legislature does is send united messages to Congress about important bills and resolutions. Representative Amodei and I belong to the House Committee on Natural Resources, and I serve on its Subcommittee on Public Lands and Environmental Regulation. Having a resolution statement of support from local and State entities, private sector and conservationists will help make the Pumpkin Hollow project stand out. We have had hearings on other land-exchange bills, which are difficult to get through Congress. This is the year we will pass the Act with bipartisan agreement and this Committee's support.

Assemblyman Tom Grady (Assembly District No. 38):

My District includes Churchill and Lyon Counties and the City. Representative Horsford has looked at the Pumpkin Hollow project four or

five times. My District is having economic difficulties—which we will work our way out of—and we are looking hard at the project to help us.

Formulation of the Act was a joint effort. Initially, the argument was not whether the City or the County would handle it. They joined to say, “We will handle it,” and they have. This is not a giveaway project. Market value will be paid for land to be developed into industrial and recreation areas. It is close to the City, whose residents have gotten behind the effort. For Mayor George Dini, it is not if it is going to happen; it is when it will happen?

Senator Goicoechea:

Are the mineral rights of the 10,000 acres transferring, or is it encumbered with mining claims?

Assemblyman Grady:

There are no mining claims on the BLM land.

Senator Goicoechea:

We would want to be certain that whoever acquires the property does not end up with a split estate on which the federal government holds the mineral rights.

Representative Horsford:

The Subcommittee on Public Lands and Environmental Regulation will soon schedule hearings on a slate of public lands bills, including H.R. 696.

Chair Ford:

This Committee can demonstrate that we are one Nevada. I do not represent the County, but we are all concerned about State unemployment.

Jeff Page (County Manager, Lyon County Board of Commissioners):

We have been working on the Pumpkin Hollow project for about 4 years. The resolution would spark a fire under the folks in Washington, D.C., to move it forward. As County Manager, I am tired of cutting jobs and losing staff. We desperately need to get this mine operational.

Joe Mortenson (Chair, Lyon County Board of Commissioners):

The City will pay for the property for the Pumpkin Hollow project. Senate Joint Resolution 14 is more of an economic-development resolution than a lands resolution.

Senator Goicoechea:

Did the County Board of Commissioners vote to approve the land bill?

Mr. Mortenson:

Yes.

Dagny Stapleton (Nevada Association of Counties):

The Nevada Association of Counties (NACO) Board of Directors passed a resolution ([Exhibit D](#)) supporting the Act and urging the Legislature to support what became the Act. We recognize the true economic benefits that its passage will provide for the County. The NACO resolution reads in part, "This legislation is an example of cooperation between the federal and local governments regarding future disposal, conveyance, sale or transfer of federally managed public land."

Senator Manendo:

Was the vote to support the Act unanimous?

Ms. Stapleton:

I do not know, but I believe it was unanimous.

Kyle Davis (Political and Policy Director, Nevada Conservation League & Education Fund):

We support S.J.R. 14, with the key component for us being creation of the proposed Wovoka Wilderness. We like to see good things happen in the State. This is a great example of how those things can get done and, hopefully, be passed on to the federal level.

Mendy Elliott (Northern Nevada Development Authority):

This resolution certainly helps the Northern Nevada Development Authority's sector-strategy efforts. The compounding effect of jobs and expansion of economic diversity in the County will be exponentially positive.

Patrick T. Sanderson (Laborers International Union Local 872):

I was born and raised in Hawthorne and have family and friends in Yerington. My family and friends worked for the Anaconda Copper Mine, and I have friends who live on the Pursel Ranch, near Pumpkin Hollow. Everyone out there needs these jobs and a larger tax base, so the project needs to move forward. The

permitting process has gone on too long, so we hope it gets moving to put Lyon County and Mineral County, including Schurz and Hawthorne, people to work.

Timothy M. Dyhr (Vice President, Environment and External Relations, Nevada Copper Corporation):

I have been working on the Pumpkin Hollow project in Congress for 2 years. There is more resistance than trying to get things done. We are competing with more than 100 land bills in the U.S. Senate and House of Representatives. To use a March Madness analogy, it is time for a full-court press to pass H.R. 696 as soon as possible.

To answer Senator Goicoechea's question, the entirety of lands to be transferred are under unpatented mining claims by Nevada Copper. That was an issue we resolved with the BLM, along with any potential conflicts and things that could affect other claim holders. We initially started the resolution as a surface-estate transfer, but the BLM said it did not like split estates. The resolution would transfer the entire mineral estate, which is subject to the mining claim, so the mineral rights ownership still survives. This Committee's support for S.J.R. 14 is incredibly important to urge Congress to act quickly.

Senator Settelmeyer:

Has H.R. 696 passed the U.S. House of Representatives but is still in the U.S. Senate?

Mr. Dyhr:

It passed the U.S. Senate in 2012 and in the House as part of a 14-component title. The resolution was part of an omnibus package. It has since been modified to include the proposed Wovoka Wilderness, so it cannot be treated as old business. It has to be heard under regular order in the U.S. Senate and the U.S. House of Representatives.

Chair Ford:

We have an entire Congressional Delegation seeking to make this happen. I end my testimony with two words: one Nevada.

CHAIR FORD MOVED TO DO PASS S.J.R. 14.

SENATOR SETTELMAYER SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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Chair Ford:

We will close the hearing on S.J. R. 14. We have a presentation by the Tahoe Regional Planning Agency (TRPA).

Steve Robinson (Nevada Tahoe Regional Planning Agency):

You have a copy of my written testimony ([Exhibit E](#)). For 2 years, I have watched the proceedings and evolution of the new TRPA. We have made substantial progress in halting the decline in several environmental indices at Lake Tahoe. The most significant, long-term factor was the overwhelming approval by Nevada and California of the regional plan update (RPU). The substantive change has been in the relationship and attitude between the states, starting with our governors.

I have worked on Lake issues in three governors' offices over 30 years. No single governor since Nevada Governor Paul Laxalt has put his heart behind solving the Lake's problems in his administration. Governor Brian Sandoval enlisted the help of California Governor Edmund Gerald "Jerry" Brown, Jr., to direct their respective resource chiefs to convene an unprecedented bi-state effort. This led to the full TRPA Governing Board and our environmental partners reaching an accord and signing off on the RPU.

My TRPA predecessor, Allen Biaggi, told me when I joined the Board that it might be dysfunctional. Board members were deeply divided on how to proceed and even on what role the TRPA should play in the Lake Tahoe Basin. Some Board members barely spoke to each other, and the TRPA staff was unsure about its role. Now, the Board operates civilly and respectfully toward all sides. We have proven we can move as a unit and make decisions, including the TRPA's role to be a true regional-planning and regulatory outfit.

Still, huge problems face both states and the TRPA. We have halted the decline in Lake clarity, but the path to cleaning up old properties and finding government and private financing to do so will be an ongoing challenge. The Lake Tahoe Region Aquatic Invasive Species Management Plan was formulated so the Lake would avoid Lake Mead's problems with invasive mussels and mollusks. In about a year, the program will face a deficit of about \$1 million

because of the curtailment of the Southern Nevada Public Lands Management Act (SNPLMA) funds. The TRPA faces many other funding shortfalls over the next decade. Despite all of our self-congratulations, implementation of the RPU still needs to be tested. At this point, the RPU is nothing but a piece of paper, and the five counties around the Lake and TRPA staff have not put it into effect.

Looming over all of these questions is the threat and fact of litigation. In spite of pleadings by many stakeholders, including Senator Reid and California's U.S. Senator Dianne Feinstein, environmental groups have sued to halt the RPU. Area plans being developed by local governments, with new regulatory authority delegated to them by the TRPA, could also be litigated. The effort to implement new ways of improving the Basin's environment could be halted in their tracks. Specifically, with the specter of the repeal of elements of S.B. No. 271 of the 76th Legislative Session, preventing the possibility of Nevada's withdrawal from the TRPA Compact is essential to changing the hearts and minds in both states.

While S.B. No. 271 of the 76th Session was faulty, the option for the Governor to withdraw from the Compact in 2 or 4 years should remain. For all of the aforementioned unanswered questions, the remote possibility of withdrawal should remain in the Governor's hands. His accomplishments and those of the TRPA over the last 2 years should convince the Committee to retain the Governor's authority in the matter.

Senator Settelmeyer:

As the Governor's appointee, what do you think is his opinion of S.B. No. 271 of the 76th Session?

Mr. Robinson:

Governor Sandoval has approved its provisions and believes they should remain intact. He believes the option to withdraw from the Compact should remain and opposes S.B. 229, as written.

SENATE BILL 229: Repeals the provisions of Senate Bill No. 271 of the 2011 Session. (BDR 22-726)

Joanne S. Marchetta (Executive Director, Tahoe Regional Planning Agency):

You have a copy of my written testimony ([Exhibit F](#)). The TRPA is neutral on S.B. 229. As an agency, we are doing everything we can within our ambit to

keep together the longstanding Compact. In unprecedented ways, many more interests are working with, not against, us. This story of progress is different from the discordant stories you may have heard in the past.

The most important thing the TRPA can do to support the Compact is to be an effective and efficient agency. The TRPA is a different agency than the one heard or talked about 20 years ago. We have taken a necessary critical look at our effectiveness and role in the Basin and made positive changes and become more accountable. We focus more on regional issues. We are more responsive, and our outcomes are more relevant to 21st century problems.

The most noted accomplishment of 2012 was the RPU, the adoption of which on December 12 was the first significant update in more than 20 years. It is also the most widely supported plan. The TRPA responded to two governors' and two Congressional delegations' calls to action, and we collectively urged a solution to the RPU impasse by no later than the end of 2012. Two state cabinet-level officials—Leo Drozdoff, director of the State Department of Conservation and Natural Resources, and John Laird, California Secretary for Natural Resources—provided the leadership to get it done.

On the strength of that collaborative model, support for the RPU was unprecedented. The TRPA heard agreement from virtually every sector. The RPU was supported by both states, both Offices of the Attorneys General, every local government, every major Basin agency, major environmental groups, developers, business interests, institutional interests, educational interests, recreation organizations and homeowners. The TRPA is facing litigation from a national environmental organization, but we believe the RPU is sound. Local jurisdictions and we are not letting the lawsuit deter our full-forward motion on implementing the RPU.

Plans alone do not deliver environmental gains; investments and completed projects do. A capital-investments strategy enables our RPU to achieve and maintain our environmental thresholds. The TRPA has led the coordination of the Environmental Improvement Program (EIP) for almost 20 years under a highly successful, multi-sector partnership. It includes critical environmental programs: water and air quality, recreation, fisheries, wildlife, soil conservation, stream restoration. Over 15 years, more than \$1.5 billion in shared federal, bi-state, local and private sector funding has been used. Shared EIP funds allow a regional approach to catastrophic threats, like aquatic invasive species and

wildfires. The Lake Tahoe Region Aquatic Invasive Species Management Plan is a nationally recognized model to protect introduction of and control programs to remove invaders. In 2012, the TRPA and partner agencies inspected 37,000 boats, decontaminated 3,700 boats, treated 5 acres for Asian clam removal and treated 7 acres for invasive weed removal.

The TRPA uses a regional partners approach to wildfire fuels reduction and creating defensible space. In 2006, the TRPA approved the fuels reduction treatment of 68,000 acres. Through streamlined permitting, we ensure that regulatory barriers do not affect those fire-protection programs. Projects are moving forward as quickly as funding will allow. New bicycle trails and storm water improvement projects have been completed with EIP funds. Road projects worth hundreds of millions of dollars have been completed by the Nevada Department of Transportation and the California Department of Transportation to prevent sediment from flowing into the Lake. Science tells us that is the primary source of pollutants affecting clarity.

While seemingly counterintuitive, large and small development projects deliver necessary, up-to-date environmental improvements. The EIP has helped fund 6,700 allocations over 20 years calling for water quality measures—called best-management practices—which are a condition of building permit issuance. The Boulder Bay on North Lake Tahoe and Edgewood Tahoe's Crystal Bay developments will bring significant water quality, transportation, recreation and scenic benefits to the Lake. Knitting together funding from public-private partnerships and EIP money is part of accomplishing the region's environmental goals.

The Lake has benefited immensely from public funding for environmental restoration projects. As SNPLMA funds sunset and public money becomes far less available, the Lake is now staring down a fiscal cliff to continue to accomplish the Compact's goals. The TRPA's next big regional challenge is to reimagine the means to pay for continued environmental gains. The Compact's framework allows strong regional partnerships and enhance our ability to leverage federal funds for transportation aquatic invasive species and restoration programs.

The achievements I have outlined are part of the Lake's conservation success story. A significant lesson of that story is what can be achieved when two states, federal and local governments, and private sectors work together on

restoration work and support the Lake's communities. With the adoption of the RPU, Basin partnerships are at their strongest levels. We are a nearly united front, and the Basin is poised for further improvements if we continue working together.

Senator Settlemeyer:

I served on the 2011-2012 Interim Statutory Legislative Committee for the Review and Oversight of the Tahoe Regional Planning Agency and Marlette Lake Water System. When will the first local plan be completed? That will be a test of the success of the region-wide plan—whether local plans will be allowed to do what is stated in the RPU.

Ms. Marchetta:

All five local jurisdictions at the Lake that are eligible to generate local plans are doing so. They are on different completion schedules, and Douglas County will be the first to bring forward a plan this spring to be presented to the TRPA this summer.

Senator Segerblom:

Senate Bill No. 271 of the 76th Session's first requirement was to remove the supermajority vote of the TRPA. Did that happen?

Mr. Robinson:

Removing the supermajority requirement would require a Congressional action and a change to the Compact.

Senator Segerblom:

The bill's second provision required the RPU, and that has been done. Correct?

Mr. Robinson:

Yes.

Senator Segerblom:

Is the provision about changing the Compact's burden-of-proof designation a federal requirement?

Mr. Robinson:

That is an ongoing issue that has not been accomplished.

SENATOR SETTELMAYER MOVED TO DO PASS S.B. 438.

SENATOR SEGERBLOM SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

* * * * *

Chair Ford:

We will open the hearing on S.B. 229.

Senator David R. Parks (Senatorial District No. 7):

You have a copy of my written testimony ([Exhibit G](#)). The Legislature passed and the Governor signed S.B. No. 271 of the 76th Session. It would withdraw Nevada from the Compact in October 2015 unless the TRPA passes an RPU and California and the federal government approve modifications to the Compact changing the Board's voting structure and inserting clauses relating to economic conditions and litigation.

The main argument advanced by proponents of S.B. No. 271 of the 76th Session was that the bill was necessary to get California to the table to produce an RPU. It was asserted that there was no desire for the proponents ultimately to withdraw from the Compact. On December 12, 2012, the Board approved the RPU—the product of the Board's RPU Committee and a bi-state consultation process initiated by lead natural resources staff from the offices of Governors Sandoval and Brown. The consultation process included representatives from local governments, the environmental community, developers and Board members.

No matter your opinion of the role of S.B. No. 271 of the 76th Session, there can be no argument that the states and a vast majority of stakeholders have come together in a spirit of collaboration around the RPU, which has wide community and stakeholder support. For this collaboration to continue and the states and the communities to implement the RPU, which encourages environmental and economic gains, Nevada must recommit to the Compact by passing S.B. 229, which repeals some provisions of S.B. No. 271 of the 76th Session.

Darcie Goodman Collins, Ph.D. (Executive Director, League to Save Lake Tahoe):

You have a copy of my written testimony ([Exhibit H](#)). The past year has been extremely productive and collaborative for all stakeholders in the RPU debate. I am confident this will continue toward successful implementation of the RPU to achieve more benefits for the Lake. The potential for Nevada to withdraw from the Compact in 2015 is a dark cloud threatening to undo our joint progress.

Since the passage of S.B. No. 271 of the 76th Session in June 2011, there has been a substantial change in the culture of consensus building around environmental and land-use decisions in the Basin. In August 2011, the RPU Committee began its work. At the 2012 Lake Tahoe Summit, Governors Sandoval and Brown and Senators Feinstein and Reid pledged to cooperate in adopting the RPU. Everyone agreed an update was long overdue.

In February 2012, the RPU Committee concluded its work and then realized there were some significant unresolved, contentious issues it could not solve. Director Drozdoff and Secretary Laird convened a bi-state consultation process to work through some of them. The group included representatives of local governments, Board members, developers and Mr. Davis and me from the environmental community. The bi-state group met regularly from March to July 2012 to develop an agreement, working out issues such as local delegation, development and recreation lands, and land coverage. The agreement was adopted by the RPU Committee in August.

The 2012 Lake Tahoe Summit highlighted the cooperation of the bi-state collaboration process. The governors emphasized the spirit of optimism surrounding the Lake's future. In December 2012, the Board adopted the consultation group's RPU and bi-state agreement. More than 90 percent of the community supported the plan.

On February 11, 2013, the Sierra Club and Friends of the West Shore filed litigation against the RPU. On February 22, California introduced S.B. 630, a contingency plan to protect the Lake. The bill would reinstate the California Tahoe Regional Planning Agency if the TRPA were to dissolve. California S.B. 630 would ensure there is no daylighting period for regional environmental protection by instituting a California Tahoe planning agency should Nevada pull out of the Compact.

Chair Ford:

Did you say that if we withdraw, California has already set up its own authority?

Dr. Collins:

Yes, California is formulating a contingency plan for a planning agency for its side of the Lake. It would only be implemented if the Compact dissolves.

Chair Ford:

The RPU is in litigation. Is your bottom line for supporting S.B. 229 that you think S.B. No. 271 of the 76th Session has done everything it was designed to accomplish?

Dr. Collins:

Yes. It seemed that the bill's main intention was to ensure adoption of a RPU, which has occurred.

Chair Ford:

The third provision of S.B. No. 271 of the 76th Session, as described by Senator Segerblom, has not been accomplished. Why should it be repealed before then? What happens if the lawsuit is won? Would the RPU be thrown out?

Dr. Collins:

The RPU would be implemented depending on the lawsuit's outcome. It would likely result in changes to the RPU.

Mr. Davis:

We do not know how the RPU would be affected by a successful lawsuit. Given the history of litigation in the Basin, components of the RPU would be retained. We are confident it is legally defensible, but if the court so rules, we can change it to conform with the law.

Chair Ford:

If the Sierra Club and Friends of the West Shore win their challenge to the RPU, will we have no plan?

Mr. Davis:

If the lawsuit is won, the RPU will be struck down.

Chair Ford:

If we have no plan, would not the provisions of S.B. No. 271 of the 76th Session be just as forceful and necessary as they were before the RPU was completed in December 2012?

Mr. Davis:

That would presuppose that a RPU was implemented as a direct result of the passage of S.B. No. 271 of the 76th Session. It can be argued that the bill played a role in that, but there were many other factors. A lot of new personalities were involved in negotiating the RPU, and new information came to light in both states. The idea is plausible that the bi-state working group might be unable to pick up the pieces and craft a plan dealing with some of the issues cited in the lawsuit. We collaborated with the working group to design the RPU quickly and reach agreement on some of its toughest issues.

Chair Ford:

Did the passage of S.B. No. 271 of the 76th Session affect the RPU's development? Are you arguing that the bill did not provide the impetus resulting in its December completion?

Mr. Davis:

It is not possible to figure out precisely what spurred the RPU's completion. To some degree, it could have been the bill's passage, or it could have been that the RPU was already 5 years overdue. Even as S.B. No. 271 of the 76th Session was moving through the Legislature, everyone recognized the RPU was necessary.

Chair Ford:

In employment law, there is the concept of "temporal proximity," cause and effect, if you will. More likely than not, enactment of S.B. No. 271 of the 76th Session had a significant effect on the RPU's completion. If the court throws it out, S.B. No. 271 of the 76th Session might again spur California to come back to the table to work on another RPU with Nevada. Do you disagree with that?

Mr. Davis:

That would assume the parties that came to the table after being ordered to renegotiate the RPU would have no incentive to continue to cooperate. As a representative of the environmental community at the original drafting table, many of my colleagues believe I gave away too much. The Sierra Club and the

League to Save Lake Tahoe have a significant investment in making sure this thing works. If the RPU is struck down, we have a lot of incentive to negotiate a new one within the parameters of our discussions. The RPU we crafted is effective and can result in environmental gains.

Chair Ford:

The issue is not your unwillingness to participate; it is California's unwillingness.

Mr. Davis:

To some degree, California is in the same situation as I am. Many members of the California environmental community support my position and are heavily invested in the plan. Senate Bill No. 271 of the 76th Session required the adoption of a RPU, and three changes to the Compact that are already in Nevada law would have to be made into law in California and then approved by Congress. The issues are: changing the Board's voting structure; changing the RPU to reflect current economic interests; and changing the burden of proof in challenges to the RPU. Those changes would have to be made by California and the federal government. It is difficult to get something passed in Congress, assuming we could get California to adopt the same language to which Nevada has agreed.

Changing the Board's voting structure is a nonstarter for California. It would also be detrimental to Nevada to lose control of something that could happen within its borders. Most of the discussion on S.B. No. 271 of the 76th Session was about the RPU, not the voting structure. However, that the structure has worked to produce a RPU tells me we should stop pursuing something that is unlikely to happen—at a potential cost to the Lake's protection.

Senator Settelmeyer:

Did the Sierra Club state that S.B. No. 271 of the 76th Session forced the RPU to be rushed, resulting in some of the problems now being litigated?

Mr. Davis:

Yes.

Senator Settelmeyer:

When looking at projects approved by the TRPA that were later litigated, several, including Homewood, were kicked out of court, prompting new

lawsuits by the League to recover attorneys' fees. What is the history of suits against the TRPA?

Dr. Collins:

The League is not involved in the Homewood litigation. The Sierra Club and the Friends of the West Shore filed that suit. Senate Bill 271 of the 76th Session did not address litigation, so even if the bill is left in place for 2, 4 or 10 years, that would not change. If the litigation by the Sierra Club and the Friends of the West Shore is successful, most people would agree that a regional planning agency is still the best thing for the Lake. Continuing to work in a collaborative vein is also in the Lake's best interest because of the RPU's environmental benefits, certainty of regulations in the region and benefits for the business community.

Senator Settlemeyer:

Can you address the League's effort to recover \$267,000 in attorney's fees after the U.S. Court of Appeals, Ninth Circuit, upheld the TRPA's approval of Sierra Colina Village?

Dr. Collins:

The League worked collaboratively on, has bought into, and is vocally supportive of, the RPU. It allows us to cooperate with the TRPA, developers and local agencies and jurisdictions to ensure that we are part of the conversation from the beginning. The League won the Sierra Colina Village case as part of an important precedent for future Basin development. We are responsible to our donors to make sure we recover the attorney's fees for a successful litigation.

Senator Segerblom:

How important an element is the shifting of the burden of proof? It seems irrelevant to me.

Mr. Davis:

I tend to agree with you, but others would disagree.

Chair Ford:

The Office of the Governor is moving to appease concerns about the threat in S.B. No. 271 of the 76th Session that Nevada may withdraw from the Compact. Have you discussed that with the bill's opponents?

Mr. Davis:

While S.B. No. 271 of the 76th Session was moving through the Legislature and during the 2011-2012 interim, I have regularly communicated with opponents of that bill and of S.B. 229. However, we have not reached an agreement on the RPU.

Repeal of S.B. No. 271 of the 76th Session is the top priority of the Nevada conservation community, which includes a statewide coalition of groups. In its original form, the bill would have dictated that Nevada withdraw from the Compact in October 2011. Nevada Governor Paul Laxalt and California Governor Ronald Reagan signed the Compact in 1969 specifically to protect the Basin's environment. Over the last 40 years, the Compact's results have included arresting the loss of Lake clarity and granting millions of dollars for environmental improvement projects to restore damage from irresponsible development in the Basin.

Senate Bill No. 271 of the 76th Session dictated that Nevada pull out of the Compact by October 2015 unless California agreed to three changes to it, and a RPU was adopted. The most significant change was a change to the TRPA voting structure. The bill stated that California and the federal government must approve all three of the changes. This is unlikely and could be detrimental to Nevada's interests by denying both states the right to control happenings within their respective borders. The Nevada Conservation League and Education Fund opposed S.B. No. 271 of the 76th Session as a reckless way to deal with the problem. That said, we are now part of the bi-state consultation process that produced the RPU.

Senate Bill 229 would recommit Nevada to the Compact. Do we need to keep S.B. No. 271 of the 76th Session to ensure California stays at the table and all parties continue to cooperate? Lack of action by Nevada in this Session would have the opposite effect. We are in a good place now, despite the ensuing litigation, because almost everyone is on the same page in wanting to restore the Lake. If we have a RPU, but Nevada still wants to say that we may still pull out of the Compact, that is a bad message to send to California and the RPU's stakeholders. The result is reduced incentive to cooperate if Nevada will ultimately back out of the Compact.

Why is it imperative for the Legislature to act on the issue this Session? Why can we not wait until the 2015 session, when S.B. No. 271 of the 76th Session

takes effect? Our argument is the time to act is now, because we have optimism and collaboration throughout the Basin, as evidenced by the RPU. That will evaporate if we wait too long. You have copies of the letter ([Exhibit I](#)) of bi-state support for the RPU that came out of the consultation process and a joint statement ([Exhibit J](#)) by Director Drozdoff and Secretary Laird after the litigation was filed. These documents are evidence of the states' cooperation, and I do not doubt this will continue. We have heard a lot about the collaboration between the states' governors and between the Congressional delegations.

There was nothing in S.B. No. 271 of the 76th Session that would have prevented the Sierra Club and the Friends of the West Shore's lawsuit. There will always be groups that are unhappy with an issue like this, but they should not determine the Lake's future. Historically, the states have worked together, and the Compact has prompted environmental gains and protected the Lake for the future. We do not think the bill's other provisions will be implemented or are necessary or that we should hold up the Lake's protection over issues unlikely to happen.

Senator Settlemeyer:

Senator John J. Lee and I went to the California Legislature in 2011 as part of the S.B. No. 271 of the 76th Session negotiations. The one person who met with us said, "The deadline to implement S.B. No. 271 of the 76th Session is so far off, we have no reason to talk to you." Recently, because the 2015 withdrawal deadline is approaching, four members of the California delegation came to Nevada to talk with Assembly Speaker Marilyn Kirkpatrick and me. The delegation told me that the only reason they had come was because of S.B. No. 271 of the 76th Session, and if it is rescinded, they will not come to the table. Would you agree that, sadly, without deadlines, things do not happen?

Mr. Davis:

I agree that deadlines provide focus and ensure things get done. We have essentially reached that deadline, have adopted a RPU and shown the current structure can work. I am encouraged that the states' legislators are talking and that it will continue. If Nevada passes [S.B. 229](#), there will not be a reactive bill from California, and we can continue to work together. The past 18 months' outcomes are evidence of that.

Senator Parks:

Time is of the essence. Since the Legislature meets every other year, it will be 2015 before a bill like S.B. 229 could be introduced. That will be the 11th hour, and I would rather see us take proactive measures before then.

Senator Goicoechea:

What is the time frame on the lawsuit?

Dr. Collins:

There is no time frame as of yet.

Chair Ford:

Where is the lawsuit, procedurally? The complaint has been filed, and has a motion to dismiss been filed, or is the suit in discovery?

Ms. Marchetta:

The complaint has been filed, but no responsive pleadings have been filed. The TRPA is within the time period to answer the complaint.

Chair Ford:

Was the complaint filed just 20 days ago?

Ms. Marchetta:

The complaint was filed on February 11, 2013, and the TRPA was served shortly thereafter. We have an extension of 60 days in which to respond.

Marjorie Sill:

I support S.B. 229. What has not been brought up today is that the Lake is an international treasure. Nevada is lucky to have one-third of the shoreline. In 1929, when I was a small child, my father brought me to the Lake and said it should be a national park. Unfortunately, the "powers that were" disagreed with him, but I still love the Lake.

After I moved to Nevada in the 1960s, I worked on establishing Lake Tahoe-Nevada State Park. I have taken many friends—including many from foreign countries, such as England, Hungary and Germany—to the Lake, and they have all been impressed. I testified for the Lake before Vice President Al Gore at the first Lake Tahoe Summit in 1997, and I have worked hard since then to ensure that the Lake continues to be a treasure.

Withdrawal from the Compact would be a bad move for Nevada. We need that kind of structure to ensure that we all work together for the Lake. I hope that is in all of our hearts and minds.

Peggy Lear Bowen:

As Ms. Sill said, the Lake is an international treasure. Senate Bill No. 271 of the 76th Session put teeth behind Nevada's message that it wants to talk to California about rectifying unforeseen shortcomings when the TRPA was created. The stakeholders have accomplished that. It is wrong to withdraw or retain the concept of withdrawal after people have gone the extra mile to formulate a RPU, to communicate and voice their point of view and to achieve a middle ground. This was not done for the sake of either state, but for the sake of the Lake.

We are simply the guardians to pass on to perpetuity this body of water that was not created by us but which we could destroy. The responsibility to avoid that is incumbent upon this Committee. To retain S.B. No. 271 of the 76th Session says that we acted in good faith and measure, and meant what we said. California now has a plan B to establish its own Lake planning agency. We do not talk about "California Tahoe" or "Nevada Tahoe"; it is "Lake Tahoe," the name given to it by Native Americans and mapmakers.

My family has property in Virginia passed down from before the Civil War. I had a financial snag with my housing situation and am having difficulty paying my mortgage. My brother said, "You and I own the Virginia property. Why don't we sell it and solve your mortgage problem?" I told him "It's not ours to sell. It's not ours to take possession of and build on. It is that which was passed down through our family for more than 100 years, and we are only the caretakers." Please vote to repeal S.B. No. 271 of the 76th Session to show that, in perpetuity, you, too, have been the best guardians of our Lake.

Tina Nappe:

I grew up in Washoe Valley, and my family's favorite picnic area was Sand Harbor. Many years ago, the beach sand was clean, and the water was clear. Over the years, it has been a struggle to maintain that clarity and cleanliness. The Compact is absolutely critical to the Lake's future.

I have heard Californians and Nevadans talk about pulling out of the Compact. Each state and the federal government cannot work alone on Lake issues. We

must work together, which will make such a difference for the Lake's future. The Compact says working together and preserving the Lake's environment are important, and we need to reassert our support for it.

John Hiatt (Conservation Chair, Red Rock Audubon Society):

We have invested more than \$300 million of SNPLMA funds into preserving and enhancing the Lake ecosystem. For Nevada to take its marbles and go home now and abandon that investment is a nonsensical, Third World country-type of action. The Lake is a wonderful place, and we need to do everything we can to preserve it. That will only be accomplished by working with California, and the TRPA was established to do just that. Like all complicated and contentious issues, there have been problems, which I think can and are being resolved. We must repeal S.B. No. 271 of the 76th Session to demonstrate we are dedicated to the long-term preservation of the Lake and to working through the problems of governing a valuable natural resource that has a lot of competing interests involved in it.

Brian Fadie (Executive Director, Progress Now Nevada):

We need to keep Nevada committed to the Compact. It is one of the most successful interstate compacts in the Country. By passing S.B. 229, Nevada will again be a full partner with California in its management of the Lake. The TRPA could move forward on formulating another RPU and administrating environmental improvement programs. To walk away from a regional plan that has been so successful for 40 years makes no sense.

Mike Draper (South Tahoe Alliance of Resorts):

The South Tahoe Alliance of Resorts (STAR) is a coalition of resort properties and businesses designed to work in concert with elected officials, business leaders and realtors to tackle Basin issues. My R&R Partners colleague, Nick Vassiliadis, and I worked with Senator Lee, realtors and STAR to develop S.B. No. 271 of the 76th Session, so we now oppose S.B. 229.

Culturally, socially and economically, the most important factor in quality of life in the Basin is the Lake's clarity and the beauty of its surrounding mountains and forests. The natural environment is the foundation of the unique outdoor recreation tourism economy that is the basis of visitors' Lake experience. Our community and livelihoods are predicated on the Lake's environmental health, which is inextricably linked to that of surrounding communities. The purpose of the Compact was to balance the natural and manmade environments by

protecting the Basin's quality and beauty while permitting worthwhile and responsible projects, developments and homeowners' property improvements.

There has undoubtedly been unprecedented cooperation in the Basin for 2 years, spurred by S.B. No. 271 of the 76th Session. Before its passage, "communication" and "cooperation" were unheard-of words among the Board and the Lake's stakeholders. However, let us not confuse those words with substantive action. The RPU was overwhelmingly approved by the Board, but that was just 3 months ago. There has been no time to measure its effectiveness. Local plans must now be developed and enacted, and the change in the TRPA voting structure and shift in the burden of proof have not been addressed.

Senate Bill No. 271 of the 76th Session was a gigantic two steps forward for the Basin. To repeal it just 18 months after enactment, and before it has been fully enacted, would be three steps backward. While some may not have considered the bill perfect, it was strongly recognized that the social and political climate in the Basin needed to change. The bill was not designed to compromise the social, cultural or economic health of the Basin; to the contrary, its purpose was to improve the region's sustainability and health by addressing an outdated regional plan and seriously flawed Compact.

Well-documented, positive strides have been made since the passage of S.B. No. 271 of the 76th Session, the foremost being open communication between California and Nevada. Despite the cooperative ideology of the Compact, until 2011, communication among the officials and leaders of the states and the Board had been poor. The RPU was adopted despite protests from many entities and individuals, and litigation has been filed. This is a prime example of the deep-rooted issues that have stymied real progress in the Basin. A RPU crafted by diverse entities and then nearly unanimously approved by the Board was promptly challenged. The burden of proof is on the TRPA to show why the RPU will be effective. The Committee needs to consider what S.B. No. 271 of the 76th Session does and does not do.

Chair Ford:

Not all of the bill's provisions have been implemented, and we have been told that we need to let the bill continue to work. Two provisions are federal issues beyond the states' control, so are *de minimis*. Why is that not a persuasive

argument to pass S.B. 229? The TRPA developed the RPU, so why is that insufficient for purposes of moving forward?

Mr. Draper:

The first provision of S.B. No. 271 of the 76th Session has not been met. The plan was approved by the TRPA, but its provisions have not been enacted. Local plans are being formulated by Douglas and Washoe Counties, but have not been approved or enacted.

Chair Ford:

Did S.B. No. 271 of the 76th Session dictate the formulation of local plans?

Mr. Draper:

Local control has been an ongoing concern in the Basin. Entities and municipalities have not had control of their own communities, resulting in deadlocked approval of projects and developments. Increased local control was taken into account in the RPU. We are jumping the gun with this vote on S.B. 229. I would love to testify before the 2015 Session that there has been a lot of progress in projects and developments. We could have a different discussion about how we worked together to make S.B. No. 271 of the 76th Session or a sister bill with better legislation upon which more people can agree. To negate S.B. No. 271 of the 76th Session after just 18 months of a whole new environment of cooperation after 30 years of stagnation is presuming a lot.

When Mr. Vassiliadis and I helped craft S.B. No. 271 of the 76th Session, its timelines were specifically developed so there would be two and potentially three sessions to address its provisions. We did not think we would be defending it just 18 months later.

Chair Ford:

Even though what you described has not occurred, if so much work has been done on the RPU, and if the litigation is unsuccessful, why would we not continue working cooperatively without the threat of withdrawing from the Compact?

Mr. Draper:

That discussion has been ongoing for 30 years.

Chair Ford:

Do you really think that, after 18 months of hard work, the minute S.B. No. 271 of the 76th Session is repealed all impetus to cooperate will go by the wayside?

Mr. Draper:

There is still a lot more cooperation and communication that needs to happen, specifically on the part of our California colleagues. We have not yet seen the level of cooperation from them for which we had hoped. We are committed to working with all stakeholders to continue the momentum, which I believe will continue. To suggest that 18 months will change a 30-year habit is a difficult argument to make.

Senator Manendo:

Who are the members of the STAR?

Mr. Draper:

The most prominent members are resorts, including Edgewood Tahoe, Lakeside Inn and Casino, Lake Tahoe Resort Hotel, Vail Resorts' Northstar California and Harrah's Lake Tahoe; and realtors associations.

Senator Manendo:

Did the STAR vote on its position on S.B. 229?

Mr. Draper:

I do not know what that internal operation consisted of, but as a group, the STAR's executive board communicated to me that they oppose S.B. 229.

Senator Manendo:

Was that a unanimous vote?

Mr. Draper:

As far as I know, it was unanimous. I have not heard a STAR member express support for S.B. 229.

Nick Vassiliadis (South Tahoe Alliance of Resorts):

Senate Bill No. 271 of the 76th Session did not alter, add to or subtract any of the environmental-protection criteria outlined in the Compact. Article VII of the Compact, titled "Environmental Impact Statements," and Article VII of S.B. No. 271 of the 76th Session are identical. The Lake is the number 1

attraction of businesses, so to think that we would want to change that in any way is contrary to a standard business model.

Senate Bill No. 271 of the 76th Session gave the Legislature two full sessions to review the progress of cooperation between the states, federal government, the TRPA and other stakeholders. The bill was crafted specifically to give the Legislature two sessions—three sessions, if the Governor extends its provisions—to review it before Nevada could withdraw from the Compact. Senate Bill No. 271 of the 76th Session addressed the TRPA’s voting structure, the shift of burden of proof and the RPU. The greatest success was the RPU, passed by a vote of 12 to 1. Chair Ford implied that the voting structure and burden of proof issues were unattainable goals. Nevada has begun to shift both elements of the Compact by amendments to S.B. No. 271 of the 76th Session and has asked California to make similar amendments. That is how the process works, and then the amendments are approved by Congress.

Chair Ford:

I did not contend it is impossible to achieve those goals, just that those issues are beyond the states’ control. If we are asking Congress to approve something over 2 or 4 years, how do we know ...

Mr. Vassiliadis:

Was not Representative Horsford asking for something similar?

Chair Ford:

Yes, but he and other testifiers said it is almost impossible to get Congress to act within anyone’s time frame. Therefore, the Pumpkin Hollow project has been discussed for a long time. If we tie the fate of Nevada’s membership in the Compact to whether Congress acts within 2 to 4 years, we need to give due consideration to that. Could you clarify that for me?

Mr. Draper:

That is why we built a potential 6-year time frame into the bill. We cannot just throw up our hands and say, “It’s too hard to get Congress to do anything about it or it takes too long ...”

Chair Ford:

That is not my contention.

Mr. Vassiliadis:

I understand that and apologize for making that leap. If we are saying that we should repeal S.B. No. 271 of the 76th Session because it is difficult to get Congress to act, that is wrong. First Nevada has to act, then California and finally Congress. We built the 6-year time frame so we could see progress being made. If Congress still has not acted after 4 years, but progress has been made, communication is happening, the RPU and local plans are working and California and Nevada legislators are working together, suddenly the discussion is different and the concern is valid. We cannot say after 18 months that 30 years of issues have been solved. The Lake area is blighted with unemployment and poor environmental health. This year is the first time in 10 years that water quality improved. To repeal S.B. No. 271 of the 76th Session after 18 months would be unfair to the State, the Committee's constituents and the power of the Legislature.

Senator Segerblom asked if burden of proof is a big deal. It is a major issue. The track record of lawsuits against the TRPA is that burden of proof lies with the TRPA. Board members from both states may unanimously approve a project, and then a group could sue over it. The burden of proof is on the TRPA to prove the RPU will work, rather than in most other forms of law, in which burden of proof rests with the person or entity bringing the suit.

Chair Ford:

Is the presumption under the current burden of proof that the RPU is invalid?

Mr. Draper:

Yes.

Chair Ford:

Stakeholders are trying to forge a compromise of sorts on S.B. 229. Have they communicated with the bill's opponents?

Mr. Draper:

We want to see continued communication, which we hope has become a habit. We have worked with the Office of the Governor and his appointee and the Division of Environmental Protection, State Department of Conservation and Natural Resources. The Governor's position has been "I don't want to mess with S.B. No. 271 of the 76th Session for 18 months. I want to see the RPU work and local plans enacted." We asked ourselves what we could do within

the confines of the bill. We hoped to build a consensus to establish that positive energy is happening. We want to ask the Governor to extend the withdrawal deadline as soon as possible from October 1, 2015, to October 1, 2017.

We discussed with Senator Patricia Spearman, Senate District No. 1, the possibility of including in a resolution things happening around the Lake that might establish some formality around stakeholders' working groups that did not exist a year ago. We have not found our goalposts. The bill's proponents' position has been that anything containing a provision allowing withdrawal from the Compact is unacceptable. Our position is that such a provision is essential.

Senator Manendo:

Would you oppose S.B. 229 if a lawsuit had not been filed?

Mr. Draper:

Yes, because two of its provisions have not been accomplished and the RPU was approved just 3 months ago. The lawsuit proves the point of why S.B. No. 271 of the 76th Session was necessary; ergo, protecting the Lake's environment has been contentious for 30 years, and nothing has improved.

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

The Compact was enacted 40 years ago, during which time technology has changed quite a bit. The computer game Pong was released in 1972. Lake clarity has diminished despite this increased technology because of restraints on things that could remedy the problem. Forty years ago, cassette tapes and pocket calculators were invented. The first digital camera, which was the size of two shoeboxes, was released. In 1975, I drove a 1972 Camaro that got 8 miles to a gallon of gas, when it cost 36 cents per gallon.

Senate Bill No. 271 of the 76th Session was the catalyst for change. My Board of County Commissioners can have great conversations now because of it. I have spoken to the League because of the bill. If we repeal S.B. No. 271 of the 76th Session, those conversations will stop. The bill is working if we can talk to, and say good things about, the League. The bill has been a catalyst for the two states, and Democrats and Republicans, to work together.

The players have changed in the RPU process because of S.B. No. 271 of the 76th Session. The two sides were so entrenched in their positions, those players had to change. As Mr. Davis said, that is why we have all come to the

table. Without the bill, we would not have had changes on the Douglas County side of the Lake.

Chair Ford:

I cannot imagine that if S.B. No. 271 of the 76th Session is repealed, those conversations would cease. That outcome is unrealistic after all of the work that has been done. Am I wrong?

Mr. Bonner:

I wish I were as hopeful as you are. Hope is there, but we look at the future based on past performance. Before the passage of S.B. No. 271 of the 76th Session, nothing got done. The last RPU was in 1987—people born that year have never seen a television without a remote controller.

Senate Bill No. 271 of the 76th Session will result in lawsuits, but it gets them out of federal courts and into Nevada courts. The Douglas County area plan can be defeated with four votes by California TRPA Board members. That is why the voting structure must change. We need to keep S.B. No. 271 of the 76th Session intact so we can complete our local plans. There is contention around the Douglas County area plan before it has even been released. We will release part of it in June and the rest in November.

The number 1 issue of discussion is Lake clarity. I have copies of the results of the University of California at Davis, Tahoe Environmental Research Center's latest Secchi disk test. Lake clarity has decreased since 1973, even if there are anomalous readings every 10 years or so of improvement. The federal government has pumped \$1.5 billion into maintaining Lake clarity, but it is not working. We must find ways that technology and rebuilding the environment can improve clarity.

Measure of silt runoff is called the Lake Tahoe total maximum daily load (TMDL). Douglas County has 18.2 percent of the Lake's shoreline yet produces just 3 percent of the TMDL. We are doing our part for Lake clarity. This is not about Douglas County having the casino corridor and a golf course on the Lake. The lawsuit filed against S.B. No. 271 of the 76th Session is more about new development's effects. Douglas County has deteriorating 60-year-old buildings at the Lake. Building materials have changed since then. If we can rebuild the environment, we can preserve the Lake's clarity by using building materials that

do not create silt runoff. The miles of asphalt and traffic patterns around the Lake will not increase or change.

Douglas County and the Nevada side of the Lake are doing their parts to preserve clarity much better than the California side is. California must come up to our environmental standards. Nevada communities have agreed to decrease the TMDL by 10 percent periodically, and Douglas County has already met that goal. California wants to talk to us about TMDL credits because we know how to do it with rebuilding through a public-private partnership. Will the \$1.5 billion in federal funds for clarity be around in the future? Probably not. That money is drying up, so we must find ways to use technology and public-private partnership to change the Lake's structure to keep it clear.

Forty years ago, Leadership in Energy and Environmental Design (LEED) certification did not exist. Without S.B. No. 271 of the 76th Session, the Boulder Bay project, which is seeking LEED certification and had been delayed for 7 years, would never have been approved. Governor Brown told the California Board members to vote to approve the project because of S.B. No. 271 of the 76th Session. We have begun to define standards, including improving the vehicles miles traveled on Basin roadways. But the Sierra Club does not believe that. No matter what we do, we cannot win in its eyes. If S.B. 229 is all about doing what is right for the Lake and the residents of the Basin and Nevada, we need more time to implement S.B. No. 271 of the 76th Session. No one wants to leave the Compact, but we need to control our own destiny and environment. Nevada is not the source of the Lake-clarity problem.

Nancy McDermid (Commissioner, Douglas County Board of Commissioners):

I am Douglas County's representative to the TRPA Board and chair of the TRPA's Local Government Committee, consisting of the six jurisdictions in the Basin. Senate Bill No. 271 of the 76th Session has fostered a greater understanding on both sides of the state line. In my 7 years on the Board, I have seen a 180-degree turnaround of how members engage with one another. As might apply to repealing S.B. No. 271 of the 76th Session, a famous psychologist said, "The best prediction of future behavior is past behavior."

I have lived in the Lake region since the 1970s. My son graduated from South Tahoe High School in 1989 then went on to college, medical school, an internship, a residency and 3 years in the U.S. Army. His first email sent from

Bagram Airfield, Afghanistan, said, "This looks like Carson Valley." When he returned in 2009, he saw U.S. Highway 50 on the South Shore and called me to say, "Mom, you haven't changed anything up here. It looks the same. Bagram looks better than Lake Tahoe because it has new structures." There has been status quo operating for 40 years in the Basin which has not benefitted the Lake, residents or the environment.

The California Legislature passed S.B. 630. Two Board members, appointed by the California Senate and Assembly respectively, resigned after December 2012 for health or family matters. The Board has met twice this year without two members. If a project had come forward from South Lake Tahoe which the seven Nevada and three California representatives voted to approve, but one member voted against it, the project would not proceed. The voting structure dictates that five California representatives must vote for a project in that state. We do not know when the two new California representatives will be appointed. The Board voting structure needs to change.

After three fish-habitat studies over more than 20 years that showed that piers do not impact fish, the Board passed a shore-zone ordinance and was promptly sued. We went to the Ninth District Court of Appeals, but the ordinance was denied. We had instituted Blue Boating Program inspection plan, the funding from which was to be used to fight the invasion of quagga and zebra mussels, but it was also halted. People have been waiting a lifetime for a permit to build a pier on their Lakeside property.

When the first TRPA regional plan was adopted in 1987, it was litigated. A 3-year moratorium on building permits was instituted. In the current lawsuit over S.B. No. 271 of the 76th Session, the court could tell the Board, "You cannot go forward with anything." Since February 2012, the Board directed its staff to move forward with the local plans as soon as the RPU was adopted.

A South Shore Vision Plan extends from Ski Run Boulevard down U.S. Highway 50, and across the state line to Kahle Drive in Douglas County. South Lake Tahoe and Douglas County have held joint and public workshops about the Plan. On April 9, 2013, the Douglas County Planning Commission will hold its first public hearing on the County's local plan for the Nevada part of the South Shore Vision Plan. The plan will then go before the Douglas County Board of Commissioners for another public hearing and then to the TRPA's Advisory Planning Commission for a third public hearing. The fourth public hearing will be

before the Douglas County Board at the end of June or beginning of July 2013. Douglas County's local plan will be the first under the RPU, and we do not know if it will engender a lawsuit despite four public hearings and four votes by different entities. The same thing happened over the Homewood project permit. The Placer County Board of Supervisors, the TRPA Advisory Planning Committee and the Board unanimously approved that permit, but a lawsuit was filed.

Provisions in S.B. No. 271 of the 76th Session are designed to reduce the frequency of lawsuits. The environmental community's attitude has been, "If we don't get our way, we sue. If you don't design your projects the way we think they ought to be, we sue." The South Tahoe Vision Plan was released a while ago, so we are hopeful it will be approved without a lawsuit. That is proof we have come a long way. I urge you to stay that course and not repeal S.B. No. 271 of the 76th Session prematurely. If it is allowed to proceed, we will have some history to determine if things have really changed and we are all on the same page as far as benefitting the Basin environment. Maintaining the status quo before S.B. No. 271 of the 76th Session harms the Lake and the economy.

Senator Manendo:

Ms. McDermid gave us a hypothetical scenario about what could happen if two California Board members cannot vote. Has there been another time when such a vote was stricken?

Ms. McDermid:

No. That is because no projects have come forward requiring five California votes during the last three Board meetings.

Senator Manendo:

What about prior to this year?

Ms. McDermid:

Board members have been absent, but we have never had two California seats empty for several meetings.

Senator Manendo:

When those seats were filled, was there ever a project vote that failed?

Ms. McDermid:

Yes. One failed when Heavenly Resorts presented its master plan. There have also been tight votes, like on the shore-zone project. To be successful, project managers have to ensure five California or five Nevada votes are lined up.

Senator Manendo:

When was the Heavenly Resorts vote?

Ms. McDermid:

That vote was in 2007.

Chair Ford:

Do you need provisions of S.B. No. 271 of the 76th Session to help foster the local plans to shift the burden of proof in lawsuits over RPU plans?

Ms. McDermid:

Yes. The burden of proof is a critical component. Douglas County has a master plan, for which we have to make findings to amend. We cannot change it arbitrarily. If someone sues over an amendment, in a Nevada court, the burden of proof is on them to prove we did not make the findings. That is not how the Compact is structured.

Senator Manendo:

Are you certain the Heavenly project was voted down?

Ms. McDermid:

The project was approved and then challenged, so it had to be reconsidered.

Senator Manendo:

I just pulled up an article online that says the Heavenly master plan was approved.

Ms. McDermid:

The Board approved one version of it, and then there was a challenge for a reconsideration of that vote. The vote was changed to approve the project.

Senator Manendo:

Was that vote unanimous?

Ms. McDermid:

No, we have had very few unanimous votes. Approval of the Tahoe Beach Club in Douglas County received the first unanimous vote.

Mr. Sanderson:

I worked extremely hard on S.B. No. 271 of the 76th Session during the 76th Session. You have heard about the developers and casinos that supported it and do not want it repealed. However, before the bill, residents were not allowed to paint their houses without permission from the TRPA, which dictated the color code.

Chair Ford:

Does S.B. No. 271 of the 76th Session affect that problem?

Mr. Sanderson:

Yes, because we pushed for simple things like house paint color to go before the county boards, not the TRPA. The RPU under litigation would allow that. Everyone loves the Lake. I moved there in 1962, and my wife went to church camp there in the 1940s. Ms. Marchetta is probably the best TRPA director we have had.

The problem is everything—everything—is now litigated. California would not have negotiated anything without S.B. No. 271 of the 76th Session. The governors agreed that we need to retain it to keep people at the table. I fully support working out a middle ground with Senator Parks. I attended every interim meeting on S.B. No. 271 of the 76th Session and have worked on approval of casinos, the highways, Cave Rock and Incline Village on the Nevada side of the Lake. Those projects are all old and beat-up and need our help. Property owners at the Lake cannot get anything done without the RPU. If Nevada negotiates from a position of strength, we win. California did not talk to us for more than 30 years until S.B. No. 271 of the 76th Session passed.

Patrick Atherton, Chairman, Governmental Affairs Committee, Lake Tahoe South Shore Chamber of Commerce:

We are an organization of 650 businesses in Nevada and California. Senate Bill No. 271 of the 76th Session was the vehicle that brought all parties to the table to pass the RPU. It is premature to rescind the bill.

Bruce Grego, Esquire:

Until recently, I was a member of the South Lake Tahoe City Council. I came to the 2011 Legislature to support S.B. No. 271 of the 76th Session, and I convinced my fellow council members to do so. We needed a change. I am not convinced that the parties working together now will continue to do so if the bill is repealed. If we lose S.B. No. 271 of the 76th Session, we will lose the incentive to hold discussions. Before the bill, environmental groups that had filed lawsuits all over the Basin and four Nevada legislators controlled the whole shebang at the Lake. Nothing was being done, but now we are making progress.

If the supporters of S.B. 229 really want to demonstrate their sincerity, let them support the provisions of S.B. No. 271 of the 76th Session. Let us change the Compact to change the burden-of-proof provision. Let us stop the power of four votes to block ten votes on the Board. This would be a start. We need to develop more trust in our conversations and more history before we think about repealing S.B. No. 271 of the 76th Session. I voted for the RPU when it went before the South Lake Tahoe City Council, and we directed our representative to the TRPA to vote for it. I support bi-state planning, which before 2011 was nonexistent.

Lewis S. Feldman, Esquire:

I am a land-use attorney practicing in the Basin for more than 30 years. I represented Nevada on the RPU's bi-state consultation committee. The spirit of cooperation transpired because, after the implementation of S.B. No. 271 of the 76th Session, there were consequences. The stalled effort finally resulted in progress. We did not foresee that the adoption of S.B. No. 271 of the 76th Session was a two-step process involving implementation of the local plans. Today, we have cooperation, but nothing else. We have a RPU poised for implementation that is unimplemented. Only with the adoption of the local plans can the fruits of the RPU be realized.

People are telling the Committee not to abandon ship on S.B. No. 271 of the 76th Session because it has taken us so far. Without it, we would not have had a RPU by December 2012 or even today. No party that participated in that process can legitimately tell you otherwise. If we abandon the opportunity for choice, we will undermine the process. Senate Bill 271 of the 76th Session tried to shift the presumption of proof so that clear and convincing evidence would be required to challenge the RPU.

Chair Ford:

Does the burden of proof remain on the RPU's proponents to prove it is workable?

Mr. Feldman:

The bill contains the standard civil burden of proof. The RPU would require clear and convincing evidence of proof. The RPU makes the process more bulletproof by raising the requirements to challenge. It would be astounding for Nevada to say that it wants to abandon S.B. No. 271 of the 76th Session, with the TRPA having just been sued by the Sierra Club and the Friends of the West Shore, which know full well that the bill is in place and its issues are paramount to the State. The message is, "So, sue us; we don't care. We're just going to abandon ship and hope that all goes well in the future."

David McClure:

You have a copy of my written testimony ([Exhibit K](#)). I live in Reno now, but I spent 34 years "in the trenches" at the Lake because I have lived in and own a small business and property there. I served on the North Tahoe Public Utility District Board of Directors and have been actively involved in regulatory issues at the Lake.

There are important facts about Nevada's position on S.B. No. 271 of the 76th Session and at the Lake that are rarely discussed. The State plays a very minor role in the Lake's degradation. With one-quarter of the Basin's population and a much drier climate, Nevada contributes less than one-quarter of the water and air contaminants into the Lake. We have never had a State regulatory structure for environmental factors like California's. That state has 38 million people, so those regulations evolved out of necessity. Nevada does not need such strict regulations as we are a smaller, more nimble state with a different approach to its environment.

If Nevada is going to exercise its independence in the Lake in the controversial field of development versus the environment, we must prove our commitment by measureable standards. More than 100 pipes are feeding roadway silt runoff into the water as part of the TMDL, as documented at <http://www.tahoepipeclub.com>. If Nevada started restricting those pipes and infiltrating runoff so it does not get into the Lake, it could act quickly, compared to California. We need to consider a bi-state competitive solution. If Nevada believes it can do so, let us take the lead and do the right thing for the

Lake. For Nevada to depend on California for regulatory leadership is the cause of a lot of our problems.

Steve Teshara (Sustainable Community Advocates):

We are headquartered in Round Hill in Douglas County. I have been working on regional plan issues at the Lake for more than 30 years. The Committee has heard the RPU has been adopted, but not implemented. You have heard that repeal of S.B. No. 271 of the 76th Session may be perceived as a sign of rewarding the litigation against it. You have heard we need to give the bill time to have additional positive effects. You have heard positive dialogue between Nevada and California legislators may impact efforts in Nevada. Nothing happens overnight at the Lake. Mr. Davis and Ms. Collins understand protection of the Lake benefits from collaboration and active stewardship, not litigation.

Leo M. Drozdoff, P.E. (Director, State Department of Conservation and Natural Resources):

This Administration is opposed to S.B. 229.

Chair Ford:

Are you speaking on behalf of the Governor?

Mr. Drozdoff:

Yes. The Administration has taken a pivotal and unprecedented leadership role in the Basin over the last 2 years. Along with our counterparts in California, we have achieved several successes. It is a widely held belief that were it not for the leadership of Governors Sandoval and Brown, the RPU would not have been adopted by a vote of 12 to 1. The RPU is only 3 months old, yet despite that wide vote margin, it is already being litigated. The completion of the RPU demonstrates that real progress has been made. The litigation proves much more work is needed. That is the main reason we oppose S.B. 229 at this time.

What is needed at the Lake is more of what the Administration has done over the last 2 years. Specifically, we continue to lead. We want to build new coalitions and form consensus on the remaining contentious issues by engaging diverse stakeholders to achieve meaningful action. Senate Bill 229 is premature, because S.B. No. 271 of the 76th Session stipulates that the earliest Nevada could leave the Compact is October 2015. That time frame gives the states 2 more years to achieve additional successes and the Legislature at least one more session to evaluate them and act accordingly. The timing of S.B. 229

threatens the gains of 2 years. We have heard about the bi-state group put together by Secretary Laird and me. I am worried that we will revert to form instead of building upon our many successes.

Chair Ford:

It is promising to hear there is room for compromise. I would be glad to hear that the bill's proponents are working with the Administration on a middle-ground solution.

Shannon McIsaac (Membership Services Director, Lake Tahoe South Shore Chamber of Commerce):

Senate Bill No. 271 of the 76th Session has been an essential tool to unite the Lake business communities to collaborate on an environmentally sensitive and economically progressive RPU. It is premature to lose that tool by repealing the bill before the RPU has been completely implemented.

Patrick Rhamey (Executive Vice President, Edgewood Companies):

My family-owned company has owned 500 acres on the South Shore since 1896. We are a major contributor to the Basin's economy and play an important role in protecting the Lake's environment. This year, we will begin the Edgewood Lodge project approved unanimously in 2012 by the TRPA Board. The Edgewood companies are uniquely positioned to take on such a project under current regulations and economic conditions. After 5 years and \$15 million, we have an approved project, but have not started building. Edgewood is at the bottom of a 4,000-acre watershed, and the project will remove more than 500,000 pounds of sediment annually and keep it from entering the Lake. There has to be a better way, and Senate Bill No. 271 of the 76th Session is starting to show that fruit.

We need to retain S.B. No. 271 of the 76th Session because it has enabled progress in the Basin. The RPU under attack should set the stage for environmental and economic progress. The local plans need to be implemented, and a repeal of the bill could put them and the RPU in jeopardy while leaving Nevada without options to implement its own plan. We need to keep our options open. Lawsuits and a potential California-appointed delegation are threatening the Basin's environment, not S.B. No. 271 of the 76th Session.

**Carol Chaplin (Executive Director, Tahoe South, Lake Tahoe Visitors Authority;
Executive Director, Tahoe-Douglas Visitor's Authority):**

I am an administrator of the STAR. I represent tourism on the South Shore in both states. Senate Bill No. 271 of the 76th Session was important for tourism because it caused the states finally to approve the RPU. The RPU recognizes the importance for a healthy economy as a catalyst for environmental redevelopment. The Lake's primary industry is tourism, which is in serious decline to a great extent because of the region's inability to stay competitive with contemporary infrastructure and visitor amenities. The region's room lodging-occupancy rate is 20 percent to 40 percent lower and \$100 to \$200 lower in our average daily tourist expenditure rate than that of our competition. Retail sales are down 19 percent, or \$66 million, from 2005. The annual lodging demand has declined 469,000 rooms, or 30 percent, from 2001.

An economic impact study in which the Lake Tahoe Visitors Authority participated estimated about \$1 billion in economic impact and \$116 million in local and state taxes from tourism in 2012 on the South Shore alone. The study projects an additional \$48 million for local and state governments if we could redevelop and provide amenities to improve the lodging inventory.

The adoption of local plans, which is integral to the RPU, can attract private capital to reinvent our destination and bring in environmental improvements to allow tourism-threshold attainment. Senate Bill No. 271 of the 76th Session accelerated our progress toward our shared goals for the Lake. We need to stay the course and measure its impacts before we react by passing S.B. 229. A reporter from *The Washington Post* knocked me sideways with his first question, "Where would you like to see Lake Tahoe in the next 10 years?" I could not say, "I'd like to see the blight removed," but that is what we now have. With S.B. No. 271 of the 76th Session, we had a hope that the blight can be taken care of and environmental improvements realized. I told the reporter, "In the next 10 years, I think Lake Tahoe could lead the environmental effort in our Country. We should be an example."

Rick Gardner:

I testified on behalf of S.B. No. 271 of the 76th Session 2 years ago. My family has lived in the Basin for 50 years, and I own two Red Hut restaurants in California and one in Nevada. The Committee has heard from business and environmental groups but not from individuals like me. The RPU has been adopted and is being litigated, but I have not yet spoken, and the local plans are

not in place. To say, "We can cross completed local plans off of the list, and let's move on," is unfair to individuals not here today. Someone testified that the litigation will not affect S.B. No. 271 of the 76th Session, so we can repeal the bill and move forward. Litigation has been the tool of environmental groups for 30 years to get their point across to the TRPA. The bill helps defer that, puts more pressure on those groups and shifts the burden of proof to the TRPA.

Jan Brisco (Executive Director, Tahoe Lakefront Owners' Association):

You have a copy of my written testimony ([Exhibit L](#)). My association represents more than 1,700 private property owners, of whom a few more than 750 live in Nevada. We were neutral on S.B. No. 271 of the 76th Session. Two years later, we have observed its implementation first hand, and I can say that most of our members and the community would say we are better off with the bill. The old adage is, "If it ain't broke, don't fix it," and that is what we have with S.B. No. 271 of the 76th Session. Let it play out in the way it was intended. We have seen positive change in both states and a hope we can achieve the common goal of keeping Nevada in the Compact. That is what the bill does.

Buzz Harris (Tahoe Transportation District):

We are neutral on [S.B. 229](#) because of Article IX of the Compact, which designates the Tahoe Transportation District as a bi-state separate board and administration. That part of the Compact was implemented in 1980 to enable Basin transportation projects, which are separate from land-planning and -use projects.

John J. Slaughter (Management Services Director, Office of the County Manager, Washoe County):

I am representing the Washoe County Board of Commissioners. You have heard from Douglas County, and our Board wanted to make sure you heard from us, too. We voted to be neutral on [S.B. 229](#).

Chair Ford:

We will have to reach some compromises on [S.B. 229](#), or the Governor will not sign it in its current form. Local and county officials have told us they need this bill and the force of S.B. No. 271 of the 76th Session to finalize their local plans. We have heard from people who have seen a difference in coordination with California. We have heard from homeowners who cannot paint their houses without the RPU. The burden-of-proof issue is a big deal.

Mr. Davis:

A lot of the opposition we have heard relied upon old stories. Many regulations in the Compact changed before we adopted the RPU, so I would challenge the notion that those stories are still happening. I am offended by hearing local officials say, if S.B. No. 271 of the 76th Session were not in place, the environmental community would not talk to them. We have been a part of the discussions throughout the RPU process and are committed to it. Local governments feel that they must have the hammer of S.B. No. 271 of the 76th Session to force parties to the table.

The environmental community agreed to the RPU after making compromises because it was important for the Basin to move forward and try new things on the ground. We are asking for a full commitment to the Lake, which we made by being part of the RPU. What will be the next thing we will be asked to do under the constant threat of Nevada withdrawing from the Compact if we do not agree to demands? Contrary to today's testimony, local plans were never a part of S.B. No. 271 of the 76th Session; it only mentions a regional plan. That being said, we are already working with local governments on their plans. I do not buy the idea that all cooperation will cease if Nevada says, "We agree the states should be working together and are happy with the compromises under the RPU."

Senator Parks:

Now is the time for Nevada to continue to lead. In 2011, we passed a bill that potentially put the Lake at risk. We now have the ability to continue to take action and recommit to the future of the Lake while keeping the collaboration and progress going. If we fail, the Lake faces an uncertain future. All parties are committed to passage of the local plans; however, accusations that participants would walk away from the table are unfounded. We all agree that a bi-state solution is best, and I hope we can achieve some action this Session by passing S.B. 229.

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Chair Ford:

I will close the hearing on S.B. 229. Seeing no further business before the Senate Committee on Natural Resources, I adjourn this meeting at 5:03 p.m.

RESPECTFULLY SUBMITTED:

Patricia Devereux,
Committee Secretary

APPROVED BY:

Senator Aaron D. Ford, Chair

DATE: _____

<u>EXHIBITS</u>				
Bill	Exhibit		Witness / Agency	Description
	A	1		Agenda
	B	8		Attendance Roster
S.B. 438	C	8	Jayne Harkins	Written Testimony
S.B. 438	D	2	Dagny Stapleton	Resolution from the Nevada Association of Counties
S.B. 229	E	2	Steve Robinson	Written Testimony
S.B. 229	F	3	Joanne S. Marchetta	Written Testimony
S.B. 229	G	2	Senator David R. Parks	Written Testimony
S.B. 229	H	2	Darcie Goodman Collins	Written Testimony
S.B. 229	I	3	Kyle Davis	Letter from John Laird and Leo M. Drozdoff
S.B. 229	J	1	Kyle Davis	Joint statement
S.B. 229	K	1	David McClure	Written Testimony
S.B. 229	L	1	Jan Brisco	Written Testimony