



The Builders Association of Northern Nevada
2010-2011
State & Local Policy Manual
and
Legislative Agenda

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Table of Contents

Introduction.....	2
<u>Standing Policy Positions</u>	
Education.....	4
Energy.....	5
Indoor Air Quality Standards.....	6
Nevada State Contractors Board Issues.....	7
Public Employee Bargaining.....	8
Regional Flood Planning.....	9
Regional Planning.....	10
Taxes – Property Tax Calculation, Impact Fees.....	11
Transportation.....	13
Water Resource Planning.....	14
Affordable Housing.....	15
Multi-Family (apartment) landlord-tenant relations	16
Job Creation	17
Common Interest (HOA) communities.....	18
Construction Defect – Chapter 40.....	19
Immigration Reform.....	20
Tourism Improvement Districts (STAR Bonds).....	21
OSHA 10 & 30 Safety Training.....	22
<u>2008-2009 Legislative Initiatives</u>	
Ballot Questions & Proposed Amendments to the Constitution.....	23
Save our Secret Ballot	24
Mining Tax Petition	24
Eminent Domain.....	25
Western Regional Water Commission (S.B. 487)	25
Predatory Lending.....	26
Tentative Map Extension Sunset (AB74).....	26

Association Operating Procedure..... 26



INTRODUCTION

MISSION

Chartered in 1956, the Builders Association of Northern Nevada (BANN) is a non-profit organization affiliated with the National Association of Home Builders (NAHB) committed to education, information, representation and benefits to our membership, community and the building industry. BANN achieves these goals through a team effort of our membership and community to create a better quality of life, housing for our citizens, and economic prosperity.

AFFILIATED ORGANIZATIONS

BANN represents the collective interests of the construction industry in Northern Nevada. BANN currently has 653 member organizations representing 15,000 employees. The association offers information, training and education programs to all construction professionals. BANN is the primary administrative vehicle for affiliated organizations and sub-organizations that have been established to meet targeted member needs. These affiliated organizations include BANN-PAC, Build-PAC, Sales and Marketing Council, Builders Council, Remodelers Council and Professional Women in Building.

Committees within BANN exist to foster and enhance programs designed by the association to benefit its members and include the coordination and implementation of membership functions, publications and public information, government affairs, and special events that are held under the auspices of BANN and its affiliated organizations. Staff and administrative support is provided to each of these additional organizations by the BANN.

POLITICAL ACTIVISM

The primary goal for BANN is to enhance the building climate in Northern Nevada, a major factor in housing affordability. To facilitate our ability to educate those who regulate our industry, BANN maintains an ongoing dialogue with decision-makers and legislators at the local, state, and national levels.

The Builders Council, the Legislative, Codes, Infrastructure & Planning, and Built Green Nevada committees represent BANN members interests in federal, state, and local government activities. This includes full time representation at the State Legislature and with all local entities. BANN is involved in various campaigns and committees, such as the Washoe County School Bond rollover initiative for school construction, reform of construction defect laws, member of the Coalition for Fairness in Construction, membership on the municipalities and county enterprise various funds, named member of the SB 154 (2007) legislative committee to address school construction funding, active

support for ballot question RTC #5 (2009) to enhance our roads, and opposition to AB 119 (2009), ill-advised anti-growth legislation.

LEGISLATIVE POLICY

Although BANN legislative policies are reviewed on an ongoing basis, it remains consistent. Within the guidelines of this Legislative Policy Manual, the BANN Board of Directors and staff are able to make timely decisions, deliver testimony and implement personal contact with elected officials to convey a uniform and educated voice on behalf of the BANN membership.

EDUCATION

BANN supports a world class education system for the future of our community. BANN believes that accountability is critical to ensure results from our school system. Career and technical education is imperative to provide choices for our children and to provide options on career choices to develop a well rounded workforce. BANN will continue to work with the Washoe County School District to bond for new school construction as it has in the past. Creative solutions to type of schools and funding must be considered.

SUPPORTS:

- Accurate and fair reporting of WCSD activities, including but not limited to spending per student, graduation rates, testing scores, and scholastic achievement.
- High Standards for all students and educators.
- Increased choices for students such as Career and Technical curriculum.
- Greater accountability of voter approved and rollover bond funding.
- A plan for the backlog of deferred, current, and future maintenance needs.
- Cooperation with the development community on planning for future schools sites, including preparation and ongoing Capital Improvement Program (CIP).
- Creative, broad based solutions to funding and building schools.
- Amendment of charter school legislation to provide equitable capital construction funding for successful programs like ACE High School.
- An increase in the Washoe County School Districts portion of the property tax to come closer to the ratio of Clark County School District.
- Broad based funding sources.
- Accountability for WCSD administrators and teachers.

OPPOSE:

- Impact fees for new schools
 - Any single industry taxes.
 - Gateway curriculum.
 - Increase of the Real Property Transfer Tax (RPTT).
-

ENERGY

BANN recognizes energy efficiency and conservation is growing in popularity at both state and national levels – within both the government and private sectors. Often this goes beyond just energy conservation and energy alternatives, moves into the broader topic of “green building,” with an emphasis on resource conservation and alternative construction materials. BANN is proactive, working collaboratively to develop standards that are reasonable and cost effective for the home buying public. BANN adopted Built Green Nevada, an ANSI approved and ICC Certified National Green Building Standard created in partnership by NAHB that has appropriate application for use in our climate and region.

SUPPORTS:

- Incentives for developers and consumers to provide energy efficient homes.
- Working with the construction industry to develop appropriate, cost effective energy options that will be supported by the consumer via increased value of the home.
- Adoption of the Built Green Nevada voluntary residential program by state and local entities which recognize energy efficiencies by policy makers and the public
- Development of all forms of renewable energy.

OPPOSES:

- Arbitrary requirements and mandates for unproven energy efficient techniques that increase the price of housing without understanding the consumer purchasing preferences.
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INDOOR AIR QUALITY STANDARDS

BANN (and NAHB) is concerned about unhealthy Indoor Air Quality and supports reasonable standards based on science. Mold, lead, radon and CO₂, are of current concern by the public.

The presence of mold in residential and commercial buildings continues to generate litigation against builders, building owners, and property managers for personal injury and property damage. It is the subject of disputes between insurers and their policy holders. Mold occurs naturally, has been around since the beginning of human-built structures, and is everywhere. While mold growth in indoor environments is not new, the issue has generated national media attention resulting in local and state legislation.

SUPPORTS:

- The development of indoor air quality standards with the State Board of Health and/or the Legislature.
- Proper ventilation standards to allow for air turnover – breathable homes.

OPPOSES:

- National standards that do not allow different standards for different climates and regions.
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NEVADA STATE CONTRACTORS BOARD (NSCB)

The NSCB is a licensing agency, funded solely by the revenues generated from license holders. BANN believes that the NSCB needs to be a fair, unbiased body that works to promote industry standards, as well as act as a consumer advocate agency.

SUPPORT:

- Clearer legislation or administrative language on issues such as inspector training and educational requirements.
- A standard for “qualified” inspectors and a clear procedure for investigations.
- Current licensing to support professionalism in the industry.

OPPOSES:

- The NSCB acting solely as a “consumer advocate.”
 - Use of unlicensed contractors.
-

PUBLIC EMPLOYEE BARGAINING

Nevada is a “right to work” state, yet our current laws for government employees are more in keeping with a “union state.” Many of these practices discourage dismissal of poorly performing employees. Furthermore, these practices frequently result in higher costs, such as the policy that dictates in the event of consolidation, government employees are due the “highest” wages and benefits. These practices cost the state tax dollars and negatively impact economic development efforts.

SUPPORTS:

- An analysis on the budget ramifications of public employee bargaining.
- Contracts that reflect the region’s economic times.
- A reform package of state and local policy changes that will help open this process to the public and bring this spending back under control.
- Elimination of collective bargaining and mandatory arbitration.
- Collective bargaining and contract negotiations must be subject to open meeting laws.

OPPOSES:

- Collective bargaining and keeping this process closed to the public.
 - Barriers to salary savings when consolidating services.
 - Binding arbitration.
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REGIONAL FLOOD PLANNING

Flood planning by our local jurisdictions is something that our entire community benefits from and therefore should be funded by broad based funding sources.

SUPPORTS:

- A regional flood project supported and funded by the entire community.
- Use of existing local review process, regulations and ordinances to review and analyze drainage and flood impacts from proposed development.
- Long range flood control planning and implementation that allocates regional flood control improvements to support future growth as planned for the region and at the local level.
- Modeling for both current and future needs.
- Rational nexus between regulation and impact/contribution to flood potential.
- Reasonable cost-benefit analysis.
- Fair treatment of mitigating flood storage volume ratios based on sound science.

OPPOSES:

- Construction industry only related funding measures.
 - Creation of “super agency” through Joint Powers Agreement that creates another layer of unneeded bureaucracy.
 - Use of additional, redundant review process.
 - Requiring only new residents to pay for existing flood management deficiencies.
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REGIONAL PLANNING

The Truckee Meadows Regional Planning Agency (TMRPA) is responsible for the preparation and implementation of the Truckee Meadows Regional Plan which highly impacts the home building industry. The Regional Plan addresses land use planning, natural resource management, and infrastructure and service provisions within Washoe County. The agency implements the Regional Plan by ensuring that master plans of local governments and affected entities conform to the Regional Plan. The TMRPA is comprised of the Regional Planning Governing Board (RPGB), the Regional Planning Commission (RPC), the Director of Regional Planning, and staff.

SUPPORT:

- Working with the Truckee Meadows Regional Planning Agency and community stakeholders for sound growth management policies for the future of Northern Nevada.
- Reasonable facility planning and implementation standards for good planning across the region.
- Consolidation of infrastructure and services where reasonable, including water resources, flood control, sewer, roads, parks, fire, police, and schools.
- Elimination of services where redundant and inappropriate.

OPPOSES:

- Concurrency in its most stringent interpretation.
 - Regional Planning Commission acting as additional layer of bureaucracy.
 - Regional Planning for a forum to continue disputes from the various entities.
-

TAXES and IMPACT FEES

BANN opposes the imposition of industry specific taxes, especially when the revenues generated benefit the citizens at large. For almost 400 years, local, state and national governments have assumed full responsibility for funding public infrastructure improvements. Traditionally citizens have understood and accepted the fact that public infrastructure improvements benefit everyone, so everyone should pay a fair share of the costs of providing and maintaining them. In recent years, a combination of no growth attitudes, opposition to taxes (new and increased) and reduced funding transfers to local governments from the state and national government has lead to a fundamental shift in public expectations of who should pay for public infrastructure. The prevailing attitude is “anyone but me.” Based on this new political reality, local governments are allocating higher proportions of the costs of public infrastructure improvements to the residential construction industry.

While BANN supports local governments need and ability to reasonably manage this growth, it opposes unreasonable land use restrictions and policies or business specific taxes that unfairly punish the development and construction industry for responding to market demands. Successful economic development endeavors are integrally related to a healthy, affordable housing market, and its ability to respond to the resulting market demand for new housing.

SUPPORT:

- Broad based tax solutions to community wide problems
 - A legislative effort to eliminate the current practice of 1.5% annual depreciation on real property up to a 75% reduction of a structure’s assessed value. Resetting assessed property values at the point of sale.
 - Regional Transportation Commission (RTC) regional road impact fee indexing.
 - Local governments and agencies following the impact fee law requiring the development community to pay for only the impact of future development and not subsidizing existing deficiencies.
 - A full analysis and understanding of current deficiencies in service, and that existing taxpayers pay their fair share.
 - Local government utilizing accurate population forecasts, reasonable capital improvement plans (CIP), and responsible modeling of future development.
 - If impact fee is necessary, that it is developed in a public process with the full participation of all stakeholders in accordance with the NRS process.
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Taxes & Impact Fees (continued)

SUPPORT (continued)

- Local governments recognizing the full economic impact to a community of future development such as construction jobs, jobs construction industry workers support directly or indirectly, ongoing increased property taxes and continued sales taxes.

OPPOSES:

- Industry specific taxes, including increasing the real property transfer tax.
 - Implementation of new or additional impact fees not in conformance with NRS 278B for infrastructure or services such as recent proposals for flood control, schools, fire, police and parks.
 - Imposition of an impact fee when funding for care and maintenance of facility has not been determined.
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TRANSPORTATION

Northern Nevada has a considerable growing transportation infrastructure need due to increased commercial, industrial and residential growth that requires a regional solution. BANN supports full funding for identified transportation projects, such as the Regional Transportation Commission's (RTC) proposal to build the South East Connector roadway. BANN supports the establishment of a consistent, dedicated source of funds that fully fund transportation infrastructure across the state.

SUPPORT:

- Regional approach to transportation needs.
- Immediate construction of the South East Connector roadway and all other roadways paid for by the Regional Road Impact Fee (RRIF) System.
- Indexing of impact fees with an inflationary adjustment for future transportation, as the building industry's "fair share" of funding for transportation.
- A dedicated reliable source of state funds for transportation.
- Establishment of transportation funding districts when appropriate.
- Indexing of the fuel tax to keep up with fuel efficient automobiles and inflation.
- Exploring solutions to the RRIF credit system problem.

OPPOSE:

- Concurrency in its most stringent interpretation.
 - Impact fees paying for existing deficiencies.
 - Exactions over and above impact fees.
 - A comingling of road funds with non-road accounts; or transfer of any road funds to any other program.
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WATER RESOURCE PLANNING

BANN supports a regional planning approach for water and flood control. Two decades worth of work on the Negotiated Settlement Agreement is the single most critical plan for future water supply in Northern Nevada. The Truckee River Operating Agreement (TROA) must be fully implemented to fully address the needs of the local entities, endangered species, water quality, and storage issues related to the Truckee River.

SUPPORT:

- Negotiated Settlement Agreement.
- Full implementation of the Truckee River Operating Agreement.
- Adequate Truckee River storage to meet drought year demands.
- The Western Regional Water Commission's authority to oversee cost effective importation and resource management that adds resources to our existing system which will stabilize or reduce prices and increase availability of water.
- Continued and full consolidation of TMWA and Washoe County Water Resources.
- The new merged entity continuing to acquire water rights and efforts to optimize fiscal and operational efficiencies and practice resulting in a consistent and seamless and equitable management.
- Regional conservation plans designed to use our resources efficiently and providing incentives for such conservations plans.
- Use of effluent water for parks, greenways, and outdoor residential use where reasonable. Analyze effluent price structures for cost efficiencies. Utilization of waste water to the fullest extent practicable.
- Streamlining the "perfection process" for low volume transfers helping make the whole system more efficient.
- Legislation to fix the state engineer water rights perfection issue.
- WRWC seeking out and acquiring new sources of water; fifty year time horizon.

OPPOSE:

- Policies that allow for duplication of managing services including not maximizing water resource management, and efficiency deficiencies.
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AFFORDABLE HOUSING

The federal government should provide incentives to local and state governments to remove regulations and procedures that arbitrarily increase the costs of housing, which decreases the affordability of housing. In addition, all levels of government, including state and local governments, should address affordable housing needs by implementing a broad and comprehensive strategy including responsible alternative and innovative funding programs, increased housing production and diversity, streamlined regulatory processes, and reduced market interventions on the part of government, and not through the adoption of mandatory inclusionary zoning without proper incentives.

SUPPORTS

- Addressing housing affordability through the use of a competitive market operating in a climate that encourages and accommodates housing options for all income levels and that provides broad funding supplements where market forces cannot supply housing without added incentives or subsidy.
- Implementation of legislation to encourage local and state governments to remove barriers to affordable housing. Government regulation creates increased cost, thus negatively affecting affordability.
- The production of a broad spectrum of housing by the home building industry that guarantees appropriate development incentives and subsidies and that guarantees that the cost is borne by the general community and not by the home buying public.

OPPOSES:

- Adoption of mandatory inclusionary zoning programs or policies.
-

LANDLORD – TENANT LAW
Multi-Family (APARTMENTS)

BANN supports all forms of housing, including multi-family (apartment) housing. As in any commercial relationship, there are both good and bad landlords and good and bad tenants. The current NRS provide fair and equitable rights to both parties in the landlord-tenant relationship. Efforts to increase the length of time to evict bad tenants places an undue burden on the landlord and ultimately increases the cost of housing. Changing the current balanced landlord-tenant relationship has significant negative unintended consequences.

SUPPORT:

- Fair treatment of tenants and fair treatment of landlords.
- Current landlord-tenant relationship found in Nevada Revised Statutes (NRS).

OPPOSE:

- Any changes to the NRS landlord-tenant relationship.
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JOBS

The housing industry in Northern Nevada has been significantly damaged by the recession/depression in our local economy. The building industry will be unable to recover until significant job growth occurs in the local economy. The building industry needs to support efforts from a wide range of organizations, both public and private that are attempting to create additional jobs within our market area.

SUPPORTS

- Any agency or organization that is working on bringing new jobs into our Northern Nevada marketplace.
- Any new industry, such as the renewable energy industry, that is attempting to bring new short term and long term jobs into our region.
- Tax incentives and stream-lining of permitting by local and state government to encourage the relocation of new business and industry to Northern Nevada.

OPPOSES:

- Any new regulations, fees or taxes that would discourage new business from coming to Northern Nevada.
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Common-Interest Communities (NRS Chapter 116)

BANN supports the concept of common interest communities which requires a person, by virtue of the person's ownership of a unit, to pay for a share of real estate taxes, insurance premiums, maintenance, improvement, services or other expenses related to common elements, other units or other real estate described in a declaration. These laws allow developers to build master-planned communities in phases and eventually transfer common area and other real estate to homeowner associations resulting in the self-governance of a community.

SUPPORTS:

- In larger communities, period of declarant control may extend past point in time when declarant conveys 75% of units.
- Transparency with respect to any policies established by an association for the collection of any fees, fines, assessments or costs imposed against a homeowner.
- Associations compliance with Open Meeting and Conflict of Interest laws.
- Exemptions to smaller communities from onerous provisions of Chapter 116.
- Allowing associations to enter onto foreclosed and/or vacant properties to maintain the exterior of the property.
- Provisions that grant homeowner associations reasonable governing powers while still giving the developer flexibility with respect to the build-out of the community.

OPPOSE

- Ability for homeowners associations to bring construction defect lawsuits (including class action) against developers and builders.
 - Unreasonable conflict of interest provisions for designated declarant board members.
 - Keeping contracts between homeowner associations and lawyers confidential.
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CONSTRUCTION DEFECT – CHAPTER 40

The construction industry is facing a very serious crisis, as providers of general liability and construction liability leave Nevada.

SUPPORTS:

- Meaningful tort reform on frivolous class action construction defect lawsuits to include caps on damages which will open up the market to carriers.
- Removal of automatic attorney fees once a case is filed which eliminates any incentive by trial attorneys to bring a construction defect case to closure.
- Reduction in the statute of limitations and statute of repose in bringing claims forward.
- Clarification and support of Chapter 40 right to repair (remedy/fix/cure) before going to court and right to release from liability.
- Definition of a class to include only the construction defect, not theoretical or extrapolated defect or injury.
- Contractors Board acting as a fair and impartial mediator before litigation.
- Expert witnesses being required to be licensed by the State of Nevada and the local jurisdiction (where applicable), and to be familiar with local codes and standards of practice.
- Right-to-Repair then release from liability: solutions to actually fix problems rather than line attorneys' pockets.

OPPOSES:

- Expansion of “class action” or “extrapolation” definitions for construction defect.
-

IMMIGRATION REFORM

It is estimated that more than 20 percent of the building industry's entire workforce is foreign-born, making the immigrant population essential to meeting housing demand and sustaining economic growth in this country. While NAHB and BANN believes that border security reforms are important, it is also vital that immigration legislation must include a system by which immigrants can legally enter the country to work, because they are needed to sustain our nation's workforce. BANN also strongly believes this is an issue that should be handled by the federal government.

SUPPORTS:

- Protecting our borders.
- Place the responsibility of verifying a worker's immigration status with the employer who hires and pays them.
- Create an enforcement system that is fair, efficient and workable for all U.S. employers.

OPPOSES:

- Illegal immigration
-

TOURISM IMPROVEMENT DISTRICTS (STAR Bonds)

BANN Supports the creation of tourism improvement districts under NRS 271A (“STAR Bonds”). The creation of these districts and sales tax subsidies for projects within these districts encourage the redevelopment of blighted areas, create construction and permanent jobs and increase the property tax base. These projects must attract tourism dollars which will not only benefit the specific project, but many other businesses in Northern Nevada.

SUPPORTS

- **Use of STAR Bonds for redevelopment of blighted areas.**
- **Use of STAR Bonds to create new jobs.**
- **Use of STAR Bonds to bring in new business.**
- **Use of STAR Bonds to increase the property tax base.**

OPPOSE

- **Use of STAR Bonds to move existing businesses.**
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OSHA 10 & 30 SAFETY TRAINING REQUIREMENTS OF EMPLOYEES

The 2009 Legislature adopted legislation requiring all “construction workers” complete an OSHA 10 safety and training course within 15 days of employment. The legislation also required all “Supervisory Employees” complete an OSHA 30 safety and training course within 15 days of employment. The legislation also has a 5 year renewal requirement for continuing education.

SUPPORTS:

- Workplace safety, training and education of its members.
- Life-time certification as implemented by OSHA, rather than Nevada’s more stringent standards/requirements.

OPPOSES:

- Safety and training requirements which are not relevant to the industry.
 - Unnecessary and burdensome training requirements, such as four-year renewal, which is not supported by OSHA or any other states.
 - Ongoing costs to construction employers and employees on non-relevant industry requirements.
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2010-2011 LEGISLATIVE INITIATIVES

Ballot Questions - Proposed Constitutional Amendments

SAVE OUR SECRET BALLOT INITIATIVE

This initiative proposes to amend Article 1 of the *Nevada Constitution* by adding a new section, designated as Section 23, stating: “The right of individuals to vote by secret ballot is fundamental; where local, state, or federal law requires elections for public office or ballot measures, or requires designations or authorizations for employee representation, the right of individuals to vote by secret ballot shall be guaranteed.”

SUPPORT :

- Right to vote by secret ballot, including labor/union elections.

OPPOSES:

- Employees being forced to vote publicly for a position they may or may not support for fear of retaliation by groups that may agree with the position.

NEVADANS FOR FAIR MINING PETITION

This initiative proposes to amend paragraphs 1 and 2 of Article 10, Section 5 of the *Nevada Constitution*, which require a tax on the proceeds of all minerals, including, oil, gas, and other hydrocarbons, extracted in the state, to change the basis from imposing the tax from a net proceeds to gross proceeds. The initiative also revises the rate that must be imposed from a maximum rate of 5 percent to a minimum rate of 5 percent.

OPPOSE:

- Single industry taxes
-

EMINENT DOMAIN

The use of eminent domain by compensating private property owners for taking land for a public use is an important policy that has been gaining national attention.

SUPPORTS:

- The current use of eminent domain used to ensure the proper use of taxpayer dollars for future planning needs.
- Private property rights.
- Payment of “fair market value” to provide “just compensation” during an eminent domain proceeding.

OPPOSES:

- Arbitrary condemnation of private property for public use without proper justification.

Western Regional Water Commission

The 2007 Nevada State Legislature enacted the Western Regional Water Commission to evaluate the benefits of regionalizing and finding efficiencies in TWMA’s and Washoe County Water Resources’ efforts of acquisition, development and management functions into a new entity similar to the Southern Nevada Water Authority (SNWA) model.

SUPPORTS:

- The WRWC acquisition and management of water resources for Washoe County.
 - A regional approach to water management possibly including surrounding counties.
 - Continuation and full implementation between WCWR and TMWA and whatever other agencies deemed appropriate.
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PREDATORY LENDING

Due to well publicized problems in the subprime loan market, state and federal governments are attempting to address this issue. “Predatory lending” is a catch-all phrase used to describe unethical or unfair practices in the loan industry. Affordable and accessible lending options are critical to the success of the home building industry.

SUPPORTS:

- Prudent mortgage loan underwriting and adequate information for consumers on mortgage loan features and risk.
- Working with federal, state, and local financial regulators to ensure that regulation of mortgage products and practices do not unnecessarily disrupt the mortgage lending process, limit consumer financing options, or increase the cost or reduce the availability for mortgage credit.

OPPOSES:

- Predatory lending practices, including “bait and switch” practices.

AB 74 EXTENSIONS OF TENTATIVE AND FINAL MAP PROVISSIONS

The 2009 Legislature allowed for the extension of the length of time for approved tentative maps from two years to four years and final maps from one to two years with a provision the legislation sunsets on June 30, 2013.

SUPPORTS:

- Elimination of the sunset provision.
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**BUILDERS ASSOCIATION OF NORTHERN NEVADA
OPERATING PROCEDURE**

For issues not clearly defined by an approved existing policy, the following procedure will prevail. The system is completely dependent on the time available in descending order:

The Builders Council, Legislative, Infrastructure & Planning, Codes, or Built Green Nevada committees make recommendations to the BANN Board of Directors which ratifies, modifies or rejects:

The Builders Council, Legislative, Infrastructure & Planning, or Codes committees make recommendations to the Executive Committee which ratifies, modifies or rejects:

Unless covered by the above state policies, staff will take no independent action to represent the Builders Association of Northern Nevada without first consulting the BANN President and the BANN Executive Director.
