

**MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON NATURAL RESOURCES, AGRICULTURE, AND
MINING
SUBCOMMITTEE**

**Seventy-Third Session
March 15, 2005**

The Committee on Natural Resources, Agriculture, and Mining Subcommittee was called to order at 7:31 a.m., on Tuesday, March 15, 2005. Chairman Kelvin Atkinson presided in Room 3161 of the Legislative Building, Carson City, Nevada. [Exhibit A](#) is the Agenda. All exhibits are available and on file at the Research Library of the Legislative Counsel Bureau.

SUBCOMMITTEE MEMBERS PRESENT:

Mr. Kelvin Atkinson, Chairman
Mr. John Carpenter
Mr. Pete Goicoechea

SUBCOMMITTEE MEMBERS ABSENT:

None

STAFF MEMBERS PRESENT:

Amber Joiner, Committee Policy Analyst
Mary Garcia, Committee Secretary

OTHERS PRESENT:

David Thain, DVM, State Veterinarian, Nevada Department of Agriculture
Doug Busselman, Executive Vice President, Nevada Farm Bureau
Kent Lauer, Executive Director, Nevada Press Association
Don Henderson, Director, Nevada Department of Agriculture

Chairman Atkinson:

[Meeting called to order. Roll called.] This subcommittee is for Assembly Bill 32.

Assembly Bill 32: Makes certain information collected by State Department of Agriculture confidential. (BDR 50-657)

We will now open the hearing on A.B. 32. We tried to resolve this issue during a Committee meeting a few weeks ago and it's brought us here to the Subcommittee. A few people have issued a couple of amendments and we want to talk about those. We don't want to have a full committee hearing again, just touch on the [major] points when you come up [to testify].

David Thain, DVM, State Veterinarian, Nevada Department of Agriculture:

We originally put this bill together to cover some issues that have become bigger and bigger since 9/11 [September 11, 2001]—that is protecting information we collect from being abused by third parties or local terrorism by groups like the Animal Liberation Front, or international terrorism groups.

I can appreciate that there are issues that need to come out. Doug Busselman and I came up with a little bit of wording ([Exhibit B](#)) to cover three primary aspects of [information] we collect. [One aspect involves] the National Animal Identification System, which is the USDA's [United States Department of Agriculture] means of identifying animals and premises throughout the nation. [Another aspect involves] information we have, we collect, or that has been shared with us by the U.S. Department of Homeland Security. Then again, with regards to Nevada [Division of] Emergency Management response in our pre-planning, there's information we collect that definitely might be used to the detriment of the producers of Nevada and to the public.

I'm really open to any discussions, but that's the [information] I need to protect and that's why I originally advanced this bill. The amendment I handed out covers national security and National Animal ID.

Assemblyman Carpenter:

Dr. Thain, as I understand, it looks like the first couple of sentences in regard to the National Animal Identification System, [U.S. Department of] Homeland Security, [Nevada] Emergency Management is your language and then the other [language in the proposed amendment] is Farm Bureau [language]?

David Thain:

Yes, that's correct. We could have Doug [Busselman] address those issues and why they came about.

Doug Busselman, Executive Vice President, Nevada Farm Bureau:

During the Committee hearing [we made] a proposal for the protection of proprietary information. During conversations at the Committee meeting it came to our attention that there was some concern by the legislators on what exactly fit into the definition of "proprietary information." What we attempted to do in working with the folks who had spoken on the bill [is define] what we felt would work and address the needs that we came to the legislature with on this issue. We added the definition that provides details on the number of animals, production outputs, fiscal, or tax-related matters. We also added the final "except as otherwise permitted by these NRS [*Nevada Revised Statutes*] chapters" at the end; although, based on where we are today, I'm not sure that that particular language at the end is still required because it wouldn't really be an issue. We have no problem with what the Department [Nevada Department of Agriculture] has proposed and Dr. Thain has brought forward, but that wasn't our proposal. Our proposal was what was identified in the black and white amendment ([Exhibit C](#)).

We have been working with the Nevada Cattlemen's Association as well. Mike Montero, their representative, was not able to be here today, but he did call me this morning and asked me to pass along to you their support for either of these approaches.

Assemblyman Goicoechea:

Dr. Thain, I'm a little concerned about incorporating the National Animal ID System into statute. This is a system that is just on the drawing board at this time.

David Thain:

I can appreciate your concern. We've talked with industry concerning the National Animal ID. For those folks who don't have a background in it, the National Animal ID System is a USDA proposal with integrated working relationship with the state animal health officials and state veterinarians, as well as industry groups. The first project is to identify all livestock production premises within the United States so that they can accurately identify the locations.

The next approach will be, as we get those premises identified, [we would] start to capture movements of all animals as they leave those premises and move through the food chain. That [information] will be housed both at the state level and the federal level. Industry has been really concerned about confidentiality. As we look at the national security issues with regard to that, we have some concerns, too. If it's inappropriate to use the National Animal Identification System, I'm open to any suggestion so we can protect that information as it

slowly evolves. We have identifying premises on the national system in place already. We've also identified premises for a good number of years with our USDA counterparts [for] disease control measures like cattle brucellosis, cattle tuberculosis, and several pig eradication issues.

Assemblyman Goicoechea:

I'll wait to hear the testimony from the opposition and try to weigh it. At this point I'm leaning toward the broader interpretation from the Farm Bureau rather than true definitions. We're trying to protect homeland security and animal ID. Let's just look at the broader issue. With the definition of "proprietary," it lends a little more flexibility to it for both sides.

Kent Lauer, Executive Director, Nevada Press Association:

We don't have any objections to the Farm Bureau's amendment ([Exhibit C](#)), but we do to the Department's amendment ([Exhibit B](#)). This is the first time I've seen the Department's amendment, but just at first glance my initial reaction would be, "This is pretty broad."

"Homeland Security, [Nevada] Emergency Management response." I have no idea what information could be kept secret under those provisions, but I suspect it's pretty broad. I worry that the Department would look at those and say, "Sorry. We're not going to give you information because it falls under these broad categories."

We need to specify exactly what type of information. Too often we get this broad language and that's what the department or the agency will cite when they refuse to release public information. They'll use a broad interpretation. At that point, the person seeking the information's only recourse is to sue—an expensive proposition.

I just think the Department's language is far too broad. I have no idea what information is collected with respect to homeland security [or] with respect to Nevada Emergency Management response. If somebody can specify that, but at this point it's too broad.

Assemblyman Goicoechea:

How about the last language proposed by the Farm Bureau where it says, "Except as otherwise permitted by these NRS chapters" You don't have any problem with that, reflecting those additional chapters, which would be Chapters 581, 582, and 583?

Kent Lauer:

I'm not sure why that phrase is in there.

Doug Busselman:

That language was in the amendment ([Exhibit C](#)). As we were working with Mr. Lauer and others involved, we had originally proposed that home addresses and telephone numbers would also be included as proprietary information. In working through the idea, it was noted that it probably wasn't a very good idea to include home address and phone numbers in that type of proprietary information.

The Department of Agriculture releases information on brand inspection in the brand books that includes home addresses and phone numbers. When we put in our original proposal to exempt home addresses and phone numbers from release under that, the Department needed that "except as otherwise provided" language in order to facilitate the printing of their brand books. When we took that out, that last language was no longer really relevant.

Assemblyman Goicoechea:

That clearly makes sense. If your name and address is in the brand book, and someone finds one of your animals, you would prefer that they call you rather than the Department of Agriculture.

Assemblyman Carpenter:

What if we use the Farm Bureau language? We don't want to provide details on numbers and production, fiscal, or tax matters. I don't know why we need the provisions of all these titles. It would seem to me that that would be the simplest way to do it and really get at what we were trying to do.

David Thain:

I'll tell you what I'm trying to protect and I'm open to any language that will cover that. We start to do risk assessments with different producers about bio-security issues and the possibility of contamination of food before it enters into the food chain. For example, we go down to a dairy and evaluate their bio-security with regards to how well they're protecting their feedstuffs, because we could contaminate a lot of milk by contaminating feedstuffs; or we look at how good [their] security is on their milk tank process and the delivery of their milk to the tankers.

That's the kind of information I would like to protect. We don't want to have [information about] what is vulnerable [made public]. This is similar to protecting the designs and architectural drawings of Hoover Dam so weaknesses cannot be identified. That's what I need to do. I don't think the Farm Bureau's wording covers those aspects. That's my concern.

Assemblyman Carpenter:

Could we [use] language that's kind of relevant to what you were talking about? It seems to me the proposed amendment ([Exhibit B](#)) covers a lot of areas. You're talking about the National Animal Identification, Homeland Security, and Emergency Management. That covers a lot of area. If we could get [language] more specific to what you're talking about.

David Thain:

I can appreciate that. To my colleague from the Press Association, how about something along the lines of, "bio-security and security risk assessments that the [Nevada] Department [of Agriculture] may perform"? Eliminate the National Animal ID, U.S. Department of Homeland Security, and Nevada Emergency Response?

Assemblyman Carpenter:

It makes me feel more comfortable.

Kent Lauer:

I would like to see the precise language, "bio-security, risk assessments." What are we precisely talking about? I don't have a lot of knowledge when it comes to agriculture so I'd like to see the specific language. Maybe Dr. Thain can explain exactly what record we're talking about here.

Assemblyman Goicoechea:

Is there some way we can put some language into [\[A.B. 32\]](#) that reflects the plant, which would be the industry, whether it be the dairy or a plant that produces. Could we put in there, "plant security assessments"? That's very broad, but any information would be deemed proprietary if in fact it had anything to do with the security of the particular plant or operation.

Kent Lauer:

I don't think we'd have a problem with that. Now we're getting specific. I just didn't like the term "risk assessments." What if the Department did a report that had some broad conclusions in it that said, "This producer of this product is vulnerable." Doesn't the public have a right to know that? Of course they do, so if it's plant security of that individual dairy operation, I would have no problem, but I think we need to get very specific in the language.

Assemblyman Goicoechea:

Would that work for you, Dr. Thain?

David Thain:

I think that would work fine. I think that addresses my concerns. I didn't try to make this overly broad, but I needed some help in trying to define what was acceptable to all parties to protect the data we need to protect.

Assemblyman Goicoechea:

"Proprietary information" as it pertained to the security of the plant. I realize it might make it a little cumbersome for Don Henderson as the Director of the Department of Agriculture, but I think that truly, with your job, Dr. Thain, as it pertains to animal diseases, you have the ability to really classify what information is public and what isn't, who's quarantined and who won't be, and at what point that [information] is public record. That's in your purview as state veterinarian.

I can see where maybe plant security might be a little bit cumbersome for the Director of the Department of Agriculture, but I think it defines it down narrowly enough. [If the information concerns] what time they come and pick up my milk truck or what time my feed is delivered, that could be deemed "proprietary." It's something not everyone needs to know. Don, do you agree?

Don Henderson, Director, Nevada Department of Agriculture:

I don't know if I agree with the comment. To help the Subcommittee, what I have down as the proposed re-amendment is, under paragraph 2 [of the Farm Bureau's proposed amendment ([Exhibit C](#))], "All proprietary information that provides details on the number of animals, production outputs, fiscal" strike "or tax, tax-related matters, or plant or operational security or operation security relating to a natural person or company...." That's what I captured as the last comment.

I don't know if it's just so much the measures that have been implemented that are at issue, but also the planning associated with those measures.

Doug Busselman:

It would be my recommendation that, instead of using the word "plant" you use the word "facilities." The reason [I make this suggestion] is "plant" has many meanings in the world of agriculture. It may not fit the same definition of what you're talking about in terms of facilities.

Assemblyman Goicoechea:

Do we call it "risk assessment"? I think we're getting very close to it. "[All proprietary information that provides details]...fiscal...matters, or facility security, plants, risks...."

Don Henderson:

How about, "...or matters pertaining to facility security..."?

Kent Lauer:

We're talking about the producer? I just wanted to get that on the record that we're talking about the individual producer [and] their security. As long as that's the intent so somebody doesn't come in the future and say, "Well, we've got this risk assessment. We've developed this plan and this has to go with facilities security." As long as it's on the producer's end.

Chairman Atkinson:

We'll make sure that's in [the record], Mr. Lauer. Amber [Joiner] will get that language to us when we take it back to the full committee, so we'll make sure that's clarified.

Assemblyman Goicoechea:

If we come up with an industry-wide plan, that should be public record?

Kent Lauer:

Yes.

Chairman Atkinson:

Everyone okay with that? Good.

Assemblyman Carpenter:

I guess we would be leaving [all] those [chapters of the NRS] out, which I would agree with. Right?

Assemblyman Goicoechea:

I think we're going to leave those in because that allows you access to the brand book.

Chairman Atkinson:

Yes, it's in the original bill [A.B. 32]. It sounds like we've done it.

We are adjourned [at 7:55 a.m.].

RESPECTFULLY SUBMITTED:

Mary Garcia
Recording Attaché

Terry Horgan
Transcribing Attaché

APPROVED BY:

Assemblyman Jerry D. Claborn, Chairman

DATE: _____

Date: March 15, 2005 **Time of Meeting:** 7:30 a.m.

[illegible]