

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

**Seventy-Fifth Session
April 1, 2009**

The Committee on Natural Resources, Agriculture, and Mining was called to order by Chair Jerry D. Claborn at 1:34 p.m. on Wednesday, April 1, 2009, in Room 3161 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at www.leg.state.nv.us/75th2009/committees/. In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (email: publications@lcb.state.nv.us; telephone: 775-684-6835).

COMMITTEE MEMBERS PRESENT:

Assemblyman Jerry D. Claborn, Chair
Assemblyman Joseph M. Hogan, Vice Chair
Assemblyman Paul Aizley
Assemblyman David P. Bobzien
Assemblyman John C. Carpenter
Assemblyman Pete Goicoechea
Assemblyman Tom Grady
Assemblyman Don Gustavson
Assemblyman James Ohrenschall
Assemblyman Tick Segerblom

COMMITTEE MEMBERS ABSENT:

Assemblyman Harvey J. Munford (excused)

GUEST LEGISLATORS PRESENT:

None

STAFF MEMBERS PRESENT:

J. Randall Stephenson, Committee Counsel
Jennifer Ruedy, Committee Policy Analyst
Judith Coolbaugh, Committee Secretary
Cheryl McClellan, Committee Assistant

OTHERS PRESENT:

Mark Jensen, State Director, Animal and Plant Health Inspection Service,
United States Department of Agriculture; Director, Division of
Resource Protection, State Department of Agriculture
Daryl E. Capurro, Private Citizen, Reno, Nevada
Cecil Fredi, Private Citizen, Las Vegas, Nevada
Ira Hansen, Private Citizen, Sparks, Nevada
David R. Laxalt, representing the Nevada Cattlemen's Association, Elko,
Nevada
Gerald A. Lent, Private Citizen, Reno, Nevada
John C. Tull, representing the Nevada Wilderness Project, Reno, Nevada
Don Molde, Private Citizen, Reno, Nevada
Brad Johnston, Private Citizen, Dayton, Nevada
Dan Heinz, Private Citizen, Pah Rah Range, Nevada
Willis Lamm, representing the Lyon County Advisory Board for Wildlife,
Stagecoach, Nevada
Kenneth E. Mayer, M.S., Director, Department of Wildlife
Larry Johnson, representing the Coalition for Nevada's Wildlife, Inc.,
Reno, Nevada
Brandon Fordin, Private Citizen, Elko, Nevada
Karen Boeger, Private Citizen, Pah Rah Range, Nevada
Bob Brunner, representing the Coalition for Nevada's Wildlife, Inc., Reno,
Nevada
Tom Smith, representing the Coalition for Nevada's Wildlife, Inc., Reno,
Nevada
Jeremy Drew, representing the Coalition for Nevada's Wildlife, Inc., Reno,
Nevada
Mel Belding, representing the Coalition for Nevada's Wildlife, Inc., Reno,
Nevada
Tina Nappe, Private Citizen, Reno, Nevada

Chair Claborn:

[Roll was called.] We have a number of people here today to testify. In order to ensure the proceedings remain orderly, I have distributed a handout containing the ground rules for the hearing ([Exhibit C](#)). Vice Chair Hogan will preside over this hearing.

Vice Chair Hogan:

I am opening the hearing on Assembly Bill 362. Mr. Claborn, the bill's sponsor, will begin his presentation.

Assembly Bill 362: Revises provisions governing the use of certain fees charged for processing an application for a game tag. (BDR 45-709)

Assemblyman Jerry D. Claborn, Clark County Assembly District No. 19:

Before the hearing today, I received a great deal of input from people around the state who hunt and fish. I listened to all their concerns and complaints, and they tended to focus on the same issue. They indicated they liked the language of the original Assembly Bill No. 291 of the 71st Session. This bill, A.B. 362, has been incorporated into that original bill. To accommodate the public's concerns, I have submitted a proposed mock-up of the bill ([Exhibit D](#)). It is included in the packet of handouts I have distributed to the Committee. I am bringing this bill forward now, even though the state is in a budget crunch, for a number of reasons ([Exhibit E](#)). Because of budget considerations Nevada's Department of Wildlife (NDOW) is scheduled to lose five state trappers. That decrease in staff is nearly 50 percent of the total trappers employed by the state. My main objective today is to find some funding for the trappers' salaries, and to find some funding for the projects proposed in A.B. No. 291. I am trying to protect the trapper positions from being cut by NDOW. With this amended bill, the only original provision left in the bill is the addition of required project approval by the Board of Wildlife Commissioners. The new language states: "...pursuant to this section must be approved by the Commission." The remainder of the bill is the existing language.

You are probably wondering why I chose to require the Board's approval. The most important reason for this bill is to provide funding for our state trapper positions. Nevada's Department of Wildlife will receive almost \$6 million from federal stimulus monies. Let us talk about matching funds. I left a paragraph in this bill that states NDOW can receive matching funds only through the Board of Wildlife Commissioners. In 1937, Congress passed the Pittman-Robertson Wildlife Restoration Act, which delineates certain qualifications that states must meet to obtain matching funds from this source. For every \$25 paid into the Pittman-Robertson (PR) fund, states will receive \$75 ([Exhibit F](#)). Therefore, the matching funds are provided on a 3 to 1 ratio. This bill, A.B. 362, and the

original bill, A.B. No. 291, do not contain the necessary language to authorize the Commissioners to seek those funds. I call your attention to the *Nevada Revised Statutes* (NRS) 501.115 ([Exhibit G](#)) which states: "The Commission shall do any and all things necessary to obtain for the State of Nevada the benefits provided in the Act of Congress." That means you have to have the Board in order to obtain the funds, and they are the only ones who can do it. That is why new language was added to A.B. 362 that says "must be approved by the Commission." All the other old language was deleted from the bill.

In your packet of information, I included three letters in support of this bill. There is a letter from Mr. Fred Fulstone ([Exhibit H](#)), a letter from the Nevada Cattlemen's Association ([Exhibit I](#)), and a letter from Mr. Floyd Rathbun ([Exhibit J](#)). All of them are requesting predator control to protect livestock on their ranches. If the state trapper positions are eliminated, who is going to help the ranchers with predator control? I intend to find the funds to keep the state trapper positions. The Board of Wildlife Commissioners can petition the federal government to receive PR matching funds. This has not been done, so the state has lost almost \$1 million since A.B. No. 291 of the 71st Session was passed.

When A.B. No. 291 was passed its purpose was to protect the mule deer from predators. Since the fees collected from their game tags are the source of the funds needed to receive the matching PR funding, mule deer are the backbone of protection for Nevada's hunting and fishing industry. A \$3 surcharge fee was added to acquire the PR matching funds, but it is being diverted to general NDOW funds. The state received approximately \$125,000 in game tag fees. By not petitioning for PR matching funds, the Board has done an injustice to hunting and fishing enthusiasts in the state. With the addition of the new subsection 3 to A.B. 362, the Board will have the authority to petition for PR matching funds.

I direct your attention to the letter from Mr. Paul Townsend, Legislative Auditor ([Exhibit K](#)). It states that herd predator management may be "within the scope of the Pittman-Robertson Program." With the new language in subsection 3, it will be possible for the state to receive the matching PR funds. We need to divert this funding to save the wildlife trapper positions because currently their funding comes from the State Department of Agriculture (DOA) through the State General Fund. It is budget cuts in the DOA's budget that eliminated these positions. There are no funds available in the current DOA budget to fund these positions, so we need to find an alternative source. There are four trapper positions and one state biologist position being eliminated. It is the state biologist who designs the programs for submission to NDOW after NDOW predator committee approves the projects. If his position is eliminated,

there is no program. In addition, NDOW has added two biologist positions to their budget request. Why would they lay off one biologist, then turn around and hire two more?

I am trying to preserve the funding for the state trappers. In 2001, the original bill, A.B. No. 291, was developed by Mr. Carpenter, Mr. Goicoechea, and me to fund the trapper positions for predator control. The predators are killing the mule deer and the ranchers' livestock. Predator control for wildlife trickles down to domestic livestock. There are some people here today who will speak against this new bill, A.B. 362, even though they voted for the original bill, A.B. No. 291. I have included in your packet a handout that describes the duties of the Board of Wildlife Commissioners ([Exhibit L](#)). The law states the Board, not a single individual, will manage these trust funds, so there is a level of fiscal accountability. I have also included a handout that describes the duties of the Director of the NDOW ([Exhibit M](#)). Nothing in the description of the Director's duties states he has control over any of the PR funds. It is the Commissioners who make the decisions, not the Director. The purpose of my bill is to keep predators under control by finding funding for the state trapper positions. I have included one other handout in your packet of information, an article from *The Trapline* ([Exhibit N](#)). I will answer any questions.

Vice Chair Hogan:

Are there any questions?

Assemblyman Aizley:

Are we currently receiving PR funds? I believe the information you provided indicated the state was receiving several million dollars.

Assemblyman Claborn:

We do not receive any funds from the PR through the old bill, A.B. No. 291, or this new bill, A.B. 362, because the funds have not been applied for. The only party that can obtain those funds is the Board of Wildlife Commissioners, and the necessary language to give them the collection authority was not included in the original, A.B. No. 291. The purpose of the current bill, A.B. 362, is to correct that omission, and provide the necessary language.

Assemblyman Aizley:

In the information you distributed, an NDOW press release says that Nevada is due to receive more than \$11.8 million from the United States Fish and Wildlife Service.

Assemblyman Claborn:

The information Mr. Aizley quoted is in ([Exhibit F](#)) on page 2. It says there will be no diversion of funds, and all the money is to be spent on projects for the hunting and fishing industry. These projects can include surveys, habitat enhancement, or predator control.

Assemblyman Aizley:

This release states in 2009 Nevada will receive almost \$6 million in PR wildlife restoration funds. However, the state will not receive that money unless someone applies for it. Is that what you are saying?

Assemblyman Claborn:

No, I did not say that. Those funds are from the federal stimulus package, and we will get that money if we accept it. Some of that money can be used to fund the trapper positions.

Assemblyman Segerblom:

Are the trappers you are referring to full-time state employees (FTE)? Or are they independent contractors?

Assemblyman Claborn:

Yes, they are FTEs. These positions are in the DOA's budget, and funded by the State General Fund. The DOA funnels those funds to the Division of Resource Protection, which has 11 employees. That Division's budget is currently defunct in the new budget. There are probably only enough funds available to pay for two positions.

Assemblyman Segerblom:

Are you saying the laid off trappers are going to be rehired, or are you asking for two additional positions?

Assemblyman Claborn:

I was told the Division plans on laying off four trappers and one state biologist. The state biologist puts together the programs for the trappers. The federal government is not responsible for predator control unless they have an agreement with the state, which they do. The trapper positions are state funded, but they work under the direction of Mr. Mark Jensen of the United States Department of Agriculture. It is a complicated situation. Mr. Jensen is here today, and he can explain the arrangement to you.

Vice Chair Hogan:

Are there any more questions? We will open the testimony to public comment.

Mark Jensen, State Director, Animal and Plant Health Inspection Service, United States Department of Agriculture; Director, Division of Resource Protection, State Department of Agriculture:

I am the State Director of the federal Animal and Plant Health Inspection Service (APHIS), and the Director of the Nevada Division of Resource Protection. Therefore, I wear two "hats"—one is federal; the other is state. The two programs, collectively, make up the Nevada Wildlife Services program. We have 33 employees—some are federal positions; others are state. Our mission is to help people who are having problems with wildlife. Twelve of my employees are state hires. Eleven of those positions are field specialists (or trappers), and the other position is a wildlife biologist. I am here today to try to answer the Committee's questions.

As Mr. Claborn mentioned, 12 of our state employees are paid for through the State General Fund. The Governor has recommended the DOA cut five of those positions, which is 42 percent of my state work force. The four people holding the trapper positions live and work in rural Nevada. Their main function is to assist farmers and ranchers when they have problems with wildlife. Usually in Nevada, wildlife problems mean predators, such as coyotes and mountain lions, are killing their livestock. We also do disease sampling and a variety of other jobs. The state biologist position that is being eliminated is in Las Vegas.

Part of our work is done in cooperation with NDOW. Mr. Claborn referred to the funds provided in A.B. No. 291 that come through NDOW. Because of our infrastructure and expertise in dealing with predators, NDOW contracts with us to do the resource protection projects that they require. The Department selects the projects around the state that they wish us to implement. Their requests might be to protect deer, bighorn sheep, or other animals. It is a complicated situation. I am here today to answer any questions. I am not here to advocate one way or the other for this bill.

Vice Chair Hogan:

Are there any questions?

Assemblyman Claborn:

Over the next two-year period, what will be the ramifications for the livestock industry and for wildlife if these five positions are cut?

Mark Jensen:

Losing these positions will have a serious impact on our ability to deliver services in rural Nevada. The sheep producers will be impacted the most. Research shows that maintaining our services helps keep their lamb losses below 5 percent. Without an effective program, their losses will approach

20 percent, and it will be difficult for the sheep producers to deal with those losses. Calves are vulnerable to predators over a much shorter time frame. Currently, we try to keep cattle industry losses at about 1 percent or lower. Research shows that without our services that figure could rise to about 5 percent, which is significant. Predator control provides an incidental benefit to wildlife. However, I do not have any figures for wildlife.

Assemblyman Carpenter:

I think you understated the loss to wildlife when you stated it would be incidental. I have probably had more experience with predatory animals, wildlife, and livestock than anyone else in this room. If you take those five trappers out of the rural areas, you will see a huge decimation of the sage grouse, chukar, deer, and antelope populations. I hope through your research you can come up with a more definitive figure for wildlife losses. I believe you said the loss figures would be 20 percent for the sheep and 5 percent for cattle. I think that is on target. Is there any research out there that addresses projected losses of wildlife?

Mark Jensen:

I know there is some research out there, but I do not have it in front of me today. Therefore, I hesitate to present information that I cannot substantiate. I can look for that research, and try to come up with a figure for you. I have given you the best information that I have available today.

Assemblyman Carpenter:

How does your agency cooperate with NDOW when they request a program to protect deer in certain areas?

Mark Jensen:

We work very closely with NDOW, and this will be a learning experience for all of us. The projects implemented in the past have run for different time periods. Some of them were run for a short period of time, but did not work. Some of the projects have run for five years, and they are currently having their effectiveness evaluated. As we learn from these experiences, we will be able to adapt and change our methods as we proceed. We try to do our best for both agriculture and wildlife in the state. That is the best answer I can give you.

Assemblyman Carpenter:

Are the deer and wildlife populations going up or down in the areas where you are doing predatory control?

Mark Jensen:

I defer the answer to Mr. Mayer, who is more qualified to address the question.

Assemblyman Goicoechea:

For the record, Mr. Jensen, you also receive funding from the state grazing boards and the wool growers and sheep producers in the state. Is that correct?

Mark Jensen:

Yes, that is correct. I apologize for not mentioning their financial contributions to the program. There are other cooperative monies that come into the program, such as the Nevada Wool Growers Association, which pays a head tax of 20 cents on their sheep. Also, five of the six state grazing boards volunteer some of their grazing fees to fund our aerial operations for predator control within their areas. All these organizations help pay for the predator control program.

Assemblyman Segerblom:

Can you explain the federal funding that Mr. Claborn referred to, that the state is not receiving?

Mark Jensen:

Any sportsmen's dollars that come into NDOW are available for a 3 to 1 match through the PR fund. I do not receive any of those matching funds in my Division, and I am not an expert on the PR funding program. There are other people here more qualified to answer your question.

Assemblyman Segerblom:

How many coyotes are killed per year?

Mark Jensen:

Our coyote "take" across the state varies from year to year, but we average 6,000 to 7,000 coyotes per year. We are in the business of solving problems and protecting resources. When we are contacted by someone having a problem with livestock being killed by predators in a certain area, we try to assist. Our success is not based on the number of predators that we remove from an area. We are there to protect a resource. When we cooperate with NDOW, we are not trying to suppress the statewide predator populations. We are trying to protect a resource in a particular area at a particular time.

Assemblyman Ohrenschall:

Do you think the predator populations in the state are in or out-of-balance for the ecology?

Mark Jensen:

That is a difficult question. I do not do any assessments of predator population balances. We solve problems. I do not have that information, but there are people here who can probably answer that.

Assemblyman Claborn:

You do what NDOW requests. Is that correct?

Mark Jensen:

We enter into an agreement to do the projects that NDOW requests. There is a budgeted Nevada Predator Management Plan that describes the project NDOW wants us to implement.

Assemblyman Claborn:

You take the plan and implement it, and that is your job. Is that correct?

Mark Jensen:

Yes, that is correct.

Assemblyman Carpenter:

With the money you receive from NDOW for special projects, do you have specific trappers or hunters that you use to complete the project? Or do you use all of your personnel wherever they might be located?

Mark Jensen:

It varies. If a project requires a person to work a certain area year-round, then that person would be designated to work that job. Occasionally, we need to bring someone else in, but that is done on a case-by-case basis. If the project is designed by NDOW to have a field specialist or trapper work on it, then that is what we supply.

Vice Chair Hogan:

Are there any more questions? [There were none.] We will now hear from those wishing to testify in favor of the bill. Each speaker will be given five minutes for his presentation.

Daryl E. Capurro, Private Citizen, Reno, Nevada:

I have been a hunter and a sportsman in this state for almost 55 years. I agree with the concept of A.B. 362, but I do believe some language changes are necessary. We did not receive Mr. Claborn's amended bill prior to this hearing. I have prepared some proposed amendments based on the original version of the bill, and they have been distributed to the Committee ([Exhibit O](#)).

Vice Chair Hogan:

The testimony needs to be directed to the bill that is before us, and the current form of the bill is the amended version.

Daryl Capurro:

It is hard to speak to that version since we did not see the amended bill until after this hearing started. My suggested language changes will work in it. If you would allow me to explain what my suggested language proposes to change, I would appreciate it. On page 2, line 2 of the original bill, I propose adding the following language: "[for the]...protection and enhancement of nonpredatory game animals and for related wildlife habitat." This would restore the language used in the current law. I would strike the new language on lines 11 and 12 because the funds should not be used only for mule deer predator population control, but for all game animals. I would replace that language with the following language inserted on line 13, "...with the concurrence of the Commission is hereby authorized to expend a portion of the money collected pursuant to subsection 1," and it continues: "...and carry out the projects described in subsection 1." I would also strike both lines 17 and 18. The net effect is to restore some of the language, and to provide some transparency to the process administered by the Board as the "policy arm" of NDOW. Therefore, the Board will be participating in the overall decisions made for predator management. They would not be party to the daily decisions made by NDOW personnel.

Assemblyman Claborn:

You can submit your amendment if you choose to do so, but we need to direct our discussions to the bill. Any proposed amendments should have been submitted yesterday.

Daryl Capurro:

I apologize. I was sick last week and unable to submit my proposed amendment by the deadline. I believe what I am proposing is very similar to what you, Mr. Claborn, have proposed in your mock-up bill.

Vice Chair Hogan:

Do you wish to continue, Mr. Capurro?

Daryl Capurro:

I am open to any questions you may have.

Vice Chair Hogan:

Are there any questions? [There were none.]

Cecil Fredi, Private Citizen, Las Vegas, Nevada:

[Read from prepared testimony submitted in writing ([Exhibit P](#)).] I have included an additional supplemental report entitled: *Great Hunters: Their Trophy Rooms and Collections* ([Exhibit Q](#)).

Vice Chair Hogan:

Are there any questions? [There were none.]

Ira Hansen, Private Citizen, Sparks, Nevada:

We are getting off target. The whole bill simply says that any program developed for wildlife management activities, or for research conducted pursuant to this section, must be approved by the Commissioners. That is it. That is the whole deal. I am in the pro-predator control camp. [Read from prepared testimony submitted in writing ([Exhibit R](#)).]

To answer Mr. Aizley's earlier question, predator game tag fees generate approximately \$250,000 per year. Those funds have not been matched with PR funds. If we average \$300,000 per year, the state should have been receiving an additional \$900,000 per year in matching funds since the original bill, A.B. No. 291 of the 71st Session, was passed in 2001. The matching funds have not been applied for by the Board of Wildlife Commissioners or the NDOW, which has resulted in the loss of millions of dollars to the sportsmen of Nevada. The current bill allows the Board to address these issues, and then they can debate the issues we are talking about now. For example, how much predator control do we need? Is it effective? Are these studies justified? This bill does ensure that these monies will be obtained for the state.

As Mr. Fredi pointed out, there has been hesitancy on the part of NDOW to start predator control programs. Predator control is a "hot potato" issue for them. I can provide you with a copy of their 2004 deer study, which they still promote in their literature. Mountain lions, the number one predator of mule deer, are not even addressed. That is just one example. There are more, but I am limited to five minutes of speaking time. The Board should be encouraged to use its broad policy power, which they already have under the NRS Chapter 501.

Nothing new is being added with this bill. It simply provides more direction, and it will ensure that PR monies are applied for, and received by NDOW. These monies are specifically allocated to the program for which they are intended. In this case, it is predator management, and it includes reasonable funding for studies. An issue may arise from an Attorney General's opinion floating around, which states NDOW would not be allowed to direct day-to-day policy. This issue does not concern normal daily policy. This is a much broader-based policy

to have programs in place, to ensure they are adequately funded, and to debate issues in the forum in which they belong, which is the Board of Wildlife Commissioners.

Vice Chair Hogan:

Are there any questions? [There were none.]

David R. Laxalt, representing the Nevada Cattlemen's Association, Elko, Nevada:

We support the intent of the bill, which is the continued maintenance of the predator control program to protect Nevada's wildlife and livestock populations. I have submitted a copy of a letter in support from Mr. Dan Galian, President of the Nevada Cattlemen's Association (NCA) ([Exhibit I](#)). I have not obtained a position statement from the NCA on the amended bill, but we are willing to work with the bill's sponsor on any issues that may arise.

Vice Chair Hogan:

Are there any questions? [There were none.]

Gerald A. Lent, Private Citizen, Reno, Nevada:

[Read from prepared testimony submitted in writing ([Exhibit S](#)).]

Vice Chair Hogan:

Are there any questions? Is there anyone else who would like to testify in support of the bill? [There were none.] Next, we will take testimony from witnesses who would like to testify against the bill.

John C. Tull, representing the Nevada Wilderness Project, Reno, Nevada:

I have prepared testimony, but it is keyed to the bill that we had at the start of the hearing. Therefore, I will stand down on further testimony.

Don Molde, Private Citizen, Reno, Nevada:

I am a wildlife enthusiast, but I am not a sportsman. I sent my comments to you yesterday when the bill was not amended, so much of what I said is no longer applicable. I have no objection in general terms to the Board of Wildlife Commissioners debating and deciding how to handle predator management projects. I think the Board should be involved in those projects. Whether that involvement should amount to a veto power or an ironclad decision is a point I would dispute. I believe that generally NDOW staff has greater expertise on such matters. I do not want to see the staff excluded from the decisions on these sensitive projects. I would appreciate public discussion in front of the Board on these projects.

Vice Chair Hogan:

Are there any questions?

Assemblyman Claborn:

Nothing is going to change. The Commissioners' duties will not change. I want them to have the power to accept the matching PR funds, if they so desire. Currently, they cannot accept them because they are not obligated to receive them under the PR Wildlife Restoration Act.

Don Molde:

I understand your point.

Vice Chair Hogan:

We will continue with testimony from those witnesses against the bill. I do not believe Mr. Kyle Davis is with us, but he requested his testimony be submitted for the record ([Exhibit T](#)).

Brad Johnston, Private Citizen, Dayton, Nevada:

I am in opposition to the bill even as amended. One way to garner support for proposed legislation in hard economic times is to say the legislation is about generating revenue. This bill has nothing to do with generating revenue. We are told it has only one small paragraph on raising money from PR funds by giving the Board of Wildlife Commissioners the authority to accept them. That is not what this bill says. The proposed language in the amended version of the bill states: "Any program developed or wildlife management activity or research conducted pursuant to this section must be approved by the Commission."

I am a lawyer by training, and when someone reads that section, they will recognize that it gives a veto power to the Commissioners. They must approve, ergo they have the power to reject any program pursuant to this section. This bill is about giving the Commissioners a veto power. This Committee must ask itself if it wants to grant that power to the Commissioners, or does it want to leave the decision making with the wildlife professionals. Should political appointees with limited terms be the ones deciding how money is spent when they may have private or political agendas? The answer is no.

There are other questions this Committee should ask itself. Does the current bill need to be changed? What is wrong with the current process? Should the wildlife professionals who are in the field and doing the work be directed by political appointees with respect to any program, project, or research under this bill? This bill is about predation management. It is about giving the Board of Wildlife Commissioners the power to say this money will be spent on the programs they approve. The programs they are going to approve will be those

that are anti-predator to enhance the mule deer population. That is not what this money is intended for, and there is no need to change the current law by giving the Commissioners the veto power they are seeking in this political process. I will answer any questions.

Vice Chair Hogan:

I wanted to clarify one point you made. You said that predator control was not a funded program under the PR Wildlife Restoration Act. I had thought it was. Am I incorrect?

Brad Johnston:

I believe the initial statute was adopted on the basis that we should make wildlife decisions based upon research and science. These decisions should not be made for the benefit of one species, which in this case is mule deer. That one issue is based on the premise that controlling the mountain lion population will increase the mule deer population. It is more complicated than that. Having the mindset, that by just engaging in predation control the mule deer population will increase, ignores the complexity of the problem. That is what certain advocates of predation control do. They ignore the complexity of wildlife management. It is not that simple.

I hear someone say, "I have hunted all around the world, and you cannot have game animals and predators in the same place." I am sure that in some of the African countries, they saw some predators along with a lot of nonpredatory game animals. It is part of the ecosystem. What we are seeing here is an agenda being promoted that simply says if we eliminate predators the mule deer population will increase. It is not that simple, and it is not what the original statute provided. It provided for research and decisions based upon the needs of all species of animals. What would be best for predators, nonpredators, and wildlife habitat? This bill seeks to abandon that principle by giving a veto power to the Commissioners who may have another agenda.

Vice Chair Hogan:

Are there any questions?

Assemblyman Carpenter:

What do you think the role of the Board of Wildlife Commissioners should be?

Brad Johnston:

It should be the same as what is set forth in the statutes now. They should have the same role. This bill dramatically changes their role, and gives them a veto power over any program adopted pursuant to NRS 502.253. They should not be involved in vetoing a research project that is based on successful

management techniques. They may just not like a program for whatever reason. It may not be part of their personal agenda.

Assemblyman Carpenter:

I did not ask you that. I asked a simple question. What do you think the role of the Board of Wildlife Commissioners should be?

Brad Johnston:

To listen to the public, and to promote the wildlife of this state to the best of their abilities, that is their role. That does not translate, in my opinion, to a veto power as proposed in this legislation.

Assemblyman Carpenter:

I do not think it is a veto power, but you are the lawyer, and I am not.

Vice Chair Hogan:

Are there any more questions?

Assemblyman Ohrenschall:

I thought the Commissioners already had this power to approve or disapprove projects, and this bill was simply to codify that power in statute.

Brad Johnston:

I am not aware of that power. If that power already exists, then why is this new bill required? If that power exists, we can all go home, and this amended bill is superfluous. This bill is talking about specific monies—a \$3 surcharge on each game tag application—to be used pursuant to the statute. As the statute currently reads, the Commissioners do not have the power to approve any program developed or wildlife management activity financed with these monies, pursuant to this statute.

Assemblyman Ohrenschall:

Do the Commissioners have the power to approve or disapprove, or are they more of an advisory body? What is the current role of the Commissioners?

Brad Johnston:

I do not know exactly what they can approve or disapprove. I do not know the answer to that specific question. I believe they have the power to approve and disapprove some activities, but that power does not extend to the day-to-day operational decisions made by NDOW. This new statute says the Commissioners would have to approve any research project or program that utilizes PR matching funds. Currently, that is not the case under the existing statute.

Assemblyman Claborn:

The Committee will find a copy of Assembly Bill 516 in their folders. It is the next bill we are scheduled to hear. Mr. Johnston, are you familiar with the Heritage Trust Fund?

Brad Johnston:

Yes, I am.

Assemblyman Claborn:

It states: "No money may be expended from this account without the prior approval of the Commission." All of the Heritage Trust Fund monies, and every project or program they sanction, goes through the Commissioners. I believe you are aware of that. This bill does nothing different than what is already stated in the Heritage Trust Fund statute.

Brad Johnston:

Instead of approving expenditures, this revised law will give the Commissioners the power to decide which programs or projects go forward. That is different. Mr. Claborn, I must ask you, if this power already exists for the Board of Wildlife Commissioners, why we are spending hours talking about this proposed legislation?

Assemblyman Claborn:

In the old A.B. No. 291 of the 71st Session and this proposed bill, A.B. 362, the only way the state can get matching funds from the PR fund is through the Board. The language to allow them to accept those funds was not put in the original bill.

Brad Johnston:

I read the statute in your packet and that is not what it says. It says: "The Commission shall do any and all things necessary to obtain..." the PR matching funds for the state. The Board of Wildlife Commissioners is not the only body empowered to seek those funds if you are referring to NRS 501.115. It does not say that.

Assemblyman Claborn:

It certainly does.

Brad Johnston:

It says it "shall do any and all things necessary." That language would also empower NDOW to seek the funds.

Vice Chair Hogan:

Have you completed your testimony?

Brad Johnston:

Yes, I have.

Vice Chair Hogan:

We are ready to hear the next speaker.

Dan Heinz, Private Citizen, Pah Rah Range, Nevada:

I am a lifelong hunter and retired wildlife biologist, and I have spent a number of years working for various outfitters and guides. I shot my first buck in 1950, and I entered school 17 years after the Pittman-Robertson bill was passed. I believe the previous witness gave an accurate interpretation of that bill. I am not at all sure that those funds are even available for predator control. It needs to be checked further. I want my sportsman's license money allocated only on the basis of sound science, and I want those projects administered by wildlife professionals. I am uncomfortable with arbitrary direction coming from a Board of Wildlife Commissioners who may not have the necessary scientific expertise to accurately evaluate a program.

Vice Chair Hogan:

We will now take testimony from those witnesses who would like to speak from a neutral position.

Willis Lamm, representing the Lyon County Advisory Board for Wildlife, Stagecoach, Nevada:

I would like to provide you with some personal observations. The Nevada Legislature established a process some years ago whereby the county commissions appoint citizens within their counties to participate on county wildlife advisory boards. These boards are the frontline interface between the state, sportsmen, wildlife ecologists, environmentalists, outdoors lovers, citizens, and other special interest groups. Because of the fast pace of work during a Legislative Session, the advisory boards get left in the dust. If the wildlife advisory boards could have a more accurate picture of what the Assembly and this Committee is trying to develop, we can meet with some of the people who have concerns, take some of the "heat," and prepare a reasonable analysis of what people in our own county want.

Hopefully, we could offer a consensus that could help lower the level of vitriol and conflict generated by these types of issues. We have some important actions coming up and more in the future. I would commit, as a member of the Lyon County Advisory Board for Wildlife, to give you my pledge, that if you

bring any issues or concerns to us, we will pass the information along to the other advisory boards. We will try to do some homework for you. We are a resource in the community, and I get the sense that we are being marginalized. It puts more work on you. We are here to help from a neutral position because funding is an issue. Perhaps, the advisory boards could develop some ideas, and deal with some of the issues before the proposed legislation is brought before you.

Vice Chair Hogan:

Are there any questions?

Assemblyman Goicoechea:

Typically, the county wildlife boards interact with the Board of Wildlife Commissioners. Is that correct?

Willis Lamm:

Yes, we send recommendations to the Commissioners.

Assemblyman Goicoechea:

That is the process that occurs. Typically, as legislators, we do not deal directly with the Board of Wildlife Commissioners or with the county wildlife advisory boards. Usually the Board comes to us after your recommendations have been presented to them.

Willis Lamm:

Yes, I agree. If we understand what your concerns are in advance, we can develop our agendas to look into the matter, and give input to the Commissioners. In this instance, we were bombarded by sportsmen and other people who were concerned about the legislation, and did not understand what it was about. If we know what is coming up, we might be able to remove some of the "speed bumps" for you.

Vice Chair Hogan:

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

Kenneth E. Mayer, M.S., Director, Department of Wildlife:

I am not sure where to start. I know the Committee probably has a lot of questions that I can address. If you go to the packet of information you received from Mr. Claborn, you will see a copy of NRS 501.115. Section 1 states: "The State of Nevada hereby assents to the provisions of that certain Act of Congress...." What you do not see here is that Act of Congress, and what it says. The Act, itself, says PR funds are not available for the sole purpose of killing predatory animals. We can kill predators only as part of

a study or a project. There is no additional money available for that sole purpose. Mr. Claborn said he wanted to divert funds for trapper salaries, but PR funds are not available for that purpose. I can contact our federal partners, the United States Fish and Wildlife Service, and I am sure they will provide you with the guidelines that we have to abide by in order to receive those PR funds.

An exhibit in your packet says \$11.8 million is coming to the agency. That amount is our total annual appropriation of funds. We have about a \$450,000 increase this year in PR funds because of increases in gun sales and ammunition. We are not sure what the amount will be next year. More specifically, of the \$11.8 million NDOW will receive, \$5.9 million is from the PR grant fund. It comes to the state through a federal grant process. We have to develop the grant proposals and justify our request. Then, we take the proposal to the federal agency for approval. Yes, we can match PR dollars 3 to 1, and the funds allow us to do our work. Without the support of the sportsmen and people buying hunting equipment that is eligible for PR funds, and fishing equipment eligible for Dingell-Johnson Sport Fish Restoration Funds (DJ), we would be unable to complete the work we currently do.

Taking matching PR funds and moving them to the predator fund is possible, but we cannot fund a project with PR funds if the sole reason for the project is to kill predators. We can do it, but it would have to be part of a study. I am referring to management-related studies, not basic research studies. I do believe in scientific predator management. The days of a wildlife agency doing any predator control that is not based on scientific research are in the past. Nationwide that is what the public and the courts have told us. I am troubled by the fact that NDOW has lost the State General Fund revenue to support the trappers to help the livestock industry. How do we fill that gap? Does the industry step up? Mr. Lesperance did tell us that the wool producers pay a head tax. I am not sure whether the cattle industry is doing it, or if it will in the future. That is a reasonable question. Do we find other General Fund monies to support those positions? Do we use sportsmen funds designed to support wildlife issues, and use them to fund those positions for general predator management?

One of the questions asked today was if you kill predators to protect livestock does that action ultimately benefit wildlife? The answer is not "yes" or "no." The answer is sometimes it does. Mr. Mark Jensen said it perfectly. Their job is not to kill predators "willy-nilly," but do work that is project oriented. Their projects are specific to an area, and designed to protect livestock. Does killing coyotes have a positive effect on increasing the mule deer population? It depends on where it is happening. I am a proponent of livestock operators actually paying out of their own pockets for predator control. They hire

Nevada Wildlife Services to do it. Nevada's Department of Wildlife would be in favor of contributing to the effort if we can expand the zone of influence. We want the predator control to shift away from the flocks of sheep to the areas where the does are having their fawns. We are in favor of that, and are working on it.

Currently, NDOW develops a series of projects. We work with the predator subcommittee of the Board of Wildlife Commissioners, and we share ideas. We hone and modify our proposal based on their input. Sometimes, they come up with an idea we had not thought of. If it is a good one, we research and integrate it. We have a good working relationship. The ultimate decision and the fiduciary responsibility lie with the Director of NDOW. There is an Attorney General's opinion that says the Board of Wildlife Commissioners does not have fiduciary oversight of NDOW. They are the policy makers; we are the operations arm.

Whether we have the authority or whether the Board does, it is really about cooperating and working together. I have made a commitment to work with the Board, the committees, and the sportsmen to do what is best for wildlife in the state from a scientific perspective. I commend Mr. Paul Townsend on his letter included in your packet of information. It is right on. The only thing he does not spell out is the language contained in the Act of Congress. If you need further detail, I can have our federal partners provide those guidelines to the Committee. I have distributed to the Committee an *Overview of Restricted Accounts for Nevada Department of Wildlife* ([Exhibit U](#)). It delineates what the restricted funds can and cannot be used for. I will answer any questions.

Vice Chair Hogan:

Are there questions?

Assemblyman Goicoechea:

I am happy to hear you speaking about expanding the program away from the focus of Mr. Jensen's program. I run a lot of sheep in the Diamond Mountains and in the southern part of the Ruby Mountains. There is clearly a connection between lambing grounds for sheep and fawning areas for does. We compete for fodder and water sources in a lot of the same areas. The predator control program to protect the sheep probably has a larger impact on the deer herds than what you are willing to recognize. We have seen our domestic sheep numbers decline. Mule deer have become the food source for predators, especially in central Nevada. At one time we ran hundreds of thousands of sheep on land that now supports less than 100,000 head.

Kenneth E. Mayer:

I agree with you, and I am not against predator management. I have said that all along, and I have proved it so far. The Committee needs to consider a couple of questions. Is your primary goal going to be using sportsmen's dollars to protect the livestock industry? Will the secondary goal be, by protecting the livestock from predators, wildlife will residually benefit? That decision is out of my hands. The Committee has to ask if that course of action is the appropriate use for sportsmen's dollars.

Assemblyman Goicoechea:

I think that is what we are struggling with. We are trying to determine exactly what the benefit is to both groups. There are also dollars contributed by the livestock industry. It is not all one-sided. If we curtail the funds coming from the Nevada Wildlife Services, the General Fund does not have the money to support the predator control program. If we walk away from predator control, I think the impact down the road on wildlife will be significant. That is the point that Mr. Claborn and some other members of this Committee feel strongly about.

Kenneth E. Mayer:

One of the projects currently being considered for funding through the predator fee is to provide Mr. Jensen with about \$100,000 to hire a lion biologist to do predator control studies, as well as research on mountain lions. That proposal is on the table. In some respects, that proposal is tangential to this bill. The PR dollars are not available for diversion to predator control, and I believe our federal partners share that premise unequivocally. This is the first time I have seen the amended bill. I need to know how the administration stands on giving the Board of Wildlife Commissioners veto authority. It would be similar for the Heritage Trust Fund account, and it is something I would like to think through before I comment further.

Assemblyman Goicoechea:

I think it is appropriate for the Committee to get back to the bill.

Vice Chair Hogan:

Are there any more questions?

Assemblyman Claborn:

Mr. Townsend, in his letter, is right on the point. However, he does state: "...it appears predator management may be within the scope of the Pittman-Robertson Program." You know as well as I do, all NDOW has to do is authorize and conduct a survey. Also, it appears to be true that you are going

to hire a lion biologist at the same time you are laying off a biologist in Las Vegas. I cannot understand that.

Kenneth E. Mayer:

The key word is "may..."

Assemblyman Claborn:

I will finish my statement, then give you the floor. In NRS 501.115, it describes acceptance of federal aid in the projects for the restoration of wildlife. [Mr. Claborn read the statute verbatim into the record ([Exhibit G](#)).] I emphasize that it further states: "The Commission shall do any and all things necessary to obtain for the State of Nevada benefits provided in the Act of Congress." It means the Commission needs to go after those funds. However, nothing in our current law gives the Commission authority to do that. The NDOW needs to do the necessary studies and surveys to qualify the state to receive the funds. I believe the Board of Wildlife Commissioners should have the power to go after the funds. Who makes the decisions for enacting the provisions prescribed in A.B. No. 291 of the 71st Session? I have attended many of the Board of Wildlife Commissioners meetings and also the predator subcommittee meetings. Every member of the subcommittee was also on the Board.

Kenneth E. Mayer:

If the Board of Wildlife Commissioners applied to the United States Fish and Wildlife Service for PR dollars, they would not be granted those dollars. The Act of Congress states NDOW has the fiduciary responsibility for administering those funds. We can provide you with a copy of the Act of Congress. That is why the Board does not apply for PR dollars. It is not in its purview to do so. I am going to do whatever the law directs me to do. Does the current system work well? I think so. I have gone over the statute many times. The purpose of the Board of Wildlife Commissioners is to provide policy oversight and direction. It does not handle operations. Nevada's Department of Wildlife is in charge of the operations, and holds the fiduciary responsibility for all the funds that come into the Department. The Board of Wildlife Commissioners provides the guidelines for a project which they turn over to the professionals in NDOW to implement. It is NDOW personnel who have the training and the expertise to design the project that will accomplish the Board's policy direction. There is a gray zone, and this Committee has to determine where the line is between policy and operations.

Vice Chair Hogan:

Can you tell the Committee if any 3 to 1 PR matching grant funds were available to the state for predator control, and if they were ever applied for?

Kenneth E. Mayer:

If we put together a grant request for state matching dollars to do predator control, it would be rejected. The PR matching grant funds are not available for predator control. Those funds are available for the selection, restoration, rehabilitation and improvement of wildlife habitats; for wildlife management research for wildlife population surveys and inventories; for land acquisitions and coordination; for the development of facilities; for facilities and services for conducting hunter education; and, for provisions for public use of wildlife resources. Predator control does not fit within those guidelines. We are continually audited by the United States Fish and Wildlife Service, and NDOW has passed with flying colors every time. Misuse of the dollars could mean the state would lose them. There are many rules and regulations that NDOW has to live with in order to access the federal funds.

Vice Chair Hogan:

I overlooked Mr. Larry Johnson, who would like to testify against the bill. Would you like to testify now?

Larry Johnson, representing the Coalition for Nevada's Wildlife, Inc., Reno, Nevada:

I was hoping Mr. Mayer would clarify and expand upon the statement in Mr. Paul Townsend's letter which states: "However, it also appears NDOW has currently obligated almost the total Pittman-Robertson authorization." Our organization is often a source of matching funds for PR grants. We obtain those 3 to 1 matching dollars through a number of programs largely staffed with volunteer labor. We have donated many tens-of-thousands volunteer man-hours for habitat and wildlife projects around the state. Those volunteer man-hours are converted to funds that are eligible for PR matching dollars.

Year after year, we have asked NDOW if all available PR matching funds were received with matching dollars. Year after year, we have been assured that the total PR dollars available to the state have been applied for, have been received, and have been accounted for. The statement that we are missing out on millions of dollars is simply incorrect. My main opposition to this bill mirrors the testimony presented by Mr. Brad Johnston.

This bill would take the authority away from the professional biologists, and it will place it in the hands of political appointees. On page 2 of the amended bill, lines 9 and 10, it states: "...must be approved by the Commission." The Board of Wildlife Commissioners has the duty to establish policy. The Director and NDOW have the duty to administer the day-to-day operations. The Board should not be involved in that process, but they should interact and discuss issues and problems that arise. That discussion is also going on within the

county wildlife advisory boards, which provide input to the Board of Wildlife Commissioners. It is the most democratic process in the state government. Sportsmen, anywhere in the state, can readily have input into state policy. The Board of Wildlife Commissioners in their February meeting passed a motion to oppose Assembly Bill 241 [This bill is not being heard in this hearing.] and A.B. 362. However, they were not privy to the amendments that were presented today.

I have not presented written testimony today because this bill is a "moving target," and with the amendment proposed today, the bill bears no resemblance to my written comments. We oppose this concept.

Vice Chair Hogan:

Are there any questions?

Assemblyman Carpenter:

Policy decisions that the Board of Wildlife Commissioners currently handle should not be placed in the hands of the biologists. You indicated there needs to be some "give-and-take" on both sides. It is important to discuss these issues. Someone said in testimony that all the authority would be in the hands of the Board. That is not what I see because I do not interpret the language to imply the Board will have a veto power.

Larry Johnson:

My interpretation of the statement "...must be approved by the Commission" is exactly that. I do not see any other interpretation of it.

Assemblyman Carpenter:

I do not know. I guess it is a matter of semantics. You cannot take the Board out of everything, and leave policy matters strictly in the hands of the biologists, or the Director of NDOW.

Larry Johnson:

I believe the Board has full authority to set policy by statute. The county game boards report to the Commissioners, so the present system is satisfactory.

Assemblyman Carpenter:

Do you think wildlife management is a policy-related matter?

Larry Johnson:

Yes, I do if it is a general policy matter. As far as approval of individual projects on a day-by-day basis goes, I do not think the Board should be approving them because it interferes with operations, and overextends its authority.

Assemblyman Carpenter:

How would you change the language, so the Commissioners do not give up their authority which they have under the statute? I do not read it as veto power.

Larry Johnson:

I think that the wording in lines 9 and 10 on page 2 of the mock-up bill clearly gives the Board veto power. The Board does have the authority and duty, as policy setters, to request more predator management programs for the state after receiving input from the public. The predator management programs should be in targeted areas. How that policy is implemented should be under the purview of the professional biologists and NDOW Director. We already do surgical predator control at specific fawning grounds in April and May.

Assemblyman Carpenter:

I understand that, but let us get back to the bill. You agree there is no question about the fact that the Board of Wildlife Commissioners sets the policy. If they set the policy requiring NDOW do more mountain lion control in western Nevada, but all of their biologists' operations are being conducted in eastern Nevada, they are not following the policy. That is the reason why approval is required by the Board. Getting their project approval guarantees the programs they have requested, as a matter of policy, are being done. I do not think it can be any other way.

Vice Chair Hogan:

We are going to take a recess.

[Recess.]

This hearing is called back to order. Are there any questions?

Assemblyman Claborn:

The bill makes no mention of veto power. What you are saying is simply not in the wording of the bill. We need to have our legal counsel explain the bill.

Vice Chair Hogan:

Mr. Stephenson, will you comment on the interpretation of the bill's language?

J. Randall Stephenson, Committee Counsel:

I will interject some information that I hope will clarify the discussion between Mr. Johnson and Mr. Carpenter concerning the new language in subsection 3 of the proposed mock-up bill—not the original bill. It states: "Any program developed or wildlife management activity or research conducted pursuant to

this section must be approved by the Commission." That wording clearly indicates it is the Board of Wildlife Commissioners who will be saying "yea" or "nay" to the projects. It is clearly the intent of the revised bill language. It is very simple in that regard.

Another larger matter the Committee should consider is the gray area between the duties of the Board and those of NDOW. What I am essentially hearing is correct, according to the NRS. The Board of Wildlife Commissioners sets the policy. Also, they adopt the regulations for carrying out the provisions of the title and the chapter for voting provisions. They clearly have those requirements and authority as established by the NRS in policy and regulation. It is also true this bill would allow the Board to set more than policy. It would give them management authority, and whether or not that is a good idea is not up to me to determine.

Vice Chair Hogan:

Before the recess, we wanted to finish hearing testimony from witnesses who signed in against the bill, and they have not had a chance to speak.

Brandon Fordin, Private Citizen, Elko, Nevada:

I want to go back to the information initially presented in testimony. The Nevada Wildlife Services personnel, who were laid off, are not the employees NDOW uses. It will not change the way they go about their business, and I am referring to services rendered by the Nevada Wildlife Services on the agricultural side of the issue. Mr. Claborn brought up the discussion of predator control and the deer herds. However, five minutes is not enough time to give the Committee the background education on exactly what is wrong with our deer numbers, but it is not predators. In eastern Nevada, there are very few predators.

This bill should set forth what the general public wants. It should not be based on what a certain interest group desires. The sense from the general public is this bill should not have been brought forward in the fashion it was. If there is something that needs to be done to enhance the wildlife of the state, it should come from the public through the county game boards to the Board of Wildlife Commissioners, and then to this Committee. It should not be the other way around. I am in opposition to this bill.

Vice Chair Hogan:

Are there any questions?

Assemblyman Claborn:

We do not pass these bills "willy-nilly." We did have a lot of public input, or I would not have brought the bill forward. The sportsmen are not the only group that comes to me with proposals. We represent the public.

Vice Chair Hogan:

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

Karen Boeger, Private Citizen, Pah Rah Range, Nevada:

I wanted to publicly go on record that I am opposed to this bill and support the position of the Coalition for Nevada's Wildlife, Inc. Personally, as an educator, I believe all decisions about predator control must be based on the latest and the best peer-reviewed science, such as NDOW biologists are qualified to do.

Vice Chair Hogan:

Are there any questions?

Assemblyman Segerblom:

Are you saying this bill would not allow NDOW biologists authority over decisions regarding predator control?

Karen Boeger:

As I understand it, your bill extends a veto power to the Commissioners on NDOW projects. My concern is the latest and best peer-reviewed science could be overlooked.

Assemblyman Segerblom:

I think all we are doing is saying the Commissioners will evaluate NDOW projects as opposed to just having the Director fill that function. Somebody has to make the final decision. I do not know if the Commissioners would be any less qualified than the Director of NDOW.

Karen Boeger:

It is my understanding the language proposed uses the word, "approved." I think as Mr. Stephenson explained that word, it extends veto power to the Commissioners. That would be my major concern. The system right now works great. I believe in the old adage "if it ain't broke, don't fix it."

Vice Chair Hogan:

Mr. Segerblom, was your question answered?

[Mr. Segerblom nodded in assent.]

Assemblyman Claborn:

That is what we call democracy. We are trying to democratically establish the roles of NDOW and the Commissioners. I do not think Mr. Stephenson said what you just said. We need to have him reiterate. Mr. Stephenson, would you reiterate your comments?

J. Randall Stephenson:

I did not say "veto" power. The bill does not include that sort of language. What Mr. Segerblom is saying is essentially correct. All this bill says is the final authority or the final approval will be with the Board of Wildlife Commissioners as opposed to the Director of NDOW, who currently has it.

Assemblyman Claborn:

That is what I thought you said.

Vice Chair Hogan:

Is there more testimony?

Bob Brunner, representing the Coalition for Nevada's Wildlife, Inc., Reno, Nevada:

We are talking about changing 12 words in this bill. I would like to talk about the change proposed for A.B. 362. All the PR grant fund money has been applied for. If the Commissioners are not applying for it, let us hold them accountable for that. What we need to talk about is how the Board and NDOW Director do things. A political appointee may say or have an opinion that predators are the problem. A sportsman might have the opinion that a million acres burned in one year might reduce the number of mule deer. How we determine which opinion is right, and what we do about it, is to get the professionals to look at the problem. Nevada's Department of Wildlife and their professionals are the ones who should make the decisions and execute the plan.

The 12 words in the bill do not bring any funds to NDOW. They do not change any policy. Nowhere in the bill's language are predators mentioned. If NDOW is working on the control of predators through science, they are making good decisions by working with that methodology. If the wool growers and the hunters want to raise the money, they could support and pay for the services of the Nevada Wildlife Services. Those 12 words do not replace those people. They are needed by all groups. This bill does not address that problem, and this is what concerns me. The 12 words change the interaction between the Director of NDOW and the Board of Wildlife Commissioners.

Nevada's Department of Wildlife policies for big game have been copied by all 50 states and by many other countries. They know what they are doing, and

they do a good job. Their policies and decisions are based on sound science, and that is the direction we need to take. This bill would potentially change the current system. It does not bring any additional money to the state or establish controls for predators. It just "muddies the water." I ask the Committee to oppose this bill.

Vice Chair Hogan:

Are there any questions?

Assemblyman Claborn:

You might be absolutely right about the 12 words. The language was included in the bill because that is the only way PR funds can be received. The Board is the only entity that can receive those funds. The Director of NDOW cannot receive those funds.

Vice Chair Hogan:

Mr. Stephenson, there seems to be a difference of opinion on which entity has the authority to receive the PR funds. Can you verify that it is only the Board of Wildlife Commissioners who can apply for and receive those funds, or is there authority for NDOW to apply for and receive them?

J. Randall Stephenson:

That is a difficult question. I do not think we can definitively answer it right now. Based on Mr. Mayer's testimony, the PR and DJ Acts of Congress are very old bills. The procedure for obtaining those funds has been in place for years. We have two provisions in the NRS that authorizes the state to accept those monies under the federal law, and it also requires the Board of Wildlife Commissioners to do all things necessary to obtain those funds. In the interim, since those laws were enacted, the long-standing practice of how those funds are obtained may not necessarily comply with the law, or the wording could have been interpreted in a particular way. Currently, the law says the Board has to do all things necessary to get the money. This bill simply says the projects and programs of NDOW must be approved by the Board. We would have to take a better look at the law. We also have the language in the letter provided by the Legislative Auditor, Mr. Townsend, which lists the purposes for which the monies can be used. I would defer to his letter because he did a thorough job detailing how the funds can be used.

Vice Chair Hogan:

Are there any more questions?

Assemblyman Grady:

I seldom disagree with Mr. Carpenter, but I am concerned that we have a politically appointed Board of Wildlife Commissioners, and a Director of NDOW who is appointed. I read this language to say that any program developed or wildlife management activity or research conducted pursuant to this section must be approved by the Board. Therefore, if the Director of NDOW had a good project based on sound science that was needed in an area, and the Wildlife Commissioners said, "No, we do not agree with you," it would not happen. This bill would take a laymen's Board and give them the authority over the Director of NDOW. I cannot support this bill.

Assemblyman Goicoechea:

I have another question for Mr. Stephenson. We have been here three hours, and I am still unsure. I do not see where we are giving the Board any more authority than they already have under statute.

J. Randall Stephenson:

As I explained before, there are some very gray areas between the duties of the Commissioners and NDOW. This amended bill, from a bill drafter's point of view, makes it very clear that the Commissioners will have to approve all projects and programs. That is the point of the amended bill.

Vice Chair Hogan:

Are there any more questions? Is there anyone else who would like to testify? Since this bill has taken up so much of the Committee's time, the companion bill, Assembly Bill 516, will have to be rescheduled for our next hearing.

Tom Smith, representing the Coalition for Nevada's Wildlife, Inc., Reno, Nevada:

Mr. Claborn and I discussed this bill many times. I was pleased to see the original language of the bill was put back in this revised version. I would like to make one suggestion, and it relates to what Mr. Grady said. The language states: "Any program developed or wildlife management activity or research conducted pursuant to this section must be approved by the Commission." I believe that wording is too broad. I would like the wording changed to: "The Board of Wildlife Commissioners will provide guidance, oversight, and input to any of these programs, management activities or research."

Mr. Carpenter asked earlier: "What do we perceive as the Board of Wildlife Commissioners duties?" I believe their duties are to provide guidance and oversight to NDOW. That guidance and oversight is also provided by the county game boards, which are advisory boards. That is how I believe the chain of information and communication should be handled. It would also give the Board the opportunity to help secure PR and DJ funds, and funding from all

the other grants that are out there. I do not see that language to be taking any powers away, but it would eliminate all the argument we are seeing today.

Vice Chair Hogan:

Are there any questions?

Assemblyman Claborn:

I enjoyed reading our back and forth emails, but if you would have called me, your choice of language would be in the bill today. I like it.

Tom Smith:

I want to compliment you on putting the original wording back in.

Assemblyman Claborn:

After we talked, I met with Mr. Stephenson and started to put this amended bill language together. However, I think you are right about the language you just suggested. We do need some continuity, and we need to work together. I am not promising, but when this bill comes up in a work session, I will definitely take your suggested language into consideration. Would you support the bill if your suggested language was in it?

Tom Smith:

Yes, absolutely, I would.

Assemblyman Claborn:

Do you think the other people who testified would also support that language?

Tom Smith:

I think they would.

Vice Chair Hogan:

Are there any more questions?

Jeremy Drew, representing the Coalition for Nevada's Wildlife, Inc., Reno, Nevada:

I do support appropriate predator control. I am a lifelong sportsman from an agricultural family. However, I do not support A.B. 362 in its present form. It does take the decision making authority from the professionals and places it with a politically appointed Board of Wildlife Commissioners. As a sportsman, I am concerned with some of the testimony I have heard today. Mr. Fredi in his earlier testimony stated he had asked the Board for predator control help in the 1980s, and did not receive it. Mr. Fredi made a good point, and it raises a good question. What happens in the future when we have a Board of Wildlife

Commissioners that will not support any predator control programs? I will answer any questions.

Vice Chair Hogan:

Are there any questions? [There were none.]

Mel Belding, representing the Coalition for Nevada's Wildlife, Inc., Reno, Nevada:

The biggest problem I have with the bill is there are only so many funds available from the PR fund for the State of Nevada. I believe the amount is determined by the number of hunting licenses that are sold in the state. If the Nevada Wildlife Services agency has a problem keeping people employed, the department heads need to get together and work it out. Nevada's Department of Wildlife does use Nevada Wildlife Services employees in many aspects of its predator management activities. I served on the Predator Management Committee for NDOW, and I know the procedures well. I do not think the Commissioners should be able to reject a program that NDOW thinks is important. The professionals are in NDOW, and they should be given due respect for their knowledgeable project and program recommendations.

Vice Chair Hogan:

Are there any questions? Mr. Smith, since you are still here, Mr. Claborn has a question for you.

Assemblyman Claborn:

Mr. Smith, would you write down the language you prefer and drop it off at my office?

Tom Smith:

Yes, I will.

Vice Chair Hogan:

We have another witness to testify.

Tina Nappe, Private Citizen, Reno, Nevada:

I would like to compliment Mr. Claborn. Every two years, he requires us to rethink the relationship we have with wildlife. I did serve on the Board, and I have recently attended some of their meetings to see what has changed. One of the things I think is very healthy about the bill is it makes all of us reflect on the systems we have used, and to take into account any changes that have occurred. My testimony has nothing to do with predator control. I think NDOW should always have the opportunity to do predator control. My

testimony has to do with the cost of the Commissioners taking on more and more responsibilities.

The Board of Wildlife Commissioners is a forum for receiving and hearing information, and for setting broad policies for NDOW. It sets the ideals for the sportsmen's community and the general public. It does take a lot of time, and it is an administrative expense. We perceive their efforts as being made for the benefit of wildlife, but more and more of their time is going into administration. That is my concern about this bill and some of the others. The Board meets nine times a year at different places around the state. At the last meeting I attended, I was impressed with the number of staff, sportsmen, and visitors present. It is a labor-intensive organization.

It is best if the Board can establish the policy through the public information process, and then turn that process over to NDOW to implement. Some reports should be required, and made available to the public. I would hope that this Committee does not mandate that the Board approve every project coming through, as it would create an undue burden. Nevada's Department of Wildlife is now involved in the predator control program, and it has policies that have to go through a public information process. The Board of Wildlife Commissioners can always ask for an update and a review, and go through the public process again.

Vice Chair Hogan:

Are there any questions?

Assemblyman Ohrenschall:

Before becoming a Wildlife Commissioner, were you aware of any time the Board of Wildlife Commissioners went against the recommendations of NDOW biologists?

Tina Nappe:

When you are in a Commissioner's seat, you may not see as much. It is always a contentious issue, but on the whole the people work well together. On the predator control issue there is clearly some disconnect. It is quite true that the Board is a political body, and as a Commissioner, I did not have the professionals' levels of expertise. The Board as a whole is a public hearing body, and it should reflect and listen to the public. Taking on this additional approval burden will be very time-consuming, and the Board will have to review and research a great deal more information to establish its policies. Then, they have to review the implementation. I do not believe it is an appropriate role for the Board of Wildlife Commissioners.

Vice Chair Hogan:

Are there any more questions?

Assemblyman Carpenter:

As I am reading NRS 501.105, it says: "The Commission to establish policies, adapt regulations..." and further that: "The Commission shall establish the policies and adopt regulation necessary to the preservation, protection, management, and restoration of wildlife and its habitat." To me, that statement gives the Board of Wildlife Commissioners a lot of power, but I think there has to be cooperation between the Board and NDOW, or else we will never get anywhere.

Vice Chair Hogan:

Are there any further comments? [There were none.] I am closing the hearing on A.B. 362, and we will hear A.B. 516 at the first available opportunity. This meeting is adjourned [at 4:31 p.m.].

RESPECTFULLY SUBMITTED:

Judith Coolbaugh
Committee Secretary

APPROVED BY:

Assemblyman Jerry D. Claborn, Chair

DATE: _____

EXHIBITS

Committee Name: Committee on Natural Resources, Agriculture, and Mining

Date: April 1, 2009

Time of Meeting: 1:34 p.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
	C	Assemblyman Jerry D. Claborn	Hearing Ground Rules
A.B. 362	D	Assemblyman Jerry D. Claborn	Mock-up Bill
A.B. 362	E	Assemblyman Jerry D. Claborn	Reasons for Bill
A.B. 362	F	Assemblyman Jerry D. Claborn	Pittman-Robertson Wildlife Restoration Act Qualifications
A.B. 362	G	Assemblyman Jerry D. Claborn	Excerpts from the NRS
A.B. 362	H	Assemblyman Jerry D. Claborn	Letter from Mr. Fred Fulstone
A.B. 362	I	Assemblyman Jerry D. Claborn	Letter from the Nevada Cattlemen's Association
A.B. 362	J	Assemblyman Jerry D. Claborn	Letter from Mr. Floyd Rathbun
A.B. 362	K	Assemblyman Jerry D. Claborn	Letter from Mr. Paul Townsend
A.B. 362	L	Assemblyman Jerry D. Claborn	Duties of the Board of Wildlife Commissioners
A.B. 362	M	Assemblyman Jerry D. Claborn	Duties of the Director of the NDOW
A.B. 362	N	Assemblyman Jerry D. Claborn	Article from <i>The Trapline</i>
A.B. 362	O	Daryl Capurro	Proposed Amendments
A.B. 362	P	Cecil Fredi	Testimony
A.B. 362	Q	Cecil Fredi	Report: <i>Great Hunters: Their Trophy Rooms and Collections</i>

A.B. 362	R	Ira Hansen	Testimony
A.B. 362	S	Gerald Lent	Testimony
A.B. 362	T	Kyle Davis	Testimony
A.B. 362	U	Kenneth E. Mayer	<i>Overview of Restricted Accounts for Nevada Department of Wildlife</i>