

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

**Seventy-Fifth Session
April 6, 2009**

The Committee on Natural Resources, Agriculture, and Mining was called to order by Chair Jerry D. Claborn at 1:38 p.m. on Monday, April 6, 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 Harvey J. Munford
Assemblyman James Ohrenschall
Assemblyman Tick Segerblom

COMMITTEE MEMBERS ABSENT:

None

GUEST LEGISLATORS PRESENT:

Assemblyman Harry Mortenson, Clark County Assembly District No. 42
Assemblywoman Peggy Pierce, Clark County Assembly District No. 3

STAFF MEMBERS PRESENT:

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

OTHERS PRESENT:

Ronald M. James, State Historic Preservation Officer, Office of Historic Preservation, Department of Cultural Affairs
Patricia Rogers, Government Relations—Community Outreach Representative, Truckee Meadows Regional Planning Agency, Reno, Nevada
Ira Hansen, Private Citizen, Sparks, Nevada
Kyle Davis, representing the Nevada Conservation League, Las Vegas, Nevada
Willis Lamm, representing the Lyon County Advisory Board for Wildlife, Stagecoach, Nevada
Mel Belding, representing the Coalition for Nevada's Wildlife, Inc., Reno, Nevada
Larry Johnson, representing the Coalition for Nevada's Wildlife, Inc., Reno, 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
Judi Caron, Private Citizen, Reno, Nevada

Chairman Claborn:

[Roll called. Reminded everyone of the rules and expectations of the Committee.] Let us begin the work session with Assembly Bill 289.

Assembly Bill 289: Provides protection for paleontological sites. (BDR 35-1084)

Jennifer Ruedy, Committee Policy Analyst:

Assembly Bill 289 expands the duty of the Division of State Parks to administer, protect, and develop any state monument, historic landmark, historic building, historic site, archeological area, or recreational area to include a duty to administer, protect, and develop any paleontological site ([Exhibit C](#)). This bill expands the definition of "easement for conservation" to include the preservation of paleontological aspects of real property, and the definition of "holder" to include a charitable corporation, charitable association, or charitable

trust which has amongst its powers or purposes to preserve the paleontological aspects of real property. The authority of public entities to enter into cooperative agreements to protect sites of archeological and historical significance is expanded to include sites of paleontological significance. The definition of "project of regional significance" is expanded to require consideration of the potential effects on paleontological sites. Paleontological sites must be included in the historical properties preservation plan of a master plan, which must be prepared by a planning commission for the fiscal development of a city, county, or region.

I did not have any amendments.

Chairman Claborn:

Does the Committee have any questions?

Assemblyman Goicoechea:

I am concerned that, as we expand the aspects of these paleontological sites, it could have an impact in the northern counties, and on mining in particular. If fossils are found on-site, would it be treated the same as any other cultural or historic site? Sometimes such classifications create a hurdle for agriculture or mining companies in completing projects. Would this bill grant fossil sites the same protections as a historic site?

Ronald M. James, State Historic Preservation Officer, Office of Historic Preservation, Department of Cultural Affairs:

I would have to say yes. The entire point of this bill is to establish that wherever we find an archeological site, it must be considered and handled in a particular fashion, as per the *Nevada Revised Statutes* (NRS). This bill puts a paleontological site on the same level as cultural or historical sites. If the mining companies have to deal with archeological sites in a certain way right now under the NRS, then presumably the paleontological sites would have the same standing.

Assemblyman Goicoechea:

I understand the focus, especially down south, but all of northern Nevada has some fossils. At what point do we cut them off and say, "This is not a paleontological site?" This is my concern. How far-reaching is it? How many fossils do you have to have per acre before you are not considered a paleontological site?

Ronald James:

This would not affect development. It would not have to affect development at all. The bill asks local governments to take paleontology into consideration in

local planning. It does not elevate the status of a site to any sort of regulation. What happens on federal land is up to the federal government. Nothing you could put in this law would affect it one way or another. It would exclude, right up front, a large part of the state and the resources therein. How local government handles paleontological resources is up to the local government. I do not think there is anything restricting local government for planning for paleontology at present. They could have addressed it years ago and also placed some restrictions on development, if that was what they wanted to do. This bill only reminds local governments that they should be considering paleontology in their planning process, which after public deliberation, could very well result in a sentence in the county plan that says, "We took a look at paleontology and it is not relevant." That is the way I understand it. I do not mean to speak for the Assemblyman.

Assemblyman Harry Mortenson, Clark County Assembly District No. 42:

That is the way I understand it, Mr. Chairman.

Assemblyman Goicoechea:

I just want to make sure that the legislative intent is on the record. This bill gives a classification, but it would be completely up to local ordinance as to what is done.

Ronald James:

Yes, that is my understanding. It is also my understanding that the federal government is entertaining issues around paleontology along the lines of the National Historic Preservation Act of 1966. I do not want to be unclear on this point. The federal government could end up increasing the protection of paleontological resources on federal land, but we would not be involved with that.

Assemblyman Goicoechea:

Understood, just so we are not facilitating it.

Assemblyman Mortensen:

President Obama signed the Paleontological Resources Protection Act about three or four days ago.

**Patricia Rogers, Government Relations—Community Outreach Representative,
Truckee Meadows Regional Planning Agency, Reno, Nevada:**

[Read from written testimony ([Exhibit D](#)).]

It appears to me that the issue of private lands has been clarified; that would be left up to local governments to handle that issue. But, in regards to public lands, if section 6 remains in the bill, are we to interpret that projects on public

lands that may impact paleontological resources are to be considered as "projects of regional significance" unless submitted by a local government?

[Continued to read from written testimony ([Exhibit D](#)).]

I want to clarify that this would change the way that "projects of regional significance" work in statute. Currently, only a city or county government brings forward a "project of regional significance." But in this case, it appears what we are asking is that, on public lands such as state parks or areas of that nature where there are paleontological resources identified for protection, those agencies would have to come to us and submit any project that would potentially affect those paleontological resources. Right now, we do not have a working relationship like that with agencies like State Parks. It would be a new process that would have to be put into place and developed. We are happy to do that; I want to ensure that it is understood that we need collaboration and a working relationship with those public agencies that manage public lands.

Assemblyman Segerblom:

Do you not do this now with historical sites?

Patricia Rogers:

Currently, in the way of historical resources, we have never had a state or a governmental agency bring forward a resource that needed to be protected. We do have master plans of local governments that include historic neighborhoods that have been developed. They are in the master plan, but they do not bring them to us as a "project of regional significance." So there is a different review process between reviewing a master plan of a local government, and reviewing a "project of regional significance."

Assemblyman Segerblom:

I thought this bill just added "paleontological" in the places where we find "historic," "cultural," "scenic," et cetera. Why would this have a different planning process?

Patricia Rogers:

It would be a process that we would want to develop to make the legislation work. In order to implement the intent behind this bill, which would be to protect paleontological resources—in this case on public land—we would need to be assured that public lands managers would come forward with projects. The bill states specifically that it would be reviewed as a "project of regional significance." In order to implement the bill and make it work, we would want those public lands managers to come forward with any project that might affect paleontological resources. While they might not be bringing forward

archeological or historic information to us at this time, as staff, we are trying to make the legislation work and do a good job of implementing and protecting what you want us to. However, we would need to develop working relationships with governmental agencies. Last session, our agency got involved with a military bill which said that our agency had to identify military installations in the region and include them in our regional plan. We had to forge new frontiers in developing those relationships with military people and get information that could very well be sensitive.

Once a project is reviewed as a "project of regional significance," if an area is identified as paleontological-sensitive, then it becomes public information. I spoke to the Bureau of Land Management (BLM), and they said that they would not want any maps or identifications brought forward as public information because it jeopardizes that resource.

Assemblyman Segerblom:

But we do not control the federal lands. I think, to the extent that you are doing this for archeological resources, you would have to do it for paleontological resources. I think that planning should involve all the different areas. But, you do not have to do anything different. That is what you are supposed to be doing already.

Assemblyman Bobzien:

We did not hear from anybody with the Department of Conservation and Natural Resources (DCNR) as to different reporting requirements, did we? We heard from Dave Morrow.

Patricia Rogers:

I believe Dave Morrow was here from State Parks, but I do not recall anyone from State Lands.

Assemblyman Goicoechea:

I guess, as I look at section 6 of the bill, I am having a hard time making that connection where it says you would be responsible for public lands. It talks about projects, and it talks about your sphere of influence, but I do not see where it makes that connection to federal or public lands.

Patricia Rogers:

As far as I understood, under section 6, public lands were not exempted. So, we were trying to work this out through staff. Would this just mean private lands come to us as "projects of regional significance" and have to go through that process, or would we need to develop those working relationships with the public lands managers as well and start to find out how they are doing projects?

Their projects would have to come to us as well. We did not see that it took out the public lands portion as going forward as a "project of regional significance."

Assemblyman Goicoechea:

As I look at it, the only thing for which you would be responsible is that for which you are already, presently responsible. This would be within your sphere of influence or zone of authority. I do not see where the bill extends much beyond what you already have. I would have to concur with Mr. Segerblom. If that is the case where you are protecting the site for art, cultural, or historical significance, a few fossils should not make any difference.

Assemblyman Gustavson:

During the hearing, we discussed the fact that they could find no definition of paleontology in the NRS. If we proceed forward with the bill, will we put in a definition for paleontology?

Ronald James:

The federal law, for example, has come out with a definition of paleontology. It is a well-used and normal term in the realm of science. If a local government was having trouble figuring that part of it out, they could either adopt the federal definition or the discipline's definition, or they could insert their own definition into their planning process. This puts a word into an existing procedure that is not very complex that says, "Why do you not think about addressing the fossils as well?" For that matter, the local government can and often does redefine "historic" beyond the state and national register's definition. So, it is up to the local government. They can do what they want. The process works for archeology and historic buildings. This adds one word to a process that works for local governments. It acts as a placeholder and a reminder. Do not run over mammoth bones without thinking twice about it, because we may be able to use that for heritage tourism. It is that simple.

ASSEMBLYMAN OHRENSCHALL MOVED TO DO PASS
ASSEMBLY BILL 289.

ASSEMBLYMAN AIZLEY SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMAN SEGERBLOM WAS
ABSENT FOR THE VOTE.)

Chairman Claborn:

Let us now open Assembly Bill 354.

Assembly Bill 354: Requires the Director of the State Department of Agriculture to appoint a person as a resource management specialist in the Department. (BDR 50-1027)

Jennifer Ruedy, Committee Policy Analyst:

Assembly Bill 354 requires the Director of the State Department of Agriculture (DOA) to appoint a person as a Resource Management Specialist in the Department and sets forth the qualifications and duties of the position ([Exhibit E](#)). No more than one-half of the salary and other costs and expenses for the position may be paid from private sources each year. No amendments were provided; however, the Director of the Department testified in response to a question from the Committee that subsection 3(a) of the bill, which says, "Manage all policy and regulatory matters of the Department which affect the production of agriculture in this State..." may need to be amended slightly to clarify that the position will be limited to managing the regulatory matters of range and water, and not all regulatory matters of the Department. For example, the bill is not intended to authorize the position to manage regulatory matters of the Bureau of Weights and Measures.

Testimony from the Department and the State Board of Agriculture explained that a range management position was eliminated during ongoing budget cuts. That position was an intermediary or liaison between the livestock industry and the state and federal agencies and was recently vacated when the hiring freeze became effective. The State Board of Agriculture unanimously approved a water policy statement at its meeting on December 9, 2008, which, among other provisions, directed the Department to create an agriculture water analyst position, determine how the position is to be funded, and then determine the appropriate manner to secure the position legislatively. Testimony stated that the duties of the position requested in this bill would encompass both range management and water resources.

Assemblyman Goicoechea:

Because of the fiscal impact ([Exhibit F](#)), does it go to the Committee on Ways and Means?

Chairman Claborn:

I would say yes. There is no way we could pass it out of here as it is.

Assemblyman Goicoechea:

I agree. What do we do? Are you looking for a recommendation to send it to Ways and Means?

Chairman Claborn:

I would, but I would like to see if there is any comment from the Committee.

Assemblyman Bobzien:

I still have concerns about this bill. There was mention of a possible amendment, but I have concerns regardless of whether that amendment goes forward or not. It is pretty broad language to say that we are going to have industry funding a position that is responsible for managing all policy and regulatory matters related to that industry. We have targeted examples of those sorts of relationships in state government right now, but I do not think they represent anything that is this broad. Further, if we did trim this back so that the position just managed regulatory matters dealing with water for agricultural purposes, I am very concerned about the conflict that we would be creating concerning the Department of Water Resources. I have heartburn about this bill.

Assemblyman Grady:

I share the same concerns as my colleague from Reno. On page 2, at subsection 4, I think that is way too broad. They "may" share; they "may be" paid, et cetera. We need to tie that down much tighter than "may." I can see the DOA in six months before the Interim Finance Committee (IFC) saying, "We need the rest of the money for the salary." So, I cannot support that part of it at all.

Assemblyman Carpenter:

Unless the Department of Agriculture can fund it from their budget, the other members of this Committee have said that we have a private entity really giving money to a state agency with regulatory power. I do not think it is possible to do that without strings attached. These industries are going to be the ones to go after this person to do certain things that are more important to them. I can see a conflict between the director of the Department of Agriculture and whoever the private party is that would supposedly support this position. I do not suggest that there is no need for this, but if it is going to be a state position, it would have to be someone that is paid for by the state. The private entities could hire whomever they want to lobby on their part. If the money cannot come from the state, I think we are heading down a road with unintended consequences.

Assemblyman Hogan:

Some suggestions that are being made are well-intended, but they raise questions that I think we need to take very seriously. One of the things that has always been very important to me is the integrity and the visibility of what government agencies are doing, whether it is at the federal level or at the state

level. I think when we add complications giving outside entities, however well-intended, an inside position or some authority that would normally be exercised by the state agency accountable to the state government structure, we invite unintended consequences, suspicions, and disgruntled individuals who cannot simply blame the agency whose purpose is to carry out policy. It gets complicated. Someone says, "Well, so and so from this or that interest group is on the inside and is partly paid or is given authority." I think it is a good policy to leave the lines nice and clean, where we know the acting agency can be held responsible for those outcomes. We should not confuse things so that it is hard to determine what lies behind certain decisions. I agree with my colleagues on this. It introduces unwanted long-term possibilities. We want to keep the lines clear and be able to hold responsible those agencies for everything within their authority.

Assemblyman Ohrenschall:

I share a lot of the sentiments expressed by the other Committee members. In addition, subsection 3(a) troubles me. I think the process we have now with the state engineer has a lot of transparency, and I think there could be conflicts if people think they have to go to a resource specialist for water rights. We could be starting a lot of conflicts with this statute.

Assemblyman Goicoechea:

In a perfect world, if we had a lot of money, I would not mind putting this position in place. However, clearly there are some disadvantages. We do not have the money in the state budget to fund it. I am not sure we will be able to get it. There would be clear benefits for both the State Department of Agriculture and the State Engineer's Office, as far as clarification of some of these issues, but we do not have the money to fund it. I am concerned we will not have it.

Chairman Claborn:

We can move to do pass and send it to the Committee on Ways and Means with a recommendation, or we could send it to Ways and Means without recommendation.

Assemblyman Bobzien:

I appreciate the clarification, but I think the policy questions are significant enough that I would like to make a motion to indefinitely postpone A.B. 354.

ASSEMBLYMAN BOBZIEN MADE A MOTION TO INDEFINITELY
POSTPONE ASSEMBLY BILL 354.

ASSEMBLYMAN OHRENSCHALL SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMAN SEGERBLOM WAS ABSENT FOR THE VOTE.)

Chairman Claborn:

We will now address Assembly Bill 362.

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

Jennifer Ruedy, Committee Policy Analyst:

Assembly Bill 362 requires that revenue generated by the additional \$3 fee that is charged and collected for processing an application for a game tag must be used only for costs related to projects approved by the Board of Wildlife Commissioners for the management and control of predatory wildlife for the enhancement of mule deer populations ([Exhibit G](#)).

This is one that had several amendments. The first amendment behind your explanation page is the amendment that was provided by the sponsor at the Committee hearing ([Exhibit H](#)). The second amendment is the second amendment provided by the sponsor today to the Committee ([Exhibit I](#)). The third one was provided by Daryl Capurro at the Committee hearing ([Exhibit J](#)). Tom Smith with the Coalition for Nevada's Wildlife suggested at the hearing that the bill, as proposed in the sponsor's initial amendment, be amended further by replacing the language in subsection 3 of section 1 requiring the approval of the Commission to instead require the Commission to provide guidance and oversight for the programs and activities specified in the bill. He did not provide that amendment in writing, however.

Amendment 2, which the Chair brought forward today, reinstates most of the language of the original bill. The change is on page 2, lines 8-10, and that language would now read "any program developed or wildlife management activity or research conducted pursuant to this section must be approved by the Commission and the Director."

Included is a letter from Kyle Davis opposing the bill ([Exhibit K](#)).

Chairman Claborn:

Are there any questions? I will call a recess.

[Three-minute recess called. The Committee was reconvened.]

Assemblyman Grady:

Looking at your amendment number 2, I guess it is another way of doing the same thing that the bill originally did because if the program has to be approved

by the Commission and the Director, anytime the Commission does not want it, they could say "no," and it would be dead. The Director could not manage that.

Chairman Claborn:

That is not the intent of the bill. The intent of the bill is this: if you have two people who are at an impasse, you have to work it out. As long as you have the same amount of power, impasses will appear. This amendment takes away both sides. There is no input other than the need to compromise.

Assemblyman Grady:

"Any program developed or wildlife management activity or research conducted pursuant to this section must be approved by the Commission and the Director." So then if the Director does not want to approve of what the Commission does, is it dead, or vice versa?

Chairman Claborn:

No, that is not the intent.

Assemblyman Grady:

But that is what it says. It might not be your intent, but that is what it says.

Chairman Claborn:

We are trying to force both sides to compromise. This is my intent.

Assemblyman Grady:

I would agree with your intent if we could work out the language.

Chairman Claborn:

Mr. Stephenson, what are your thoughts on this?

J. Randall Stephenson, Committee Counsel:

The amendment does say, "must be approved by the Commission and the Director." Essentially, you are right. If somebody does not agree, or if they want a program that the Director does not want, somehow they both have to agree on the program. It would force them to the table. But, the amendment as written would require the approval of both. That is the point.

Chairman Claborn:

Right now, I understand that they do have some problems over there. This is one way of forcing a resolution.

When I was first elected in 1998, we had a meeting with the leaders. They sat us down and told us this: "One thing you need to learn when you come up here, you need to learn how to compromise." That is the salient point. If you cannot compromise here, you will not make a very good legislator. You have to compromise. That is all this bill does; it makes the parties compromise.

I believed that all we needed was a Commissioner. I have a lot of emails. Some of the ex-commissioners were asking, "Jerry, why are you doing this bill? They already had the right to do that." So, to compromise with some of the folks sitting here today, we have come up with this language.

Assemblyman Ohrenschall:

Would my colleague from Yerington and the Chairman feel more comfortable with language such as, "Any program developed or wildlife management activity or research conducted pursuant to this Section must be conducted under the guidance of the Commission and the Director," instead of "approval"?

Chairman Claborn:

I do not think that does anything either. Saying "guidance" just gives the Director all the power.

Assemblyman Ohrenschall:

If you said "guidance of the Commission and Director," instead of approval, I think you would not be giving them a veto power, but you would be giving them a lot of power to guide policy.

Chairman Claborn:

That is what I am trying to do here. If we can come up with some kind of language that will appropriate equal amounts of power, it would be desirable. If you think your recommendation does that, then please proceed.

Assemblyman Ohrenschall:

I was thinking of changing it to, "Any program developed or wildlife management activity or research conducted pursuant to this section must be conducted under the guidance of the Commission and the Director."

J. Randall Stephenson:

That is a much different amendment. It would provide the role of the Commission and the Director with providing guidance for the program. It would work. The only strange thing about it is that, would it be the Department's program or the Department's activities? Presumably, the Director would already be guiding that. It is the only strange issue I can find.

Chairman Claborn:

That reverts back to my language.

J. Randall Stephenson:

As to the Commission, it certainly gives them a right to have some input as to how activities are conducted, which is the language that was discussed at the last hearing.

Chairman Claborn:

If there is some way to come to some kind of conclusion, I am willing to work in any way we can to make sure that they have equal input.

Assemblyman Goicoechea:

In regard to Mr. Ohrenschall's language, it would seem to me that it would allow the Commission to bring a program forward as well. I think that is where you were heading.

Chairman Claborn:

That is the intent of the bill. I want to make sure they work together and compromise. It is something we have not had around here for a long time.

J. Randall Stephenson:

Mr. Goicoechea, I think you are right. It does say "any program developed must be under the guidance of the Commission." I guess the Commission would be guiding the development of any program. If a program is being developed, it could be the Commission's own program that they are developing.

Chairman Claborn:

That sounds good to me, if we could come up with appropriate language. I will let Ms. Ruedy develop some language.

Assemblyman Bobzien:

It sounds like we are getting close to amendment number 4 that was proposed by Mr. Tom Smith, where we are saying that instead of requiring the approval of the Commission, we are going to require the Commission to provide guidance and oversight for the programs and activities specified in the bill. Are we not pretty close to that amendment which is already in the document? We are going back and forth between "guidance" and "approval." I am trying to think of other situations where we have an executive branch agency that has an advisory committee that has operational oversight for the activities of the executive branch agency. I am thinking of all the different commissions that we have out there, and I do not think we have any that do this. Do you, Mr. Stephenson, know of any that you can point out?

J. Randall Stephenson:

The provisions are varied. In these sorts of situations there is sort of a lead commission or lead person that makes the final approval, but they have to consider input from another agency or another person. For example, in this situation, you could have a program developed, or an activity or research conducted, that must be approved after consideration of any information provided by the Commission or by the Department. That is a relationship that you could set up, if that answers your question.

Assemblyman Bobzien:

Is that more or less what we would be facing if we went with amendment number 4, where the Commission is providing guidance and oversight for the programs?

J. Randall Stephenson:

It is very similar. The guidance and oversight language is not as common in the *Nevada Revised Statutes* (NRS) as some of this other language, such as the "approval" or the "consideration" language. But, either one works. It is up to the Committee.

Assemblyman Aizley:

Does anybody know the job description for the Director of the Commission?

Chairman Claborn:

It was in your packet last week.

Assemblyman Aizley:

Do you recall if he is specifically given the role of approving these programs?

Chairman Claborn:

The Department does not, that I am aware of. The Commissioner does the approval.

Assemblyman Goicoechea:

Clearly, the Director of the Department is a state employee, whereas the Commission, although they are appointed by the Governor, are a stand-alone commission. That Chairperson is elected by his peers on the committee. But, there is a significant difference between the Director of the Department of Wildlife and the Chairman of the Wildlife Commission. Does that answer your question?

Assemblyman Aizley:

We are trying to find out who has authority here. I am seeing if someone already has the authority to make decisions.

Assemblyman Goicoechea:

They both answer to the Governor, and I guess that leaves it there.

Assemblyman Hogan:

I am thinking back to my own experiences in very large federal agencies, all of which have numerous commissions like the Department of Defense, National Aeronautics and Space Administration (NASA), and the Department of Labor. Typically, the department has full responsibility for carrying out its program. The commission is assembled because there is a need for expert advice in a related field or part of a field that they both share. Sometimes the advisory commissions were very strong, and, their advice was heeded. Their advice was desired and followed quite often. In my experience, it stopped short of actually giving the commissions the authority to make decisions. They could recommend, they could recommend very strongly, and they were often very successful in their recommendations. I have been struggling with the appearance of going beyond that to actually delegate decision authority to an appointed commission. Some of the witnesses expressed similar concerns. I am trying very hard and am having some success at getting comfortable with where we were going with Mr. Ohrenschall's idea. I think we all have a great deal of respect for the members and the combined expertise of the Wildlife Commission, and we would certainly want all of their best recommendations to be considered. Maybe we could go so far as to say that the recommendations must be obtained and considered before the decision is made. That recognizes the importance of getting that input and giving it full consideration. I think there is something in that neighborhood with which we might all be able to live, without compromising the ultimate responsibility of an official state agency. I was glad to hear the suggestion from Mr. Ohrenschall. I think if we could play with it a little bit more, we could come up with something that gives full respect to the Commission and their ideas, without altering the structure of our state government.

Chairman Claborn:

Let us forget amendments 1 through 3, and see if we can utilize Mr. Smith's amendment number 4.

I like the language in amendment number 4, but it does not give any power at all to the Commissioners, other than oversight.

J. Randall Stephenson:

The language in amendment number 4 is very close to what we have already been discussing. Requiring the Commission to provide guidance and oversight, and requiring the Department to consider it, would certainly work.

Chairman Claborn:

What would you have to put in here to make it legal? It says, "as proposed in the sponsor's initial amendment, be amended further by replacing the language in subsection 3 of section 1 requiring the approval of the Commission to instead require the Commission to provide guidance and oversight for the programs and activities specified in the bill." He did not provide us with an amendment in writing.

J. Randall Stephenson:

This is just off the top of my head; it would read, "any program developed or wildlife management activity or research conducted pursuant to this section must be developed or conducted under the guidance and oversight of the Commission." It would probably be left at that. Or, you could leave in language, "and upon approval of the Director," or something like that, if you want to leave the language in about the Director or Department giving final approval.

Chairman Claborn:

Again, we get to the point where the Director has all the power.

Assemblyman Ohrenschall:

Do you think I could try and work with you and Mr. Stephenson and other members? Maybe we could come back at our next meeting and see if we have an amendment on which we can all agree.

Chairman Claborn:

That is a good idea. Let us do that. I will table this bill and see if we can come up with something.

Assemblyman Hogan:

I am wondering, since we have a similar conundrum in the bill we are going to hear today, should we go ahead and hear the bill, or should we apply the solution we work out to both bills?

Chairman Claborn:

That is a good idea, as well. In fact, I think we can do that. Let us table this until the next meeting, which is Wednesday, April 8, 2009. We will continue with our normal session.

I will now open Assembly Bill 426.

Assembly Bill 426: Enacts provisions governing the recycling of certain electronic devices. (BDR 40-466)

Jennifer Ruedy, Committee Policy Analyst:

Assembly Bill 426 requires manufactures of covered electronic devices defined as certain computer monitors, a desktop or portable computer, or certain televisions to register with Nevada's Division of Environmental Protection (NDEP) and pay an annual registration fee ([Exhibit L](#)). This bill prohibits a manufacturer from selling or offering for sale new covered electronic devices unless the device is labeled with a permanently affixed and readily visible brand that is included on NDEP's list of registered manufactures and their brands.

The bill also has multiple requirements for NDEP. Two amendments were provided. One was from the Nevada Manufactures Association, which is also in your packet ([Exhibit M](#)). The fiscal note is also included ([Exhibit N](#)). The second amendment was from the bill sponsor, Ms. Pierce ([Exhibit O](#)).

Assemblywoman Peggy Pierce, Clark County Assembly District No. 3:

This amendment makes it a study, and asks NDEP to take an inventory of programs in surrounding states. That is important because the industry has said for the past 25 years that it did not want a patchwork plan, so we are trying to look at programs that are already implemented in surrounding states. The NDEP will look at these programs and make an assessment, and then come back next session with a recommendation for an electronic waste program.

Chairman Claborn:

That is your wish?

Assemblywoman Pierce:

Yes.

ASSEMBLYMAN CARPENTER MADE A MOTION TO AMEND AND DO PASS ASSEMBLY BILL 426.

ASSEMBLYMAN GOICOECHEA SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMAN SEGERBLOM WAS ABSENT FOR THE VOTE.)

Vice Chairman Hogan:

We will open the hearing on Assembly Bill 516. [Introduced ([Exhibit P](#)), ([Exhibit Q](#)), and ([Exhibit R](#)).]

Assembly Bill 516: Revises provisions governing the use of money in the Wildlife Account. (BDR 45-708)

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

This bill is exactly the same thing, or very similar to A.B. 362. It has the same intent at the end. We are going to try to work on the other bill.

Assemblyman Carpenter:

It is your wish, then, that we take this bill back to Assemblyman Ohrenschall, our bill drafter, yourself, and whoever else wants to be involved with it, to come up with a compromise?

Assemblyman Claborn:

Absolutely. We can set a time, or we can do it right after the meeting. I would like to have more input from everybody so we do not have to endure these rigors again.

Vice Chair Hogan:

We are treating it as a twin, or a companion piece to A.B. 362. We intend to resolve the bills with the exact same language.

Ira Hansen, Private Citizen, Sparks, Nevada:

The intent of the Chairman and the Committee is to try to get out of here without a big debate ([Exhibit S](#)). I felt something was overlooked. Unlike most executive branch agencies, the Department of Wildlife (DOW) is funded almost exclusively through sportsmen's dollars. That is why the Wildlife Commission is not just advisory in nature. If you go to *Nevada Revised Statutes* (NRS) 501.181, the duties and regulations, it is very clear that they have much broader authority traditionally than what most advisory panels would have. Also, the duties of the Director are very specifically spelled out because this is not funded through the State General Fund. There are six sportsman members on that Commission because it is funded by sportsmen. It should not just be advisory in nature.

If you look at the flow chart that I passed out some time ago ([Exhibit T](#)), the traditional delegation of authority clearly shows the Director falls below the Wildlife Commission. In 1993 or 1995, when Governor Miller reorganized government, he took the Department of Wildlife and put it into the Department of Natural Resources. He had a split of authority between the Director and the

Chairman of the Commission. That has never been properly addressed since, so that is why there is a state of limbo where nobody is sure who is actually in charge. If you go back to the original bills and the original job of the Commission, they have the authority that this Committee is now talking about. As Assemblyman Carpenter pointed out, most of these things that we are trying to address in legislation are, in fact, already in legislation. They have not been used by this Commission, and through atrophy, they have been lost. That power already exists.

It is clear that the Chairman's intent is to reestablish this so that there is more input; not just the Director and his own agency making these decisions, but a much broader consensus of people as represented by the State Wildlife Commission. The idea that you are trying to work out a reasonable compromise should be considered fully compatible with all of you if you are trying to involve the people who help pay for these agencies. I do not mean to speak for the Chairman, but I believe that is the intent of this bill. It is not trying to get one group having exclusive power; it is simply to reestablish what already exists in law.

Assemblyman Ohrenschall:

Do you believe that, pursuant to NRS Chapter 501, the Commission already has veto power if they disagree with certain policy that the Division is implementing?

Ira Hansen:

As I understood it, yes. When I first got involved in the Department of Wildlife in 1983, the Commission was basically omnipotent. What they said, the Director did. When Governor Miller reorganized that, he changed it from a Department that was somewhat independent into a Division. Then it was made a Department again in the last ten years or so. That clear line of authority has been blurred. If you go back and read what the original policy was, and where the power was located, it was clear that they had those powers. Over a period of time, the Commission has lost its own authority by failing to exercise it. When the Governor put the Director of the Department of Natural Resources into the mix while the Director was trying to answer to the Chairman of the Commission, it created a division of authority that has never been clarified. That is something that could be done in your subcommittee.

Vice Chair Hogan:

Before we go too far, let us establish a subcommittee. I would propose Mr. Ohrenschall as the Chairman of the subcommittee and would like to request an expression of interest from other members who would like to help work out this landmark settlement.

Jennifer Ruedy, Committee Policy Analyst:

This is the subcommittee for A.B. 516 and A.B. 362? For both of those bills?

Vice Chair Hogan:

Yes.

J. Randall Stephenson, Committee Counsel:

We need to make it clear that we are only forming a working group. We do not want a formal subcommittee requiring a hearing, an agenda, and so forth. I think that is what the Committee is considering.

Vice Chair Hogan:

Assemblyman Claborn and Assemblyman Goicoechea have agreed to work with Assemblyman Ohrenschall to form a working group that will convene immediately after this Committee meeting.

Let us resume with the testimony. Is there anyone else who wishes to speak in favor of A.B. 516? Is there anyone prepared to testify against A.B. 516?

Kyle Davis, representing the Nevada Conservation League, Las Vegas, Nevada:

I think the Committee is close to working towards a compromise. I support the subcommittee. It sounds like the language is heading towards something on which we can agree ([Exhibit U](#)).

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

The bill has changed quite a bit; however, I feel compelled to read this. [Read from written testimony ([Exhibit V](#)).]

Obviously, we wanted to get the message out on that element. We could not ignore habitat in a state as diverse as Nevada. We are moving towards another issue, so I would offer a suggestion, as an individual, on how to resolve, at least in the short term, the issues of communication, cooperation, and the working relationship between the Commission and the Director. I will email this to you, if it seems reasonable. The sentence I would add is this: "The Director shall consult with and give due consideration to the recommendations of the Commission with respect to any program developed or wildlife management activity or research conducted pursuant to this section."

I think there is a need to send a message: "Guys, get your act together and work together." I am not positive that these bills are the mechanism that should reconstruct the hierarchy. If the Committee needs to address that, then let us address that as a separate issue. However, I think there is a way to

resolve the frustrations expressed in a way that is not going to create opposition. We can move forward on this whole agenda.

Chairman Claborn:

You are absolutely right. What has transpired here is no dialogue. If you have no dialogue, you have no compromise. That is where we have been. I have been here since 1998 fighting these things because we are not working together. I have advocated for the need to work together since my first day here, but some people out there have fought me. We need to make peace, and something like this might get it started. There will be three more Commissioners in July. Maybe we will have more war. But, it is time we end some of this and give the hunters and fishermen what they really want and deserve.

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

I appreciate what Assemblyman Claborn just said. I think one thing that would be very important is that the will of the sportsman is heard, and the voice of that majority is heard. If there is some type of language that could be inserted to compel the Commission to listen to the County Advisory Boards, that would guarantee that the will of the sportsman will be heard. It will be the sportsmen, then, that make these decisions, and not only nine Commissioners and one Director. I oppose the present form of A.B. 516.

Assemblyman Claborn:

That was very well spoken, but I do not know how to do that. That is why those advisory board people were put on the board years ago. They are not getting support because of the bickering. They need to do something and work together. They will have to work out their issues when the Wildlife Commissioners get together. I think they ought to be heard as well. That is why the boards were assembled. I have received a few emails from some of those Boards in regard to some of these bills that they wanted to sponsor, and they were all different. Humboldt wanted some of these bills, but Winnemucca did not.

Mel Belding:

I, too, read the notes from those County Advisory Boards. There was unanimous opposition to A.B. 241, A.B. 362, and A.B. 516. There were some reservations on other bills that you could point to. I would also note that, for the past four years, I have been very active with the county game boards, not only in Washoe County, but across the state. The attendance that I see, especially in the "cow counties," because of the activity of this legislative session, is very high.

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

We wanted to point out that the Wildlife Commission had a special meeting today on legislative issues. They voted to oppose A.B. 516, A.B. 362, and A.B. 241, as amended. That was on the basis of unanimous opposition from game boards. Assembly Bill 516 came to the County Commission in February as part of a change in policy from their policy subcommittee. At that time, every county game board in the state and everyone in attendance opposed that concept. But, miraculously, that same wording shows up 30 days later in this Natural Resources Committee, despite statewide opposition.

I have been involved in the Legislature since 1989 on wildlife issues, and I think I have testified on every bill that impacts wildlife in this state. Yes, we have opposed what we have felt was bad legislation. We have supported what we felt was advantageous to Nevada's sportsmen and to our wildlife resources. One of the things that really bothers us about this legislation, as I have said before in past sessions, is when a small group of individuals have a minority position and cannot advance that position through the democratic system we have, and then our county game boards and our wildlife commissions circumvent that system and take it directly to the Legislature. At that point, we have no choice but to try to defeat those proposals that are universally opposed by sportsmen statewide.

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

This was brought up at all the county game boards. Assembly Bill 516 was flatly rejected by all of the county game boards with written statements to the State Commission. At the state hearing, there were ten or fifteen people who stood up and were 100 percent against A.B. 516. The sportsmen and women of the state have used every form of communication available to them to reject this idea. In an effort to move forward with Mr. Claborn's request for continuity and cooperation, if a majority of the game boards support it, then the Commission must support it as well. If we do not have that in there, then we are not moving forward. One-hundred percent of the county game boards and their public indicated they strongly rejected this; nevertheless, the Wildlife Commission supported it and sent it back to Committee.

I think we need to have a stipulation in there if we are going to work together and move this forward. If the voices of the people and the county game boards say, "We want this," or, "We do not want this," the Wildlife Commission must follow and move forward, with the Director, in that direction. Right now, we have a disconnection, and that is a concern.

My initial concern that I had with the two bills is how you will adjust the balance of power. The Committee does not want to give the Governor more power. The Governor does not want to give the Committee any more power. In the past, we have had Directors who were uncooperative. We have had Commissions that were lackluster. Right now, that is not the case, but who is currently on the Commission? Right now, it works. That is why we do not need this bill. But, if we are going to move another step forward and start getting things done, I think we must say, "Hey, follow the county game boards." That is a positive step. We can move past what we are doing right now. However, to continue with this bill as presently worded affects the balance of power and changes everything.

Assemblyman Claborn:

It is like anything: we have to take baby steps with this reorganization, and I do not know if it is possible. I do not know if we have enough time to do that. We can see that they have a problem out there. If we can straighten out this problem, then we can go to the other problems in due time. You are right. This thing has to be revamped for the hunters, fishermen, and the people, so they get their money's worth. I will take your thoughts into consideration, but the possibilities you have articulated were not the intent of the bill.

Assemblyman Aizley:

Are there 17 county game boards, and are they elected? How big are they?

Mel Belding:

Yes there are, and they are appointed by the County Commissioners. There are five board members on each county board.

Larry Johnson:

Not all of the county boards are active, but the system is set up to where every county has appointed an advisory board.

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

I gave you some information in regards to a question asked by Assemblyman Carpenter last week about the duties of the Wildlife Commission ([Exhibit W](#)), ([Exhibit X](#)), ([Exhibit Y](#)). Where it says, "Guide the Department in its administration and enforcement of the provisions of this title...", I took some of the wording and added "oversight." I made that a little bit stronger by putting in "oversight," because that is a stronger word than "guide". One of the reasons why I have a problem with A.B. 516 and A.B. 362 is the fact that the Commission is only allowed to meet nine times a year. I am afraid that there are projects, programs, and other things in the state that may suffer. After all, they have already met four times this year. There are only five more meetings

for the rest of this year, and I am afraid that, if they had to have equal say in every program, there are needed programs that are not going to be enforced. I have a serious problem with the fact that, after all, the Department head is there every single day, and the Commission only meets nine times a year. That is going to leave us some big gaps.

Our natural resources in the State of Nevada are important things. We need to be able to protect them on a day-to-day basis, and not just a few times a year. The Commission met this morning through a telephone conference. The overwhelming opposition to A.B. 362, A.B. 241, and A.B. 516 should have been voiced today, here in this Committee, by a Commissioner. I cannot understand why they would not be here today to speak for the sportsmen. After all, many of us who are not appointed by the state are here. I would certainly think they should have been here to tell you what the sportsmen thought.

I also took the time to look at A.B. 516. I attended legislative meetings. There were 79 against, and none in support of A.B. 516. On A.B. 241, there were 93 against and 3 in support. They concern the Wildlife Commission, and I am surprised that they are not here to offer input.

Assemblyman Bobzien:

Under Rule 23, I want to make a disclosure that I serve as a volunteer director on the same board with Mr. Smith; however, I do not believe that it materially impacts my decision on this bill, so I will be participating in all discussions.

Assemblyman Claborn:

The Wildlife Commission does only meet so often, but I can guarantee you, if you talk to any of the Wildlife Commissioners, the Chairman of the Wildlife Commission and the Director are in constant contact via cell phone, telephone, or whatever. They do confer. So, you are talking about the special meetings or whatever, but all of these things are handled prior to their meetings. The Commission sets up the agenda long before they have a meeting. They do this by talking on the phone and seeing each other. Yes, it is probably difficult for the other Commissioners who live in Las Vegas, but not for the Wildlife Commission Chairman. He and the Director meet all the time. Now, they are not working together. I know why this thing does not work. After almost ten years of this, they do not want the Legislature involved. The Commissioners have been here at these Committee meetings and tell me, "You legislators should not even be hearing these bills because you do not know anything about wildlife." Some of them are sitting out there right now who have told us that. We have some people sitting up here who have heard that.

Tom Smith:

I would have to disagree with the people who said that. After all, you are our elected representatives, and we elected you for a reason: to help us. As we are the voters, and you are our representatives, we would hope that you would take that into account. When you review most of the testimony, you will note almost all of the comments are against these bills. Therefore, you must represent us fairly and realize that most of the sportsmen in this state—at least the ones that are willing to stand up and talk—are against this.

Assemblyman Claborn:

As elected representatives, we are trying to help the sportsmen out there. If this Legislature were in Las Vegas, you would see this room packed with disappointed Las Vegas people. They cannot come up here and testify because they know this thing has been going this way for a long time. I have been trying to change this to let the people have some input in addition to the Advisory Board. I have been to those meetings. There are a lot of people who are trying to change something, and the Commissioners will not listen to you, just as they will not listen to you now. The people need input to more than just the Advisory Board. They will not listen to the public, and that is not right. As was testified, there was no public input, but all of the Advisory Boards voted to oppose A.B. 516. Who do they represent? This is not fair. We need to listen to everyone in this state.

Judi Caron, Private Citizen, Reno, Nevada:

I am neutral. Being a mother and a businesswoman, it is very hard for me to come testify on bills. I have been a 4-H director, a Girl Scout director, and I have been involved in wildlife issues.

There has been testimony expressing the need for the public to be able to communicate with our elected officials. One tool I use when I cannot come—and this is my first time to testify—is the Internet. The Legislature provides a website for each legislator who has an opinion poll page that asks for our opinions. There is also a page that tracks the top 50 bills. I do not know if any of you look at that. I most certainly do. There are 3 wildlife bills out of the top 50 that are being tracked by sportsmen, conservationists, and the general public. Some of those bills have never been released. The public is asking for those to be heard.

I just want to make a point. When the Committee states that it wants to hear from the public, and people from Las Vegas cannot come up here, use the tools that you have given us to communicate with you. Thank you.

Vice Chair Hogan:

Is there anybody else who wishes to testify? Seeing none, I will close the hearing on A.B. 516. This meeting is now adjourned.

[The meeting was adjourned at 3:21 a.m.]

RESPECTFULLY SUBMITTED:

Judith Coolbaugh
Committee Secretary

Robert Gonzalez
Transcribing Secretary

APPROVED BY:

Assemblyman Jerry D. Claborn, Chair

DATE: _____

EXHIBITS

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

Date: April 6, 2009

Time of Meeting: 1:38 p.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
<u>A.B. 289</u>	C	Jennifer Ruedy, Committee Policy Analyst	Work session document: <u>A.B. 289</u> .
<u>A.B. 289</u>	D	Patricia Rogers, Truckee Meadows Regional Planning Agency	Written testimony regarding <u>A.B. 289</u> .
<u>A.B. 354</u>	E	Jennifer Ruedy, Committee Policy Analyst	Work session document: <u>A.B. 354</u> .
<u>A.B. 354</u>	F	Jennifer Ruedy, Committee Policy Analyst	Fiscal note for <u>A.B. 354</u> .
<u>A.B. 362</u>	G	Jennifer Ruedy, Committee Policy Analyst	Work session document: <u>A.B. 362</u> . Mock-up.
<u>A.B. 362</u>	H	Assemblyman Jerry D. Claborn	Proposed amendment mock-up for <u>A.B. 362</u> .
<u>A.B. 362</u>	I	Assemblyman Jerry D. Claborn	Proposed amendment mock-up for <u>A.B. 362</u> .
<u>A.B. 362</u>	J	Daryl Capurro	Proposed amendment for <u>A.B. 362</u> .
<u>A.B. 362</u>	K	Kyle Davis, Nevada Conservation League	Written testimony regarding <u>A.B. 362</u> .
<u>A.B. 426</u>	L	Jennifer Ruedy, Committee Policy Analyst	Work session document: <u>A.B. 426</u> .
<u>A.B. 426</u>	M	Ray Bacon, Nevada Manufacturers Association	Written testimony and proposed amendment regarding <u>A.B. 426</u> .
<u>A.B. 426</u>	N	Jennifer Ruedy, Committee Policy Analyst	Fiscal note for <u>A.B. 426</u> .
<u>A.B. 426</u>	O	Assemblywoman Peggy Pierce	Proposed amendment mock-up for <u>A.B. 426</u> .
<u>A.B. 516</u>	P	Assemblyman Jerry D. Claborn	Proposed amendment mock-up for <u>A.B. 516</u> .
<u>A.B. 516</u>	Q	Paul V. Townsend, Legislative Auditor	Letter in regards to restrictions on funds.
<u>A.B. 516</u>	R	Lynne Foster, Nevada Department of Wildlife	News excerpt from the Nevada Department of Wildlife

<u>A.B. 516</u>	S	Ira Hansen, Private Citizen	Written outline of testimony regarding <u>A.B. 516</u> .
<u>A.B. 516</u>	T	Ira Hansen, Private Citizen	Flow chart of State and Gaming Commissions.
<u>A.B. 516</u>	U	Kyle Davis, Nevada Conservation League	Written testimony regarding <u>A.B. 516</u> .
<u>A.B. 516</u>	V	Willis Lamm, Private Citizen	Email of transcribed minutes of the Lyon County Advisory Board to Manage Wildlife on March 25, 2009.
<u>A.B. 516</u>	W	Tom Smith, Coalition for Nevada's Wildlife	Copy of NRS Chapter 501.
<u>A.B. 516</u>	X	John Tull, Nevada Wilderness Project	Written testimony in regard to <u>A.B. 516</u> .
<u>A.B. 516</u>	Y	Daryl Capurro	Amendment to <u>A.B. 516</u> .