

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

**Seventy-Sixth Session  
March 24, 2011**

The Committee on Natural Resources, Agriculture, and Mining was called to order by Chair Maggie Carlton at 1:35 p.m. on Thursday, March 24, 2011, in Room 3161 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4406 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, 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/76th2011/committees/](http://www.leg.state.nv.us/76th2011/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](mailto:publications@lcb.state.nv.us); telephone: 775-684-6835).

**COMMITTEE MEMBERS PRESENT:**

Assemblywoman Maggie Carlton, Chair  
Assemblyman Joseph M. Hogan, Vice Chair  
Assemblyman Paul Aizley  
Assemblyman Elliot T. Anderson  
Assemblyman David P. Bobzien  
Assemblywoman Irene Bustamante Adams  
Assemblyman John Ellison  
Assemblyman Ed A. Goedhart  
Assemblyman Ira Hansen  
Assemblyman Kelly Kite  
Assemblyman Pete Livermore  
Assemblywoman Peggy Pierce

**COMMITTEE MEMBERS ABSENT:**

Assemblyman Harvey J. Munford (excused)

**GUEST LEGISLATORS PRESENT:**

Assemblywoman Debbie Smith, Washoe County Assembly District  
No. 30

**STAFF MEMBERS PRESENT:**

Amelie Welden, Committee Policy Analyst  
Randy Stephenson, Committee Counsel  
Judith Coolbaugh, Committee Secretary  
Sherwood Howard, Committee Assistant

**OTHERS PRESENT:**

Dale Erquiaga, Senior Advisor, Office of the Governor  
Kyle Davis, representing the Nevada Conservation League  
Larry Johnson, representing the Coalition for Nevada's Wildlife, Inc.  
Tina Nappe, representing the Toiyabe Chapter, Sierra Club  
Willis Lamm, representing the Lyon County Advisory Board to Manage  
Wildlife  
Richard L. Haskins II, Deputy Director, Department of Wildlife  
Maureen Hullinger, Program Officer III, License Office Supervisor,  
Administrative Services Bureau, Department of Wildlife  
Don Alt, Private Citizen, Silver Springs, Nevada  
Daryl Capurro, Private Citizen, Reno, Nevada; and Chair, Legislative  
Committee, Board of Wildlife Commissioners, Department of  
Wildlife  
Gerald A. Lent, O.D., Private Citizen, Reno, Nevada  
Mike Laughlin, Private Citizen, Fallon, Nevada

**Chair Carlton:**

[There was no roll call.] We have a bill draft request (BDR) for  
Committee introduction.

**BDR 51-689**—Requires a supplier of motor vehicle fuel to provide certain  
warnings relating to the presence or possible presence of manganese in  
any motor vehicle fuel sold or distributed by the supplier.  
(Later introduced as [Assembly Bill 453](#).)

I will accept a motion.

ASSEMBLYWOMAN PIERCE MOVED TO INTRODUCE BDR 51-689.

ASSEMBLYMAN BOBZIEN SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMEN AIZLEY, BUSTAMANTE ADAMS, AND MUNFORD WERE ABSENT FOR THE VOTE.)

I am opening the hearing on Assembly Bill 322.

**Assembly Bill 322**: Revises provisions relating to wildlife. (BDR 45-150)

We have just one bill on our agenda today, and Assemblywoman Smith will present it.

**Assemblywoman Debbie Smith, Washoe County Assembly District No. 30:**

I would like to go through the sections of the bill. I believe there will be a lot of discussion and testimony about the bill, but the provisions in the bill are straightforward. In section 1, the requirements for the conservation member appointment to the Board of Wildlife Commissioners [referred to in the bill and in these minutes as the "Commission"] would be changed to say that the person "possesses experience and expertise in advocating issues relating to conservation." This change would align this position's requirements for serving on the Commission with the corresponding position on the State Environmental Commission. The justification for this position language change is the member is there to promote conservation ideas. Therefore, we want to ensure that the appointment is given to someone who possesses experience and has a record on advocating for conservation issues.

In section 2, the appointment process for the Director of the Department of Wildlife (DOW) is changed. The Commission can still make recommendations to the Governor just as they currently do. However, the Governor may choose someone from their list, or he can select another person of his own choice to fill the appointment.

I need to preface both section 1 and section 2 by saying this is not a personal situation. The change will bring the DOW into alignment with other state appointment procedures. The Governor should have the authority to appoint a cabinet member who is his employee and answers to him. The Commissioners, through their interaction with others, can still make recommendations, and the Governor can give those choices full consideration. A couple of other bills, which will be heard during this session for other appointments, are also requesting uniformity in the appointment process. The Governor needs the authority to select his own cabinet members who answer directly to him.

This bill also addresses the "Dream Tags." Last session, the Dream Tag lottery was established. The bill was adopted and put into statute, but it was enabling legislation. Nothing was done to move the Dream Tag program forward. We need to have the program implemented and operational. This bill moves the direct authority for establishing the program from the Commission to the DOW.

You have heard ample discussion about vulnerable habitats in this state. The sage grouse habitat is an example. Also, the destruction of habitat is one of the reasons the mule deer and other wildlife populations are also in jeopardy. The proceeds from the Dream Tag are targeted for habitat restoration. Getting this program going will allow more hunting in the state, and it will raise funds for habitat restoration, which we desperately need. Fortunately, the last couple of years, we have not had any serious wildfires. However, in previous years, thousands of acres of rangeland have been destroyed by wildfires. The funds generated by this program will help repair that damage. I will be happy to answer any questions. A representative from the Office of the Governor is here to register support for this bill, and some other people are also here to testify in support.

**Chair Carlton:**

Would you like everyone to testify first and then take questions?

**Assemblywoman Smith:**

I think that would be helpful.

**Chair Carlton:**

We will hear from the Governor's Office first.

**Dale Erquiaga, Senior Advisor, Office of the Governor:**

I am going to speak specifically to sections 1 and 2 of the bill as they deal with the authority of the Governor. The DOW will speak about section 3, which is the Dream Tag program. The Governor does support these provisions. Making cabinet appointments for his administration should be a matter of executive privilege and authority. One of the challenges, for any Governor, is cabinet appointments. If the Governor has little control over which individuals will be nominated, the appointment can become a difficult administrative challenge. There are 22 cabinet departments today, and the Governor's Office needs some standard of control. Currently, we have a hodgepodge of statutes defining the appointment process for a multitude of boards and commissions. Section 2 of this bill clarifies the gubernatorial authority for making cabinet appointments.

Section 1 provides clarifying language. Currently, the Governor appoints individuals to 183 different boards and commissions. The more clarity you can

give the appointment process the more this Governor's job—and future Governors' jobs—will be made easier. The guidance in the appointment selection process contained in this bill is needed. This language is used elsewhere in statutes, and it will be helpful to have a consistent standard for appointments. Standardizing the process will make this Commission and the Governor open to less criticism as individuals go through the appointment process. We support this bill.

**Kyle Davis, representing the Nevada Conservation League:**

We have a coalition of 17 environmental groups throughout the state, and we consider this bill to have high priority. The language which defines the conservation position on the Commission is very important to us. I was part of the efforts in the 74th Session to place a conservationist on the State Environmental Commission. We felt the language used worked well then, and the individual appointed to that position is well qualified. We support making the language for the Commission's position the same as the language used on the State Environmental Commission. Then we will have consistency and be assured that the person appointed will be an advocate for conservation issues.

The Dream Tag bill was passed in the 75th Session. This Committee is aware of the issues we face when it comes to wildlife habitat. There are a number of species that we are working on to keep from them being listed as endangered species. We need to work to improve their habitats. The Dream Tag program will provide the financial resources to continue to improve endangered species habitats throughout the state. We support getting the Dream Tag program into operation. We need to get those dollars on-the-ground. I would be happy to answer any questions.

**Chair Carlton:**

We will hear all the testimony first before we take questions. Mr. Ellison, did you have a particular question for Mr. Davis?

**Assemblyman Ellison:**

I wanted to ask the last two speakers about the bill.

**Chair Carlton:**

We will hear from all the testifiers first, and then we will take questions.

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

We are in support of this bill, and we support the conservation community in their efforts to clarify the qualifications and definition of the conservation representative's position on the Commission. We support the Governor's Office

in requesting clarification on the appointment process, and we support moving forward with the implementation of the Dream Tag program. The DOW is in need of additional funds for all kinds of projects and, in particular, ones that relate to habitat improvements. As you are aware, the DOW is a sportsmen user-funded department. In Nevada, partnerships of public and private interests work together on conservation projects. We now have more bighorn sheep in this state than in any other, with the exception of Alaska. They have been brought back from the brink of extinction. Also, we have more pronghorn antelope and elk than at any other time in our history. We have sage grouse and mule deer, which are sagebrush-obligate species, on a population decline. We have an important need for habitat projects and habitat funding. Very few State General Fund monies go to the DOW, so we are always looking for additional programs to raise money. I would like the people in the audience to raise their hands if they are in support of this bill.

**Chair Carlton:**

Could the audience raise their hands again, so I can get a count? [The bill supporters in the audience raised their hands.]

**Tina Nappe, representing the Toiyabe Chapter, Sierra Club:**

We are in support of this bill. "As the first incumbent appointed to that position in 1979 and serving on it until 1994, I was and still am active in the Sierra Club and other conservation organizations. The Toiyabe Chapter appreciates the Assembly Natural Resources, Agriculture and Mining Committee's continued interest and support for this position; This Committee deliberated on the 1979 legislation before endorsing it." [Ms. Nappe continued to read from prepared testimony ([Exhibit C](#)).]

**Willis Lamm, representing the Lyon County Advisory Board to Manage Wildlife:**

We are in support of this bill. As a disclaimer, our advisory board has not specifically addressed this issue. However, in the last year, we have met and discussed with our citizenry most of the issues covered in this bill. For the record, the conclusions we came to correlate very closely with the language of this bill, and we thank the Committee for their consideration and support.

**Assemblywoman Smith:**

The DOW will discuss the implementation of the Dream Tag program. Our first speaker is Mr. Haskins.

**Richard L. Haskins II, Deputy Director, Department of Wildlife:**

We are here to answer any questions you may have. Maureen Hullinger is also here. She is the head of our license office.

**Assemblywoman Smith:**

I would like to ask the Department to address their ability to implement this program.

**Maureen Hullinger, Program Officer III, License Office Supervisor, Administrative Services Bureau, Department of Wildlife:**

From reading the bill, I understand there is a nonprofit organization that will collect funds by selling raffle tickets for the opportunity to participate in a Dream Tag drawing. The Department is in charge of allocating tags, so we would be working closely with the nonprofit organization to get the tags to the successful raffle holder. Anyone can participate; they do not have to be a hunter. We will have to develop language to use as a framework for administration of the program. We do have a private contractor that currently administers our tag draws, and they have indicated they would be willing to run this raffle. The program is very workable, and in addition to developing a framework for administration, we will have to establish guidelines for participation and eligibility requirements for the Dream Tags. It is very doable.

**Chair Carlton:**

We will now open the hearing for questions from the Committee. Mr. Hansen, did you leave this document on each member's desk? [The document is an information-only reference; it is not an exhibit.]

**Assemblyman Hansen:**

Yes, I did. It is the definition of conservation.

**Chair Carlton:**

We do have the definition here, and I would be happy to share it with you. We do not use *Ballentine's Law Dictionary* where this excerpt was taken. This Legislature uses *Black's Law Dictionary*.

**Assemblyman Ellison:**

Is there another bill asking for another 50 tags to be sold for \$500 a tag? [Mr. Ellison is referring to Assembly Bill 347 which this Committee has not agendized.] There are 50 tags on this bill. We are talking about a total of 100 tags, and there are another 20 tags designated for out-of-state sportsmen. Also, there is no sunset clause on either of these bills. That concerns me because we are up to 120 tags. With the mule deer population uncertain, I would like a sunset clause.

Under section 2, subsection 2, the new language says: "When appointing the Director, the Governor may consider any person nominated by the Commission." Can you elaborate on why the words "may consider" are used?

It does not say the Governor has to consider the Commission's recommendations.

**Assemblywoman Smith:**

To respond to your first question, the Dream Tag legislation was already passed and is in law. This bill will designate which agency will do the program's implementation, whether it will be through the auspices of the DOW or by regulations set by the Commission. Mr. Haskins will respond to your concern about the number of tags being issued. This bill is not in competition with the other piece of legislation because the Dream Tag program is already a law.

To answer your other question, this bill clarifies that the Governor may consider the recommendations of the Commission, but he may appoint someone who is not on that list. Currently, the Governor has to appoint a person who is on the Commission's recommended list.

**Assemblyman Ellison:**

I did not read it that way. The Governor always has the discretion to hire his choice. Is the same language used for every appointment to the Governor's 22 cabinet positions?

**Assemblywoman Smith:**

Many of the cabinet members are direct hires to serve as department heads. There are a couple of positions that are connected to a board or commission, as in the case here. There are a variety of situations, but I think the Governor should have all of his cabinet members hired directly by him. Then, the appointee would be directly accountable to the Governor.

**Richard L. Haskins II, Deputy Director, Department of Wildlife:**

Fifty tags are not involved in the Dream Tag program. Tag allocation is based on species for which we have 50 or more tags available. In this case, four tags would be available. They are for mule deer, Rocky Mountain elk, bighorn sheep, and antelope—one for each species.

**Assemblyman Ellison:**

In section 3, subsection 1, paragraph (b), it says: "For the issuance of one Dream Tag for each species of big game for which 50 or more tags . . . ." Your answer clarified that there are only 4 tags available. Have you read the other bill on the 50 in-state tags and 20 out-of-state ones?



**Richard Haskins:**

I believe that figure is 500 tags. We have not evaluated that bill at this point. [Mr. Haskins is referring to Assembly Bill 347 which this Committee has not agendized.]

**Chair Carlton:**

I believe that bill has been referred to this Committee.

**Assemblyman Hansen:**

For the record, the Dream Tag bill in the last session was defeated by this Committee. It was later added as an amendment to a bill that was heard by the Assembly Committee on Ways and Means. Mr. Hogan is the only legislator here who was a member of both this Committee and the Ways and Means Committee during the 75th Session.

Using the new conservation appointment definition, who could qualify for the position? I am a conservationist and by any reasonable definition all the members of the Commission, including the current holder of the position, qualify as conservationists. I get the impression, in spite of previous testimony to the contrary, that this bill's intent is to remove the individual who is currently serving in that position. It is being done by cleverly restructuring the definition of a conservationist. Who is qualified to fill this position? Would the ultimate conservationist, Theodore Roosevelt, be qualified to fill this position? He was a hunter, a fisherman, and very active in the consumptive use of wildlife. The letters I have received suggest this position will be filled by people who are nonconsumptive users of wildlife. Can someone clarify who would qualify and who would not?

**Assemblywoman Smith:**

I do not think it would be in the purview of anyone here to say that some individual would or would not qualify for the position. This language gives more clarification to the Governor in making appointments for the conservationist representative to the Commission. This bill's language is in alignment with the appointment language used for a similar position on a similar type of commission. If you submit a résumé and application for appointment to a position, the Governor will have some criteria if this bill is approved that is laid out in statute so that he can make the selection from information provided by those applicants.

**Assemblyman Hansen:**

Are you suggesting that the current position is filled by someone who is not qualified?

**Chair Carlton:**

I do not think it is appropriate to answer that question. We do not discuss personal issues; we discuss policy issues.

**Assemblyman Anderson:**

I have a question for Mr. Davis. You were referring to the State Environmental Commission, and I would like to know the qualifications for the conservation position on that Commission.

**Kyle Davis:**

The legislation for the State Environmental Commission was passed in the 74th Session. It uses exactly the same language as in the bill before you today, or do you mean the qualifications of the person who currently holds that position?

**Assemblyman Anderson:**

Not necessarily. I wanted to know what the general qualifications are to qualify for the position. I do not want any personal information.

**Kyle Davis:**

The best answer is the qualifications will be the same as the comparable position on the State Environmental Commission. The bill's language gives the Governor direction on the type of person who would be asked to fill the position. Ultimately, the appointment is at the discretion of the Governor.

**Assemblyman Livermore:**

The qualifications for this position should include a person who has held a hunting and/or fishing license within the last five to ten years. It should be a person who is familiar with wildlife regulations. The Commissioner adjudicates and rules on hunting and fishing regulation issues. These qualifications would go a long way toward balancing this position as a conservationist. Can you comment on the qualifications I have put forth?

**Assemblywoman Smith:**

The current position does not require those qualifications. Those requirements are in other positions. The intention for creating this position was clearly to have a conservationist on the Commission, and that original intent does not change with this legislation. We have had testimony from both sportsmen and conservationists, and their work can fit together very nicely. I agree with Mr. Hansen that most, if not all, people who hunt and fish are conservationists. However, there is a special place on the Commission which should be filled by a person who has a background as a conservationist and who has advocated on conservation issues. It does not change the current requirement about

holding a hunting or fishing license. This bill provides more clarification about the description of a conservationist and aligns it with the similar position on the State Environmental Commission.

**Assemblyman Livermore:**

How do you know when regulations are being developed if they are correct if you have not had some experiences with hunting, trapping, and fishing?

**Assemblywoman Smith:**

I consider myself to be a sportsperson. I enjoy the outdoors and have hunted with my husband. I believe the two entities fit together very nicely, and a conservationist can relate to and understand the world the sportsmen community operates within. Keeping them working together is best for the habitat, environment, wildlife, and the state. We have groups that go out and build guzzlers and mechanisms to feed wildlife. I personally fit into both of those worlds, and I have a long involvement with both.

**Assemblyman Bobzien:**

This discussion is similar to the one we had in this Committee four years ago when we considered the language to establish the State Environmental Commission. Former legislator, Mr. John Carpenter, asked me if a cowboy could be a conservationist. I thought about the progressive range management used by cattlemen in this state, and they are concerned about range conservation and science. I told Mr. Carpenter, "Absolutely." The real issue here is experience. The Governor, when deciding who will fill this appointment, would have to evaluate résumés and experience. In my opinion, experience is the key qualification.

**Assemblyman Goedhart:**

I am looking at changes in section 2 of the bill. The previous procedure was for the Commission to pick three or four nominees, and the Governor had to choose from that applicant pool. The new language says "may consider." Does that mean the Governor's choice for an individual to fill the position is not limited to those people who were nominated by the Commission? Am I reading that correctly?

**Assemblywoman Smith:**

Yes, that is correct. The Commission can still make nominations, but the Governor may choose from that list or choose another applicant not on that list.

**Chair Carlton:**

We have the bill's supporters on the record, so we will now hear from the opposition.

**Don Alt, Private Citizen, Silver Springs, Nevada:**

I am a rancher and have had a good relationship with the current Commission. We feel the government is best when it is closest to the people. The Commission will not function for the purpose it was designed to do if you have extremists, one way or the other, on it.

**Chair Carlton:**

Were you concerned about a particular section of the bill?

**Don Alt:**

It was the whole bill. I am not in favor of taking the Commission's authority away and turning control over to the Director of DOW.

**Chair Carlton:**

Do you have the most problems with the Dream Tag section of the bill, or is it the appointing of the Director?

**Don Alt:**

I have problems with the appointment of the Director and in moving the authority to DOW from the Commission.

**Daryl Capurro, Private Citizen, Reno, Nevada; and Chair, Legislative Committee, Board of Wildlife Commissioners, Department of Wildlife:**

"I am appearing here today on behalf of myself, and as Legislative Committee Chairman for the Commission. The Legislative Committee met this morning in Reno, and voted to recommend that the Commission oppose A.B. 322 as it is currently written. That recommendation will be on the April Agenda of the Commission meeting in Reno." [Mr. Capurro continued to read from testimony submitted in writing ([Exhibit D](#)). In his testimony, he referred to Senate Bill 359, for which this Committee has no jurisdiction.]

**Chair Carlton:**

We will hear from the next speaker and then take questions.

**Gerald A. Lent, O.D., Private Citizen, Reno, Nevada:**

I am a Board of Wildlife Commissioner, but I am here today representing myself. This Commission is under attack for trying to change the status quo and for demanding accountability and credibility changes. This Commission is seeking changes in the status quo before it is too late. For example, sage grouse and mule deer declining populations are a serious and significant problem. The only way to solve this problem is to think outside the box and not maintain the status quo. In 1988, we had 51,000 deer tags, and in 2008, we had 16,000 deer tags. We have lost 67 percent of our mule deer herds. Those

numbers are based on scientific analyses because that is the only way tags are given out by DOW. Some other examples include California's ban on salmon fishing because they kept the status quo and did nothing to stop the rapid decline in salmon numbers. Passenger pigeons disappeared because of the status quo, and wolf populations in California were also destroyed. Only introduced species are thriving in Nevada, such as cheatgrass, chukar, species of bighorn sheep, and elk. Everyone in support of this bill is for maintaining the status quo.

I would like to address section 1 of the bill where one member's position is being redefined. I am the sportsman's representative, so why is that position not being redefined? The sportsman's representative has to have a hunting and fishing license for a certain number of years. But I could be an anti-hunter and buy a license. So should we not say a sportsman's representative should have a hunting and fishing license and have hunted with a tag for two years? Why is just one position being redefined? The new definition requires conservation experience. Can you define the meaning of experience? That definition is not in the bill. I think you are picking on one member.

I have some comments about the selection process for the Director of DOW. I was included in the process many years ago when we changed the legislation to add the word "must" to the law. If you eliminate the Commission input from the process, there will be no public input in the selection of the Director. It makes it a political appointment with no public input. That is the reason we have the Commission—to get public input. We are never going to please everyone, but everyone gets their say in front of the Commission. Currently, we have a good process, and it does not need changing. I think the Board of Agriculture hires its own commissioner. Not all boards and commissions are the same.

The Commission was never opposed to the Dream Tag program. We adopt regulations, and they were never brought to us. There were a lot of other problems also, such as who would provide the start-up money for the draw and who was going to do the programming. The programming belongs to the state, and it is proprietary. Other states have requested the program to draw their own tags, but they have to buy it. You cannot just release the program to a private organization when it belongs to the state. The Dream Tag program has not been implemented because we did not get regulations to adopt it. Taking the Commission out and putting the DOW in, you will not have any public input.

**Chair Carlton:**  
Are there any questions?

**Assemblywoman Bustamante Adams:**

My question is to Mr. Capurro. You referenced section 2 and used the word "eliminate." That is not how I read the bill, so I want to make sure that is the word you intended to use. I do not perceive the Commission input to be eliminated.

**Daryl Capurro:**

The words "may consider" imply the Governor can consider any person nominated by anybody. It could come from a nongovernment organization or a single individual. Currently, the Governor is required to make the appointment from a list of three qualified applicants. The list is submitted to him by the Commission, and its Search Committee will be meeting tomorrow to begin the process of finding suitable candidates for the position. It is an involved process. We have received 12 applications for the position. Probably half of those applicants will be qualified on evaluation of their education and background. The Search Committee reviews all the applications and makes a recommendation to the full Commission. The Search Committee sends three names rated in order of preference to the Governor. The Governor can turn down the three names we send him, and he can ask us to send him three more names. The process gives him flexibility in making his choice. The Commission is responsible for sending names of qualified candidates. This bill would take away the Commission's authority to be the primary source in proposing candidates for appointment.

**Assemblywoman Bustamante Adams:**

I do disagree with your viewpoint because I do not think the word "eliminate" is the right word to use. This bill may broaden the number of applicants, but I do not believe it eliminates the Commission's input.

**Chair Carlton:**

We have our legal advisor with us, so we will ask him his interpretation.

**Randy Stephenson, Committee Counsel:**

Yes, what everyone is saying is essentially correct. The current law says: "From among three or more nominees of the Commission, the Governor shall appoint a Director . . . ." The changes requested in this bill would remove the direct input by the Commission and would add the language that says when the Governor does appoint the Director, which he is required to do, he "may consider" any person nominated by the Commission. The Governor will not be limited to those candidates.

**Chair Carlton:**

This new language does not eliminate the Commission from the process, but it does remove them from being the sole participant in the selection process.

**Randy Stephenson:**

Yes, well put.

**Chair Carlton:**

We now have it on the record from legal counsel.

**Assemblywoman Bustamante Adams:**

In section 3, line 33, I am unsure about the nonprofit organization. My comment may not be germane to this bill, but I was concerned when this same point was brought up in another hearing. The bill has a sole source listed; therefore, it is not a competitive process.

**Daryl Capurro:**

If they are the only organization that can handle this program and they go into a competitive process, they will probably be the ones who win the bid anyway. Having the named organization removed would give competing firms the opportunity to participate in the bidding process.

**Chair Carlton:**

For the record, we need to make clear that we are not talking about a new provision within this bill. We are talking about existing law that has not been implemented. It gives me pause because we passed the law; we spoke on it; and it has not been implemented. I have had this same experience in the past. People who oppose the bill from the beginning have not actually implemented the bill after the law was signed by the Governor. This is a much larger issue to me than the fact the bill names a sole source. We have already passed the law.

**Assemblyman Hansen:**

Section 4 of the bill says: "As soon as practicable after the effective date of this section, the Governor shall appoint one member of the Board of Wildlife Commissioners who is qualified pursuant to paragraph (a) of subsection 2 of NRS 501.171, as amended by section 1 of this act." Then under section 5, the language states: "This section and sections 1, 2, and 4 of this act become effective upon passage and approval." Under those sections, would the Governor be able to replace the current holder of the position as soon as this legislation becomes law?

**Daryl Capurro:**

Yes, from my reading of the bill. Under this language, I would have to resign my position as the current conservation representative. There may be a legal issue since I was appointed to serve a three-year term. Can I not serve out my full three-year term?

**Assemblyman Hansen:**

Can we request legal to address that?

**Chair Carlton:**

I think we need to give legal more time to do the research.

**Randy Stephenson:**

To answer Mr. Capurro and Mr. Hansen's question, the language in section 4 is specifically in the bill to address the issue of the existing representative's term of office who supposedly will no longer be qualified. Section 4 is a typical transitory provision that we put in to clarify the term of service. You will serve until your replacement is appointed.

**Daryl Capurro:**

Mr. Hansen asked if I could be replaced as soon as the Governor signs the bill, and the answer is yes.

**Assemblyman Hansen:**

Mr. Stephenson, is it a yes or no?

**Randy Stephenson:**

Yes, as soon as that section of the bill becomes effective, the Governor can appoint in accordance with the provisions of that section.

**Daryl Capurro:**

That would be stated in section 4, subsection 2, paragraph (b).

**Randy Stephenson:**

Yes.

**Chair Carlton:**

The Governor could appoint the person who is currently serving in that position if they meet the qualifications.

**Randy Stephenson:**

Yes, that is correct. There is nothing in the bill that prohibits that from happening.



**Daryl Capurro:**

If people agree I am qualified, then there would be no reason to have this provision in the bill.

**Chair Carlton:**

I am not going to argue with the sponsor of the bill who used the language provided by the Nevada Division of Environmental Protection. She felt this language was better. You could take that issue up with her.

**Assemblyman Hansen:**

Since you have been serving on the Commission, has it done any proactive habitat management? Was the current Director chosen under the policies that we are planning on amending?

**Daryl Capurro:**

Are you asking me?

**Assemblyman Hansen:**

Yes, to you, Mr. Capurro.

**Daryl Capurro:**

Mr. Lent can better answer your question about the current Director's appointment as he was there when it happened, and I was not. The answer to your other question is yes. We have moved forward with several projects that have been approved by the Commission through the Wildlife Heritage Trust Account's tag program. The projects deal with habitat improvements; predator control for ravens in respect to the sage grouse population; and cleanup, repair, and maintenance of the guzzlers. Within the confines of the budgetary process, we have attempted to address some of these issues. We do fund projects that will give us the "biggest bang for the buck" in restoring habitat for those species that are currently under stress.

**Assemblyman Hansen:**

Mr. Lent, you were going to address my other question. Was the current Director chosen using the current application process?

**Gerald Lent:**

Madam Chair . . .

**Chair Carlton:**

For clarification, are we talking about the Acting Director? [Mr. Hansen nodded in the affirmative.]

**Assemblyman Hansen:**

Yes, Mr. Lent, could you answer my question on whether or not the current Director was chosen by the application process currently in the law?

**Gerald Lent:**

Yes, I was chairman at the time, and he was the person we recommended to the Governor to be Director of DOW.

**Assemblywoman Pierce:**

I have a comment. It seems to me that the concept of the government "closest to the people" is being turned upside down. The government closest to the people is the one elected by the people. They have to stand for election and get reelected periodically. They are the legislators and the Governor.

**Assemblyman Anderson:**

I have a question in the same vein that Ms. Pierce alluded to. My concern is the law was passed. There may be one named nonprofit, but it was passed. The law was enacted two years ago, and it should be implemented. Why has this not been done?

**Daryl Capurro:**

We discussed that briefly this morning in our Legislative Committee meeting with respect to A.B. 322 and some of the concerns we all have about the Dream Tag implementation. There are some problems that need to be worked through. Those issues will have to be included in any regulation that is passed. Until we get a regulation, we cannot implement the program. The regulations will implement the program passed two years ago. We have to go through the public hearing process to adopt those regulations.

**Assemblyman Anderson:**

I understand that implementing the program can take a long time, but we are now two years out since the law was passed. We have heard a lot during this hearing about the Executive Branch and the Commission's authority. I am concerned about legislative authority. I believe that is why this bill has come forward, and why we are at this point. I am asking the Commission and DOW to make this program happen. There is no person being singled out. We are not doing our job if we do not provide oversight to make sure what we say gets done. The people expect a government that works; if it does not, then we do not deserve to be reelected.

**Chair Carlton:**

There is another gentleman who would like to speak in opposition to the bill. The Chair will investigate the regulatory process, find out what happened, and determine the chronological timeline.

**Mike Laughlin, Private Citizen, Fallon, Nevada:**

Earlier in this hearing, the question was asked can a rancher and cowboy be a conservationist. The answer to the question is yes. I am an example of both. I have a degree in Wildlife Management, and I worked as a supervising wildlife biologist for 31 years in 9 states. Now, I am in the livestock business. I am in opposition to this bill because I am concerned we will create a dictatorship. To me, we are creating a dictatorship here because the agency will have total control without any input from the Commission. It eliminates the checks and balances.

I would like to add one more comment. The raven predation, in respect to sage grouse, is out of control and has exploded in this state because they are a protected bird. We have an organization in Elko County that has obtained \$100,000 from the Wildlife Heritage Trust Account. It took us two and a half years to get the funding to start our sage grouse protection program because DOW would not request the services. The wildfires, which have destroyed thousands of acres, have created a more serious problem for the sage grouse because they have been pushed into a smaller area. The sage grouse decline is critical. We could wake up one morning and find the entire state shut down because ranching and mining activities are impinging on sage grouse habitat. We need to have a proactive DOW that will address these issues rather than being observational biologists who make notes and leave. I will answer any questions.

**Chair Carlton:**

I understand your concern about the ravens. Was there a particular component of the bill that you are opposed to? Or do you just dislike the bill?

**Mike Laughlin:**

I do not like the bill because it opens the way for a dictatorship.

**Chair Carlton:**

I wanted to make sure we had your reason for opposition on the record. Are there any questions from the Committee?

**Assemblyman Ellison:**

Based on the bill in its current form, it could be a political appointment which could be devastating to sage grouse. Yes or no?

**Daryl Capurro:**

Under this bill, a person who makes a large donation to a governor's campaign could then ask the governor to appoint someone who is a member of an organization that wants to end hunting. Yes, the potential is there to politicize the position, and it would not be good for wildlife or for the public.

**Assemblywoman Pierce:**

If you think that is going to happen, you should not vote for that person. That is how elections work. Most of us believe in elections.

**Assemblyman Livermore:**

The Commission cannot be any closer to the people than it is through our local representatives. I do not disagree with you on this process. In my opinion, the bill threatens the traditional outdoor hunting, fishing, and recreational activities in this state.

**Chair Carlton:**

Are there any more questions?

**Assemblyman Hansen:**

What is the amount of financial contribution from various groups like the Sierra Club, the Audubon Society, and other environmental groups? The DOW is 98 percent funded by sportsmen in this state. Is there any direct funding from conservation groups?

**Daryl Capurro:**

I do not know where that information would be available. Ninety-eight and a half percent of the funding for the maintenance of DOW comes from sportsmen through their purchases of tags, licenses, and equipment. One and a half percent comes from the State General Fund. The State General Fund contribution has been declining every year. Our funding is flat. In fact, in the second year of this fiscal cycle, we will probably have fewer funds available. Providing protection for threatened species will be difficult without adequate funding. That is why we like to see programs that generate revenue for DOW, and the Dream Tag program will produce a new revenue stream. Also it would provide new opportunities for sportsmen to hunt. It would be a win-win situation for everyone. We have submitted another bill to raise revenue to protect this state's wildlife. [Mr. Capurro is referring to A.B. 347, which this Committee has not agendized.] It provides for another 500 tags on a first-come, first-serve basis.

**Assemblyman Bobzien:**

I have bought a lot of hunting and fishing licenses, stamps, and ammunition over the years, and I am pleased to support DOW. I believe it is important to remember that wildlife belongs to the entire state, regardless of how you enjoy that wildlife.

**Chair Carlton:**

Mrs. Smith had to leave to go to Fallon for a redistricting meeting. Therefore, she, as the bill's sponsor, is unavailable to make a final comment and to address some of the concerns that have been expressed. However, I believe she covered most of the issues that have been brought forth in her opening remarks. When the bill goes to work session, we will ask her back to answer any other questions. Are there any other questions? [There were none.] Is there any public comment? [There was none.]

**Assemblyman Hansen:**

Sage grouse decline is a huge issue. I have been in contact with a rancher at the Smith Creek Ranch. He has a lek on his property, and he has offered to have us come out to his ranch this Saturday to observe the sage grouse and view them in their habitat. It is in central Nevada about a three-hour drive from here.

**Chair Carlton:**

Mr. Hansen and I will discuss the field trip, and if members of this Committee are interested, we will try to make the trip available. I see no other comments coming before the Committee today. [The Committee received two additional letters of support for A.B. 322, and they are being submitted for the record. The letter from Kathryn Bricker is [Exhibit E](#), and the one from Billy Howard is [Exhibit F](#).]

We are in recess [at 3:09 p.m.] until the call of the Chair when we will complete our Committee bill draft introductions. I am closing the hearing on A.B. 322.

This hearing is reconvened [at 11:27 a.m. on Monday, March 28, 2011, behind the bar]. I will entertain a motion to introduce Bill Draft Request 45-1091.

**BDR 45-1091**—Revises certain provisions governing the conservation of habitat for wildlife. (Later introduced as [Assembly Bill 503](#).)

ASSEMBLYMAN ANDERSON MOVED TO INTRODUCE  
BDR 45-1091.

ASSEMBLYMAN BOBZIEN SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMEN AIZLEY,  
BUSTAMANTE ADAMS, AND KITE WERE ABSENT FOR THE  
VOTE.)

This meeting is adjourned [at 11:30 a.m.].

RESPECTFULLY SUBMITTED:

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Judith Coolbaugh  
Committee Secretary

APPROVED BY:

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Assemblywoman Maggie Carlton, Chair

DATE: \_\_\_\_\_

**EXHIBITS**

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

**Date:** March 24, 2011

**Time of Meeting:** 1:35 p.m.

<b>Bill</b>	<b>Exhibit</b>	<b>Witness / Agency</b>	<b>Description</b>
	A		Agenda
	B		Attendance Roster
A.B. 322	C	Tina Nappe	Testimony
A.B. 322	D	Daryl Capurro	Testimony
A.B. 322	E	Kathryn Bricker	Letter of Support
A.B. 322	F	Billy Howard	Letter of Support