

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

**Seventy-Sixth Session
May 5, 2011**

The Committee on Natural Resources, Agriculture, and Mining was called to order by Chair Maggie Carlton at 1:33 p.m. on Thursday, May 5, 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/. 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:

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
Assemblyman Harvey J. Munford
Assemblywoman Peggy Pierce

COMMITTEE MEMBERS ABSENT:

None

GUEST LEGISLATORS PRESENT:

None

STAFF MEMBERS PRESENT:

Amelie Welden, Committee Policy Analyst
Randy Stephenson, Committee Counsel
Judith Coolbaugh, Committee Secretary
Gianna Shirk, Committee Assistant

OTHERS PRESENT:

Joyce Woodhouse, Chair, Legislative Committee on Education
Keith Rheault, Ph.D., Superintendent of Public Instruction, Department of Education
James R. Lawrence, Administrator and State Land Registrar, Division of State Lands, State Department of Conservation and Natural Resources
Craig Stevens, representing the Nevada State Education Association
Dotty Merrill, Ph.D., representing the Nevada Association of School Boards
Jack Mallory, representing District Council 15, International Union of Painters and Allied Trades; and the Southern Nevada Building and Construction Trades Council
Wes Henderson, representing the Nevada Association of Counties
Janine Hansen, representing the Nevada Committee for Full Statehood
Kyle Davis, Policy Director, Nevada Conservation League
Terry Graves, representing the Scrap Metal Processing Group
Patrick Sanderson, representing Local 872, Laborers' International Union of North America
Reid G. Kaiser, P.E., Chief Materials Engineer, Department of Transportation
P. Michael Murphy, representing Clark County

Chair Carlton:

[The roll was called. The Chair reminded Committee members, witnesses, and members of the audience of Committee rules and protocol.] I am opening the hearing on Senate Joint Resolution 3.

Senate Joint Resolution 3: Urges Congress to enact legislation to require the Secretary of the Interior to convey ownership of certain land to the State of Nevada to help fund education. (BDR R-90)

Joyce Woodhouse, Chair, Legislative Committee on Education:

[Ms. Woodhouse read from prepared testimony ([Exhibit C](#)). Some supplemental dialogue and information have been included where they are appropriate. Ms. Woodhouse also submitted a report entitled: *Brief History of the Nevada School Trust Lands* ([Exhibit D](#)).]

Chair Carlton:

Are there any questions?

Assemblyman Ellison:

I have a couple of questions. The resolution did not say how much land you are considering. Can you clarify the amount? What counties are you referring to, and how many acres are included?

Joyce Woodhouse:

I cannot answer those questions. The purpose of this resolution is to open a door, so we can ask our Congressional Delegation to proceed with this opportunity to bring the state up to speed. The technical questions you are asking were not brought to our Committee.

Assemblyman Ellison:

I am concerned because we have counties that receive Payment in Lieu of Taxes (PILT) funds. For some of these counties, those funds are critical to their current survival because the counties contain so much federal land.

Chair Carlton:

We will make sure we get answers to your questions.

Assemblyman Bobzien:

I do not know if the answer to my question was discussed on the Senate side, or by your committee during the interim. The western states that do have school trust lands have to deal with a different set of implications for resource users. Lands under the Bureau of Land Management (BLM), which are managed for multiple uses, have different fee structures. For example, grazing fees are set at one level. Similar grazing fees on state lands and school trust lands in surrounding states are significantly higher because they are managed for the highest value of return, rather than a multiple-use mandate, which governs the fee structure for BLM land.

I point this out as an item to consider. Mr. Ellison mentioned the PILT funding and all the complexities of public land ownership. I do not disagree with whether or not we have received our apportioned share of the land compared to the other western states, but we are lacking an adequate education funding tool

with our school trust lands. Under this resolution, we are talking about a higher set of fees that the resource users will have to pay. Has this issue been raised before?

Joyce Woodhouse:

That issue did not come up before the Legislative Committee on Education. Possibly Dr. Rheault, or another representative from the Department of Education, can respond to your question. Our Committee dealt with finding a new avenue to provide additional funding to the state for our public schools. That is why we proceeded with this resolution.

Chair Carlton:

We will hear from other witnesses in support of this resolution.

Keith Rheault, Ph.D., Superintendent of Public Instruction, Department of Education:

I am here on the behalf of the State Board of Education and the Department of Education. Both entities fully support the passage of this resolution. The State Board of Education has been looking at this issue for the last ten years. In comparing our state to other states that have the Permanent School Fund our state is woefully lacking in the amount of lands we have available through the school trust lands account. For example, in Texas its Permanent School Fund—based on the land they received through their school trust lands grant—annually pays for all the state's textbook purchases. Utah uses their proceeds to fund school improvements. Each school district receives \$40 million to \$50 million yearly. In Nevada, because of past deals and land swaps, we receive about \$10 million per year. This resolution will let the federal government know that we are still interested in pursuing this issue. Our strongest argument for adjusting the amount of our school trust lands is the fact that the western states which entered the Union after Nevada, received twice as much land in their original grants. Nevada received two sections per township; the other states have four sections. That additional amount of land is 3.9 million acres. I am not familiar with how the information from Mr. Bobzien might apply. If that information was attached to this resolution, it could be another vehicle to encourage the feds to give the state additional revenues.

Chair Carlton:

Are there any questions?

Assemblyman Bobzien:

I am not saying the school trust lands funding is a bad idea. They work quite well in other western states. On page 2, line 19, the resolution says, ". . . the

management and control of such an extensive amount of the land in Nevada by the Federal Government has an adverse effect on the ability of Nevada to provide a quality education to its residents" What is meant by that statement?

Keith Rheault:

I just left the superintendent's meeting, and the Lincoln County Superintendent said the county does not have any means to generate additional revenue. She indicated that 94 percent of the land in Lincoln County is federally owned. It does affect the quality of education because they cannot raise any local funds.

Assemblyman Bobzien:

Therefore, it is a tax rolls issue. I would prefer that the resolution's language be tightened up because it is such a broad and sweeping statement. I understand the challenges.

Assemblyman Goedhart:

We received two sections per township. Is that correct?

Keith Rheault:

Yes. Originally we received two sections per township, and the amount equaled 3.9 million acres. Because the acreage given was in such inaccessible areas, the state swapped the 3.9 million for 2 million acres that people could actually get to, and the land was more fertile. Therefore, we cut our acreage in half to begin with, but that was our own doing.

Assemblyman Goedhart:

We ended up with only one section per township. Therefore, our school trust lands are only 25 percent of the land base that subsequent states received upon obtaining statehood.

Keith Rheault:

Correct, although I think the feds could argue that they gave us two, and Nevada swapped it for one section. The other argument in our favor is the states entering the Union after us received four sections, and we originally only received two.

Assemblyman Anderson:

Did we only get two sections because we were in the midst of the Civil War?

Keith Rheault:

I do not know if that was the reason, but we entered the Union earlier than some of the other western states. The states that entered after the Civil War could have received some payback for their war support. When Nevada came into statehood, two sections per township was the standard offer, and it was increased after the fact.

Chair Carlton:

We will hear from our next witness.

James R. Lawrence, Administrator and State Land Registrar, Division of State Lands, State Department of Conservation and Natural Resources:

We are in support of this resolution. The history of the school trust lands in Nevada is interesting and unique. At the time Nevada became a state, two sections per township was the standard for grant lands. States were granted these trust lands for the support of their school systems and to encourage people to settle in the western part of the country. In order to get ownership into private hands, the lands had to be surveyed. The land in the two sections per township that Nevada originally received was undesirable. The land could not be cultivated because the soil was infertile, and it was in inaccessible areas where people did not want to settle. Therefore, there was no demand for these lands because the land base was economically incapable of supporting development. The lands could not be used to support the school system.

In 1880, the Nevada delegation went to Washington, D.C. and reported that the grant lands for school support were not working for the state. We asked to trade in the 3.9 million acres of land for 2 million acres that we would select ourselves. We were the only state that asked for and received a land exchange. By the early 1900s, most of the lands had been transferred into private hands. Today, the state only has about 3,000 acres of school trust lands left, which is not a lot to generate revenue for the trust.

Utah and Arizona went back to Washington, D.C. with a different approach. They said they have arid topography, so two sections would not work for them. They requested and received four sections per township. Nevada went back and got half the original amount while other states went back and doubled their initial allotment.

Looking back, if Nevada had have chosen what Utah and Arizona did, we would have received about 8 million acres. In the surrounding western states, the school trust lands generate a huge amount of revenue for their school systems.

There are concerns. Mr. Ellison addressed the problem with the PILT payments, and Mr. Bobzien was correct when he commented that the state's trustee responsibility requires them to generate as much income as possible from these lands.

I was not involved in the drafting of this resolution, but if we were able to acquire additional lands, it would be in a partnership between the federal government, state, and counties. The state would need to identify specific lands the counties want to dispose of for the purposes of generating and maximizing revenue for the school systems. Counties, like Lincoln County, are surrounded by federal land. They do not have growth opportunities.

It could be a win-win solution if all the partners work together on identifying specific and appropriate lands the counties would like to see developed. Oregon is going through a similar process because many of their granted sections were along the coast, or the land was covered with lakes and rivers. They are still working with federal agencies to identify appropriate grant lands.

Chair Carlton:

Are there other questions?

Assemblyman Ellison:

There are areas outside of the county lands that we would like to see turned over for private enterprise development. The school system does receive Secure Rural Schools Act funding through the US Forest Service and PILT funding through the BLM. The resolution is so broad in interpretation some of the existing funding may be jeopardized.

Assemblyman Bobzien:

The scope and expanse of the resolution is large, but it is important to have this discussion with the federal agencies. What would become the trust governance model? If we could establish a core group of trust lands that would generate income, what agency would manage them? In other states, there is a state land board. We need a governing entity to manage the trust to ensure the state is maximizing revenue from those lands.

James Lawrence:

You are correct. Many of the western states, which have large land assets, have independent land boards and land commissions. It is a question we would have to consider in moving forward.

Assemblyman Livermore:

I agree with Mr. Bobzien. I recall when your Department tried to sell school trust lands near Carson City's community college. In the long run, your Department did not succeed in selling those lands. I believe, from my perspective as a county official at that time, the development plan and process were poorly structured. Am I right?

James Lawrence:

I do recall that situation although I was not in this position at that time. The part of the 3,000 acres of school trust lands located in Carson City is probably the most valuable portion of those lands. At that time, the administrators saw two possible options because the real estate market was robust. The option ultimately selected was requesting a rezoning of the master plan for residential density. That way the state would recoup the value of the rezoning effort. States often sell the land at a lower value as open-space recreation lands. Then, it is the developer who takes the risk by requesting rezoning. The developers buy the land cheaper but get the higher end value. It was a very difficult and contentious endeavor.

Assemblyman Livermore:

It put state lands in a position for development. When you start talking about rezoning and changes to the master plan, there is strong resistance from neighbors. The neighbors wanted the county to represent their rights first, ahead of school funding and the land rights of the state.

Assemblyman Hansen:

This seems to be a déjà vu discussion. We are trying to get federal lands back under state control. It is an excellent resolution.

Assemblywoman Pierce:

Here is a cautionary tale. On page 2, lines 3 through 6, it refers to 1880 and states: ". . . Nevada had an immediate need for public school revenues." It was the year when mining on the Comstock Lode was tapped out. For the 22 years prior to going to Washington, D.C. to make bad deals because the state was out of money, we had had the richest silver strike in this country's history. We had nothing to show for that accumulated wealth 22 years later.

Craig Stevens, representing the Nevada State Education Association:

We support this resolution. In 2008, my organization sponsored a measure on school trust lands, which was considered by the representative assembly of the National Education Association. We appreciate this resolution being brought forward. Our national and state associations will be lobbying for passage of this measure. Nevada schools are struggling. The cuts to our school system have

been dramatic over the last few years. My association urges this body to do everything in its power to reverse this trend.

Chair Carlton:

Are there any questions? [There were none.]

Dotty Merrill, Ph.D., representing the Nevada Association of School Boards:

We appreciate the work the Legislative Committee on Education completed during the interim to address this issue because it is one of the most neglected funding topics in all of education. Because of the importance of education, when each state entered the Union through the enabling act process, they each had to make a commitment to use its land grant to support public schools. That is why state school boards have been concerned about this process from the beginning. My association has gone on record in unanimous support of this proposal.

In April 2007, our national association passed a resolution urging Congress to support public schools by ensuring that the historic school trust lands are allowed to fulfill the purpose for which they conceived. In June 2006, the National PTA adopted a similar resolution. A wide-ranging group of advocates have expressed strong support for this resolution. They are in other hearings this afternoon, but the following have asked me to convey their support today. They are: Mary Pierczynski on behalf of the Nevada Association of School Superintendents; Alison Turner on behalf of the Nevada PTA; Nicole Rourke on behalf of the Clark County School District; Craig Hulse on behalf of the Washoe County School District; and myself on behalf of Nevada's 17 school boards.

Chair Carlton:

Are there any questions? [There were none.]

Jack Mallory, representing District Council 15, International Union of Painters and Allied Trades; and the Southern Nevada Building and Construction Trades:

It is clear the intent of this resolution is to urge Congress to assist our state in providing additional funding for education. We are happy the resolution does not contain an acreage number. If you ask for a certain amount of acreage and they give it to you quickly, then you have not asked for enough. The management of these lands, if they are awarded, would have to be carefully crafted. I wish this state was having the same fights that are happening in Texas, Montana, Idaho, and other places with their state land boards. It would be helpful if we had the opportunity for similar fights. We are in support of this resolution.

Chair Carlton:

Are there any questions? [There were none.]

Wes Henderson, representing the Nevada Association of Counties:

We are neutral on this resolution because we have some concerns that we wish to bring to the Committee's attention. The counties do receive PILT payments on federal lands within their county. We are concerned that lands transferred from the federal government to the state will cause the counties to lose those revenues. We have some concerns about the scope of the acreage selection, and we appreciated Mr. Lawrence's comments that the counties would be involved in the process.

If lands are transferred from the federal government to the state and are held in trust, the issue becomes the distribution of fees charged for the use of the lands' resources. Under federal programs, the state and the counties share in some of these revenues. In some cases, the state receives more, and in some cases, the counties do not receive any funds. We would like to see an equitable distribution of the revenues gained by resource usage on the lands held by the state. We support the state selling lands to private owners because it puts the property on the tax rolls.

Chair Carlton:

Are there any questions? [There were none.]

Janine Hansen, representing the Nevada Committee for Full Statehood:

We support this resolution to return Nevada's lands to the control of the state. We have worked on this particular issue for a long time. There may be some implementation issues with this resolution, but we do support the concept. Nevada is perfectly capable of managing its own lands. Other states do, and we can too.

We need to discuss the Action Plan for Public Lands and Education (APPLE) Initiative. It was first brought forward in 2002 to the Council of State Governments–WEST, and it is another opportunity to return money to the education system. Utah has spearheaded the effort. On average 52 percent of the land within the boundaries of the western states is owned by the federal government. Nevada has the largest percentage of federally owned land in the country. In states east of the Mississippi River, around 4 percent of the land is controlled by the federal government. Western states, plus Alaska and Hawaii, lose out on \$14 billion in land value alone because so much of the land is owned by the feds. The amount is considered to be a conservative estimate and was calculated by estimating the sale value to be \$525 per acre.

The figure does not count the amount lost in property taxes, which is an issue in the rural counties because their property tax base is so small.

The federal government did give the western states \$300 million in PILT funds in 2010, but it is estimated the states could have collected \$4.2 billion from those lands in property tax revenues. The APPLE Initiative does not seek the actual "sale" of federal lands, but reimbursement for lost revenues or action by the federal government to trade out nonwilderness lands for state gain. In addition to S.J.R. 3, we suggest supporting other avenues, like the APPLE Initiative, to pursue collecting more federal government revenue for these lands. The federal government needs to stop treating Nevada like it is a territory and give the control of the land back to the state.

Chair Carlton:

Are there any questions? [There were none.]

Janine Hansen:

The APPLE Initiative was renewed this last year, so it is being pushed forward again. The sponsors of the Initiative believe the timing is better because of the economic climate. It is a current issue.

Chair Carlton:

Is there anyone else wishing to testify in favor? [There was no one.] Is there anyone who wishes to testify from a neutral position? [There was no one.] Is there anyone in opposition? [There was no one.] I am closing the hearing on S.J.R. 3 and opening the hearing on Senate Bill 236 (1st Reprint).

Senate Bill 236 (1st Reprint): Provides for the increased use of recycled materials in certain road and highway projects. (BDR 35-766)

Mr. Davis will present the bill.

Kyle Davis, Policy Director, Nevada Conservation League:

This bill deals with the recycling of aggregates. Some changes were made when the bill was processed on the Senate side, and today I have submitted an additional amendment ([Exhibit E](#)). It does not substantially change the bill.

Chair Carlton:

We will cover the bill first, and then we will consider the proposed amendment.

Kyle Davis:

This bill requires the Nevada Department of Transportation (NDOT) and local governments to optimize the use of recycled aggregate and rubber in public road

projects. Aggregate, which is used as a base to stabilize construction projects and roads, is composed of rock fragments. There are two types of aggregate. Virgin aggregate is sand, gravel, and crushed stone, which is mined directly from the earth. Recycled aggregate is crushed concrete and asphalt derived from demolishing infrastructures. Recycled aggregate has been used for the Las Vegas City Hall, the Las Vegas City Center, and on a new section of McCarran International Airport.

There are cost differences between the two types. Virgin aggregate averages about \$5 per ton; recycled is about \$3 per ton. The biggest reason to support this bill is cost. We need to ensure that state agencies and local governments have policies to optimize the use of recycled aggregate because it is cheaper. It will save taxpayers' money in more than one way. The raw material cost is lower; the transportation cost to take removed aggregate to the dump is eliminated; and dumping fees for the waste are nonexistent. At the Apex Landfill in Clark County, it costs about \$400 per load of aggregate or \$22 per yard to dump the waste. If the aggregate is taken to a recycling plant, the cost is only \$80 per load to dump it. Then, it will be available for a new project at a lower price.

The other major reason to support this bill is to combat illegal dumping of construction debris. The higher the dumping cost at landfills, the more illegal dumping will continue. There are five areas throughout the Las Vegas Valley which have piles of dumped construction debris. Huge mounds of leftover asphalt have been dumped at the corner of Warm Springs Road and Las Vegas Boulevard. It would be better for everyone if we reuse that material.

My organization is supporting this bill for environmental and sustainability reasons. We would see less dumping in landfills, especially since a lot of the debris is oil-based, which can contaminate groundwater sources. There would be less mining of previously undisturbed land, which would protect and preserve animal habitats. Aesthetically pleasing landscape vistas would also be conserved. Further, less greenhouse gas emissions and particulate pollution from trucks—moving back and forth to landfills and mines—would be expelled so good air quality can be maintained.

Why is recycled aggregate not being used? The main factor is a lack of education. Some people are not aware this product exists, and some people think it does not work as well as virgin aggregate. However, recycled aggregate is held to the same construction standards as virgin aggregate. I have submitted a U.S. Geological Survey Fact Sheet on recycled aggregates ([Exhibit F](#)) to provide further information.

This bill does not mandate or require someone to use recycled aggregate. It does require the government to have a policy to optimize its use. In cases where it is practical to use recycled aggregate, it should be used. It will cost less and be better for the environment.

The proposed amendment adds a new section. It stops governmental agencies from having policies that restrict the use of recycled aggregates in the construction of roads and highways, unless there is a scientific reason for such a restriction. The copy of the amendment you have is the one with the changes made on the Senate side. Another proposed change today would be to strike the words "to optimize" from section 2.5, subsection 1, and insert the word "for" in their place. The reason the change does not appear in the mock-up amendment is Clark County just asked for this change today. I have no problem with making the change.

Chair Carlton:

It seems reasonable to me. Therefore, it would read, "Adopt policies for the use of recycled aggregate"

Kyle Davis:

Correct. The first reprint of the bill generated on the Senate side also lists an additional recyclable material, which is "bituminous pavement." It first appears on page 2, section 1.5. Clark County requested the addition, and my organization's goal is to use as much recycled material as possible, so we welcomed the addition.

Chair Carlton:

Are there any questions? [There were none.]

Terry Graves, representing the Scrap Metal Processing Group:

The group I represent also recycles tires, so our contribution to the bill was the part about using recycled rubber. We are comfortable with his new amendment being offered today. We support the bill.

Assemblyman Hansen:

Have engineers been saying recycled aggregate cannot be used for road construction? Why would they not be using it if it costs less? If it is cheaper, free market forces would dictate that it be used, so why do we need this bill?

Terry Graves:

In the case of recycled rubber, there is a design criterion that does restrict its use. It is not recommended for use in climates where the temperature varies from hot to cold. For example, Lake Tahoe's climate would negate its use.

Recycled rubber is a very good product to use on southern Nevada roads, and it also reduces road noise. Recycled rubber and aggregate are used by NDOT. This bill requests the state and local agencies to focus more on using these materials. Also, the use of recycled products needs to be in the project specifications of their construction contracts.

Patrick Sanderson, representing Local 872, Laborers' International Union of North America:

I worked for many years behind the machine which tears up existing asphalt. Then, with the use of extreme heat, the material is run back through the machine and relaid. The process is usually used on aircraft runways. If you only are working with a 4-inch asphalt base, this recycling process is not cost-effective. With runways a 6-inch to 8-inch base is required, so the recycling machine is used to lower project costs. As with all technology, it improves with age. My organization's members are working with the equipment operators by raking the asphalt. We support this bill. Recycling is good, and it makes sense.

Chair Carlton:

Are there any questions? [There were none.]

Jack Mallory, representing District Council 15, International Union of Painters and Allied Trades; and the Southern Nevada Building and Construction Trades Council:

Beyond the ecological benefits of using recycled materials, we support this type of recycling product. Sometimes the recycling is done on-site; in some cases, it is done in reasonable proximity of the construction project. It is a local commodity and a local job. A number of rubber roads have been built in southern Nevada. Besides being quiet, they also give a little smoother ride. To attempt to answer Mr. Hansen's question about why recycled products are not used more frequently, I am speculating that the explosive growth in southern Nevada consists of new developments. Therefore, old roadbeds are nonexistent for recycling aggregate; it is all new construction.

Chair Carlton:

Are there any questions?

Assemblyman Hogan:

As Mr. Hansen mentioned, with this inexpensive material available, it is difficult to understand why the methodology is not being used. The bill is mainly directed to NDOT, and it is being told to optimize the use of recycled aggregates. Therefore, we can expect them to write the products into the job's

specifications. If there is anything in their existing standards or specifications, which would be counterproductive to this bill's purpose, it needs to be removed.

Assemblyman Hansen:

Construction managers are always trying to come up with the lowest cost for materials. Is anyone aware of existing restrictive standards on the use of these recycled products? Is there anyone here from NDOT? Do roads last as long using these products?

Reid G. Kaiser, P.E., Chief Materials Engineer, Department of Transportation:

The Nevada Department of Transportation has a long history of recycling materials. We use recycled asphalt—commonly known as blacktop—which we refer to as plant mix. We usually use it for shoulder material because it provides a stable covering and does not erode like a plain aggregate base does. The recycled plant mix is used in the lower base sections of roadways when we have new construction. It is a contractor's choice to use the product. We do not mandate the use.

If we have an overabundance of plant mix, we give it to the local counties. They like to use it for maintenance of their gravel roads. After laying the roadway base using plant mix, they cover it with an oil topcoat. Douglas County frequently uses it. Plant mix is also used for dust mitigation on roadways and on county properties.

We have been recycling aggregates for the 20 years that I have been in this position. We typically crush the aggregate and use it to stabilize soft areas in our construction projects. We rarely waste used concrete unless there is something in it that might be detrimental to the project, such as steel. Steel cannot be buried in road embankments because it will deteriorate and cause future problems.

We have a new process at NDOT. We take the plant mix and blend it back into our blacktop sections. We call it recycled asphalt product (RAP). It reduces our costs 2 percent to 3 percent for all our paving projects. There are some up-front contractor's costs because equipment additions must be made to their existing blacktop plants so they can incorporate the RAP. The process has been successful, and contractors are open to using it.

Assemblyman Hansen:

Is this bill going to do anything that you are not already doing?

Chair Carlton:

As a state agency, Mr. Kaiser is testifying from a neutral position. We do not put people in awkward positions.

Reid Kaiser:

To answer Mr. Hansen's question, there will be no change in our construction operations. We may use RAP more if the contractors elect to use it. It is their choice. If it is economical for them, they will do it. They can take the cold milled material and use it as base material in a large development project. For the most part, it will not change anything we are currently doing at NDOT.

Assemblyman Kite:

I am a proponent of recycled material because all of Douglas County's dirt and gravel roads are paved streets because of recyclable materials we received from NDOT. I would like to ask counsel about the use of the word "shall" in section 2, subsection 1. Are we saying they have to use this material, or do they have to develop a program that will allow them to use it?

Randy Stephenson, Committee Counsel:

The word "shall" in the *Nevada Revised Statutes* does impose a requirement. It does require the Director of NDOT to adopt policies concerning the use of these materials, which is not necessarily the same as being required to use them.

Assemblyman Bobzien:

What do the local governments do? Are there local government prohibitions that this bill is trying to eliminate? I direct the question to Mr. Murphy.

Chair Carlton:

Again, Mr. Murphy is marked in as neutral on the bill.

P. Michael Murphy, representing Clark County:

It would be inappropriate for me to speak for the other local government agencies in Clark County. We are supportively neutral on this bill. Clark County believes it is important to be a good steward of the environment. For a number of years, we have had roadway construction policies in place to use recycled materials, and we use those products whenever we can. Although we are currently doing some of the bill's requirements, we would have to do some new reporting. We would have to make sure our contracts contain use specifications for recycled materials.

Mr. Davis is correct. Before the hearing started today, I requested the last minute change to remove the words "to optimize." We wanted some room to

continue our current policies. The Clark County Department of Aviation and others in our organization were concerned about having a mandate to use recycled products. In some instances, we are not able to use them. For example, we can use them on taxiways but not on runways.

We requested that the bill's provisions would not affect current contracts. In the future, we will write new contracts to meet the bill's requirements. It is appropriate, and we will continue to be good environmental stewards.

My last comment is on bituminous materials. The term is generally used to denote substances in which bitumen is present or from which it can be derived. Bitumen is defined as a dark-colored, solid or semisolid, viscous substance, which is principally composed of a high molecular weight of hydrocarbons and carbon disulfide. It is commonly referred to as asphalt or tar.

Chair Carlton:

Are there any questions?

Assemblyman Livermore:

Carson City regularly uses recycled material for secondary roads. It makes an excellent road base.

Assemblyman Hansen:

I have a question on recycled tires. Do you grind up tires and put the grounds in the mix? How does the process work?

Reid Kaiser:

We have been using crumb rubber in paving mix since the 1970s in areas with the appropriate climate. As previously mentioned when you live in a freeze/thaw environment, crumb rubber paving is not suitable. It is made in different ways. One is a wet process; the other is dry. Rubber in the mix is only effective where it is really cold, such as Alaska, or where it is really hot, such as Arizona. In northern Nevada with its freeze/thaw cycles, the rubber ravel off the pavement in six months to a year, so we have not had success using it there. Southern Nevada is different. We did overlay Interstate 515 in Henderson in 2006. The project was very successful, and it remains our one "shining star" example of effectively using crumb rubber paving. We have a current project to overlay Interstate 15 in Las Vegas. This project will go out to bid in a couple of months, and it should be completed by September or October.

We have also started using a new process called terminal blend rubber. Old tires, or tire particles, are melted into liquid form, and then the liquid is

added to our asphalts. Approximately 10 percent of the total paving material is made from melted rubber tires. It has been a very successful process. The section of U.S. Highway 395 through Washoe City was paved with terminal blend rubber asphalt. In the future, we may be using more recycled tires in the terminal blend rubber process.

Assemblyman Anderson:

I wanted to compliment everyone who has worked on this bill. It is an excellent idea, and it is refreshing to see the parties involved being supportive. I also want to compliment Mr. Murphy on his articulation skills.

Assemblywoman Pierce:

There was a time when enormous piles of old tires were scattered around the country. Some people might remember a tire catastrophe, which happened with one of those piles. It was in Ohio, and the tire pile burned for years. There was also a pile of tires in Wales that burned for 15 years. They can spontaneously combust. In 1990, there were a billion tires in piles around this country, and now that figure has been reduced to 188 million. Also, the abandoned tires would get water in them and breed mosquitoes, which created an airborne disease health hazard. The tire litter polluted rivers and scarred the landscape. Recycling tires is a good idea, and anything we can do to encourage their proper disposal, I am in favor of.

Assemblyman Munford:

I am from Akron, Ohio, and it was the rubber capital of the world. I grew up driving on rubber streets, which were paved with recycled tires. Akron is famous for having the only rubber streets in the nation. Recycling tires is a good idea.

Assemblyman Aizley:

Has a rubber road ever spontaneously combusted?

Chair Carlton:

We will look into that one. Mr. Murphy, I understand how you feel about preparing the required reports. Just remember, we ask you to write them; we have to read them. I am closing the hearing on S.B. 236 (R1).

This meeting is adjourned [at 2:51 p.m.].

RESPECTFULLY SUBMITTED:

Judith Coolbaugh
Committee Secretary

APPROVED BY:

Assemblywoman Maggie Carlton, Chair

DATE: _____

EXHIBITS

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

Date: May 5, 2011

Time of Meeting: 1:33 p.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
S.J.R. 3	C	Joyce Woodhouse	Testimony
S.J.R. 3	D	Joyce Woodhouse	Report
S.B. 236 (R1)	E	Kyle Davis	Proposed Amendment
S.B. 236 (R1)	F	Kyle Davis	U.S. Geological Survey Fact Sheet