

**MINUTES OF THE
SENATE COMMITTEE ON NATURAL RESOURCES**

**Seventy-sixth Session
March 11, 2011**

The Senate Committee on Natural Resources was called to order by Chair Mark A. Manendo at 11:38 a.m. on Friday, March 11, 2011, in Room 2144 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to the Grant Sawyer State Office Building, Room 4412E, 555 East Washington Avenue, Las Vegas, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Mark A. Manendo, Chair
Senator David R. Parks, Vice Chair
Senator John J. Lee
Senator Dean A. Rhoads
Senator Michael Roberson

STAFF MEMBERS PRESENT:

Michelle Van Geel, Policy Analyst
Charity Fowler, Counsel
Jodene Poley, Committee Secretary

OTHERS PRESENT:

Jim R. Barbee, Acting Director, State Department of Agriculture
Lon Beal, Administrator, Division of Measurement Standards, State Department of Agriculture
Mark Jensen, Director, Division of Resource Protection, State Department of Agriculture
Annette Rink, Ph.D., D.V.M., Laboratory Supervisor, Division of Animal Industry, State Department of Agriculture
JoAnn Mothershead, Administrator, Division of Livestock Identification, State Department of Agriculture
Dawn Rafferty, Administrator, Plant Industry Division, State Department of Agriculture

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Jeffrey Knight, Entomologist, Plant Industry Division, State Department of Agriculture
Peter Krueger, Nevada Petroleum Marketers & Convenience Store Association
Colleen Cripps, Ph.D., Administrator, Division of Environmental Protection, State Department of Conservation and Natural Resources
Judy Stokay, Executive, Government and External Affairs, NV Energy
Terry Graves, Nevada Independent Electric Coalition
Joe Johnson, Sierra Club, Toiyabe Chapter
Kyle Davis, Political Director, Nevada Conservation League
Carrol Abel, President, Hidden Valley Wild Horse Protection Fund

CHAIR MANENDO:

We will open the meeting with the Committee introduction of Bill Draft Request (BDR) 35-766.

BILL DRAFT REQUEST 35-766: Requires use of recycled aggregate. (Later introduced as [Senate Bill 236](#).)

SENATOR LEE MOVED TO INTRODUCE BDR 35-766.

SENATOR ROBERSON SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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CHAIR MANENDO:

Our next item on the agenda is a presentation overview by the State Department of Agriculture (SDA).

JIM R. BARBEE (Acting Director, State Department of Agriculture):

We have prepared a PowerPoint presentation ([Exhibit C](#)). The mission statement for the SDA encourages the advancement and protection of Nevada's agriculture and related industries. The State Board of Agriculture (Board) consists of eleven members appointed by the Governor. The director is selected by the Board and then approved and appointed by the Governor. The SDA has six divisions. It has been proposed in the fiscal year (FY) 2011 budget that the Division of Measurement Standards (DMS) and its duties be transferred to the Department of Motor Vehicles (DMV). That division accounts for 21 staff

positions. I have provided you with the structure of the Department of Agriculture as proposed by the Governor for FY 2012 ([Exhibit D](#)). The administrators or directors of each division will present their own programs.

LON BEAL (Administrator, Division of Measurement Standards, State Department of Agriculture):

My first presentation will be on the Bureau of Petroleum Technology (BPT). I will be using the PowerPoint presentation and reading from my prepared testimony ([Exhibit E](#)). The BPT adopts fuel standards and tests fuel from retail outlets to ensure the sale of high quality fuel. The BPT works closely with the air-quality management programs of Clark and Washoe Counties to reduce air pollution by adopting fuel standards which reduce pollution produced during fuel combustion.

My second presentation is on the Bureau of Weights and Measures (BWM). I direct your attention to the PowerPoint presentation and my prepared testimony ([Exhibit F](#)). The BWM inspectors conduct annual inspections of weighing and measuring devices. The BWM's inspectors also conduct annual inspections of fuel dispensers for volumetric accuracy. Inspectors collect samples of motor fuels for analysis by the BPT for determination of compliance with published standards of the American Society for Testing and Materials International. The BWM regulates public weighmasters and conducts inspections of packaged goods to ensure that the prices of items scanned at cash registers match posted prices. The BWM also provides services to the Nevada Department of Transportation (NDOT) with inspection and testing of truck scales and hopper scales used by contractors in road construction throughout the State.

MARK JENSEN (Director, Division of Resource Protection, State Department of Agriculture):

The Division of Resource Protection is a cooperative program. *Nevada Revised Statute* (NRS) 567 allows the SDA to enter into agreements with the U.S. Department of Agriculture (USDA) for the control of predatory animals, crop-destroying birds and rodents within the State. This cooperative program is collectively referred to as the Nevada Wildlife Services Program (NWSP). The mission of the NWSP is to provide assistance in managing problems caused by wildlife. The NWSP provides technical assistance relating to wildlife conflicts and provides operational assistance when an on-site response is required. In FY 2010, the NWSP assisted Nevada's farmers, ranchers and the public in

protecting over \$380 million of agricultural resources. The NWSP works with the animal-disease lab, the Centers for Disease Control and Prevention and county health departments by providing disease sampling for wildlife-borne zoonotic diseases. The NWSP works cooperatively with the Department of Wildlife (DOW) in conducting predation-damage management projects which protect Nevada's natural resources, such as sage grouse, mule deer and bighorn sheep. Increasingly, the NWSP has been given the responsibility of minimizing wildlife threats to public safety at airports.

ANNETTE RINK, Ph.D., D.V.M. (Laboratory Supervisor, Division of Animal Industry, State Department of Agriculture):

The Animal Industry Division (AID) has eight full-time employees and two laboratories. One laboratory is located in Sparks, and a satellite laboratory is located in Elko. In FY 2012, the Elko laboratory will be closed due to the loss of the senior veterinary diagnostician position. The AID provides diagnostic laboratory services, animal tracing, disease surveillance and eradication and control programs. Examples of diseases eradicated in Nevada are bovine tuberculosis, bovine brucellosis and swine pseudorabies. The AID provides outreach and education to the general public and veterinarians.

Approximately 70 percent of all emerging infectious diseases are of animal origin. Page 31 of the PowerPoint presentation, [Exhibit C](#), contains a map of the diseases that are significantly changing their characteristics and paths. People in the United States are most familiar with West Nile Virus. This virus was introduced on the East Coast in 1999 and spread throughout the entire continent within three years. International tourism also poses a risk for the introduction of new zoonotic diseases. Damage is limited by conducting surveillance. Ongoing surveillance indicates where diseases are being introduced. The AID provides ongoing surveillance for endemic diseases already introduced to the State, such as tularemia, plague, rabies and anthrax. The performance measures for FY 2010 are contained on pages 33 and 34 of the presentation. With disease prevention and control, the AID assists private-practice veterinarians, the livestock industry, pet-owning households and sportsmen.

SENATOR LEE:

You mentioned the zoonotic disease, anthrax. Is that a disease that would be transmitted from animals to humans?

DR. RINK:

Anthrax is a bacterial disease. It is endemic and prevalent anywhere livestock is kept. Cloven-hoofed animals are most susceptible to this disease. Anthrax is a natural disease; however, it has been weaponized. We do have this disease in Nevada and have occasional outbreaks. Our job is to make sure that we distinguish between the natural occurrences of anthrax as opposed to an introduced, weaponized strain.

JOANN MOTHERSHEAD (Administrator, Division of Livestock Identification, State Department of Agriculture):

The Division of Livestock Identification's (DLI) mission and duties are outlined on pages 36 through 46 of [Exhibit C](#). The DLI operates out of Elko and maintains records on 4,400 livestock brands. A livestock brand must be recorded if livestock are branded in this state or graze on public lands. The DLI performs mandated livestock inspections, issues livestock transportation cards and performs enforcement activities to ensure compliance with livestock-inspection and animal-health laws. Cattle prices are at an all-time high, and loss of livestock is being reported in non-brand inspection states. The DLI has seen incidences of altered brands, most recently at the Fallon sale yard. NRS 575 allows the assessment of a tax on reported livestock. This tax is used for livestock inspection, predatory-animal damage control and support of the sheep industry. The DLI oversees licensing and bonding of public sales agencies and the protection of consignors and purchasers from fraud. The DLI also licenses and bonds dealers and their agents who purchase hay and fresh food products from Nevada producers. Estrays or abandoned animals not claimed by their owners are adopted or sold at auction, and the proceeds are held in the DLI's stray account. If, after one year, those proceeds are not claimed, the funds are transferred into the operating reserve. The enforcement officers of DLI also assist animal-control and law-enforcement officers in investigating animal-cruelty cases.

DAWN RAFFERTY (Administrator, Plant Industry Division, State Department of Agriculture):

The Plant Industry Division (PID) is the largest division in the SDA. The PID presentation is summarized on pages 47 through 57 of [Exhibit C](#). The PID oversees numerous programs.

Entomology oversees the insect diagnostic laboratory and the Mormon cricket and grasshopper surveys.

Plant pathology conducts plant disease surveys, oversees inspection and quarantine for those diseases, and provides plant disease diagnosis for the general public.

The organic seed certification program provides certification services verifying eligible seed cultures and ensures adherence to organic standards.

The noxious weeds program includes enforcement and control of noxious-weed species located in the State, along with managing federal cooperative agreements on the control of those noxious weeds.

The nursery program inspects nursery stock, licenses businesses that sell nursery stock and provides consumer protection by ensuring the quality of the stock available for sale in the State.

The export certification program provides for the inspection and certification of agricultural products to meet the import requirements of domestic and foreign markets.

The pest control licensing, education and enforcement program licenses and regulates the commercial pest-control industry.

Chemistry oversees the registration and analysis of agricultural pesticide products. It analyzes plant matter for pesticide residue and ground and surface water samples to monitor trace pesticide residue.

The environmental compliance and pesticide safety program oversees the funds received from the U.S. Environmental Protection Agency. These funds are utilized for the enforcement of federal and state pesticide regulations.

The specialty crop block grant program oversees grant funds from the USDA awarded to local producers to enhance the competition of high-value crops.

SENATOR LEE:

I know the State was having problems with the importation of Africanized bees and fire ants. Are those insects under control at this time?

JEFFREY KNIGHT (Entomologist, Plant Industry Division, State Department of Agriculture):

The Africanized bees are well-established in southern Nevada; however, the colonies are not spreading. The bee program has been reduced to a monitoring program due to state cutbacks and the loss of federal dollars. The fire ant program is monitored at a lower level. The fire ants are still arriving in the State from shipments we receive from other states. We have been able to eradicate a lot of the fire ant population. The loss of federal dollars will hinder our ability to provide for early detection, which is vital for easier eradication.

CHAIR MANENDO:

Can you tell me how the noxious-weed program will be affected by the budget proposed by the Governor?

MS. RAFFERTY:

The PID receives the bulk of its funding from the USDA, not the General Fund. We will be adversely affected with the loss of any USDA funding.

SENATOR LEE:

Can you tell me why the DMS may be moved to the DMV? Is it because of cost-savings?

MR. BARBEE:

The rationale is that the program will be more efficient if it is moved to the DMV.

PETER KRUEGER (Nevada Petroleum Marketers & Convenience Store Association):
I would like to address the transfer of the DMS and its duties to the DMV. Our association opposes this transfer. The association does not think there will be a financial savings associated with this transfer.

CHAIR MANENDO:

We will now open the hearing on Senate Bill (S.B.) 12.

[SENATE BILL 12](#): Repeals certain reporting requirements for the emission of greenhouse gases. (BDR 40-469)

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COLLEEN CRIPPS, Ph.D., (Administrator, Division of Environmental Protection, State Department of Conservation and Natural Resources):
Senate Bill 12 proposes to amend NRS 445B.370 by repealing the requirements of the reporting of greenhouse gas emissions from electrical-generating units. I have prepared written testimony and will read it to the Committee ([Exhibit G](#)). We support S.B. 12 because new federal regulations duplicate Nevada's reporting requirements.

JUDY STOKEY (Executive, Government and External Affairs, NV Energy):
NV Energy has submitted a letter to the Committee. I will read that letter into the record ([Exhibit H](#)). NV Energy supports S.B. 12.

TERRY GRAVES (Nevada Independent Electric Coalition):
The Nevada Independent Electric Coalition supports S.B. 12.

JOE JOHNSON (Sierra Club, Toiyabe Chapter):
The Sierra Club, Toiyabe Chapter, is taking a neutral position on S.B. 12. After hearing the testimony, we do not oppose the bill as it is written, and we support the removal of duplicative regulatory reporting.

SENATOR ROBERSON MOVED TO DO PASS S.B. 12.

SENATOR LEE SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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CHAIR MANENDO:
We will now open the hearing on S.B. 102.

SENATE BILL 102: Requires the Board of Wildlife Commissioners to adopt regulations for the taking of shed antlers. (BDR 45-764)

MICHELLE VAN GEEL (Policy Analyst):
Senate Bill 102 requires the Board of Wildlife Commissioners to adopt regulations for taking antlers naturally shed by big-game animals. The bill also requires the Commissioners to fix a price of up to \$1,500 for commercial taking of shed antlers. For noncommercial purposes, the bill instructs the

Commissioners to charge up to \$10 to a person 12 years of age or older for a permit to take shed antlers. A person who possesses a valid Nevada hunting license or permit may take shed antlers without paying the additional fee. This bill was heard on Wednesday, March 9, 2011. The work session documents provided to you contain two proposed amendments. The first amendment is to S.B. 102 and was proposed by DOW ([Exhibit I](#)). The second amendment is to Senate Joint Resolution (S.J.R. 5) and was proposed by the Nevada Conservation League ([Exhibit J](#)).

CHAIR MANENDO:

I want to confirm that the amendment proposed by the DOW deletes the fee provisions, and therefore a two-thirds vote of the House will not be required to pass this bill. Is that correct?

MS. VAN GEEL:

That is correct.

KYLE DAVIS (Political Director, Nevada Conservation League):

The amendment we have proposed simplifies the language in the bill. The language states that any person who unlawfully kills a trophy big-game animal is liable for a civil penalty of not less than \$5,001 and not more than \$30,000. The amendment also removes the language that specifies each type of trophy big-game animal.

SENATOR LEE:

Both of the proposed amendments make sense.

SENATOR LEE MOVED TO AMEND AND DO PASS AS AMENDED
S.B. 102.

SENATOR ROBERSON SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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CHAIR MANENDO:

We will close the hearing on S.B. 102, and open the hearing on S.J.R. 5.

SENATE JOINT RESOLUTION 5: Expresses opposition to certain proposed actions concerning wild horse and burro herds on federal public lands in Nevada and urges Congress to take certain actions concerning those herds. (BDR R-215)

SENATOR RHOADS:

I would like to make an opening statement for the record:

Before the Committee takes action, I would like to address some of the issues that have been raised on S.J.R. 5. First, let me remind you that this resolution was unanimously approved by the Public Lands Committee. It is not a partisan issue in Nevada. S.J.R. 5 is focused on protecting rangeland health and enforcing the laws that are on the books today. The federal laws I am referring to include The Wild [Free-Roaming] Horses & Burros Act as well as The Taylor Grazing Act and The Federal Land Policy and Management Act. Both of which require BLM to also manage public lands for multiple use and sustained yield. I understand that some of the Committee members have received e-mails opposing the resolution. These e-mails are robo e-mails which were drafted by wild-horse advocacy organizations and posted on a website where people can send e-mail just by clicking a mouse. It is pretty clear that these folks are not bothering to read the resolution. There is nothing in S.J.R. 5 attacking wild horses or suggesting that they don't have a place on the range or that they shouldn't be protected. In fact, the resolution seeks to preserve the health of our rangelands for the benefit of all—wild-horse advocates and ranchers and recreational users. Nevada is doing its part. There are over 15 million acres designated as herd management areas for wild horses which include two areas that are specifically managed just for the wild horses and burros, and cover nearly 500,000 acres. The Committee should not give much weight to these robo e-mails because I'm pretty sure that many of them are from out-of-state. If these people have a different opinion then they are free to communicate their views through their Congressional Representatives. To sum it up, I hope that the Committee will pass this resolution because it will send an important message to our Congressional Delegation and federal officials that the protection and responsible management of the rangelands in Nevada is critical to our State.

CHAIR MANENDO:

We have received a number of e-mails from the wild horse advocate groups ([Exhibit K](#)). The e-mails are identical, however I am going to enter two of the e-mails into the record as an example of the correspondence we have received.

SENATOR ROBERSON:

I am in support of this resolution.

SENATOR PARKS:

I do have a concern. The recommendation of the Legislative Committee on Public Lands (LCPL) is somewhat different from the language contained in the resolution. I have a specific concern with the reference in the resolution that wild horses and burros are not indigenous to the rangelands. There have been arguments and discussions on that issue. I realize that we need to manage the rangelands. My concern is with the BLM and some of the practices they have undertaken to manage the rangelands. I am hesitant to support this resolution if it gives the message to the BLM that we condone some of their practices.

CHAIR MANENDO:

We have received correspondence from the Wild Horse Preservation League ([Exhibit L](#)), the Alliance of Wild Horse Advocates ([Exhibit M](#)) and Willis Lamm ([Exhibit N](#)) in opposition to the resolution. I too, have some concerns with the resolution.

SENATOR RHOADS:

The main topic of discussion at LCPL meetings was the wild horse population growth. It is critical to wildlife and livestock that the population of wild horses be controlled.

CHAIR MANENDO:

Did wild horse advocates appear before the LCPL and oppose its recommendations?

SENATOR RHOADS:

There were wild horse advocates at our meeting. They opposed our recommendations. Our response was that the resolution does not say to get rid of all of the wild horses—it says to get the population to a manageable number.

SENATOR ROBERSON:

I do not think this resolution is seen as detrimental by most of the people in Nevada. If that were the case, the Las Vegas hearing room would be full of advocates, and instead, it is empty. It appears that most of the opposition is coming from people who reside out-of-state. They do not live here and they do not understand the issues Nevadans face.

CHAIR MANENDO:

We do have a proposed amendment to S.J.R. 5 which is contained in our work session documents, [Exhibit J](#). It was suggested the language be changed to add the U.S. Secretary of Agriculture to the list of recipients who receive the resolution.

MS. VAN GEEL:

If the Committee does amend the resolution to add the Secretary, USDA as a recipient of the resolution, we may also want to send a copy of the resolution to the Chief of the Forest Services, U.S. Department of Agriculture (USFS).

CHAIR MANENDO:

The chair would accept a motion to amend and do pass, adding the USFS and the Secretary, USDA to the list of recipients.

SENATOR ROBERSON MOVED TO AMEND AND DO PASS AS AMENDED
S.J.R. 5.

SENATOR RHOADS SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

CHAIR MANENDO:

We will close the meeting on S.J.R. 5 and open the meeting for public comment.

CARROL ABEL (President, Hidden Valley Wild Horse Protection Fund):

I wanted to point out to the Committee that the wild horse advocates are not in Las Vegas because they are all attending the National Wild-Horse and Burro Advisory Board meetings in Phoenix. I sent correspondence to the Committee

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regarding S.J.R. 5, and I would like to read that to you ([Exhibit O](#)). I believe the resolution, as written, is confrontational and will prove damaging to the State, its citizens, the wild horses and the livestock industry. I am encouraged that the Committee is reviewing this; however, I am disappointed that the resolution has passed out of the Committee.

CHAIR MANENDO:

I want to inform the Committee we have received a late exhibit submission from Cindy MacDonald. Ms. MacDonald did not attend this meeting; however, I will allow her to submit her comments for the record ([Exhibit P](#)).

There being no further business, the meeting of the Senate Committee on Natural Resources is adjourned at 4:04 p.m.

RESPECTFULLY SUBMITTED:

Jodene Poley,
Committee Secretary

APPROVED BY:

Senator Mark A. Manendo, Chair

DATE: _____

<u>EXHIBITS</u>			
Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
	C	Jim Barbee	PowerPoint Presentation
	D	Jim Barbee	Organizational Chart
	E	Lon Beal	Prepared Testimony
	F	Lon Beal	Prepared Testimony
S.B.12	G	Colleen Cripps	Prepared Testimony
S.B.12	H	Judy Stokey	Correspondence to Committee from NV Energy
S.B. 102	I		Work Session Documents
S.J.R. 5	J		Work Session Documents
S.J.R.5	K		"Robo" e-mails
S.J.R.5	L	H. Bonnie Matton	Correspondence to Committee
S.J.R.5	M	Alliance of Wild Horse Advocates	Correspondence to Committee
S.J.R.5	N	Willis Lamm	Correspondence to Committee
S.J.R.5	O	Carrol Abel	Prepared Testimony
S.J.R.5	P	Cindy MacDonald	Prepared Testimony