

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

**Seventy-sixth Session
April 13, 2011**

The Senate Committee on Natural Resources was called to order by Chair Mark A. Manendo at 4:06 p.m. on Wednesday, April 13, 2011, in Room 2144 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to the Grant Sawyer State Office Building, Room 4412, 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
Linda Fehr, Committee Secretary

OTHERS PRESENT:

Leo Drozdoff, P.E., Director, State Department of Conservation and Natural Resources
James R. Lawrence, Acting Administrator, Division of Conservation Districts;
Administrator and State Land Registrar, Division of State Lands, State
Department of Conservation and Natural Resources
Pam Wilcox, State Conservation Commission
Joe Sicking, Chair, State Conservation Commission
Chris Freeman, Supervisor, Nevada Tahoe Conservation District
Douglas J. Martin, District Manager, Nevada Tahoe Conservation District
John Gavin, Dayton Valley Conservation District
Elbert Mills, Lahontan Conservation District

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Bruce Petersen, State Conservationist, Natural Resources Conservation Service,
U.S. Department of Agriculture
Edwin D. James, General Manager, Carson Water Subconservancy District
Dan Kaffer, Coordinator, Natural Resources Conservation Service,
U.S. Department of Agriculture
Chuck Callaway, Director, Intergovernmental Services, Las Vegas Metropolitan
Police Department

CHAIR MANENDO:

We will open the hearing on Senate Bill (S.B.) 446.

SENATE BILL 446: Revises provisions governing the composition of the State Department of Conservation and Natural Resources. (BDR 18-1209)

LEO DROZDOFF, P.E. (Director, State Department of Conservation and Natural Resources):

Jim Lawrence and I will explain the amendment ([Exhibit C](#)) that we propose for S.B. 446. Passing this bill would streamline the State Department of Conservation and Natural Resources (DCNR). It aligns the DCNR with the Governor's recommendations in the *Executive Budget*. This is a budget bill.

During the budget building process, the DCNR critically evaluated its responsibilities related to managing and protecting the State's natural resources. Due to General Fund revenue realities and the fact that this was the fourth round of budget cuts to the DCNR, difficult decisions had to be made regarding the core functions of the DCNR. As a result, the DCNR was forced to recommend several organizational changes. I want to give you an overview and summarize the recommendations.

First in our proposed amendment, [Exhibit C](#), we call for the elimination of one inactive and unfilled assistant director position. We call for the elimination of the Advisory Board on Natural Resources. We call for the elimination of the Commission for the Preservation of Wild Horses. We call for the elimination of the Division of Conservation Districts (DCD), DCNR, and the transfer of the State Conservation Commission (SCC), DCNR, to the State Environmental Commission.

Section 1 changes DCNR statutes to authorize one deputy director, rather than two assistant directors. The single deputy director is identified as such in legislative pay bills.

The Advisory Board on Natural Resources created by *Nevada Revised Statute* (NRS) 232.085 is eliminated in section 35, line 13, page 21. The spirit and function of the Board is captured with additional language in section 2, subsection 2, paragraph (i), specifically addressing input to the DCNR director from multiple sources including members of the public, various industries, organizations and associations in regard to resource policy matters.

Sections 35 and 38, page 21, repeal sections of (NRS) 504 which relates to the creation of the Commission for the Preservation of Wild Horses, DCNR. This Commission was previously sunsetted by the Legislature due to exhaustion of the Heil Trust which financially supported the program. The Assembly Committee on Ways and Means Joint Subcommittee on Public Safety/Natural Resources/Transportation and the Senate Committee on Finance Joint Subcommittee on Natural Resources and Transportation (Subcommittee) met on April 8, 2011. The Subcommittee recommended to the full committee to approve the Governor's recommendation in the *Executive Budget* to close budget account 101-4150, which includes the Advisory Board on Natural Resources, DCNR, and budget account 607-4156, which includes the Commission for the Preservation of Wild Horses, DCNR, by simply removing the schedule-driven cost since the wild horse account has no revenue or expenditures. It will officially close at the end of this fiscal year.

I will now discuss the DCD and the SCC. The DCD is staffed by 2.5 full-time employees. Only the half-time position is occupied. The DCD serves as staff for the SCC. The SCC provides some oversight to the 28 independent local conservation districts (LCD). The LCDs are separate governmental subdivisions. It was the DCNR's determination during its budget reduction analysis—and let me state for the record that the DCNR's General Fund cuts are 40 percent—that these LCDs are able to stand alone and continue their good work without State involvement. These individual LCDs would remain in statute and be able to qualify for and receive local, state and federal grants. This is an important point. We are proposing changes in the SCC, not the LCDs.

In tough fiscal times, the DCNR had to consider that to provide \$235,200 in grants to the LCDs in fiscal year (FY) 2011, a budget of \$704,980 was

required. Insurance costs to the LCDs were approximately \$49,200. The remaining approximately \$420,000 stayed with the DCD. This was used for staffing the DCD, tracking agendas, producing meeting minutes, answering questions about the Open Meeting Law, providing a forum for conservation issues and so forth. If the DCNR had not made this \$704,980 cut, it would have meant further negative impact on divisions that are already hard hit. These include the Division of Water Resources, the Division of State Parks and the Division of Forestry. Specifically, we would be discussing closing other state parks, shutting another conservation camp or eliminating more engineers in the office of the State Engineer's Division of Water Resources, DCNR.

During the Subcommittee's April 8, 2011, meeting, budget account 101-4151 for the DCDs was deferred until after the hearing on S.B. 446. Legislative fiscal staff had proposed two alternatives for closing. One was approval of the budget that would eliminate the DCD and SCC. The second was for some sort of monetary assistance in the form of a pass-through grant. They suggested approximately \$2,000 per LCD for the 28 LCDs. I want to point out that if the conservation programs are eliminated or if the districts are given a lump sum to pay for insurance or other costs, this amended bill is still appropriate and valid. We would distribute those funds from my office without any additional staff. During the Subcommittee meeting on April 8, 2011, there was a discussion between the Subcommittee and a representative of the LCDs. They discussed a third option which kept LCD staff as well as grants to be given to the local districts. It is important to note that if this third option is not included in the Governor's recommended budget, it would be inconsistent with this bill.

I would be happy to answer any questions. If there are no questions, then I am going to turn it over to Jim Lawrence, Administrator of State Lands and the Acting Administrator of the DCD. He will discuss the key sections of the bill as they relate to the LCD program. Sections of NRS which specifically refer to the powers and authorities of the 28 LCDs have been retained, and they will continue to function. Mr. Lawrence will also explain the technical amendments.

JAMES R. LAWRENCE (Acting Administrator, Division of Conservation Districts; Administrator and State Land Registrar, Division of State Lands, State Department of Conservation and Natural Resources):

I am here to review the proposed statutory amendments, [Exhibit C](#), in S.B. 446 that are relevant to the LCDs, the DCD and the SCC. As Mr. Drozdoff explained, the proposed statutory amendments are companions to the Governor's

recommendations in the *Executive Budget* which eliminate the DCD and the SCC. However, the proposed amendments continue to provide that LCDs remain in statute with their continued authority to carry out conservation projects and still allow for the creation or reorganization of local conservation districts. I will now go over the statutory amendments proposed, [Exhibit C](#).

On page 9, section 13 the definition of the State Conservation Commission is proposed to change to the State Environmental Commission (SEC) in the DCNR. Page 9, section 14 proposes to change the definition of "Division" from the DCD to the Division of Environmental Protection (DEP) in the DCNR. The reason for the definition changes will become clear as we go through the document.

Page 9, lines 32-45 and page 10, lines 1-34 basically eliminate the language that grants authority to the SCC to coordinate local districts and to assist or represent districts at a local, state or federal level. The Nevada Association of Conservation Districts and the National Association of Conservation Districts exist to represent those interests.

We are proposing to remove page 10, lines 35-44, along with page 11, lines 1-7, thereby removing the authority from the DCD to collect descriptions of plans and activities of the local districts; while removing subsection 10 eliminates the requirement for the DCD to submit a report to the director of DCNR.

In section 15, former subsections 11 and 12 are proposed to remain in statute as new subsections 1 and 2. This provides authority for the SEC to approve the consolidation of local districts or the changing of boundaries. If this needs to occur, it is important that we have retained a process.

Section 15, subsection 13 is deleted. This removes the authority language from the SCC to apply for grants on behalf of LCDs. As Mr. Drozdoff explained, the State program that did pass-through grants is not in the budget. The LCDs are still able to apply for grants.

Page 11, section 16 through section 26 on page 17 retains the process for the creation of a new LCD as well as the process for electing first-time supervisors. These sections basically change the process from the SCC to the SEC. The last new LCD formed was the Dayton Valley Conservation District in 1996.

Section 27 on page 17 through section 28 on page 18 is the process for changing LCD boundaries at the request of the LCDs. Again, this authority moves from the SCC to the SEC. The last time an LCD changed boundaries was the merger of the Paradise and Sonoma Districts to become the Sonoma-Paradise Conservation District in the 1980s.

Section 29 on page 18 through section 33 on page 20 is the process for the discontinuation of an LCD if an LCD no longer wanted to be recognized as a district. I could not find any records of the last time this occurred.

We are proposing that section 37, subsection 1 be deleted because it states that all adopted regulations by the SCC be transferred to the SEC since these mostly are administrative regulations regarding the State's pass-through grant program.

Section 37, subsection 2 is language that we are proposing be stricken. This language refers to land use regulation adopted by the SCC. We could not find any record of land use regulations occurring. There is also a process through local governments to adopt land use regulations.

On page 21, lines 13-20, there is a long list of repealed sections. *Nevada Revised Statutes* 548.115 through 548.180 relate to the SCC regarding membership, forums and compensation. With the proposed elimination of the SCC, this language would be repealed. *Nevada Revised Statute* 548.300 is proposed to be repealed. That is the language that gives authority for the SCC to remove an LCD supervisor from office. *Nevada Revised Statute* 548.330 is to be repealed. It is a requirement for the LCDs to provide information to the SCC. Without the State oversight, the local districts will be doing this on their own. In S.B. 446, NRS 548.410 through NRS 548.510 are proposed to be repealed. It is the process for the adoption of local land use regulations by the SCC. Again, we could not find any record of this occurring. There is a process of adopting land use regulations through local governments.

That is an overview of the amendments, and I would be happy to answer any questions you might have.

SENATOR RHOADS:

Does this package provide legal protection for each one of the LCDs?

MR. LAWRENCE:

The statutes clearly state the responsibility for legal representation for LCDs is with the local district attorney. This remains in the statute.

SENATOR RHOADS:

To your knowledge, is there a new budget being presented from the Office of the Governor on this?

MR. DROZDOFF:

I have not seen a new budget. I know that as a result of the discussions we had during the budget hearing, concepts were discussed about the possibility of giving some grant dollars to each conservation district. I know those discussions were ongoing. If dollars were given to the LCDs directly for insurance payments or something else, this bill, with our amendments, is still valid because we would handle that from the director's office, DCNR.

SENATOR LEE:

On page 21 I am looking at two sections which are not stricken out of former legislation. They are not bolded to indicate that this is your language. Is section 38 something that you are trying to accomplish today, or does this happen sometime earlier? I do not remember seeing that the Heil Trust, which was money donated for the particular use of Wild Horses, was to be abolished and put into the General Fund. Is your decision to do that?

MR. DROZDOFF:

The Heil Trust gave a sum of money to the State to operate a Wild Horse Program. We did that for about two decades. Essentially, that Trust has been exhausted. Part of our budget represents the fact that the program will be discontinued because there is no more money left in the Heil Trust.

SENATOR LEE:

So, basically it is gone. Could you give me some reference to section 36? Do you know something about this or not?

MR. DROZDOFF:

This is not something that we are proposing to change. We will have to figure it out. I know the Dream Tag Program will continue. We will not have an Advisory Board for Natural Resources. Whoever filled that position could still continue to fill that position, but there will not be an advisory board for DCNR.

SENATOR LEE:

I remember working very hard on that last session. I do not know what this is about.

MR. DROZDOFF:

There will be no changes to the Dream Tag Program. A person who was on that board who was also on the Advisory Board on Dream Tags, could stay on. The Advisory Board just will not exist. It should not have any impact on the Dream Tag Program.

SENATOR LEE:

Could you please get me something in writing?

MR. DROZDOFF:

Absolutely.

CHARITY FOWLER (Counsel):

Senator Lee, right now one member of the Advisory Board on Dream Tags is required to come from the Advisory Board on Natural Resources. Since we are eliminating the Advisory Board on Natural Resources, we need to do something with that member. We did not want to eliminate the position on the Advisory Board on Dream Tags. This is just a transitory provision that allows for whomever is serving on the Advisory Board on Dream Tags to continue serving on that Board until it is determined whether they are going to replace that person. On page 8, section 11, the director of the DCNR will now appoint that member. The same person can be approved to stay, and there will be no effect on the Advisory Board on Dream Tags.

SENATOR LEE:

That makes sense.

SENATOR RHOADS:

Could Pam Wilcox speak? She has an amendment.

PAM WILCOX (State Conservation Commission):

I am the retired Administrator, Division of State Lands, and I administered the DCD for almost 30 years. We have a number of people here today from the conservation districts and the SCC who would like to speak about all the good

work they have been doing for the past 74 years, and their objection to the idea of eliminating a valuable 74-year-old-program just because the State is having temporary budget problems. They will make that case for themselves.

When the SCC first reviewed the Governor's budget, they asked if I would assist them. I volunteered to do so and registered as an unpaid lobbyist. One of the pieces of technical assistance that I gave was to analyze this bill and to draft an amendment ([Exhibit D](#)). If you adopt this amendment, you will not need the amendment that was presented to you by the DCNR, S.B. 446. This amendment keeps the statutes as they are. It would first amend S.B. 446, section 2, page 2, lines 16 and 17. Also, on page 3, line 43 the SCC is eliminated from the statutes. This amendment would eliminate the elimination. I am not quite sure how you would do this, so I just tried to explain it to you.

In this amendment, section 3, found on page 4, line 14, calls for the elimination of the deletion of the DCDs.

Section 35 is the section which Mr. Lawrence just discussed. This is a list of deletions, and we would ask that you omit any deletions of NRS 548, which is the DCD statute.

There is a list of all the sections that speak only to the DCDs and the SCC. I ask that you retain those sections in the statutes.

I can only say that I am here because I feel this is an important program. I was first elected to the board of the North Truckee Conservation District in 1974. I was so impressed with the program that I applied for the position as administrator of the DCD. I served in that capacity for many years. This is just a gem of a program where all these locally elected supervisors volunteer their time to do all of these good volunteer conservation works for the State. I am upset that we would eliminate it because we are out of money for a few years. We are also working with the budget committees to try to have a small, greatly reduced budget for the program to continue to go forward. The most important thing is that the statute not be changed. I would be happy to answer any questions.

SENATOR RHOADS:

We had a hearing last week, and both the Senate Finance Committee and the Assembly Ways and Means Committee did not close the budget because they

thought there was some room to work on it. I believe another budget is going to be presented at a later time. If we process this bill, I think it should be rereferred to the Senate Finance Committee.

CHAIR MANENDO:

We have two agency bills we were going to hear. One was pulled, but it is still going to get rereferred. We wanted to let this Committee hear this presentation. It will be rereferred. This is not the last stop.

JOE SICKING (Supervisor, Nevada Tahoe Conservation District):

I am chair of the SCC. With me are Chris Freeman and Doug Martin. I want to talk about the incorporation of the LCDs with the SEC. It is like putting a square peg in a round hole. I have provided an exhibit ([Exhibit E](#)) from the SEC which explains their mission statement and other facts. It is an 11-member quasi-judicial, quasi-legislative board that operates under the authority of the NRS. The SEC acts on regulatory petitions proposed by the NDEP. Conservation districts are not regulatory. We just try to get the job done. It is unfair to put us into a group where we do not belong. The LCDs have been in Nevada for 74 years. They have always had State representation. Prior to the SEC, there was a conservation committee. It has been proposed that insurance be discontinued and perhaps later put back with grants. As a supervisor on an LCD in Paradise Valley, I would probably resign because I could not put myself in a position like that without liability insurance.

CHRIS FREEMAN (Supervisor, Nevada Tahoe Conservation District):

I am a retired State employee. I worked in an administrative position supporting all the conservation districts. I now serve on the SCC and am a board member on the Nevada Tahoe Conservation District. There are 28 LCDs covering the State with 200 supervisors who volunteer their time with no compensation. The concern we have is that with this bill, the districts will not have anyone to help them carry out their programs. As an employee, I work on keeping the LCDs up to date on items such as open meeting laws, supervisory training, minute preparation, long-range planning, financial accounting, grant applications and so forth. If this bill passes, the LCDs will be left on their own and may not be able to function. They will not be up to date on State regulations and other things that take place. Also, the SCC was the organization that worked hand in hand with the Natural Resources Conservation Service (NCRS), U.S. Department of Agriculture, in helping them to carry out their programs, work on developing farm bills and other programs. The LCDs work in both rural and urban situations.

DOUG MARTIN (District Manager, Nevada Tahoe Conservation District):

I am the district manager for the Nevada Tahoe Conservation District, the largest LCD in Nevada. We have 28 districts, and only 5 of those districts have paid staff. The balance of the districts is solely operated by volunteers. Those volunteers include the supervisors, farmers and ranchers. You can see from my handout ([Exhibit F](#)) that a lot of the volunteers are students. My concern is not for the Nevada Tahoe Conservation District. Mr. Drozdoff is absolutely correct. Our LCD will be able to comply with these rules and regulations and we have paid professional staff. My concern is for all of the other districts. If you look through this handout, [Exhibit F](#), you can see some of the projects. They are dealing with invasive weeds and educating tomorrow's farmers, ranchers and citizens of Nevada about our natural resource issues. We work closely with LCDs. We work closely with the SCC. We have responsibilities to report to them and to get guidance. My concern with this bill is the elimination of, reporting to and getting guidance from the SCC. Instead, we would be reporting to the SEC, which is an important board. However, the SEC is not composed of producers, ranchers and farmers. It is primarily people dealing with important environmental rules, regulations, fines and policies. I am just concerned that the LCDs that work with agricultural producers and do the type of work you see in this handout will not be as well received as they are under the SCC.

JOHN GAVIN (Dayton Valley Conservation District):

I am an attorney. I live along the Carson River. I have a 70-acre ranch there that is productive. Our family has been in the Dayton Valley for close to 100 years. We have been raising sheep throughout this area and also in the east and south.

I have been a volunteer member of the Dayton Valley Conservation District, the State's newest LCD, for 10 years. I have probably put in 1,000 to 1,500 hours of volunteer time. I am very willing to continue to do so. The job is done by all volunteers except for when we are lucky enough to get a grant and we have paid employees. There is turnover with paid employees. Most of the administrative responsibilities fall on the employee who is paid by grant money. I do not know of any entity where you get more bang for your buck than the LCDs. We deal with river restoration, channel clearing and noxious weed suppression. We have River Wranglers. During the Carson City River Work Days we have had upwards of 10 to 20 thousand young children and their families participate in this and help us determine the biological health of the Carson River. The children and families learn about wildlife and biology. We have dealt with Eagle Scout programs. We do all this as volunteers. We are an employer in

the sense that hardly a year goes by that we do not have hired contractors. We use grant money and spend upwards of \$1 million per year contributing to local economies. This requires masterful coordination through many agencies.

Some of those agencies include the U.S. Army Corps of Engineers; NRCS; the U.S. Environmental Protection Agency; Nevada Division of Environmental Protection, DCNR; State Lands, DCNR; the State Engineer, DCNR; the U.S. Bureau of Reclamation, U.S. Department of the Interior; the Federal Emergency Management Agency, U.S. Department of Homeland Security; and so forth. Volunteers need some help. My day job is as an attorney. Every time I go to a meeting and see documents, I look at the legal side. Not everyone has that benefit, which is why we need a commission that understands LCDs and can coordinate with us to help all the LCDs. Without a knowledgeable coordinated effort from a commission which has had decades of experience, most of these LCDs are not going to be around. The contractors will not be there to do the river restoration or the streambank stabilization. The "Wilcox Amendment" could be one way to go. I urge you to consider it.

MR. LAWRENCE:

This is a complicated bill. I wanted to explain a couple of sections and get it on the record so there is an understanding of the relationship between the transfer from the SCC to the SEC. Now there is a SCC to which the LCDs are required to report, and to which they send their agendas, minutes and other items. That requirement is proposed to be eliminated. Will the proposed transfer to the SEC solely be just the process for forming, or reforming, LCDs? There still needs to be some State process for that to happen. That is really the only role the SEC will have.

Earlier in my testimony, I mentioned legal representation for the LCDs. It states in NRS 548.325 that LCDs shall have the representation of the local district attorney.

ELBERT MILLS (Lahontan Conservation District):

I am from Fallon and have lived there all my life. My father came to Fallon 104 years ago. I am sure that all of you know about the Truckee Carson Irrigation District (TCID) washout in the Truckee Canal on January 5, 2008. Recently, part of it has settled. The TCID board members were each personally sued for a huge amount of money. It was well into millions of dollars.

Fortunately, most of them had good insurance. As a TCID board member, I could not serve in the public entity today without insurance coverage to do so.

I believe in LCDs and I have served for eight years. Also, I have served on the Nevada Farm Bureau Federation representing dairies for eight years, as well as the TCID board for six years, during two of which I was chair. I have done this because I like the system. There are as many as 200 people volunteering. Many of them would stop volunteering if they become aware of the potential liability against their personal assets. It is important that each of you consider the position you are putting us in. I started with the Sheckler Soil Conservation District in 1954. By 1957 I was the chair, and I could see that we could function a lot better by merging with Lahontan. Shortly thereafter we merged to become the Lahontan Conservation District, and I have never regretted it. I think that all of us need to tighten our belts. People who volunteer to this extent should at least have support. The State cannot afford to see their resources go down the tubes, because it would come back on the State if it did.

BRUCE PETERSEN, (State Conservationist, Natural Resources Conservation Service, U.S. Department of Agriculture):

I oversee the operations of the NRCS in Nevada. It is an agency within the U.S. Department of Agriculture. I have about 70 employees, and we provide millions of dollars to Nevada in financial assistance to producers, farmers and ranchers who participate in our cost-share programs. Those programs are something that LCDs across the country have helped develop, lobby, secure and fund. I have a strong partnership with the SCC and the LCDs. I value that partnership. I support the SCC and the LCDs both financially and with technical assistance. I rely on them for program guidance and for outreach and education to produce a strong Nevada. I can tell you that a strong SCC commission and strong LCDs assist me in my program. This translates into producers who are engaged and educated, and they strive for and understand the need for increased production and sustainability with the natural resources they control on private land. I would just like to see that continue.

EDWIN K. JAMES (General Manager, Carson Water Subconservancy District):

We are neutral on this bill. We wanted to bring to the attention of this Committee the importance of the LCDs. We know the LCDs are still going to be functioning here, but anything that could impact them has a huge impact on the work that we do on the Carson watershed.

Most of the land along the Carson River is owned by private citizens. Getting the work done requires people who know the private citizens. We provide sponsoring and funding help to the LCDs. It is the actual LCDs themselves that get the river work done for protection of the habitat, and enhancement of the systems. We always support the LCDs to actually get work done.

DAN KAFFER (Coordinator, Natural Resources Conservation Service, U.S. Department of Agriculture):

I work with the Western Nevada Resource Conservation and Development Council, NCRS. I want to reiterate what all these speakers have said. The LCDs are amazing organizations. I have worked with them professionally for 32 years. I have worked with thousands of school children. Over 20,000 people have worked on Carson River Work Days, planting willows and doing restoration work along the Carson River. These are all volunteer projects.

As stated before, this work is done next to private ranches. Those ranches provide habitat for wildlife. They provide flood control for the State. They provide many free services to communities because they are in open spaces and need to preserve the agricultural lands on our watersheds. They also border State lands. The beds and the banks of the Carson River, the Truckee River and the Virgin River are all State lands. The LCDs, ranchers and farmers are the people who do the work on that State land, protect that State resource, and restore the rivers of Nevada. There is no other organization that does it like the LCDs do, especially adjacent to private lands. This includes most of the rivers in Nevada. I just want to support what is proposed by the Wilcox Amendment, [Exhibit D](#). Thank you for supporting LCDs.

SENATOR PARKS:

Let me reiterate the statement made earlier by Senator Rhoads. The action taken in the budget subcommittee is probably the most favorable action we could have taken at that time. Had we followed the Governor's recommendation on the *Executive Budget*, these budgets obviously would have closed without the funding. They are still open, and we are still hopeful and confident that we can make sure we keep them alive. I want to express my appreciation for all the work you have done.

CHAIR MANENDO:

We will close the hearing on S.B. 446 and rerefer it to the Senate Committee on Finance. I will take a motion of no recommendation.

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SENATOR RHOADS MOVED WITHOUT RECOMMENDATION TO
REREFER S.B. 446 TO THE SENATE COMMITTEE ON FINANCE.

SENATOR PARKS SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR MANENDO:

We will open the work session with a bill that was on our schedule that we ended up removing from the agenda. We were told that S.B. 468 also needs to be rereferred to the Senate Committee on Finance.

SENATE BILL 468: Makes various changes related to the Department of Motor Vehicles. (BDR 40-1221)

SENATOR PARKS MOVED TO REREFER S.B. 468 TO THE SENATE
COMMITTEE ON FINANCE.

SENATOR LEE SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR MANENDO:

We will now continue the work session with S.B. 309 since Senator Settlemeyer is here.

SENATE BILL 309: Authorizes a person to remove from his or her property an animal for which he or she has, by contract, provided care and shelter under certain circumstances. (BDR 50-703)

MICHELLE VAN GEEL (Policy Analyst):

Senate Bill 309, sponsored by Senator Settlemeyer, as described in my work session document ([Exhibit G](#)), was heard in Committee April 1, 2011. It authorizes a person to remove from his or her property an animal for which the person has, by contract, provided care or shelter. After appropriate notification

and under specific circumstances, the animal is deemed to be abandoned and the person may sell the animal, give the animal to a society for the prevention of cruelty to animals, return the animal to the owner at the owner's present address, transfer the animal to another facility or bring civil action to require the owner to remove the animal. If the owner fails to remove the animal, the person providing care and shelter for the animal may charge and collect reasonable and actual costs incurred in removing the animal. No amendments were offered on the bill.

CHAIR MANENDO:

The Chair will entertain a motion on S.B. 309.

SENATOR LEE MOVED TO DO PASS S.B. 309.

SENATOR RHOADS SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

CHAIR MANENDO:

Senator Settlemeyer has left, but we will assign it to him. We are going to turn to S.B. 417.

SENATE BILL 417: Provides for the placement of recycling containers in certain locations. (BDR 40-1108)

Ms. VAN GEEL:

Senate Bill 417 was heard in Committee on April 8, 2011. As described in my work session document ([Exhibit H](#)), it requires regulations concerning recycling containers that are adopted by the SEC, the DEP and the DCNR to include provisions for the placement of recycling containers on the premises of apartment complexes and condominiums where those are provided. No amendments were offered on the bill.

SENATOR LEE MOVED TO DO PASS S.B. 417.

SENATOR PARKS SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR RHOADS VOTED NO.)

CHAIR MANENDO:

I will take S.B. 417 to the Senate Floor. Please turn to S.B. 223.

[SENATE BILL 223](#): Revises provisions relating to cruelty to animals. (BDR 50-760)

MS. VAN GEEL:

Senate Bill 223 was heard in Committee on March 23, 2011. It revises provisions relating to the cruelty of animals. The bill provides that a person who willfully and maliciously commits certain acts against an animal is guilty of a Category D felony, if the act does not result in the death of the animal, and is guilty of a Category C felony, if the animal dies because of the act of cruelty. Finally, this bill clarifies that a person who separates a dog or cat from its mother before it is eight weeks old or before it is accustomed to taking food or nourishment other than by nursing, is guilty of a misdemeanor.

Behind the work session page is a mock-up amendment ([Exhibit I](#)). The mock-up amendment basically contains two amendments. First, it provides that the intentional torturing or unjustifiable maiming, mutilating or killing of a companion animal or any cat or dog is punishable as a Category D felony. If the act is done to threaten, intimidate or terrorize another person, the punishment is a Category C felony. The intent for this amendment was requested by Chuck Callaway and Brian O'Callaghan with the Las Vegas Metropolitan Police Department.

The second part of the amendment provides that if a person makes a report to animal control or law enforcement regarding the abuse of an animal, the person's identity must remain confidential except to appropriate law enforcement or government agencies for prosecution. Any violation of this provision would be a misdemeanor. The intent for this amendment was requested by Senator Breedon.

SENATOR RHOADS:

Did we receive testimony from both Washoe and Clark Counties that it was going to have quite a fiscal impact on their budget? Does anyone remember? Mr. Chair, is it possible for Chuck Callaway to come up to speak?

CHAIR MANENDO:

Yes.

CHUCK CALLAWAY (Director, Intergovernmental Services, Las Vegas Metropolitan Police Department):

When the bill was heard, I testified to the fact that in its original form, this bill would cause a significant impact on our agency fiscally. We would be responsible for responding to felony cases. In its original form, the bill would make most cases felonies. The amendment that we submitted would significantly reduce the fiscal impact to our agency, making it minimal.

SENATOR LEE:

I am not versed on the different categories. Could you explain?

MS. FOWLER:

A Category D felony is a felony for which the court shall sentence the convicted person to imprisonment for a minimum of one year and a maximum of four years and may impose a fine of not more than \$5,000.

A Category C felony has a minimum term of one year and a maximum term of five years and a fine of not more than \$10,000.

SENATOR LEE:

The amendment says that if a person makes a report to animal control or law enforcement regarding the abuse of an animal, the person's identity should remain confidential except to appropriate law enforcement or government agencies for prosecution. If someone calls the hotline and speaks to a dispatcher, could the dispatcher be cited with a misdemeanor?

MR. CALLAWAY:

Let me clarify that the amendment was not submitted by our agency but by Senator Breeden. I will try to address your question. For example, let us say I saw my neighbor abusing the family animal. I called the police department and an officer responded. When the officer arrived, the neighbor was inside his

home and the animal was outside and looked injured. In that particular case, if it was a misdemeanor offense and the crime did not occur in the officer's presence, the officer would basically impose a citizen's arrest. The officer would need the neighbor who witnessed the offense to file charges to take action and make an arrest. If the offense was a felony and the officer had probable cause to believe it occurred, the officer could make an arrest but would probably still need to get a statement and witness testimony from the neighbor. If the accused neighbor were to file a request to get public copies of the reports, the information regarding the witness would be redacted from those reports and would not be released to the suspect. If someone were to release a report to the suspect with the witness's information still in it, or if someone were to tell the neighbor who called, the penalty could come into play.

SENATOR LEE:

The bill states that the person who separates a dog or cat from its mother before it is eight weeks old or is accustomed to taking food or nourishment other than by nursing is guilty of a misdemeanor. I think this was directed towards a puppy mill. I have seven children, and I do not even know when their birthdays are. How do you know eight weeks? If my cat just had a litter of eight and I gave them away without knowing the age of the kittens, how does this work? You are obviously the one who has to cite them.

MR. CALLAWAY:

In Clark County, animal control handles all animal calls that do not rise to the level of a felony. With this bill, animal control agents would have to be responsible for investigating if someone were running a puppy mill putting puppies out prior to that time period. I could not testify as to how that would be determined. I am not an expert in that field.

CHAIR MANENDO:

In the current statute, it is already eight weeks. That bill was passed last Legislative Session. Ms. Fowler is going to help us with that language.

MS. FOWLER:

This was just a clarification. *Nevada Revised Statute* 193.170 provides that whenever the performance of any act is prohibited by any statute, and no penalty for the violation of such statute is imposed, the committing of such act shall be a misdemeanor. We just put this in to clarify that it is a misdemeanor. It already was a misdemeanor as soon as they enacted the provision saying that a

retailer, dealer or operator should not separate a dog or cat from its mother. This does not affect any substantive change in the law. It is a clarification.

CHAIR MANENDO:

In local jurisdictions, someone wanting to report overgrown weeds, trash or something of that nature would contact a public entity. For fear of retaliation, your name and address will not be made public. A citizen asked me if this would require that an individual be identified when reporting a neighbor for abusing an animal. It does not have to be reported for weeds or trash, and it made sense to me that it not be reported for animals. That is why this confidentiality language was included.

SENATOR ROBERSON:

I want to thank the sponsor of this bill and law enforcement for working together to make it a better bill. I was initially concerned about the fiscal impact and the initial wording of the bill. I was concerned that many more potential events in this statute would have become a felony. I now support this bill.

SENATOR ROBERSON MOVED TO AMEND AND DO PASS S.B. 223.

SENATOR LEE SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

* * * * *

CHAIR MANENDO:

Our final bill is S.B. 364.

SENATE BILL 364: Prohibits a person from engaging in horse tripping or organizing a horse tripping event under certain circumstances. (BDR 50-357)

MS. VAN GEEL:

Senate Bill 364 was heard in Committee April 6, 2011. It was sponsored by Senator Copening. As I described in my work session document ([Exhibit J](#)), it prohibits a person from engaging in horse tripping for enjoyment, entertainment, competition or practice and for knowingly organizing, sponsoring, promoting, overseeing or receiving admission money for a horse tripping event. The bill also

removes the requirement that any local ordinance prohibiting horse tripping must impose a criminal penalty.

CHAIR MANENDO:

I was given a stack of letters in support of S.B. 364. These letters will be available in my office for review. These are the letters that were provided to me, and I understand there are more. We also have a letter of support from Commissioner Giunchigliani, Board of County Commissioners, Clark County ([Exhibit K](#)). She says the new language being proposed is similar to the Clark County Code of Ordinances 10.32.250, and that she hopes the Committee will look favorably on this bill.

SENATOR RHOADS:

I would like to read what is in existing law. Existing law, NRS 244.359, authorizes the board of county commissioners to enact an ordinance prohibiting cruelty to animals and requires any such ordinance relating to horse tripping to impose a criminal penalty for the offense. The counties can do it. Clark County did it. Lyon County did it. I do not see any reason for this bill.

SENATOR ROBERSON:

I spoke on this bill when we had a work session last time. I tried to keep an open mind. I asked the sponsor to come together with the folks who are opposing it to try to come to some resolution. I have heard nothing since then from the sponsor of this bill. This is a tough decision for me, but I have to tell you I just see very little evidence that horse tripping is actually happening in Nevada. It is almost a solution looking for a problem.

I am also sensitive to the concerns of ranchers and the rodeo folks. As far as the laws we enact, things that may be appropriate in Clark County may not necessarily be appropriate for the rest of the State.

If I thought this was truly a problem in the State, I would feel much more comfortable voting yes to legislation addressing it.

CHAIR MANENDO:

I also have a concern with livestock. Senator Rhoads and I talked yesterday, and we certainly do not want to impede on the responsibility of ranchers. I think the bill states that it would have to be done for entertainment purposes. Legal

Counsel says we can make it absolutely, perfectly clear. We could amend some language to clarify it. Senator Rhoads, does that help?

SENATOR RHOADS:

No, that would not help. I am firmly opposed. Many of my constituents have been talking to me, and they do not see how we can make it work with that amendment.

SENATOR LEE:

As chair of the Senate Committee on Government Affairs, I sometimes look at all these things through a myopic view. If this bill were to come up through the system, if there was large abuse and local government was not enforcing some cruelty laws, I probably would support this. I would much rather have these issues handled at the local level. If they are blatantly unwilling even to discuss it, then I would support this. I do not know if discussions have been held on a local basis. I do not know that horse tripping happens here. During the next two years, I would like to see the local governments take a look at this. They should determine if it is going on in their communities and how they will respond to it.

CHAIR MANENDO:

I know the Clark County Code of Ordinances states that no person shall intentionally trip or cause to fall or rope the legs of a horse for sport. It is not limited to rodeos and animal racing.

SENATOR LEE:

I encourage the sponsors of the bill to go to the county that is effectively doing this and try to get this on their books. The local governments should have a chance to decide this issue in their communities.

CHAIR MANENDO:

The Chair is not going to entertain a motion at this time. We are going to give the sponsor another day. We still have a meeting on Friday. If anyone can provide us with any amended language or anything that can appease the concerns of the members, we would appreciate it. Out of respect to the

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sponsor, we are going to give her and proponents of the bill a little bit more time to see if we can come up with something else.

Is there any public comment? Seeing none, we are adjourned at 5:30 p.m.

RESPECTFULLY SUBMITTED:

Linda Fehr
Committee Secretary

APPROVED BY:

Senator Mark A. Manendo, Chair

DATE: _____

<u>EXHIBITS</u>			
Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
S.B. 446	C	Leo Drozdoff	Proposed Amended
S.B. 446	D	Pam Wilcox	Proposed Amendment
S.B. 446	E	Joe Sicking	SEC Document
S.B. 446	F	Doug Martin	Conservation Districts
S.B. 309	G	Michelle Van Geel	Work Session Document
S.B. 417	H	Michelle Van Geel	Work Session Document
S.B. 223	I	Michelle Van Geel	Work Session Document
S.B. 364	J	Michelle Van Geel	Work Session Document
S.B. 364	K	Chair Manendo	Letter from Commissioner Giunchigliani