

**MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON HEALTH AND HUMAN SERVICES**

**Seventy-Seventh Session
May 13, 2013**

The Committee on Health and Human Services was called to order by Chair Marilyn Dondero Loop at 1:43 p.m. on Monday, May 13, 2013, in Room 3138 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 nelis.leg.state.nv.us/77th2013. 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 Marilyn Dondero Loop, Chair
Assemblywoman Ellen B. Spiegel, Vice Chair
Assemblywoman Teresa Benitez-Thompson
Assemblyman Wesley Duncan
Assemblyman Andy Eisen
Assemblywoman Michele Fiore
Assemblyman John Hambrick
Assemblyman Pat Hickey
Assemblyman Joseph M. Hogan
Assemblyman Andrew Martin
Assemblyman James Oscarson
Assemblywoman Peggy Pierce
Assemblyman Michael Sprinkle
Assemblyman Tyrone Thompson

COMMITTEE MEMBERS ABSENT:

None



GUEST LEGISLATORS PRESENT:

Senator Joseph P. (Joe) Hardy, Clark County Senatorial District No. 12
Senator James A. Settelmeyer, Senatorial District No. 17
Senator Aaron D. Ford, Clark County Senatorial District No. 11
Assemblyman James Ohrenschall, Clark County Assembly District No. 12

STAFF MEMBERS PRESENT:

Michael J. Stewart, Chief Principal Research Analyst
Kirsten Bugenig, Committee Policy Analyst
Risa Lang, Committee Counsel
Terry Horgan, Committee Secretary
Macy Young, Committee Assistant

OTHERS PRESENT:

Maureen Cole, Administrator, Rehabilitation Division, Department of
Employment, Training, and Rehabilitation
Lynn Hettrick, Executive Director, State Dairy Commission
Lea Tauchen, representing the Retail Association of Nevada
Christy McGill, Director, Healthy Communities Coalition of Lyon and
Storey Counties
Jack Jacobs, Private Citizen, Gardnerville, Nevada
Michelle Curran, Private Citizen, Las Vegas, Nevada
Nancy Hall, Environmental Health Specialist, Southern Nevada Health
District
Mendy Elliott, representing the Northern Nevada Development Authority
Robert Sack, Director, Environmental Health Services Division, Washoe
County Health District

Chair Dondero Loop:

[Roll was taken. Committee rules and protocol were explained.] I am going to begin with the work session. The first bill for the members' consideration is Senate Bill 54 (1st Reprint). Mrs. Bugenig, please go ahead.

Senate Bill 54 (1st Reprint): Revises provisions governing the operation of certain vending stands by persons who are blind or visually impaired. (BDR 38-370)

Kirsten Bugenig, Committee Policy Analyst:

[Mrs. Bugenig read an explanation of the bill and proposed amendments from the work session document ([Exhibit C](#)).]

Chair Dondero Loop:

Senator Hardy, would you like to explain the proposed amendment to us?

Senator Joseph P. (Joe) Hardy, Clark County Senatorial District No. 12:

Thank you for hearing this amendment. The people who run the Business Enterprise Account for Persons Who Are Blind are the vendors who put the money into that fund. They recognize that, on occasion, that money gets swept. They would like to be assured that if money goes out of that fund, it will not be swept into the State General Fund, as is currently in statute, but go back to those who contributed to it.

The Department of Employment, Training, and Rehabilitation (DETR) has recognized that there is probably a good way to do it by involving them, and a representative is here at the table with me.

Chair Dondero Loop:

Before we do that I will take a motion, and then we will go forward if there is discussion.

ASSEMBLYWOMAN FIORE MOVED TO AMEND AND DO PASS
SENATE BILL 54 (1ST REPRINT).

ASSEMBLYMAN OSCARSON SECONDED THE MOTION.

Is there any discussion or are there any questions from Committee members?

Assemblywoman Benitez-Thompson:

Would there be a full accounting of the amount of money left in the enterprise account for the vendors connected with the program for the blind? Then, whatever the amount of money is, that money would stay with DETR and never go back to the State General Fund? Is that right?

Senator Hardy:

The Department of Employment, Training and Rehabilitation controls those funds. The way the law is written now, if that fund is dissolved, that money goes back to the State General Fund. What we are proposing in the amendment is for the money in that fund to be returned to those who put it in—the blind vendors. It would not be swept into the State General Fund, but go back to the people who put it in.

Assemblywoman Benitez-Thompson:

Is there a process set up for that distribution system, or would there need to be a process set up?

Senator Hardy:

Yes, there would need to be a process set up which would include working with DETR and the people who are on the Nevada Committee of Blind Vendors.

Assemblywoman Benitez-Thompson:

Would that be a straight refund to those who had paid in? Would they get an exact amount back? How would that pool of money be redistributed, and can you tell me what that pool of money is?

Maureen Cole, Administrator, Rehabilitation Division, Department of Employment, Training, and Rehabilitation:

Currently, it is about \$3.5 million. I want to clarify that there are no state or federal dollars in the enterprise account. It is all paid into with a portion of net monthly proceeds from the blind vending sites. It is a totally self-supporting program. All of the personnel costs, operation costs, cost allocation, and the cost of the program are all paid from that set-aside each of the vendors pays in each month. Should the program ever be terminated, and there is no plan at this time to terminate the program, but in that event, the money would be returned in proportion to the payments made by the individual blind vendors.

Assemblyman Sprinkle:

You just answered my first question, which was whether this amendment supposes that there might be a termination of the program. I think I just heard you say that it is not a consideration right now.

Maureen Cole:

No, we have no plans to terminate the program at all.

Assemblyman Sprinkle:

More generally, I am always curious when we get an amendment proposed in the second house. What was the impetus for this amendment being proposed here as opposed to when the bill was first in the Senate?

Senator Hardy:

I had constituents who are blind vendors who were concerned about past history with this body and that sometimes money gets swept into the State General Fund. They approached me before the session, and I worked with them and came up with an amendment, but it was too late to amend the bill on the

Senate floor. You in the Assembly are too efficient with your bill hearings, so it had to come to the work session.

Assemblyman Thompson:

My question concerns language on page 3 of the bill, starting on line 16 and going until line 28. I would like a clarification. I know that there is not a charge for the lease, but for example, if there is a cafeteria, who has to maintain all the equipment? Is that something DETR works out?

Maureen Cole:

Most of the equipment at the sites, such as at a cafeteria, are owned by the Nevada Business Enterprise Program for the Blind. In the case of a site closing or being transferred to another area, that equipment is taken by the program and either disposed of at auction, distributed to other vendors, or put in storage. The maintenance of all the equipment in most of our sites is taken care of with the enterprise account and the money that comes into it. There are one or two older situations in which perhaps a county or the state has purchased the equipment, but typically, it is maintained by the blind enterprise program so there is no cost to the host agency.

Chair Dondero Loop:

Are there any other concerns or comments from the Committee?

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

Mr. Thompson will do the floor statement.

Now, we will go to Senate Bill 61 (1st Reprint).

Senate Bill 61 (1st Reprint): Revises certain provisions relating to persons with communications disabilities. (BDR 38-310)

Kirsten Bugenig, Committee Policy Analyst:

[Mrs. Bugenig read a description of the bill from the work session document ([Exhibit D](#)).]

Chair Dondero Loop:

Thank you very much. Do I have a motion?

ASSEMBLYMAN EISEN MOVED TO DO PASS SENATE BILL 61 (1ST REPRINT).

ASSEMBLYMAN SPRINKLE SECONDED THE MOTION.

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

Mr. Sprinkle, would you like the floor statement? [Mr. Sprinkle agreed.]

All right, we will move to Senate Bill 100 (1st Reprint).

Senate Bill 100 (1st Reprint): Revises provisions relating to certain providers of emergency medical services. (BDR 40-501)

Kirsten Bugenig, Committee Policy Analyst:

[Mrs. Bugenig read a description of the bill and proposed amendment from the work session document ([Exhibit E](#)).]

Chair Dondero Loop:

Thank you very much. Do I have a motion?

ASSEMBLYMAN OSCARSON MOVED TO AMEND AND DO PASS
SENATE BILL 100 (1ST REPRINT).

ASSEMBLYMAN SPRINKLE SECONDED THE MOTION.

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

Mr. Sprinkle, I might ask you to do this bill.

Next is Senate Bill 274 (1st Reprint).

Senate Bill 274 (1st Reprint): Revises provisions relating to contracts and agreements of the Department of Health and Human Services. (BDR 39-1082)

Kirsten Bugenig, Committee Policy Analyst:

[Mrs. Bugenig read a description of the bill from the work session document ([Exhibit F](#)).]

Chair Dondero Loop:

Do I have a motion?

ASSEMBLYWOMAN SPIEGEL MOVED TO DO PASS
SENATE BILL 274 (1ST REPRINT).

ASSEMBLYMAN EISEN SECONDED THE MOTION.

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

Mrs. Spiegel, would you like the floor statement? [Mrs. Spiegel agreed.]

Now, we will move to Senate Concurrent Resolution 4.

Senate Concurrent Resolution 4: Encourages the Department of Health and Human Services and the Commissioner of Insurance to work with health care providers and insurers to develop a patient-centered medical home model of care. (BDR R-507)

Kirsten Bugenig, Committee Policy Analyst:

[Mrs. Bugenig read a description of the resolution from the work session document ([Exhibit G](#)).]

Chair Dondero Loop:

Thank you very much. Do I have a motion?

ASSEMBLYMAN THOMPSON MOVED TO ADOPT SENATE
CONCURRENT RESOLUTION 4.

ASSEMBLYMAN MARTIN SECONDED THE MOTION.

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

Mr. Hambrick, would you like this bill? [Mr. Hambrick agreed.]

That concludes our work session. We will now go to our bill hearings. We will start with Senate Bill 80 and welcome Senator Settlemeyer.

Senate Bill 80: Makes various changes to provisions governing dairy products and dairy substitutes. (BDR 51-460)

Senator James A. Settlemeyer, Senatorial District No. 17:

My district contains many dairies. Fallon itself has a new state-of-the-art milk processing facility soon to open providing 45 new jobs, and it is still growing.

In fact, they have asked all the dairies in the community to increase milk production by at least 20 percent. That will still only be about 50 percent of its capacity, so we are trying to get dairies to move here from California. Agriculture is one of Nevada's growth sectors.

This bill in front of you, Senate Bill 80, existed last session with a different bill number. It was passed unanimously by this Committee, but unfortunately got caught up in the final craziness that occurs sometimes at the end of session, and did not pass. In retrospect, some individuals last session were afraid this would somehow jeopardize the ability to buy raw milk. This in no way creates any new barriers to raw milk purchases by individuals. To my left is the Executive Director of the State Dairy Commission, who is here to walk you through the bill.

Lynn Hettrick, Executive Director, State Dairy Commission:

As Senator Settlemeyer told you, S. B. 80 is identical to a bill from last session. I have an explanation of the various changes and will run through those for you.

As you look at the first page ([Exhibit H](#)), I will reiterate what the Senator just said. The first line reads, "In addition to the provisions of NRS 584.208." Those are the provisions in existing statute that allow raw milk sales, so this in no way impedes raw milk sales in the state of Nevada. The amendment, however, is to address illegal raw milk. We have seen raw milk brought across state lines, which is a federal crime. It is labeled as pet food, put on shelves, and sold to people for human consumption. We are requesting, or requiring in the law, this change that the milk must be adulterated in some fashion so it cannot be sold for human consumption. It is not illegal to sell raw milk for pet food, but it is illegal to mislabel it and sell it for human consumption.

Another concern is people who buy shares in a cow, and theoretically, because they own the cow, they can take some of the raw milk from that cow. That is an effort to bypass the sanitary procedures required by the state of Nevada for raw milk sales. There are provisions in the law for legal raw milk sales in the state of Nevada, so we would like to ban that practice so everyone gets the most sanitary milk we can provide.

Finally, this statute section gives the State Dairy Commission the authority to dispose of or impound products that are illegally labeled or being illegally marketed.

At the bottom of page 2, we are adding "other lactating mammal." That phrase is defined in the *Nevada Administrative Code* (NAC). We are doing that because there is interest now in milking camels, buffalo, goats, and other animals. People are very much interested in specialty cheeses, and in other parts of the world this is not uncommon practice, and we are seeing some interest here in the state of Nevada.

Section 3 of the bill on page 2 addresses an omission that occurred the last time our statutes were amended. We added some violations to the statutes but inadvertently did not get the penalties that go with those violations into statute. This would add penalties that are identical to the existing penalties to other parts of the law, and we are making the law consistent throughout.

Section 4 is a definition that has been simplified to make clearer what it pertains to. Section 5 also clarifies a definition. Section 6 is a change in the makeup for membership on the Dairy Commission. The law currently says that we have to have an agricultural economist. There are very few residing in the state of Nevada, and that requirement could make it very difficult for us to have a commissioner. We are asking that requirement be changed to someone who has significant economic background in agriculture.

Section 7 on the next page clarifies our ability to receive and expend various sources of funding and to enter into agreements to promote the economic viability of the dairy industry in Nevada. As the Senator pointed out, we have an \$84-million plant going into Fallon right now. We need about 15,000 more dairy cows. Adding those cows and the businesses that go along with them ultimately will provide about 2,000 jobs. We need to promote a desire among people to come here and build these dairies. This allows us to receive and expend funds to do that. Later on in the section we renumber because we changed some of the language earlier. On page 5, we removed the word "nonrancid" as it is not necessary. In section 9, you can see we have stricken the words "for ultimate consumption." It does not matter where the product was consumed, if it was made in the state of Nevada, it needs to subscribe to all the sanitary practices so if it does get sold out of state, it meets all federal standards. This is clarifying that.

Section 10 is language being updated by the Legal Division of the Legislative Counsel Bureau (LCB). Section 11 is LCB renumbering and simplification of wording. Sections 12 and 13 are also LCB renumbering. In section 14, you will see that we have stricken the American Association of Medical Milk Commissions, as they no longer exist. There is also renumbering in that section and the same with section 15.

Sections 16 and 17 are LCB updates of language to make it clearer. In section 18 we have established a fee; however, the fee is actually established in the NAC. The amendment here is limiting the amount we can charge. Section 19 includes LCB updated language. The section 20 amendment is to coincide our language with Title VII of the Federal Register, and the same with section 21. In section 22, a chocolate drink may not always include dairy; therefore, it would not be regulated by the Dairy Commission. Sour cream is not regulated by the Dairy Commission but eggnog, yogurt, and butter are regulated, and we are just clarifying what things pertain to us and what do not.

Section 23 updates the language to clarify that all lactating mammals are covered under applicable health standards. I explained why we wanted to do that earlier, and the same with section 24. All dairy products are included in the statements, and we have updated our mission statement within the section to include promoting the economic viability of the industry in Nevada. Section 25 does the same thing, adding the same language concerning promotion of the dairy industry. Section 26 again clarifies that all dairy products are included. We had two identical sections. One section had "milk" in it and the other had "cream" in it and we have combined those sections into section 27. Section 28 was modified to remove the wording "substitute dairy products." We do not regulate substitute dairy products, so NRS 584.176 which pertained to fees for that, is being eliminated in this bill.

Section 29 is interesting. Milk, as you all know, has a date on it. As it approaches that date, people tend not to want to buy it. They always want to buy the container that has the longest shelf life, which is human nature. However what happens is, when we get to the end of that date, if the milk has not been purchased, right now, much of it has to be discarded because we have no allowance for the milk to be discounted to be sold to someone who could use it up quickly. To this section, we have added an allowance to discount the milk—to sell it before the final date. It is good for approximately a week after that date, but people do not want to buy it. We would like to be able to sell it at reduced cost to people who might be able to use it, and not have to throw it away if we could help it. This section is also being modified to simplify the cost determination process, which is more in line with how we actually determine cost today.

Section 30 combines wording to clarify what is included. We also removed an outdated process concerning how we provide information to the Commission. Section 31 will assist our milk processors. Under current law, the people who process milk in Nevada, such as Anderson Dairy or Model Dairy, have to have a bond to guarantee that the producer of the milk gets paid. The fact is the

producers in Nevada all sell to a co-op and the co-op pays the producers. There is no need to have a bond. It is a cost that means nothing to the processors. This will reduce their cost and help them stay in business in the state of Nevada by reducing regulation.

In section 32, LCB updated the language. In section 33, changes are made to reflect that it is direct sales. This is a place where the bond would apply, but there are no direct sales; however, we made it clear that, in the event someone wants to purchase directly, they would be covered. Section 34 removes the word "fresh" as being unnecessary. In section 35, we removed a three-month clause. Current law says, if you have no sales or if those sales are less than a certain amount, you do not have to report. That becomes troublesome for our staff. When a report does not arrive, we do not know whether the person had sales and did not report or whether there were no sales so they did not report. When the report arrives, depending upon what shows on the report, it tends to get picked up as being a late payment and then our staff needs to determine if the report truly was late or whether it complied with our three-month rule. It would be so much easier to require a report even if there were no sales. It would be simple and direct.

On page 29, starting with section 37, are the leadlines of the statutes that have been repealed with the changes we made in trying to simplify the law and promote the economic viability of the industry. We are trying to make it easier for people to be in the dairy business in Nevada while still maintaining safety that is required and expected by the public.

Chair Dondero Loop:

Are there questions from the Committee?

Assemblywoman Spiegel:

In your testimony on section 2, I thought I heard you say you are going to outlaw the practice of letting people buy shares in a cow.

Lynn Hettrick:

That is exactly what we are saying. That allows people to bypass the sanitary practices that are required under our raw milk statutes, and we think that should not occur.

Assemblywoman Spiegel:

I have known several people who have bought shares in a cow, not for the raw milk but for the meat. Would the change you want to make outlaw that as well?

Lynn Hettrick:

It should be just milk, I believe.

Assemblywoman Spiegel:

It was not clear in the language either way. It was from your testimony that I was inferring it. I want to make sure I am clear and that the language is clear.

Senator Settelmeyer:

I believe *Nevada Revised Statutes* (NRS) Chapter 584 only deals with milk.

Lynn Hettrick:

That is correct. Also, subsection 3, paragraph (c) reads, "'Sold or dispensed' means any transaction involving the transfer or dispensing of raw milk by barter or contractual agreement . . . "

Assemblywoman Spiegel:

If somebody had a share in a cow, this would not allow them to use it for themselves or their family for personal consumption?

Lynn Hettrick:

You could not arrange to buy a share of a cow and then use that milk for raw milk consumption. Doing that bypasses the sanitary practices we think are required for the safety of milk, and in particular, raw milk.

Assemblywoman Spiegel:

If they owned the whole cow would they be allowed to have the raw milk?

Lynn Hettrick:

Yes, they would.

Assemblyman Thompson:

On pages 7 and 8, you reference taking out the American Association of Medical Milk Commissions and statutory provisions of the state of California. Is there any other federal regulatory agency that has standards we should be putting in here or does the buck start and stop with the current commission?

Lynn Hettrick:

It falls back upon our regulations and Federal Register regulations. These were different regulations, but others existed. We complied with their regulations when this association existed, but now have gone back to the federal regulations or our own regulations, which are equal to or more stringent. We did address the Federal Register in two later sections of the bill where it picks

up their specifications. Also, other changes are addressed within NAC, and we passed those through the Legislative Commission.

Chair Dondero Loop:

Are there any other questions from the Committee? [There was no response.] We will move along and ask those in support of S.B. 80 to come forward.

Lea Tauchen, representing the Retail Association of Nevada:

I am testifying in support, and specifically to section 29, which affects the retail industry. We are appreciative of the bill sponsor's proposal to simplify the language that determines how costs are calculated. Additionally, we are pleased with the provision that would allow the option for the retailer donating or discounting dairy products 48 hours before the expiration date. As the bill sponsor testified, these products are typically still good, and we hate to see product destroyed. We think this is a great opportunity, especially in our current economic condition and environment, to provide a lower-priced item for customers on a budget or to be donated to our local food banks and pantries.

Chair Dondero Loop:

Typically in a grocery store when things are out of date there is usually a separate area where those are placed. Most of those things do not need to be refrigerated. How would that work? Would it be like with meat where a sticker is placed on the item indicating "for reduced sale now" or something like that? The last thing we want is people buying milk that is not good.

Lea Tauchen:

Since this will be a new process for dairy products, I assume your example is very much correct. The products would obviously remain in the refrigerated dairy cases, and some kind of pricing on the shelves would apply.

Lynn Hettrick:

She is exactly correct. We anticipate they could put up a sign indicating that milk within 48 hours of the expiration date is available for sale at a discounted price—whatever price they chose to put on it. They could also donate the milk. It would always have to remain in the dairy case. The law says that milk, until it is actually purchased by the consumer, must be kept under 45 degrees at all times.

Chair Dondero Loop:

Does anyone have questions? [There were none.] Is anyone else in support? [There was no response.] Is anyone in opposition? [There was no response.] Is there anyone who is neutral? [There was no response.] Do you have any closing words, Senator?

Senator Settlemeyer:

Currently under Nevada law, and it might also be under federal law, once the milk has hit its expiration date, that is it. It cannot be sold for human consumption, and this bill does not change that. We are just trying to give consumers a break in price. When my kids were growing up, they could have gone through a gallon of milk a day with no problem, and I could have saved a little money.

Chair Dondero Loop:

Thank you very much. I will close the hearing on Senate Bill 80 and open up the hearing on Senate Bill 206 (1st Reprint). Senator Ford, go ahead when you are ready.

Senate Bill 206 (1st Reprint): **Revises provisions relating to food establishments. (BDR 40-935)**

Senator Aaron D. Ford, Clark County Senatorial District No. 11:

I am here to present Senate Bill 206 (1st Reprint). In Nevada, a cottage foods law would clear the way for home cooks and small farmers to make and sell a range of products, such as baked goods, jams, and dried teas, without the requirement to invest in an expensive commercial kitchen. Thirty-two states have cottage food laws already, and creating such a law has been advocated from several directions here in Nevada.

Before I go any further, I want to thank Assemblymen Spiegel and Duncan for agreeing to cosponsor this legislation which, as I indicated, has a lot of support from throughout the state, including among participants of the Nevada Small Farm Conference and the Western Nevada Regional Food Summit held in Lyon County last October, as well as developers of the Nevada Food Security Plan, and promoters of agribusiness goals working to get a regional plan.

I wish to emphasize two points: food safety and economic opportunity. As you will see, this bill defines a limited list of foods that are eligible food items. This list is drawn from the Association of Food and Drug Officials (AFDO) best practices guidance for cottage foods, which is the guidance document that underlies the entire bill. It was recommended to us by the Nevada State Health Division with whom we worked very closely on this bill. These are foods that do not carry a risk of contamination or botulism and whose preparation methods, such as baking, produce a safe food that does not require temperature control. Further, the labels for these foods will clearly state, "Made in a cottage food operation that is not subject to routine government food safety inspections."

Finally, this law authorizes only direct sale from the cottage food producer to consumers, so the purchaser is able to question the food maker about ingredients, method of preparation, et cetera, if he or she chooses to do so. The second point I would like to raise is the opportunity for economics and entrepreneurship. The intent of the bill is to help incubate microbusinesses related to specialty food products. The low cost of entry this bill provides will allow an entrepreneur to create that special cake or scone and see if it happens to take off in the direct-sales marketplace, which will enable the business to create a sales history that could allow it to attract financing and grow into a commercial business with employees. Similarly, this allows farmers to add value to crops, such as berries that they are already growing, adding to their income year-round and not only in the summer.

I am very pleased to share with Committee members that I have spoken personally with representatives of the State Health Division and the three health districts that serve the urban areas of our state. Further, all four of those authorities met via teleconference with advocates for S.B. 206 (R1) one afternoon before the hearing we had on this bill in the Senate, and achieved agreement on the bill and amendments that are now incorporated into the bill. One of the bill's proponents will take you section by section through the bill and its amendments.

This bill creates an opportunity for entrepreneurs to incubate their products and small businesses adding to their income at the same time. What it does not do is open a wide door to home creation of foods that should have more oversight as to the place and method of preparation due to the risk of food safety. We believe this bill will have a significant impact in Nevada. NevadaGrown, a marketing cooperative for farmers and food entrepreneurs, has 143 members. Ann Louhela, the Executive Director of NevadaGrown, estimates that there are from 300 to 400 specialty crop growers in Nevada. The recent Nevada Small Farm Conference attracted 265 registrants. It is estimated that 150 or more of them were farmers. In addition, there is the specialty baked goods market, which is an area of economic activity open to all Nevadans as well.

From my district in the south, there is a great interest in this opportunity from boutique and food entrepreneurs. Assemblywoman Spiegel, also a cosponsor on this bill, is also planning to speak. After her, we will have Christy McGill, Director of the Healthy Communities Coalition of Lyon and Storey Counties who has also been one of the leaders in this effort.

Christy McGill, Director, Healthy Communities Coalition of Lyon and Storey Counties:

We do not have much to add because Senator Ford has done such a good job of really listening to the local people and bringing this forth. This is also in the Nevada Food Security Plan because it helps address food deserts and allows extra input into local economies around food. Thank you for taking a look at this.

Assemblywoman Ellen Spiegel, Clark County Assembly District No. 20:

I would like to add some background to the bill that you might find helpful. Both in the rural and in the urban counties we have been having challenges with economic development. A number of people have come to both me and to Senator Ford and told us that they would be interested in starting home-based businesses. Right now, there are significant barriers to entry for people who want to create food-based businesses. Commercial kitchens can cost up to \$100,000 in addition to the permitting process. This bill will enable people to get started on a small level, start in their homes, prove their concept, and have the tools to take their idea to the next step—renting space in a commercial kitchen where their business can grow. This is ideal for people who are both rural and urban based. This concept can really help our communities and our constituents.

Chair Dondero Loop:

Are there questions?

Assemblyman Martin:

When talking about prepackaged items, those have labels. I do not want to go into the issue of calories, but what about the ingredients? We talk a lot about food allergies in this Committee, and I would be curious to get your take on that.

Assemblywoman Spiegel:

It must be labeled to comply with federal requirements. It also may include the statement that says, "Made in a cottage food operation that is not subject to government food safety inspection." Additionally, it needs to be sold in a manner in which the creator of the food products is present. It needs to be sold at places like swap meets and farmers markets and places where the consumer can speak one on one with the food producer. The food producer will then have ample opportunity to answer questions about what is in the product, how it was prepared, what the ingredients are, et cetera. This would be much more direct contact than with anything else we buy.

Assemblyman Sprinkle:

Once these companies reach gross sales of \$35,000, that is the cutoff point. At that point, they become food establishments?

Senator Ford:

Yes, you are correct. At \$35,000 is the cutoff. The idea is to grow these businesses. After they get to a certain point, we want them to move to the next level, which will require additional regulations.

Chair Dondero Loop:

Are there additional questions from the Committee? Who else is speaking in support of S.B. 206 (R1)?

Jack Jacobs, Private Citizen, Gardnerville, Nevada:

[Mr. Jacobs read a letter to the Committee in support of the bill ([Exhibit I](#)).]

I am the farmer in the Jacobs Family Berry Farm. I am here to testify in favor of S.B. 206 (R1), which I strongly support. I grow raspberries and blackberries in Gardnerville for sale in the state of Nevada on my five-acre farm. Last year was my first production year, and this year things look great. Our farm is a totally natural farm. We also do weddings and local events in the summer and are proud to have seven scheduled events at our farm.

I am in strong support of this because I would not feasibly be able to enter the jam business without this legislation. My production would probably be in the range of 400 jars of jam per year initially. It would cost me over \$2,500 to start this business, and my sales would just barely amount to that, so it is just not feasible for me with the current regulations to enter the jam business and use a commercial kitchen. I have outlined the reason in my testimony ([Exhibit I](#)) so I will not go through the details, but there are four tests and requirements. Each of those would cost me the amount of money I identified ([Exhibit I](#)). I have done an analysis, and the table I created shows you it would take the first three years of production of those 400 jars of jam before I would break even. That is not a good business deal for a farmer, so I would not enter the business because of that. If this legislation passes, in the first year I would be able to make a profit, so I would be pleased if you could move forward with this.

I have thoroughly gone over S.B. 206 (R1) as it is currently proposed to be sure it meets my requirements, which include selling by me, the farmer, on our farm as well as by my wife at a local antique shop. She is also the farmer and makes the jam and can explain to people. Selling jam would be very beneficial to us during the off-season to continue to make people aware that we have a berry

farm in Gardnerville and that our wonderful jam is for sale. I brought 11 jars of jam today that I would love to share with you and you can also see the labeling. I would like to hand these out.

Chair Dondero Loop:

I will ask our assistant to help you. Thank you so much. As a person who makes jam, I appreciate all your hard work. Are there any questions?

Senator Ford:

I think that ends our formal testimony; however, there are a handful of people here and in Las Vegas who want to show their support by standing.

Chair Dondero Loop:

Those in support, please stand up. These are our cooks in the kitchen. [A number of people in both Carson City and Las Vegas stood.] Is there anyone else in support?

Michelle Curran, Private Citizen, Las Vegas, Nevada:

[Ms. Curran read testimony in support of S.B. 206 (R1) from prepared text ([Exhibit J](#)).]

I am the owner of Mitchies Munchies in Las Vegas. I am representing myself and my company and I am in favor of S.B. 206 (R1) to make it possible for food entrepreneurs to legally earn an income out of their homes while serving as a potential boost to our financially struggling community.

Chair Dondero Loop:

Thank you very much. Are there any questions from the Committee? [There was no response.] I have a question about labeling. We just had a presentation by a group about EpiPens (epinephrine) and food allergies. In schools now, homemade food items cannot be brought in. Anything brought in has to be labeled. Do you label your products the same way?

Michelle Curran:

I come across that all the time when clients contact me to bring cupcakes to their schools. My cakes, cupcakes, and everything I make, already have labels on them even though I am not required to by the state of Nevada. I do like to follow the guidelines that say my food items are prepared in a kitchen that may process and use nuts. I always ask my clients if there are any nut allergies.

Chair Dondero Loop:

Thank you very much. Are there questions from the Committee? [There were none.] Is there anyone else who would like to testify in support?

Nancy Hall, Environmental Health Specialist, Southern Nevada Health District:

We are in support of this bill as amended to assist small businesses. We will be standing by to assist with anything they need such as food safety education and documents.

Chair Dondero Loop:

Are there any questions for the health department? [There were none.] Is there anyone else in support?

Mendy Elliott, representing the Northern Nevada Development Authority:

We certainly want to thank the bill's sponsor as well as all the sponsors on this bill. The Northern Nevada Development Authority (NNDA) is very interested in opportunities for people to grow and expand, especially during these times of economic diversity. We look at the opportunities for all of us, especially right now from a microenterprise investment perspective. The State has already invested a half million dollars into microenterprise opportunities with the Nevada Microenterprise Initiative. As we look at what the opportunities might be relative to how we can grow ourselves out of this economy, cottage industries are one aspect. In that vision, you have a microenterprise cottage industry that grows into a venture capital that can grow into what we call a bankable loan. From NNDA's perspective, this is a wonderful start for our state to help people live their dreams to produce Grandma's salsa, jam, some type of cookie or cake, et cetera. The fact of the matter is, this provides people with an opportunity to live their dream and invest in themselves as we grow ourselves out of these economic times.

Chair Dondero Loop:

Are there any questions for Ms. Elliott? [There was no response.] We have finished with support, so now we will go to opposition. Is there anyone in opposition? Is anyone neutral? [There was no response to either question.] I will close the hearing on S.B. 206 (R1). We will now open the hearing on Senate Bill 449 (1st Reprint).

Senate Bill 449 (1st Reprint): Revises certain provisions relating to the unlawful disposal of effluent or solid waste. (BDR 40-121)

Assemblyman James Ohrenschall, Clark County Assembly District No. 12:

[Assemblyman Ohrenschall read a prepared introductory statement about the bill ([Exhibit K](#)).]

During the interim, I was fortunate enough to be selected by the Legislative Commission to chair an interim committee that looked at the environment and ways to improve recycling and protect it. A lot of the impetus of that

committee was spurred by the very low recycling rate in Nevada compared with other states. Another issue we looked at during the interim was illegal dumping. That was an issue very close to another member of the interim committee, Assemblyman Livermore, and Senate Bill 449 (1st Reprint) looks at that issue. It does affect criminal law to a certain degree, but I believe it does it in a very smart way because it focuses on the repeat offender—someone who has been found guilty, been adjudicated, but keeps on doing what he is doing, whether it is dumping in the desert, dumping chemicals or septic waste, and those kinds of things. It does not increase the penalty, because the current penalty for a third-time offender is a gross misdemeanor. This allows someone who commits a fourth penalty within four years to also be subject to that gross misdemeanor penalty of one year at the county jail.

This bill, should it be processed, says that our environment matters. Nevada is not a dumping ground. No, we do not have the lush greenery of the eastern states, but our desert is beautiful and we need to protect it and our environment is very important to us. During the interim, our committee had Michael Stewart, the hardest working, best advisor we could have had who is here to also answer questions.

Michael J. Stewart, Chief Principal Research Analyst:

I had the pleasure of staffing the interim study on recycled products. This was an idea the committee talked about off and on throughout the interim. In 2001, Senator Dina Titus was pretty active in this issue with Senate Bill No. 424 of the 71st Session, which revamped the illegal dumping penalties as they largely appear in *Nevada Revised Statutes* (NRS) Chapter 444 today.

This bill does not necessarily increase the penalties, but does provide that a person who is found guilty of illegally dumping solid waste or septic tank effluent three or more times does not revert back to that first offense after two years but rather after four years. As Mr. Ohrenschall mentioned, it seems to capture the repeat offenders the way this is structured.

Assemblyman Ohrenschall:

You do not have to be a scientist or expert to know that there are a lot of repeat offenders. Anyone who enjoys our backcountry and likes to drive out into the desert knows that there are a lot of repeat offenders. There are a lot of people who think that our beautiful natural desert, whether it is the Mojave Desert or Great Basin National Park, is a dumping ground. This is smart legislation. It is not something that will bankrupt the treasury, but it is something that sends a message to where it is needed and prosecutors will be able to use this tool.

Assemblyman Sprinkle:

According to this bill, we are specifically talking about human waste and septic waste and things like that. We are not talking about just any type of dumping, correct?

Michael Stewart:

The bill was amended so it applies only to solid waste, and that language is in section 1, subsection 1, paragraph (c). It also applies to any cesspool or septic tank effluent. The concept behind that amendment was to make sure the bill would capture things that would not necessarily be biodegradable—things you see out there that stay for a long period of time. There was also some discussion in the Senate committee about, if we included human waste, human excrement, how would that apply. An example was brought up concerning someone who might be homeless and not have access to certain facilities for that, so they just kept it to those two issues concerning septic and solid waste dumping. That was the theory behind the Senate amendment.

Assemblyman Sprinkle:

So I was reading it correctly—it is actually the physical containers these products might be in. Is that correct, or is it the waste itself, because the waste itself is biodegradable.

Michael Stewart:

I am not sure this talks about the physical container, but if someone were to leave a septic tank or holding tank from a recreational vehicle (RV), I would presume that would be a piece of solid waste as well.

Assemblywoman Fiore:

Can you give me an example of who does this?

Assemblyman Ohrenschall:

We have a lot of tourists who drive through in recreational vehicles, and some folks do not want to deposit the waste from their RV at a designated site. They like to find other ways to deposit it. That is one example. During our committee discussions, we were hoping this would also target people who dump in the desert. When the final bill came out, it was more limited than we had hoped for, but all dumping is a problem. We decided to go to this statute because it was more focused on what the committee was looking at.

Assemblyman Martin:

When you first started talking about this bill, you mentioned recycling and bottle deposits. Obviously, this is a study based on the Legislative Commission's study of such things, but are you aware of any programs that may be set up for

bottles, cans, and newspapers? Is there any effort to move along in terms of having the county, city, or jurisdiction set up voluntary recycling? We tried it at the apartment complex I am living at here in Carson City and it has been a four-month battle. Maybe that will help part of the problem.

Assemblyman Ohrenschall:

One bill the committee sponsored seeks to increase the statewide recycling goal from 25 percent to 40 percent. That is just a goal, and we just recently hit the 25 percent goal, which was established during the 1991 Session. From 1991 until 2013, it has taken us about 22 years to get to that 25-percent goal. Hopefully, we will keep moving up and it will not take us as long, but these are just goals. During our interim committee hearings, we found that we have a much lower recycling rate down in our part of the state than they do up here in Carson City and Reno. However, we also had testimony from some of the casinos that have phenomenal recycling programs where they pretty much go through every bit of garbage their guests throw away. They sort through it and recycle everything that is recyclable. The testimony was that it pretty much pays for itself from the value of what they recover.

We had testimony in the committee that included a commitment from a trash company down south to try to work harder to make sure that recycling would be easier at apartments, condominiums, and mobile home parks. In terms of mandatory things right now, that is not in any bill that the committee proposed, and I do not know if that is being moved at the county level.

Chair Dondero Loop:

Are there additional questions?

Assemblyman Oscarson:

Mr. Ohrenschall, we have talked about this a little bit. It is true, in the desert areas and in some beautiful, pristine areas, people decide to just dump their black water tanks. That is not all biodegradable and it stays for a significant period of time which results in people and animals being exposed to it and whatever may be in it.

I wish this had gone one step further and identified motor home and travel trailer holding tanks. That is where you are going to find a significant amount of violation when it comes to these issues. I have witnessed it and its aftermath in two different rural areas I have lived in. Maybe next session, that would be an opportunity to make changes. I know we are short on time this session; but since you made direct reference to it, I think it is really important that people become aware of this problem.

Assemblyman Ohrenschall:

I appreciate the comments. We tried to be thorough on that committee and we heard a lot of diverse testimony thanks to Michael Stewart, but that is not something we considered.

Assemblywoman Fiore:

How are we going to catch the culprits?

Assemblyman Ohrenschall:

Now it is usually up to the health departments, or if members of the public notice someone dumping where they are not permitted to, but other than that, I do not believe the committee took any testimony about any other programs that would catch the culprits.

Assemblyman Hambrick:

I would hate to see anyone use this as a shelter, because of the consequences if a human came into contact with this waste. As we all know, there could be dire consequences to exposure to some of the material we are talking about. If those consequences were realized, I would hate to see this bill used as a shield and just be hit with a gross misdemeanor penalty when there could be more severe penalties coming in from another section of the law. I do not want this bill to be used as a shield if there are unintended consequences because a human comes into contact with some of this material. There could be dire consequences.

Assemblyman Ohrenschall:

I do not believe there is anything in this bill, should it pass and prosecutors decide to prosecute someone under this statute, that would preclude any other charges someone might be eligible for. If someone got sick because of another person's negligence, I do not think this bill would have that effect. I do not believe that was the committee's goal.

Assemblywoman Spiegel:

Earlier you mentioned RVs. I know many people have RVs that contain septic systems. Many boats also have similar systems. If an RV gets into an accident and some effluent, or other material, is discharged onto the ground, I would like it clarified that a situation like that would not be a violation.

Assemblyman Ohrenschall:

If you look at the current language in the statute at NRS 440.630, page 2, on lines 2 and 3, it reads that "A person who places, deposits or dumps, or who causes to be placed, deposited or dumped . . . " I do not believe a prosecutor could charge based on that language if there was an accident that caused a

tank to burst or if someone's home septic tank burst through no fault of their own. That is my opinion. I know if you ask ten lawyers, you will get ten different opinions, but I do not believe they would be able to charge under that.

Assemblywoman Spiegel:

But that is not the legislative intent, right?

Assemblyman Ohrenschall:

Definitely not. If you look at the minutes of the interim committee, we were trying to catch the intentional wrongdoer, and not someone who, through no fault of their own, had an accident.

Chair Dondero Loop:

Are there additional questions from the Committee? [There was no response.] Is there anyone else in support?

Robert Sack, Director, Environmental Health Services Division, Washoe County Health District:

I want to speak in support of this bill and also address a couple of questions that have been asked. We are one of the agencies that is directly charged with enforcing the existing law. This bill does not change existing law except for the penalties assessed. Under existing law, solid waste is defined very broadly. It includes almost anything that is not properly disposed of, whether it is in a container or not. Sewage is an exemption from some of that and needs to be looked at a little differently, and that is why it needed to be included in this bill.

Existing law also addresses the illegal discharge of sewage, and those penalties are fairly severe. What does get higher levels of penalties is solid waste that would be defined as hazardous waste. Those already have felony provisions with them.

Chair Dondero Loop:

Are there any questions for Mr. Sack?

Assemblyman Thompson:

Do you know if your counterparts at the Southern Nevada Health District are on board with this and its enforcement?

Robert Sack:

I do not know. They have enforcement. They do not criminally enforce provisions; we do. Our staff has citation authority to enforce criminal provisions and they do not, but they have some different administrative remedies they can use. Other agencies down there are also charged with utilizing this statute.

Assemblyman Thompson:

Mr. Ohrenschall, once this bill is passed, everyone who can enforce this would have to, right? Washoe County says they enforce, but I am not so sure southern Nevada does, but everyone would have to then, right?

Assemblyman Ohrenschall:

There is always the issue of prosecutorial discretion, so I cannot say for sure what would happen in Mineral County versus White Pine County. However, if a health district, or a member of the public, or a police officer sees someone dumping—whether it is me taking 30 old tires from my backyard and dropping them off on Mount Rose, or the RV scenario where I just pull the plug on my black water tank and let it all leak out in Amargosa Valley—it would be up to that prosecutor. There is discretion, so I cannot guarantee that every offense would be prosecuted, but we are providing tougher penalties here.

Robert Sack:

This bill would not change the existing charge on all the law enforcement agencies and health districts for enforcing this. We are all charged with enforcing it, but how each jurisdiction does it, I am not sure. This would not change who is responsible for enforcing this, it just changes the penalty section.

Assemblyman Ohrenschall:

I apologize, Madam Chair, that we do not have anyone here from the Southern Nevada Health District. I thought they would be here.

Chair Dondero Loop:

That is all right. I was going to ask a similar question along the lines of Mr. Thompson's. I was going to ask about the smaller counties and how their health departments might feel. Even though they are smaller systems, they are responsible for much larger areas. In Esmeralda County, for example, you have such open spaces that it would be more difficult to monitor people dumping.

Assemblyman Ohrenschall:

Mr. Livermore was quite vocal during the interim committee meetings. While Carson City is not considered a frontier county, it is about the least populous here in the Legislature in terms of members on the committee. I know that he was very supportive of this, but I cannot speak for the other frontier counties as far as how their health districts work and how they patrol dumping. I can try to find that information for you.

Assemblyman Oscarson:

Did you not address this in subsection 6 on page 3 where it mentions "Health officers and their deputies; Game wardens; Police officers of cities and towns; Sheriffs and their deputies"? Those folks can enforce those regulations as well. Who you are going to see running into these situations are the folks from the Bureau of Land Management (BLM) or the state park people and people like that who are out patrolling those areas on a regular basis. I think you have given them the authority in this bill to do that, which is very helpful because Madam Chair is exactly right. The little counties, Nye, for example, uses the Clark County Health District for their health district needs. You know the health district inspectors are not going to be driving through the desert looking for someone dumping from their RV. What you have done is create a vehicle and a mechanism for people to be able to enforce that rather than just the health district people themselves, if that was your intent, Mr. Ohrenschall.

Assemblyman Ohrenschall:

You said it very well. I hope that this bill, and the enhanced penalty in it, will be able to catch people, and that expanding the net a little bit larger will encourage people to be aware about what happens, whether it is game wardens, or members of the public. One point Michael Stewart brought up to me that I neglected to mention is that it is our legal counsel's opinion that this would affect not just dumping on state lands, but if someone in Nye County sees someone dumping on federal lands, that could also be prosecuted under this law. We would be protecting all the land in the state.

Assemblyman Oscarson:

I can tell you that everyone would be in favor of this if just one time, one of the dogs they were traveling with got into a bunch of this mess. That is what happens as well. Your pets go out and find these places where this has been disposed of, and end up back in your tent or in your camper or in your motor home, and that is a very difficult situation to deal with. Again, I appreciate your efforts.

Chair Dondero Loop:

Are there any additional questions, concerns, or comments from the Committee? [There was no response.] Is there any opposition? Is there any neutral testimony? [There was no response to either question.] Would you like to give us any closing words, Assemblyman?

Assemblyman Ohrenschall:

When we look at criminal penalties, we have to be smart. For a long time, there has been an attitude that we can jail our way out of any problem. I do not agree with that, but I think this bill is sensibly drafted and that the committee

really tried to look at a middle ground where we are just trying to say that if you are a repeat offender, we are going to catch you and there is going to be jail time. We are not looking at a felony, but pursuant to the gross misdemeanor statute, we are looking at jail time in the county jail in whatever county you committed the crime in. Will it dissuade all people? Of course not. There will be people who still have the attitude that they are going to dump it wherever they want to dump it and they do not care, but it may dissuade some people, and that is a positive thing. I hope the Committee will consider processing it.

Chair Dondero Loop:

I will close the hearing on S.B. 449 (R1). Is there any public comment? [There was no response.] Are there any comments from the Committee? [There were none.] Our meeting is adjourned [at 3:13 p.m.].

RESPECTFULLY SUBMITTED:

Terry Horgan
Committee Secretary

APPROVED BY:

Assemblywoman Marilyn Dondero Loop, Chair

DATE: _____

EXHIBITS

Committee Name: Committee on Health and Human Services

Date: May 13, 2013

Time of Meeting: 1:43 p.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
S.B. 54 (R1)	C	Kirsten Bugenig, Committee Policy Analyst	Explanation of the bill and proposed amendment
S.B. 61 (R1)	D	Kirsten Bugenig	Explanation of the bill
S.B. 100 (R1)	E	Kirsten Bugenig	Explanation of the bill and proposed amendment
S.B. 274 (R1)	F	Kirsten Bugenig	Explanation of the bill
S.C.R. 4	G	Kirsten Bugenig	Explanation of the resolution
S.B. 80	H	Lynn Hettrick, Ex. Dir., State Dairy Commission	Bill and amendments
S.B. 206 (R1)	I	Jack Jacobs, Jacobs Family Berry Farm	Written testimony
S.B. 206 (R1)	J	Michelle Curran, Mitchies Munchies	Written testimony
S.B. 449 (R1)	K	Assemblyman James Ohrenschall	Introductory statement