

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

**Seventy-Seventh Session
May 23, 2013**

The Committee on Natural Resources, Agriculture, and Mining was called to order by Chair Skip Daly at 9:12 a.m. on Thursday, May 23, 2013, in Room 3161 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4406 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at 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:

Assemblyman Skip Daly, Chair
Assemblyman Richard Carrillo
Assemblywoman Lesley E. Cohen
Assemblyman John Ellison
Assemblyman Ira Hansen
Assemblyman James W. Healey
Assemblyman Pete Livermore
Assemblywoman Heidi Swank
Assemblyman Tyrone Thompson
Assemblyman Jim Wheeler

COMMITTEE MEMBERS ABSENT:

Assemblyman Paul Aizley, Vice Chair (excused)
Assemblyman Paul Anderson (excused)

GUEST LEGISLATORS PRESENT:

None



STAFF MEMBERS PRESENT:

Amelie Welden, Committee Policy Analyst
Dave Ziegler, Committee Policy Analyst
Randy Stephenson, Committee Counsel
Cheryl Williams, Committee Secretary
Steve Sisneros, Committee Assistant

OTHERS PRESENT:

Cory T. Hunt, Policy Analyst, Office of the Governor
Leo M. Drozdoff, P.E., Director, State Department of Conservation and Natural Resources
Jim R. Barbee, Director, State Department of Agriculture
Jon Eriksen, representing Nevada Cattlemen's Association
Warren B. Hardy II, representing Humane Society of the United States
Holly Haley, representing the Humane Society of the United States
Eric Spratley, representing Washoe County Sheriff's Office; and Washoe County Regional Animal Services
Chuck Callaway, representing Las Vegas Metropolitan Police Department
Margaret Flint, representing Nevada Humane Society

Chair Daly:

[Roll was called. Rules and protocols were explained.] We will be hearing five bills this morning. Dave Ziegler, Policy Analyst for Assembly Committee on Judiciary, will be presenting on behalf of Assemblywoman Carlton, who could not be here to present Assembly Concurrent Resolution 7 because she is chairing the Assembly Committee on Ways and Means.

Assembly Concurrent Resolution 7: Urges the Office of the Governor to continue working with the Legislature to consider the potential impact of listing the greater sage grouse as an endangered or threatened species and to develop strategies to preclude the listing. (BDR R-207)

Dave Ziegler, Committee Policy Analyst:

I was the research analyst assigned to the Legislative Committee on Public Lands during the interim. Assemblywoman Carlton was the Chairwoman of the Committee on Public Lands. Two of your members, Assemblyman Hansen and Assemblyman Aizley, were members of that committee as well, and you were an alternate, Assemblyman Daly.

As a nonpartisan employee, I am neither advocating for or against Assembly Concurrent Resolution 7. This resolution urges the Governor to

continue to involve the Legislature in efforts to preclude the listing of the Greater Sage-grouse as an endangered species. This measure was introduced by the Legislative Committee on Public Lands. The resolution itself covers much of the background. The U.S. Fish and Wildlife Service made the warranted but precluded finding about the Greater Sage-grouse and a determination is needed on that by the fall of 2015. Previous legislatures expressed concern about the likely impacts of listing the Greater Sage-grouse as an endangered species and have urged all interested parties to be proactive in protecting and restoring habitat.

The Governor convened the Greater Sage-grouse Advisory Committee in 2012. They produced a strategic plan and all of that information is actually contained right in the resolution.

During the interim, the Committee on Public Lands had one meeting that was dedicated almost entirely to a briefing from the Bureau of Land Management, the Department of Wildlife (NDOW), and the U.S. Fish and Wildlife Service on the status of efforts to prevent the listing of the Greater Sage-grouse under the Endangered Species Act. At the last meeting, the committee also received a briefing on the recommendations of the Governor's Greater Sage-grouse Advisory Committee.

The concern among the members of the Committee on Public Lands was there was no representative from the Legislative Branch that was asked to serve on that advisory committee. The members were concerned because the Legislature has an important role to play in terms of appropriating the necessary resources and making appropriate policy decisions. That was the genesis of this resolution.

At the work session last August, the Committee on Public Lands voted to recommend adoption of a resolution emphasizing the potential impacts on Nevada's urban and rural areas of listing the sage grouse as an endangered species and urging the Governor to incorporate the continuing involvement of the Legislature in efforts to preclude the listing.

The genesis of this is the Committee on Public Lands and their concern that the Legislature should be involved in the ongoing efforts and asking the Governor to maintain that involvement.

Chair Daly:

It is not really fair to ask you policy questions. If there are comments or record-building that any of the Committee members want to make, now would be the time. I do know we have a representative from the

Office of the Governor who will make some comments, as well. Are there any questions or comments at this time for Mr. Ziegler? [There were none.] Please thank Assemblywoman Carlton for bringing this bill. It is an important issue and we want to make sure we are getting everything done that we can.

Is there any testimony in support of A.C.R. 7? [There was none.] Normally, I would ask for opposition, but I do want to ask for neutral first. If we stretch the rules a little bit on a suggested change, that is okay, but I asked the next witnesses to testify in neutral.

Cory T. Hunt, Policy Analyst, Office of the Governor:

I am here today to testify as neutral on A.C.R. 7 and to offer some additional information on what the Governor has been doing in regard to this critical issue of preventing the negative impacts of a potential listing of the Greater Sage-grouse.

The Governor's Office recognizes and supports the notion that this issue crosses many political, social, geographic, and legal lines. For that reason, it is essential that we use an all-hands-on-deck approach and to work together to ensure that our state will not be negatively impacted. We are committed to working with the Legislature to address this issue. For that reason, we will also help you consider the passage of Assembly Bill 461 when it comes to the floor, which I will mention briefly in just a moment.

As the resolution points out, the Legislative and Executive Branches have engaged on this topic for many years. Specifically, Governor Sandoval issued Executive Order 2012-09 on March 30, 2012, establishing the Greater Sage-grouse Advisory Committee, which issued its recommendations to the Governor on July 31, 2012. While this resolution currently ends there, much work has been done since the delivery of those recommendations. I would like to point out three major initiatives we have undertaken since last July.

First, in November 2012, Governor Sandoval issued Executive Order 2012-19 establishing the Sagebrush Ecosystem Council. This is a mechanism for engaging stakeholders over the long term and was one of the primary recommendations of the advisory committee. On this council there are representatives of affected stakeholders, as well as non-voting ex officio members comprised of the state supervisor of the U.S. Fish and Wildlife Service, the agency in the state that will advise the decision on listing the sage grouse, the state director of BLM, the forest supervisor of the U.S. Forest Service, and the department heads of the State Department of Conservation and Natural Resources, State Department of Agriculture, and

NDOW. This council has since met four times and will meet twice more in the coming month.

Second, in February of this year, we established the Sagebrush Ecosystem Technical Team, a new multidisciplinary team of representatives from the primary state agencies with responsibility for managing our land and ecosystem resources. These talented individuals are working full time to help the state and stakeholders address this issue.

On March 25, 2013, Governor Sandoval introduced Assembly Bill 461, which enacts provisions related to the management of the sagebrush ecosystems and extends into law the establishment of the Sagebrush Ecosystem Council and its associated tasks and objectives. Assembly Bill 461 is one of the Governor's priorities and, when passed, will be the first legislation passed by any of the 11 states affected by the Greater Sage-grouse listing. It was amended and passed by the Assembly Committee on Ways and Means earlier this week, so we hope it will continue to move forward. We believe this legislation provides important measures and assurances that the state of Nevada has the ability to manage and ultimately conserve the Greater Sage-grouse.

With that Chairman Daly, thank you for this opportunity to testify before you today, and I would be happy to answer any of your questions.

Chair Daly:

We want to get the rest of the testimony and any comments on the record before we ask questions.

Leo M. Drozdoff, P.E., Director, State Department of Conservation and Natural Resources:

I am largely here to echo what Mr. Hunt has said and to answer any questions you may have.

Chair Daly:

Are there any questions from the Committee?

Assemblyman Hansen:

I would like to get on the record that I have been very involved in this from the beginning. I would like to say that the Governor's Office has been extremely cooperative, and everyone is really pulling together trying to get this situation straightened out. Having said that, I would like to see some way to get the Legislature a little more incorporated in the decision-making process. I think that was part of A.B. 461, as well. I would like your thoughts on how we can incorporate the Legislature and Legal a little more. I believe there is some

question on the ability of this body to appoint a member from the Senate and the Assembly.

Cory Hunt:

You are correct, Assemblyman Hansen. In the proposed amended version of A.B. 461, we had agreed to include two members of the Legislature, one appointed by the Speaker of the Assembly and one appointed by the Majority Leader of the Senate. Two members of the Legislature are ex officio members of the council. That was passed, and evidently Legal had some concern with separation of powers, or something like that, as far as having the legislators on this council. I believe those two provisions were rescinded, amended, and then passed without the two legislators included. We are certainly willing to consider ways we can appropriately engage the Legislature, however that may be.

Leo Drozdoff:

I would like to amplify on that point. I hope it shows we are very interested in finding ways to work with the Legislature in a more formal way. Since that did not work, certainly, based on this resolution, whether it is reports to the Committee on Public Lands or a periodic update that we can send, we will work with your staff to find good, meaningful ways to keep the Legislature informed and to get their input.

Assemblyman Hansen:

The records clearly show that the Governor's Office has made a concerted effort in A.B. 461 to try to get a legislator from each house at least involved in that. Good faith is clearly there. I am hoping Legal can come up with some way to make that fit. We will have to see.

Chair Daly:

Any other questions from the Committee? [There were none.] I would like to welcome Assemblyman Thompson and Assemblywoman Cohen, who have come down from the Assembly Committee on Judiciary. I understand if you need to leave for votes today.

I just need to understand, and perhaps Mr. Stephenson can answer, as well. Because this was established under an executive order rather than a legislative statute or committee, is that where they had potential concerns with this overlap? It seems to me we can overcome that in some way, making them non-voting members or something else. Is that the issue?

Randy Stephenson, Committee Counsel:

The overall issue is the separation of powers under the *Nevada Constitution*. Without belaboring it too much, the idea is that each branch of government—or department of government, as they are called in the *Constitution*—cannot exercise powers conferred upon each of the other branches. The problem is because this particular Sagebrush Ecosystem Council is set up in the Executive Branch of government. The idea was to have one legislator from each house serving as members of this council. In the Executive Branch, they are performing Executive Branch functions and making decisions. The courts have been rather strict on that. They like to keep the branches separate. That is the issue we are running into.

There are certainly ways we are looking into to solve this problem. It may be an advisory capacity. We have figured out that simply serving in a non-voting capacity might not work. There are ways, and we are always trying to figure out those ways.

Chair Daly:

Obviously, we do not want to have a parallel committee in the Legislative Branch that is duplicating services. I think the resolution will serve its purpose. Do you have any suggested language, or are you just here to say you plan on continuing to work with the Legislature in whatever capacity that does not cross a line?

Cory Hunt:

We would be happy to provide some of the things we have accomplished since last July, just so they are recognized and that everyone sees we are all on board and moving with that. If I may, ideally, it would be great if A.B. 461 were enshrined in this resolution, as well. If A.B. 461 were passed, it would say whereas the 2013 Legislature has passed A.B. 461, which enacts these provisions in law. I think that would be meaningful and something that would help tie that link together and help the Legislature say they are engaged, they have done this, the Governor's Office is engaged, and we are working together on this. I think that would be meaningful to the U.S. Fish and Wildlife Service and the agencies making the decision.

Chair Daly:

I would ask you to follow up with Assemblywoman Carlton, as I am going to ask my staff to remind me to do, because I will forget. I do not know if we really want to tie this up and get it going. We are near the end of the session. I believe the resolution does what it is intended to do. It has continued the communication. Assemblyman Hansen and others have said there are good faith efforts there, so I do not think there is a problem. We will look into that,

but if there are any snags, we will just plow ahead. I think the intent is there and that is what I want to get on the record.

Are there any other questions from Committee members? [There were none.] Is there any further testimony in neutral? [There was none.] Is there any testimony in opposition to the bill? [There was none.] I will close the hearing on A.C.R. 7. I will open the hearing on Senate Bill 464.

Senate Bill 464: Renames the State Sealer of Weights and Measures and the Division of Measurement Standards within the State Department of Agriculture. (BDR 50-1148)

Jim R. Barbee, Director, State Department of Agriculture:

The three bills we have in front of you today are all tied to our reorganization, directly or through a budget that we will talk about in a moment. Under Senate Bill 464, it is as simple as changing the name of the Division of Measurement Standards to the Division of Consumer Equitability. The intention in doing so is to try to put a name that more clearly reflects the goal or mission of that program. They basically do all of the testing of scales, anything that is sold in mass or volume in the state, to ensure that it is accurate so the person selling or buying is protected and keeps commerce flowing in the state. We felt the name Consumer Equitability more clearly reflected the mission or goal.

Chair Daly:

Are there any questions from Committee members?

Assemblyman Ellison:

Regarding placing stickers on the pumps, which is not currently being done, I have made several calls to your office with some issues. One call was returned, but it was never followed up upon. I still have the same issue. I do not care what sticker you put on the pump, if you are not doing the job, you are not doing the job. I have some real problems with it. I do not care if you indicate you are investigating the pumps every year, but you are not. I do not know if changing the name on the sticker is going to help the public or not. I feel we have some real problems in that division. I think some of these things need to be addressed.

Jim Barbee:

I will follow up with you. I will give you until the session is over, since I know you are quite busy at this point. As soon as the session is over, I will follow up with you and we will get it lined out.

Chair Daly:

I did look through the name change. Many times, there is some other little issue in the bill. However, in 28 pages, you changed one name to other. It is pretty straightforward. Are there any further questions from Committee members? [There were none.] I will open testimony in support of S.B. 464. [There was none.] Is there any testimony in opposition? [There was none.] Is there any testimony neutral to the bill? [There was none.] I will close the hearing on S.B. 464. I will open the hearing on Senate Bill 465 (1st Reprint).

Senate Bill 465 (1st Reprint): Revises provisions governing the special tax on certain livestock. (BDR 50-1147)

Jim R. Barbee, Director, State Department of Agriculture:

This bill is related to our animal identification budget account. This last year, in reviewing that and preparing for the Legislature, we recognized that the reserves in this account would run into trouble between 2016 and 2017. We identified that we were \$150,000 short each year in operation to balance that account.

We took this concern to the American Farm Bureau Federation and to the U.S. Cattlemen's Association. Those agencies agreed that they were willing to step up and increase fees in their industry. They also wanted us to match by reducing costs in the account. They basically stepped up at around \$50,000 in increasing fees and that is what this head tax change would reflect; moving stock cattle from 28 cents to 50 cents, dairy cattle from 53 cents to 60 cents, hogs and pigs from 7 cents to 30 cents, and goats from 6 cents to 10 cents. Additionally, the minimum tax due would change from \$5 to \$10. As an example of that, I own two horses and a couple of cows, so what I pay falls below the \$5 threshold, so I have to pay the \$5 minimum as someone who owns livestock in the state. This bill would increase that minimum to \$10. Basically, these funds offset the enforcement portion of the animal identification fees. Additionally, in that account we eliminated \$103,000 in yearly expenditures through the elimination of a staff member and by reorganizing that division so that all things related to animals are under one division administrator. Basically, we took our wildlife services portion, animal identification portion, and our veterinary medicine portion and pooled those pieces under one division of animal industry. Again, this was done in an open relationship working with the Farm Bureau and the Cattlemen's Association. They have supported it at previous hearings.

Chair Daly:

Are there any questions from Committee members?

Assemblywoman Cohen:

In section 2, subsection 3, there is reference to extenuating circumstances justifying a waiver or reduction. I would like to get an example of what some of those extenuating circumstances may be.

Jim Barbee:

An example in that case would be if we had an extensive drought and a producer on the borderline of going out of business. I would not want to be the organization that carried them over in that process. We also want to keep a solid, valid industry.

In the agriculture production side of things, the markets change drastically and based on the season, so there are many variables. We would look at that with an open mind. They would have to make a pretty strong case and be able to clearly validate their situation to us without any doubt.

Assemblywoman Cohen:

I have a suburban-type question. With the large cattle producers, do they actually have exact numbers of how many animals they have on the range?

Jim Barbee:

Yes. If you are going to run a good business, you have to know exactly how many cows and heifers you have. They probably run the heifers separately, especially during calving season. They also identify how many calves are under six months old because they are not taxed.

Assemblyman Ellison:

I totally understand and you hit it right on the head. That is what I was going to ask. We had a major drought and many people are selling the cattle early because they cannot feed them, mostly in the north. Right now, this is probably the worst time in the world to even look at a fee increase. It is a bad situation up north. We are hoping we can use cloud seeding this year to help some of those other areas, from Elko all the way to Lovelock. That bill does not look like it is going to come out, so it will even be worse in the next session. You might want to hit a little harder on the drought. Where do you think you can go with this? There is no relief out there for these ranchers.

Jim Barbee:

I concur completely. We are in a very tough situation. There are some opportunities for some of the producers relative to tax relief and the ability to defer taxes through some Internal Revenue Service options, as well as different loan options through the farm service agencies.

Even as we were meeting with the Cattlemen's Association and the Farm Bureau to put this together, we were acknowledging the issues related to the drought. The numbers that were based to get to the \$50,000 mark in this budget piece are reduced 20 percent to 30 percent in terms of herd size. We recognized that is going to be dropping due to the drought. The producers felt it was important that we still have the capacity for what is left, the good cattle prices we have had over the past several years, and that we have the enforcement capabilities to deal with the cattle theft. That is still a major issue within the state of Nevada. If you have 20 head of cattle that are stolen, depending upon what stage of lifecycle they are in, you are looking at \$20,000 to \$40,000 in value that disappears from a field overnight. It is definitely significant to the producer's bottom line. That does exist and we have many investigative cases around theft every year.

Chair Daly:

Are there any further questions from the Committee? [There were none.] I do have a couple of questions. I believe you said this is going to raise about \$54,000. I understand you are raising it, but some of it is an offset. What need are we trying to fill? Obviously, you went to the money committees first, so that has all been worked out to make your budget work. I know this was a two-thirds vote, so we need to make sure we have the information to make those decisions.

Jim Barbee:

This will mainly support the enforcement piece. It is an ongoing cost that we have each year. Basically, the way we are set up is if our brand inspectors are in the field doing brand inspections, the fee is designed to offset the costs of them doing that work. We see the alignment of the head tax to offset the cost of the enforcement. That is what we are trying to do. We have reorganized our enforcement. In previous years, we have had one or two enforcement officers and then a multitude of part-time or half-time deputy commissioned officers that were helping. We have now realigned that so we have one enforcement officer in the Elko office, and then we have three other enforcement officers that report to the enforcement officer in Elko. We have those officers spread from Sparks to Winnemucca and Ely. We are working now on regulations to divide the state into four three-brand districts.

Each one of those enforcement officers would be responsible for one brand district and would work with those brand inspectors directly relative to investigative issues, as well as to monitor and audit brand books to make sure everything is on the up-and-up, which has not been done by the agency in some years. We are really focusing on trying to clean that up to have greater accountability and checks and balances than we have had in the past, and also

to try to streamline. Currently, we sit with ten brand districts in the state, which, in many cases, are arbitrary lines drawn on a map. I do not care who you are, you would not know which side of the line you are on or even if you were close to the line.

Chair Daly:

Assemblyman Ellison mentioned that now is not a good time to raise a fee. Of course, I have never seen that time. You have to do it when the need is there, but the cost benefit analysis is basically the industry, which is probably going to benefit, even though they are going to pay a little more in fees. Hopefully, they will see a reduction in losses or theft. That benefit is anticipated for the industry overall. Losing a \$1,000 or \$2,000 cow could have paid a lot of fees.

Assemblyman Livermore:

Regarding the decrease in inspections, if cattle numbers are going down because of the drought, why do you think you need additional enforcement?

Jim Barbee:

There is the issue of supply and demand. As you see the numbers of livestock drop, you also see the cattle supplies drop in the western United States, which is one of the larger regions of cattle production in the United States. You would see the price of cattle continue to rise, I would predict, as well as some of the other governmental agencies that have gone in and purchased large quantities of beef over the last year, which will also reduce supply. The supply of beef and then the battle relative to corn and the cost of corn as it is used in fuels, you have the competition between the cattle and fuel and consumption of corn production. Corn production is supposed to be up this year. Still, we believe as you lose the numbers in cattle, obviously, you are going to have less beef and it will bring a greater premium in price. One trailer, a horse, and a good dog after dark could do a lot of damage in a hurry. That is what we are dealing with.

I would like to reiterate, we would never have brought this forward and would have made the cuts in the account if we did not have the support of the industry. The bill went through both of the policy committees in the Farm Bureau and the Cattlemen's Association in November before coming here. They voted to support this effort.

Chair Daly:

Are there any further questions from the Committee? [There were none.]
Is there any testimony in support of S.B. 465 (R1)?

Jon Eriksen, representing Nevada Cattlemen's Association:

On behalf of Neena Laxalt, we are in support of this bill.

Chair Daly:

Are there any questions from the Committee? [There were none.] Is there any further testimony in support? [There was none.] Is there any testimony in opposition? [There was none.] Is there any testimony in neutral? [There was none.] I will close the hearing on S.B. 465 (R1). I will open the hearing on Senate Bill 490.

Senate Bill 490: Revises provisions relating to certain commodity food programs. (BDR 27-1149)

Jim R. Barbee, Director, State Department of Agriculture:

As part of the overall agency review that we have done over the past two years and the proposed merger we have related to food and nutrition, the Commodity Food Distribution Program, which is currently located in the Department of Administration under the Purchasing Division, we are proposing to move to the State Department of Agriculture under a food and nutrition division that would combine the Child Nutrition Commodity Support program, as well as the Nevada Dairy Commission. These are the *Nevada Revised Statute* (NRS) changes that would change that program's assignment from the Purchasing Division to the State Department of Agriculture. We did not do a tremendous amount relative to reviewing the NRS and redrafting it; it is more of a cut-and-paste move at this point. It is our intention that over the biennium, under the food and nutrition leadership as we have those programs merged, they will review the NRS at that time and if there are any significant changes, we would come back and make those fixes during the next session. What you are looking at here is pretty much moving the statutes that already exist.

Chair Daly:

Are there any questions from the Committee? [There were none.] I want to be clear on what you just said. There is already a program that exists in the state under the Purchasing Division, which is the agency that may receive whatever federal excesses and food commodities there may be. They then distribute it to the food banks. Is that correct?

Jim Barbee:

Yes.

Chair Daly:

The plan is to move those over to the State Department of Agriculture and then you will maintain the same type of analysis on where it goes. What kind of foods do they get it? Is it a grant-like program or do you go out and bid on it?

Jim Barbee:

I apologize. We have talked about it so much in the Finance Committee. I should have given more detail. This is a U.S. Department of Agriculture (USDA) federal grant program. What they do is receive commodity foods or granting money to purchase commodity foods from USDA. The commodity program supports producers and creates some balance in prices across the nation. Those foods come in to a warehouse that is located off of Galletti Way in Reno, as well as a warehouse we have in southern Nevada. They coordinate with food banks and school districts and do bulk purchasing for those organizations. They also help in the distribution of those products. One thing we hope to gain by bringing the Commodity Food Distribution Program into the State Department of Agriculture and connecting it with the Child Nutrition Commodity Support program is greater synergy relative to working with the food banks we have in northern and southern Nevada. Specifically, we want to put more focus on the food and nutrition issues within the state. We feel that by combining these programs under food and nutrition at the State Department of Agriculture, we are going to be able to do that.

Additionally, we are hoping that through better coordination of these grant programs and the federal monies that come into the state, it will create a better working relationship between the State Department of Agriculture and our production side with the school lunch programs and the purchasing power they currently have. It is our hope that we can connect more producers to those local school districts, get more local food production that is served in the local school districts, and create economic gain. Hopefully, with our agriculture marketing coordinator who deals with interstate trade, NevadaGrown, and international trade, we can work to get more agriculture processing in the state of Nevada.

One of the limiting factors that the agricultural study identified is the gap between the production agriculture that we currently have. If we push 400,000 head of feeder cattle out of the state each year, those cattle are going to other states to be processed and labeled as Colorado beef, Idaho beef, or other state's beef, even though they are a Nevada product. We are turning around and using our citizen buying power to purchase that beef after it has been processed and bring it back to the state. What we are trying to do is get more of that economic activity to occur in the state of Nevada. By creating this

food and nutrition division, we want to do a better job in working with the school districts and creating efficiencies in that program. At the same time, maybe we can get some economic gain out of it.

Chair Daly:

Food commodities encompass produce, grains, livestock, et cetera, correct?

Jim Barbee:

A bit of all of the above. It is all processed food that is ready to serve, in bulk or in individual consumer size. They have a dried food section, which is cans and anything dehydrated. They also have a tremendous amount of fresh-frozen product that is also dispersed from the Galletti Way warehouse. The larger warehouses are off of Galletti Way behind the Department of Transportation and Department of Motor Vehicles. They are already in close proximity to the State Department of Agriculture, so their administrative staff would actually move into our building while the warehouse staff would stay at the warehouse.

In Las Vegas, we have a facility there, but right now, we are trying to get a cooperative agreement with Three Square Food Bank to actually operate the commodities program out of the food bank warehouse

Chair Daly:

We could probably expect legislation to refine this in the next session?

Jim Barbee:

I would assume so. As we bring the two programs that have been working independent of each other, we will have them first start with revision and mission, then look at their NRS, and update them. They may not necessarily be up-to-date. We want to make a very well-educated effort in fixing that. We would like to do that over the biennium with the right people at the table.

Chair Daly:

Are there any further questions from the Committee?

Assemblyman Thompson:

In section 3, subsection 3 it talks about the money received by the director must be deposited in the State Treasury. Now that it is being proposed to shift all of the responsibilities to you, such as the grant money, what type of checks and balances do you have in place?

Jim Barbee:

Currently, we have an ongoing working relationship with the USDA and the USDA grant programs, including the American Recovery and Reinvestment Act

funds we received over the past biennium. We have the same checks and balances as any other state agency. One of the things we have done, specifically relative to the merger, is to increase the fiscal staff we have at our agency through this budget we have proposed. We will have greater staff to ensure we are prepared and ready to do the same work.

Chair Daly:

Any further questions from the Committee? [There were none.] Is there any testimony in support of the bill? [There was none.] Is there any testimony in opposition to the bill? [There was none.] Is there any testimony neutral to the bill? [There was none.] I will close the hearing on S.B. 490. I will open the hearing on Senate Bill 83 (1st Reprint).

Senate Bill 83 (1st Reprint): Revises provisions relating to animal fighting. (BDR 50-148)

Warren B. Hardy II, representing Humane Society of the United States:

My information is that Senator Manendo may or may not be able to be here, so we will proceed, if it pleases the Chair.

Chair Daly:

Please do. We knew Senator Manendo may not be able to make it and asked that he go last. If he can make it, great. I know he had another person he wanted to testify, but since we are wedging this hearing in, I appreciate his flexibility in order to get this bill heard this morning.

Warren Hardy:

We do appreciate your wedging this bill in today. We know this is a difficult time. We think we have brought you a very clean product from the Senate. We believe Senate Bill 83 (1st Reprint) addresses a concern that is growing in the state of Nevada with regard to cockfighting, or at least the migration of cockfighting to jurisdictions that do not have strong laws on this activity. Currently, Nevada has the weakest laws in the western United States. The laws in California are not particularly strong either, and they are seeing a large migration. In fact, on the Nevada Electronic Legislative Information System (NELIS) there is a document from the Associated Press (Exhibit C) about the decrease in cockfighting in New Mexico after they implemented some standards. If I might quote from the article, "Tommy Booth, a former cockfighter and former owner of a cockfighting pit, said he encouraged about 100 families to move to the area for cockfighting." Mr. Booth's quote was, "We are losing them nearly every day to California. Out of 100 (families) we still have probably 60 left." Another quote in the article is from a former

cockfighter, Jack Cairnes, who said, "They (lawmakers) wanted to destroy a way of life, and, by golly, they did it."

The concern here is that Nevada's laws in this regard are lacking the other states' toughness. This bill brings this activity on par with other animal fighting legislation that we have passed. I am pleased to report it passed with bipartisan unanimous support in the Senate. There was a lot of good testimony and comments from members of both parties in the Senate about the importance of doing this so we do not become a magnet for this kind of activity.

The reason it took so long for this bill to get to the Assembly is because there was a fiscal note, which drew the bill into Finance. We spent a few weeks working with the Department of Corrections. They drastically reduced the fiscal note far enough that the Senate Finance Committee felt comfortable in processing the bill.

With me today is Holly Haley, the Nevada State Director for the Humane Society of the United States. She has some prepared comments and then we would be happy to answer any questions from the Committee.

Holly Haley, representing the Humane Society of the United States:

I come in strong support of S.B. 83 (R1). As Mr. Hardy said, it will bring cockfighting in line with the dogfighting laws that are currently on our books. It would make it a first offense felony from a misdemeanor.

Forty states now punish cockfighting as a felony. In four states, including Nevada, felony charges can only be filed on a second or later offense. Cockfighters see misdemeanor fines as a cost of doing business. They get entry fees of about \$200. If they have 50 entries, someone is likely to win \$10,000. Because the potential winnings are so much greater than the punishment that comes from the misdemeanor arrest, the cockfighters see a first offense misdemeanor as one of the "get out of jail free" cards.

What S.B. 83 (R1) seeks to do is deter cockfighting by setting a penalty that offsets the gain that comes from breaking the law. Typically, we have seen in other states that once it becomes a felony, they pack up and move to states that have weaker penalties.

Because cockfighting is illegal, it happens in the shadows, out of public view. But it is here in Nevada. I have *The Gamecock* magazine that has a national circulation and on the inside cover is a full-page ad for an outfit in Las Vegas that sells performance-enhancing substances for fighting roosters ([Exhibit D](#)).

Also, cockfighters typically seek out states with the weakest penalties for this crime and move their operations into those areas. Unfortunately, these people bring more than just the animal cruelty with them. The Drug Enforcement Administration has done several investigations that have shown drug cartels from Mexico trafficking narcotics through cockfighting pits. There have been shootings at these cockfighting pits. Last year, two cockfights in Texas ended in fatal shootings. In one, there were 11 people shot, 3 died, and 8 were wounded. A recent California cockfight also ended with fatal shootings.

I think everyone is aware that cockfighting is cruel, but most do not know that they tie knives or icepick-like instruments called gaffs to the heels of the roosters for the fight ([Exhibit E](#)). When the birds fight, they kick each other with the back of their legs, causing deep puncture wounds and slashes. The cockfighters do find some humor in this. They jokingly refer to a bird with an eye gouged out as a "blinker," or a bird with a punctured lung as a "rattler" because of the noise he makes as he chokes on his own blood. At any cockfight, you will find a pile of dead roosters that have been ripped to shreds.

Senate Bill 83 (1st Reprint) is good policy, it is good for animals, and it is good for our community. [Provided prepared testimony ([Exhibit F](#)).]

Chair Daly:

Are there any questions from Committee members?

Assemblyman Thompson:

Is this a cultural type of event? It brings to mind the horse tripping in Mexican rodeos.

Holly Haley:

I would never peg this egregious cruelty on any culture. It happens throughout the United States.

Warren Hardy:

We did reach out to everyone we could think of on this to take into account any of those types of concerns. There was simply no opposition to this.

Assemblywoman Cohen:

I have a question about section 2, subsection 3, paragraph (a), about a person who knowingly attends a fight. I know this usually happens in the shadows, as you testified, but I could imagine this happening in neighborhoods. I am a little concerned for the person who is walking down the street and is curious about

something going on in his neighborhood. He ends up hanging out and watching and now has a felony.

Warren Hardy:

Assemblywoman Cohen brings up a good question, and one that was discussed at some length in the Senate. This bill is actually amended language that we took into account because of the hearing in the Senate. That is why we include the word "knowingly."

It was actually the Washoe County Public Defender's Office that brought to our attention that it might inadvertently bring some people in who are witnessing it on television or on YouTube. "Knowingly" is a pretty high standard, so that is the reason the language was changed to "knowingly attend." There were some other changes with regard to protecting those who might own property but rent it out unaware that cockfighting is occurring on their property. We did work with the Washoe County Public Defender's Office to get them comfortable with the bill. That was one of the subjects of an amendment in the Senate.

Assemblywoman Cohen:

Just so I am clear, if someone is walking by, sees it happening, stops to watch it, knows what is going on but was not intending to watch a cockfight that day, that person would come under this statute and would be on the hook for a category E felony.

Warren Hardy:

It was initially "witness" any fight. The language was changed to "knowingly attend" in order to be as cautious as we can about that type of thing happening. If someone were to walk by a vacant lot where this was occurring and they go through the fence, stand there, and place bets, yes, they would absolutely be caught up in the felony. They would have to knowingly be attending a cockfight. If they were just walking by and looked over the fence to see what was going on, that is not "knowingly" attending. I am not an attorney, but it is my understanding that "knowingly" is a fairly high standard.

Assemblyman Thompson:

I would like clarification on Assemblywoman Cohen's question. When you look at section 2, subsection 6, it states, "A person who violates any provision of subsection 3 is guilty of: (a) For a first offense, a gross misdemeanor." However, in section 2, subsection 5, paragraph (a), it states, a first offense is a category E felony. Which is it?

Warren Hardy:

The misdemeanor is for the provision regarding possession of the paraphernalia as listed in section 2, subsection 3, paragraph (b). That is my understanding of the intent.

Chair Daly:

The provisions of subsection 2 relate to the penalty in subsection 5. The provisions of subsection 3 relate to the penalty in subsection 6.

Holly Haley:

Yes. I believe that is correct.

Assemblyman Carrillo:

You mentioned earlier about the number of states that currently have this type of language. What was that number?

Holly Haley:

Currently, 40 states penalize cockfighting as a felony on the first offense. Only four states, including Nevada, penalize cockfighting as a felony on the second offense.

Warren Hardy:

I think it is important to note that Nevada is sort of an island in the middle of the western United States, so that is the main concern here.

Chair Daly:

Are there any further questions from the Committee? [There were none.] I will move to testimony in support of the bill.

Warren Hardy:

We do have some representatives from law enforcement here. They were very supportive of this legislation in the Senate and liked the fact that there is an additional felony. When these activities occur, it is generally not the only crime.

Eric Spratley, representing Washoe County Sheriff's Office; and Washoe County Regional Animal Services:

The Washoe County Regional Animal Services is the consolidated animal control and animal services agency for all of Washoe County, including the cities of Reno and Sparks, and is a division of the Washoe County Sheriff's Office.

We wholeheartedly support S.B. 83 (R1). We think it is common sense and good public policy. We do have a problem in northern Nevada and in

Washoe County. We thank you and urge your support. I would be happy to answer any questions.

Chair Daly:

We will get Mr. Callaway's comments and then open for questions.

Chuck Callaway, representing Las Vegas Metropolitan Police Department:

We are also here in support.

Assemblyman Carrillo:

Either one of the two gentlemen can answer this question. How big is this in northern and southern Nevada? Do you ever run across a situation where people have called in a cockfight? What specific things are you seeing that you run across on a daily basis?

Chuck Callaway:

In my career in law enforcement, I have only responded to a couple of calls involving cockfighting. I think the reason for that is because I think this is much bigger than we tend to think it is or see in Clark County. I base that on the fact that the numbers that were given in the fiscal note indicated that a lot of these animals are being taken into custody and have to be housed. In Clark County, animal control officers handle any call that does not rise to the level of a felony involving animals. If it rises to a level of a felony, then the Las Vegas Metropolitan Police Department would get involved. When we have those cases that do rise to the level of a felony, particularly in the realm of cockfighting, usually there is gang activity, an assault or battery, prostitution, illegal gambling, et cetera, also involved. Typically, those will be the charges that are charged against the perpetrators and not the actual act of cockfighting. It goes largely unreported. It makes it difficult to pull crime reports to determine how many cases of cockfighting there were because the cockfighting portion of it may not be what was actually reported or prosecuted. I do believe, because of the talks I have had with animal control and my personal experience on the street, it is happening more often than we think it is.

Eric Spratley:

That is the same thing in Washoe County. We know it is there and we have had a few cases. They are very clandestine and discreet operations. It seems like a big party going on with lookouts, which is the one specific case that I can recall and it was testified to at our monthly operational meeting. It is very hard to go into one of these. They will start shutting things down and hiding the animals and the evidence of the fight. They will not let us in without a warrant. We cannot go in unless we know something is going on. They are very discreet about what they do, but it is going on.

Just like any other area of our operation, if we leave a neighborhood unattended and criminal activity starts there and we do not address it, the criminals are going to go there and it is just going to get worse. As has been pointed out, we are kind of an island. We are a ripe opportunity for these activities to go on in the state of Nevada. It is not our goal to fill our prisons with a bunch of people who are participating. It is not our goal to arrest someone who is walking down the street and happens upon this. We want the active participants who are organizing these events, trying to make money off of them, and committing the illegal activity. We do not want the bystanders. This is going to be through a course of investigation that we address those things.

Assemblyman Carrillo:

This is great to have, but on the other hand, how do we crack down on it? Once they find out about it in those communities and learn it is a felony, they could just move into the darker areas to not be noticed. You do not really need to respond to that.

Assemblyman Hansen:

Is there some gap in our laws that if you come across this, you cannot currently prosecute these situations?

Chuck Callaway:

I think the gap in the law is the fact that because it is currently a lesser penalty, when Metro encounters it, we are going to have some other felony-type crime that we are going to charge. We usually tend to charge the more serious crime. The cockfighting charge would not be charged. Hypothetically, if a neighbor reports roosters crowing in another apartment, animal control will go out there, find the animals, and maybe there is evidence the animals are being used in cockfighting. Animal control will confiscate the animals and cite the person in the apartment for having livestock in an apartment, but they do not get to the root of the problem of the actual cockfighting. We believe the stricter penalty will give us more tools to address the actual crime that is occurring and close the loophole.

Assemblyman Hansen:

Sitting on the Assembly Committee on Judiciary, we are trying to reduce the number of felonies because we have too many people in the prisons and it is very expensive. It seems like the penalties we have now are sufficient. If you have only had two calls on cockfighting the entire time you have been working for Metro, we do not have a huge problem with this.

Chair Daly:

It is almost counterintuitive. You have jurisdictions with silos between the animal control and law enforcement. This makes a stronger connection so the coordination can be made. Law enforcement will get involved if it is a felony issue. I agree that we do not want to send a bunch of people to prison, but we do want to have a penalty that is commensurate with some of these issues.

I have never been to a cockfight and would not know where to go to find one. The only times I have ever seen any are in movies and the stereotype is what you guys are saying, a reflection of the life. The cockfights in the movies are always the backdrop to some other illegal activity, such as a drug sale. Those are the things that are also taking place at a lot of these underground events. I see the connection and I understand. I served on Judiciary last session and we do try to keep those felonies down. In the end, we do have to address these issues.

Are there any other questions from the Committee? [There were none.]
Is there any further testimony in support of the bill?

Margaret Flint, representing Nevada Humane Society:

We would like to echo the previous testimony and voice our support for S.B. 83 (R1). We hope that you will support it, as well.

Chair Daly:

We will take testimony in opposition to the bill. [There was none.] Is there any testimony neutral to the bill? [There was none.] I will close the hearing on S.B. 83 (R1). I will open the microphones for public comment.

Warren Hardy:

I misspoke earlier and would like to make sure it is clear for the record in answering Assemblywoman Cohen's question about knowingly attending an event that comes under the first offense of a gross misdemeanor. You have to be putting on the event in order to have the first offense a felony. I believe Chair Daly tried to save me on that, and I appreciate it. We had a national expert coming in on this, but we did not have time to bring him in. I apologize for the stumble on that one.

Chair Daly:

Are there any questions from the Committee? [There were none.] Is there any further public comment? [There was none.]

[Exhibits for Senate Bill 83 (1st Reprint) that were received but not mentioned are: ([Exhibit G](#)), ([Exhibit H](#)), ([Exhibit I](#)), ([Exhibit J](#)), ([Exhibit K](#)), ([Exhibit L](#)), ([Exhibit M](#)), ([Exhibit N](#)), and ([Exhibit O](#)).]

This meeting of the Assembly Committee on Natural Resources, Agriculture and Mining is adjourned [at 10:24 a.m.].

RESPECTFULLY SUBMITTED:

RESPECTFULLY SUBMITTED:

Cheryl Williams
Recording Secretary

Lori McCleary
Transcribing Secretary

APPROVED BY:

Assemblyman Skip Daly, Chair

DATE: _____

EXHIBITS

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

Date: May 23, 2013

Time of Meeting: 9:12 a.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
S.B. 83 (R1)	C	Warren Hardy, Humane Society of US	Associated Press article
S.B. 83 (R1)	D	Holly Haley, Humane Society of US	Gamecock magazine advertisement
S.B. 83 (R1)	E	Holly Haley, Humane Society of US	Cockfighting pictures
S.B. 83 (R1)	F	Holly Haley, Humane Society of US	Prepared testimony
S.B. 83 (R1)	G	Kevin O'Neill, ASPCA	Support letter
S.B. 83 (R1)	H	Holly Haley, Humane Society of US	Support letter from Pet Network
S.B. 83 (R1)	I	Holly Haley, Humane Society of US	Las Vegas Game fowl Show
S.B. 83 (R1)	J	Holly Haley, Humane Society of US	Support letter from The Animal Foundation
S.B. 83 (R1)	K	Holly Haley, Humane Society of US	The Animal Foundation confiscated roosters and chickens care expenses
S.B. 83 (R1)	L	Holly Haley, Humane Society of US	The Animal Foundation 2010 chart
S.B. 83 (R1)	M	Holly Haley, Humane Society of US	The Animal Foundation 2011 chart
S.B. 83 (R1)	N	Holly Haley, Humane Society of US	The Animal Foundation 2012 chart
S.B. 83 (R1)	O	Holly Haley, Humane Society of US	Cockfighting fact sheet