

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

**Seventy-Seventh Session
February 26, 2013**

The Committee on Natural Resources, Agriculture, and Mining was called to order by Chairman Skip Daly at 12:31 p.m. on Tuesday, February 26, 2013, in Room 3161 of the Legislative Building, 401 S. Carson St., Carson City, Nevada. The meeting was videoconferenced to Room 4401 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, Chairman
Assemblyman Paul Aizley, Vice Chairman
Assemblyman Paul Anderson
Assemblyman Richard Carrillo
Assemblywoman Lesley E. Cohen
Assemblyman John Ellison
Assemblyman Ira Hansen
Assemblyman James W. Healey
Assemblyman Pete Livermore
Assemblywoman Heidi Swank
Assemblyman Jim Wheeler

COMMITTEE MEMBERS ABSENT:

None

GUEST LEGISLATORS PRESENT:

Assemblywoman Marilyn Kirkpatrick, Clark County Assembly District
No. 1

Minutes ID: 334



STAFF MEMBERS PRESENT:

Amelie Welden, Committee Policy Analyst
Randy Stephenson, Committee Counsel
Cheryl Williams, Recording Secretary
Steven Sisneros, Committee Assistant

OTHERS PRESENT:

James R. Lawrence, Administrator and State Land Registrar, State Land Use Planning Agency, Division of State Lands, State Department of Conservation and Natural Resources
Danny Thompson, representing the Nevada State AFL-CIO
Keith Uriarte, representing AFL-CIO Local 4041
Jim R. Barbee, Director, State Department of Agriculture
Mark Jensen, State Director, Nevada Wildlife Services, Animal and Plant Health Inspection Service, U.S. Department of Agriculture
Doug Busselman, representing Nevada Farm Bureau
Joseph Guild, representing the Reno Rodeo Association
Dawn Rafferty, Administrator, Plant Industry Division, State Department of Agriculture
JoAnn Mothershead, Administrator of Livestock Identification, State Department of Agriculture
Lee M. Lawrence II, Agriculturist IV, Pest Control Licensing and Enforcement, State Department of Agriculture
Kimberly Rhodemyre, Private Citizen, Reno, Nevada
Sheila Schwadel, representing the Alliance for Wild Horse Advocates
Dorothy Nylen, Director, Wild Horse Preservation League

Chairman Daly:

[Roll was called. Committee policies and procedures were explained.] We will open the hearing on Assembly Bill 125.

Assembly Bill 125: Revises provisions governing the lease of state lands.
(BDR 26-30)

Assemblywoman Marilyn Kirkpatrick, Clark County Assembly District No. 1:

Today, Jim Lawrence with the Division of State Lands is with me. There is no perfect bill, which is why I submitted an amendment to my own bill from the very beginning. I had Assembly Bill No. 469 of the 76th Session, which became the Christmas tree for many bills in the Legislature. As tough as it was, I killed my own bill and put it on the Chief Clerk's desk because it did not have

the proper information in it. This year, the bill was redrafted with the same language; then we found the old amendment and redid the bill.

This bill is meant to help utilize our state lands for economic development. We have several small plots of land that we could lease for companies to install cellular towers and bring in revenue but the law does not currently allow it. The Southern Nevada Correctional Center costs the state money to maintain every year but it costs ten times as much to put prisoners in there, so we have been working to make it more of a transportation hub, utilizing some of that space. The Nevada State Prison was closed last year. It would be great as a museum, movie set, or training center. We want to ensure that we have a process to allow those things to happen. We also have land where moviemakers might be interested in doing filming. Last session, everyone was very concerned with using our assets to help Nevada grow.

In 2010, ex-Governor Guinn and I were working together. He suggested that I look at Nevada's resources and figure out how to benefit the State. Last session, that is exactly what I did. I have returned to do it this session because I think we have lot of assets in Nevada that we could better utilize. Assembly Bill No. 404 of the 76th Session put the inventory of our lands in a central location so that we can see what we have to work with.

Section 1 of the amendment to A.B. 125 ([Exhibit C](#)) adds a requirement to include information on whether the property is occupied, vacant, or has a future use. We have a lot of land that shows availability but we cannot really use it because it is being used for something else or there is a deed restriction. Therefore, this would give us a better idea of what is out there.

In section 2, the State Public Works Division is required to provide inventories to executive directors in the Office of the Governor so they can try to utilize them. Any leases must be for at least five years. They must be approved by the Office of Economic Development. They may include a discount such as free rent for a year, similar to what has been done in the private sector. We met with a lot of businesses last session who said that the first year is the hardest for them to get up and running. If they could get a leg up the very first year, they do not mind paying the taxes and fees for the long term. We want to have the availability to make economic development happen on state lands.

Section 3 ([Exhibit C](#)) allows for the rental of state buildings for nongovernmental entities for any purpose. That includes other governmental agencies, the cell towers and other things. It is not intended for nonprofits to come in and get something for a dollar and take away from the competition our state supports. At this moment, I will turn it over to Mr. Lawrence. Without his help in this

session and the last one, we would not even be discussing this bill. I think he brings a lot of insight to Nevada on how our lands work.

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

[Mr. Lawrence presented written testimony to the Committee ([Exhibit D](#)).] The Director of the Department of Conservation and Natural Resources (DCNR), Leo Drozdoff, had planned to attend this meeting but had a scheduling conflict. He wanted me to pass along his regards and his support for the bill. I am here on behalf of DCNR to testify in support of A.B. 125 as amended by the sponsor.

When the State leases land, existing statutes generally require two appraisals to be completed at the expense of the lessee and a public auction to be conducted with the lease going to the highest bidder. These requirements have made it cost-prohibitive for potential lessees to lease small areas of state-owned land such as cell towers. In addition, these requirements do not allow for the opportunity to provide lease incentives when appropriate to attract potential businesses to locate to Nevada. Assembly Bill 125 provides those two changes to the State land's statutes. First, A.B. 125 provides that leases involving less than 25,000 square feet of land would be exempt from the two appraisals and public auction requirement. This would remove the cost barriers currently in statute and possibly provide for more interest from potential lessees.

Over the past several years, my office has received inquiries from interested parties for small land leases such as cell towers. However, when the interested parties are informed of the process, they are no longer interested and they look elsewhere. Second, in consultation with the Office of Economic Development, A.B. 125 will allow the State Land Office to offer an under-market value lease for the purpose of attracting new businesses to Nevada. I have been previously informed by Economic Development staff that other states offer similar incentives and it would be beneficial for Nevada to have it as a tool.

The State does not have large land holdings. In addition, most of the land owned by the State has restrictions or reversionary language in the deed that would prohibit these economic development leases. These lands are primarily our state parks, wildlife management areas, and properties received from the Bureau of Land Management under the Recreation and Public Purposes Act. With that said, the State has land holdings that are free of such restrictions, currently are not utilized or planned for any use, and could possibly be used to incentivize economic development.

Assemblyman Livermore:

Thank you, Assemblywoman Kirkpatrick, for bringing this bill forward. I have a bill that will hopefully start the process of reuse of the Nevada State Prison. I have had discussions with Mr. Lawrence about that. The State lands that are no longer in use are assets. Mr. Lawrence has a huge challenge protecting those lands because we all have ideas about what to do, whether those ideas are self-serving or are for the benefit of Nevada. Thank you, Mr. Lawrence, for your understanding that public lands can benefit economic development opportunities in these times.

Assemblyman Wheeler:

What constitutes economic development, and who is going to make that decision? Is it just the administrator of the Division of State Lands? Is there a way for the State to say that we do not want that on our land?

James Lawrence:

The first step in the process would be for my land office to do its due diligence and make sure there are no restrictions in the deed that would put our land in jeopardy. Second, my office has a responsibility to work with the state agencies to make sure that there is no other state use planned for that land. With the way this bill is drafted and the way we envision it working, the third step would be done in consultation with Economic Development to determine if the interested party is looking to benefit economic development in Nevada. For example, are they looking to relocate or expand their business to the state? Then, it is written that the discount would be applied in the first year, free of any consideration. As Assemblywoman Kirkpatrick said, it is the first year that is toughest for these businesses. Beyond that, it would be the usual fair market value determinations and that type of lease procedure.

Assemblywoman Kirkpatrick:

Other provisions have been put in place for Economic Development where they do a quarterly report to show us the things that were abated. There is a clawback provision within economic development that allows them to go back and audit to make those things clear. You will see that the Governor's Office is bringing real benchmarks that determine when it works best to benefit the State. That is the other reason for the amendment. It is much broader and we wanted to make sure Mr. Lawrence was not put in a situation that was more about economic development. If they are doing their due diligence, those other requirements could take place.

Assemblyman Aizley:

Are there limits on the size or number of parcels that can be leased at the reduced rate?

James Lawrence:

There are no specific limits in the bill regarding the size or number of parcels for the economic development provisions. Instead, we are limited by what we own. The limitations are ingrained into our State Land assets. The State has about 185,000 acres of fee-title land. Most of that is in wildlife management areas and state parks, which would not be open to this. There are also scattered land holdings.

Assemblywoman Swank:

Is there a limit on the discounted rate?

Assemblywoman Kirkpatrick:

There is no limit but there are benchmarks to determine when it is in the State's best interest, which is done twice through a public process. Then the Legislative Commission and the Interim Finance Committee receive a report. The Governor's Office of Economic Development also has a similar process. There will have to be real due diligence on Economic Development's part to ensure that is not the intent. We do not want to do what we have done in the past and prevent something from going in next to a cell tower, so we want to be a little broad. I can assure you that there are plenty of benchmarks to make sure we are getting a return on our investment.

Assemblyman Paul Anderson:

Obviously, private industry has inquired about using these lands. Have we figured out any fiscal benefit to Nevada for these cell towers, the rentals, and things we would do on these land leases?

Assemblywoman Kirkpatrick:

We are currently not allowing any leases to private industry so any fiscal benefit would be more than what we are getting now. That is a benefit in itself, but it has to be smart and we have to think about it. We have missed out on several cell tower leases because we did not allow it. Last session, we were disappointed that this bill did not get passed. We could do it today, except for the requirement of two appraisals. I can tell you that as slow as the process is, sometimes the appraisals are worth more than what our long-term lease would be for the 30 years. Sometimes we lose money to have that long-term lease. This is a different way to make some money and ensure that we are getting public/private partnerships.

Assemblyman Carrillo:

Section 3, subsection 4 determines the amount of rent and says that the executive director considers the amount the lessee is able to pay. Does this

apply to nonprofits? Let us say a group wanted to build a home on that property and lease the land for that purpose. Would that have any stipulation?

James Lawrence:

This amendment would not apply to that situation. The current statutes in *Nevada Revised Statutes* (NRS) Chapter 322 allow for under-market value leases to nonprofit organizations under very limited situations if they are under contract to do business with the State. One or two come to mind. The last one we did was for JOIN, Inc. in Winnemucca. They are occupying a vacant state building and doing a lease below market value that was approved by the Board of Examiners in the Interim Finance Committee. It had the same language regarding compensation based on the ability of the nonprofit to pay. We work with the nonprofit to identify a fair return based on what they can afford and the value of the property.

Chairman Daly:

Is that a question about the bill as drafted rather than the amendment?

Assemblywoman Kirkpatrick:

We deal with competition on a regular basis. It would not be fair if someone got the land for \$1.00 and could provide their services for \$1.50 or less than everyone else. We do not intend to flood the market with folks that are not competitive across the board. If the Committee would feel more comfortable, I could insert a preamble to make the legislative intent clear, but that does not really help anyone for the long term. But we do not want to lower the value. We are trying to make gains in our State for the long term.

Chairman Daly:

When I looked at the first draft of the bill, I saw clear language stating that we could let this land be leased for less than fair market value without the appraisals. That prompted one set of questions. When I look at the amendment, we have the exemption from the two appraisals in this amendment if it is 25,000 square feet or less. If it is above 25,000 square feet, do we still have to do the appraisals and the auction? Is there an exemption if it is for economic development? The bill talked about both five- and ten-year periods. How do those interact? Can you tell me how big 25,000 square feet is?

James Lawrence:

The way the bill is written, both economic development purposes and land less than 25,000 square feet would qualify to be exempt from the requirement of two appraisals. That does not mean it would occur for the cases of economic development purposes. If we were to base a value on the fair market and then go for the discount, there could be a case that the land was so large that

I would not feel confident enough to do an in-house estimate. In that case, we might require an appraisal, which is currently what we do with easements. A parcel of 25,000 square feet, which is a little more than a half-acre, would clearly be exempt. An appraisal can cost between \$5,000 to \$10,000 each, even for a small parcel. The cost of the appraisal can be twice the value of what is being appraised. That has been cost-prohibitive, so 25,000 square feet or less would clearly be exempt from the two-appraisal process.

The five-year period pertains to office space in State-owned buildings and the ten-year period has to do with land leases. There is a difference between leasing out an existing building and actually doing a land lease. Talking with Economic Development, folks doing a land lease want an assurance for at least ten years so that they are not investing so much in a large area of land only to have the lease expire within two years.

Chairman Daly:

I am trying to help visualize 25,000 square feet. Two and a half times the size of this room would get you to about half an acre, so it is not a big parcel. I know when we have done economic incentives we had additional standards. Will we have anything like that added here?

Assemblywoman Kirkpatrick:

There are benchmarks in place. Do I think we need to beef them up for economic development? As we do in gaming or other things important to Nevada, we need to set a standard for our expected returns on investment. Last session, we allowed local governments to do this very thing because they had a lot of office buildings they wanted to lease out and 25,000 square feet is consistent for an office building. It is a little less than a half-acre. The lot at my house is 22,000 square feet if that gives you a visual. Of course we want to have benchmarks but we also need tools that are flexible and an ongoing record. We need to keep trying things that are out-of-the-box to help people get a leg up, invest, and stay in our state. We need folks to pay but we do not mind giving them a leg up. This is an opportunity to see if it works. We spend a lot of money maintaining things that we can no longer fill. Why not work to utilize that in a better way?

Chairman Daly:

You are right, we want an investment on the return. We want private investment and try to facilitate that but I have no problem disparaging Wal-Mart. We do not want to create a bunch of Wal-Mart jobs because studies show that those types of jobs do not create a tax base that pays for the services required. I am glad to hear we will be able to work on it.

Assemblywoman Kirkpatrick:

I want to thank the Division of State Lands. It is important for Committee members and folks in this building to work with agencies. This time last session, I gave Mr. Lawrence an 80-page bill and asked for help. It is very small this session but we got where we needed to go. They helped me and hopefully this session we will be more successful.

Assemblyman Livermore:

Can the payment be with services or only U.S. currency? Carson City had a building that they could not sell so they leased it for services by nonprofits. They do not fiscally exchange money but instead do services that the city would otherwise need. Is that a possibility?

James Lawrence:

Typically, compensation is a payment to the General Fund. There have been times when an organization has a mutual goal with the state agency where there can be compensation for in-kind services, especially for older buildings. There have been times when the organization had to fix broken windows or old plumbing at the JOIN facility that I mentioned earlier. They credited that work toward their lease payment.

Chairman Daly:

If anyone from the public is here to support A.B. 125, please come forward. [There was no one.] Do we have anyone in opposition to A.B. 125? [A letter from Tina Nappe was submitted ([Exhibit E](#)) but there was no testimony in opposition to the bill.] Is there anyone who is neutral?

Danny Thompson, representing the Nevada State AFL-CIO:

We are not opposed to this bill. I understand what Assemblywoman Kirkpatrick is trying to do and I applaud her for that. I am concerned where this goes without standards. We have experience with tax abatements and giveaways. Probably the most glaring example occurred five years ago in southern Nevada when an electrical production company was built by a crew from Nicaragua and received \$50 million in tax abatements. They got a premium on the output of production and did not hire anyone from Nevada. We know because we put someone on the job to see what was happening. As you can imagine, we were not happy.

We support economic development but we are concerned about standards, including the payment of prevailing wages and labor standards in general and we do not want to repeat what happened. A portion of the electric bill for this room is paying for that \$50 million that you gave away and you get to pay a

premium on the output. Nevada did not realize anything from it. I understand that there may be another bill on standards. We would be very interested in it.

Keith Uriarte, representing AFL-CIO Local 4041:

We are not opposed to this bill. However, there were a number of questions from Committee members about another provision in NRS that is not addressed in this bill. It had to do with the leasing of properties to nonprofits. Mr. Lawrence made a comment about JOIN and Easter Seals. Currently, Easter Seals rents its headquarters for \$1.00 from the State under a 20-year lease and competes with other nonprofits that do not have that type of special arrangement. Their lease is set to expire this spring but could be extended by two people, Mr. Lawrence or Michael Willden, who is the Director of the Department of Health and Human Services. I appreciate the concerns that were raised by the Committee members about these kinds of arrangements.

Chairman Daly:

Are there any other comments from the neutral position? [There were none.] The hearing on A.B. 125 is closed. We will communicate with Assemblywoman Kirkpatrick to make sure we get everything squared away. Now the State Department of Agriculture (SDA) will present.

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

The State Department of Agriculture promotes a sustainable agriculture and natural resources industry which works to protect food, fiber, human health, safety, and the environment through effective service, regulator action and agriculture literacy. [Continued to read from bullet points on page 1 ([Exhibit F](#))]. The Local and Regional Food Aid Procurement Pilot Project has many activities. Page 2 ([Exhibit F](#)), Priorities of Agency, identifies performance measures. Most of these performance measures were identified as we changed. Included with that are SDA budget highlights which show where the agency is headed overall. We are looking to create a Division of Food and Nutrition at SDA. It would bring child nutrition from the Office of Child Nutrition and School Health of the Department of Education, the State Dairy Commission from Department of Business and Industry, and commodity foods from the Department of Administration's Purchasing Division. Pages 6 and 7 ([Exhibit F](#)) give you an overview of our funding sources. The State Department of Agriculture gets 1 percent from the General Fund, 2 percent from transfers from other agencies, 11 percent from fees, and 82 percent from federal funding.

The agriculture industry just completed a study in January that identified the industry at \$5.3 billion in economic activity. That is bigger than estimated, so we were surprised. Over 60,000 jobs are related to agriculture in Nevada. Southern Nevada represents roughly half of the \$5.3 billion through agriculture

and food processing plants and its tremendous grain and landscape industry. International exports were at \$115 million in fiscal year (FY) 2012, which is a \$15 million increase over FY 2011. Fiscal year 2011 was \$10 million over the previous fiscal year.

Priorities of our agency are to create more opportunities for Nevadans to consume healthy, fresh Nevada agriculture products. [Continued to read from page 2 ([Exhibit F](#))].

During the biennium, we evaluated our fee uses and reviewed *Nevada Revised Statutes* (NRS) Chapter 561 to see what was allowed in order to bring our budget more in line with where it should be. As part of this review and reorganization, we identified the bullets on page 4 ([Exhibit F](#)) as our new division alignments. These include the Department of Administration Division of Animal Industry, which combined our livestock identification, animal lab, and wildlife services programs into one division; the Division of Plant Industry; the Division of Measurement Standards; and the proposed Division of Food and Nutrition. To give the consumer a better understanding of how we calculate and ensure that all transactions are equitable, the Division of Measurement Standards is changing its name to the Division of Consumer Equitability.

Page 5 ([Exhibit F](#)) shows our full-time employees in this budget. There are roughly 127 full-time employees and 100 part-time or seasonal staff. Page 6 shows our funding by activity. The administration provides oversight and guidance to all divisions, as seen on page 8 ([Exhibit F](#)). We work directly with the Board of Agriculture, which comprises 11 board members representing different sectors of the agricultural industry. We also provide centralized support services in the areas of fiscal, budget, grant management and policy.

We request a protection and promotion unit for the Administrative Division. This would include a public information officer that would manage all public information activities. It also includes an agriculture literacy portion that would work with agriculture youth programs. They would work with high school rodeos and follow up with the U.S. Department of Agriculture's (USDA) literacy program. We would create an industry research position that would help us put together that agriculture report on an annual basis so that we have a consistent measurement of the size and scope of the industry. This would help with decision making in the future. Our NevadaGrown international marketing would be handled by the person in the agriculture coordinator position. We requested this position through the Interim Finance Committee and it was approved in November. This position will oversee the NevadaGrown branding and labeling program and the USDA Western United States Agriculture Trade Association program, which deals with international trade.

In the Division of Animal Industry ([Exhibit G](#)), we combined animal disease, identification, and predator control. We established protective health requirements for domestic and wild animals. We have a Department of Wildlife veterinarian in our building who we work with on issues. We provide protection to livestock owners by enforcing ownership laws through our identification program. We protect agriculture, natural resources, and property from threats, damage, and loss caused by predatory animals. In the last couple of years, we have seen a significant amount of cattle theft in Nevada as the cattle prices have been very high. If you are looking at one bred heifer and they are bringing in \$2,000 apiece, you load ten of those up in a hurry and you can quickly see how much money that represents.

Slide 2 ([Exhibit G](#)) shows the Division of Measurement Standards which will become the Consumer Equitability Division. They ensure commerce equity through petroleum technology and weights and measures. These employees certify the large scales in the construction industry, the small scales used in pawn shops to sell gold, and everything in between. The livestock scales are the most difficult to certify because they are scattered across the most rural areas of the state. We are required to certify those yearly. Additionally, this division verifies the volume of fuel at a gas station is accurate. They make sure that if you pay for a gallon of gas, you get a gallon of gas. They also collect the fuel sample that goes to the petroleum chemist in their chemistry laboratory, which is why we are requesting to combine those accounts in the budget. They cannot really work without each other.

The Food and Nutrition Division oversees part of Nevada's food security plan. Last year, Dr. Michael Willden, Department of Health and Human Services Director, had a food security steering committee that developed a plan for the state. They recognized that we could gain economies of scale by combining these programs and narrowing the number of agencies directly in contact with security issues. We hope this provides greater output.

Over the last few years, the Division of Plant Industry did an amazing amount with the American Recovery and Reinvestment Act and projects that have gone with it. They have chemistry laboratories that work under a contract with the Environmental Protection Agency to test pesticide residues in the ground and ensure water quality. Their work includes entomology, environmental services, export certifications, and various grant programs, noxious weeds, invasive plants, nursery inspection, organic certification, pest control, plant quarantine, plant pathology, producer certificates of origin, free sale certificates, seed certification, and specialty crop block grants. You are invited to come to our headquarters in Sparks anytime and take a tour of the facilities and meet with any of our staff. Additional information is in our reference guide ([Exhibit H](#)).

Chairman Daly:

I took a tour of the facility earlier and it was informative. It always helps and I appreciate that.

Assemblyman Hansen:

With the dramatic increase in ravens and their impact on the desert tortoise and sage-grouse, what have you been able to do and what restrictions are you facing in dealing with that issue?

Mark Jensen, State Director, Nevada Wildlife Services, Animal and Plant Health Inspection Service, U.S. Department of Agriculture

Our program is a partnership between the state and federal government to protect agriculture in Nevada. Because we have the expertise and infrastructure to protect agriculture and do this work in Nevada, we have also been asked to work with the Nevada Department of Wildlife to protect sage-grouse. As part of that work, we go into areas of rural Nevada and remove ravens that are depredating nests throughout the state. Research shows that approximately 50 percent of the sage-grouse nests are lost to predation and approximately 70 percent of that predation is from the raven. The challenges we are facing include the raven itself. The raven is a migratory bird and protected under the Migratory Bird Treaty Act. Again, the number of ravens we can remove to protect sage-grouse is dictated by the U.S. Fish and Wildlife Service (USFWS), and NDOW gets a permit from them to remove ravens. Then USFWS comes to us to do the work. The Department's permit allows them to remove 2,000 ravens but there are various opinions about the effects of removing that number. The total population is probably 100,000 to 140,000 ravens. We are seeing 300 percent to 600 percent increases in raven numbers, so we have a significant problem with ravens. I hope I have given you some background on the challenges that we are facing.

Assemblyman Ellison:

We have been following these ravens closely, especially in burned areas that we are trying to bring back. Do you follow the State of Nevada studies on the effects of grazing to limit feed grass in these areas?

Mark Jensen:

I try to read the literature concerning grazing and its effects. It is fairly well known that excessive substrate like cheatgrass burns hot. If you can reduce that through grazing, the chance of a fire is greatly reduced. History shows that when there were large numbers of grazers, the number of fires was much less. At one time we had 3 million sheep in Nevada and now there are approximately 100,000 sheep.

Assemblyman Ellison:

There are several bills coming before this Committee in the next few months pertaining to grazing to get cattle out quicker after two to three growing seasons. Do you know of ways to reduce fuel load other than grazing?

Mark Jensen:

No, I know of no other way to reduce the fuel load other than to have something eat it.

Assemblyman Carrillo:

Have you seen an increase in sage-grouse populations?

Mark Jensen:

The overall trend shows a 2 percent decline in sage-grouse numbers over time.

Assemblyman Carrillo:

Is there any evidence to show that the raven programs that you are currently using actually work?

Mark Jensen:

Right now, we are so limited in the number of ravens that we can work on, it is hard to show that it is having a positive effect. As we work these fields, we see fewer ravens in an area but it is hard to go through the entire life cycle of the sage-grouse and show the benefit on the population. There are so many factors impacting the sage-grouse, it is a complicated issue.

Chairman Daly:

Is the federal government going to allow us to kill more than 2,000 ravens?

Mark Jensen:

It appears to be stuck at 2,000 birds. The U.S. Fish and Wildlife Service has a history with other problem birds. For example, the cormorant was a huge issue in the Midwest that was affecting fisheries. Wildlife services were able to do an environmental impact statement on the cormorant. They removed it from the normal protections and issued a depredation order which allows for higher levels of removal for those kinds of problem birds. Right now, there is no push to do that with the raven but it is an example of what could be done if there is the will and money to do so. It takes about a year and \$100,000 to do an environmental impact statement.

Chairman Daly:

If there are no further questions from the Committee, I want to thank you for your presentation. We will open the hearing on Assembly Bill 19.

Assembly Bill 19: Transfers the duties of the State Advisory Board of Trustees for the Trust Relating to the Fairground to the Nevada Junior Livestock Show Board. (BDR 50-322)

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

In 1886, a land trust was set aside as State property for the purposes of the Nevada State Agricultural Society to foster and promote agriculture in Nevada. The Reno-Sparks Livestock Events Center is now located on that land. Even though the buildings belong to the Center, the property is owned by the State of Nevada. In the 1980s, the State Advisory Board put together a committee to review the uses of the property. The committee never met again. I think new members were appointed by the board three years ago but the committee still has not met.

Based on the review of boards and committees, we feel that the transfer of authority from this committee to the Nevada Junior Livestock Show Board would make sense. The Nevada Junior Livestock Show Board is active, meets quarterly, and has an interest in those facilities. Additionally, there are other groups that are represented on that board. The point of A.B. 19 is to transfer the authority from the State Advisory Board of Trustees and eliminate the defunct committee. My amendment to A.B. 19 ([Exhibit I](#)) would add the Reno Rodeo Association to the Nevada Junior Livestock Show Board.

Assemblyman Wheeler:

What is the makeup of the Nevada Junior Livestock Show Board?

Jim Barbee:

Representatives from the livestock industries, the Reno Rodeo Association, 4-H, and Future Farmers of America sit on the Nevada Junior Livestock Show Board.

Assemblyman Wheeler:

Did you say that they meet quarterly?

Jim Barbee:

I believe so. As they get closer to their show, they meet more often.

Assemblyman Livermore:

What happened with the Nevada State Fair?

Jim Barbee:

I appreciate your bringing that up. As I understand it, the Nevada State Fair is run by a private entity that is either bankrupt or upside-down. They have not had a state fair in many years and the Nevada Junior Livestock Show Board is

the only true state livestock exposition that we have right now. It is statewide. Members of the State Fair have statutory representation on the advisory board that we are eliminating, which kept the other board from moving forward. As I understand it, they are defunct and I have not heard of anything that will change that status in the near future.

Chairman Daly:

I appreciate hearing the testimony because it puts a little form to the bill that you cannot quite get when you read it. Are you saying that the current board, as specified under *Nevada Revised Statutes* (NRS) 551.020, which is the deleted section you are talking about, has never met?

Jim Barbee:

It is my understanding that they have not met since that board was formed. Their duties are important to the Nevada State Fair and its absence and presence there. I have met with the Livestock Events Center in the last few weeks to make sure we have youth livestock presence on those facilities, which is related to the trust from 1886. As time goes, there is a recurring issue around those facilities, which is why the board was formed in 1980. I am not sure why they never met. Everyone seems to forget that the fairgrounds are state property and we should be monitoring that trust. These specific groups have access to that property.

Chairman Daly:

Therefore, under NRS 563.030 these duties would be transferred to an existing board as your amendment would do but add the Reno Rodeo Association to that board. Have the groups on the old board that is being deleted complained or are they also on the existing board that is more active?

Jim Barbee:

They are paralleled on the existing board and the Reno Rodeo Association will be added. We met with the Nevada Junior Livestock Show Board's executive director and the Reno Rodeo Association's president. They concurred that they were okay with the change as long as they had representation. The only difference was the legislative piece. We did not move that forward and I am not sure they would be discussing trust issues more than once a year.

Chairman Daly:

The way I am reading this, the Governor will continue to appoint the board under NRS 563.020. The new board will still be governed by all of the deed restrictions that currently exist. They cannot change that. It allows for the state fair and traditional uses on that land.

Jim Barbee:

That is correct.

Chairman Daly:

Is there anyone in support of A.B. 19?

Doug Busselman, representing Nevada Farm Bureau:

The Nevada Farm Bureau supports this bill and the Junior Livestock Show Board through our policy. We know they are an active organization that meets regularly and does business in a very transparent and outstanding way. I was appointed by Governor Gibbons to serve as a member of the committee that never met. Having a committee that is active makes a lot of sense to us.

Joseph Guild, representing the Reno Rodeo Association:

We appreciate Mr. Barbee's outreach to the association. With that amendment, we wholeheartedly support the bill.

Chairman Daly:

Do we have any additional testimony in support? [There was none.] Is there any opposition to A.B. 19? Seeing none, do we have anyone in the neutral position? [There was no one.] The hearing on A.B. 19 is closed. We will open the hearing on Assembly Bill 20.

Assembly Bill 20: Revises provisions governing agriculture. (BDR 50-321)

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

We do not consider this bill to have any significant change in policy. We are trying to do one omnibus bill to clean up statutes and regulations related to the State Department of Agriculture (SDA). That is why this bill is so large and represents so many different areas. I put together a summary that describes the potential changes section by section ([Exhibit J](#)).

In section 26, as it relates to pesticide applicator licensing, the intent is not to repeal the license for the wood-destroying pests as described in our amendment ([Exhibit K](#)). Section 4 removes a statement regarding weed control activities for a natural resource position. Those duties are already being performed through the noxious weed program in our Plant Industry Division. We want to remove it because it is redundant and not in the right place. Many things are removed because they either lack authority or they are redundant. We have another amendment in section 4 that made it reflect the same changes in sections 1, 2, and 3.

Section 5 currently states that if the director wanted to terminate any unclassified position, he or she needs to go to the Board of Agriculture for approval. The director of the SDA reports to the Board of Agriculture and the Governor and they hold him or her accountable. In terms of an organizational structure, the director should also have the same opportunity in terms of their unclassified leadership within those divisions. We are trying to make that change, which we feel reflects how other agencies are put together. I am not aware of any other agency that needs to take their division administrators in front of a board and have a public conversation in order to terminate them.

Section 4 reflects how SDA does not have authority over wild horses as they are federally defined. However, if a wild horse is captured and going to a holding facility, we do the livestock identification or brand inspection. We do not feel this makes sense. There is concern from the public and public protection agencies with the removal of estray or feral livestock from that statement. *Nevada Revised Statutes* (NRS) Chapter 569 deals with the authority for estray and feral livestock. This section is just repetitive. It does not change any authority that we have or do not have.

We already discussed section 5. Based upon a review of our authority on fees, we think section 6 reflects a mistake when the statute was drafted. It currently reads that we can collect a fee for providing a brand inspection. It has to be deposited into the Livestock Identification Division account but we cannot pay the brand inspector out of that account for providing that inspection. We have been illegally paying the brand inspectors to do brand inspections for 50 years. We apologize about that. We are here to clean it up. I think I would lose my job faster by not providing inspections and being in compliance with the law than to wait and try to bring it to you. We want to put NRS Chapter 565 as one of those activities that this account could support under NRS 561.344.

I have folks who can answer questions about section 7. The program for the control of pests and plant disease was created to support all the programs that undertake those duties. The same staff are doing these duties across the board. Currently, NRS Chapters 561 and 555 are funded under those activities. We are requesting that NRS Chapters 552, 554, and 587 be included. Currently the programs in these chapters charge no fees or have limited fees. For example, organic certification falls under Chapter 587. In order to fully cover these costs, we would have to charge a fee so high it would make businesses fail, in which case we would not have organic certification as an option for our producers. They would have to pull someone from out of state or hire a private contractor. We are trying to have the capability and flexibility.

Section 8 streamlines how the public or livestock producers may report in a timelier manner and identify possible stray livestock. We have major technology investments. This would allow a direct call or email rather than a letter. Section 9 also reflects those changes. Sections 10, 11, and 13 take the livestock head tax fee and transfer it from the animal disease section in NRS Chapter 571 to Chapter 575 that deals with SDA taxes. Again, we are just trying to get this to make more sense in how it is applicable. This is not related to a budget bill that we have in place that would actually change the amounts on those head tax fees. That is an entirely different conversation.

Section 14 clearly defines "agriculture products of the soil" as farm products and excludes things that are livestock or poultry-driven. This is for the producer's certificate and defines who is required to do that. It is largely tied to individual producers participating in farmers markets.

Section 15 adds sections 16 and 17 to NRS Chapter 555. You will see sections 16 and 17 and sections 18 through 24 are all discussing the same issue. Section 16 defines a primary principal and section 17 defines a principal. Both a primary principal and a principal are currently required to have the same testing qualifications and experience as described in sections 18 through 24. [Continued to read from page 3 ([Exhibit J](#))]. Section 23 would expand the minimum required liability insurance for pest control businesses from \$10,000 to \$50,000. This amount has not changed in 25 years so we are trying to keep up with inflation. [Continued to read page 4 ([Exhibit J](#))].

Under section 26, we have had an agricultural loan mediation program on the books. That program has been defunct for at least ten years. I know that the Farm Services Agency actually has loan mediation. I contacted them to see if there was a unique difference between our program and theirs. The service they provide is ongoing so it is no longer necessary for SDA to provide this. Section 27 reflects the changes in section 14. Section 28 would void all of the *Nevada Administrative Code* related to the SDA's loan mediation program and section 29 would make it effective upon passage.

Assemblywoman Swank:

In section 8 where you are proposing to delete "in writing" because the notifications come out via email, it seems better to specify "via email" to give options. Otherwise, it seems to just be oral notification and I think that is not in your best interest.

Jim Barbee:

Basically, we are adding the most prominent way that we are given notice. People will call the office in Elko and talk to our agriculture enforcement officer.

We have four Agricultural Enforcement officers: one in Elko, one in Winnemucca, one in Sparks, and one in Ely. Basically, they are the direct contact or the public face for the Livestock Identification Division. They are also the ones who would make an assignment for a brand inspector that would report under them and take a look at the estray livestock, identify them, and get back to their owner. They advertise it for sale if an owner is not identified.

Assemblyman Hansen:

Has this bill been approved by the Board of Agriculture?

Jim Barbee:

Yes, we went to the Board of Agriculture and made them aware of the changes we are proposing.

Chairman Daly:

They are also aware that the Legislature is in session so I am sure they would be here to voice their opinion if they were in opposition to the changes.

Assemblyman Ellison:

Did you say section 4 pertaining to wild or feral horses was moved to another NRS Chapter?

Jim Barbee:

The management and control of wild horses is with the federal government and outside of our authority. The estray and feral livestock are in NRS Chapter 569, which identifies that we have the authority and responsibility to manage feral and estray livestock.

Assemblyman Ellison:

Under NRS Chapter 569 pertaining to feral horses, if they are proven to be branded, what recourses do you have?

Jim Barbee:

If they are identified with a brand, they are considered estray and not feral. Sometimes we have a record of the brand but we may not, especially if the horse came from a different state. Under the estray requirements, we would notify the public in the newspaper of the county seat that they were found hoping that the owner would identify their horse. The owner needs to make a legal claim and prove that they own the horse. Then we would turn the horse over to them. If a horse or cow is not claimed, then it would go to public sale. The funds from the sale would go to the estray account and be impounded for a year in case the owner later identifies their animal and claims those funds.

After a year, the money goes into the Livestock Identification account to support that program.

Assemblyman Livermore:

I have read this bill all the way through. Is the SDA the agency responsible for permitting and licensing bees? What section would that fall under?

Jim Barbee:

Bees are under NRS Chapter 552. I will refer to a staff member for the requirements of licensing.

Dawn Rafferty, Administrator, Plant Industry Division, State Department of Agriculture:

We do not currently license or permit private bee colonies. If we did, the statute would be under NRS Chapter 552.

Assemblyman Wheeler:

I know you already addressed the annual specialized tax on each head under section 10, paragraph 1. Horses are at 75 cents a stock. Is that tax a little higher than last year?

Jim Barbee:

No. That is the rate it has been since the mid-1990s. Some of these have not been changed since the head tax was created. Some were changed in the late 1980s or early 1990s.

Chairman Daly:

If we were raising the fee, you would see a note stating that it required a two-thirds majority vote on the top of the bill, which you do not see.

Assemblywoman Cohen:

In section 14, there is a reference to reciprocity. Do you see a lot of reciprocity between the western states?

Dawn Rafferty:

Sometimes the farmers markets will accept other states' producer certificates. The producer certificate states that the producer has grown the product that he has brought to the farmers market. We have so many producers that come from California, some of the farmers markets will accept California's certificates if that is where the produce was grown.

Chairman Daly:

Who has the authority to remove appointed people now? I believe your answer was the Board of Agriculture.

Jim Barbee:

That is correct.

Chairman Daly:

What is the process? Are these people classified, unclassified or at-will employees? If someone believes they have been treated unfairly, what appeal process is currently under the Board of Agriculture and what would it be with the changes?

Jim Barbee:

None of that would change because it is all handled under the personnel sections for the state. We are referencing unclassified staff except the one reference to the marketing and promotion of the agriculture industry. That change reflects the alignment of the agriculture marketing position that we requested in November and brought in, which would be a classified position. That position falls under the rules of state classified personnel. All the rest would be unclassified positions and this change would make their status similar to unclassified staff in any other agency. I believe that SDA is the only agency where the unclassified division administrators would be taken to their controlling board to have a conversation about their performance before they could be released of their duties.

Chairman Daly:

I understand that this is an appointment system similar to how the Governor appointed your position. If the Governor decides to replace you, he does not have to give you a reason. Now that you have been selected, your cabinet positions are unclassified employees. Obviously, you need qualified people that you can work with. Will you still be able to replace the one person you have said is classified?

Jim Barbee:

No. The agriculture marketing coordinator is a classified position in the Nevada system and falls under the classified rules listed in the Department of Personnel. This just brings their position in line with the rules that already exist.

Chairman Daly:

I believe my question on section 4 was answered because I was questioning the term wild horses when you only have jurisdiction over feral ones. In sections 6 and 7, you are expanding where you could spend the money, which has been a

technical violation for 50 years. In section 8, should we add language "in electronic form" to clarify?

Jim Barbee:

Something that is faster than handwriting is more than acceptable to us. Usually producers are reporting that a horse or cow does not belong to them. They are already in direct contact with the enforcement officers or brand inspectors. Normally they give them a call and they come over. We keep a record of the transactions in a separate process. This would be a notification to the agency of feral or estray livestock.

Chairman Daly:

I know we have had questions about electronic communications and who has access to it. Are you finding that most of the people you are dealing with will be able to receive electronic communications?

Jim Barbee:

I think if we still leave the option to call the enforcement officer, we are fine. The variety of ways to contact us does not hurt because the public will choose what works best for them. We have no opinion and are good with whatever you decide. We probably should have added "an enforcement officer" in addition to "in writing" or in lieu of it. We would just request that it is more broad than narrow.

Chairman Daly:

In section 9, you are eliminating any officer authorized by the Department under NRS 566.030. I am interpreting that as you have some flexibility now to use a peace officer if you choose to but they can only have that authority if you authorize it and you have added "or agricultural enforcement officer" which is what you do now. Why do you want to take out the possibility and flexibility that you could authorize another law enforcement officer? It seems like it takes away flexibility.

Jim Barbee:

I would ask my division administrator JoAnn Mothershead to come up and answer that question. In my mind, it is to bring it into alignment with the processes that are already established and being utilized. If there are producers that work with us, they are usually contacting us directly. If we authorize a police officer, it does not guarantee an open chain of communication.

JoAnn Mothershead, Administrator of Livestock Identification, State Department of Agriculture:

In the past when the statutes were put into effect, any law enforcement officer such as a policeman for the city police department or sheriff's office could read brands and knew something about agriculture. We have found that many of these officers today are not trained for reading brands and marks and know nothing about livestock.

Chairman Daly:

I understand that but it also says "any peace officer authorized by the Department" so not just anyone can go out there; they have to be authorized by the Department. It seems to me that you leave some flexibility if you leave the language in there. For example, if you needed to rely on another agency you would no longer have this as an option.

JoAnn Mothershead:

Anytime a carcass or live animal is taken to be butchered, they have to provide a brand inspection certificate which shows ownership before most of these slaughtering plants will process the meat. The only people that have brand inspection certificate books are employees of the Department.

Chairman Daly:

Who should be required to get the certification we are talking about in section 14?

Dawn Rafferty:

Producer certificates are typically requested by people who are going to sell produce at farmers markets. The health division has recently had many of the farmers markets require producer certificates to ensure that people are growing what they sell and not buying it at Costco and bringing it in.

Chairman Daly:

That was the clarification that I needed. In section 21 pertaining to pesticides and landscaping, you talked about principals and primary principals. In every place you have a store you have to have a principal or someone who is the owner of the company. This means that you could not have a franchise. Now you are saying that you have your primary principal, who is the owner. He can have principals who are qualified employees at each location that also get a certificate so one guy does not have to be everywhere at once.

**Lee M. Lawrence II, Agriculturist IV, Pest Control Licensing and Enforcement,
State Department of Agriculture**

You are almost right. The primary principal concept grew out of the situation where we needed one individual responsible. We used to just have principals. When we did an enforcement measure against a pest control company, we had to assess that enforcement action to the principal. Some companies had four or five principals who would point their fingers at each other, so we came up with the primary principal concept. The way the law is now, each business location has to have a primary principal. This makes it extremely difficult for pest control companies to expand because primary principals have to have two years of experience, be fingerprinted, have background checks, and take specific examinations. It is very, very difficult to get a pest control license in Nevada. Owners have to hope that their certified employees do not quit or start their own businesses. If a business loses its principal, then we take all the licenses associated with that business away in 30 days. This is a big impediment to pest control companies who want to expand. There are three here in Nevada who want to open up branch offices in Elko but they cannot because of the way this regulation is written now.

Chairman Daly:

Would this change allow for that employee to be licensed like a qualified employee?

Lee Lawrence:

There are other licensing categories as well and there are operators and there are agents. The primary principals who want to open a business location would have their license for operators working in that location. These individuals are tested by us, regulated through us, and have licenses. Those individuals could run the business for the company at their branch location. The primary principal, however, would be responsible for everything in the state.

Chairman Daly:

This change will add the flexibility needed for these people to expand their business without the built-in restriction but we are not opening it up too wide. People are still required to be licensed but the employers cannot necessarily be held hostage to one key employee in the scenario you described. Very good.

Assemblyman Carrillo:

Do you plan to continue to manage the feral horses in the Virginia Range?

Jim Barbee:

We have no funding for the management of horses. I believe it was eliminated in the 2009 Session. Right now we deal with horses in the Virginia Range area

by picking them up when they encroach on urban areas as a public safety hazard. We have had multiple car accidents involving the horses in those areas. This last November, a lady in a convertible hit three at one time. It was amazing that she walked away from that with her life. In my tenure as director, the only horses we have picked up have been public safety concerns in urban areas. That is something we do not have the resources to do.

Chairman Daly:

Under section 24, what jurisdiction would a contested case go to?

Lee Lawrence:

This is a section in our laws where we have the ability to revoke and/or modify a pest control license. We can do this for a period of ten days if one of the inspectors in the field sees a threat to the public or the environment, such as a leaking truck. We can actually shut a company down for ten days, after which time we have to have a hearing. We have a hearing officer and follow the procedures in NRS Chapter 233, paragraph (b). The hearing officer makes a decision to revoke, modify, or suspend the license. There may be fines placed upon the company. The company has a right to judicial review. If the company wants to grieve SDA's actions against their license, they can go to judicial review and have it reviewed at that level.

Chairman Daly:

I am sorry to use construction terms. Can you issue them a stop work order and they can go through the rest of the process to continue forward? I just want to make sure that their adjudication rights are there.

Lee Lawrence:

Yes.

Chairman Daly:

Is there any testimony in support of A.B. 20? [There was none.] Is there any testimony in opposition to A.B. 20?

Kimberly Rhodemyre, Private Citizen, Reno, Nevada:

I am here to talk about sections 1 through 4. [Read from ([Exhibit L](#)).] The reworking of NRS from current language to the proposed language is an attempt to marginalize and redirect duties that pertain to the required obligation of the State of Nevada to what are classified by this state as estrays and feral horses. The humane and responsible management of estrays and feral horses is a vital duty that this state has, not only to the horses but to the residents of this state who consider horses a treasure to protect. The section summary that states "removing the words stray and feral horses for redundancy" is, in my

belief, a clarification that is unnecessary. The language in this bill states several times "to advance and protect the livestock and agricultural industries in this state" or similar wording that gives preference to an industry that is rigid and uncompromising. If the bills introduced over the last several sessions are any indication, there seems to be an agenda of eradicating all estrays, feral, and wild horses in Nevada. If you want to clarify changes in wild horses to stray and feral horses, that seems to be a reasonable action. However, deleting these sections would be detrimental to existing policy and would lead to change in responsibilities. While extremely important, one industry does not get to decide what lives or dies, what stays or goes when it comes to wildlife, which includes wild horses and burros, estrays and wild horses on state lands. There should be responsible and humane policies decided on by a collective of different stakeholders representing a broad view of the management and restoration of lands that are used by a variety of people and animals. Please remember the saying, "People are not the only species on Earth; we just act like it."

There are many different ideas about using lands in the State of Nevada. Compromises must be considered and responsibilities must be met. This bill seems to be in direct opposition to Senate Joint Resolution 1, which is going to be introduced this session, and has stripped protections from estrays and feral horses in this state.

I submit to you that the current language in sections 1 through 4 be kept. In addition, I propose changes to NRS 569.045, 569.050, and 569.060. I would add that only officers of SDA be allowed to gather, trap, detain, bait, or collect stray or feral horses. This past summer, there were several instances of prominent property developers in Reno who set traps and collected stray and feral horses. At least one case was documented as using cruel and inhumane methods by dragging a baby horse. The State should never allow laymen, or in this case property developers, the ability to collect what is essentially the people's property by whatever means they want whenever they want for any reason they want. We, the rightful owners, would only require that SDA's designated officers be responsible for actions of these types when necessary for public safety.

In addition, there should be language in NRS 569.075 and 569.080 that requires any auction house used by the State to not be allowed to bid against organizations trying to buy these horses for rescue. Again, last summer, after SDA rounded up 100 horses in the Virginia Range area, from the Truckee River to Pleasant Valley, advocates trying to save these horses were bid against by the auction house over and over. One sale for 23 horses that were supposed to go for \$3,500 had advocates being bid against by the auction house that ended up having advocates pay over \$11,000. The auction house thought it was a

big joke. I ask you to consider these changes but I beg you not to consider the changes to sections 1 through 4.

Chairman Daly:

We appreciate your time today. Is there any other testimony in opposition? [There was none.] Is there any testimony in the neutral position for A.B. 20?

Sheila Schwadel, representing the Alliance for Wild Horse Advocates:

We have some questions about section 4 regarding why SDA is removing the language pertaining to its management policies of wild horses. It is not really defined in NRS Chapter 569. As we all know, there have been some serious public protests, magazine articles, television coverage, and Internet blogs about what has been happening with the Virginia Range horses and the SDA. We are here to try and work together with the SDA to make this a viable solution for the horses, the public, and everyone involved. Our concern is that the removal of the language in section 4, subsection 2, paragraph (a) that says that SDA is not going to manage or establish any policies regarding feral horses. If that is the question and NRS 561.218 will no longer have SDA responsible for the management of estrays and feral livestock, how is this going to resolve the issues that we are experiencing right now resulting from the lack of management of these horses?

I understand that the funding is not there but maybe the Legislature should take another look and provide some type of funding for a position. Without anyone in charge, what happens to these horses? Do we still want to go on with having these ugly situations happen? We have better things to do with our time but there has to be a win-win situation for it. I do not know the director's policy, but even if they have someone appointed on a part-time basis to help with the management and policy of feral and stray horses, it would go a long way toward working with this issue. This issue also ties into tourism. We are missing a big opportunity to take advantage of the horses that are on public land by promoting tourism because horses can be a viable commodity. Some businesses take tourists to view horses on both day and overnight trips. Because the horses are so close to our urban areas, we can develop a policy to work with SDA. Let us not remove that section out of the law. Keep it in there and try to find the funds to run the program for a better resolution for everyone.

Chairman Daly:

I know this is an emotional issue for many people. I would like to hear from Mr. Barbee about SDA's jurisdiction. There are many issues regarding public safety and I would appreciate it if you would please shed a little light.

Jim Barbee:

Under section 4 regarding management and control of wild horses, I cannot be more clear that we do not have that authority. The feral and stray livestock has an entire NRS chapter dedicated to it that identifies us as the responsible authority for control and placement and gives us the tools by which we can manage.

The original statutes were written in the context of managing and identifying livestock that are either identifiable by some signs of domestication, which would make them estray, or went wild because they were the progeny of estray livestock and are now feral. That would include pigs and cattle and other livestock. Because we do not have the funding to staff individuals to go do that work, SDA has not gone out into the range itself, which is largely private and federal land, and not tried to gather or trap any horses. There is very little state land in the Virginia Range. We have collected 39 horses last year and over 100 this year in urban areas due to the drought. In other words, they were within a mile of a roadway.

To be very frank, horses are starving. We all know the size and shape of horses and the damage they can do. We feel we need to make an attempt to protect the public safety, which is why we picked up the horses that we did. Based on funding sources, we would not pick up a horse if we did not have to. It is not an easy business and I do not take pleasure in it. I am a horse owner and have been all my life. However, they are the regulations of the statutes and the state. I have submitted to this Committee what we have been working with over the last couple of years. I am not prepared to present on it today but I am more than happy to address it.

Chairman Daly:

Is the proposed deletion under section 4, subsection 2, paragraph (a) which states "establish and carry out a policy," covered in other statutes?

Jim Barbee:

Yes. NRS Chapter 569 gives us all of the authorities that we operate under for estray and feral livestock. I am really indifferent if you do not want to remove it because it is duplicative. We are really just trying to clean up our statutes and authorities.

Chairman Daly:

We are interested in not having confusion or duplication. If you could email us it would be useful to Committee members. It is a problem with no simple solution. Do we have anyone who wants to testify as neutral?

Dorothy Nylen, Director, Wild Horse Preservation League:

In respect to section 4, I really support the things that other people have said. I think it would be better to adjust the language that refers to wild horses as feral and estrays. One of the concerns I have with Mr. Barbee's testimony is his claim that wild horses are starving. Wild horses are not starving. When that kind of announcement is given to the media, the public responds by feeding wild horses because they want them to stay. I think it is really important that there be someone who is responsible. The horses had a tough time with some water sources drying up. Therefore, they went into areas where there was water. The minute we got snow, they stopped going into residential areas. So I think that having these sections stay with the correction of not calling them wild horses but how the State would like to classify them is important and not redundant. There needs to be better communication between the public and SDA. There has been a real problem with that. We should not be in a hurry in the name of streamlining to eradicate this language.

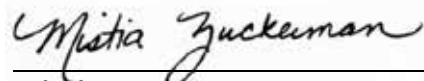
Chairman Daly:

With that, we will close the hearing on A.B. 20. Is there any public comment? [There was none.] This meeting is adjourned [at 2:45 p.m.].

RESPECTFULLY SUBMITTED:

Cheryl Williams
Recording Secretary

RESPECTFULLY SUBMITTED:



Mistia Zuckerman
Transcribing Secretary

APPROVED BY:

Assemblyman Skip Daly, Chairman

DATE: _____

EXHIBITS

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

Date: February 26, 2013

Time of Meeting: 12:31 p.m.

| Bill | Exhibit | Witness / Agency | Description |
|-------------|----------------|---|-----------------------------|
| | A | | Agenda |
| | B | | Attendance Roster |
| A.B. 125 | C | Assemblywoman Kirkpatrick | Proposed amendment |
| A.B. 125 | D | James R. Lawrence, State Land Registrar | Written testimony |
| A.B. 125 | E | Tina Nappe, Private Citizen | Letter |
| | F | Jim Barbee, Department of Agriculture | Presentation |
| | G | Jim Barbee | Division of Animal Industry |
| | H | Jim Barbee | Reference guide |
| A.B. 19 | I | Jim Barbee | Amendment |
| A.B. 20 | J | Jim Barbee | Summary of bill |
| A.B. 20 | K | Jim Barbee | Amendment |
| A.B. 20 | L | Kimberly Rhodemyre | Testimony |