

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

**Seventy-Seventh Session
April 2, 2013**

The Committee on Natural Resources, Agriculture, and Mining was called to order by Chairman Skip Daly at 12:54 p.m. on Tuesday, April 2, 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; and to Great Basin College, High Tech Center, Room 137, 1500 College Parkway, Elko, 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:

Assemblyman David P. Bobzien, Washoe County Assembly District
No. 24

STAFF MEMBERS PRESENT:

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

OTHERS PRESENT:

Kyle Davis, representing the Nevada Conservation League
Don Molde, Private Citizen, Reno, Nevada
Charlie Howell, Private Citizen, Las Vegas, Nevada
Charles Myers, Elko County Commissioner
R. Jeff Williams, Vice Chair, Elko County Commission
Ralph R. Sacrison, Chairman, Elko County Natural Resources Management
Advisory Commission
Gerald Lent, Private Citizen, Reno, Nevada
Jack Robb, Chair, Board of Wildlife Commissioners, Department of
Wildlife
Larry Johnson, President, Coalition for Nevada's Wildlife
Leo M. Drozdoff, P.E., Director, State Department of Conservation and
Natural Resources
Jim R. Barbee, Director, State Department of Agriculture
Richard L. Haskins II, Deputy Director, Department of Wildlife
Fred Jackson, Owner, Tahoe Lobster Company
Rob Buonamici, Chief Game Warden, Division of Law Enforcement,
Department of Wildlife
Randy Robison, representing America's Schools Program
Elmer Bull, Habitat Division Chief, Department of Wildlife
Jason King, P.E., State Engineer, Division of Water Resources

Chairman Daly:

[Committee rules and protocol were explained.] We will be videoconferencing to Elko and southern Nevada this afternoon. We are hearing three bills with two bills on work session. I am going to open the hearing on Assembly Bill 345.

Assembly Bill 345: Revises provisions governing the management of certain wildlife. (BDR 45-273)

Assemblyman David P. Bobzien, Washoe County Assembly District No. 24:

Assembly Bill 345 relates to management of certain wildlife. I want to turn the Committee's attention to the amendment that is on the Nevada Electronic Legislative Information System (NELIS) website ([Exhibit C](#)). We will be working off that amendment today for my presentation. As we all know, when a bill comes out of bill drafting, they are rarely perfect. The system works best when those who have issues or problems with the legislation work with the bill's sponsor. They approach and make suggestions for improvement. In this case, that is what this amendment is. It gets at the issue at hand but does it in a far more elegant and workable way for all involved.

The existing statute related to the \$3 predator control fee that is on all applications made by sportsmen is in *Nevada Revised Statutes* (NRS) 502.253. Subsection 1 states that:

In addition to any fee charged and collected pursuant to NRS 502.250, a fee of \$3 must be charged for processing each application for a game tag, the revenue from which must be accounted for separately, deposited with the State Treasurer for credit to the Wildlife Management Fund Account in the State General Fund and used by the Department for costs related to:

- (a) Programs for the management and control and of injurious predatory wildlife;
- (b) Wildlife management activities relating to the protection of nonpredatory game animals, sensitive wildlife species and related wildlife habitat;
- (c) Conducting research, as needed, to determine successful techniques for managing and controlling predatory wildlife, including studies necessary to ensure effective programs for the management and control of injurious predatory wildlife; and
- (d) Programs for the education of the general public concerning the management and control of predatory wildlife.

That gives you the structure and purpose of how this money is to be used. As you will hear from other presenters today, the wildlife services program currently run by the State Department of Agriculture is a collaborative effort between the Department of Wildlife (NDOW) and the Department of Agriculture. The money is authorized in the Governor's Budget for transfer to the Department of Agriculture for the implementation of a predator control program.

The concern I have with this legislation and why I am bringing this bill forward today is that there needs to be greater transparency to the public, and particularly to the sportsmen who fund this program. Predator control activities need to be science-based; they need to be measurable in terms of their impact; and there should be a return on the investment. There certainly is some overlap between predator control benefits accruing to industry and to livestock operators. There are also benefits that accrue to wildlife. There is a difference between the two. There can be some overlap, but we need to make sure that we are very up-front concerning what the benefits are to wildlife.

I will walk you through the amendment. There has been a lot of concern among conservation organizations and sportsmen that we are making use of the best science available in the management of the state's wildlife, so we are going to include that language here in section 1. We want to make sure that the "Wildlife in this State not domesticated and in its natural habitat is part of the natural resources belonging to the people of the State of Nevada and must be managed according to the best science available." The original bill said "scientific data available"; however, some people felt that could be difficult to interpret. This is a more general statement about the need for science.

Section 2 contains the statute I cited previously. Paragraph (a) includes "programs for the management, control, and researching of injurious predatory wildlife." There are a lot of different ways you can come at the management of predators. I want to put more impetus on researching the best available methods. Paragraph (b) reads "Wildlife management activities relating to the protection of nonpredatory game animals, sensitive wildlife species and other species of game animals which are historically subject to or are at risk of excessive predation by predatory wildlife, and related wildlife habitat." By inserting that language, I really want the Department of Wildlife and the Wildlife Commission to focus and put a priority on those species that clearly have been impacted by predation—for example, deer during the fawning season. I want to make certain that is part of the program. There is a new paragraph (d), which includes "Programs for the education of the general public concerning the management and control of predatory wildlife."

Section 2, subsection 2, reads "The Department of Wildlife is hereby authorized to expend a portion of the money collected pursuant to subsection 1 to enable the State Department of Agriculture to develop and carry out the programs described in subsection 1."

Subsection 3 is the meat of the bill.

In providing guidance for the development of a program to control any species of predatory wildlife or for conducting any wildlife management activity or research concerning that species, the Commission shall establish a policy for the program, activity or research. Each Policy must specify the goals and required results of the program, activity, or research, including, without limitations, provisions:

- (a) Setting forth a specific area in this State in which the program, activity or research must be conducted;
- (b) Setting forth the reasons for conducting the program, activity, or research in the area;
- (c) Setting forth the estimated population and location of each species of predatory wildlife in the area which must be included in the program, activity, or research; and
- (d) Requiring the submission of a report to the Commission upon the completion of the program, activity, or research setting forth the results of the program, activity, or research and the extent to which the program, activity or research achieved the goals and required results established for the program, activity, or research.

What we are getting at here is, the plan that the Commission would put out is not just "We are going to spend this much money controlling predator X across the state and it is going to have benefits." That is not good enough. For each project, we are talking about a landscape, an area, a species of wildlife that is subject to predation that will benefit from this program. And we are going to talk specifically about the predators that are going to be the focus of this program. We are going to make some estimates, set some metrics that can be measured for this program. Once that is in place, following the conclusion of the program—over whatever period of time it may be that is laid out—the data will be collected, brought back, and reported to the Commission.

The Department of Wildlife does this right now. They have scientists, they do the data, they can make this happen. My hope is that by providing this structure and direction to the Commission to set this policy, as they lay out their predator plan, they will put these benchmarks in place. They clearly identify what it is they are doing. Then, at the back end, the Commission and thereby the rest of the public, can see what the results were for this. As I see it, this is very appropriate accountability that helps with the transparency for how that \$3 fee is used for sportsmen.

Chairman Daly:

Does the Committee have any questions?

Assemblyman Wheeler:

Where your amendment mentions "the best science available," who decides what the best science is if there are two or three different studies? For instance, there may be one from the state, one from the feds, and one from the private sector. Who actually makes that decision?

Assemblyman Bobzien:

I see this as a charge to the Department of Wildlife that they use the best science available. In a situation in which someone might question whether that happened or not, it becomes a matter for the courts. It is not my intention to put people in a situation of jeopardy by having this here. We have statutes across the NRS that lay out what the policy of the state is. My intent here is to make it very clear that the direction to NDOW is to use the best science. We kept it broad enough. My concern was if it was in the science data, then you are immediately into lawsuits because people want to start looking at the data and getting it in front of a judge. My intent is just to make a broad policy statement and direction to the Department.

Assemblyman Wheeler:

So NDOW will make the decision on what science to use. If someone feels NDOW is wrong, they can sue.

Assemblyman Bobzien:

I am not seeing this as a path to a new lawsuit. This is also direction to the Wildlife Commission and how they set policy. This broad direction would also apply to the State Department of Conservation and Natural Resources (DCNR) and some of the wildlife activities they have. If anything, the benefit of this is to set the tone for all issues related to wildlife. As you know, this can be an incredibly controversial issue and dependent upon if you are more toward the animal rights side versus those who are sportsmen. I often get frustrated with the appeals to science that I hear from all sides, and many of them are questionable. The benefit of this is to really set the tone of the discussion and to remind people that this is not about feelings or morality or anything else; this is about science. Science has a place at the table when making these decisions related to wildlife.

Assemblyman Ellison:

We have been following this for quite some time. In the next two years, what do you think is going to happen to the sage-grouse? These ravens are going to grow bigger, there are going to be thicker flocks, and they are going to keep

killing the sage-grouse. This is one of the worst bills we can do. The Nevada Department of Wildlife just authorized \$100,000 a year to study coyotes. We cannot keep studying this to death. We need to get people out on the ground going after these predators. If you do not, these sage-grouse will be listed. The sage-grouse are being eaten by ravens, coyotes, and badgers. I am hoping you will amend this and put that money back; because if not, we have a lot of problems with the bill as presented.

Assemblyman Bobzien:

The amended bill does not do anything with the money. The amended bill provides that the predator control programs can continue, but it is my belief that we are going to give a little more form, direction, and transparency as to how it is used. Sage-grouse are absolutely a part of that. I recognize that there is a lot of debate about raven control and how ravens need to be dealt with when it comes to sage-grouse.

I have included on NELIS the existing Predation Management Plan from the Department of Wildlife dated June 30, 2012 ([Exhibit D](#)). I understand that people may differ on their perspectives concerning the efficacy of lethal raven control. There is a passage in here that talks about tracking the data from the lethal raven control program and coming to the conclusion that there are perhaps more productive ways to control ravens when it comes to sage-grouse. That kind of discussion, and having it in public, is very valuable. I am not going to come down with this bill on one side or the other of that debate, but the sage-grouse piece to this is absolutely critical. Keeping the predator control generally going was a purpose of the amendment and pulling back the full-scale study we talked about. I just want to make sure that the science is still in place as we go forward.

As far as the sequencing of the bill, I had registered a bill draft request on wildlife generally. I made determinations on how to go forward with the bill. As I was learning more about the predator control program, and we were hearing about the Governor's increased recommendation for allocation to wildlife services out of the \$3 management fee, I saw it as an opportune time to open this discussion and make sure we have as much transparency to sportsmen as possible.

Assemblyman Hansen:

I will say without hesitation that there has been a strong bias against any kind of predator control effort within the Department of Wildlife. There has been constant friction between NDOW and the Department of Agriculture as far as even getting these programs going. In my opinion, there has been a concerted effort to undermine the attempts by the Agriculture Department to do some of

these. You go out and set up these programs; you come up with poor parameters for them which almost guarantees that they fail. Then, you turn around and blame the Agriculture Department for not being able to get the numbers we want from one of these studies.

My first problem with the bill is that, what we should do is like the federal people have done. Friction once existed between the U.S. Fish and Wildlife Service and the U.S. Department of Agriculture. The federal government put these predator control programs into the U.S. Department of Agriculture. That is where they sit right now. The reality is NDOW does not have any kind of predator control effort within itself. They always have to contract to outside agencies. One problem is there are dual controls and two groups with totally different ways of looking at the whole predator control issue from the beginning. Having studied predator issues for many years, about half the studies say that they do not work; about half of them say that they do work. It is certainly not an absolute black-and-white situation where you can say, Yes, you go out and kill animals and these things happen.

Would you be willing to amend this bill so that these predator programs could actually be placed within the State Department of Agriculture, which I understand is part of the Department of Conservation and Natural Resources in this state under Leo Drozdoff?

Assemblyman Bobzien:

First, a correction. The State Department of Agriculture is a standalone agency. They are not responsible to the State Department of Conservation and Natural Resources.

I understand that there is friction. I would hope that it is a collaboration. I think the creation of this plan gives clear guidance to the State Department of Agriculture in how it carries out the wildlife benefit in predator control programs.

Concerning amending the bill, I cannot see justifying and selling the sportsmen's community on paying a \$3 fee that is just directly given to the State Department of Agriculture.

Assemblyman Hansen:

With reasonable guidelines as to how those dollars are spent? I feel very comfortable, having been involved with this issue from the beginning, that the sportsmen do want to see some programs. The fact is that NDOW does not have any field mechanisms to actually carry this out. It always has to be done through the State Department of Agriculture. Logically, in any government

structure, you want to have a fairly clean chain of command. There is a dual chain of command in this situation. I think we could quite easily get the sportsmen happily involved in this and make sure those monies are spent, as you requested, to benefit not just agricultural things, but to benefit specific wildlife-targeted issues. That is one amendment we should look at in this bill.

Assemblyman Bobzien:

Mr. Hansen, I think we are on the same page. There might be a little difference in structure. I agree that there is benefit to predator control for wildlife. I am not suggesting we take this money out of Ag, that we sever the collaboration. I want to get a little more form and certainty to what the collaboration is. As I see it, the direction to the Wildlife Commission is to say, When you update your predator control program, these are the parameters we want you to consider. We want to be very clear on what you are laying out. Basically, you are sending a work order to the State Department of Agriculture saying, "Okay, Ag. Here is the money, here is our plan, please go carry this out. Measure these things and bring it back." I am not seeing severing that relationship; I am not suggesting we take Ag out of the picture. I am saying if we are going to have \$3 on each tag application going over to the State Department of Agriculture, I want to see more structure and direction for how that goes.

Assemblyman Hansen:

I can agree with that to a point, but as you know, there was terrific friction between the former director of the NDOW and the individual who was in charge of the animal damage control (ADC) program to the point that these programs, even though they are all on paper, had extreme difficulties getting successfully implemented in the field. My thinking is to try to keep that chain of command as clean as possible, you might want to look at dramatically expanding the involvement of the Ag people who actually have to carry out the field operations.

Chairman Daly:

Are there any other questions from the rest of the Committee?

Assemblyman Livermore:

I am trying to visualize what we are going to study, what we are going to accomplish, and what the outcome is potentially going to be. It is immaterial at this moment to ask how much money is there. When you are going to commit the resources of \$3 to do this science study, what do you wish to achieve? More predator control or more understanding? I do not see it in the bill.

Assemblyman Bobzien:

I encourage you to review the amendment on NELIS. We are not doing the study. We are giving some direction to the Wildlife Commission as to how they set their policy for programs for predator management. Right now, the Governor's recommended budget is actually an increase in the transfer from the predator management fee. Up to \$900,000 for the biennium would be transferred to Ag. There is some Ag money. There is also this \$3 fee. The ratio is pretty heavily skewed toward that program now being funded by the \$3 predator management fee.

You put together the work order and send the money to Ag, to the people who are going to do the projects. The work order for the Granite Range by Gerlach, for instance, might say, We have this issue with fawning deer. We want to take care of predator X. The hoped-for benefit is that by dealing with predator X, at the end of that program, we will be able to measure if we were successful or not. It is science; it is hypotheses. Maybe it will come back that we nailed it. It was perfectly effective; everything worked great. In other cases, you are going to collect the data and discover that maybe everything did not work out so well, but we learned some lessons from it.

What comes back to the Commission is a full report on how that program went. This is not that much of a stretch beyond what is already happening. I just want to give it more statutory form. That is the expectation and transparency we can offer the sportsmen who pay this fee and expect predator control to benefit wildlife.

Assemblyman Livermore:

I am looking at someone's testimony in which it was stated that the following numbers are easily documented—90,000 coyotes were killed and 2,000 mountain lions were killed. Are you going to measure those or are you going to study? Right now the money is being used to accomplish this. If you take the money away from that, what will replace it?

Assemblyman Bobzien:

We are not taking any money away. All we are doing is making it clear that that has to be studied. Absolutely, you are going to keep the census data on what happened with the activities. We also want to see the connection between that data—reporting what was killed and to what benefit. Did we protect this bighorn sheep transplant project in X mountain range by doing that? Draw the connection between those. It is great to say we killed this many coyotes and this many mountain lions over the course of a year. That is a start. You have to track that, but I believe you should also be able to track and do

analysis on effectiveness in achieving the goal of protecting wildlife that is historically subject to predation.

Assemblyman Livermore:

I appreciate that, but are you going to do what predator control is currently doing? Understanding your thought about how you study what you have done, are there enough resources for all this? Something has to fund the resources. I have not seen anything about increasing predator control monies; I have not seen that in this bill. I have not heard you say that. I am confused about how you plan to accomplish something different without the resources it is going to take to do it.

Assemblyman Bobzien:

I call your attention to the existing statute and point out specifically in subsection 1, item (c), "Conducting research, as needed, to determine successful techniques for managing and controlling predatory wildlife, including studies necessary to ensure effective programs for the management and control of injurious predatory wildlife." That is already the statutory direction for how the money is supposed to be spent. So, if I am hearing opposition saying that we should not be using the money for that, then perhaps someone needs to bring forward a bill removing the requirement to do science related to this fee.

Chairman Daly:

Any other questions? Seeing none, I have a comment.

The way the bill is written, there is already a source of money. We are not changing the use of that money. We are adding some extra definition to carry out the purpose of that money. That is what I am seeing in this bill. We are just trying to tell NDOW what we want them to do, and this is the way it can be accomplished.

The State Department of Agriculture and NDOW have both been discussed. It has been my experience that whenever you have those types of conflicts it is not one-sided. To say that one agency is better than the other agency is not anything I am going to get into. If there is a problem, it is both agencies. Do they work on an interdepartmental agreement like an interlocal agreement with cities and counties? How do they accomplish that? Is there an agreement that is reached that says, "We will give you this money and you are directed to do A, B, and C in accordance with our statute?"

Assemblyman Bobzien:

I will defer to the agencies to talk about how they work together. I would like to tie this back to concerns Assemblymen Hansen and Ellison had about the

sage-grouse issue. That idea of collaboration between the agencies is key to this bill and key in talking about sage-grouse. We now have the Sagebrush Ecosystem Council; we have the Division of State Lands working with NDOW and all these different agencies together. Predator control is one part of the sage-grouse question. By having this definition or structure for how we are doing the data, there is a natural dovetail with the Sagebrush Ecosystem Council and being able to evaluate predator control activities that would benefit sage-grouse.

Chairman Daly:

On page 2, line 23 of your mock-up amendment it reads, "Each policy must specify the goals and required results" How do goals and required results go together? I do not know if this is an issue, but "goals" and "required results" look odd together. I am curious about the required results.

Assemblyman Bobzien:

In my mind it is similar to goals and tactics. There are multiple layers. The goal might be something general such as facilitating the successful reintroduction of desert bighorn sheep to mountain range X. The required results are, We killed this many of predator X in this time period ahead of the introduction and as a result of doing that we were able to document that we relieved pressure on this introduced population. It is a layering of what gets reported.

Chairman Daly:

Seeing no other questions from the Committee, we will take testimony in support of A.B. 345.

Kyle Davis, representing the Nevada Conservation League:

We were in support of the bill as written, but certainly support the amendment that has been offered today to clarify. The Department of Wildlife Predation Management Plan is being submitted today as an exhibit ([Exhibit D](#)). When I was going through this plan and looking at some of the results, it definitely gave me pause looking at whether this is actually a good use of precious dollars that could be spent to benefit wildlife resources.

I am not saying that there is not a place for predator management and that it cannot work. What I am saying is that, looking at this plan, it seems like there are a lot of projects that have been done that do not seem to be working. It is possible that there are other reasons that these projects being put forward are not going to work. I am open to that idea, but at this point, I think it is important to put some more guidelines on how these projects are carried out so we can try to ascertain whether this is actually a good use of sportsmen's dollars to benefit wildlife resources. I am hopeful that by putting these

guidelines in place for these projects and what the Commission will consider that we can get a little bit more data on this and make sure we are spending dollars responsibly.

Assemblyman Hansen:

We would all agree that if you are going to have a program of this magnitude that you need a great deal of oversight. One of the things put in place to ensure that was a predator control subcommittee put together by the State Wildlife Commission. They did not have a meeting for approximately two and a half years. Are you saying you want to put this into the hands of the same people who apparently went out of their way to not only have no meetings, but actually went out of their way to make sure these programs that you are saying failed, failed? The reason they failed is because there was no oversight. Just the fact they failed to have a subcommittee meeting about spending up to \$500,000 should give you a clue that these guys are not that interested in having this thing succeed.

The reason this program has failed is not simply because of failures of the results in the field, but because of internal controls implemented by this hostility between the Department and the ultimate success of a predator control program. I want to get that on the record.

Kyle Davis:

This may be a problem within the staff of the Department of Wildlife. I am open to the idea that if we provide a little more oversight at the Commission level that some of these things might come to light. It may turn out to be the case. I agree that more daylight on the issue is absolutely a good thing.

Chairman Daly:

Does anyone else have any questions? If there is no other testimony in support in Carson City, I will look for additional testimony in support from Las Vegas or from Elko.

Don Molde, M.D., Private Citizen, Reno, Nevada:

[Dr. Molde supplied a letter to the Committee commenting on [A.B. 345 \(Exhibit E\)](#).] I am in support of the bill. I have been studying this matter about as long as Assemblyman Hansen has, but I have a different view. I did not see the amendment, which sounds very complex but quite satisfactory to me, before I wrote my letter, some of which Assemblyman Livermore has already quoted from in terms of the numbers.

I notice in section 1 of the bill, NRS 501.100 is proposed to be amended by adding the words "and must be managed according to the best science

available." I would like to recommend different language for that and a different location for it.

Chairman Daly:

If you are in support, you are supposed to support the bill as written. If you have an amendment, technically that is opposition even though it might be friendly opposition.

Is there anyone in Elko or Las Vegas in support or anyone else here in support? [There was no response.] Now we will go to opposition. Now, Mr. Molde, you can continue with opposition.

Don Molde:

I was going to suggest that NRS 501.100 be left as is. I like the way it reads. There is something clean and pristine about it, and I would hate to see it changed. I suggest that the better place to put language similar to that would be in NRS 501.105 which defines the responsibilities of the Wildlife Commission. I suggest the addition of a second sentence that would read as follows: "Such policies and regulations must reflect the public interest as well as modern scientific data." If that sentence were added, here is how NRS 501.105 would read: "The Commission shall establish policies and adopt regulations necessary to the preservation, protection, management, and restoration of wildlife and its habitat. Such policies and regulations must reflect the public interest as well as modern scientific data."

Chairman Daly:

Would you get that language to our staff so we can look at it and work with the bill's sponsor?

Don Molde:

You have it already in my letter. I do have some numbers. If anyone is interested, the Department has an interesting write-up called Projects 14 and 15 which describes the five-year, approximately \$400,000 coyote killing project near Pioche. There are no results for mule deer, which was the target of that five-year study, but there is an interesting description about coyotes. They can increase their numbers by increasing their litter size as a result of intensive coyote killing. If you want to read something homegrown that is quite interesting, I would recommend this project.

Chairman Daly:

Are there any questions?

Assemblyman Hansen:

With your amendment, what you are really getting at is, if we are going on scientific basis only, then things like the bear hunt would be scientifically justified. Essentially, the bear hunt does stand up under scientific scrutiny, but politically, it is a hot potato, correct?

Don Molde:

You are correct. I am trying to suggest in the law that there are value judgments involved in these issues as well as science. I am trying to include language that suggests that, because wildlife management statutes are devoid of the language I have suggested.

Assemblyman Ellison:

I am looking at your letter. On the second page it says that there has been \$350,000 spent on the five-year study, with over 90,000 coyotes, 2,000 mountain lions, and about 40,000 ravens killed. I would like to see where these numbers come from. They just increased the number of ravens that can be taken. If those 40,000 ravens were killed over five years, who killed them? It certainly was not done by predator control.

Don Molde:

I am glad you raised the question about those numbers. The coyote and lion numbers in my letter are numbers over a decade. Those kill numbers are a combination of NDOW data, which are reported by private fur trappers. Every year, private fur trappers report the number of coyotes they trap. Every year, Wildlife Services posts an annual activity report on the U.S. Department of Agriculture's Animal and Plant Health Inspection Service's (APHIS) website. They report the number of coyotes they kill as well. So the number of coyotes you see is the combination of those two numbers over a decade. You are welcome to look at the numbers yourself; both are online. The same is true with the mountain lion numbers; it is simply a combination of the mountain lions killed by private sportsmen, who kill most of the lions in the state, and those killed by Wildlife Services.

With respect to ravens, 10 or 11 years ago, I discovered that Wildlife Services in Nevada was killing 8,000 or 9,000 ravens a year as they posted on their website. That number amounted to about three-quarters of the ravens killed in the entire United States. When I brought this to the attention of the U.S. Fish and Wildlife Service, the raven killing permit for Wildlife Services was suspended for a year or two. Then they got a permit for 1,500 ravens a year. That has been increased to about 1,800, where I believe it stands now. Meanwhile, NDOW decided to get its own raven killing permit for 2,000 ravens a year, so the combination of those two permits is what we currently have.

In round numbers, that is 4,000 ravens a year. That is how many ravens can be killed in Nevada, according to the U.S. Fish and Wildlife Service.

Assemblyman Ellison:

How big a percentage is that 4,000-raven number?

Don Molde:

No one knows. If you look at sage-grouse jeopardy factors—things that are causing them trouble—ravens are way down the list compared with other things.

Chairman Daly:

With no other questions, we will take testimony in opposition from Las Vegas.

Charlie Howell, Private Citizen, Las Vegas, Nevada:

I am a former Wildlife Commissioner and have been in the state of Nevada since 1947. I am totally opposed to this bill. There are immeasurable results from some of these predator programs. My problem coincides with Mr. Hansen's. I do not know why the money has to go through NDOW to start with. It should go right to Wildlife Services. They are the ones who do the work. Taking our coyotes and mountain lions is going to improve the herds and that is what that \$3 money is for—to improve the herds. All you have to do is ask the people in the livestock industry. They know that predator control helps them. It is the same thing with our commodity—big game. I agree with Mr. Ellison that we need to control ravens for the sage-grouse, but that money is supposed to come out of the Upland Game Stamp. That is a \$10 fee paid by people hunting upland game.

When they started this program, they surveyed the sportsmen in the state. The sportsmen were overwhelmingly in favor of this \$3 fee to take care of the predator problem. It is a predator fee. It is not supposed to be used for anything else but controlling predators. That is the way the sportsmen voted on it when we did the survey. It does not even need to go through NDOW; it could go directly to Wildlife Services, which is actually going to do the work.

Chairman Daly:

Are there any questions from the Committee? Seeing none, is there anyone in opposition in Elko?

Charles Myers, Elko County Commissioner:

I, too, am in opposition to A.B. 345 for several reasons. I take exception to what Don Molde said about ravens being low on the list of predators. When you look at the list from U.S. Fish and Wildlife of the 17 items, it may only be

item number 12, but it is the No. 1 predator for sage-grouse in the state of Nevada, along with coyotes. The U.S. Fish and Wildlife Service, in our opinion, should get the predator control money. There have been no NDOW committee meetings for predator control for two and a half years, as Assemblyman Hansen mentioned. We find that concerning. We want to change A.B. 345, but I do not think we are taking care of business on a daily basis as we should. The hunters put in the \$3 fee, the hunters should have a say in where the money goes. We are very supportive of having that money go to either agriculture and/or U.S. Fish and Wildlife for wildlife services. Again, we just do not think there is a lot of merit in making the changes being requested in this bill.

R. Jeff Williams, Vice Chair, Elko County Commission:

The biggest item I am dealing with is exactly what was stated by the gentleman from Las Vegas. The intent of the law when it was voted on by the sportsmen was to make sure all that money was used for predator management, even if you had studies that had to be taken care of. I do not think there is any way we lawfully or morally can change that money through this law. We still need to use this money for predator control. If you decide not to use it for predator control, then the sportsmen need to vote on it again and determine what they want to use the money for. It would be a disgrace to do anything else.

Assemblyman Ellison:

Elko County has some of the largest leks in the United States. We looked at what happened with the fires and we are trying to bring them back. If we do not put the money where it is supposed to go every year, and the predators are studied for two years, what is going to happen in Elko County?

R. Jeff Williams:

A report was recently given to us by Peter Coates who is an expert on sage-grouse. He said that about 65 percent of the sage-grouse egg predation comes from the ravens. The ravens do the majority of the damage, with the rest being done by coyotes, squirrels, skunks, and badgers. If we do not take care of the issues that have to do with predation for sage-grouse, there will be no sage-grouse. Peter Coates said that 95 percent of all the eggs that are hatched are taken by predators. You cannot sustain the program on 5 percent. That is not counting the birds lost when they are fledglings.

We have to deal with the raven problem. We are told that the ravens have increased about 600 percent in Nevada during the last 30 years. The problem is that in the next 15 years, it may be up to 1,200 percent, and 3 or 4 years after that, it will be higher. It is not sustainable; we have to deal with the raven problem. If you do not deal with the raven problem, eventually you will have no birds at all because the ravens not only take sage-grouse eggs; they also take

other birds' eggs as well. We can push this down the road if we want, but we are going to have to face up to it eventually.

Assemblyman Hansen:

For the benefit of the Committee, Peter Coates was, I believe, a professor at Idaho State University who conducted two in-depth studies of raven predation of sage-grouse in Elko County in 2005 and 2007. He has done a tremendous amount of research in this area.

Ralph R. Sacrison, Chairman, Elko County Natural Resources Management Advisory Commission:

According to the U.S. Fish and Wildlife Service's listing document, there are 88,000 sage-grouse in Nevada. According to work done by Dr. Coates and one of his colleagues, both of whom are currently with the U.S. Geological Survey, there are 952,000 ravens in Nevada. Most of those are not out in the rural counties. Being anthropogenic, they tend to do quite well around landfills and such, but obviously they are moving out into the rural country. If you have 11 predators for every 1 prey, it would be like putting one player on a football field against a full lineup. You can go ahead and build the nicest clubhouse for that one player, but he is not going to make it back to the clubhouse. We need to take care of predator control immediately, along with fire suppression, and preferably allow the ranchers to do that.

The numbers are out there and have been out there. The agencies in general do not like to discuss or acknowledge them because if you focus on dealing with the predator quickly and consistently you will solve the problem. Bureaucracies commonly do not like to solve the problems; they want to perpetuate the situation so that they can stay in business. What we need to do is keep the predator control money on predation. We do not need to move it to habitat. With an 11:1 ratio, ravens to sage-grouse, we do not have a lot of time to fritter away money on controlling ranchers and habitat out on their grazing lands.

Assemblywoman Swank:

I am hearing that this bill shifts money from management and control of predators. I do not see that in the bill's wording.

Charles Myers:

In the bill we are looking at, A.B. 345, it specifically states that \$20,000 to \$100,000 of the \$3 predator fee could be used for studies. We have studied both the coyote and raven to death. We do not want to see any more studies. We want to see predator control. The same with NDOW's predator control committee. They have not met in two and a half years, yet NDOW puts out a

predator control program, which tells me that there is not really a whole lot of sound science behind it. So we have wasted additional monies in putting out a plan when the predator control committee had not even met.

Unless there is a change to A.B. 345 that we do not have here, it specifically says, "spend between \$20,000 to \$100,000 from the Wildlife Fund Account to contract with a private entity to conduct studies concerning predator animals in the State." We do not want to see any more money shifted to studies.

Chairman Daly:

In the amendment we have—and I apologize that you do not have it, it is up on NELIS—that section concerning the study is being proposed to be deleted by the bill's sponsor. Hopefully, that clears up some of your questions.

The amendment brought by the bill's sponsor is up on NELIS, so please look at that and if you have additional comment, please email or call us. We will be happy to hear from you.

Charles Myers:

Thank you.

Chairman Daly:

Are there further questions or comments? Seeing none, is there anyone else who is opposed who wishes to speak?

Gerald Lent, Private Citizen, Reno, Nevada:

I am speaking as a past chairman of the Board of Wildlife Commissioners and having lived in Nevada for over 65 years. I would like to briefly explain the origination of NRS 502.253, which this bill is amending. I was one of the original proponents and sponsors of Assembly Bill No. 291 of the 71st Session. We amended the statute in Assembly Bill No. 362 of the 75th Session in 2009. In the late 1990s, we did an extensive survey of sportsmen in Nevada. We asked if they were willing to tax themselves \$3. The money would go into a so-called predator account to protect and enhance big game populations, especially deer.

The survey respondents overwhelmingly said they were willing to pay a fee to help save our game animals. This statute, NRS 502.253, was the result of all these efforts. The intent of this bill was to protect and enhance our mule deer populations, which are the bread and butter of the revenue for the Department of Wildlife. This intent is clearly stated in the minutes of the committee's numerous hearings. Resource protection is what it was all about. I have the

minutes of all the meetings we had over the years on these two bills. This bill has been working well.

The title of NRS 502.253 is "additional fee for processing application for game tags." Those fees come from big game applications, and now A.B. 345 wants to take these fees from big game and use the proceeds for upland game. That is wrong. That was not the intent of that money. If you want to hunt upland game birds like sage-grouse, you pay the upland game fee of \$10. I handed out copies of NRS 502.296 which refers to the upland game fee and says, "must be used for projects approved by the Commission for the protection and propagation of upland game birds and for the acquisition, development, and preservation of the habitats of upland game birds in the State." The upland game bird stamp brings in approximately \$280,000 a year. That money should be used; it is just for this purpose.

This bill takes dollars from the big game hunters and proposes to do upland game habitat improvements which are mostly on federal lands. Currently, the Department of Agriculture, APHIS in Nevada, is using some of this money to protect sage-grouse with their permit for DRC-1339 eggs—the poison in the eggs. Only a federal agency can have it; you cannot transfer this permit to any state agency. If this bill passes, this protection of sage-grouse will disappear.

A few days ago at one of the Cave Lake area leks, APHIS put out 300 eggs before daylight. They went back at noon that same day and the eggs were completely gone. That tells you a bit about the effectiveness of this. If no one is putting eggs out to protect against sage-grouse predation by ravens, how many nests will not be saved? It has been proven that raven eradicate sage-grouse nests. That is a fact. What other protection do you have for sage-grouse except these eggs? The answer is none. If the money in NRS 502.253 is diverted and not used for the purpose sportsmen signed off on, you should give the \$3 predator fee back to the hunters. It is disingenuous to tell all sportsmen you are going to charge them a \$3 fee for control of injurious predatory wildlife and then divert those funds for something else.

I am going to tell you where you can get the money for this bill. At the end of fiscal year 2012, the balance in the Heritage Account was \$6.5 million, and no one can ever touch it. It must be used for wildlife purposes. For Committee members who are new, different states write their laws differently. The Heritage money comes from the auction of big game tags. In NRS 502.250 it says that the Commission may accept sealed bids for tags and award, through an auction or a Silver State Tag drawing or any combination thereof, not more than 15 big game tags and not more than 5 wild turkey tags each year. This is where the money comes from. The law on the Wildlife Heritage Trust Account,

NRS 501.3575, says it can be used for "the protection, propagation, and restoration, transplantation, introduction, management of any game fish, game mammal, game bird or furbearing mammal in this State. The Department may annually expend, from the Wildlife Heritage Trust Account an amount of money not greater than 75 percent." Twenty-five percent of this money has accumulated over all these years, and we have over \$6.5 million in that account that cannot be touched. This bill should be amended to use some of this Heritage money for sage-grouse, because the law says it can be used for game birds. If we do not protect the sage-grouse, we are going to affect ranching, mining, farming, and hunters in the state. Everyone in the state is going to be affected. I am a hunter and represented sportsmen on the Wildlife Commission.

I just received a letter from the Montana Wild Sheep Foundation. Just a couple of months ago, the Montana state bighorn sheep tag sold for \$480,000. We are talking about big money on these tags. Sportsmen spend a lot of money. Nevada does not get that much money, but we get a lot of money and we have a lot of money in the pot that is not being used. It can be used for something really effective with just an amendment to that Heritage Account.

In conclusion, this bill is not a good bill because it robs and diverts the predatory management fund's statute, and there are two other funds that could and should be used to improve the habitat of sage-grouse in the state. We heard some testimony on science. How can you manage with science if NDOW has no goals for deer populations in each of their management units? If you do not have goals for deer populations, how do you manage? As an example, how do you count the population of ravens? How do you count dead ravens? We know they destroy many nests. Is this science? I think it is, but science is not the answer to everything.

Chairman Daly:

Now, we are ready to hear testimony from those testifying in the neutral position on this bill.

Jack Robb, Chair, Board of Wildlife Commissioners, Department of Wildlife:

I am here speaking in the neutral position today because the Wildlife Commission has not formally taken a stance on this bill. We will be having a legislative committee meeting tomorrow morning and a Commission meeting to address all bills that would concern wildlife in the state of Nevada on Friday, and I can report back to you after Friday as to our conclusion on this bill.

As it stands now, the money from the \$3 fee goes to projects developed by the Department of Wildlife. Under the guidance of the Board of Wildlife Commissioners, the projects go forward. The term "guidance" has been a real

sticking point for me, a couple of other Wildlife Commission members, and Department of Wildlife staff this year. What does guidance mean as relates to Commission authority in the current law?

The first time I saw the predator plan was in December, and that was for fiscal year 2013. That is not really under the guidance of the Commission. In multiple conversations with the director and with the deputy attorney general, we had long discussions about what guidance meant and who has control of the predator plan. We are still struggling with that. At the recent Commission meeting, we discovered that monies on the coyote study project were spent before the Commission had a chance to give guidance on that and how the amount spent was \$100,000 instead of \$75,000. In my knowledge of it, it really was not under the guidance of the Commission, and we want to get back to it being under the guidance of the Commission.

At the last Commission meeting, with the help of the Department of Wildlife's Interim Director Tsukamoto, we are going to bring new policies forward. During our discussion, we discovered that the policy on the predator plan and the Commission's role with the predator plan had not been updated since 2000. Many things in that plan were outdated and referred to laws that were no longer in existence. We are fast-tracking an update of our policy to reflect what is going on today. Instead of waiting until December to get the next predator plan, we are going to review it in the May time frame and bring it in front of the Commission for approval in the June time frame so we are ready to go for fiscal year 2014 instead of being six months behind and with half the money already spent. I know there have been many references to the Commission and the two-and-a-half-year time lag.

Assemblyman Hansen:

I would like the record to reflect that I think Mr. Robb is an excellent Chairman. I am glad he is there; there is some real hope going forward to see some of these issues resolved between the Commission and Ag. Hopefully, whoever the new director of the Department of Wildlife is will also be able to work, because there is no question that there have been huge levels of friction for at least the last five years. I just want this Committee to know that I think Mr. Robb has the potential and will, in my opinion, do an excellent job. He was an excellent choice for this position by the Governor.

Larry Johnson, President, Coalition for Nevada's Wildlife:

I wanted to sign up as being in opposition to the original bill, but at this point I am signed up as neutral. I think the sportsmen of the state are heavily in favor of predator management. Those are my sentiments as well, but predator management needs to be done surgically at the right time of the year and in the

right places. We have a staff at the Department of Wildlife who craft programs in attempts to meet that goal. All sorts of studies have shown that indiscriminate predator elimination, willy-nilly, statewide, habitat wide, and year-long are ineffective and a waste of money. However, there are surgical strikes that need to be done and need to be expanded. I do not think we can do enough raven control. We have our backs against the wall with the potential listing of the sage-grouse. The numbers permitted for raven control by both Wildlife Services and the Nevada Department of Wildlife cumulatively are vastly inadequate. That program needs to be expanded.

In the past, we have tried to surgically remove mountain lions in areas prior to big game transplants. One thing that needs to be pointed out is, depending upon which side of the predator issue you are on, you can point to whatever study you want as to that policy's effectiveness. A lot of it comes down to how many variables there are. Mule deer populations that may not have responded in a particular mountain range subjected to predator control may not reflect the total story. Have we been in drought? Have those does been going into the winter in poor condition? Have they been bearing either unhealthy or weak fawns that are subject to predation? It goes on and on. The bottom line is, I think the honest biologist in a number of these areas looks you square in the eye and says, we do not know. But in areas like sage-grouse when we know there are a number of ravens there and they are the No. 1 predator, we have no choice. A listing of this bird is going to be extremely devastating to the economy of the state. If the bird is listed, the worst thing that can happen to hunters is that we do not get to hunt a silly brown bird. We are the least impacted party. Mining, ranching, and outdoor recreation in general are going to take a major hit. I do not think that we can sit around and not pull out all the stops and do whatever we can in this next couple of years.

We are not in favor of studying coyotes. I realize that there was a generation of biologists who were taught that predators did not eat meat; therefore, there is no impact. Well, they really do eat meat. When herds are healthy, when prey species are at range-carrying capacity, predators have little effect on those populations. The philosophy of the prey species has always been to overwhelm the predator with sheer numbers whose young cannot all be eaten. That is how herds survive and grow. But, as in the western portion of the state where our deer herds are way below historic levels, predators can be a significant factor and undoubtedly are. Predator management is then a vital portion of the program. Sportsmen agreed to tax ourselves with predator control fees and the upland game stamp. We want to see that money spent properly. Yes, I think there has to be an occasional study to enable or justify potential litigation and predator management. But those studies should be a very minor portion of the overall budget.

There was a discussion of the best science wording in section 1. I feel very strongly that "best science" always has to be "as concluded or determined by the Nevada Department of Wildlife." We have seen in the "no bear hunt" discussions that anti-hunters have shopped Nevada science. Most reputable scientists declined to get involved simply because they said that Nevada has the best science available. Now, they finally do have someone to come up and question the science and at this point the water is muddied tremendously. In my opinion, that wording has to be "best science developed or accepted by the Nevada Department of Wildlife."

Chairman Daly:

Are there any questions from the Committee? [There were none.]

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

I am here to testify as neutral on A.B. 345. I want to talk about section 1 of the bill. Section 1 has language stating that "wildlife must be managed according to the best science available," according to the amendment. As many have talked about previously, you are aware that the Governor has established a Sagebrush Ecosystem Council to provide advice and direction on protection and restoration activities in sagebrush ecosystems. In addition, the Interim Finance Committee last October approved funding for the Council as well as for establishment of an interagency technical team that is going to focus on the sagebrush ecosystem. Representatives on that team are from the Department of Wildlife and the State Department of Agriculture, as well as from the Division of State Lands and the Division of Forestry within the Department of Conservation and Natural Resources.

Something the Departments all agreed to was to use that team to try to work through some of the tensions that exist. The Council has completed two meetings and has another two meetings already scheduled for late April and the first week of May. The topic of how to incorporate best science into management decisions has been and will continue to be an ongoing point of discussion. There is no disagreement on the importance of utilizing best science and management decisions. The real point is what constitutes best science when the scientific data is conflicting or when it is insufficient to make a decision.

Regarding sage-grouse, balancing the incorporation of best science and management decisions with the multiple use mandates of land management agencies will continue to be discussed by the Council and the technical team as we move forward. This is particularly important in light of the pending listing decisions regarding Greater Sage-Grouse in 2015. At the last Council meeting,

the U.S. Fish and Wildlife Service clarified that its listing decision will be based in part on management actions, and these actions need to be informed by best science. Using best science to inform management action does not necessarily mean relying on available science to the exclusion of multiple use principles. Best science is a good concept, but there are different opinions about what best science is, and everyone needs to recognize that.

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

I want to reinforce our support in working with the Department of Conservation and Natural Resources as well as with the Department of Wildlife in terms of the predator issue. We carry out activities and protection of the livestock industry, and having open working relationships and conversations with NDOW and Conservation and Natural Resources as we start to put these plans together makes good sense.

We are neutral on the bill, but I wanted to reinforce that we are more than happy and look forward to continuing to work with the other two agencies on this issue.

Richard L. Haskins II, Deputy Director, Department of Wildlife:

We did not come prepared today to testify on the bill and I did not see this amendment until shortly before the hearing here today.

Chairman Daly:

Are there any questions from the Committee? Seeing none, I have some general questions concerning how some of this overlaps. What I just heard the last three speakers say is that there is developing or better integration, so everyone is pulling on the same rope, at least when it comes to the sage-grouse. I hope that is the case with other predator control as well.

Each one of you has a different source of money for different purposes. The Department of Agriculture has money for predator control for the agriculture industry, and specifically for livestock. The Director of NDOW works for you, right?

Jack Robb:

The Director of the Department of Wildlife works for the Governor. We oversee broad policy.

Chairman Daly:

Nevertheless, the money comes into NDOW for the purpose of predator control to benefit wildlife management. Within that there is the \$3 fee from hunting permits and the \$10 from upland game and the Heritage money. Is there some

synergy building between all these organizations to say, yes I have this money and it fits into this use, and this use, so that we are addressing those issues? When I hear that one agency is fighting with another agency, and that the reason we have not done X is because these folks are really doing the work but this person wants to tell them how to do it—I do not know all the history here but I am hoping some of that conflict is being resolved. If it is not, I want to know why.

We have the \$3 this bill is about, and that money is supposed to be used for predator management to benefit wildlife. How that gets done is just adding a little more framework to where you want to go. We want you to use science; we want you to try to have some measured results.

Leo Drozdoff:

I do not think you have it wrong. We absolutely respect the sportsmen's dollars and their purpose. In general, the Council and technical team are new. The whole purpose of putting these agencies in the room together is to focus on the issue. By focusing on the issue, that also means you are focusing on some of the tensions that have and do exist and working through them.

There is a logic and a progression toward making progress in terms of this issue. Another item that was discussed by a couple of the speakers is predators are a threat. We are managing the technical team based on dealing with threats, so the issue of predator control, at least as it pertains to sage-grouse, will be brought to the Council. There was discussion at the last Council meeting about the work that Dr. Peter Coates was doing. We are trying not to reinvent anything, so if there is work being done that we can harness or help direct, it is our plan to. At an upcoming meeting, we will have Dr. Coates on the agenda to talk about his predator work. That will help the agencies and the team make progress.

Is it a panacea? No. These things have come up over a long period of time, but part of the reason the team was formed is to work through issues. This is one to work through.

Jim Barbee:

An example is the U.S. Department of Agriculture Wildlife Services brings federal money to the table to support and protect the livestock industry. Nevada puts money forward to do that same process. If we are looking at developing a plan, it would only make sense that we would work with the Department of Wildlife in terms of the plan they are putting forward to protect the wildlife, as well as the sage-grouse. There are multiple ways we can look at this that give us gain while still doing what the monies were intended for. We

are absolutely in support of doing that. The sage-grouse is a huge issue for the agriculture industry, mining, as well as for recreational activities on those grounds. It is going to take a combined working relationship and effort, and we are more than committed to being a part of that.

Jack Robb:

I sat on the Governor's sage-grouse team this past summer. The Board of Wildlife Commissioners' Vice Chair, Jeremy Drew, sits on the Governor's Sagebrush Ecosystem Council, so the Wildlife Commission's Chair and Vice Chair have fully bought into the sage-grouse and sagebrush ecosystem issues in the state of Nevada and routinely report back to the Wildlife Commission the actions of that. We fully support any actions out of that group that needs to come forward with the cooperation of the Wildlife Commission. Mr. Drozdoff mentioned his sportsmen dollars, and that is why I pushed at the Commission meeting to have the policy changed and to get the plan out early enough that we can review and approve it, because it is sportsmen dollars. It is crucial when you are spending sportsmen dollars to see where it is being spent, how it is being spent, and that there is accountability to it and the reasons why it is being spent. Part of that is the tracking of those dollars and showing that the projects are successful. That is where we are trying to get as a Wildlife Commission.

Chairman Daly:

When you partner with the Department of Agriculture, could you explain that for the Committee? The Department of Wildlife sets a goal and you are using whatever formula and science, I hope. You say to the Department of Agriculture, "You are going to carry this out because you are out there. You have the teams and resources. We are going to pay for your people to do this." Is there an argument over personnel or locations? Do you use an interagency agreement? How does that work; where does the rub come from, and is it over with now? Was the problem with the people who used to be in certain positions?

Jim Barbee:

It is a confusing process. Those fees are transferred to the Department of Agriculture to support the plan NDOW put together for predator control. That is how it has happened historically. What we are suggesting is that it will be a stronger working relationship in the planning process—both while they are doing their planning and while we at the U.S. Department of Agriculture Wildlife Services and Department of Agriculture are doing our planning.

Basically, those funds come into an account at the Department of Agriculture. Then Wildlife Services implements the plan and utilizes those funds to

implement the plan produced by the Department of Wildlife. In the two years I have been there, we have not had the opportunity to sit down and plan together. To be fair, there was a way we did business prior to the sage-grouse issue, and I think there is a way we do business post-sage-grouse issue.

Director Drozdoff is reviewing the Sagebrush Ecosystem Council and seeing that it can play an active role in opening up these conversations, as each of our agencies has representatives on there. Specific to how NDOW implements the plan with Wildlife Services, I would reference the Wildlife Services representative, Mark Jensen.

Chairman Daly:

If anyone on the Committee has questions, just chime in. I am going to assume you all use the best science available to you to make your plans. A bill that says that we need to use the best science available to develop these plans, and then get some structure on how we want to measure whether that was successful so we can know if that is the best plan going forward—what worked or what did not work—all that is common sense. As I read the bill as amended, I do not know that it conflicts with anything people in your positions are already utilizing.

When we start talking about the number of ravens, we had a presentation during a joint meeting in which it was stated that there were 190,000 or 200,000 ravens in the state, and that we are authorized to kill 4,000 between the two entities. People have said that is a drop in the bucket and not going to do any good. Who is in charge of setting what the number is? Can it be bigger? I am sure we already try to do most of that control in the areas where they are nesting. We know when and where they are nesting. It seems to me control should happen in those areas at that time. I hope you are going to tell me that is how it works.

Jack Robb:

The U.S. Fish and Wildlife Service controls the number of ravens we can take. They gave us a permit for 2,000; the Department of Wildlife's permit was for 2,000; however, I understand it has been increased to 2,500. Our permit came with some strings attached. We have to show that we are trying to do nonlethal raven control at the same time. That was part of the discussion at the last Commission meetings when we approved some parts of the predator plan. We chose to do some roadkill pickup to help keep the bird numbers down. We are also going to cover a dump in the Jackpot area and put some fencing around it so the ravens do not have free access to a dump site in close proximity to a sage-grouse area. We are working on multiple avenues, and that

increase in the permit is in conjunction with showing we are trying to do some nonlethal control of ravens.

Chairman Daly:

What is nonlethal control? Does that include egg production inhibitors?

Jim Barbee:

They are looking at nonlethal as being things that would not encourage ravens to group together around sage-grouse areas. Covering the dump so it is not drawing more ravens into an area is an example.

Assemblyman Ellison:

For several years we have heard that someone would like to stop the hunting of sage-grouse for two years and then move natural resources management to the Department of Agriculture. Does anyone want to make a comment on those suggestions?

Jack Robb:

If you look at the limiting factors on sage-grouse, hunting is so far down the list it does not really show up as having an effect on the total number of sage-grouse. I can say without a doubt that by Nevada continuing to hunt sage-grouse, we are able to use sportsmen dollars and access other funds. In the past few years, we have brought in \$5 million for sage-grouse habitat work that would not have been as available had we not been hunting them. The take during hunting is far outweighed by the dollars we spend and activities we undertake using hunting dollars to protect the bird.

Chairman Daly:

In addition, you gain valuable information from the hunting about the population, age, and hatch.

Jack Robb:

That is correct. We put wing barrels out during hunting season. Hunters are requested to place the birds' wings into those barrels. Those wings give us the ages of the birds. It is vital data we have relied on, and it is helping us fight the listing. If we put a two-year hole in that data, you are shooting your own science, which is not a good thing.

Jim Barbee:

Regarding the State Department of Conservation and Natural Resources coming to the Department of Agriculture, to clarify, we are an industry, an economic development agency. We would not be a good fit.

Leo Drozdoff:

On the discussion about best science, it is pretty tricky because we are living this now. The sage-grouse decision is going to be driven by best science. What we are finding over the course of quite a bit of discussion is that there is a fair amount of emerging science. There are a fair number of areas where there are disagreements. This is the point Assemblyman Wheeler raised. There is not a better alternative to the term "best science," but it is tricky.

In regard to Assemblyman Ellison's point, we will bring Dr. Coates to an upcoming ecosystem council meeting and get some estimates about the number of ravens and compare them to the permitted takes that exist. We will make progress on the issue. I will be happy to report back to you when we have that information.

Chairman Daly:

That is good. I am glad to see there is some progress being made and that best science gets used and is considered to be the best science until some better science comes along.

Does anyone else have any questions? Is there any additional testimony in neutral on A.B. 345? Seeing none, we will close the hearing on A.B. 345.

We will open the hearing on Assembly Bill 452.

Assembly Bill 452: Prohibits a person from stealing a lawfully placed trap or similar device used in the commercial taking of crayfish or any other taking of aquatic life in this State. (BDR 45-746)

Fred Jackson, Owner, Tahoe Lobster Company, Inc.:

I own Tahoe Lobster Company, an invasive species removal company at Lake Tahoe. Since early August and through December, we have had our traps at Lake Tahoe taken by an unknown source. When I reported this to the authorities at the time, there was nothing in our statutes dealing with theft of a submerged trap. I look at this as being the same situation as the businesses in Sparks and Reno right now being pillaged by thieves at night when no one is around. The situation we have at the lake is we set them out Tuesday mornings, let them soak for 48 hours, and pick them up on Thursday for delivery to consumers on Friday. They have taken 50 percent of our stock. During the winter, the crayfish migrate away from the shoreline to get away from the ambient temperatures and pounding waves. They migrate all the way from 0 to 900 feet. We needed to double our efforts; however, because of all the theft, we could not double our efforts. It really affected us. The commercial-grade traps we use are very expensive.

Assembly Bill 452 was brought up to give some teeth to the poaching situation we have at Lake Tahoe. Law enforcement has done the best they can. The Department of Wildlife (NDOW) enforcement, Carson City and Douglas County Sheriff's Departments, and the Coast Guard at Lake Tahoe are doing what they can, but there are no teeth to what was present in the laws at the time I reported this theft.

Chairman Daly:

Are there any questions from the Committee?

Assemblywoman Cohen:

I am very sympathetic to what is going on with your business, but the one thing I was thinking of when I was reading this is a term in the legal field—felony stupid. People who are not necessarily bad criminals, are not necessarily intending to do something criminal, but they just do not use good judgment. They end up with a felony because they are just being stupid. Is this going to trap people? I am not very familiar with your business in Lake Tahoe and those like it, but are we possibly going to end up with some people who are drinking too much and who think, "Oh, there's a trap. Let's take that," as opposed to someone who is actually saying they are going to pilfer something that belongs to someone else?

Fred Jackson:

I understand your concerns, and I thought that same way when we first encountered this situation. The situation did not take place at all during the tourist season. We were right in Crystal Bay catching crayfish in areas professors from the University of Nevada, Reno had recommended. We had no issues whatsoever, and there was a huge population using the water at that time. There were tons of looky-loos who came around the boat and saw exactly where we set the traps. We did not lose anything. As soon as the tourist season ended and school started, the boat traffic dropped off by 90 percent. We moved our operations to a certain area of the lake where we knew densities were very high. We wanted to pull some crayfish out to see what numbers we would get, and that is when we hit a wall and everything started disappearing.

I understand that the trout, German brown trout, and mackinaw do feed on these crayfish. That is the point where the guides and fishermen in Nevada target that area. That is when we started losing our gear. At that point, we chalked it up to experience and tried to stay away from boats fishing in the same areas. I have logged on to a website now and talked with the fishing community about what we do, but that did not seem to help either. It actually clued them in to where we were and more traps have disappeared. I have lost

well over \$1,500 to \$1,600 worth of traps and \$15,000 worth of product in the last three months.

Assemblyman Livermore:

How do you know they stole the product?

Fred Jackson:

That is what we have been pulling on an average. With 100 traps, 300 to 500 pounds, and that is what we lost when we lost our reserve traps for the wintertime. They have pulled 50 percent of my stock. I have spoken with the fishing community in Lake Tahoe; I have met with the fishing guides, the U.S. Forest Service and Department of Wildlife representatives and discussed the issue. I do not know who is doing it, but there are going to be more folks harvesting crayfish at Lake Tahoe during the 2013-2014 season. This is going to keep happening, maybe not to me, but there is going to be a denser amount of traps in a certain area. Hopefully, this will deter people from doing this. I do not know who is doing it, but it has to be somebody in a boat. We do not trap off the shore, we trap in 30-plus feet of water all the way down to 150 feet of water. Our buoys are submerged, so there is nothing on the surface to identify where we are. Everyone who fishes up there knows who Tahoe Lobster Company is. We have had boats shadow us. When we came back within a 24-hour period, we were missing gear. Unless you trawl through it and hook it, you do not know where our gear is. The odds of someone hitting us are small.

Assemblyman Carrillo:

Are you the only company that sets traps for crayfish?

Fred Jackson:

As of right now; however, there are three other entities that are going to start. As of the 2012 season, I was the only business up there.

Chairman Daly:

Could you give us some background? From what I understand, it is a win/win type of deal. You had to get permitted by both states. The crayfish are not natural, from what I understand.

Fred Jackson:

They are not. They are actually from the Klamath region of Oregon and from Washington and California. Introduction was in 1895. At that time, 19 males and 31 females were introduced into Marlette Lake. There were other introductions in the late 19th century also.

Chairman Daly:

So part of the win/win is that your reduction of their numbers also helps the clarity of the lake?

Fred Jackson:

Crayfish excrete phosphates and nitrates—just like Miracle-Gro. The water is so clear, they just add fertilizer to the water. It is estimated that they number 300 million, so 200 to 300 tons a day of Miracle-Gro is being produced in the near-shore environment during the summertime. The water at Sand Harbor becomes 70 degrees in July and August. The algae blooms, and you can see it in the water. The water is basically clear and blue during the spring, but as soon as summer starts, that green tint is from the excrement of the crayfish. So we are here to see if we can manage the crayfish and deliver a product to a local market, and now, Europe is interested. A lot of foreign dollars can be pumped into northern Nevada. It is a great thing. We get to manage the crayfish, you get the lake clarity issue cleared up in the near-shore environment, and you can bring dollars to the community and give northern Nevada a whole new menu and draw people in.

Chairman Daly:

Are there any more questions from the Committee?

Assemblyman Livermore:

What is a trap worth?

Fred Jackson:

The trap costs us \$20. We are trying to get the costs down by dealing directly with the manufacturers. It is a 24" x 18" x 9" box. The crayfish enter through the sides. We went through 17 different styles of traps before the program started. We were concerned about the native minnows being trapped and getting preyed upon by the crayfish. The style of trap we use, the fish can swim around and escape. We have done our homework, and this is the best trap we have been able to find for the situation at Lake Tahoe.

Assemblyman Ellison:

Under Nevada law, would the theft not be covered? If the trap was full and they steal several traps, is that not a felony?

Fred Jackson:

Yes, it would be, but there is no specific wording that deals with the industry at Lake Tahoe. From my understanding, California is going to get in the game, so there is legislation to change their laws this year. This is just to put teeth into

what is happening up there. This is going to be a bigger industry than just myself. This is a growing, budding industry new to every agency involved.

Assemblyman Ellison:

It seems as though a theft is a theft and a felony is a felony. All you are doing is adding the word crayfish. If someone steals your car at the lake, it is still grand theft.

Fred Jackson:

When I went before law enforcement, they told me that they had nothing that dealt with a submerged trap at Lake Tahoe. It is not a steel trap with a tag that is going to capture a bobcat or raccoon or something like that.

Assemblywoman Swank:

I am concerned about putting in statute something so specific. Looking at the definition of grand larceny in the *Nevada Revised Statutes* (NRS), it talks about "one steals, takes and carries away, leads away, drives away, or entices away" livestock, domestic animals, or domesticated birds. It also talks about smaller animals in an aggregate of \$650 or more. Is there a place we could fit this language into NRS that does not leave us, two years from now, having someone else telling us we did this for aquatic life in traps; now we have to do it for another special case? I agree there is a problem, but I wonder if there is another place to fit this into the NRS that would have a broader application or not be so specific to your case.

Fred Jackson:

I agree with you. I do not know how to address what is going on up at Lake Tahoe. It is a foreign situation I thought would never occur. I understood there probably would be some theft while we were working up there. I knew that, but not to the degree of almost destroying a business. I have spoken to the community up there. Here is my situation as a businessman who has employees who work up at the lake. I was told by a very good source who is on that lake almost 24 hours a day for a business that it is being run by locals. The people doing it are very prominent in the community and they know what they are doing, and now my traps are 1,600 feet down on the bottom of the lake. It was a malicious act; not an act of theft or of a weekend warrior up there who drank too much and hooked into the traps. It was an actual act against my company. I do not know how to fix it; I do not know if anyone can fix it. We just move forward from here, and that is where this business is headed.

Assemblywoman Swank:

I agree that this needs to be fixed, and I am confident we can probably find a way to fix it.

Chairman Daly:

I do believe we need to have this fixed and I think it is a question of jurisdiction and various things. If someone is poaching, they do not usually call the Reno Police Department or Carson City Sheriff, they call the game warden. There are jurisdictions that overlap. Yes, it is a property theft, but it is not as though the Douglas County Sheriff's Department is usually out on the lake arresting people on boats. That goes to the game wardens and Coast Guard, whoever has control. Mr. Buonamici, could you shed some light on jurisdictional issues, how or why this might be needed, who is the proper authority, and whether or not a category C felony is the proper penalty? We want to be sure we need a law under the statutes that applies to you to address this, because it does not really fit elsewhere.

Rob Buonamici, Chief Game Warden, Division of Law Enforcement, Department of Wildlife:

[Mr. Buonamici supplied a brief letter concerning the Department of Wildlife's position on A.B. 452 ([Exhibit F](#)).] There are currently laws on the books that would address this situation. There are petty larceny, grand larceny, and theft statutes. As full Category I peace officers, we can enforce the provisions of any statute on the books. We could enforce that. As Mr. Jackson stated, he had more than \$15,000 worth of traps stolen. That would, under the penalties in NRS 205.0835, make that a category B felony, which is even more stringent than the category C felony recommended in A.B. 452. The penalties available right now are even more stringent than what is being proposed.

With regard to enforcement on Lake Tahoe, NDOW game wardens are up there. The Washoe County Sheriff's Office does some boat patrol; it is fairly minimal. The Douglas County Sheriff's Office also conducts boat patrol. Any of those jurisdictions can address the problem, work on the problem, and investigate it.

Chairman Daly:

Are there any questions from the Committee? This bill is in NRS Chapter 501 which is under Title 45. Chapter 501 is where we are trying to put this language. It is administration and enforcement, so what other types of things are in Chapter 501 for administration and enforcement? Is that where we have all the poaching laws and penalties? Does this belong in that statute as an area game wardens would typically enforce? Is it useful and will it help solve the problem?

Rob Buonomici:

As far as the location of the statute, putting it in NRS Chapter 501 does not give us any more authority or ability to enforce it. Chapter 501 of NRS is pretty specific to poaching of wildlife, and this is more of a theft or larceny-type situation from our perspective. It is not the poaching of wildlife; it is the stealing of property. I believe the tools are currently there to enforce it.

Chairman Daly:

Are there any there questions from the Committee? [There was no response.] When you, Mr. Jackson, reported the thefts, damage, or vandalism, who did you report it to and what was their response?

Fred Jackson:

I reported it to the Department of Wildlife and I reported it to the Carson City Sheriff's Department. I was basically told at the NDOW office that they did not have a law for submerged traps at Lake Tahoe; however, they have a law for steel traps. What I said to NDOW was, there is a value placed on wildlife, even though the crayfish are invasive, just as there is a value placed on a bobcat pelt. There is a value to the community and to me or I would not even be in business. It is wildlife, or I would not have to get a permit.

Chairman Daly:

What did the Carson City Sheriff's Department tell you?

Fred Jackson:

I had no communication. I wrote the report up outside the detective's office and turned it in. They said I would be contacted. That was back in December and I have not had one contact yet. I have spoken with the Douglas County Sheriff's Department because they were doing patrols in the area I was fishing in. They said they would take the report from the Sheriff's Department in Carson City, but I have had no contact with Carson City. There has been contact with NDOW.

Chairman Daly:

I know that game wardens can enforce all the laws of the state, but they are not the first people you think of when someone breaks into your car.

Fred Jackson:

I worked for NDOW a long time, so they were the first people I contacted since we are dealing with trapping wildlife.

Chairman Daly:

If you worked with NDOW, do you know what the penalties are for stealing someone else's regular steel traps on the ground?

Fred Jackson:

I have dealt with predation traps for a long time.

Chairman Daly:

So what are the penalties for stealing someone else's trap, other than yours?

Fred Jackson:

I am not sure, that is why I called the law enforcement end of the Department of Wildlife to see if I could get any satisfaction.

Rob Buonomici:

With regard to steel leg-hold traps, if those are stolen, there are a couple of avenues. One is under wildlife statute Title 45—it is unlawful to tamper with or remove a legally set trap. The other avenue we would pursue would be exactly what we have discussed here—petty larceny, grand larceny, what have you, depending upon how many traps were stolen and the value of the traps.

Chairman Daly:

What is the penalty for just stealing the trap under Title 45?

Rob Buonomici:

It is a misdemeanor.

Chairman Daly:

Are there any other questions from the Committee? [There were none.] Is there anyone in support of A.B. 452? Is there anyone in opposition? Is there anyone neutral on A.B. 452? With that, we will close the hearing on A.B. 452.

I want to go to the work session, so Ms. Welden, please give us the rundown on Assembly Bill 381 and the amendment for that bill.

Assembly Bill 381: Encourages the Office of Historic Preservation of the State Department of Conservation and Natural Resources and Partners in Conservation to collaborate to identify and develop programs for the preservation and protection of the historical culture of St. Thomas, Nevada. (BDR S-909)

Amelie Welden, Committee Policy Analyst:

I am nonpartisan staff of the Legislative Counsel Bureau and, as such, I do not advocate for or against any legislation. [Ms. Welden read a description of the bill and proposed amendment from the work session document ([Exhibit G](#)).]

Chairman Daly:

I will accept a motion to amend and do pass with the amendment in the work session document.

ASSEMBLYMAN HANSEN MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 381.

ASSEMBLYMAN CARRILLO SECONDED THE MOTION.

Are there any questions? I spoke with the bill's sponsor about the amendment and I hope he likes it; I think it makes sense. We do not want anyone to think that we are going to try to stop Lake Mead from rising because of this bill, but we do want to show support for St. Thomas. Are there any other questions or comments from the Committee? [There were none.]

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

I know Assemblyman Hickey is on the title of the bill, but Assemblyman Hansen is the main sponsor, so we will let him do the floor statement.

Let us move to Assembly Concurrent Resolution 3.

Assembly Concurrent Resolution 3: Expresses support for the programs,
partnerships and recycling efforts of the America's Schools Program.
(BDR R-122)

Amelie Welden, Committee Policy Analyst:

[Ms. Welden read a description of the resolution and proposed amendment from the work session document ([Exhibit H](#)).]

Chairman Daly:

I will accept a motion to amend and adopt with the amendment just stated.

ASSEMBLYWOMAN SWANK MOVED TO AMEND AND ADOPT
ASSEMBLY CONCURRENT RESOLUTION 3.

ASSEMBLYWOMAN COHEN SECONDED THE MOTION.

Are there any questions?

Assemblyman Hansen:

Maybe it has been deleted, but I did some homework on Youth For Human Rights International listed on page 2 of the bill and the promotion of the United Nations Universal Declaration of Human Rights and the America's School Program which is partnered with the Earth Organization to bring educational programs about the environment and conservation to this nation's schools. While those things may have been deleted, I have a real hang-up concerning the Earth Organization. I looked them up. Here are some examples of what they are going to be educating our kids about:

What is their standpoint on hunting? "We do not support pleasure or trophy hunting and believe the killing of animals for recreation or pleasure is unjustifiable."

Is global warming man-made? "There is much evidence to support mainstream scientific thinking that global warming is man-made caused by fossil-fuel based atmospheric hydrocarbons trapped . . . Last year alone, over 25 billion tons of carbon dioxide were pumped . . . "

What is species depletion? "There are scientists who say that 50,000 entire species are going extinct every year . . . "

Is mankind an endangered species? "Look at the evidence for yourself. There are billions of us and we are fouling the air we breathe, polluting the air, using our rivers and oceans as rubbish dumps, and abusing other life forms as if"

You get my point, then the whole Universal Declaration of Human Rights—I read those. If it were the *Constitution of the United States* and the *Bill of Rights* I would be adamantly in support, but the Universal Declaration of Human Rights by the United Nations which even discusses gun control is, in many ways, absolutely the opposite of our traditional views on government and our views on what the correct role of government should be. I am not sure if the amendment took all that language out, but I am definitely in opposition to this idea and this sort of stuff being used to basically propagandize in our school systems.

Chairman Daly:

I believe all that stuff was taken out. The resolution now just talks about the youth recycling. It does not reference any specific companies. We can get Mr. Robison to come up and comment if you would like.

Assemblyman Ellison:

When I read the bill, I had the same problem as Mr. Hansen did, so I am in opposition to the bill.

Assemblyman Wheeler:

My opposition is just a little different. I am afraid this will become a step toward a program of deposits and returns on cans and bottles as California has, so I am opposed to the bill.

Assemblyman Livermore:

I am also in opposition to this bill. I served on the Legislative Commission's Committee to Study the Deposits and Refunds on Recycled Products this past interim. There were a lot of programs that were the beginning of a deposit bill. They need to raise additional revenue. I believe they are going to start the process of eventually asking for deposits on those products and people will also be able to redeem those deposits. I do not believe they are going to take the containers, but when I served on that committee, it was evident that some containers were being taken to California for redemption. I am not going to support this bill because of that aspect of it.

Chairman Daly:

Are there any other comments at this moment?

Randy Robison, representing the America's Schools Program:

To Mr. Livermore's point, he mentioned that concern during the original hearing, and we had a conversation in his office following that hearing. This program, this resolution, the presentation we made at the interim committee, has absolutely nothing to do with the bottles and cans deposits-and-refunds issue that the committee was addressing. This simply has to do with a plastics recycling program.

To answer some of the concerns from Mr. Ellison and Mr. Hansen, that is one of the reasons we revised the original resolution as it was drafted. The America's Schools Program has partnerships with a variety of organizations to further what they are trying to accomplish. This specific program, and this resolution, deals only with the JET Recycling Program which takes plastic waste products and recycles them into other products. As we take those to market, we derive a revenue from those sales that goes back into the local kindergarten-12th grade (K-12) schools. Through the International Environmental Youth Campaign, we hold youth summits where we talk about a variety of environmental issues. We have held them at the Springs Preserve and on the campus of the College of Southern Nevada. We invite youth from the K-12 schools. They come and have a variety of different workshops and

presentations not specifically related to the Earth Organization. The recycling side of the International Environmental Youth Campaign is a way for us to develop revenue. The revenue goes directly back to the schools and can be used for whatever purpose they deem necessary. We also use it to develop curriculum we make available to schools that they are free to accept and use or not. It is not something we are mandating; there is no quid pro quo of being a partner with America's Schools that you have to use the curriculum we develop. It is a program with two primary goals in mind: to develop a new revenue source for K-12 schools and to raise awareness among the youth of our schools about recycling—what it means and things they can do at home, in the community, and at school to reduce the impact of plastic waste.

Assemblyman Hansen:

I respect that, but the amendment you offered says, "Resolved, that the Nevada Legislature urges the America's Schools Program International Environmental Youth Campaign and its partners to continue their efforts to educate and inspire this nation's youth with respect to environmental issues" There is no way I can support that. Thank you for taking some things out, but it is clear that the intent is still part of the whole program, so I will be voting no on this.

Chairman Daly:

The language reading "and its partners" was included to remove JET Recycling America. Does anyone else have any comments? [There was no response.] As I do not have the full Committee present, I would like to ask the maker of the motion and the maker of the second to withdraw their motions. We will bring this up at another time when the full Committee is present. Both are saying "yes." The motion was made by Assemblywoman Swank and the second was made by Assemblywoman Cohen.

I have one question for Mr. Robison. This resolution came forward from an interim committee. I know Mr. Ohrenschall was the Chair, but what other legislators were on that committee and what support did it get?

Randy Robison:

Mr. Livermore was there, Assemblywoman Mastroluca, Senator Manendo . . .

Assemblyman Livermore:

The recycle interim committee was made up of three Senators and three Assemblymen. It was chaired by Mr. Ohrenschall. I was a member as well as Elliott Anderson in April Mastroluca's place. Also, there were Senators Gustavson and Kihuen.

Randy Robison:

The way the presentation came about, as Mr. Livermore noted and as the Committee knows, the specific focus of the interim committee was about the refunds and deposits bill Mr. Ohrenschall introduced during the last session that turned into a study. As they went through the interim committee process, they invited a number of folks who talked more generally just about recycling, separate and apart from the bottle-bill issue.

At the meeting we were invited to, they not only heard from us, but also from a number of representatives in the recycling industry that do construction cleanup and recycle those products. If you will recall from last week's hearing, I showed a brief video clip about the International Environmental Youth Campaign. It showed some clips from some of the youth summits we do. The presentation we made during the interim lasted about 30 to 40 minutes and talked extensively about what we were doing specifically with the recycling program and our efforts there. It did not talk about any of the other issues that appeared in the original resolution.

Chairman Daly:

We are going to pull this back and wait for the whole Committee. Can you find those minutes and find out what the support was to bring this resolution forward as a bill draft?

Randy Robison:

Yes, I will do that.

Chairman Daly:

We will now open the hearing on Assembly Bill 483.

Assembly Bill 483: Limits the amount of the fees that the State Engineer may charge and collect for certain applications to appropriate water for wildlife purposes submitted by the Department of Wildlife. (BDR S-745)

Elmer Bull, Habitat Division Chief, Department of Wildlife:

[Mr. Bull supplied talking points for A.B. 483 ([Exhibit I](#)).] I am here to present Assembly Bill 483, which would limit the amount of fees the State Engineer may charge and collect for certain applications. To give you some background, I administer the state's wildlife management area systems as part of one of the programs under the Habitat Division with the Nevada Department of Wildlife (NDOW). Wildlife management areas are tracts of land managed specifically for wildlife habitat that is on those properties for the benefit of wildlife as well as for the using public who benefit from the presence of those areas.

One of the wildlife management areas that is included in that group is the Humboldt Wildlife Management Area, which is the subject of this bill. The Humboldt Wildlife Management Area lies about ten miles south of the town of Lovelock. It is at the terminus of the Humboldt River. When water conditions are good in the Humboldt Wildlife Area it is a tremendous habitat for waterfowl species as well as for other wetland-related birds. It consists of about 36,000 acres of land. About half of that is owned by the Department of Wildlife; the other half is owned by the Bureau of Reclamation and administered as part of the Humboldt irrigation system. The water supply for the Humboldt Wildlife Management Area consists exclusively of drain flows that come off the farmland in the Lovelock Valley and also flood flows that come down the Humboldt River in years when water supplies exceed what can be stored in the system. Those water rights are not primary water rights. In other words, we cannot call for those water rights; we cannot contact the Pershing County Water Conservation District and request that those waters be delivered. They simply come through the system when flood conditions are in place in the Humboldt River or through return flows from irrigation activity in the Lovelock Valley.

In an effort to ensure that we continue to receive those water flows into the Humboldt Wildlife Management Area, in 1975, employees of the Nevada Fish and Game Department, as we were called then, filed four applications for water rights to protect those waters coming into the Humboldt Sink. Those applications were filed strictly to protect those flows to make sure someone else did not file on those waters and, through some means, divert those waters away from the Humboldt Wildlife Management Area. Those 1975 applications were timely protested by the Pershing County Water Conservation District as well as some private parties. Because of a massive workload at the Division of Water Resources caused by a huge number of water applications that were filed at the time, the State Engineer did not get an opportunity to review those applications and act on them until 1988. At that time, the State Engineer reviewed the protests that had been filed against those applications. Through some negotiations and concessions on both sides, the State Engineer ended up overruling those protests, and, in March 1989, approved those applications.

Between 1975, when the four applications were first filed, and 1989, when the State Engineer issued the ruling I just described, the fees to secure those applications went from \$25 per application, for a total of \$100, to \$387,500 due to a change in the formula for determining fees. That fee is cost-prohibitive for the Department of Wildlife to pay, yet we are very much interested in assuring that the water sources for the Humboldt wildlife area are protected. We had conversations with the State Engineer's office that dragged on for a number of years. In 2008, the State Engineer was working very hard to clean

up the backlog of applications that were still pending. The State Engineer contacted the Department of Wildlife and asked what we would like to do. We replied that we would still like to have those water rights because we definitely feel we need to take measures to protect them. Ultimately, in consulting with the State Engineer again, and at the recommendation of the State Engineer, we felt that it would be appropriate to seek legislative relief in this situation and ask that the fees we would have to pay be reduced.

In an agreement with the State Engineer, it was decided that a fair price for those applications would be \$1,000 an application. The State Engineer is in agreement with that, thus it was put into this legislation to try to provide that relief for the Department of Wildlife. Again, the water we are talking about is not primary water; it is not something, even if we succeed in paying the permit fees, that we are guaranteed to receive. We receive the water in years when water supplies are abundant and farming activity is going full bore. The water is essentially downstream from all the farming operations. The appropriation of that water to the Department of Wildlife for use at Humboldt would in no way impact farming activity or any other uses on the Humboldt system.

In addition, I want to point out that the Department of Wildlife is a public natural resource management agency. We do not stand to realize a tremendous financial gain from the approval of this bill. It would simply assure us that the water resources for the Humboldt wildlife area are secure and not going to be diverted elsewhere. We are asking for your support of this bill.

Jason King, P.E., State Engineer, Division of Water Resources:

I want to make a couple of points. I know personally, since our office issued the ruling in 1989—and Mr. Bull is correct, the fees would have been around \$388,000 as compared to \$100 when they were first filed in 1975—that is when things came to a halt. I know there were discussions between both departments as well as with our office as to how NDOW would deal with paying these fees. That is where it sat. As Mr. Bull said, the waters that are subject to this appropriation are based on floodwaters and drain waters. These are waters that the management area receives regardless, so the urgency is not there as compared to someone else who is not getting the water. The water naturally drains to the terminus of the system. That is another reason why there was no great urgency to this issue.

Our office believes this one-time waiver is a reasonable compromise. The Department of Wildlife is a sister resource agency and these water rights and their use in the Humboldt Wildlife Management Area is ultimately an asset to the state of Nevada. As such, we believe this one-time waiver is appropriate.

Chairman Daly:

Are there any questions from the Committee?

Assemblyman Hansen:

How did the fee go from \$100 to \$388,000 during that window of time?

Jason King:

In 1975, there was not a fee specifically for wildlife uses, so it fell under a storage right. In 1975, storage of a water right in a lake was a flat \$25 fee, so those four applications for storage of water totaled \$100. Between 1975 and 1989, fees were introduced that were \$50 per cubic foot a second (cfs) for wildlife uses. That is what these permits fell within—wildlife uses—so \$50 times 7,750 cfs gets you to \$387,500.

Chairman Daly:

What is "cfs?"

Jason King:

One cfs is one cubic foot per second, which is equal to 449 gallons per minute.

Assemblyman Hansen:

Who would have received the \$387,000? Where was that money supposed to go?

Jason King:

Those fees collected by our agency are deposited into the State General Fund.

Chairman Daly:

Are there any other questions from the Committee on this measure? [There was no response.] We will take testimony in support of A.B. 483. Seeing none, is there anyone in opposition to A.B. 483? Is there anyone neutral on A.B. 483? Seeing none, we will close the hearing on A.B. 483.

Now that Mr. Aizley is here, we will go back into the work session and take up Assembly Concurrent Resolution 3.

You already heard an explanation of the bill, so I will take a motion.

ASSEMBLYWOMAN SWANK MOVED TO AMEND AND ADOPT
ASSEMBLY CONCURRENT RESOLUTION 3.

ASSEMBLYWOMAN COHEN SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMEN ANDERSON, ELLISON,
HANSEN, LIVERMORE, AND WHEELER VOTED NO.)

We will now open the microphones up to public comment. [There was no response.]

There may be some exhibits submitted us that were not directly referenced during the hearing, and those exhibits will be made part of the record. With that, we are adjourned [at 3:51 p.m.].

[A letter concerning A.B. 345 was submitted by Tina Nappe ([Exhibit J](#)).]

RESPECTFULLY SUBMITTED:

Terry Horgan
Committee Secretary

APPROVED BY:

Assemblyman Skip Daly, Chairman

DATE: _____

EXHIBITS

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

Date: April 2, 2013

Time of Meeting: 12:54 p.m.

Bill	Exhibit	Witness / Agency	Description
	Exhibit A		Agenda
	Exhibit B		Attendance Roster
A.B. 345	Exhibit C	Assemblyman Bobzien	Proposed amendment
A.B. 345	Exhibit D	Assemblyman Bobzien	Existing predator management plan
A.B. 345	Exhibit E	Donald Molde, Private Citizen	Letter
A.B. 452	Exhibit F	Rob Buonamici, Dept. of Wildlife	Position letter
A.B. 381	Exhibit G	Amelie Welden, Committee Policy Analyst	Bill description and proposed amendment
A.C.R. 3	Exhibit H	Amelie Welden	Description of resolution and proposed amendment
A.B. 483	Exhibit I	Elmer Bull, Dept. of Wildlife	Talking points
A.B. 345	Exhibit J	Tina Nappe, Private Citizen	Letter