

**MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON WAYS AND MEANS**

**Seventy-Seventh Session
April 15, 2013**

The Committee on Ways and Means was called to order by Chair Maggie Carlton at 8:32 a.m. on Monday, April 15, 2013, in Room 3137 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at nelis.leg.state.nv.us/77th2013. In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (email: publications@lcb.state.nv.us; telephone: 775-684-6835).

COMMITTEE MEMBERS PRESENT:

Assemblywoman Maggie Carlton, Chair
Assemblyman William C. Horne, Vice Chair
Assemblyman Paul Aizley
Assemblyman Paul Anderson
Assemblyman David P. Bobzien
Assemblyman Andy Eisen
Assemblywoman Lucy Flores
Assemblyman Tom Grady
Assemblyman John Hambrick
Assemblyman Crescent Hardy
Assemblyman Pat Hickey
Assemblyman Joseph M. Hogan
Assemblywoman Marilyn K. Kirkpatrick
Assemblyman Randy Kirner
Assemblyman Michael Sprinkle

STAFF MEMBERS PRESENT:

Cindy Jones, Assembly Fiscal Analyst
Michael J. Chapman, Principal Deputy Fiscal Analyst
Janice Wright, Committee Secretary
Cynthia Wyatt, Committee Assistant

Minutes ID: 836



Chair Carlton stated the Committee had five bills to hear and she opened the hearing on Assembly Bill 474.

Assembly Bill 474: Makes appropriations to restore the balances in the Stale Claims Account, Emergency Account, Reserve for Statutory Contingency Account and Contingency Account. (BDR S-1174)

Stephanie Day, Deputy Director, Budget Division, Department of Administration, testified that Assembly Bill 474 requested an appropriation to restore the balances in the Stale Claims Account, Emergency Account, Reserve for Statutory Contingency Account, and Contingency Account. An appropriation of \$3 million was requested for the Stale Claims Account, \$100,000 for the Emergency Account, \$3 million for the Reserve for Statutory Contingency Account, and \$5.8 million for the Contingency Account. The Emergency Account was used in cases of invasion, insurrection, disaster, riot, breach of the peace, substantial threat to life or property, epidemic or the imminent danger thereof, or damage to or disintegration of state buildings for agencies funded with General Funds. If a water pipe broke or a major failure in a building occurred, the funds in the Emergency Account could be used for repairs. The Reserve for Statutory Contingency Account could pay for employment of special counsel for the Office of the Attorney General when it hired attorneys on behalf of an agency or for recapture of an escaped convict. There were many statutes related to the Statutory Contingency Account. Ms. Day said \$800,000 of the \$5.8 million requested for the Contingency Account was a restricted amount for the replacement of state telephone systems for unanticipated expenditures related to the telephone systems.

In response to a question from Assemblyman Horne, Ms. Day replied that the Stale Claims Account was a General Fund account used for agencies that had reversions in a specific fiscal year. When General Fund agencies had claims that were not paid in the current fiscal year, the claims could be paid out of this account instead. A payment from this account could be made for a stale claim from the prior fiscal year including a payroll claim or a claim from a vendor.

In response to a question from Assemblywoman Kirkpatrick, Ms. Day replied that the state telephone system expenses would be paid from the Interim Finance Committee (IFC) Contingency Account. Ms. Day would request IFC approval for an appropriation from the IFC Contingency Account for any unanticipated telephone expenditures.

In response to a question from Assemblyman Kirner, Ms. Day replied that A.B. 474 addressed four separate budget accounts that each had balances that

carried forward to the next fiscal year. The Budget Division studied the ending fund balances and average expenditures over the past several years before making its projections of the restoration amounts requested in the bill.

In response to a question from Assemblyman Kirner, Mike Torvinen, Deputy Director, Department of Administration, replied that the state worked with the Division of Enterprise Information Technology Services, Department of Administration, to consolidate telephone system requests whenever possible. The Department studied the needs and funds available to identify savings opportunities and redirect funds when necessary.

In response to a question from Assemblyman Eisen, Ms. Day replied that the agency took into consideration the exclusion of payroll claims from the definition of stale claims in its request for \$3 million for the Stale Claims Account. If payroll claims were no longer considered stale claims, the demand on the Stale Claims Account may decrease. Ms. Day said that the Department requested the statute be changed to allow payroll claims be paid out of the respective budget accounts rather than the Stale Claims Account. She was uncertain about the actual effect to the Stale Claims Account. The large stale claims would still be paid from the Stale Claims Account, minimizing the effect of the exclusion of payroll claims.

Hearing no response to her request for testimony in support of or in opposition to the bill, Chair Carlton called for public testimony. There being no public testimony, she closed the hearing on A.B. 474 and opened the hearing on Assembly Bill 480.

Assembly Bill 480: Revises provisions relating to the Tahoe Regional Planning Agency. (BDR 22-1168)

Stephanie Day, Deputy Director, Budget Division, Department of Administration, testified that Assembly Bill 480 revised provisions relating to the Tahoe Regional Planning Agency (TRPA). The Budget Division had considered making changes to the TRPA budget reporting requirements for the past several years. The Division needed additional information from TRPA other than what was submitted in its biennial budget. This bill imposed additional reporting requirements on TRPA.

Ms. Day read the language in A.B. 480 beginning in section 1, subsection 2:

2. On or before January 31 of each year, the Tahoe Regional Planning Agency shall submit to the Governor and the Director of the Legislative Counsel Bureau:

- (a) A copy of the report of the independent audit most recently prepared for the Tahoe Regional Planning Agency; and
- (b) A written report detailing:
 - (1) The nature and purpose of the expenditures made by the Tahoe Regional Planning Agency during the immediately preceding calendar year from money appropriated to it by the Legislature; and
 - (2) The progress of the Tahoe Regional Planning Agency in achieving the performance measures and benchmarks included in its current biennial budget.

Ms. Day explained the proposal was to change the way TRPA submitted its budget. In the past, TRPA staff came to the Budget Division and entered all the TRPA budget information into the Nevada Executive Budget System (NEBS). The proposed reporting requirements would continue to include all TRPA positions and expenditures. The Budget Division still needed that information but did not want TRPA staff to enter the detailed data directly into NEBS. The proposal was for TRPA to provide budget data on a single categorical level. The Division requested that nothing else change. The TRPA would still submit an executive budget to the Budget Division and the Legislature. The proposed change was a format change only. The TRPA budget would continue to be subject to the same budget hearing process, but A.B. 480 imposed additional reporting requirements on TRPA.

Assemblywoman Kirkpatrick was a member of the Legislative Committee for the Review and Oversight of the Tahoe Regional Planning Agency and the Marlette Lake Water System. She said she met with TRPA representatives from California who developed a new performance-based budget system for TRPA and state agencies in California. She wondered whether the Budget Division could work in a more cohesive manner with California. She would like to have the same information to allow the Legislature to compare Nevada expenditures to California expenditures. Nevada needed to know how California spent its TRPA funds.

Ms. Day replied that the Legislature could decide whether it wanted to request additional information or request the same type of information that the Budget Division received from California. The Budget Division did not work with the California budget office but worked with TRPA. Ms. Day said the Budget Division was willing to explore data-sharing opportunities with California.

Chair Carlton shared the same concerns as those expressed by Assemblywoman Kirkpatrick. Chair Carlton understood the TRPA funding formula for California and Nevada. It would be helpful to compare how California spent funds for TRPA projects when considering how Nevada should

spend money on TRPA projects. Both sides of the equation were important when studying what funds Nevada and California contributed to the projects at Lake Tahoe. Chair Carlton realized that she had obtained those types of reports when she served on the Legislative Committee for the Review and Oversight of the Tahoe Regional Planning Agency and the Marlette Lake Water System. A number of the TRPA reports were public documents. Nevada did not automatically receive those reports. She obtained the reports by calling a friend in California to request the reports. She needed to compare how Nevada spent its money versus how California spent its money. She was sure Nevada could obtain the reports. The TRPA was a partnership between California and Nevada, and it was important to know what the other partner was doing when planning and making decisions.

Assemblywoman Kirkpatrick said that she met with some of the legislators in California and they agreed that Nevada and California should work together on developing plans and budgets for TRPA.

Assemblyman Kirner said he shared the same thoughts. Senate Bill No. 271 of the 76th Session (2011) related to these problems. The Legislature must work on these problems over the next couple of years. One of the problems addressed in S.B. No. 271 was whether Nevada was receiving fair and equitable treatment from California and TRPA. He thought this additional budget information would be valuable.

Ms. Day said A.B. 480 was not related to the problems addressed in S.B. No. 271. She was sure the budget information would be helpful. The Executive Budget would still include the California and Nevada funding amounts. The format of the TRPA budget information would change, and additional reporting requirements would be imposed on TRPA.

In response to a question from Assemblyman Kirner, Ms. Day replied that all of the TRPA budget information was available to the public on the Budget Division website and included in The Executive Budget.

Assemblyman Bobzien said that he and Assemblywoman Kirkpatrick met with TRPA representatives to understand the history and formatting differences of the budget and NEBS. The state had a quasi-governmental agency relationship with TRPA that caused an administrative headache to the Budget Division. He appreciated hearing that the Legislature would receive more TRPA budget information. He was still struggling to understand exactly what was going to be different with the formatting. He did not understand what TRPA budget information the Legislature would normally receive versus what would be different. This might be one of those situations where the testimony was

helpful and he appreciated the information, but he needed a flow chart or white paper detailing the exact differences in this proposal.

Ms. Day replied that what she meant when she said the format would be different was that instead of TRPA entering the data directly into NEBS through a virtual private network, which was cumbersome, TRPA would supply the information in a spreadsheet format to the Budget Division which would enter the data for TRPA. The TRPA would no longer identify each individual category and position. Instead, TRPA would provide a single special use category of expenditures. The backup documentation would still be provided for the legislators and staff to examine.

Assemblyman Bobzien said he was uneasy because he was used to seeing specific decision units and having budget details arrayed in front of him. He was not comfortable hearing that there would be backup documents available, but expenditures would be lumped into one category.

Ms. Day replied the Budget Division would continue to display the TRPA budget with decision units for base, maintenance, and enhancement. Major changes and major requests would be displayed as enhancements. The whole structure would still remain, but the number of categories of expenditures would be reduced from six or seven to one. All the backup documentation would still be provided.

Assemblyman Bobzien asked whether the legislators would be able to see the backup documentation spreadsheets. He wondered whether the spreadsheets were submitted to the legislators as part of the budget process. He wondered how this proposal changed the budget relationship between the Legislative Branch and the Executive Branch.

Ms. Day replied the Fiscal Analysis Division, Legislative Counsel Bureau, would continue to receive the same detail it had always received, and any detail that an individual legislator requested could also be provided.

Hearing no response to her request for testimony in support of or in opposition to the bill, Chair Carlton called for public testimony. There being no public testimony, she closed the hearing on A.B. 480 and opened the hearing on Assembly Bill 473.

Assembly Bill 473: Revises the provisions governing the fees charged to defray the costs of producing license plates. (BDR 43-1170)

Troy L. Dillard, Interim Director, Department of Motor Vehicles (DMV), testified that Assembly Bill 473 provided authority to revise the provisions in *Nevada Revised Statutes* governing the fees charged to defray the costs of producing license plates in Nevada. This bill created a self-funded program in which the license plate costs would be passed on to the consumers of the license plates rather than having the State Highway Fund pay that cost. Establishment of this new fee would save the State Highway Fund approximately \$4 million each biennium.

In response to a question from Assemblyman Horne about the open-ended language in A.B. 473 in section 1, subsection 1, paragraph (b) that referred to a fee that may be determined by regulation, Mr. Dillard replied that the cost for license plate production materials and commodities varied. When the price of aluminum or sheeting changed, DMV was able to adjust the fee through the regulatory process to ensure that the License Plate Production Account remained healthy but did not accumulate an excessive fund balance. The revenues did not revert, and the account was restricted to license plate expenses. If the ending fund balance increased too much, Mr. Dillard would reduce the fee. If the reserve decreased because the price of commodities increased, he could increase the fee through the regulatory process to allow the account to maintain a level balance to pay for the actual production of the license plates.

In response to a question from Assemblyman Horne, Mr. Dillard replied that the \$.50 fee was the Fund for Prison Industries fee and funded that budget. Mr. Dillard said he projected the cost of commodities and labor totaled \$2.50 for each license plate.

In response to a question from Chair Carlton, Mr. Dillard replied that the \$2.50 fee for each license plate was proposed to pay for the actual commodities and labor to manufacture the plate. This was a new fee that did not exist currently. But the cost existed today and was paid by the State Highway Fund. Assembly Bill 473 would transfer that cost to the consumer of the license plate.

Assemblyman Horne said Mr. Dillard stated the current cost was \$2.50, but that cost could change to \$2.75 or \$2.45 next year, and he expressed concern that no information was provided to the consumer about the future fee.

Mr. Dillard replied that the fee could fluctuate and was based on the cost of the commodities. The cost was included in The Executive Budget approved by the Legislature. Sometimes the commodity costs were higher, and sometimes the costs were lower depending on the market at the time. The fees must be

approved through the regulatory process. The DMV must hold public workshops, hearings, and receive approval from the Legislative Commission for any adjustments to the fee. The fee was based on the market costs.

In response to a question from Assemblyman Horne, Mr. Dillard replied that DMV contracted with a vendor, and the contract had been extended for one year, so the fee was set for that one-year period of time. The fee would remain stable during the contract period, which varied from one to five years. The current contract was in an extension period. The fee would not change during the contract period or the extension period.

In response to a question from Assemblyman Hickey, Mr. Dillard replied that DMV had not considered the possibility of changing the current requirement to display two license plates to displaying one license plate to save money. Typically, the display of two license plates was a public safety matter. The Department had not held any discussions on this matter with the Department of Public Safety. There was a bill passed [Senate Bill No. 251 of the 73rd Session (2005)] sponsored by Senator Raggio that allowed a single plate to be displayed under certain circumstances. Two license plates were issued, but only one plate was required to be displayed under certain circumstances.

Assemblywoman Kirkpatrick said she was glad that DMV had long-term contracts because the cost of regulations was not cheap and the agency should not be changing regulations often. But there had to be a specific time during which DMV adjusted the fee based on the cost of commodities. She expressed concern and believed that there must be a cap on the fee at some point. The \$.50 fee was not generating enough to offset the cost of manufacturing the license plates.

Mr. Dillard replied that the \$.50 fee was specific to the Prison Industries. He did not request any change to that fee. It was a major funding source for DMV. Using inmate labor helped to keep the cost low. The Department was currently using low-risk inmate labor from the Stewart Conservation Camp for production of plates. The aluminum price fluctuated. The agency previously had a five-year contract with a vendor, and now the contract was in a one-year extension period.

Mr. Dillard said several factors were considered when anticipating the fluctuation of commodity pricing. The DMV was required to comply with the request for proposal (RFP) process that generally took several months. The agency anticipated the renegotiation of the costs tied to an RFP timeline. The DMV plant manager monitored the cost of aluminum, and when the cost

decreased, he would buy additional quantities at the lower prices to manage those increases as they varied throughout the year.

Assemblywoman Kirkpatrick said the cost of aluminum was not increasing, and wondered whether there would be a decrease from the \$2.00 cost.

Mr. Dillard replied that the \$2.50 cost was based on the current pricing. The cost of the aluminum was added to the cost of labor and materials that went into the manufacturing of the license plates.

In response to a question from Assemblyman Eisen, Mr. Dillard replied that the statute established no cap on the fee for a license plate. The oversight by the Legislature existed through the regulatory process. The Legislature would not allow DMV to set a \$12 license fee that was not limited to just the cost of the plate. The agency would report each biennium on the fund balance for this account. The Legislature would be able to study exactly what was built into the cost and whether the amount being charged was appropriate to cover those costs and not create additional reserves.

Chair Carlton said most of the permissive language she had seen included a phrase "not to exceed" that provided some level of comfort to the legislators. She suggested an upper limit be added to provide that comfort level to the Committee.

Mr. Dillard replied he had not given any thought to setting an upper limit, but saw no barrier to a limit. He wanted to ensure that if the legislators approved a \$5.00 cap and the actual cost was higher, the difference would be funded from the State Highway Fund.

Assemblyman Kirner wanted more basic information. He wondered why the state wanted to impose a fee at this time. It seemed to him that in recent years the state had substantially increased its registration fees. Now DMV wanted to add another \$2.50 fee per plate. It seemed that the state was piling on the burdens. He understood the State Highway Fund was in need, but wondered why increase the fee at this time when the economy had not recovered.

Mr. Dillard replied that there were a couple of aspects to this proposal. One was the demand on the State Highway Fund, which lacked sufficient resources. Increasing the plate fee was one area that did not affect every person. It affected only individuals that were using this particular service to buy new license plates. When a consumer obtained new plates, it made sense for the consumer to pay the cost of producing that plate rather than having the State Highway Fund supplement the cost. Not everyone needed new plates.

Persons could transfer the existing plates so this was not a cost that affected everyone. Only those persons who purchased new license plates would pay the fee.

In response to a question from Assemblyman Grady, Mr. Dillard replied he was not sure about the effect of this proposal on the purchase of exempt plates. The state produced only a limited number of exempt plates. He would research this matter and provide the Assembly Committee on Ways and Means with additional information.

In response to a question from Assemblyman Grady, Mr. Dillard replied that the \$2.50 fee would be shown as a license plate fee on the receipt provided to the consumer.

Assemblywoman Kirkpatrick looked at the aluminum commodity market and believed that A.B. 473 should include some type of cap on the fee. She noted that at one point the price of aluminum was \$1.90 and at the highest level it was \$2.08, and that cost was fairly consistent throughout the year. During some weeks the aluminum price increased slightly, and in some weeks the price decreased slightly. She was worried that persons would believe that the fee on the license plate would change every time the aluminum market cost changed.

Assemblywoman Kirkpatrick thought that the Legislature should establish a cap on the fee for the next biennium so it could evaluate the results and determine the proper action. She understood the state needed more revenue for the Highway Fund, but maintained decisions should include some good business sense. The agency must enact regulations and obtain approval of the Legislative Commission. That process could take six months or more. That put the Department on a different cycle. She would be uncomfortable unless a cap was established on the fee because commodity prices fluctuated.

Chair Carlton wondered whether fees generated from one part of the state could be designated to pay for projects in that portion of the state. She believed that local revenues should pay for local projects so the citizens could see local improvements and understand the benefits received for the community.

Mr. Dillard replied that any money left over in the State Highway Fund would be allocated in the manner designated in The Executive Budget, and the Legislature approved the allocation of those funds. This license plate fee would free up money for other uses in the Department's budget.

In response to the question from Assemblyman Grady, Ms. Day replied that the state agencies were not charged a fee for exempt license plates. A \$20 title

fee was charged for any new vehicle that was registered, but there was no license plate fee charged to state agencies for an exempt plate.

Hearing no response to her request for testimony in support of or in opposition to the bill, Chair Carlton called for public testimony. There being no public testimony, she closed the hearing on A.B. 473 and opened the hearing on Assembly Bill 461.

Assembly Bill 461: Enacts provisions governing the management of sagebrush ecosystems. (BDR 26-1194)

Gerald Gardner, Chief of Staff, Office of the Governor, testified that Assembly Bill 461 proposed legislation for the management of the greater sage grouse and the sagebrush ecosystems. The sage grouse had been designated by the United States Fish and Wildlife Service as a warranted but precluded species for listing under the Endangered Species Act. The U.S. Fish and Wildlife Service indicated that it intended to make a final determination on this listing by September 2015. The warranted but precluded status meant that sage grouse could be listed now, but would not be listed because of technical, legal, or practical reasons.

Mr. Gardner said the greater sage grouse occupied an enormous habitat in Nevada and ten other western states. The listing of the greater sage grouse under the Endangered Species Act would have a significant effect on the state. Nevada would see restrictions to its energy programs, mining, agriculture, residential development, wildlife management and enjoyment, and recreational activities. The listing would have a profound effect on the state's economy and local economies within the state.

Mr. Gardner said Governor Sandoval identified A.B. 461 as one of his highest priorities during the 77th Session (2013). The Governor believed this bill provided important measures to ensure that Nevada could manage and conserve the greater sage grouse. One of the factors that the U.S. Fish and Wildlife Service identified as being significant in its decision to name the species for listing was the lack of current regulatory mechanisms in Nevada. The state faced a severe wildland fire threat seasonally and an encroaching invasive species that could impair or destroy sage grouse habitat and the sagebrush ecosystem. Just over a year ago, Governor Sandoval issued Executive Order 2012-09 that established the Greater Sage-grouse Advisory Committee. This Committee was made up of key stakeholder representatives from across the state. Over the course of many weeks, this Committee, drawing upon a host of information and expert testimonies, crafted

an innovative framework and management approach that could provide real and adequate conservation of the bird.

Mr. Gardner continued that the Greater Sage-grouse Advisory Committee also recommended the establishment of a long-term Sagebrush Ecosystem Council to advise and implement management actions. That Committee also recommended the creation of an interagency technical team that would be comprised of staff from the Department of Wildlife, the State Department of Agriculture, and the State Department of Conservation and Natural Resources. It was important to note that these recommendations had already been completed. The Interim Finance Committee (IFC) approved funding for these initiatives, and the Council had met twice, and its third meeting was scheduled for April 22, 2013. The Sagebrush Ecosystem Technical Team was hired in February 2013 and was already working hard.

Mr. Gardner explained that this new strategy had brought focus, transparency, efficiency, and new levels of collaboration that he believed were important to addressing the sage grouse listing problem for the state. There had been some questions raised recently regarding the role that science played in this process. He could not overstate the importance of a scientifically based plan. The best available science would be used to inform and ensure conservation of the species. The proposed language to clarify this fact was contained in A.B. 461. It was in everyone's best interest to have a scientifically based, sound plan for management of sage grouse and the sagebrush ecosystem. As an example of the effort to draw from the best science, the Council recently endorsed an action to use cutting-edge, peer-reviewed, habitat-modeling protocols. The state also hosted a workshop with Dr. Steven Courtney, Director of Collaborative Science Program, RESOLVE, who was a well-regarded expert in ecosystem management and recommended by the Bureau of Land Management, to ensure the best science was used in Nevada's management strategy.

Mr. Gardner related that it was important to note that this legislation proposed by Governor Sandoval was the first of its kind. Upon enactment of this legislation, Nevada would be the first of 11 western states working on this problem to have legislation in place that provided for a plan of action. He saw this as a major step to prove to the federal government that Nevada can manage its own land and species and was serious about doing it right.

Leo M. Drozdoff, P.E., Director, State Department of Conservation and Natural Resources, testified in support of A.B. 461. This bill codified recommendations for a Sagebrush Ecosystem Council and Sagebrush Ecosystem Technical Team.

Mr. Drozdoff echoed the remarks of Mr. Gardner that the U.S. Fish and Wildlife Service's listing decision in 2015 regarding the status of the greater sage grouse could have substantial effects on Nevada's economy. Mr. Drozdoff welcomed the opportunity given to the state by the federal agencies to demonstrate Nevada had the ability and the mechanisms necessary to conserve the species and preclude the need for the listing.

Mr. Drozdoff continued that during this past summer, the Governor's Greater Sage-grouse Advisory Committee delivered recommendations that included establishing a Sagebrush Ecosystem Council, a Sagebrush Ecosystem Technical Team, and a mitigation-crediting system. These recommendation components were captured in A.B. 461.

Mr. Drozdoff recounted that sections 2 and 3 of A.B. 461 codified the Sagebrush Ecosystem Technical Team and the mitigation-crediting system. Several state agencies were identified for representation on the Sagebrush Ecosystem Technical Team to reflect the various identified threats to the greater sage grouse and sagebrush ecosystem, and examples of the threats included wildland fire and invasive species.

Mr. Drozdoff said the Sagebrush Ecosystem Technical Team, at the direction of the Sagebrush Ecosystem Council, would improve state coordination and provide recommendations for landscape-scale restoration and enhancement projects. The Team would also coordinate activities with federal agencies and solicit grants and contributions for projects to improve the sagebrush ecosystem. The mitigation-crediting system would complement that effort.

Mr. Drozdoff relayed that section 5 of A.B. 461 created the Account to Restore the Sagebrush Ecosystem for restoration work and the mitigation-crediting system and placed that account within the Director's Office of the State Department of Conservation and Natural Resources (DCNR).

Mr. Drozdoff commented that section 6 of A.B. 461 codified the Sagebrush Ecosystem Council. This Council was currently operating under Executive Order 2012-19 and consisted of nine voting members and nonvoting ex-officio members representing the Bureau of Land Management, the U.S. Fish and Wildlife Service, and the United States Forest Service. The Council was tasked with establishing strategies and priorities for improving the sagebrush ecosystem, giving direction to the Sagebrush Ecosystem Technical Team, and providing a forum for coordinating policy and resolving conflicts.

Mr. Drozdoff stated that after the bill draft was released, the Council held conversations with DCNR, the Department of Wildlife, and the

State Department of Agriculture to consider modifications to A.B. 461. He presented the proposed amendments as [Exhibit C](#) that was available on the Nevada Electronic Legislative Information System.

Mr. Drozdoff explained the first proposed change located on page 5, line 1 of [Exhibit C](#) which amended section 6 of A.B. 461 to change the requirement from a Council member representing hunting and fishing interests to an appointee who was a member of the Board of Wildlife Commissioners or its designee. To accommodate the inclusion of a member of the Board of Wildlife Commissioners on the Council, proposed language had been added to section 6 of A.B. 461 as shown on page 5, line 37 of [Exhibit C](#) that exempted membership on the Council from the restriction that an individual may only be appointed by the Governor to one board or commission.

Mr. Drozdoff said another change to the Council membership related to the nonvoting members. This change was found on page 5, section 6, line 8 of [Exhibit C](#), where the direction of the State Department of Conservation and Natural Resources, Department of Wildlife, and State Department of Agriculture had been added as nonvoting members to join the three federal agency nonvoting members.

Mr. Drozdoff concluded by pointing out that language had been added on page 6, section 6, line 30 of [Exhibit C](#) providing that the Council shall, "Utilize, and be informed by, best available science in its determination for and conservation of the greater sage grouse and sagebrush ecosystems." Language was also added on page 6, line 16 to amend section 7 of A.B. 461 to provide guidance on resolving differences in direction given by all the statutory boards, commissions, and Departments involved in this effort.

In response to a question from Assemblyman Hickey, Mr. Drozdoff replied that various agencies took part in a number of different activities. The Department of Wildlife was heavily involved with its peers. He served on a Western Governors' Association task force with federal agencies where the 11 western states met to work on common problems. The task force recently met in Utah and discussed ensuring that regional approaches were effective. The task force worked with the Legislature on A.B. 461. The task force also worked with Assemblyman Bobzien, Assemblywoman Kirkpatrick, and Senator Goicoechea to ensure that the states were keeping legislators informed about policies. The problem was that the 11 western states were all a little different. There was commonality, but there were also different threats, different land uses, and different federal ownerships. The task force worked to ensure there was enough commonality to address the needs of each state in the best way possible.

Chair Carlton shared her concern as the former chair of the Legislative Committee on Public Lands (2011-2012). The task force worked on public land policy, and the Legislature worked on a parallel course on public land policy, but there was little communication between the two. The Legislative Committee on Public Lands reached out to the task force. Her concern was the membership of this Council lacked a legislator. The Legislature had been involved and worked on public land policy for a long time. The Legislature must be involved to have a real working relationship, and the membership scheme for the Council may need to be addressed.

Assemblywoman Kirkpatrick agreed there should be some legislative involvement in the Council. She spoke with Mr. Drozdoff and Representative Scott Bedke, Speaker of the Idaho House of Representatives. She reminded Mr. Bedke that the Nevada Legislature was in session until midnight on June 3, 2013. She believed that the state needed a Nevada plan that worked for the state. She worked with Assemblyman Bobzien, Senator Goicoechea, and Assemblyman Hansen on a plan for Nevada. They were trying to organize a regional meeting. Mr. Bedke scheduled a regional meeting on a day that the Interim Finance Committee met, and the Nevada legislators were unable to attend. Mr. Bedke scheduled another meeting for May 9th. Assemblywoman Kirkpatrick informed him that the legislators cannot go to Salt Lake City until after the session ended. She would call Mr. Bedke and remind him that the Legislature was scheduled to end at midnight on June 3, 2013. A bipartisan group was working on a Nevada plan to ensure the state's needs were addressed.

Assemblyman Sprinkle noted that there was no fiscal effect from A.B. 461. However, section 5 created the Account to Restore the Sagebrush Ecosystem. He wondered whether funds from other budget accounts would be diverted into this new account or whether this new account would just exist for the future.

Mr. Drozdoff replied that the Account to Restore the Sagebrush Ecosystem would pay for mitigation projects. That meant entities would have to pay for mitigation and either contribute funds or in-kind services. This new account would be used to match up development projects with mitigation or restoration projects and provide funding.

In response to a question from Assemblyman Sprinkle about where the money came from for this account, Mr. Drozdoff replied that the money would come from development projects. It would come from a renewable project, or a transmission line, or a mining project. Entities that sought approval of mitigation plans would outline the requirements and pay in the form of money or

in-kind services. The payment would go to this new account on one side of the ledger, and on the other side of the ledger, the funds would be used to pay for mitigation and restoration work.

Assemblyman Bobzien said he had a major concern with the Sagebrush Ecosystem Council. Compared to the other western states, Nevada was on a productive track. He was encouraged by the work he had seen so far and the persons that were working together. He understood Chair Carlton's concerns about legislative involvement. He saw serious improvement and wonderful interaction with the federal agencies taking place with this system. He was still struggling with the reorganization of responsibilities in this state, the effect on the species, and how Nevada approached wildlife and habitat problems. He appreciated the proposals in the amendment that addressed many of his concerns. But he still wondered what was wrong with the existing structure for Nevada's response to sagebrush ecosystem problems.

Mr. Drozdoff replied that he would not characterize the response as what was wrong with Nevada's structure. He shared his perspectives, but he had not been involved with sagebrush ecosystem problems very long. The State Department of Conservation and Natural Resources was asked to lead this effort in August 2012. He believed sagebrush ecosystem problems were large. The two largest threats to the sage grouse species were wildfire and invasive species. The problem of wildfire was handled by the Division of Forestry, but the other departments had roles dealing with wildfire problems. The invasive species problems involved the State Department of Agriculture and its invasive weed program. There were roles that the other agencies played. He believed that what DCNR had done in the last nine months was to augment and coordinate the sagebrush ecosystem efforts. His intent was to optimize and focus on what everybody was doing and doing well. His goal was also to find gaps in services and address those.

Assemblyman Bobzien said increased coordination was real and beneficial. He liked the amendment language on page 6, line 30 of [Exhibit C](#) that stated, "Utilize, and be informed by, best available science in its determination for and conservation of the greater sage grouse and sagebrush ecosystems." However, he was bothered by the language on page 6, line 16 that stated, ". . . and must jointly resolve direction that conflicts with that given by another state statutory board, commission, or department." He wondered what sort of scenarios or conflicts was envisioned that were going to have to be resolved.

Mr. Drozdoff replied that when DCNR met with the Department of Wildlife, the State Department of Agriculture, members of the conservation community, and members of the Board of Wildlife Commissioners, there was no specific threat

envisioned. The concern voiced was no one wanted to have the newly established Sagebrush Ecosystem Council have a higher status than the Board of Wildlife Commissioners. The group did not have a specific problem in mind but wanted to ensure equality. The Sagebrush Ecosystem Technical Team consisted of a diverse group of persons working together to achieve success. If a conflict arose, nobody was given an elevated role. The word "jointly" emphasized that concept. It was the responsibility of all the members including representatives of state agencies and appointed boards to work together jointly as opposed to giving one entity a perceived higher status should a conflict arise. The group did not have a problem in mind when it added that language, but wanted to make it clear that everyone must work together.

Assemblyman Bobzien asked what conflict scenarios had been discussed before adding that language. He appreciated Mr. Drozdoff's explanation but wondered about any potential regulatory conflicts.

Mr. Drozdoff replied there were no regulatory conflicts. He believed all the members would work well together including those state agencies and various boards and councils. But he believed the group was wise to anticipate that at some point there may be a conflict, there may be disagreement, and if that happened, there should be ground rules about how to resolve those conflicts other than to say the members should work together. He did not have a specific example that existed today of an anticipated problem. The group believed a conflict was possible, and if a conflict arose, the group wanted to make it clear that all the agencies involved should work together. Certain agencies were not given a lesser role, and the group made it clear that nobody was being given a lesser role, and everyone must work together to resolve any conflict.

Assemblyman Bobzien said his concern was that Mr. Drozdoff was new to this role, and he appreciated his efforts to get familiar with the problems. The mission was given to DCNR, but the Department of Wildlife (NDOW) could provide the infrastructure and science, and he did not want to see the role of NDOW marginalized. He stated that Mr. Drozdoff was not a wildlife biologist. When the Legislature tasked DCNR with doing the science for sagebrush ecosystem work, Assemblyman Bobzien worried that there would be a point where the Council must move beyond mere coordination and must resolve conflicts. He worried about subsuming NDOW's role in the Council. He expressed concern about the message this bill sent to U.S. Fish and Wildlife Service about the seriousness with which Nevada approached the sagebrush ecosystem problems.

Mr. Drozdoff replied that he was a civil engineer. He believed that this problem was bigger than any one agency. He believed that everybody's best efforts to date had been brought to bear on this problem. He also believed that over the last nine months, DCNR's role as a clearinghouse had moved things forward and brought the state from being in a position of having many questions to now being considered an expert in the field. Assembly Bill 461 was a further example that Nevada had gone from being behind when compared to the 11 western states to now being a leader. The fact was that Nevada had a Council, a Technical Team, and was proposing a mitigation credit bank. Those were all things that had been developed in the last year and augmented prior efforts.

Mr. Drozdoff said Nevada was not going to substitute DCNR's knowledge or science for that of NDOW, which was the science expert and always would be. The positive result was that this approach had brought agencies together. There was no effort to minimize anybody's role, but he thought the problem was bigger than one agency. Nevada now had a good plan that was valued by other states. He appreciated Assemblyman Bobzien's concern. He tried to address those kinds of concerns in this amendment. The DCNR followed a public process, and Council meetings would be scheduled on a routine basis every couple of months. If there were concerns, they would be quickly identified and addressed. If there was something going askew, there was a process to deal with it.

Assemblyman Aizley said he had been a member of the Legislative Committee on Public Lands for the past four or five years. He had not heard about a plan to promote growth of the sage grouse population. He thought the population had increased in north central Nevada and that showed some promise. He wondered whether there was data to show what effects, if any, resulted in increased sage grouse population either in Nevada or any of the other western states.

Richard L. Haskins II, Deputy Director, Department of Wildlife (NDOW), testified that the bistate sage grouse population located in the western part of the state had shown signs of growth. There were some upward trends in bird numbers there, and the collaborative effort was successful. One of the biggest threats to sage grouse in this part of the west was wildfire and the resulting cheat grass, an invasive species, domination of sage grouse habitats. Under that scenario, it had been tough to show improvement. Everyone was doing the best they could to restore sagebrush habitat where possible. There would be stabilization of sage grouse populations using the conservation process. He expected growth in those populations. The sage grouse populations cycled over time and were

affected by the weather. There had been success stories in stabilizing and enhancing sage grouse populations around the west.

Assemblyman Aizley said some discussion included rumor. He wondered about the role that the ravens played in attacking the different leks where the eggs were. He wondered whether that was true and could anything be done about the problem.

Mr. Haskins replied that sage grouse were affected by ravens. The agency had a program in place in cooperation with U.S. Fish and Wildlife Service to place poison eggs in the nests at the time that ravens were preying on sage grouse nests. Predatory activities needed to be studied further and were part of the equation, but the overall habitat condition played a greater role. Everyone was aware that raven populations had expanded substantially around the western United States in the rural areas and sagebrush ecosystem areas. The ravens were a bigger problem than just a predatory problem. It was certainly a piece of the problem and something that NDOW could and would address. The agency looked at conducting research to figure out how to interrupt that cycle. Ravens only preyed on the eggs for a short period of time. There were other elements that promoted the raven populations, and NDOW needed to figure out how to interrupt those cycles too.

Assemblywoman Flores was curious as to why establishment of the Sagebrush Ecosystem Council differed from how the state traditionally created boards and commissions. This Council was specifically exempted from chapter 232A of *Nevada Revised Statutes* (NRS) [per the proposed amendment] that oversaw boards, commissions, and similar bodies. All of the members of the Council were appointed by the Governor. A salary was given to the members. She said she understood why a salary should be given to the members because the state often asked persons to do things for free, and sometimes it was challenging to get highly-qualified persons to serve on boards. She was interested to learn the logic behind creating a board that was entirely appointed by just one person, why the board was exempt from standard requirements, and why the members of the Council would receive a salary.

Mr. Drozdoff said A.B. 461 was a follow-up to the Governor's Executive Order. The membership of the Council and the manner in that it was set up was first described in the Executive Order. The agency's goal was to implement that Executive Order in the statute. The working group felt it was important to include a member of the Board of Wildlife Commissioners on the Sagebrush Ecosystem Council as opposed to a person who was just a sportsman. It was necessary to create an exemption in the statute to allow the member to serve on the Council. The state agency representatives did not

receive a Council salary. The group believed it was appropriate to provide some level of compensation to private persons who took time away from their jobs to serve on the Council.

Mr. Gardner replied there were different paradigms for different board and commission structures, some of which included more legislative involvement, and some were exclusively made up of Governor appointees. This bill was a follow up to Executive Order 2012-19 that by its very action appointed those members. He heard some interest in a discussion about the membership of the Council from members of the Assembly Committee on Ways and Means, and he would be happy to pursue that conversation. He pointed out that one of the reasons for the exceptions in chapter 232A of NRS related to the residency requirement because of the regional nature of this particular topic.

Chair Carlton expressed concerns about the member from the Board of Wildlife Commissioners. She worried about having another appointed person sitting as a voting member when there was a de facto member from the Department on the Council. She would work on how to balance that concern. She knew Assemblyman Bobzien would be working on a couple of other related problems. She would take a good look at this and see how the Assembly Committee on Ways and Means wanted to proceed. The members knew how important this matter was. She appreciated all the hard work that the task force completed on this problem.

Doug Busselman, Executive Vice President, Nevada Farm Bureau Federation, testified that the Nevada Farm Bureau supported A.B. 461 and thought the bill was important. He disclosed that he was a member of the Sagebrush Ecosystem Council and represented agriculture. He had been involved with sage grouse conservation efforts after appointment by Governor Kenny Guinn in 2000 to the first Sage Grouse Conservation Team. He also served as a representative on the bistate sage grouse group that worked on the problem of conservation of the bistate sage grouse population.

Mr. Busselman said A.B. 461 primarily focused on establishing a process for collaboration and developing a workable plan. He thought that the factors for creating a workable plan included using good science and assuring the federal agencies that Nevada intended to carry through with its plan. He thought this bill accomplished those things. It reinforced Nevada's commitment to the federal agencies that the state was serious about moving forward, and for that reason he thought this was an important bill and urged the support of the Assembly Committee on Ways and Means.

Paul J. Enos, Chief Executive Officer, Nevada Trucking Association, testified he represented Noble Energy, Inc., which was in the early exploration phase of gas and oil projects in Elko County. Noble Energy, Inc., asked him to testify in support of A.B. 461. The company was committed to working with the state, federal agencies, ranchers, land owners, local communities, and other stakeholders to protect and enhance the sage grouse habitat. The company appreciated the state developing a structure for a mitigation credit system and taking the lead on this matter.

Alex Tanchek, K. Laxalt Government Consulting, represented the Nevada Cattlemen's Association, which supported A.B. 461. The Association understood the importance of the sagebrush ecosystem to the long-term economic viability of Nevada and the maintenance of the wildlife populations.

Jeremy Drew, Vice Chair, Board of Wildlife Commissioners, and member of the Sagebrush Ecosystem Council, testified on his own behalf. He supported A.B. 461 and the proposed amendments developed in collaboration with NDOW and DCNR. The sagebrush ecosystem was one of the most imperiled systems in the world. He thought A.B. 461 established a framework to slow, stop, or reverse the downward trend currently experienced in Nevada. He believed A.B. 461 provided the proper approach, and he appreciated legislative support for this concept. He heard concern voiced today about the misperception by some of the federal agencies about Nevada's status. He pointed out that members of all the key federal agencies were at the Council table as ex officio members. The Council had good discussions collaboratively at its first couple of meetings. All representatives were involved, and the Council valued all input. He thought that was important for the future.

Jack Robb, Chair, Nevada Board of Wildlife Commissioners, testified that he was neutral on A.B. 461. The Commission was concerned about the language originally proposed and held a lengthy discussion about it at the last Commission meeting. After that meeting those concerns were addressed. The Commission did not have time to meet and take formal action to recognize those changes. He heard some concerns today about a wildlife commissioner serving on two boards appointed by the Governor. He believed it was important to appoint a wildlife commissioner to the Council to properly represent the views of the Board of Wildlife Commissioners to the Sagebrush Ecosystem Council. The Commission could appoint a designee in case it had somebody with a better background to serve as the wildlife representative. Currently, Commissioner Drew's educational and professional background was a perfect match for the position on the Board of Wildlife Commissioners and the Council. The Board could not ask for a better person to be serving in that position.

Kyle Davis, Political Director, Nevada Conservation League and Education Fund, testified that he was neutral on A.B. 461. He was conflicted about the direction of the Council and the state. He supported the efforts being made to increase the visibility and success in sagebrush conservation. Nevada must do something to increase the conservation of the sagebrush ecosystem, which was a big problem. Sage grouse was not the only problem because the number of species was also a concern. He saw a declining sagebrush ecosystem. He was uncertain about the best way to correct the problems. Some of the failures Nevada had in the past were primarily because of the lack of funding. The state was unable to provide the resources to address some of the problems. Some of the bigger problems, such as wildfire, were sometimes beyond the state's control.

Mr. Davis said the state wanted to move forward with this model, and the Conservation League wanted to work with the Council and DCNR to make sure it was a success. The League wanted to verify which agency had authority over wildlife management. It was good to increase focus on sage grouse, but he wanted to ensure the good knowledge and data that existed at NDOW was used. It was important to dedicate funding to regulatory mechanisms that were acceptable to the U.S. Fish and Wildlife Service to preclude the sage grouse listing. Prior efforts were funded with Department of Wildlife dollars. The state must seek funding from more stakeholders to demonstrate this was a priority for Nevada. The previous regulatory mechanism caused the failure of the prior conservation efforts. The U.S. Fish and Wildlife Service and litigation determined the fatal flaw was the lack of regulatory mechanisms. Nevada must create the mechanisms to ensure the protection of high quality sage grouse habitat and put those into its plan. He wanted to ensure the agency moved forward with a strong mitigation credit-banking system. The state must protect high quality sage grouse habitat and discourage development in those areas. That was an important part of precluding a sage grouse listing.

Tina Nappe, member of the Sagebrush Ecosystem Council, served as the Governor's appointee to the originating body, and had served as a member of the Board of Wildlife Commissioners. She testified that her position was neutral on A.B. 461. She wanted to emphasize the importance of the Council in dealing with wildfire and weeds. In the past, the federal government, individual agencies, and private interests had dealt individually with wildfires. This was the first time she had seen a major partnership between the state agencies, the private sector, and the federal government. She stressed the importance of working together to deal with wildfire and invasive weeds.

Ms. Nappe was concerned about the funding for this operation. Support should not be dependent on the Department of Wildlife: the effort should receive

a generous contribution from the Legislature. She was concerned because many agencies were involved, and the priority should be sage grouse. But she commended the Governor for prioritizing sagebrush ecosystems and DCNR for its efforts. The DCNR was the most appropriate agency to handle the coordination. She looked forward to legislative support for A.B. 461 and the addition of a legislator to the Council membership.

Hearing no response to her request for further testimony in support of or in opposition to the bill, Chair Carlton called for public testimony. There being no public testimony, she closed the hearing on A.B. 461 and opened the hearing on Assembly Bill 465.

Assembly Bill 465: Creates the General Services Division in the Department of Public Safety. (BDR 43-1150)

Pat Conmay, Chief, Records and Technology Division, Department of Public Safety, testified that Assembly Bill 465 reflected the Department's initial steps to a proposed internal reorganization to restructure the Records and Technology Division into a General Services Division. This reorganization had been part of the agency's long-term planning for some time and was intended to bring about a centralized and consolidated nonsworn operational support services capability. The structure enabled the Department to more efficiently use the available resources to support and improve customer service by addressing a spectrum of public safety services that were interconnected and/or shared by multiple divisions across the Department and by other statewide public safety agencies. Initially, the responsibility for dispatch services and Nevada Highway Patrol administrative warrants would move to the General Services Division.

Chair Carlton wanted to understand the purpose behind moving dispatch services into the proposed General Services Division.

Mr. Conmay replied the restructure and the move of dispatch services recognized the agency's responsibility to provide dispatch services for the entire Department, not just Nevada Highway Patrol. Dispatch services were also provided to non-Department entities. Dispatch services were consolidated into one area to fit the model of addressing interconnected services across the Department.

Chair Carlton said that meant that dispatch services would work for Nevada Highway Patrol, the Investigation Division, and the Division of Parole and Probation.

Mr. Conmay added that dispatch services would also serve the Capitol Police and any other entity within the Department with a need for dispatch services.

In response to a question from Assemblyman Sprinkle, Mr. Conmay replied that the positions existed and would move to the General Services Division.

Chair Carlton thought the funding was located in each of the different budget accounts for the divisions and wondered whether about \$7.5 million would have to move from the different budget accounts into one budget account.

Mark Teska, Administrative Services Officer, Department of Public Safety, testified that the new General Services Division budget account was a cost-allocated budget account. The account would include all costs that were transferred from the Nevada Highway Patrol and distribute the costs to the agencies that used the services. The Nevada Highway Patrol would pay a significant portion of the dispatch function, but the other entities using dispatch services would also pay a portion of that expense. The warrant function would be paid entirely by the Nevada Highway Patrol because it was the only agency that used that service.

In response to a question from Chair Carlton, Mr. Teska replied that currently the costs resided in the Nevada Highway Patrol's budget account. While the vast majority of those expenses related to the Nevada Highway Patrol, the Nevada Highway Patrol received reimbursement from other agencies that used dispatch services.

In response to a question from Chair Carlton, Mr. Conmay replied the Department studied ways to consolidate similar functions. This proposed reorganization was not related to any potential change to the Division of Parole and Probation.

Chair Carlton said she needed more information about the cost-allocation effect on all the different entities involved to ensure that every agency paid its appropriate share. There had been problems in the past with allocating costs. She wanted an understanding of what services were being transferred and what accounts would be charged. She wanted to ensure that the Nevada Highway Patrol paid the proper amount and the other agencies paid the right amounts. She knew there had been some problems in the past, and she would study this proposal.

Mr. Conmay said he would be happy to provide any information that Chair Carlton might need. Mr. Conmay stated that the General Services Division

would retain the records bureau that included the criminal history repository and related functions.

Hearing no response to her request for testimony in support of or in opposition to the bill, Chair Carlton called for public testimony. There being no public testimony, she closed the hearing on A.B. 465.

Chair Carlton asked for public comments and there were none. She explained the upcoming schedule of hearings for the Assembly Committee on Ways and Means and Subcommittees. There being no further business to come before the Committee, she adjourned the meeting at 10:16 a.m.

RESPECTFULLY SUBMITTED:

Janice Wright
Committee Secretary

APPROVED BY:

Assemblywoman Maggie Carlton, Chair

DATE: _____

EXHIBITS

Committee Name: Assembly Committee on Ways and Means

Date: April 15, 2013

Time of Meeting: 8:32 a.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
A.B. 461	C	Leo M. Drozdoff, P.E., Director, State Department of Conservation and Natural Resources	Proposed Amendment to <u>Assembly Bill 461</u>