

**MINUTES OF THE
SENATE COMMITTEE ON NATURAL RESOURCES**

**Seventy-Seventh Session
February 28, 2013**

The Senate Committee on Natural Resources was called to order by Chair Aaron D. Ford at 1:31 p.m. on Thursday, February 28, 2013, in Room 2144 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to Room 4412E of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Aaron D. Ford, Chair
Senator Mark A. Manendo, Vice Chair
Senator Tick Segerblom
Senator James A. Settelmeyer
Senator Pete Goicoechea

STAFF MEMBERS PRESENT:

Michael J. Stewart, Policy Analyst
Lynn Berry, Committee Secretary

OTHERS PRESENT:

Jim R. Barbee, Director, State Department of Agriculture
Beverlee McGrath, American Society for the Prevention of Cruelty to Animals;
Best Friends Animal Society; Nevada Humane Society; Northern Nevada
Society for Prevention of Cruelty to Animals; Nevada Political Action for
Animals; Lake Tahoe Humane Society and Society for Prevention of
Cruelty to Animals; Compassion Charity for Animals; Pet Network of
Lake Tahoe; Wylie Animal Rescue Foundation; PawPac; Lake Tahoe Wolf
Rescue
Diane Blankenburg, Nevada Humane Society
Brian O'Callaghan, Las Vegas Metropolitan Police Department
Margaret Flint, Canine Rehabilitation Center and Sanctuary; Nevada Humane
Society
Gina Greisen, President, Nevada Voters for Animals

Karen Layne, President, Las Vegas Valley Humane Society
Stacia Newman, President, Nevada Political Action for Animals
Holly Michael Haley, Nevada State Director, Humane Society of the United States
John Goodwin, Director, Animal Cruelty Policy, Humane Society of the United States
Eric Spratley, Lieutenant, Washoe County Sheriff's Office
Sean B. Sullivan, Deputy Public Defender, Public Defender's Office, Washoe County
Dean Baker, Baker Ranches, Inc.

Senator Ford:

Today we will hear two bills and a presentation from the State Department of Agriculture.

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

I will be referring to the presentation ([Exhibit C](#)) and the Legislative Reference Guide ([Exhibit D](#)). The State Department of Agriculture (NDA) promotes a sustainable agricultural and natural resources industry which works to protect food, fiber, human health and safety, and environment through effective service, regulatory action and agriculture literacy.

We provide protection in a fair and equitable way for Nevada's agriculture industry and the public. We protect against plant and animal pests and diseases. The NDA promotes Nevada agriculture and food products both at home and abroad. We build partnerships supporting Nevada's agriculture infrastructure to meet evolving industry needs through marketing, outreach and literacy. We also ensure agriculture security and quality for the public.

Our new performance measures are based on the Governor's Priorities and Performance Based Budget requirements. Some measures are projections based on studies that identified the size of the agriculture industry. Additional measures reflect a proposed merger to consolidate food and nutrition programs into NDA from the Department of Administration; State Dairy Commission; Department of Business and Industry; and the Department of Education, [Exhibit C](#).

We are organizing our agency into four primary divisions: Animal Industry consolidates animal identification, animal disease and wildlife service; Plant

Industry; Consumer Equitability is a name change to facilitate clarity for the public regarding the trade of buying and selling of products; and Food and Nutrition.

Our funding sources are comprised of federal funds, fees and transfers. The *2013 Nevada Agriculture Analysis and Opportunities* report was recently published by the Northern Nevada Development Authority (NNDA) in conjunction with the Governor's Office of Economic Development. It noted the agriculture industry represents \$5.3 billion in economic activity and that approximately half of that activity is connected to product processing in the Las Vegas area. Agriculture in Nevada supports 67,000 jobs.

The 2012 international export data identified Nevada agriculture exports at \$115 million. That is \$15 million higher than fiscal year 2011. This amount has been increasing over the last 5 years.

The NDA's priorities are to create opportunities for Nevadans to consume fresh Nevada agriculture products; reorganize our division to increase our efficiency; bring in new programs to increase economic impact; and create a strategy that expands economic impact of production and creating more Nevada jobs.

Slides 14 through 17 of the presentation, [Exhibit C](#), show our organizational chart, employee activity, funding and performance indicators.

Page 6 of the Reference Guide, [Exhibit D](#), discusses the Administration Division of the NDA that handles centralized fiscal and policy activities. The State Board of Agriculture is within this Division; it is comprised of 11 board members. The director reports to and through the State Board of Agriculture to the Governor. Agriculture Protection and Promotion is a new unit within the Division. This includes an agriculture marketing coordinator position, a public information officer, an agriculture literacy coordinator and an agriculture education and information officer. The last position will be charged with research of the agricultural industry and will work closely with the United States Department of Agriculture (USDA) to collect data about the agriculture industry. Our goal is to produce the beginning portion of the NNDA's report to enable readers to have a clear view of the industry in the State and see year-to-year comparisons. An international marketing program, mentioned in the Governor's State of the State Address, is included in our Division. This program will promote and label Nevada-grown products ensuring recognition within and outside of the State.

The Animal Industries Division combines the Nevada Wildlife Services; Animal Disease and Food Safety Laboratory and Regulatory Veterinary Medicine; and the Livestock Identification into one division, [Exhibit D](#). The Animal Disease and Food Safety Laboratory and Regulatory Veterinary Medicine unit tracks animal diseases across the State that may affect public health and safety. There are four agriculture enforcement officers in the Livestock Identification unit. They are located in Sparks, Elko, Ely and Winnemucca. They ensure the ownership and identification of livestock across the State and investigate situations involving missing livestock. The Wildlife Services is a cooperative effort with the USDA. They protect livestock in the State and work with the Department of Wildlife to assist with the predator control plan.

The Consumer Equitability Division is directly connected to the petroleum technology and weights and measures programs. These two programs have been combined in the Division. Testing the quality of fuel and inspecting fuel pumps are part of their duties. There are additional details in the Reference Guide, [Exhibit D](#).

The Food and Nutrition Division combines child nutrition, commodity foods and the State Dairy Commission into the NDA.

The Plant Industry Division is responsible for ensuring disease and pest-free plants, grains and seeds, properly labeled pesticides and fertilizers; and the safe application and sales of pesticides and farm chemicals for consumers. We utilize funds from the federal American Recovery and Reinvestment Act for reclamation projects. We have multiple grant programs, including a farm-to-school program, which is helping to put more local produce into the school system. The Division is tasked with the noxious weeds and plants issue, which is a concern for the sage grouse habitat. Additional information is delineated within the Research Guide, [Exhibit D](#).

Chair Ford:

What are the primary barriers to the success and vitality of your department?

Mr. Barbee:

One barrier is the gap between agriculture production and the processing capabilities in our State. Much of what is produced in Nevada is exported to other states to be processed. At the same time, because of our population, we import more food from other states. The beef cattle industry is an example.

Approximately 350,000 to 400,000 cattle produced in the State each year are sent to another state to be processed. I have been asked if Nevada beef is inferior because it is not marketed. That is directly related to our inability to process beef in our State.

Chair Ford:

Why can we not process our own?

Mr. Barbee:

We do not have the facilities. We would like to use the Food and Nutrition Division to utilize the buying power of school districts. This would give our agriculture marketing coordinator access to large processing plants in other states to entice them to come to Nevada.

One of our goals is to work with other states that process our beef to label it as Nevada beef. The beef industry is a microcosm for other industries such as the fruits and vegetables production in our State.

Chair Ford:

What can we, as Legislators, do to help you accomplish these goals?

Mr. Barbee:

You can continue to offer a pro-business environment in our State.

Senator Goicoechea:

Which county in the State produces the most agriculture product?

Mr. Barbee:

That would be Elko County.

Senator Goicoechea:

Economically, it is Clark County. Is that correct?

Mr. Barbee:

No, not on the production side. Production and economic processing are two separate issues. Southern Nevada's economic activity is approximately \$2.3 billion and is tied to agriculture processing. Entities such as Ocean Spray and Anderson Dairy have large processing facilities in southern Nevada. The processing plants create the economic activity.

Senator Goicoechea:

Clark County is leading the way on the processing side. We need help to get Elko County products out through Clark County processing.

Mr. Barbee:

This identifies the codependency and necessity in terms of the processing relative to the production.

Chair Ford:

I will open the hearing on Senate Bill (S.B.) 73.

SENATE BILL 73: Revises provisions relating to cruelty to animals. (BDR 50-55)

Senator Mark A. Manendo (Senatorial District No. 21):

This bill was introduced last Session by Senator Shirley A. Breeden as S.B. No. 223 of the 76th Session. It had bipartisan support. It was also contentious and emotional. That bill stated a person is guilty of a Category D felony if someone willfully and maliciously commits animal cruelty and torture. Further, if the act was committed by threatening, intimidating or terrorizing another person, such as in domestic violence cases, it would be a Category C felony.

There was concern regarding fear of retaliation for the person reporting the crime, even though we had an amendment to keep the person's identity confidential. Senate Bill 73 has cleanup language to fine-tune the confidentiality portion of the previous bill to make sure the reporting person is protected.

Beverlee McGrath (American Society for the Prevention of Cruelty to Animals; Best Friends Animal Society; Nevada Humane Society; Northern Nevada Society for Prevention of Cruelty to Animals; Nevada Political Action for Animals; Lake Tahoe Humane Society and Society for Prevention of Cruelty to Animals; Compassion Charity for Animals; Pet Network of Lake Tahoe; Wylie Animal Rescue Foundation; PawPac; Lake Tahoe Wolf Rescue):

Information concerning the crime of animal cruelty should be shared with all animal cruelty organizations. Other states may have similar concerns or issues and could benefit from this information. It is standard procedure for all animal organizations to share information. It allows them to develop strategies and help prevent animal cruelty from recurring.

Washoe County had concerns with the previous bill's language. This bill clarifies language, protects the reporting party's identity and allows information to be shared.

Diane Blankenburg (Nevada Humane Society):

I represent Washoe County's Humane Society. We support this bill. We realize its original intent was not to hide the existence of the case from the media, public or other organizations, but that is how it was interpreted by the Washoe County District Attorney's Office. The district attorney's interpretation could have led to weak enforcement of the law and could hinder organizations from raising funds. This current language changes the original bill to reflect the intent, and we are in full support.

Chair Ford:

I understand how reading a statute can lead to different interpretations. I see from the previous language that it could be construed to mean no portion of the report should be released. You are trying to make sure that only the identity of the reporting person is kept confidential. Is that right?

Ms. Blankenburg:

That is correct.

Senator Settlemeyer:

What bill was it last Session?

Senator Manendo:

It was S.B. No. 223 of the 76th Session.

Brian O'Callaghan (Las Vegas Metropolitan Police Department):

We support this bill. I worked on this bill last Session and our intent was not to omit any protection of the reporting party. A person said the Las Vegas Metropolitan Police Department (Metro) tried to do it on purpose. For the record, that was not the case.

Margaret Flint (Canine Rehabilitation Center and Sanctuary; Nevada Humane Society):

I agree with the testimonies of Ms. McGrath and the Nevada Humane Society and reaffirm we support this bill.

Gina Greisen (President, Nevada Voters for Animals):

I am the author of Cooney's Law, S.B. No. 223 of the 76th Session, amending *Nevada Revised Statutes* (NRS) 574. I am confused about the presentation today. We have had a lot of this problem in Clark County. All of the cases that have been charged under Cooney's Law were in Clark County. I have been working diligently to get clarification from our district attorney's office.

This amendment was added at the request of Senator Manendo. We thought it would be a good idea. I have a copy of the minutes from the Senate Committee on Natural Resources, dated April 13, 2011. On page 18, then-Senator John J. Lee asks a question about confidentiality. Chuck Callaway of Metro attempted to answer. He used the example of a person turning in a neighbor for suspected animal abuse. If the accused neighbor filed a request to get public copies of the reports, the information regarding the witness would be redacted from those reports and would not be released to the suspect. If someone were to release a report to the suspect with the witness's information, or if someone were to tell the neighbor who called, the penalty could be applied.

This came to light in November 2011 when the *Reno Gazette-Journal* ran a story about a baggage handler at the Reno-Tahoe International Airport who refused to load an emaciated hunting dog. She was ordered to load the dog. She did not feel the dog would make the flight, and it would die during the flight. Apparently the U.S. Transportation Security Administration agents could not get the dog to stand up to be X-rayed. She was courageous enough to refuse to load the dog and called and reported this as a case of cruelty. She was fired. When she attempted to get a copy of the report from the Washoe County animal control officers, they refused to copy it and said it was confidential even though she was the reporting party.

We realized then that clarification was needed. We work very hard to prosecute animal abuse cases when we find out about them. We have had a lot of issues trying to get copies of these reports even with the information redacted. We support fixing this language.

Chair Ford:

I can understand how someone reading the statute could misunderstand the legislative intent. Some judges will not look back at legislative intent. They look at the statute as it is. This language definitely needs to be fixed to reflect the legislative history.

Karen Layne (President, Las Vegas Valley Humane Society):

I support all the previous testimonies.

Stacia Newman (President, Nevada Political Action for Animals):

I support the bill in its entirety. It is critical that we correct the language.

Senator Manendo:

This was one of the most lobbied bills of last Session. Many different parties were involved with this bill. Thanks to everyone who has worked so hard on this bill.

Chair Ford:

I will close the hearing on S.B. 73 and open the hearing on S.B. 83.

SENATE BILL 83: Revises provisions relating to animal fighting. (BDR 50-148)

Holly Michael Haley (Nevada State Director, Humane Society of the United States):

I would like to thank the Committee for sponsoring S.B. 83 which would increase the penalties for cockfighting. John Goodwin, a court-certified expert on animal cruelty will be testifying.

John Goodwin (Director, Animal Cruelty Policy, Humane Society of the United States):

I strongly support S.B. 83, which would strengthen Nevada's cockfighting law. In the past 15 years, many states have enacted tougher cockfighting laws. In 1998, cockfighting was still legal in 5 states, and only 17 states punished it as a felony. Today, cockfighting is banned in all 50 states. The United States Congress passed legislation making it a federal felony whenever there is an interstate nexus giving them jurisdiction. Forty states can punish cockfighting as a felony. Of those 40 states with felony penalties, 4 states have penalties that apply on a second or later offense. Nevada is one of the four.

Cockfighting promoters see the misdemeanor fines as a cost of doing business. An entry fee is charged for each bird entered into the derby. The fees are pooled. Throughout the day, the birds fight, and at the end of the day, the owner of the bird that has won the most fights takes all of the winnings. For instance, 50 entries with a \$200 entry fee each would make a \$10,000 prize for which they are competing. Whoever's bird that wins the derby will walk

away with the whole \$10,000. Because the potential winnings are so much greater than the misdemeanor penalties, the cockfighters see a first-offense misdemeanor as a get-out-of-jail-free card.

Senate Bill 83 is trying to deter cockfighting by setting a penalty that offsets the gain of breaking the law.

Chair Ford:

It does more than that. It adds an entire provision that bars the manufacturing, owning, possessing, purchasing and selling of items that can be used in a cockfight.

Mr. Goodwin:

Yes. There are some photos in your packet ([Exhibit E](#)) showing specially designed knives that are affixed to the roosters' legs to inflict harm. Many states have added prohibitions to their legislation regarding the possession, sale and purchase of these items.

Chair Ford:

How many states have this language in their statutes?

Mr. Goodwin:

There are 14. This language was copied from what Texas enacted in 2011.

Cockfighting is illegal. It happens in the shadows. In a nationally circulated underground cockfighting magazine, *The Gamecock*, the inside cover has a full-page ad from a company operating out of Las Vegas that sells performance-enhancing substances for fighting roosters ([Exhibit F](#)).

Cockfighters typically seek out cities that have weaker penalties. This has not been a problem for Nevada in the past. However, the Utah State Senate is voting on a first-offense felony cockfighting bill tomorrow, and Idaho made cockfighting a felony last year. Arizona and Oregon already have first-offense felony cockfighting laws. California has a felony on the second offense, but their first-offense penalties are astronomical, up to \$10,000. They also have asset forfeiture language designed to seize property bought with cockfighting money. We are looking at a situation where Nevada could become a magnet for cockfighting because of our weaker penalties.

There are more issues than just animal cruelty. The United States Drug Enforcement Administration (DEA), U.S. Department of Justice, has done investigations that found drug cartels from Mexico trafficking narcotics through cockfighting pits. The DEA's Website has press releases regarding cockfighting. There were also fatal shootings last year in Texas at cockfights.

The big issue for the Humane Society of the United States is the cruelty. The knives attached to the roosters' legs cause grievous injuries. The cockfighters have terms they use to label the birds who are injured, such as blinker, referring to a bird whose eye has been gouged out. It is a hideous practice.

Senator Goicoechea:

I have no problem with the new language. Section 1, lines 2 through 8 still reference owners. You have to be careful whom you rent to with regard to when you commit a felony. I realize it says willfully, but that can become a gray area.

Mr. Goodwin:

It does say willfully, and that section has never been abused. The burden of proof would be on the prosecutor.

Senator Settlemeyer:

I have a concern regarding the possession of the implements. If you would hand one to me, and I would not know what it was, I then could be charged with a felony for just having one.

Mr. Goodwin:

That particular section of the bill sets misdemeanor penalties. It is illegal to attend any animal fight in Nevada. Having a decent spectator provision in statute is important because it is the spectators' admission fees that finance these criminal operations. Also, at the first sign of a police raid, the cockfighters abandon their animals and claim to be spectators to attempt to take advantage of the weaker penalty or to get off altogether. The language of gross misdemeanor on first offense also applies to special weapons.

Senator Settlemeyer:

Is that similar to having drug paraphernalia?

Chair Ford:

I interpret this as not just having, owning, possessing or purchasing the paraphernalia; there has to be intent to use the implements for cockfighting. It does not seem that only having it would be sufficient.

Mr. Goodwin:

That is correct. I do not know if Nevada has a statute on possessing burglary tools. Some states do. I can take a crowbar and help tear down a shed at my grandmother's house, but if I have that crowbar in the trunk of my car with a DVD player with the serial number scratched off, that could be considered possession of a burglary tool.

Chair Ford:

Is there any other environment where these tools could be used other than cockfighting?

Mr. Goodwin:

No, there is not.

Mr. O'Callaghan:

We support this bill.

Ms. McGrath:

We support this bill.

Ms. Flint:

We support this bill.

Eric Spratley, Lieutenant (Washoe County Sheriff's Office):

We support this bill.

Ms. Layne:

We support this bill.

Ms. Newman:

We fully support this bill.

Sean B. Sullivan (Deputy Public Defender, Public Defender's Office, Washoe County):

We are neutral on this bill. I support the spirit of this bill. The outcomes of these fights are bloody and brutal. My concern is in section 2, subsection 3, paragraph (a). It says a person shall not "Knowingly witness any fight between animals in an exhibition or for amusement or gain." I would suggest the insertion of the word "live" to distinguish a live fight from any media, YouTube, or Internet viewing.

Chair Ford:

We will consider entertaining an amendment.

Mr. Goodwin:

I would support an amendment.

Senator Manendo:

I want to thank Ms. Haley for her hard work during the interim regarding this bill. It does have bipartisan support.

Chair Ford:

Thank you for your work on this bill Senator Manendo. I want to reiterate the good bipartisan support and the amicable decorum displayed today.

I will close the hearing on S.B. 83 and open the floor to public comment.

Dean Baker (Baker Ranches, Inc.):

I would like to support the State Board of Agriculture. It is important to keep our animals alive and safe. The biggest loss of wildlife will happen if the proposed water pipeline is installed by the Southern Nevada Water Authority. It will take the water away from agriculture which will negatively impact farming and ranching. I have provided you a written synopsis of my opinions on this serious matter ([Exhibit G](#)).

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Chair Ford:

There being no further business, the Senate Committee on Natural Resources is adjourned at 2:38 p.m.

RESPECTFULLY SUBMITTED:

Lynn Berry,
Committee Secretary

APPROVED BY:

Senator Aaron D. Ford, Chair

DATE: _____

<u>EXHIBITS</u>				
Bill	Exhibit		Witness / Agency	Description
	A	1		Agenda
	B	7		Attendance Roster
	C	25	Jim Barbee	Presentation
	D	62	Jim Barbee	Nevada Department of Agriculture Reference Guide
S.B. 83	E	2	John Goodwin	Realities of Cockfighting
S.B. 83	F	2	John Goodwin	64 Years of Building Champions
	G	2	Dean Baker	Written opinion