

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

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

The Senate Committee on Natural Resources was called to order by Chair Aaron D. Ford at 1:31 p.m. on Tuesday, March 26, 2013, in Room 2144 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to Room 4412 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

GUEST LEGISLATORS PRESENT:

Senator Justin C. Jones, Senatorial District No. 9

STAFF MEMBERS PRESENT:

Michael J. Stewart, Policy Analyst
Patricia Devereux, Committee Secretary

OTHERS PRESENT:

Aaron Barborka, Escape Adventures
Tom Clark, Black Rock City LLC
Samuel McMullen, Las Vegas Metro Chamber of Commerce
Joseph Johnson, Sierra Club, Toiyabe Chapter
Kyle Davis, Nevada Conservation League and Education Fund
Ray Bacon, Nevada Manufacturers Association
Lea Tauchen, Retail Association of Nevada
Colleen Cripps, Ph.D., Administrator, Division of Environmental Protection, State
Department of Conservation and Natural Resources

Senate Committee on Natural Resources
March 26, 2013
Page 2

Michael G. Alonso, Esq., International Game Technologies
Greg Ferraro, Apple, Inc.

Chair Ford:

We will open the hearing on Senate Joint Resolution (S.J.R.) 9.

SENATE JOINT RESOLUTION 9: Urges the Director of the Bureau of Land Management to expedite the process for approving special recreation permits for certain uses of federal public lands in Nevada. (BDR R-1008)

Senator Justin C. Jones (Senatorial District No. 9):

Senate Joint Resolution 9 urges the director of the Bureau of Land Management (BLM) of the U.S. Department of Interior (DOI), to expedite the process of approving special recreation permits (SRP). Approximately 85 percent of Nevada's land is public and managed by federal agencies; 67 percent is managed by the BLM. Nevada's opportunities for outdoor recreation are boundless, resulting in significant economic benefits. Annually, outdoor recreation generates almost \$15 billion in consumer spending, \$4.8 billion in wages and salaries, and \$1 billion in State and local tax revenue. Outdoor recreation is a major theme in statewide and regional tourism promotions and is a significant draw for out-of-state and international visitors.

In recent years, the Rock 'n' Roll Las Vegas Marathon and 1/2 Marathon has gone from a small event starting in Jean to a world-class marathon with more than 40,000 runners. Henderson attracted the International Triathlon Union Long Distance Triathlon World Championships for a long-term commitment. National companies are seeking franchises in cycling, triathlons, running and other events in Nevada, including Ragnar and Spartan races. I have participated in several of these events, many of which were on public land. I will participate in the Tough Mudder Race in Beatty in April.

Given the importance and economic benefits of outdoor recreation for the State, I was dismayed when my friend who owns an adventure-tours business expressed his frustration recently over his efforts to secure a SRP to operate in the Gold Butte region. His company has a long history of conservation-minded tours, and it is unreasonable for him to endure unnecessary delays in event permitting. Special recreation permits are issued by the BLM to authorize specified and often time-restricted recreational uses of public land. The SRPs are issued to manage visitor use; protect natural and cultural resources; achieve the

goals and objectives of field office recreation programs, as outlined in *The BLM Land Use Planning Handbook*; and authorize certain recreational activities. Five activities require SRPs: commercial use, competitive use, vending, special areas, and organized group activity and event use.

While I appreciate the thoroughness with which the BLM analyzes and issues its SRPs, its slow processing negatively impacts outdoor recreation-related businesses. They cannot operate efficiently, effectively and profitably if they must wait an unreasonable amount of time to secure SRPs. Applications must be submitted to local BLM offices at least 180 days in advance of the events or public land use.

Senate Joint Resolution 9 would express the Legislature's desire to see the BLM expedite the SRP process. This would create jobs and generate State and local tax revenue, particularly for outdoor recreation programs and events. The BLM does a great job of maintaining Nevada's natural resources, promoting multiple use and protecting our environment. Delays in processing SRPs place too much risk on outdoor recreation businesses. The resolution also urges the BLM director to amend the Code of Federal Regulations to expedite the SRP-approval process and asks Nevada's Congressional Delegation to urge the same.

Outdoor recreation is more than hiking, mountain biking and horseback riding; it is big business. A robust, efficient and timely BLM approval process for SRPs is critical to Nevada's economy.

Aaron Barborka (Escape Adventures):

You have a copy of my written testimony ([Exhibit C](#)). Escape Adventures is a Nevada-based small business that has operated mountain bike, road cycling, hiking and multisport tours here and in surrounding states since 1992. In 2006, we became the world's first carbon-neutral outfitter, and many of our tour events are powered solely by recycled vegetable oil.

Most of Escape Adventures' tours are on public land. Each year in Las Vegas, we take 1,500 to 3,000 tourists cycling and hiking in Red Rock Canyon National Conservation Area. Other destinations include Lake Tahoe and Death Valley National Park. We create jobs for many Nevadans and generate local and State tax revenue.

Escape Adventures recently tried to add a Gold Butte-region tour. However, because the process of obtaining SRPs takes a minimum of 6 months, our tour has been delayed. If the BLM expedited its permitting process for conservation-friendly operations like ours, we could better meet tourists' needs and create jobs and tax revenue.

Tom Clark (Black Rock City, LLC):

Black Rock City LLC owns and operates the annual Burning Man festival on public land outside of Gerlach. We have had a good working relationship with the BLM for 15 years. Anything we can do to increase the speed of our SRP process would be fantastic. Secretary of the Interior, DOI, Kenneth Lee Salazar is leaving his post, so now is a good time to send a message to the DOI and the BLM that we want to recognize Nevada's public lands as an economic tool.

Samuel McMullen (Las Vegas Metro Chamber of Commerce):

I am a lifelong Nevada resident who has seen the wonderful things that the BLM does. However, it is slow and deliberative. The Las Vegas Metro Chamber of Commerce's position on legislation like S.J.R. 9 is it wants the Legislature and other governmental entities to focus on removing artificial or excessive restraints on doing and growing business.

Joseph Johnson (Sierra Club, Toiyabe Chapter):

We are concerned about the issues involved in changing the regulations for issuing SRPs. After talking to Senator Jones, I am neutral on the resolution. The Toiyabe Chapter is concerned about how the BLM would address permitting a range of events, from Burning Man with 50,000 people to a small businessperson's recreation event with minimal environmental impacts. There is room to change the SRP process to accelerate it and make it less difficult for small event organizers. We are concerned about how an expedited permitting process would affect off-road vehicle races, which can be quite environmentally harmful and require additional biological interpretation.

Chair Ford:

We have a letter ([Exhibit D](#)) of support for S.J.R. 9 from Rossi Ralenkotter of the Las Vegas Convention and Visitors Authority.

SENATOR MANENDO MOVED TO DO PASS S.J.R. 9.

SENATOR SEGERBLOM SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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We will close the hearing on S.J.R. 9 and open the hearing on Senate Bill (S.B.) 183.

SENATE BILL 183: Enacts provisions governing manufacturers of certain electronic devices. (BDR 40-556)

Senator Justin C. Jones (Senatorial District No. 9):

Electronic waste, or e-waste, is filling our Nation's landfills. According to a recent U.S. Environmental Protection Agency report, "Fact Sheet: Management of Electronic Waste in the United States," e-waste comprised approximately 1 percent to 2 percent of the U.S. solid-waste stream. Electronics represent a rapidly growing and changing consumer sector, which means there is a greater need to manage e-waste disposal appropriately. Electronic products may contain highly reusable materials, so recycling should be a critical component of consumer electronics management.

According to the National Conference of State Legislatures, as of 2011, 24 states had created some form of an e-waste recycling program. The National Conference of State Legislatures report showed that state legislation typically uses the extended producer responsibility model, with only the state of California requiring consumers to pay retailers a fee toward electronics recycling activity. Under the extended producer responsibility model, manufacturers are responsible for recycling by paying to collect and recycle products covered by states' laws.

Senate Bill 183 would enact the use of the extended producer responsibility model. The A.B. No. 426 of the 75th Session tasked the Nevada Division of Environmental Protection (NDEP) to conduct a study concerning programs for recycling e-waste. One of the parts of the study, "Nevada Electronic Waste and Recycling Study 2011 Final Report," found Maryland's law to be the best model for Nevada's e-waste recycling legislation language, although it had shortcomings for rural areas.

Sections 2 to 12 of the bill cover many definitions of certain electronic devices and the term "manufacturer" for purposes of the bill. Key definitions are for

“computer” and “covered electronic device.” Defined devices include those sold by outlets, catalogues or online. Section 14 of S.B. 183 authorizes manufacturers or groups of manufacturers to institute recycling programs to collect, transport and recycle their covered electronic devices. Options are given for how manufacturers may do so, including providing consumers with a method to return the product to the manufacturer at no cost. The device-return language states:

Contracting with a recycler, local government, another manufacturer or any other person to provide for the collection, transportation and recycling of the covered electronic devices of the manufacturer; or (c) Participating in any program approved by the Division. 2... A manufacturer that carries out a manufacturer recycling program shall: (a) Establish and maintain a toll-free telephone number and an Internet website to provide information to consumers about the manufacturer recycling program, including, without limitation, instructions on how to return a covered electronic device to the manufacturer. (b) Include educational and instructional materials relating to the destruction and sanitization of data from a covered electronic device.

Section 15 of S.B. 183 would require manufacturers to register annually with the NDEP and sets forth the contents of the registration form. This includes the total number of devices the manufacturer has sold in the State during the previous calendar year and a statement of whether it has a recycling program. Sales data submitted to the NDEP would be considered proprietary and confidential and must not be disclosed.

Section 16 of the bill would require manufacturers to submit with the registration form a report indicating the total weight of devices received for recycling during the previous year; the total number of devices recycled, refurbished or reused under the program; and the methods used to recycle, refurbish or reuse them. Section 17 proposes to prescribe the fee manufacturers must submit with the registration form, with the fee based on sales of covered electronic devices during the preceding year. The section also requires notification of whether the manufacturer is carrying out a voluntary recycling program.

Section 18 of S.B. 183 would mandate that the manufacturer registration fees must be deposited with the State Treasurer for credit to the Account For Recycling Covered Electronic Devices. The Account could take in grants, gifts, donations and direct appropriations from the Legislature. The money in the Account can only be used to award grants to cities or counties for carrying out e-waste recycling programs.

Section 19 would require the NDEP to maintain a Website listing each brand and manufacturer registered with it. Section 20 addresses the program's retail side by proposing to prohibit retailers from selling new covered electronic devices unless the manufacturer is registered with the NDEP. Section 21 states the NDEP may adopt regulations to carry out the bill's provisions, and section 22 stipulates fines for failing to comply with them. Section 24 would require the NDEP to conduct a workshop to review and assess the impact of the annual registration fees and then submit those findings to the director of the Legislative Counsel Bureau.

Let us not wait until Nevada is the last state to adopt an e-waste recycling program as important as the one in this bill. I have discussed an amendment proposed by the Retail Association of Nevada (RAN) and am amenable to it. I have talked to other parties about making the registration requirements more or less expansive. The NDEP is questioning the bill's fiscal impact, and I agree with its proposal that the necessary one-half full-time equivalent employee's wages should be paid using the registration fees. That would ensure the bill would have no fiscal impact.

Kyle Davis (Nevada Conservation League and Education Fund):

The concept of S.B. 183 is not new to the Legislature. In the 75th Session, the NDEP was directed to study the issue and craft workable language. Throwing e-waste into the garbage is a continuous and significant problem. Nevada needs to deal with this now, as we will continue to have more and more electronic devices.

Mr. Johnson:

The Toiyabe Chapter of the Sierra Club has supported similar measures in the past and so supports S.B. 183.

Ray Bacon (Nevada Manufacturers Association):

You have a copy of my written testimony ([Exhibit E](#)) about why the Nevada Manufacturers Association (NMA) opposes S.B. 183. No Nevada manufacturers make covered electronic devices for consumers. That may change as our manufacturing base expands. The NMA was involved in the NDEP study group on the e-waste recycling issue. That study concluded that the State's voluntary system, in which manufacturers and retailers do some of the collection and nonprofit and for-profit entities collect other items, works reasonably well.

The biggest weakness in the system is consumers who continue to toss devices into the trash. Senate Bill 183 does not address that issue, and that is the NMA's chief concern. We have talked to the TechAmerica Foundation, the Consumer Electronics Association and other groups, and we all agree that in a state this size, our voluntary recycling system works reasonably well.

If we are going to dissect the issue further and create a mandatory program, companies that have had long-term, recognized recycling programs should pay substantially reduced registration fees. If we are going to look at the consumer electronics, the focus should be beyond personal computers and devices. Some people believe that device screens are the biggest chunk of hazardous waste, but it is the chip components. Devices installed in vehicles such as global positioning systems cannot be easily accessed for recycling. In the near future, we will see similar electronics in appliances as we become more dependent on smart technology.

Chair Ford:

Some of the proposed amendments suggest that the definition of "covered electronic device" be expanded to include more than just video display units, computers, computer peripherals, assembly machines, DVD players, videocassette recorders and similar devices. Would you be amenable to that change?

Mr. Bacon:

Absolutely. The bill needs to cover as many devices as is reasonable. Some devices cannot be pulled out, but if they are fundamentally portable or part of furniture, they need to be included in the program.

Lea Tauchen (Retail Association of Nevada):

You have a copy of the RAN's proposed amendment ([Exhibit F](#)) to S.B. 183. Our members are committed to being environmentally and socially responsible and are aware of the need to address the growing volume of electronics in the waste stream. Many retailers have voluntarily implemented recycling programs at their outlets and sponsor trade-in and recycling events in their communities. They have taken responsibility for providing customers with opportunities to dispose of e-waste in a safe manner that considers environmental impacts.

The management of e-waste is much bigger than just our State since consumer electronics are easily transported across geographic boundaries. As such, the RAN would prefer a nationwide versus a patchwork approach to the problem. The RAN amendment expresses its members' concerns. Section 20 of S.B. 183 prohibits retailers from selling devices in Nevada from manufacturers not registered with the NDEP. We are concerned retailers cannot predict which manufacturers will have registered when the bill would take effect on January 1, 2014. At that time, a retailer having inventory from unregistered manufacturers should still be able to sell those products without penalties. A 1-year extension of the bill's enactment should provide enough time to deplete that inventory.

Another RAN concern is that brick-and-mortar retailers in the State would be subject to limitations on electronic devices they sell, while online retailers would not, thus enjoying a competitive advantage. To maintain a level playing field, our proposed amendment, [Exhibit F](#), would provide that online retailers with nexus to Nevada would be required to comply with the bill's provision.

Chair Ford:

Does the RAN oppose the bill as written but would support it with your amendments?

Ms. Tauchen:

Correct.

Colleen Cripps, Ph.D. (Administrator, Division of Environmental Protection, State Department of Conservation and Natural Resources):

The NDEP is neutral on S.B. 183. We have submitted a fiscal note ([Exhibit G](#)) because the bill does not provide a funding mechanism for the NDEP's costs to implement it. Our proposed amendment would be to modify section 18 to allow

the NDEP to fund those costs from fees deposited into the Account for Recycling Covered Electronic Devices.

E-waste has been a concern in prior legislative sessions, and A.B. No. 426 of the 75th Session required the NDEP to conduct a study of e-waste and submit its findings to the 76th Session. That report is available at <<http://www.nevadarecycles.gov>>.

Michael G. Alonso, Esq. (International Game Technologies):

You have a copy of IGT's proposed, friendly amendment ([Exhibit H](#)) to S.B. 183. I am testifying as neutral because we are unsure if the bill's intent was to go after gaming devices, which are not part of the e-waste problem. The bill's original language was overly broad, so we submitted the amendment to exclude from the definition of "manufacturer" "a person to whom a nonrestricted gaming license has been issued pursuant to the provisions of *Nevada Revised Statutes* Chapter 463."

Chair Ford:

Did you say you have discussed the amendment with Senator Jones?

Mr. Alonso:

Yes, and he supports it.

Senator Manendo:

What does IGT do with gaming devices that are no longer in use?

Mr. Alonso:

Most gaming devices last 15 to 20 years. Virtually all are sold to casinos, not to consumers or at retail. Gaming devices are regulated by the State and local jurisdictions where IGT and other gaming-device makers do business. Most of the obsolete devices go back to the manufacturers or secondary distributors who refurbish them. They can change the devices' exterior colors and software and then resell them to a secondary or foreign market. Due to stringent regulation, there has never been an issue with gaming devices showing up in landfills.

Senator Manendo:

At some point, if a gaming device simply ceases to function, what happens to it? Would it not end up in a landfill?

Mr. Alonso:

We checked internally at IGT and across the Nation and found no reports of that problem. The parts do not end up in landfills; they are recycled into other devices or are refurbished.

Senator Manendo:

Like any device with moving parts, gaming machines must just give out eventually. Are you saying their parts are recycled forever?

Mr. Alonso:

No, but the video display units that would be covered by the bill last for many years. It is not the same as selling a product at retail to a consumer who eventually throws it into the trash. Manufacturers like IGT must comply with many rules, and their strictly regulated gaming devices do not end up in garbage cans or landfills.

Greg Ferraro (Apple, Inc.):

You have a copy of our proposed amendment ([Exhibit I](#)) to section 7 of S.B. 183. Apple believes that the public policy goal of e-waste recycling should be broad, and we should encourage entities to collect as many devices as possible for recycling. Our amendment to section 7 of the bill proposes to include in the definition of "covered electronic device" "computers, computer peripherals, facsimile machines, DVD players, video cassette recorders, and ... " The amendment neglected to strike section 5, subsection 2, paragraph (b) of S.B. 183, "A computer peripheral," because such devices are included in the section 5 definitions.

Chair Ford:

Would the bill then read, "'Computer' means a desktop computer or laptop computer, including, without limitation, the monitor of the computer." Would the term not include "(a) A personal digital assistant"?

Mr. Ferraro:

Correct, and then we would pick up the new section 7 definition of "computer." The language we are proposing exists in Minnesota's e-waste recycling law.

Senator Jones:

I will work with today's testifiers and bring an amended bill back to the Committee.

Chair Ford:

We will begin our work session on S.B. 83.

Michael Stewart (Policy Analyst):

The first work session document ([Exhibit J](#)) explains S.B. 83.

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

The bill would make changes to penalties relating to animal cruelty, increasing them from first-offense gross misdemeanor to Category E felony and from second-offense Category E felony to Category D felony. Category D felony is already in place for subsequent offenses.

The bill would also increase penalties for those who knowingly witness an animal fight in an exhibition or for amusement or financial gain. Penalties would increase from a first-offense misdemeanor to gross misdemeanor and subsequent-offense gross misdemeanor to a Category E felony. Those penalties would also apply to new provisions added to the bill that would prohibit the manufacture, possession, sale, barter, exchange or advertising of sharp instruments for attachment onto certain fighting birds.

The Humane Society of the United States and the Washoe County Public Defender's Office offered two amendments to S.B. 83. The first addresses the issue that a rental property owner may not know if his or her property is being used for the baiting and fighting of birds or animals. To protect said individuals, the amendment would add the word "knowingly" to *Nevada Revised Statute* (NRS) 574.060, as per section 1, subsection 1 of the bill.

In previous discussion of S.B. 83, we discussed using the word "live" in regard to attending a fight between animals. The clarifying amendment would change section 2, subsection 3, paragraph (a) to, a person shall not knowingly "attend any fight between animals in an exhibition or for amusement or gain ... ," striking the word "witness."

SENATOR SEGERBLOM MOVED TO AMEND AND DO PASS AS
AMENDED S.B. 83.

SENATOR MANENDO SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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Mr. Stewart:

Senate Bill 148 would revise requirements for using money in the Pollution Control Account ([Exhibit K](#)).

SENATE BILL 148: Revises provisions governing the Pollution Control Account.
(BDR 40-448)

The bill would eliminate the local government grants program derived from funds from the Account in excess of \$1 million. The excess money would be distributed directly to local air pollution control agencies in nonattainment or maintenance areas in amounts proportional to the number of forms issued to emissions-testing stations. The excess funds must be used for programs related to improving air quality.

An amendment was offered by the Department of Motor Vehicles and the Clark County Department of Air Quality to ensure the reporting of Account money distributed in air pollution control agencies is accomplished as it is for nonexcess money in the Account. Thus, section 1, subsection 5 would state, "Each local air pollution control agency that receives money pursuant to subsection 4 and subsection 6 ... " must submit a report to the Director of the Legislative Counsel Bureau for transmittal to the Interim Finance Committee.

Subsection 6 of the bill relates to the distribution of the excess Pollution Control Account money to local air pollution control account agencies. It would essentially require the same reporting requirements listed above.

SENATOR SEGERBLOM MOVED TO AMEND AND DO PASS AS
AMENDED S.B. 148.

SENATOR MANENDO SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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Senate Committee on Natural Resources
March 26, 2013
Page 14

Chair Ford:

Seeing no more business before the Senate Committee on Natural Resources,
this meeting is adjourned at 2:17 p.m.

RESPECTFULLY SUBMITTED:

Patricia Devereux,
Committee Secretary

APPROVED BY:

Senator Aaron D. Ford, Chair

DATE: _____

<u>EXHIBITS</u>				
Bill	Exhibit		Witness / Agency	Description
	A	1		Agenda
	B	4		Attendance Roster
S.J.R. 9	C	2	Aaron Barborka	Written Testimony
S.J.R. 9	D	1	Chair Aaron D. Ford	Letter from Rossi Ralenkotter, Las Vegas Convention and Visitors Authority
S.B. 183	E	3	Ray Bacon	Written Testimony
S.B. 183	F	1	Lea Tauchen	Proposed amendment
S.B. 183	G	1	Colleen Cripps	Fiscal note
S.B. 183	H	1	Michael G. Alonso	Proposed amendment
S.B. 183	I	1	Greg Ferraro	Proposed amendment
S.B. 83	J	2	Michael Stewart	Work session document
S.B. 148	K	1	Michael Stewart	Work session document