

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

**Seventy-Eighth Session
April 2, 2015**

The Senate Committee on Natural Resources was called to order by Chair Don Gustavson at 1:12 p.m. on Thursday, April 2, 2015, in Room 2144 of the Legislative Building, Carson City, 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 Don Gustavson, Chair
Senator Pete Goicoechea, Vice Chair
Senator James A. Settelmeyer
Senator David R. Parks
Senator Mark A. Manendo

STAFF MEMBERS PRESENT:

Alysa Keller, Policy Analyst
Matthew Nichols, Counsel
Gayle Farley, Committee Secretary

OTHERS PRESENT:

Jake Tibbitts, Nevada Association of Conservation Districts
Andrew Zaninovich, Nevada Conservation League
Maggie Orr, Lincoln County Conservation District
Joe Sicking, Chair, State Conservation Commission
Steve Walker, Carson City
Ron Torell, President, Nevada Cattlemen's Association
Doug Martin
Scott Leedom, Southern Nevada Water Authority
Agee Smith, Chair, Elko County Conservation District Association;
Chair, Northeast Elko County Conservation District
Andi Porreca, Nevada Association of Conservation Districts
Jim R. Barbee, Director, State Department of Agriculture
Lynn Hettrick, Deputy Director, State Department of Agriculture

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Boyd M. Spratling, D.V.M., Nevada Cattlemen's Association
Leah Wilkinson, American Feed Industry Association

Chair Gustavson:

We will open the hearing with Senate Bill (S.B.) 476.

SENATE BILL 476: Amends provisions relating to certain local districts.
(BDR 49-826)

Senator Pete Goicoechea (Senatorial District No. 19):

Senate Bill 476 is brought before you on behalf of the 28 conservation districts and as a request from the Senate Committee on Government Affairs. Conservation districts have been struggling financially for years. This bill would create a funding mechanism for these districts by proposing a fee through a petition process that would require voter approval.

Jake Tibbitts (Nevada Association of Conservation Districts):

There is considerable confusion with regard to what conservation districts are and what they do. Conservation districts are not county entities; they are independent locally elected government entities. Each district has five elected supervisors with one supervisor appointed by the county or the incorporated city, if that is the case. The entire State is covered by local conservation districts. The conservation districts were formed following the dust bowl period of the 1930s, which wreaked havoc with the ecology and agriculture of the United States. With the dedication and hard work of the local conservation districts, our Country survived a devastating time.

The language in the bill draft request was different from the language we had intended in this bill, and we have provided a proposed amendment ([Exhibit C](#)) to clarify section 2 of S.B. 476.

Conservation districts are local governmental entities in the State and are given certain responsibilities, powers and authorities in chapter 548 of the *Nevada Revised Statutes* (NRS). Section 2 of the bill addresses the term "special expertise." Special expertise is a regulatory term defined by the President's Council on Environmental Quality. Special expertise allows districts to participate as cooperating agencies under the National Environmental Policy Act, with general local government coordination, for the purpose of the Federal Land Policy and Management Act. For example, if we were to work as a

cooperating agency with the Bureau of Land Management, we must be recognized as having special expertise. This is established in the bill. Senate Bill 476 would also allow districts at the local level to bring a petition for a ballot question in an election. The ballot question would ask voters for approval to charge a parcel fee of up to \$25 per year. Monies collected from these fees would go into a fund to be used by the district for practices established in NRS 548. Many counties are supportive of the conservation districts and several counties provide grants for specific programs. Twenty of our states in the United States have implemented some type of tax levy or funding method to subsidize conservation districts.

Chair Gustavson:

I would like clarification on section 7 where it states, "A board of county commissioners may appropriate money from the county general fund" Who makes that decision, and how would it be determined?

Mr. Tibbitts:

It would be up to the county commissioners when they prepare their budget.

Senator Goicoechea:

Is there a mechanism where you could limit parcel size or exclude city lots in an incorporated or unincorporated city? A district with a larger population might not get voter approval if a fee were assessed to every parcel in that town. Is there somewhere in the bill that would exempt particular lots?

Mr. Tibbitts:

The conservation districts cover city limits. Based on the quantity of parcels, it might be better for the districts to take a minimal fee, perhaps 50 cents or \$1 per parcel. The sheer number of parcels would still raise enough money for the district. In the rural districts where there are fewer parcels, the fee would be higher.

Senator Settelmeyer:

Section 4 reads that the fee is not to exceed \$25. This would give you the freedom to choose the amount for a particular district that might be more palatable to the voters. The needs of the districts differ, for example, the needs of Clark County are completely different from those of Esmeralda County.

Mr. Tibbitts:

Clark County has 731,000 parcels. A 50-cent-per-parcel fee would raise a substantial amount of money to help that district move forward.

Senator Goicoechea:

Any type of fee is unpopular to voters.

Chair Gustavson:

I agree with Senator Goicoechea because voters feel that once you get a new fee, it continues to increase with time. You may get support in the rural counties, but Clark, Washoe or Douglas Counties may be difficult.

Mr. Tibbitts:

It is obvious many people are not aware of what conservation districts do. If the districts pursue this, they would need to educate the voters about what they do. To convince the voters to agree to a fee, they need to be shown that it has worth. The districts from southern Nevada are supportive of this; however, I do agree we may want to look at an escape clause.

Senator Goicoechea:

According to legal counsel, if these fees were too far apart, this would no longer appear as equal taxation.

Chair Gustavson:

Would this be placed on a statewide ballot question or individual counties?

Mr. Tibbitts:

It would be for individual districts.

Senator Goicoechea:

Elko County has eight different districts and there has to be one of them that includes a large portion of Spring Creek and Elko. You may have problems with that County.

Senator Settelmeyer:

The residents of Douglas County conservation districts do not line up with voting districts. In that respect, I would think the ballot question is going to be on a county-by-county basis.

Mr. Tibbitts:

Conservation districts in Wyoming addressed the county commissioners with the same idea as this bill. The county commissioners did not want this on the ballot, but said they would help fund their districts.

Sections 8 and 9 of the bill name the federal agencies that conservation districts collaborate with in the State and clarify the name change of the Soil Conservation Service to the Natural Resources Conservation Service. In section 10, we added subsection 2, a legislative declaration asking the Legislature to strive to provide appropriations to conservation districts at levels comparable to similar districts in other western states.

The common theme of any conservation district in the Nation is funding capacity. The State Conservation Commission, which was developed 5 years ago, completed an analysis of every dollar this body has appropriated to conservation districts. The outcome of that study demonstrated that for every \$1 this body has given to conservation districts, the districts have returned \$30 in value to this State. This was 5 years ago, and that number has increased.

Sections 11 through 14 are mainly conforming language, and section 15 was included at the request of several districts across the State. In certain districts, noxious weed mitigation and conservation districts merge in specific circumstances. In selected programs, we are doing the same thing, but the funding is separate. This bill would streamline this process. Currently, NRS 555 controls weed districts. In a weed district, a county commission appoints the board of directors. This would allow a county commission to partner with the conservation district by mutual agreement. The conservation district board of supervisors would then act as the weed district board of directors in accordance with statute. Included is language that allows the partnership to be dissolved if both entities wish to do so in the future. This concept may encourage more counties to provide for more weed districts. Noxious weeds are a major issue in this State and have been identified as one of the major threats to sage grouse.

Chair Gustavson:

Are the county commissioners in favor of this bill?

Mr. Tibbitts:

I have not discussed this with every county commissioner. When I presented this to the Nevada Association of Counties, it was supportive of the bill.

Senator Goicoechea:

The weed and conservation districts have a tax rate assigned to them. When you have a tax rate in one district and parcel fee in another it could become a problem.

Mr. Tibbitts:

This is addressed in subsection 3 of section 15 of the bill.

Andrew Zaninovich (Nevada Conservation League):

This bill will allow the conservation districts to manage the needs of their communities in a better way. The Nevada Conservation League fully supports S.B. 476.

Maggie Orr (Lincoln County Conservation District):

I have submitted a letter of support ([Exhibit D](#)) from the Lincoln County Conservation District. I have also spoken with all county commissioners from Lincoln County and they are in support. I would like the opportunity to convince the citizens of Caliente that we are doing good things for them as well.

Joe Sicking (Chair, State Conservation Commission):

The State Conservation Commission (SCC) reviewed S.B. 476 in its meeting and the commissioners were in unanimous support. This is a good bill. Regarding the question of taxing within different entities, our districts are a good example as we pay assessments to our weed district. This is not countywide, and is a parcel account, but I think this can be done the other way. The SCC has funded programs for the sage grouse issue, of which much of the public is unaware. Our district, which is in Humboldt County, has been given approximately \$100,000 in nongovernmental funds that we have used for these projects.

Steve Walker (City of Carson City):

I represent Carson City, and it is in full support of this bill and, as a former district conservationist, I personally support this bill.

Senator Goicoechea:

Do you belong to the Carson Douglas Conservation District?

Mr. Walker:

My point of reference is from 1990, when Carson City belonged to the Douglas County Conservation District. At that time, the Conservation District provided reviews of all subdivisions with regard to soil-related characteristics and the impacts of septic tank absorption.

Senator Goicoechea:

I am talking about right now. I would like to know if that district is still integrated, by what method it is managed and how the money is administered.

Senator Settlemeyer:

Carson Valley Conservation District encompasses all of Douglas County with portions of Carson City included. We work together with the Carson City Board of Supervisors when they ask us. Traditionally, we confine ourselves to the areas that are within the Carson River corridor. In the past, Carson City has given us a very small stipend; however, because of economic times, that support has stopped.

Ron Torell (President, Nevada Cattlemen's Association):

The Nevada Cattlemen's Association supports this bill wholeheartedly.

Doug Martin:

I am currently a supervisor and past district manager on the Nevada Tahoe Conservation District; however, I am representing myself today and in support of this bill.

Senator Goicoechea:

I really like this bill, but have a concern about the technicalities of placing this on a ballot for the voters. To match the voting districts with the conservation districts would be almost impossible. You may want to look at a special election or a mail-in ballot instead of a general election.

Mr. Martin:

The election of a conservation district can be held by a vote on the general election ballot or it can be held by a conservation district within the first

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10 days of November of an even numbered year. Perhaps either or both could be done in this bill.

Scott Leedom (Southern Nevada Water Authority):

The Southern Nevada Water Authority had concerns with S.B. 476 in the beginning; however, after speaking with Mr. Tibbitts, we are now supportive of the bill with the proposed amendment, [Exhibit C](#).

Agee Smith (Chairman, Elko County Conservation District Association; Chairman, Northeast Elko County Conservation District):

I am here to represent all eight conservation districts in Elko. I would like to go on record that we are all in support of this bill.

Andi Porreca (Nevada Association of Conservation Districts):

The Nevada Association of Conservation Districts supports this bill.

SENATOR GOICOECHEA MOVED TO AMEND AND DO PASS AS
AMENDED S.B. 476.

SENATOR PARKS SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

* * * * *

Chair Gustavson:

I will now open the hearing for S.B. 488.

SENATE BILL 488: Requires registration of veterinary biologic products sold in Nevada. (BDR 50-1164)

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

The Food Safety Modernization Act (FSMA) is why we are bringing S.B. 488 and S.B. 495 before you.

SENATE BILL 495: Requires the licensing of commercial animal feed sold in Nevada. (BDR 51-1165)

The FSMA was signed into law by President Obama in January 2011. The FSMA affects numerous sectors of the food industry including food manufacturing for human consumption, feed and produce inspection. This is the first time we have had produce inspection directed by the U.S. Food and Drug Administration (FDA). Since 2011, the FSMA has been a major topic of discussion among all state departments of agriculture across the United States. When we started the process of bringing these proposals forward, we were under the impression that the final rule, which had been postponed once, would be enforced in the fall of 2014; however, it has been postponed again to 2015.

Senate Bill 488 establishes two feed programs giving us the opportunity to establish programs that would allow us to enter into cooperative agreements with the State and the FDA to administer the feed program within Nevada. The first bill we are discussing, S.B. 488, is the veterinary biological registration program. The State Department of Conservation and Natural Resources would serve as a buffer between the Division of Environmental Protection and the U.S. Environmental Protection Agency. The State Department of Agriculture (NDA) would serve as the buffer between the industry and the FDA for parties in Nevada who are administering these programs. There have been concerns brought forth by the Cattlemen's Association, American Feed Industry Association and the Veterinary Medicine Association.

The intent of S.B. 488 is to register antibiotics that are coming into the State, giving us the ability to trace them back to their origins. We would need to create an inspection or audit program, by the time the final rules are executed, because the FDA and U.S. Department of Agriculture will be working under memoranda of understanding. The Nevada Veterinary Medical Association and veterinarians who serve on the State Board of Agriculture have raised concerns. We would like to request a meeting with those entities and get an amendment to you next week.

Chair Gustavson:

Would you summarize this bill for us?

Lynn Hettrick (Deputy Director, State Department of Agriculture):

This bill was drafted from a model that was used in Oregon. The intent is to document pharmaceuticals and veterinary biologics that are used to treat animals for various reasons. Describing sections of the bill will be inconsequential because we will be changing them to satisfy Veterinary Medical

Association concerns. The objective is to understand what is coming into our State under the new FDA rules because they are going to go to a veterinary feed directive program due to concerns of antibiotics contaminating the food supply. The FDA would like to go to a prescription basis. The veterinary biologic would have to be prescribed by a veterinarian, used in that form and then verified over time, which is what our program will be doing. The first part of the bill is mainly definitions and is probably more definitive than it needs to be. Section 8 states that if the biologic were already registered pursuant to the federal government registrations, they would not have to reregister it, these would not apply to this bill. Section 8 also addresses the concept of registering all products in one application, similar to what we do with pesticides. Section 9 addresses the fee not to exceed \$75, which is low compared to other states. Subsection 2 of section 9 outlines the filing process, which is an annual application. Section 10 concerns the process for the collection of fees.

Senator Goicoechea:

It was my understanding there would be a one-time registration and payment. Is this still the case? Who would be responsible for registering the product?

Mr. Barbee:

This would be an annual fee. In the amendment process we will be clarifying that section. This would mirror our current pesticide registration program where the manufacturer is the one who registers the product. The retailer or veterinarian is not responsible for registration or fees.

Chair Gustavson:

Next Thursday is the deadline to get our Senate bills out of Committee, so we will need this amendment presented to us by Tuesday, or Wednesday at the very latest.

Mr. Barbee:

We will get these amendments with the exemptions to you by then.

Boyd M. Spratling, D.V.M. (Nevada Cattlemen's Association):

I am a practicing veterinarian, rancher and livestock producer in Elko County. This bill could have tremendous impact on my position and on other ranchers and producers throughout the State. I am a member of the State Board of Agriculture; I do feel that it is important that I bring my concerns to you while

this bill is being introduced. This bill has a number of severe language problems defining pharmaceuticals and biological products.

Biologics are vaccines that we use to prevent disease. I do not agree that these products are something that we should have to register within the State. There is no benefit to the public or to the livestock industry. There are no residue problems and they have already gone through an enormously cumbersome process of registration and research to prove this actually has an effect on disease. Pharmaceuticals are what we use to treat disease.

I understand the concerns of the federal government with the use of antibiotics, and I agree these should be registered with the State, especially with the federal mandate coming down. I also agree the State should be doing inspections as opposed to the federal government. We have already approved these different drugs and pharmaceuticals.

As a producer and veterinarian, I am disturbed that some of the smaller manufacturers nationwide will be overburdened with costs if they have a hundred products and have to register all of them. It is not only the cost, but all of the paperwork. There are small manufacturers that produce good products that are needed here. However, Nevada is a small state and these manufacturers may not want to go through this procedure, as it will be expensive and time-consuming. If they do not sell their products here, we will lose access to several different products.

Senator Goicoechea:

Will you be able to access products from another state if this is passed?

Dr. Spratling:

Who will be responsible for the licensing and registration if a smaller manufacturer has a distributor? Will it fall back on the manufacturer on a nationwide basis?

Senator Goicoechea:

Who would collect the fees?

Dr. Spratling:

I have that concern. If we are talking about the large nationwide manufacturers, such as Pfizer, they will probably go through the process and list them all and

their products will be available. I am worried about the smaller manufacturers that are doing business in the State. They may feel this procedure is not worth the time and money, and we will lose access to those products.

Senator Goicoechea:

We will be looking forward to an amendment.

Dr. Spratling:

I am pleased that we are talking about changing the language and bringing it back to you.

Chair Gustavson:

We will close the hearing on S.B. 488 and open the hearing on S.B. 495.

Mr. Barbee:

We had prepared a FSMA fact sheet for you, but found there were mistakes and we are correcting that. You will have that fact sheet tomorrow. Senate Bill 495 has language changes and we would like to bring the amendments to you next week when we bring the amendments for S.B. 488. We will be working with the American Association of Feed Control Officials (AAFCO) when adjusting this language.

Mr. Hettrick:

They will be using the AAFCO model when preparing the amendments.

Mr. Barbee:

Yes, we are adopting the language from the AAFCO model for this bill. With the assistance of the AAFCO we are also working on a different fee structure than the one proposed. This bill is going to be significantly revised. Both the fee proposed in this bill and the fee in S.B. 488 are going to be maximum fees that would be set by the NDA through the regulatory process. We have been working with the Cattlemen's Association as well on the proposed amendment.

Chair Gustavson:

Why are you including domestic animals in subsection 4, paragraph (h), of section 10?

Mr. Barbee:

The NDA has included domestic animals in the definition of livestock due to the contaminated pet food that was exported to the United States from China. This bill provides the opportunity to know where these ingredients came from originally.

Senator Settlemeyer:

Are we talking about retail or wholesale feed? Does this include bags of equine food or grains coming in on a truck? How does this affect someone who buys tons of hay?

Mr. Barbee:

Hay would be excluded because it is not considered a feed ration. The feed would have to be registered by a feed manufacturer on a tonnage basis. This proposal would be similar to our pesticide registration program where it is by unique feed mixture. One registration would be for a feed ration that is being sold retail. If a company were selling a different one that was a unique feed ration, the company would have to file another registration for that product. This is what we are changing in the amendment process.

Senator Settlemeyer:

Are you talking about rations, not feedstocks?

Mr. Barbee:

Yes. This is for the large higher-end company that is producing a product and bringing it into the State or producing it in the State.

Mr. Hettrick:

We intend to keep the language in subsection 1 of section 10, " ... commodities including hay, straw, stover ... or substances are not intermixed or mixed with other materials" In subsection 3 of section 10, the bill does not include customer formula feed. If someone ordered a material and specifically requested that another substance be added to it, and it is not offered for retail sale elsewhere, it would not be a registered or taxed product.

Senator Goicoechea:

If it is customer-formulated and they want to sell it, does this mean it would not have to be registered?

Mr. Barbee:

If it were a product that is being sold to the public, it would have to be registered.

Chair Gustavson:

What are the requirements we are asking for on product labels?

Mr. Hettrick:

State law requires manufacturers to list all ingredients for that specific product on the product label. We would be using the AAFCO language for reference. The AAFCO has its own set of standards used nationwide. We want to employ those standards because the way ours are written, everything that is manufactured in Nevada would require a different label. With this change, the analysis would be the nationally accepted standard.

Leah Wilkinson (American Feed Industry Association):

We all met this morning, and we have agreed on most things. However, as the bill is written, we are opposing S.B. 495. The American Feed Industry Association (AFIA) has many members that distribute and sell products in Nevada for the livestock industry as well as the domestic animal establishment. We are discussing commercial feed, which encompasses everything that goes into animal food. Feed is regulated federally and through state law. The only state that does not have a feed law is Alaska. Our association works hard to ensure state and federal systems work together in harmony so our companies can do business successfully across state lines. We are seeking to have similar language pertaining to feed laws throughout the Nation. The AFIA has the experience to assist states with formulating their language regarding feed laws within their specific statutes. The language in this bill varies greatly with the AFIA model. We would like to see the language in this bill correspondingly reflect the language of other states.

Our association has several concerns with the issue of product registration. I have provided our statement of opposition ([Exhibit E](#)). We would support a mechanism to pay for products that are actually distributed into the State or perhaps a licensing fee of the State manufacturing facilities that would be distributing or selling products within the State. Feed and pet foods are already regulated federally. The final FSMA regulations will not be issued until August 2015, and facilities will need to comply in 2016, 2017 or 2018, depending on the size of the facility. This bill would not preempt this law. There

are many issues that need to be considered, which is why we do not support this bill. We support going back to the bill and working on an amendment. If this cannot be done by your deadline, we do have until August 2015 before the federal compliance requirement is in place.

Senator Settlemeyer:

This Legislature meets every other year and for us to be in compliance, these amendments need to be brought to us without delay. Bills that are not out of this Committee by next Friday will be dead. I am hoping you can work with the bill sponsors to address these concerns and issues.

Senator Manendo:

I received an email saying people were upset because of the speed of our process regarding this bill.

Ms. Wilkinson:

We did not send that email. We understand the time constraints and have been discussing options with Mr. Hettrick. We would like to help with the amendment.

Senator Manendo:

I do not know who it was, but this Committee works very hard and I do not appreciate anyone showing disrespect.

Dr. Spratling:

Our main concern is the inclusion of companion animals as livestock. Livestock are not the same as companion animals. I have the same concerns as I had with S.B. 488. We are a small market in the livestock industry compared to the national average for these types of products. Those manufacturers who do not register will reduce our choices of feed products to be brought into the State. What I envision is our ranchers going to another state, picking up the feeds of their choice and bringing those feeds back to Nevada.

Mr. Torell:

The Cattlemen's Association met with the sponsors and others relating to this bill and we are confident that with some revisions, we could support this bill. However, the way it is written now, we would be neutral.

Mr. Barbee:

We will have an amendment for you by Monday.

Senator Goicoechea:

How much money do you expect this program to generate?

Mr. Hettrick:

There are three funding options within the AAFCO model language and we will be exploring them. The method we chose was based on a per product registration because tonnage is so low in the State it would not pay for the inspector. We found that, under licensing methods, the language used in the AAFCO model bill is " ... any company that offers their product for sale within Nevada" This means that companies from other states will be paying us a fee. However, this could mean we would lose tonnage tax, so we need to look at this. The FSMA is going to require documentation of materials going back to the source. I discovered how major companies in the United States who buy raw materials from Europe are sending their employees overseas to learn how manufacturers create their materials to ensure it is safe, packaged, transported and stored properly before and during distribution. We will have to do the same thing so if there is a problem we can go all the way back to find it. That is the reason for this bill. We will need one inspector, which we anticipate will cost approximately \$100,000 a year.

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Chair Gustavson:

There being no further testimony or public comment, the Senate Committee on Natural Resources is adjourned at 2:44 p.m.

RESPECTFULLY SUBMITTED:

Gayle Farley,
Committee Secretary

APPROVED BY:

Senator Don Gustavson, Chair

DATE: _____

EXHIBIT D SUMMARY				
Bill	Exhibit D		Witness or Agency	Description
	A	1		Agenda
	B	5		Attendance Roster
S.B. 476	C	1	Jake Tibbitts	Proposed Amendment
S.B. 476	D	1	Maggie Orr	Letter of Support
S.B. 495	E	2	Leah Wilkinson	Statement of Opposition