

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

**Seventy-Ninth Session
March 2, 2017**

The Committee on Natural Resources, Agriculture, and Mining was called to order by Chair Heidi Swank at 1:36 p.m. on Thursday, March 2, 2017, in Room 3138 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4401 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, 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 www.leg.state.nv.us/App/NELIS/REL/79th2017.

COMMITTEE MEMBERS PRESENT:

Assemblywoman Heidi Swank, Chair
Assemblywoman Lesley E. Cohen, Vice Chair
Assemblyman Chris Brooks
Assemblywoman Maggie Carlton
Assemblyman John Ellison
Assemblywoman Sandra Jauregui
Assemblywoman Lisa Krasner
Assemblywoman Robin L. Titus
Assemblyman Justin Watkins
Assemblyman Jim Wheeler
Assemblyman Steve Yeager

COMMITTEE MEMBERS ABSENT:

None

GUEST LEGISLATORS PRESENT:

None

STAFF MEMBERS PRESENT:

Susan E. Scholley, Committee Policy Analyst
Randy Stephenson, Committee Counsel
Nancy Davis, Committee Secretary
Cheryl Williams, Committee Assistant

Minutes ID: 377



OTHERS PRESENT:

Jim R. Barbee, Director, State Department of Agriculture
Greg Lovato, Administrator, Division of Environmental Protection, State Department of Conservation and Natural Resources
Deonne E. Contine, Executive Director, Department of Taxation
Wendy Stolyarov, Legislative Director, Libertarian Party of Nevada
Ellen Moore, representing the Progressive Leadership Alliance of Nevada
Susan Juetten, representing Great Basin Resource Watch
Lynn Hettrick, Administrator, Plant Industry Division, State Department of Agriculture
Ronald Balsamo, Pest Control Operations, State Department of Agriculture
John Fudenberg, Coroner, Government Affairs, Office of the Coroner/Medical Examiner, Clark County
Christopher Bramley, Vector Control Supervisor, Department of Public Works, Clark County
Daniel Anderson, Weed Coordinator, Carson City Weed Coalition
Nick Vander Poel, representing the City of Fernley; and the Reno Sparks Convention and Visitors Authority
David Cherry, Communications and Intergovernmental Relations Manager, City of Henderson, Nevada
Bradley Mayer, representing Southern Nevada Health District

Chair Swank:

[Roll was called and standard rules of the Committee were reviewed.] We will start by hearing Assembly Bill 33.

Assembly Bill 33: Abolishes certain boards, commissions and councils relating to natural resources. (BDR 46-312)

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

Assembly Bill 33 is sponsored by the Office of the Governor to improve efficiency by eliminating boards that are no longer necessary for the operation of these programs. The first to be eliminated from statute for agriculture is the Organic Advisory Council. The Council was intended to advise the Nevada Department of Agriculture (NDA) on the operations of the organic certification program. That program was eliminated in 2015. The Council no longer meets and no longer has anything to advise on.

The second program is the Dairy Commission. This Commission was merged into the NDA in 2013 and no longer has a significant need or purpose. The regulatory authority would be transferred to the Director of the NDA. Since the merger, the Commission is required to meet quarterly, which it has. Those meetings last between 15 and 30 minutes, and we are paying for travel and other expenses. There have not been any regulatory changes in that time period. All operations were transferred from the Commission to NDA upon the merger.

Finally are the Alfalfa Seed Advisory Board and the Garlic and Onion Advisory Board. Both boards make recommendations to the State Board of Agriculture, and that would not change. The elimination of these boards would streamline the process, as producers would come directly to the Board with their recommendations or concerns. This way we would not have to have staff to manage the advisory meetings. We had the Alfalfa Seed Advisory Board come forward once a year and make recommendations. The Garlic and Onion Advisory Board has not brought a recommendation forward for several years. These groups are in support of this action and recognize the benefits to their industries with the reduced time and cost of the NDA staff.

Additionally, this bill would eliminate the Mining Oversight and Accountability Commission. Greg Lovato with the Nevada Division of Environmental Protection is here to address that portion of the bill.

I am pleased to take any questions on the agriculture component of this bill.

Assemblywoman Cohen:

Will you address the assessments that are mentioned in the bill? Are the assessments still being levied? Are they still being utilized for the benefit of the farming industry?

Jim Barbee:

The assessments would be levied the same. There would not be any change in them. There is no regulatory change to the Alfalfa Seed Advisory Board and the Garlic and Onion Advisory Board. They are required to bring recommendations to the State Board of Agriculture, showing how they would like the assessments expended for the promotion of their industry. They did that yesterday at the Board of Agriculture. In other words, the alfalfa producers, either individually or working with NDA staff, would bring forward a recommendation or suggestion on how they would like to use those funds for the promotion of their industry. The Board of Agriculture would then choose to act. That is the exact process now, except it is through the organized boards. Again, the Alfalfa Seed Advisory Board has met in recent years; the Garlic and Onion Advisory Board has not met in a number of years.

Assemblywoman Titus:

I reached out in my community to the garlic and organic folks when I saw this bill coming. They are supportive of this action and appreciate your trying to streamline the process.

Assemblywoman Krasner:

Are these boards that you are proposing to abolish in agreement with this? Usually, these types of boards allow people with a vested interest to participate, not necessarily to make the law or change any decisions, but to have input. I am wondering, are all of the people who make up these boards okay with this?

Jim Barbee:

Yes, through the communications we have had with them, they are in support of these actions. The Board of Agriculture also represents these industries. The Board already has dairy producers, alfalfa producers, garlic producers, and they are much more diverse than that. The only place the regulatory authority would change is in the Dairy Commission, which would go from the Commission to the Director of NDA. The Dairy Commission was informed of this and is in support of the change. There are three commissioners who travel across the state to meet quarterly with meetings that last between 15 and 30 minutes.

Chair Swank:

We are having trouble finding the Organic Advisory Council in the bill.

Jim Barbee:

Page 16 identifies the repeal of organics and page 17 identifies the Advisory Council for Organic Agriculture Products.

Chair Swank:

Thank you. Mr. Lovato, whenever you are ready.

Greg Lovato, Administrator, Division of Environmental Protection, State Department of Conservation and Natural Resources:

I am here to testify in support of A.B. 33 as it pertains to abolishing the Mining Oversight and Accountability Commission (MOAC).

Nevada Revised Statutes (NRS) Chapter 514A, enacted in the 2011 Session, tasked MOAC with several duties; including oversight of the Division of Environmental Protection (NDEP) administration of NRS Chapter 519A pertaining to reclamation of mined land. *Nevada Revised Statutes* 514A.070 required NDEP to provide an annual report at the third MOAC quarterly meeting concerning reclamation of mined lands, including an accounting of fees collected and fines imposed by the Division. All information requests from MOAC to NDEP were fulfilled, and no changes to the NDEP mining programs were proposed as a result of these MOAC hearings.

Nevada Revised Statutes 514A.110 added an administrative burden, requiring that regulations adopted by the State Environmental Commission (SEC) under the mining reclamation statute were not effective unless such regulations are reviewed by MOAC before being approved by the Legislative Commission. In October 2015, the SEC adopted changes to mine reclamation regulations administered by NDEP to require bonding to address mine-impacted waters. Adoption of these regulations was reviewed by MOAC at its November 2015 meeting and an additional December 2015 MOAC meeting, before being approved by the Legislative Commission in December 2015. No changes were proposed by MOAC during its review.

All NDEP mining regulation activities, including regulation changes, permitting, and enforcement actions, are subject to oversight from and appeals filed with the SEC. Because of this existing oversight from the SEC, and because NDEP has fulfilled all requests for information from MOAC, we are in support of A.B. 33 to abolish MOAC. As always, NDEP would be pleased to respond to requests for information from the Legislature concerning our mining programs.

Assemblyman Brooks:

What created the Mining Oversight and Accountability Commission if those duties are under SEC right now? Was it just the need to get the initial one-time report, or is this an ongoing process?

Greg Lovato:

It is my understanding that when MOAC was created in NRS Chapter 514A in the 2011 Legislature, it was an initiative that was at a time when the Legislature wanted ongoing information about the financial condition of mines and the taxation and auditing of the mines. It was also a forum to bring general understanding to the state about how mines are regulated, and how they affect the state economy as well as the state and local tax bases. We understood it was a forum for education.

Basically, at each of the quarterly MOAC meetings that pertained to NDEP—we were one of three agencies who testified regularly before MOAC—we would testify with issues regarding our programs. The Division of Minerals and the Department of Taxation would also testify. It was mainly an informational forum with explanations about how the programs were working, and that they were working properly. Beginning in 2015, it became difficult for MOAC to fill a quorum. The cause of that is not something I can diagnose, but some of the meetings had to be rescheduled to have a quorum. There were no MOAC meetings held in 2016.

Assemblyman Brooks:

Has the need that we had to get that information from that forum gone away? Or is it just that MOAC has become ineffective in being helpful to your agencies?

Greg Lovato:

I would say that the need of the Commission, as it pertains to understanding how the mining programs are regulated and how they are operated, was fulfilled through the hearings that were held in 2012, 2013, 2014, and 2015. From our prospective, that process of education and understanding was fulfilled. The difficulty in getting a quorum together mainly presented a hurdle for us to pass new regulations, which could be a problem going forward. I do not know if that is a comment on the effectiveness of MOAC, so much as it would reduce the effectiveness of the programs that we administer in order to pass new regulations.

Assemblyman Brooks:

Do the members of MOAC agree that it has served its usefulness and might need to go away?

Greg Lovato:

The NDEP has not discussed this with the members of MOAC. This is an initiative sponsored by the Governor's Office. I do not know if the Department of Taxation can answer that question.

Deonne E. Contine, Executive Director, Department of Taxation:

We did notify the members. There are actually three members. I think there may have been concern by one member, but I am not sure what that concern was. I want to add to what Mr. Lovato said. We are the agency that is responsible for noticing the meetings and trying to get a quorum. We have not had a quorum for a couple of years. We have the similar problem in that we have to have our regulations reviewed by them. We have gone ahead and had our regulations adopted by our Tax Commission. The work is still being done; it is just additional work.

Our regulations begin with a workshop by the Department and are then adopted by the Nevada Tax Commission, which is an eight-member board. On the regulations that had been submitted to MOAC, there was not a single suggested change or addition that anyone wanted to make during the time that we submitted regulations. I think we submitted nine sets of regulations. Similarly, we are required to present information on deductions that the mining industry has on their net proceeds. That information is compiled in a biennial tax expenditure report that is sent to the Legislature and to the Governor's Office. Much of this work is redundant.

Assemblyman Ellison:

Most of these boards that are being eliminated can still appear before the NDA and the Mining Association, is that correct? It is not as if they are totally eliminated; they can still appear if they have issues.

Jim Barbee:

Yes, the Board of Agriculture still sits, and most were advising to that Board. We have always had dairy represented on the Board, so that addresses the Dairy Commission. The boards go away, but the individuals who have been actively engaged in our industries will still have access, as they did before, to the Board of Agriculture for any concerns they may have.

Assemblyman Ellison:

Any mining issues would still go before the Nevada Mining Association, is that correct? It seems that has been the process for every one of these committees that we are eliminating.

Greg Lovato:

As it pertains to MOAC, the programs that are implemented by the proposed regulations and permit actions or inactions by the NDEP were subject to appeal through the SEC prior to and during MOAC's creation. We believe there is adequate venue, both informally with our Bureau of Mining Regulation and Reclamation as well as appeals to the SEC available for any interests or objections that people have to decisions that we are making or not making.

I would say, rather than the Nevada Mining Association, issues would go to the SEC for NDEP, and with respect to the Division of Minerals, it would be the Minerals Commission.

Assemblyman Ellison:

I think since these boards and commissions are not very active, this is a good thing.

Assemblywoman Cohen:

What is going on with organics in Nevada? Over the last few years, consumers have shown a great interest in organics, and it seems like something we would want to maximize.

Jim Barbee:

Absolutely, organics is one of the portions of the agriculture industry that is growing. The organics certification is a federal U.S. Department of Agriculture program that outlines that states or private individuals can go through the licensing process to do certification of organic producers. Organics is a process, not an outcome. For approximately 10 to 15 years, the NDA has been doing organic certification. There have been private organic certifiers in the state as well. That program had been struggling for some time. Two years ago, after review and working with the organics community, I brought forward a recommendation to the Board of Agriculture to eliminate the NDA certification program. Organics are still certified in Nevada. It is done by private certifiers that do it in neighboring states as well. As of a couple of years ago, there were nine private organic certifiers who were working across the state. Those folks have been moving forward and expanding since then.

Assemblywoman Jauregui:

I would like to discuss MOAC. It seems that MOAC is just one of the three oversight branches. The Commission on Mineral Resources has to report to the Governor, to MOAC, and to the Legislature. Except in section 3, subsection 3, it looks like those reports were only being reported to MOAC, not to the Governor or the Legislature. If you remove MOAC completely, who will be responsible for the oversight of that section?

Deonne Contine:

We have the tax expenditure report that itemizes tax exemptions, which is produced by the Taxation Department every two years. That report goes to the Legislature and the Governor. With respect to other oversight related to taxation of mines, the Department has an eight-member Tax Commission. We make our presentations and report to them. The Tax Commission adopts regulations related to the mining chapter.

Assemblywoman Jauregui:

The bill has a specific section that shows that MOAC had direct oversight for the accounting of any fees or fines imposed or collected. Who will be in oversight of that now?

Deonne Contine:

That is the Nevada Tax Commission.

Assemblyman Yeager:

My understanding is that when MOAC was created in the 2011 Session, it called for a seven-member commission. Currently, there are only three members on the Commission, so a quorum is simply not possible. When you said they have not been meeting due to lack of a quorum, is that because there are not enough members to constitute a quorum of MOAC, or was there a period in time where they did have enough members, and they were still not able to get a quorum?

Deonne Contine:

It is my understanding that it was both. Even if they had enough members, sometimes they could not get a quorum. Then when the last person to get a quorum left, there did not seem to be much desire from the different representatives to reappoint.

Assemblyman Yeager:

Just so the record is clear, would the appointment of any vacancies in MOAC be from the Governor's Office?

Deonne Contine:

I believe two come from the Speaker of the Assembly, two come from the Majority Leader, one comes from the Minority Leader, and two come from the Governor.

Assemblyman Yeager:

Who are the appointing authorities of the four vacancies that we have now? I am not asking for that information now, but it would be helpful to know.

Deonne Contine:

I will look into that and get back to you.

Assemblywoman Carlton:

I am looking at section 27 of A.B. 33 to figure out what we are trying to do by striking the language "Constables, police officers and sheriffs may, upon request," and changing it to "Each field agent or inspector of the Department who has the powers of a peace officer pursuant to NRS 289.290 shall render assistance to the Director." What are we trying to do there? Is it normal to have a Director be the supervisor of a peace officer?

Jim Barbee:

I will use the example of the Department of Conservation and Natural Resources, which has sworn police officers. That language already exists. The difference is that when we merged the Dairy Commission, they were not associated with the NDA, and the NDA has its own enforcement officers. As part of the cleanup, we identified that because the Dairy Commission has been utilizing our enforcement officers. This clarifies that they are utilizing the five enforcement officers that NDA currently has.

Assemblywoman Carlton:

How many enforcement officers will you end up with after the merger?

Jim Barbee:

It is the same folks. They are housed through the animal identification account, but when we have issues that deal with enforcement of our provisions or our laws that are outside the livestock provisions, they help us with that.

Chair Swank:

I will now move to anyone who wishes to testify in support of A.B. 33.

Wendy Stolyarov, Legislative Director, Libertarian Party of Nevada:

I am here to support A.B. 33. This bill, in abolishing the Garlic and Onion Advisory Board, the Alfalfa Seed Advisory Board, and the Advisory Council for Organic Agricultural Products, increases freedom and decreases the burden on small farmers and business owners in Nevada, as well as streamlines the regulatory process and reduces costs.

I am thankful the Garlic and Onion Advisory Board recognizes what the Libertarian Party has known for years—industry boards cartelize their industries, reducing competitiveness, and increasing costs in the long run.

Nevada's large garlic and onion growers are few in number, capable of advertising and researching on their own, and do not need an entire chapter of *Nevada Revised Statutes* dedicated to them. Trimming this kind of bloat from the NRS is a commendable goal, and the Libertarian Party of Nevada therefore supports A.B. 33.

Chair Swank:

I will now move to opposition. Is there anyone here to testify in opposition to A.B. 33?

Ellen Moore, representing the Progressive Leadership Alliance of Nevada:

The Progressive Leadership Alliance of Nevada (PLAN) opposes abolishing the MOAC as proposed in A.B. 33.

We believe that the need for the establishment of MOAC is still valid. At the first meeting of MOAC in December 2011, more than five separate government entities that oversee the mining industry presented to the Commission. The Mining Oversight and Accountability Commission is a one-stop shop for the state and the public.

While the main thrust behind MOAC was concern over insufficient auditing and double-dipping by the mining industry, much of the discussion during the past five years has also focused on environmental issues.

The cumulative environmental impacts of mining are a threat. According to the Environmental Protection Agency's 2015 report, most toxic releases of chemicals that may pose a threat to human health and the environment came from metal mining operations.

Nevada ranks third out of 56 states and territories based on total toxic releases per square mile. Nevada's top five polluters are hard rock mining operations that release roughly 250 million pounds of toxic chemicals into our air, land, and water.

However, we also believe that MOAC has not lived up to expectations. It has lacked the will to address real concerns and make decisions that resolve real problems, so it is understandable that the public, and maybe even the agencies, have lost interest.

The Mining Oversight and Accountability Commission has consistently not had a quorum, and has not met since September 2015. But, we also believe these challenges can be addressed by naming diverse representative members who are willing to carry out the mandated functions of regulation, review, oversight, and compliance of Nevada laws and statutes.

At the very first MOAC meeting, we called on the committee to address the lack of diversity, particularly gender diversity in its makeup. This problem was never addressed, even as committee members left and opportunities arose to name new members. Progressive Leadership Alliance of Nevada attempted to aid legislators in appointing new members by providing recommendations and resumes on two occasions—the most recent in 2016, but without result.

The Mining Oversight and Accountability Commission has the potential to fulfill an important responsibility for integrated, accessible oversight and accountability of one of Nevada's largest and potentially most damaging industries. Abolishing it outright is extreme, especially since the integrated functions of the Commission are not being transferred to another body. We would encourage the Assembly Committee to oppose this aspect of A.B. 33 and allow MOAC to live up to its potential, at full strength, for an additional two years.

Susan Juetten, representing Great Basin Resource Watch:

Thank you for allowing me to offer comments. The Great Basin Resource Watch (GBRW) does not support A.B. 33 as written. The GBRW is a Reno-based nonprofit public interest organization. We support communities in Nevada protecting their air, land, water, and culture from adverse effects of extractive industries through scientific and legal means.

The GBRW staff has attended most MOAC meetings since 2012. We typically had comments to make and gave a formal presentation on the need to reclaim mining pit lake water. It was not just the agencies who presented at these meetings.

We planned a follow-up presentation outlining the legislation we proposed requiring reclamation of pit lake water. Had the Commission continued to meet, we would have requested the pit lake issue be on an upcoming meeting agenda, which could have been an opportunity for a full discussion, including all parties, to address reforming Nevada law on pit lakes. However, through part of 2015 and 2016, as you have heard, the Governor failed

to appoint new members. Actually, we are not sure if it was the Governor who failed, but at any rate, MOAC could not convene.

The Commission served a unique purpose. By statute, review of certain regulations are required before becoming effective, and MOAC submitted reports of findings and recommendations related to these regulations. It allowed for a transparent discussion of the issues that surround the mining industry, and not just by state agencies, but open to the public as well as to agency administrators and representatives of the industry.

We feel they were far more accessible than the yearly SEC and Commission of Mineral Resources meetings, which are open to the public, but not the same forum. We feel that the Commission was not given enough time to fully realize its potential as an oversight body.

As we see it, the loss of public forums in relation to mining from state agencies and others would be a loss of transparency. In spite of the primary role mining plays in the life of this state, citizens affected by mining have few opportunities to speak and be heard. Although MOAC had limited authority to act on citizen public comment, we believe that this could be a change to strengthen the workings of the Commission.

Agency reports to the Commission, such as those by the Department of Taxation, NDEP, and the Division of Minerals, an overview of other organizations, and many more reports were professionally prepared and presented to the Commissioners and the public. This provided a level of detail to the collective gathering of the effects of mining, positive and negative, in Nevada. Instead of abolishing MOAC, we would like to see the role expanded. An active Commission can gather information and provide meaningful recommendations to the Governor, the Legislature, and the agencies. Perhaps the law could be strengthened to give more weight to citizen testimony.

Chair Swank:

I will now move to neutral. Is there anyone who would like to testify in neutral? [There was no one.] I will close the hearing on A.B. 33.

[Also received but not mentioned is a letter in support of A.B. 33 from Richard Perry, Administrator, Division of Minerals, Nevada Commission on Mineral Resources ([Exhibit C](#)).]

I will now open the hearing on Assembly Bill 32. I would like to point out to the Committee that we are going to take this one slow. We want to make sure everyone understands where we are going with this. There is substitute bill language. If you have read the bill that came out of the Legal Division of the Legislative Counsel Bureau, there is another one on the Nevada Electronic Legislative Information System (NELIS), with the bill draft request number at the top ([Exhibit D](#)). We are going to work our way through that bill. What we want to do, Mr. Hettrick, is to start off by talking about the big change in structure. We want to ensure everyone is clear with the structure we have right now, and the structure that we want to move to. Even before that, tell us why this is a problem in need of a solution. Once

we get the big picture of what is happening, I think stepping through the sections to show how these fix the problem is probably the best way to go. I would suggest that the Committee asks questions as we go along.

Assembly Bill 32: Revises provisions governing pest control. (BDR 49-176)

Lynn Hettrick, Administrator, Plant Industry Division, State Department of Agriculture:

If you have the printed bill from the Legal Division, we do not want to use that. The reason you have that bill is, through the legislative process, agencies are required to submit a bill as early as September of the previous year. We had to do that as a placeholder to be able to submit a bill to you for your perusal in regard to pesticide control in the state. That bill was submitted; however, we felt that the topic was difficult enough that we decided to hold public meetings. We invited all of the stakeholders involved, all the government agencies, counties, school districts; we invited everyone. We held three fully public-noticed meetings. They lasted hours. We went through this language over and over again. We came to the language that is now posted on NELIS ([Exhibit D](#)), which is a complete replacement of the bill you have from the Legal Division. The reason we are doing this is that current statute, *Nevada Revised Statutes* (NRS) 555.280, says anyone engaged in pest control in the state of Nevada as an operator or principal must have a license issued by the Director of the State Department of Agriculture. *Nevada Revised Statutes* 555.266 says that person is defined as any and every governmental agency as well as individuals. This means that every governmental agency should have a license to apply pesticides. That is not currently being done in Nevada.

What we are trying to do today is make the laws comply with the reality of what is happening. Many government agencies hire seasonal employees in the summertime. They apply a great deal of pesticides across the state. Those people who are applying those pesticides are not licensed, but under state law, they have to be licensed. This bill is an attempt to fix that by allowing us to adopt the less stringent requirement in the federal law that says we can adopt their standards. Their standards say that as long as those people are supervised by an appropriately licensed person, they can do the pesticide applications that must be accomplished across the state.

I have given you the rationale and intent of what the bill is trying to do. I have two small amendments that we received from Clark County yesterday that we support ([Exhibit E](#)). I have some comments that I would like to make on the fiscal notes that are attached. I also have some letters of support that I have given to your staff ([Exhibit F](#)).

I have given you the very basics; now I will touch on the high points of where we are going. We have dozens of agencies in Nevada right now who apply pesticides without a license. These include school districts, parks, Department of Transportation, Bureau of Land Management, and the United States Forest Service. All of these agencies are essentially applying pesticides without a license. I would like to qualify that a little. Many of them have their people get what is called a restricted use pesticide (RUP) certificate. It is the equivalent

of a license, but it does not allow the use of general use pesticides. What they use, almost without exception, is general use pesticides, so they have an inappropriate license. We are trying to fix that so they are legal.

Because of the seasonal employees, applying for licenses is virtually impossible and impracticable. By the time they hire their people and send them to training and licensing, the season is over, and they would not be able to do any applications. We are trying to comport the law to the reality of what we are dealing with in Nevada.

In its new form, Assembly Bill 32 creates a new category that separates government entities from private applicators, which we call accreditation, so it is clear that they are not licensed the same as private entities. This was done for two reasons. First, it reduces fiscal impact because this accreditation that we are going to provide will be a four-year certificate, instead of a typical year or two-year certificate. Second, many of the government agencies, as I said, already have their people obtain a RUP certificate. We are combining the RUP certificate with a general use license and leaving the fee the same. Despite the fiscal note, we are not increasing the cost, other than in the case where an agency does not have a RUP-certified employee now. That agency will have to have a RUP-certified employee. These agencies only need to have accredited people to oversee the unlicensed, unaccredited applicators to ensure there is someone out there who knows what he is doing and overseeing what is being done. It will be the same fee and minimal fiscal impact because of it.

Chair Swank:

The word accreditation is new in the NRS. This accreditation is being issued by the Department, and it is not clear to me what constitutes accreditation. How does one become accredited? I think there are some issues here, if we are going to use a new term and a new process in the entire NRS, instead of using one we already have. There will need to be a lot more specificity than what is in this bill. Also, I am unsure why a nonprofit is lumped in with governmental departments and organizations.

Lynn Hettrick:

The accreditation is nothing more than the combination of a general use pesticide license that we would issue to any commercial applicator right now, and the RUP certificate that we also issue to governmental employees and private applicators. All we are going to do is combine the two tests and make it into one, so they can have the authority to apply general use pesticides as well as restricted use pesticides.

Chair Swank:

It might be helpful if you would define the general use pesticides versus restricted use pesticides for the Committee.

Lynn Hettrick:

The RUPs are restricted use pesticides. There are several that are more toxic, of more concern, and have different trainings for the use of them. General use pesticides are what you can go buy at Home Depot, such as Roundup or something that will kill bugs at your

home. In those small quantities, it is not a big issue. When you start spraying miles and miles of roadside or miles of noxious weeds, it becomes a major issue. There is the possibility of water contamination, roadside contamination, runoff, and many other issues as well. Because of the quantities and the time spent doing the spraying, worker protection standards must be met to protect the workers who do that type of application.

Just to make it very clear, we are not creating a new license or a new category in the sense of testing or requirements; we are combining the two that already exist and are already used in statute so that the governmental agencies can get accreditation to do both. Right now they are separate. We are going to combine them and leave the cost as one, which is the same cost they already have, but to make them legal for these applications in Nevada.

Regarding the nonprofits, we have weed control conservation districts that are nonprofits, essentially a governmental/political subdivision. Without mentioning them, they would be unable to obtain the same status. We added the conservation districts to the language, so they would be able to utilize the same accreditation and have one supervising member, which allows the conservation districts to take care of their own weeds.

Chair Swank:

I do not want to get into a big comparison between the substitute bill and what came out of the Legal Division, but there are a lot more definitions and terms in the one that came out of the Legal Division. There are a bunch of terms that appear throughout the substitute language that are not defined. There is a little discomfort there because they were defined in the first bill.

Lynn Hettrick:

As we went through the language, it was determined that there were a number of definitions that we did not need. We decided to eliminate the requirement so it is not in the second proposal. The intent and desire of the people who met with us was to get the authority done in the NRS, and then we will sit down and work in the *Nevada Administrative Code* (NAC) to do the definitions down to the degree that it needs to be for controls. What we find so many times is we get a definition that does not apply after the fact, so we did not put them into the second draft.

Chair Swank:

I am still a little confused. I feel there are some things that need to be defined. If I had not read the first bill, I would not know what some of the terms mean. I know there are going to be quite a few meetings on this bill, especially with the Legal Division. I think they are going to require that some of these definitions be put back in for the comfort of the Committee. I think the Legal Division has an idea of what should be in here, and we should probably listen to them.

Lynn Hettrick:

We are perfectly fine with the definitions being in the bill. The intent was not to drop definitions or not provide what was being addressed; the intent was to simplify this. In the meetings we had, we tried to simplify this language. It was very difficult dealing with the major issues, and we probably should have left some of the definitions in.

There are some other things in this bill, such as cleanup language, various terminologies, and the like. I know that the Legal Division does not like the phrase "terminology cleanup language," but, in fact, that is what it is. There is one other major provision that I need to address, and that is NRS 555.277. That provision is an exemption that allows landscapers and yard maintenance workers for applying pesticides when they do work at residential homes, et cetera. The exemption applies as long as they do not have a billing for applying pesticides that exceeds 20 percent of the total bill. What we are seeing is that people are being very creative in the way they bill, and they are avoiding getting the appropriate pesticide training and work safety issues by doing creative billing. We have redone the language to clarify that exemption and make it very clear what they can do, where they can do it, and to eliminate the ability to do creative billing to do a lot of spraying that should not be done.

Chair Swank:

I think we really need to go through this bill section by section. Referring to NRS numbers is not going to be very helpful as we go through this bill. I think we should start with section 3 and work our way through. You can explain what each section does.

Lynn Hettrick:

Section 3 is one of the sections that we will propose a minor amendment to. It defines what a government applicator is, which is a person who meets a certain standard and who provides pest control services with general use and restricted use, and is an employee of a city, county, state, or federal government entity; or a member or an employee of a nonprofit. That is defining who it is and who can become a government applicator.

Section 4 defines who is required to be accredited to use pesticides. It states that a member of, or an employee of a nonprofit, or an employee of an agency shall not use any pesticide within this state, at any time, without an accreditation as a government applicator issued by the Director except seasonal employees under the supervision of an accredited government applicator, pursuant to regulations adopted.

This is where we will adopt the federal regulation that allows us to do the oversight without having to license every individual who will not be employed more than 1039 hours. That is the state definition of a seasonal. Anything over 1039 hours is no longer a seasonal employee, and they would become permanent employees. A full-time government employee using pesticides under the immediate supervision of an accredited government applicator is also included in the exceptions. That is someone who could be working for a county government, for example, and as long as there is an accredited applicator, he could go spray in a park or at a public school with proper supervision.

Chair Swank:

Perhaps you can just summarize what each section is for.

Lynn Hettrick:

Obviously, section 3 is defining who could be an applicator. Section 4 says, when there is an accredited applicator, who can apply pesticides without being an accredited applicator. It determines whether they are seasonal employees and lets us adopt the federal regulations.

Section 5 is application for accreditation. Typical of many things, we just have to specify that they can apply and have the qualifications to obtain accreditation. Section 6 lists, upon examination, what they must show knowledge of. This is right out of our existing licensing requirements. We just moved it to government applicators for accreditation. We just changed the title so there is no confusion as to what license this is.

Chair Swank:

In this section, where it says the Director "will," it is usually "may," "shall," or "must." I am wondering which is the intent. In the original bill, it was "may."

Lynn Hettrick:

I would change the word to "shall." That is a requirement for a private entity to obtain a license to apply pesticides. It also addresses the proper use and application of general use and restricted use pesticides and the dangers involved and precautions to be taken. They must show that they understand that. There is a list of things the applicant must be aware of ([Exhibit D](#)). It then says, the Director may require additional competencies or qualifications as required, depending on the type of product to be used. This is typical language in the other sections of the NRS. The Director shall collect a fee; the same fee that we already have for the RUP for most of these entities. Upon successful completion of the testing, the Director shall issue a government applicator accreditation. So, they have to pass the test, show they have the knowledge, and we will issue the accreditation.

Chair Swank:

What if they are not successful? How are they noticed if they are not successful? What is the process for an appeal of the decision?

Lynn Hettrick:

We have the same process we use for private applicators. If they fail the test, they are notified immediately. They have the opportunity to retake the test. There is a fee to retake the test, but the notification is instant. The test is graded before they leave, and they are told whether they passed.

Chair Swank:

I would suggest that the appeal process is going to need to be somewhere in here also.

Lynn Hettrick:

I understand your desire for an appeal process for a failure to pass. The appeal process would be upon a suspension or revocation. If they fail to pass and show acceptable knowledge of the actual requirements to obtain a license, we would like them to retest. What they would be doing is studying and showing us that they indeed have the knowledge to obtain an accreditation. I think in this regard, the person who is going to obtain this accreditation could be overseeing dozens, maybe hundreds, of people, and we think they need to be well qualified and prove they understand what the requirements and safety needs are.

Section 7 deals with expirations and renewals. These are standard phrases used in all of our licensing procedures, defined by regulation. The Director adopts regulations concerning the requirements for renewal. Basically this is all very straightforward. It is a four-year license. We can limit the use of certain types of equipment if we find they are only qualified for certain things. We are trying to give the applicant the ability to apply for limited accreditation if they like.

Section 8 says the Director may suspend, pending inquiry, for not longer than 10 days, and, after opportunity for a hearing—this is where we have the opportunity for an appeal built in—may revoke, suspend, or modify any government applicator license if the Director finds the applicant is no longer qualified, known to have applied ineffective materials, et cetera. The entire list is the exact same one we use for the rest of the applicators. If they do things that are inappropriate, they will have an opportunity for a hearing, and we have an opportunity to revoke or suspend their accreditation. I think we have adequately provided for their ability to appeal to us.

Section 9 deals with issuance, expiration, and renewal of a government agency registration. Again, the government agency just needs to register with us so we know who is responsible. If we have an issue, if someone is spraying alongside the road and we see something wrong, or there is a spill or contamination, we need to know who to go back to and say, you are responsible for this, who did the oversight, that sort of thing.

Section 9, subsection 3, paragraph (a), subparagraph (1) is one of the issues that is addressed in the Clark County amendment ([Exhibit E](#)). They feel that this part does not need to be in the bill. It states the designated individual does not need to be an accredited government applicator. They would like that removed, and we agree.

Chair Swank:

I am not really sure what government agency registration is. Would you explain that?

Lynn Hettrick:

Essentially, the government agency registration is equivalent to a pest control business license for a private entity. It is simply who is the responsible party; who is going to register. If the Department of Transportation wants to get an accredited applicator to oversee their

people, they are the agency. That is what a government agency registration is, essentially the same as having a pest control business license.

Chair Swank:

I am sorry, will you explain that one more time?

Lynn Hettrick:

There is an organization, which is the registered government agency. Under that government agency, there is an accredited applicator: someone who is fully trained and has been accredited and has received an accreditation from us saying they are fully trained and can oversee people who are not licensed to do applications in the field. It is a three-tier step, and that is what this bill is providing.

Chair Swank:

So we have one organization, one or more accredited applicators, and they oversee a bunch of other people underneath them, correct?

Lynn Hettrick:

That is correct. Section 10 moves into private entities. Much of this is cleanup language, simply making it clearer as to what we do now. Section 10 is a pest control business license defined, which is a separate business license from the State Department of Agriculture. It is not a business license from the Office of the Secretary of State or a county or a city. It is a business license from the NDA to ensure they have appropriate pest control insurance, the appropriate worker safety protection rules, and they have licensed personnel to do the work.

Chair Swank:

For my day job, I have my business license through the Secretary of State, and I have a local business license. This is going to be a license from the NDA. How common is it that departments are able to issue their own business licenses?

Lynn Hettrick:

For pest control, this has been the process we have been doing. Private entities are required to have a pest control business license. It is because of the insurance requirements, which are totally different than your business license requirement from the city or the state. They are also responsible for their licensed applicators as well. They have to have principals in locations who are licensed to oversee their personnel in every place. That is why there is a separate license for it. It is common for our use.

Chair Swank:

Are there other departments that do similar business licensing?

Lynn Hettrick:

I cannot answer that question. Section 11 is the application for a business license. The entity has to apply. If they fail to meet the business requirements within 30 days, they forfeit fees

that have been tendered, but they may reinitiate the process upon payment of any appropriate fees. They are welcome to come in and communicate with us in that regard. I do not think anyone applies who does not meet the requirements.

Section 12 deals with qualifications. The Director may require the applicant employ the services of a primary principal applicator. Some of this technology gets very difficult, but it is a requirement that they have someone responsible within their business locations. If the applicant is not a natural person, the applicant shall designate an officer, member, or technician of the organization who can qualify to take the examination. That person is designated, subject to the approval of the Director. We can require more than one officer, member, or technician to take the exam.

Section 13 is issuance, expiration, and renewal of the license. It is virtually identical to the existing language.

Next is NRS 555.2667; we are defining pest control. The language currently reads, publicly holding oneself out as being in the business of pest control. There are lots of people who do not do that and still do pest control. Because of the terminology, they are not getting a license, which causes a lot of safety issues. We have the same issue with the use of pesticides for hire. A landscaper can go to someone's home and say, I will happily spray that pesticide for you and not charge you anything. What they are doing is avoiding the safety and licensing requirements under existing statute, which says you cannot apply pesticides without a license. We are trying to clear that up and make it understood. It does not matter if you say "for hire," or you publicly hold yourself out as being in the pest control business. If you apply pesticides in Nevada, you are required, by existing law, to have a license.

Assemblywoman Krasner:

If I buy a can of Raid at the store and spray around the outside of my house, am I in violation of the law?

Lynn Hettrick:

No, you are not. There is an exemption in the law for people who buy general use pesticides, not restricted use. You can apply your own. That is an exemption that we put in for homeowners. You can even have your landscaper apply it for you, and it is perfectly legal. You can spray your weeds, and so can your landscaper.

Chair Swank:

I am thinking about organizations that do this on a volunteer basis. In my neighborhood, especially during the recession when we had a lot of empty houses, there were neighborhood groups who would take care of these houses. They could be spraying pesticides to keep bugs out of the empty houses. If you have an organization that is doing this on a volunteer basis, will they be trapped in this if we do not have the "for hire" part.

Lynn Hettrick:

That is a question I had not thought of previously. I think we can address that issue. I am not sure we would like to do away with the "for hire" terminology, but I would like to find a way to ensure we do not prohibit a volunteer group from doing something. Maybe we could do that under the auspices of a county or city. They will have accredited personnel to do the same work at schools, parks, and the like.

Assemblywoman Cohen:

Will you tell us what is involved with the testing?

Lynn Hettrick:

The testing is primarily specified at the federal level as to what the minimum requirements are. Nevada has modified the test; in some ways it is more difficult, in other ways it is not. It is specified at the federal level as to the kind of worker protection safety standards you must understand and have knowledge of. There is a list of that knowledge, the things you need to know, such as application rates, equipment, application techniques, laws and regulations, safety, the various pests you might spray for, and environmental consequences of pesticide use and misuse. Those are all tested for so the applicant must have some understanding of what the potential safety risks are.

Assemblywoman Cohen:

How is the test given? Is it computerized? Is it multiple choice?

Lynn Hettrick:

All the testing is done in our offices in Elko, Las Vegas, and Sparks. People schedule appointments, come in, and take a written test. I have not taken the test; I am not sure if it is multiple choice or true or false. It is a standard test that everyone takes. We do it on a daily basis.

Assemblyman Ellison:

What about the agriculture districts that are spraying along the road, taking care of weeds, rodents, et cetera. Does that mean that the districts are now going to have to be licensed?

Lynn Hettrick:

Actually, I think we have representatives of some of the conservation districts here. Most of them already have someone who is licensed in one fashion or another, has a RUP certificate, or is more than happy to obtain this certificate. Having the appropriate accreditation also limits liability. Every indication from people who are involved are not at all concerned about doing the requirements of the accreditation. There will be one member for an entire conservation district who must be accredited.

Assemblyman Ellison:

You exempted agriculture for farming and ranching. Does that include pesticide around barns?

Lynn Hettrick:

Yes, the exemption is for farmers and ranchers, including any operations that they do. There is also an exemption for people who spray pesticides within the vicinity of one farm. When they do their own spraying, they can have some separation of ranch properties. It does not have to be contiguous to continue to do their spraying.

Assemblyman Ellison:

Section 4, subsection 1, paragraph (b) states, "A fulltime government agency employee using any pesticide under the immediate supervision" Will you explain what that means?

Lynn Hettrick:

This would be, for example, the janitor of a school who is a full-time employee of the school but is not a full-time accredited applicator. Since he is not a seasonal employee, we had to make a category for him to be able to spray. He is allowed to spray weeds around the schoolyard, as long as he is supervised. Immediate supervision means they have to be within sight and see if there is anything wrong. We think this is important when talking about schools and parks. The other supervision is called direct supervision, which is being available by phone and within so many minutes from the sight. That is a federal regulation.

Assemblywoman Jauregui:

You said we can buy general use pesticides as long as we are not using the restricted use pesticide. Is that restricted use pesticide available for sale to the public?

Lynn Hettrick:

No, you cannot buy restricted use pesticide without a restricted-use license.

Assemblywoman Jauregui:

I would like to go back to section 7. You stated that the accreditation that you give is good for four years. Section 7 says, "If the Director finds that the applicant is qualified" Does that mean they would not have to have taken any courses or classes if they had prior experience?

Lynn Hettrick:

No, they have to have passed the test to show they are qualified.

Assemblywoman Titus:

Will you clarify pesticide versus herbicide? You keep talking about weed spraying, and I have looked through this whole new amendment, and I am not seeing where you define what a pesticide is. It seems as though you are using pesticide and herbicide synonymously.

Lynn Hettrick:

Pesticide is used interchangeably to mean herbicide, bug control, rat control, anything that controls a pest, and weeds are classified in statute as a pest. So, a pesticide can be an herbicide, a bug killer, or a rat poison.

Assemblywoman Titus:

Is that already defined in statute?

Lynn Hettrick:

Yes.

Assemblywoman Titus:

Perhaps you could add that definition. I think it might need to be clarified.

Lynn Hettrick:

We did not include every section that is not being amended. That section is in statute; it is just not included within the copy we have here.

Chair Swank:

I would agree with Assemblywoman Titus. I think that is where our drafters come in and work closely on bills. The general use pesticide definition is in the bill that came out of drafting. As Committee members, we need that in order to be able to read and understand a bill. That is why I really think you need to work closely with the Legal Division going forward.

Lynn Hettrick:

We fully understand that. As I said, this was a long, tedious process trying to get the language we have, and we tried to avoid every section that we did not amend. I understand for your use you would like to see every statute, but those who worked for hours on this were trying to get it down to the things we had to address.

Chair Swank:

I would really encourage you to work with the experts we have in-house.

Lynn Hettrick:

We would be happy to work with the Legal Division to draft the final bill. Continuing with page 5 ([Exhibit D](#)), it lists the exemptions. You can see that it does not apply to any farmer-owner of ground equipment applying pesticides for himself, herself, or his or her neighbors if it is not for hire. The farmer operates his own equipment only in the vicinity of his own property.

The next part is where we change the exemption for 20 percent. The language is, "The provisions of NRS 555.2605 to 555.460, inclusive, except those provisions relating to a certificate or permit to use a restricted-use pesticide, do not apply to any person who typically owns or works for a business that provides routine lawn or garden maintenance and provides incidental pest control services to landscapes for homeowners if: a. the applications are limited to using hand-powered equipment, devices or contrivances to apply toxicity class III or IV pesticides," which are the general use pesticides that you can generally buy yourself. We cannot have full-blown commercial operators with a giant spray rigging using the high-risk products and trying to use this exemption.

Also, the applications are limited to landscaped areas as an incidental part of the person's business of taking care of a landscaped area of a residential home for remuneration, and if that person does not advertise or solicit pest control or publicly hold himself out as being in the business of pest control or applying pesticides. The person is doing this as a service to the homeowner as part of the routine home lawn maintenance care. This is the type of guy who mows your lawn, and if he offers to pump his sprayer for weeds around the walkways, that would be legal.

Next, NRS 555.280 is "License required to engage in pest control. A person shall not engage in pest control or serve as an agent, consultant, demonstration and research specialist, . . . or a location principal" Those are the added words. We have people come in from California or Idaho, and they show up directly on a ranch or farm. They sell pesticides directly to a rancher or farmer and then leave town. They are not licensed in the state of Nevada, and we have no traceability. We have all kinds of issues with that. Also, quite frankly, they compete with our people who have to pay license fees and are doing it correctly. We want to pick up the consultant, demonstration and research specialist, but we also intend to have an exemption that allows for people to come in and work with a licensed pest control operator, then they would not have to be licensed. If they are simply a consultant and are not making sales, or if they are doing demonstrations or research projects, they do not have to be licensed either. If they are holding seminars and teaching people about how to use pesticides safely, they do not have to be licensed.

In NRS 555.285, we have struck the words "for hire" to make it clear that you cannot engage in termite control or destroying pests without being licensed. Again, we have people who play the game and claim they are not for hire.

Moving on to NRS 555.300, which deals with principal applicator licenses. We have people who are principals within locations who are responsible for the applicators. We are simply making it clearer. We have stricken section 2; it is unnecessary. The new section 2 says, the applicant must have attained the age of majority and has to have two years' practical experience, plus 16 semester credit hours in biological sciences. These are the requirements to obtain a license. This is why we want people licensed.

Chair Swank:

Will you tell me why the stricken section 2 is unnecessary?

Lynn Hettrick:

I think I will let Ron Balsamo in Las Vegas answer that.

Ronald Balsamo, Pest Control Operations, State Department of Agriculture:

All of number 2 is being addressed in section 1 and with what we now have in with the new section 2. My understanding is that section 2 had become redundant.

Chair Swank:

Can you tell me where the information is that was in section 2?

Lynn Hettrick:

Ron has reminded me, by adding the words "applicant for a primary principal, location principal, or principal applicator license," we have essentially covered what was in section 2, which is, if it is not a natural person, they can designate an officer, member, or technician. So we have licensed them in section 1. We will require the applicants to show up for the examination in section 1; we do not need section 2. The new section 2 shows the rest of the things that are required for that person to obtain a license.

Chair Swank:

I also have a question about why we need the word "semester." From having spent some time in higher education, having taught at some universities that have quarters versus semesters, I do not think it really matters if those credit hours are taken during a quarter or a semester system. I think it is confusing to put it in there.

Lynn Hettrick:

Quite frankly, we do not care if it is in or out. I think there was a question if someone tried to use some kind of credit hours as a requirement, we wanted to ensure it was a semester hour. If it is duplicative or unnecessary, we are fine with that.

Chair Swank:

I believe that as long as the institution is accredited or certified in some way, they should be equivalent.

Lynn Hettrick:

I will move on to fees established by regulations. It states, "The Director shall, before the pest control business license is issued, collect from each person applying for a license an annual fee established by regulation of the Director." Any person employing a principal, location principal, et cetera, shall pay a fee to the Director. They actually pay a fee for each person they have employed. That is how we track them.

Next are procedures for withholding, suspending, and restricting a license. The license period must be defined by regulation of the Director. We are striking that all licenses expire on December 31. We are spreading that out because it becomes a burden to have them all expire at once. This is a burden for us and also the pest control companies and the operators. The license may be restricted; this is just cleaning up the language. We removed section 4, "If a license is not issued as applied for, the Director shall inform the applicant" We are striking it because they already know they did not get a license. It says in writing, but it is immaterial. They are going to get their graded test back showing they did not pass.

Chair Swank:

This is also for withholding and suspending. How do they find out if their license was suspended, if they are not informed in writing?

Lynn Hettrick:

There would be a notification on a license being suspended. If you note, this says only if a license is not issued as applied for. This does not apply to suspension or revocation.

Moving on to NRS 555.320, you are familiar with this language. It is the standard federal language in terms of child support.

Application for renewal of a state business license is required. We made it clear that it is a state business license, which says, in addition to any other requirements set forth in this chapter, an applicant for the renewal of a pest control business license must indicate they have a state business registration and license. Again, it is just clarifying that they understand they need both. A pest control business license may not be renewed by the Director if: and then it lists the qualifications.

Proof of insurance is required for a pest control business license; that is why it is separate. There are various insurance requirements that are significantly different than for having a business license with the state of Nevada. A pest control business license requires a good deal more insurance.

Next on page 9 ([Exhibit D](#)), we have simply added the language consultant, demonstration and research specialist, and pilot to ensure it is clarified.

We have tried to simplify NRS 555.345 and make it better. We have a requirement that applicants must have a federal background check in order to be licensed. The reason for that is these people go into private homes. The homeowner calls a pest control company and asks to have their homes sprayed for ants or rodents. We want to ensure the homeowner is safe. That is why we request a background check.

We changed the requirement. It used to be you submit an application to us, and we went through the federal background check system. It was requested that we allow a valid work card that can be generated by the local sheriff's department. It also allows a valid background check approved by the Department. The reason for that is we have people who have background checks for concealed carry permits and many other reasons that require valid background checks. There is no reason to force those people to spend more money to do a background check that is duplicative. We are trying to speed up the process, make it more efficient, and allow people to use existing background checks. If they cannot provide a valid work card or an approved background check, they can then pay the appropriate fees and go through the federal background process.

Chair Swank:

I am trying to rid the NRS of anything that says, "moral turpitude." I think there is a history there that we do not need to keep around. I would like to see that gone.

Lynn Hettrick:

We would be happy to remove that.

Assemblyman Brooks:

It seems ridiculous to me that you can work on a farm or a ranch, spraying the exact same chemicals with no license required, but if you work in the city, you are excluded from that same license to do a trade for pleading nolo contendere to a crime involving moral turpitude. That seems ridiculous for this type of application. Also, you now have to forward your fingerprints to the Central Repository for Nevada Records of Criminal History just so you can get this job. Is it simply because they are going into some homes? There are a lot of people who go to private homes in the course of their regular business. I know this was in the original statute.

Chair Swank:

I also feel that this does not provide the same protection for folks who live on farms. We are going to exempt those folks, yet these protections need to be for people in the cities. I feel that is not very helpful for the folks on the farms. This seems like two different systems.

Lynn Hettrick:

The farm exemption is for the farmer. He is doing his own work, not hiring someone who comes on his property. He may have an employee help him, but he is doing his own work. The requirement for the fingerprints and background check is for a homeowner who calls a company and asks them to send an employee to his home. He does not have a clue who the business owner is. We have a background check to try to minimize the risk to the homeowner.

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

Much of this is tied around private property. Just like you, the private property owner, who buys the stuff from Home Depot is spraying his or her own property. The difference is when we are spraying in those urban corridors and urban areas, specifically with these references, where public property and multiple citizenry are using it; this is about their safety.

Assemblyman Yeager:

Even if we take out crimes of moral turpitude, obviously, in our criminal code, we have felonies ranging the gamut of a simple possession of 0.1 grams of a controlled substance all the way to home invasions, burglaries, and murders. I certainly understand the intent, and I know that is in the law already, but I wonder if there would be an appetite to look at the felony exclusion and come up with a tighter definition and only use the felonies that would result in a danger to public safety or danger to the homeowner, rather than just a blanket felony exclusion for licensing.

Lynn Hettrick:

This was discussed at some length and is part of why we allowed valid work cards and the like; they are a local background check. The work card covers different levels of felony or crime. We are open. This was put into the statute by the Legislature some time ago, not by us. We understand and agree with the intent. I believe the industry agrees with the intent. It is a liability issue for them, and they agree with the intent of the statute. How we define the terminology could be something that we address. We believe it is appropriate to have

a background check for someone. A homeowner should have at least some confidence that the person who knocks on his door is not a significant criminal who might put him at risk.

Chair Swank:

I think we would agree with that. The point is that a felony is a huge category.

Assemblywoman Jauregui:

There are multiple industries that come to your house, like FedEx drivers and postal workers. Are they all required to submit fingerprints to the Central Repository and have federal background checks?

Lynn Hettrick:

I do not know what those kinds of companies require of their employees that make home deliveries. I think there is somewhat of a difference, where they drop off packages and are not usually walking around your house and seeing valuables or something they may want. I think there is some degree of difference there, but I do not know what they require.

Chair Swank:

Again, this gets back to an appeal process. If the background check is not approved by the Department, how does that appeal process work? I have been helping a constituent with a similar problem and trying to figure out what the appeal process is for him.

Lynn Hettrick:

What I would like to do is get to the rest of the statute. As I said earlier, what we did was try to minimize here. I believe we have a complete appeal process in our statute that I would be happy to provide to you.

We may suspend, pending inquiry, for not longer than 10 days, and, after the opportunity for a hearing, may revoke, suspend or modify any pest control business license. This is to make the statute clearer. We have companies who violate the law. We deal with them regularly, and we need to be able to suspend their license to get their attention and get them to comply with statute. Next is a list of things that would apply to allow us to suspend. I see moral turpitude again; I will do away with it.

You will note section 2 on page 10 ([Exhibit D](#)), a pest control business license and all licenses issued thereunder are suspended automatically without action if proof of public and liability insurance and the like is not available. There is high risk with some of these chemicals and pesticides being used. The licensee knows it is a requirement from the beginning that they must have appropriate insurance. Again, requiring a valid work card, valid background check, or payment of the fees is included here. We have stricken the explanation of denial because the certificate holder would already be aware.

I would like to comment on the fiscal note and make it very clear. I know you are not the fiscal committee, and we are going to go somewhere else, but I want to make it very clear that this should have very minimal impact on everyone. Almost all of these agencies have

restricted use pesticide operators, the number of people required to obtain accreditation is small, and we are combining the licenses and making it a four-year term.

There are two amendments that were requested by Clark County ([Exhibit E](#)). The first is in section 3, Government Applicator defined. Clark County felt it was inappropriate to address or compare this definition to a commercial applicator. What we did is change the language to say, "... meets standards adopted by the department and who provides pest control services with general use and restricted use pesticides."

In section 9, we are simply striking, "The designated individual does not need to be an accredited government applicator." This clarifies they can be, and it was essentially redundant.

If we are going to significantly rework this bill language, we will add those with your approval.

Chair Swank:

I will move to support of [A.B. 32](#).

John Fudenberg, Coroner, Government Affairs, Office of the Coroner/Medical Examiner, Clark County:

We support the bill and the amendments that Mr. Hettrick testified to. I would like Chris Bramley in Las Vegas to discuss if there were any issues that were not covered.

Christopher Bramley, Vector Control Supervisor, Department of Public Works, Clark County:

We are in support of the Clark County amendment, both what is written and what will eventually be rewritten. I would like to say I enjoyed working with the Department of Agriculture when we went through this. It was long and tedious, but we appreciate them and recognize them for their commitment to the bill.

Daniel Anderson, Weed Coordinator, Carson City Weed Coalition:

The Carson City Weed Coalition is a combined effort between federal, state, and local landowners within Carson City. On behalf of the Coalition, we are in agreement with the proposed changes. We participated in the hearings hosted by the NDA, and we believe the bill reflects our input. We feel higher standards and education are important for the use of pesticides. Furthermore, the licensing will require any person applying pesticides to be held accountable in any instance of misuse. These high standards will provide safer use and responsibility for pesticide application and applicators. Thank you for your time.

Chair Swank:

Is there anyone else in support? [There was no one.] I will move to opposition. Is there anyone opposed to A.B. 32? [There was no one.] Anyone in neutral?

Nick Vander Poel, representing the City of Fernley; and the Reno Sparks Convention and Visitors Authority:

We testify as neutral today and look forward to working with the NDA on this bill as it is reworked.

David Cherry, Communications and Intergovernmental Relations Manager, City of Henderson, Nevada:

We are neutral today, but I did have one question. Regarding the language in section 9, we were wondering if there is a fee required in order to become a registered government agency. If so, has there been a contemplated amount?

Bradley Mayer, representing Southern Nevada Health District:

The Southern Nevada Health District is neutral on this bill. Essentially this bill codifies the way in which we operate, which is having one accredited government applicator overseeing the group of employees on vector control. This has no effect on our operation, unlike the previous version of this bill, which would have been a significant unfunded mandate.

Chair Swank:

Anyone else wishing to testify in neutral? [There was no one.] Mr. Hettrick, do you have closing remarks?

Lynn Hettrick:

To answer the question regarding fees, we do not anticipate charging any fee for government agency registration. We simply need to know who to contact if there is an issue.

Chair Swank:

I think there is still quite a bit of work to do on this. I would suggest that we cannot be the first state to have this model. Looking at other states is often a good way to find the language you are looking for. I need you to work closely with the Legal Division.

[Also provided but not mentioned is a proposed amendment from Jake Plevelich for National Pest Management Association ([Exhibit G](#)).]

I will close the hearing on A.B. 32, and move to public comment. Is there anyone who would like to make public comment? Seeing no one, we are adjourned [at 3:26 p.m.].

RESPECTFULLY SUBMITTED:

Nancy Davis
Committee Secretary

APPROVED BY:

Assemblywoman Heidi Swank, Chair

DATE: _____

EXHIBITS

[Exhibit A](#) is the Agenda.

[Exhibit B](#) is the Attendance Roster.

[Exhibit C](#) is a letter in support of [Assembly Bill 33](#), provided by Richard Perry, Administrator, Division of Minerals, Nevada Commission on Mineral Resources.

[Exhibit D](#) is a bill amendment for [Assembly Bill 32](#), provided by Lynn Hettrick, Deputy Director, Division of Administration, State Department of Agriculture.

[Exhibit E](#) is an amendment for [Assembly Bill 32](#) provided by Clark County, presented by Lynn Hettrick, Deputy Director, Division of Administration, State Department of Agriculture.

[Exhibit F](#) is a packet of letters in support of [Assembly Bill 32](#) provided by Lynn Hettrick, Deputy Director, Division of Administration, State Department of Agriculture from:

1. Mark T. Coca, Vegetation Management Specialist, Nevada State Office, Bureau of Land Management, U.S. Department of the Interior.
2. Betsy MacFarlan, Executive Director, Eastern Nevada Landscape Coalition.
3. Brandon Vaught, Manager, Tri-County Weed Control, Elko, Nevada
4. Maggie Orr, President, Nevada Association of Conversation Districts.

[Exhibit G](#) is a proposed amendment to [Assembly Bill 32](#) from Jake Plevelich for National Pest Management Association.