

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

**Eightieth Session
May 6, 2019**

The Committee on Natural Resources, Agriculture, and Mining was called to order by Chair Heidi Swank at 4:01 p.m. on Monday, May 6, 2019, in Room 3138 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at www.leg.state.nv.us/App/NELIS/REL/80th2019.

COMMITTEE MEMBERS PRESENT:

Assemblywoman Heidi Swank, Chair
Assemblywoman Shannon Bilbray-Axelrod, Vice Chair
Assemblyman Alex Assefa
Assemblywoman Maggie Carlton
Assemblyman John Ellison
Assemblyman Ozzie Fumo
Assemblywoman Alexis Hansen
Assemblywoman Sarah Peters
Assemblyman Greg Smith
Assemblywoman Robin L. Titus
Assemblyman Howard Watts
Assemblyman Jim Wheeler

COMMITTEE MEMBERS ABSENT:

None

GUEST LEGISLATORS PRESENT:

None

STAFF MEMBERS PRESENT:

Jann Stinnesbeck, Committee Policy Analyst
Allan Amburn, Committee Counsel
Nancy Davis, Committee Secretary
Alejandra Medina, Committee Assistant



OTHERS PRESENT:

John Christopherson, Deputy Administrator, Operations, Division of Forestry, State
Department of Conservation and Natural Resources

Chair Swank:

[Roll was taken. Rules and protocol of the Committee were reviewed.] We are going to start with hearing Senate Bill 56 (1st Reprint).

Senate Bill 56 (1st Reprint): Revises provisions relating to natural resources.
(BDR 47-359)

**John Christopherson, Deputy Administrator, Operations, Division of Forestry, State
Department of Conservation and Natural Resources:**

I am here to provide testimony in support of Senate Bill 56 (1st Reprint), which revises provisions relating to the enhancement, conservation, and protection of Nevada's natural resources contained in *Nevada Revised Statutes* (NRS) Chapters 527 and 528. Existing Nevada statutes reflect outdated forestry practices that are no longer supported by the best available science and nationally recognized forestry standards. Senate Bill 56 (1st Reprint) updates existing law to reflect current scientific and national forest industry standards and practices.

The bill updates postharvest stocking standards, which is tree density; modifies regulated stream zone definitions; and establishes snag retention guidelines, which are dead trees that have wildlife benefits. This bill also enacts slash disposal practices, which is logging debris; and revises provisions relating to logging operations. The bill clarifies procedures and terminology related to state protected plants and prescribed fire.

Section 1 of the bill revises NRS Chapter 527 to provide clarification on the conditions that require a permit from the Division of Forestry (NDF), State Department of Conservation and Natural Resources, to disturb any plants that have been placed on a list of fully protected species pursuant to NRS 527.270. The NDF is responsible for the protection and disturbance mitigation of state-listed species in Nevada. Permitting from the State Forester Firewarden for the disturbance of these species has always been required in this statute. This change provides clarification on applicable jurisdictions which includes the Division of State Parks, State Department of Conservation and Natural Resources.

Sections 2 through 4 of the bill make various changes to NRS Chapter 527 related to controlled fires. These proposed changes reflect, and are consistent with, the National Wildfire Coordinating Group's *Interagency Prescribed Fire Planning and Implementation Procedures Guide*, which NDF has adopted in policy.

Specifically, sections 2 and 3 change the terminology in NRS Chapter 527 from "controlled fire" to "prescribed fire."

Section 4 has a technical amendment to retain the language as originally written in statute. The original statute language conforms with recent changes made to the National Wildfire Coordinating Group's *Interagency Prescribed Fire Planning and Implementation Procedures Guide*.

Sections 5 through 25 of this bill revise portions of NRS Chapter 528, the state's forest practice rules. This statute regulates the harvest of timber on all nonfederal lands in the state and was written in the early 1970s. The practices of forestry and timber harvesting have evolved since that time. The revisions in this bill are reflective of that evolution of the forestry profession since the law was originally written.

Section 16 contains a technical amendment that changes the protected buffer zone around streams and other water bodies from 200 feet to 50 feet. This amendment is necessary to remain consistent with other changes made in section 18.

That concludes my testimony and I am open for any questions you may have.

Assemblywoman Titus:

I understand that protecting the environment is important. However, I am concerned about individual property owners and their rights. I have water frontage, and if I do some work around there, I am concerned about the requirements and delay that I may have to go through to get permission to do that work. Will you clarify section 18, subsection 4, as it pertains to private land ownership?

John Christopherson:

Actually, the change to the statute has made it less restrictive and gives the agency more flexibility in enforcing protections of water bodies from potential impacts from logging. It reduced the regulated stream zone from 200 feet on either side of the high-water mark to 50 feet. It narrowed that zone, mainly because we often found 200 feet to be excessive of what was actually necessary, yet we were required to meet with officials from three different agencies in the field and with the landowner to discuss what exceptions or variances to this law would be granted and warranted. Now we have reduced it down to 50 feet. Having said that, it is still a requirement for any timber harvest practices that occur within the 50 feet regulated zone of a lakeshore or stream.

The stream zone variance committee, which comprises members of the Division of Water Resources within the State Department of Conservation and Natural Resources, the Department of Wildlife, and NDF, must convene in the field to actually look at the proposed project as it is written and see what the potential impacts could be to the body of water with each of those agency's interests represented, be it a water right, wildlife or fishery habitat, or sedimentation and potential water quality impact.

Assemblywoman Titus:

I see in section 18, subsection 2, it is decreased to 50 feet. It seems subsection 4 is adding additional requirements. Is this just for clarifying existing requirements?

John Christopherson:

That is correct. The requirement for the stream zone variance committee to meet for any activity within a regulated stream zone existed prior to this bill.

Assemblywoman Bilbray-Axelrod:

You said this portion of NRS has not been updated since the 1970s. Throughout the bill there is the removal of "truck" and "tractor," and replaced with "skid." Also, in section 25, the word "shall" is changed to "must." From what I understand, shall is usually a must. Will you clarify that?

John Christopherson:

The revision of some of the language that referred to truck and tractor logging was more of an update of language that, at the time the statute was written, was reflective of the types of equipment that were used in timber harvesting operations. We largely replaced those with the types of equipment that are comprehensively referred to as "ground-based equipment." That includes trucks, tractors, and any number of other equipment that operates on the ground following different kinds of pathways or roads through the forest. That is what the change in the language did; it updated antiquated terminology.

In terms of the switch from shall to must, I cannot necessarily speak to why that change was made.

Allan Amburn, Committee Counsel:

The drafting conventions are that we use usually say "shall" and "must"—they both implement a requirement. "Shall" is usually placed upon a natural person, whereas "must" is used to request a requirement on a subject, or inanimate object.

Assemblywoman Peters:

My question relates to the change from 200 feet to 50 feet. The context that I am thinking about is in this day of climate change where we see river systems or water systems changing dramatically within decades. That high-water mark can be reassessed as being a little variable in some situations. I wonder what your process is about determining the high-water mark and why we moved it to 50 feet. I understand that it includes an entire committee to review that space, but I think that is very important space to consider when discussing the changes of riparian areas despite what the current status of the waterway is.

John Christopherson:

The way the regulatory stream used to be defined was indicated as a solid blue line or a dot-dash line on the latest U.S. Geological Survey 7.5-minute quadrangle map. If the stream was not shown as a solid blue line or a dot-dash ephemeral stream, then we had no ability to provide any regulatory protection for that water course. The definition of the stream now is one that supports riparian vegetation. Any swale or river that has vegetation that is characteristic of a riparian system, a system that has water, or is influenced by water, is one that we will look at.

Secondarily, the reason for us changing from 200 feet to 50 feet was that we found ourselves in many of these ephemeral streams that carried water very infrequently, yet we were having to come out and look at forest practices that would have marginal or zero impact on such a piece of ground. It is not that we were not allowing it, it was just that we had to convene and decide whether the proposed activities were going to impact the body of water, the swale, or any water conveying feature on a landscape. The frequency with which we were called upon to do that, with findings that we were always issuing a variance to waive that requirement and make the regulated distance from the stream body less than 200 feet, was not worth the effort. We reduced it to 50 feet with the ability to expand beyond that if we feel it is warranted when we meet in the field.

Assemblywoman Peters:

What are the criteria for waiving that distance?

John Christopherson:

There are multiple criteria. As I mentioned, the stream zone variance committee comprises three different agency representatives. When the Division of Water Resources has a representative out in the field and is looking at potential impacts from any kind of forestry activity, they are particularly looking at any kind of impacts that will disrupt or impair the ability of the conveyance feature to provide existing water rights holders their share of the water. As long as they are fairly sure that will not be impacted, they are good to go and usually do not have too much input on the process.

The Department of Wildlife is normally looking at the amount of vegetation that is overhanging in the creek—which is primarily for a perennial creek with flowing water—and the shading that the vegetation provides, protections from sunshine, and water temperature increases, which are critical to various aquatic habitat.

From the NDF perspective, we look at soils, slope, and type of vegetation to come up with an assessment of the likelihood of there being a significant potential for soil erosion based on the proposed vegetation removal, what equipment is going to be used in the vegetation removal, and the likelihood of that causing soil disturbance, which then has a potential to migrate into the stream channel.

Assemblywoman Peters:

My comments are based on my concerns for the transitioning riparian environment that can occur during drought conditions and that we do not discount those as being systemically nonriparian, and that they do have the potential to run water in nondrought years.

John Christopherson:

I understand those concerns and they are certainly ones that we take into consideration when we are in the field reviewing a request for a variance.

Assemblyman Ellison:

When looking at the bill, I thought there would be some new language to address greenbelts and pruning. Is that something that needs to be looked at as an upgrade for what is being done now? It looks like more pruning is being done now than ever before.

John Christopherson:

Our rules do not apply to individual practices related to pruning of a single tree. Typically, the only time we are pruning is for raising the height of a canopy to keep it out of the way of fire flames that are moving along the ground. That is not a regulated activity. It is one that is well within any property owner's permission to do without any oversight from NDF. With respect to greenbelts, will you repeat your question?

Assemblyman Ellison:

The greenbelt is along the roadways where crews take the underbrush and high grass away. The pruning is when the trees are getting too close together, the crew will prune out the trees that are dying.

John Christopherson:

It depends on the nature of the work being done. If we are just removing small trees and it is essentially putting in a fuel break or a firebreak, those are not activities that we are necessarily going to be regulating because most of the vegetation that we are removing is brush and grasses and the finer fuels and vegetation that are more characteristically the ones that are carrying the fire, rather than the large crown trees. The work we do in those areas is mainly confined to nonregulated types of vegetation treatments, rather than traditional forestry activity.

Chair Swank:

Is there anyone here who would like to testify in support of S.B. 56 (R1)? [There was no one.] Is there anyone here to testify in opposition? [There was no one.] Is there anyone here to testify in neutral? Seeing no one, I will close the hearing on S.B. 56 (R1). I will move into the work session, beginning with Senate Bill 55.

Senate Bill 55: Revises provisions relating to carrying a loaded rifle or shotgun in or on a vehicle which is standing or being driven on or along a public highway or other way open to the public. (BDR 45-209)

Jann Stinnesbeck, Committee Policy Analyst:

Senate Bill 55 was brought forth on behalf of Department of Wildlife and was heard in this Committee on April 15, 2019 ([Exhibit C](#)). The bill provides that a muzzle-loading rifle or musket is not loaded if the priming compound or element is removed. There were no amendments for this measure.

Chair Swank:

I will take a motion to do pass S.B. 55.

ASSEMBLYWOMAN BILBRAY-AXELROD MOVED TO DO PASS
SENATE BILL 55.

ASSEMBLYWOMAN TITUS SECONDED THE MOTION.

Is there any discussion on the motion? [There was none.]

THE MOTION PASSED UNANIMOUSLY.

I will assign the floor statement to Assemblywoman Bilbray-Axelrod. Next up is Senate Bill 85 (1st Reprint).

Senate Bill 85 (1st Reprint): Revises provisions governing the importation into this State of certain live animals or parts of the carcass of certain animals. (BDR 45-206)

Jann Stinnesbeck, Committee Policy Analyst:

Senate Bill 85 (1st Reprint) was brought forth on behalf of the State Department of Agriculture and was heard in this Committee on April 29, 2019 ([Exhibit D](#)). The bill makes it unlawful to knowingly bring into the state, or knowingly possess in this state, the carcass or any parts of the carcass of certain animals obtained in another state that are susceptible to chronic wasting disease. There were no amendments for this measure.

Chair Swank:

I will take a motion to do pass S.B. 85 (R1).

ASSEMBLYMAN WATTS MADE A MOTION TO DO PASS SENATE BILL 85 (1ST REPRINT).

ASSEMBLYMAN ASSEFA SECONDED THE MOTION.

Is there any discussion on the motion?

Assemblywoman Titus:

Unfortunately, I am going to have to be a no on S.B. 85 (R1). I recognize that chronic wasting disease can be, and has been, devastating to other states and certainly there is potential to bring it to our state if it is not already here. It is not that convenient when you go out of state and spend \$20,000 to \$50,000 to purchase a hunt. You may not know initially that this law is in place, and to have your expensive prize confiscated and destroyed has me very concerned. I have reached out to Chief Game Warden Turnipseed—he understands my concerns and wishes there was a solution. My suggestion is to perhaps put the animal in storage, at the expense of the hunter, until the test comes back, negative or positive. If it is

negative, return the animal to the hunter. I think there are other options besides destroying the carcass. Until I have some more assurance that our game wardens will be selective, give options, and have the proper notification, I will be voting no.

Chair Swank:

I will add that I believe Chief Game Warden Turnipseed put on the record that usually when a new policy is implemented, it is done slowly so that people have time to be informed. I will also add that if you are spending that much money, preplan.

Is there any further discussion on the motion? [There was none.]

THE MOTION PASSED. (ASSEMBLYMEN HANSEN, TITUS, AND WHEELER VOTED NO.)

I will assign the floor statement to Assemblyman Assefa. Next is Senate Bill 232.

Senate Bill 232: Revises certain provisions related to irrigation districts. (BDR 48-644)

Jann Stinnesbeck, Committee Policy Analyst:

Senate Bill 232 was sponsored by Senator Settelmeyer, and was heard in this Committee on April 15, 2019 ([Exhibit E](#)). The bill provides that when land within an irrigation district is held in trust, a trustee may designate a beneficiary of the trust to exercise certain rights. There were no amendments for this measure.

Chair Swank:

I will take a motion to do pass S.B. 232.

ASSEMBLYMAN WHEELER MADE A MOTION TO DO PASS SENATE BILL 232.

ASSEMBLYWOMAN TITUS SECONDED THE MOTION.

Is there any discussion? [There was none.]

THE MOTION PASSED UNANIMOUSLY.

I will assign the floor statement to Assemblywoman Titus. Next is Senate Bill 454.

Senate Bill 454: Revises provisions relating to the unlawful harassment of wildlife. (BDR 45-753)

Jann Stinnesbeck, Committee Policy Analyst:

Senate Bill 454 was sponsored by the Senate Committee on Natural Resources and was heard in this Committee on April 29, 2019 ([Exhibit F](#)). The bill clarifies that it is unlawful to harass, hunt, kill, or aid and abet another person in killing game mammals or game birds

using an aircraft. The term "aircraft" includes manned or unmanned aircraft, including any unmanned aerial vehicle. There were no amendments for this measure.

Chair Swank:

I will take a motion to do pass S.B. 454.

ASSEMBLYWOMAN PETERS MADE A MOTION TO DO PASS
SENATE BILL 454.

ASSEMBLYMAN WATTS SECONDED THE MOTION.

Is there any discussion on the motion? [There was none.]

THE MOTION PASSED UNANIMOUSLY.

I will assign the floor statement to Assemblywoman Peters. Next is Senate Concurrent Resolution 5.

Senate Concurrent Resolution 5: Expresses support for the role of science in the Lake Tahoe Basin and recognizes the role of the Tahoe Bi-State Executive Committee and the Tahoe Science Advisory Council in guiding environmental preservation, protection, restoration and enhancement efforts in the Lake Tahoe Basin. (BDR R-438)

Jann Stinnesbeck, Committee Policy Analyst:

Senate Concurrent Resolution 5 was brought forth on behalf of the Legislative Committee for the Review and Oversight of the Tahoe Regional Planning Agency and the Marlette Lake Water System, and was heard in this Committee on April 24, 2019 (Exhibit G). The resolution expresses support for the critical role of science in preserving the environmental and ecological conditions in the Lake Tahoe Basin. There were no amendments for this measure.

Chair Swank:

I will take a motion to adopt S.C.R. 5.

ASSEMBLYWOMAN PETERS MADE A MOTION TO ADOPT SENATE CONCURRENT RESOLUTION 5.

ASSEMBLYMAN WHEELER SECONDED THE MOTION.

Is there any discussion on the motion? [There was none.]

THE MOTION PASSED UNANIMOUSLY.

I will assign the floor statement to Assemblyman Smith. That concludes our work today. Is there anyone here for public comment? Seeing no one, we are adjourned [at 4:29 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 the Work Session Document for [Senate Bill 55](#), dated May 6, 2019, presented by Jann Stinnesbeck, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit D](#) is the Work Session Document for [Senate Bill 85 \(1st Reprint\)](#), dated May 6, 2019, presented by Jann Stinnesbeck, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit E](#) is the Work Session Document for [Senate Bill 232](#), dated May 6, 2019, presented by Jann Stinnesbeck, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit F](#) is the Work Session Document for [Senate Bill 454](#), dated May 6, 2019, presented by Jann Stinnesbeck, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit G](#) is the Work Session Document for [Senate Concurrent Resolution 5](#), dated May 6, 2019, presented by Jann Stinnesbeck, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.