

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

**Eightieth Session
May 8, 2019**

The Committee on Natural Resources, Agriculture, and Mining was called to order by Chair Heidi Swank at 4:03 p.m. on Wednesday, May 8, 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:

Senator Pete Goicoechea, Senate District No. 19
Senator James A. Settelmeyer, Senate District No. 17

STAFF MEMBERS PRESENT:

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

Minutes ID: 1030



OTHERS PRESENT:

Alex Tanchek, representing Nevada Cattlemen's Association
Douglas Farris, Administrator, Animal Industry, State Department of Agriculture
Lynn Hettrick, Chief, Government Relations, Health Farm Management and Silver
Lion Farms, LLC
Jennifer Ott, Director, State Department of Agriculture
Will Adler, representing Scientists for Consumer Safety
Adrienne Snow, Business Development Manager, Western States Hemp
Ray Bacon, representing Nevada Manufacturers Association
Nick Vander Poel, representing Northern Nevada Development Authority

Chair Swank:

[Roll was called. Rules and protocol of the Committee were reviewed.] I will open the hearing on Senate Bill 400 (1st Reprint).

Senate Bill 400 (1st Reprint): Revises provisions governing the auditing and bonding of public livestock auctions. (BDR 50-634)

Senator Pete Goicoechea, Senate District No. 19:

The intent of Senate Bill 400 (1st Reprint) is to protect the public. We have two public livestock auctions in the state of Nevada; there are a number of the population in the industry. I am assuming some of you in this Committee have either bought, sold, or transferred some livestock through a public livestock auction. What we have tried to do is bring our existing statute and bonding in line with the federal requirements. One of the changes in the law is the bond amount, which currently is \$200,000 and not more than \$1 million. In section 1.3, subsection 1, paragraph (a), the bill changes that to "the amount of bond coverage calculated for a market agency pursuant to 9 C.F.R. § 201.30(a), whichever is greater." Also, the bill states in section 2, subsection 3, paragraph (c), that the licensee shall: "On or before January 15 of each year, submit to the Director an annual audit of the licensee's custodial account for consignors' proceeds for the immediately preceding year, which must be performed by a certified public accountant." The certified public accountant (CPA) has to hold a permit. The audit may also be provided by the Packers and Stockyards Division of the United States Department of Agriculture (USDA) if he or she meets the requirements.

Presently, the licensee is required to provide an audit of his custodial account as well as his full financial account. That has been problematic to some of the sale yard owners. Therefore, the audits have not been matching up, which gives the State Department of Agriculture (NDA) some pause—they need some direction in statute to say this is the audit, it is the custodial account, and this is how it shall be performed, either by a CPA or the Packers and Stockyards Division of the USDA. That way we can ensure that the custodial account, which is the account that they do weekly auctions on, is a solvent fund. There was a sale yard in Fallon that collapsed financially; it actually broke some ranchers who had a number

of livestock in the sale yard. If you lose livestock and the bonding is not adequate and you cannot ensure that the sale yard is solvent, you can get into trouble.

This has been an ongoing battle between the sale yards and the NDA as far as what should be required. This bill clarifies and aligns it with the *Code of Federal Regulations*.

Assemblyman Smith:

You just mentioned the Fallon yard collapsing; it made me wonder why we would reduce the amount to \$200,000 and eliminate the \$1 million cap.

Senator Goicoechea:

When the sale yard in Fallon collapsed, they did not have any portion of the \$200,000 bond in place. Today, the floor is \$200,000, or whatever the amount calculated by their receipts for the year for that auction. It can be higher than \$1 million if there is enough livestock being sold. The amount of bonding will be calculated either by a CPA or the Packers and Stockyards Division, UDSA. This bill maintains a base and does not require up to the \$1 million. This allows for an actual audit of the receipts of that sale, which sets the bonding amount.

Chair Swank:

Is there anyone here who would like to speak in support of S.B. 400 (R1)?

Alex Tanchek, representing Nevada Cattlemen's Association:

The Nevada Cattlemen's Association supports this bill.

Chair Swank:

Is there anyone in opposition to this bill? [There was no one.] Is there anyone in neutral? [There was no one.] Seeing no closing remarks, I will close the hearing on S.B. 400 (R1) and open the hearing on Senate Bill 417 (1st Reprint).

Senate Bill 417 (1st Reprint): Revises provisions governing public sales of livestock. (BDR 50-371)

Senator Pete Goicoechea, Senate District No. 19:

Senate Bill 417 (1st Reprint) addresses the issues we have with annual sales. This is an event, much like the Snyder Livestock Company, Inc. bull sale. These are sales, clarified in statute, which can only be held once a year for two consecutive days. These sales require a special sale license for that event. We presently have exemptions for the 4-H and the Future Farmers of America. We have other special event sales that are having to comply with the requirements that we just discussed in Senate Bill 400 (1st Reprint).

This bill allows those wishing to have a special event sale to apply with the State Department of Agriculture (NDA). The NDA will assess a fee, and the bond coverage will be covered in the same manner, but clearly, with a two-day sale, unless there are some very expensive

livestock, the bond requirement would not be nearly as high. I suppose if you had 1,000 head of good horses for sale, you may have to post a \$500,000 bond to ensure you were covered.

This is only an annual sale that cannot be more than two consecutive days and does require a bond amount to be calculated by NDA. For the first event, you will not have previous sales to base the bond on, so the NDA will determine a bond amount. For subsequent years, NDA will calculate the true bond amount.

Chair Swank:

Section 1, subsection 2, says, "As soon as practicable." "Practicable" is a vague word. Can you talk about why we did not put in, "As soon as practicable, but no longer than a certain number of days"? I worry about practicable being too long a period of time.

Senator Goicoechea:

I would assume that if the NDA received an application, they could turn it around in a week's time. I assume also that for these people who want to hold an annual event, after the first time, they will be able to base the time needed for an application.

I know some of these special events are advertised six months in advance, so there should be a lot of lead time to acquire that license.

Chair Swank:

Section 1, subsection 4, paragraph (b), subparagraph (1), says, "Less than the amount otherwise required." I believe that would allow for a bond of less than \$200,000. What is the intent of that?

Senator Goicoechea:

If you were having a very small sale, \$200,000 might be hard to impose. I think NDA wants that flexibility. I know that NDA would be very cautious. If you are going to sell over \$200,000 worth of livestock, you better have a bond in place.

Assemblywoman Titus:

Currently, are those people who are holding special events not required to have any permit or license?

Senator Goicoechea:

Technically, under law, they are supposed to have the same license that they would have with the big auctions. That is what is required under law. I do not think there has been a lot of compliance, which is a problem.

Assemblywoman Titus:

As the law stands now, the small annual sales are required to have a license. Is there a fee to do that? Is there a difference in cost to get an annual license versus a two-day license?

Senator Goicoechea:

Those fees are set by regulation. We did not want to put them in statute. It is presently in regulation in *Nevada Administrative Code* (NAC) [NAC Chapter 573].

Chair Swank:

Section 1, subsection 2, paragraph (b), says the fee is established by regulation.

Assemblyman Ellison:

Is there a way to include special events, such as an Appaloosa show, to cover the bonding?

Senator Goicoechea:

Section 1, subsection 4, limits the required duration of any surety bond or deposit receipt submitted. It is required—the special events must be bonded—it is in the bill.

Assemblyman Ellison:

What happens if there is a special event that comes forward and there will be another big show? Can they go from a two-day to a three-day, or two weekends?

Senator Goicoechea:

If they decided to have more than one annual sale, they would have to apply as a livestock sale and they would have to meet the requirements discussed in S.B. 400 (R1).

Assemblyman Smith:

Looking at section 1, subsection 3, it says, "A limited license to conduct an annual sale of livestock is valid for the period for which it is issued." If I applied for a permit for an event that I wanted to have sometime during the next three months, does that mean that I do not have to pin it down to a certain day? If I read this right, looking at section 2, subsection 1, paragraph (b), "Which is conducted for not more than 2 consecutive days during a calendar year," if I had one event two weeks after the application but I blocked out the three-month period, could I come back and do another one later?

Senator Goicoechea:

No. The event cannot be for more than two consecutive days. Section 2, subsection 1, says that an "annual sale of livestock" means any sale of livestock to which any member of the public may consign livestock, and it cannot be conducted for more than two days. If you want to do three two-day events a year, you would have to apply under a licensed auction yard.

Assemblyman Smith:

Could I have three one-day events?

Senator Goicoechea:

Any time you move beyond the two consecutive days, you would have to license as a public livestock auction.

Chair Swank:

Would you be able to have five nonconsecutive days during a calendar year?

Senator Goicoechea:

I would hope not. If that is legal counsel's opinion, we would need to clarify that in the bill.

Allan Amburn, Committee Counsel:

No, basically this is a maximum of two consecutive days during a calendar year. If you go beyond that, you have to get a public livestock auction permit.

Chair Swank:

Are there any more questions? [There were none.] Is there anyone here who would like to testify in support of S.B. 417 (R1)?

Alex Tanchek, representing Nevada Cattlemen's Association:

Nevada Cattlemen's Association supports the bill.

Chair Swank:

Is there anyone who would like to testify in opposition? [There was no one.] Is there anyone who would like to testify in neutral?

Douglas Farris, Administrator, Animal Industry, State Department of Agriculture:

I would like to thank Senator Goicoechea for bringing this bill forward and working with the NDA. I think it will be a benefit, but we are testifying neutral today.

Chair Swank:

Seeing no closing comments, I will close the hearing on S.B. 417 (R1) and open the hearing on Senate Bill 347 (1st Reprint).

Senate Bill 347 (1st Reprint): Revises provisions relating to hemp. (BDR 49-976)

Senator James A. Settelmeyer, Senate District No. 17:

I appreciate the time to introduce Senate Bill 347 (1st Reprint). Former Senator Segerblom brought the hemp legislation many sessions ago. The industry has grown and evolved to the point where it has become legitimized 100 percent by the federal government. The federal government decided, in their infinite wisdom, to pass federal law [Agriculture Improvement Act of 2018, commonly known as the farm bill]. That meant the 4 or 5 pages of law that we have, based on their 26 pages, was an issue. Nevada needed to adopt the federal definitions and regulations in order to be in compliance.

When the federal government passed their laws and regulations, I reached out to a friend of mine and former colleague, former Assemblyman Lynn Hettrick. He is working within the hemp industry. He and I started working on regulations. I greatly appreciate the State Department of Agriculture (NDA) and the work they were able to do with us to get us to this point. We had several meetings to figure out what would be best for the industry overall.

One of the main tenets that I am looking at is that things are still evolving. The federal government is currently having some discussion about changing the federal law from 0.3 percent to 1 percent tetrahydrocannabinol (THC) concentration. We want to remain flexible, and that is why some of this is moving regulation to the *Nevada Administrative Code* so that if the industry adjusts between sessions, the ability to do that is there.

Lynn Hettrick, Chief, Government Relations, Health Farm Management and Silver Lion Farms, LLC:

It is my pleasure to walk you through this bill. Section 1 through section 4 is merely conforming the language to federal law. Section 5 defines "handler." Section 6 adopts the federal definition of hemp and the federal THC limits. Section 7 does nothing but wordsmithing, fixing the language that exists. Section 8 clarifies people who are exempt from this chapter.

Section 9, subsection 4, paragraph (c), addresses environmental concerns that were had by the NDA. Section 9, subsection 5, paragraphs (a), (b), and (c), address the renewal requirements to renew a license to grow hemp in the state of Nevada. Section 9, subsection 6, addresses environmental issues. We have had some people abandon hemp permits. When they did, they did not clean up the crop or the residue. That needed to be addressed as well. Section 9, subsection 7, requires the NDA to adopt regulations pertaining to the transfer of registrations. There have been some issues there, but there needs to be at least some flexibility to allow the transfer of registration, in the event of a death, or perhaps a sale. Section 9, subsection 8, limits fees to cover the actual costs to do whatever the NDA needs to do to permit under the federal law. Sections 10 and 11 are nothing but housekeeping.

Section 12 is recordkeeping that is required by federal law and also addresses maximum THC level. You will notice that it says in subsection 2, "exceeds the maximum THC concentration established by federal law." Senator Settelmeyer addressed that. We anticipate the federal government is going to raise the limit. The current limit is very low. It is clearly not marijuana with 1 percent THC. There is not a marijuana grower in the world that would grow 1 percent THC marijuana. It is clearly hemp and it needs to be addressed so we do not have people destroying a crop that is obviously hemp, but tested slightly over 0.3 percent THC.

Additionally in that section, we addressed disposal of what is called "hot hemp," if THC concentration were over the federal limit. There has to be a disposal of that crop; this section addresses the disposal plan. Following that is penalties. There are administrative fines and reporting the grower to the appropriate local law enforcement agency if it violates *Nevada Revised Statutes* (NRS) Chapter 453, which contains provisions for marijuana. Section 13 is clarification and conforming the language to the federal language within the 2018 farm bill.

Section 14 adds language to comply with the new federal law and the seed source requirements. The seed has to be sourced from a registered producer, so you know it is hemp seed. If you do not buy from a registered producer in the state of Nevada, then it has to be a registered producer in another state.

Section 15 strikes portions of the existing law addressing commodities. The NDA does not have statutory authority to test commodities, that is handled by the Department of Health and Human Services (DHHS). Section 15, subsection 2, adds the testing requirements. Section 15, subsection 3, deals with failure-to-test provisions if you harvested the crop before testing through the NDA, which is required by the federal government. If you harvest before testing, that would be considered a failure and that crop would be subject to immediate disposal or confiscation, and you would be subject to fines. Section 15, subsection 4, defines independent laboratory and strikes some obsolete language.

Section 16 fixes some language. Section 17 strikes the civil penalties and adds administrative fines and addresses those issues within NRS Chapter 453 as well. Sections 18 through 21 amend NRS Chapter 453. That is not really part of this bill, except for conforming the language within NRS Chapter 453 so it matches NRS Chapter 557, which is this bill, as well as conforming to the new federal law. Section 22 is other repealed sections of NRS. Section 23 is the effective date.

Assemblyman Smith:

What is considered effective disposal of the crop?

Senator Settelmeyer:

I have heard some places get out heavy equipment and till it back into the ground; it cannot be sold or utilized. Some places will let it go fallow, not irrigating anymore, waiting until the plant rots.

Lynn Hettrick:

Additionally, if the hemp were harvested, it may be handled as they have done marijuana crops: mixing it with dirt to dispose of it. By the time you mix it with dirt of any kind, you destroy its value and it cannot be utilized well. Any disposal method that is approved by the NDA would be appropriate. If the plants were dry enough, you could burn them. You could mix it with something that would make it unusable.

Assemblyman Smith:

I am assuming by your deleted language in section 15, it looks to me like you have pretty well taken this out of any human consumption. I am assuming we are at a point where human consumption is no longer considered by this product.

Senator Settelmeyer:

It has reference to hemp not being a commodity.

Lynn Hettrick:

That section addresses commodities and products. That is outside the statutory authority of the NDA. We are eliminating that from this language and in NRS Chapter 557, which regulates hemp. The products and commodities made with cannabidiol (CBD) are regulated by the DHHS. It will still be regulated, it is still legal for human consumption, and will remain so. This simply takes away the requirement that the NDA be the entity testing those products.

Assemblywoman Bilbray-Axelrod:

I know that in Clark County, in particular, we have had some issues with actual THC testing where the manufacturer is doing his own testing and selling of his product. It is sort of like the fox guarding the hen house. Is there going to be some independent testing? Also, I know that some counties decide if farmers will be allowed to grow THC. Will this change make it so the state of Nevada, in general, can grow hemp?

Senator Settelmeyer:

It is my understanding that marijuana is regulated that way—county by county—but hemp is allowed in all counties since it is completely federally permissive.

Lynn Hettrick:

The federal law says that if the state does not adopt a plan, then the federal government will adopt a plan and the state can produce under the federal government's plan. We want to do this under the state of Nevada. We think we are going to have a very large hemp industry and we are very excited about it; however, we are going to be small in relation to a lot of the other states. We do not want to have to sit back and wait for the federal government to come in to conduct the THC tests and prove that it is hemp so it can be harvested. If we have to wait for the federal government for testing, we fear we will lose crops. The NDA has been very proficient in testing these crops in advance and making sure we can harvest the crop.

Regarding your question on independent laboratories, the bill is saying it has to be a certified independent laboratory. The NDA has three employees who do this type of work. They may be able to add others, but the client that I consult for in Ely, Silver Lion Farms, LLC, is planning to farm 2,300 acres of hemp. They are one of many across the state. We could have those three employees running ragged trying to keep up. This will allow the ability so that we might be able to use an independent laboratory to test so long as they are certified.

Assemblywoman Peters:

I am looking at the language in section 9, subsection 8, which says the NDA "shall establish by regulation fees for the issuance and renewal of registration . . . and for any other service performed by the Department." What are the other services? That is a very broad area. How do we keep that in check and in line with this chapter in regulation? Also, who absorbs the cost of the laboratory testing?

Senator Settlemeyer:

Currently, the NDA offers a suite of services. If the federal government changes the rules and says that they want you to test something else as well or do something different, we wanted to allow the NDA to remain flexible enough to do just that. The NDA will then come to us to adopt regulations through the administrative code process and through the Legislative Commission. As far as who absorbs the cost, it is the industry, not the citizens of the state of Nevada. This industry has stepped forward, saying, please, assess me some fees. Tell me what is necessary in order to make our industry thrive, we are willing to do that.

Lynn Hettrick:

The additional services could be something where a registrant changes his acreage or his site and it needs to be inspected. Those are issues that need to be dealt with and can be problematic. We need to be able to go out and service that registrant to help him do what he needs to do. The bill says what is only necessary to cover the costs to provide the service. In terms of the testing with the independent laboratories, every grower, if given a choice, will test with the NDA because the testing is very inexpensive. However, the growers came to us and asked: What would happen if the NDA does not have enough people and cannot get to the growers to test in time. They would like to be able to go to an independent laboratory and pay the additional fee rather than have their crop ruined because they cannot harvest it. As Senator Settlemeyer pointed out, this industry is saying to give them the flexibility to harvest their crop and do not limit them to the point that they will lose it.

Assemblywoman Peters:

My concerns have to do with equity in the field. I want to ensure that small businesses can come into an industry as well as larger businesses, or people who may have already been in agriculture and have a little bit of a baseline, credit line, or something they can utilize. I have reservations that there is a fee structure that we do not identify at the Legislature as being something that is inclusive of small business and of industry accessibility and equitability.

Senator Settlemeyer:

I understand and agree with what you are saying. I do not think the bill in any way, shape, or form allows them to differentiate between the backyard grower versus the person who decides to grow 2,000 acres. However, the guy with 2,000 acres is out in the middle of White Pine County and is going to be charged for additional mileage to get to his location. There are no fee structures currently being discussed that are saying that if you are a larger grower, you get a discount. I hope that alleviates your concerns. What the bill says about the fee structure is, currently they do something but in the future the federal government may require, or the state may desire to create, a different type of fees. For example, we never thought about someone passing away in the industry, and now we have to change the paperwork. There is a cost for that; therefore, we need to now come back to the commission and ask for a \$200 transfer fee. Or, we did not think that two large farms would merge together or split apart. Sometimes things happen in ranches—especially when dealing with family—sometimes ranches divide. It is not exactly a fun thing, but we have seen it numerous times. Those are things that could come up.

Assemblyman Ellison:

I did not think hemp would take off as fast and as big as it did. From three sessions ago, it has hit the ground running. When I saw how much they are planning to grow in Ely, I could not believe it. I am worried about section 15, subsection 3, which states, "A crop which is harvested before the testing required . . . is completed shall be deemed to have failed."

Senator Settelmeyer:

I believe federal law dictates that if you do not follow the law which requires you to test the product prior to harvest, it is hereby deemed failed.

Lynn Hettrick:

There are other issues—transporting hemp requires a permit as well, especially if transporting outside the state of Nevada. Federal law says you can transfer across states even if they do not have a plan, and even if they do not endorse hemp. You still have to have a permit to do so, and you will never get a permit unless you test first. This is only putting into language what is going to happen based on federal law.

Assemblyman Ellison:

Will there be people around the state, closer to some of the bigger farms, to monitor and test the crops?

Senator Settelmeyer:

That is what the bill states. Currently, the NDA has three people. If this gets big enough, they will need more people. We are establishing the fees so they can hire more people. There may come a point when they say they do not have enough employees to do this, and we want to authorize the concept of certified independent laboratories that would be allowed to do said testing. At this point in time, I believe the hemp industry is very happy and satisfied with the work being done by the NDA and wishes to continue down that vein. That is the desire. If, for some reason, the NDA does not have the time or ability to do it, then this bill says they can establish a process for certified laboratories. In the meantime, we want to give them the ability to raise the fees, generate some money, and keep doing the exceptional job they have been doing for this industry.

Assemblyman Ellison:

I have been following the use of hemp in the research for cancer, brain cancer in particular. I am interested in trying anything to find a cure for cancer. I was amazed at some of the comments from the medical studies. This is groundbreaking and could be something major in the future. The biggest issue that I have is there are so many different types of hems, the height, size, et cetera, that you have to be a scientist to understand this.

Senator Settelmeyer:

Thank you for that comment. If you want to grow hemp for fiber products, you are needing it to grow 12 feet to 14 feet high. There is a requirement where you have to rot out the product, which requires 75 degrees and 45 percent humidity. Nevada does not do real good with that. There are portable facilities that will come out to create an artificial environment.

There are so many things out there, as you indicated, from hemp rope to hemp oil for cooking, there are all types of things to use with hemp.

Assemblywoman Titus:

There are many folks in my community who are waiting to get permission to change their crops. I understand this is a much more drought tolerant crop than alfalfa. Is that correct?

Senator Settelmeyer:

If you look at the traditional way that most people are growing hemp, due to its value, they are growing it on beds that have 6-foot centers and they are using a drip irrigation. I have a friend who said he just bought some seeds. He went in with his check for \$27,500 and walked out with a half-filled mayonnaise jar. He is being very careful with those seeds and is planting them on 6-foot centers and doing everything correctly; he will not be using much water. Some people have tried the scatter theory much like growing alfalfa—it is not as productive and with the cost of seed, not the right thing to do. It is a way for an agricultural operation to diversify and potentially use much less water, but that will get us on the discussion of whether water is wasted; if it goes into the aquifer, it is still there.

Assemblywoman Titus:

I understand that yes, the industry wants this and wants to ensure they can be tested in a timely manner to save their product. My concern is, are the fees going to be graduated? I would like to make sure that the small producer, the 1-acre guy, does not have to pay the same fee as the 2,200-acre guy who can probably afford to pay that fee, but the little guy who is trying to start in the industry cannot afford to pay that fee. Is it a graduated fee, dependent on the acreage, or is it one set fee for everyone?

Senator Settelmeyer:

The cost to test is the cost to test. Whatever it costs, when you do the initial paperwork and set it up, that is the cost for that amount of paperwork. Most of the fees are fixed. I have not run into one person, either farming one-quarter acre, or trying to farm 2,200 acres, who has had any hesitation. They feel the NDA has been fair and reasonable with their fee pricing structure.

The farmers are very concerned because this is not alfalfa, this is a heavily government-regulated product. If they do not have cooperation from the NDA, then they fall under the federal rules, and they are asking a federal person to come from Washington, D.C., to test their crop. By the time the testing is done, your crop may be too hot, and that farmer will have to till it under or get rid of it by whatever means the federal government mandates. The farmers want the state of Nevada involved, and they are willing to do whatever is necessary. I have several friends trying to plant 1 acre and a few friends trying to plant 100 acres. Of course, success breeds failure sometimes; what may work in a microclimate in your garage may not work the same on a 20-acre parcel. I know a couple of people who started small, branched out, failed, and are trying to learn from their failures.

Assemblywoman Titus:

Is there a certain percentage of crop that needs to be tested? For example, if it were a large operation, and you have 10 percent tested, that should cost more than if you are a smaller operation with 10 percent being tested.

Senator Settlemeyer:

I believe the NDA would be better to answer that question. My understanding is that it is a random process and they determine how many different random sites they feel are necessary based upon the size of the operation.

Lynn Hettrick:

The registration form specifies the acreage, the testing, the cost that you are going to be imposed with, the mileage to get there, all of those things. The testing fees are extremely low, approximately \$50. It is very low compared to what a certified independent laboratory will charge. We want to remember that a single seed can cost \$5. We are talking about people planting thousands of seeds. The cost of testing and the cost of having someone come out to do the test is immaterial relative to the cost of planting the hemp. The farmers know what they are doing going in; no one is going to be hammered by an unexpected fee. They are aware of that before they ever got a registration and permit to grow hemp.

Chair Swank:

I have several questions on the process. First, I am looking at section 8, where the language "the Department or an institution of higher education . . ." has been struck out. I am not seeing where the institution of higher education has been added back in.

Lynn Hettrick:

The 2014 farm bill [Agricultural Act of 2014] said that the only people who could grow hemp were those who did it under the NDA or an institution of higher education. Not one institution of higher education that I am aware of, nationwide, chose to do this because they were afraid it would affect their federal funds. The striking of this is exactly the way it has been stricken in the 2018 farm bill. They struck out the institution of higher education because it was no longer needed. An institution of higher education can plant hemp if they want; they are not prohibited from doing it, they are just not directly permitted to do it.

Chair Swank:

Section 9, subsection 6, deals with the part of surrendering or not renewing of a registration if you notify the NDA in not less than 30 days. I see the policy, but I do not see what happens if someone does not conform to that policy.

Lynn Hettrick:

Further back in the bill, there are administrative fines for not complying. It has been changed to administrative fines because our experience in agriculture is that it used to be a civil penalty, but district attorneys seldom felt that agricultural issues rose to a level that warranted their time, so we moved this to administrative fines, with the same protections and rights of appeal.

Chair Swank:

I believe you are referring to section 17. As I read that it says, if a person grows or handles hemp or produces agricultural hemp seed without being registered, then they will be imposed an administrative fine. The problem in section 9, subsection 6, is if they do not notify the NDA that they will not be renewing. Those are two different violations.

Lynn Hettrick:

I agree with you. I think the issue of not renewing comes down to the question about how they are going to handle disposal of anything they might leave. Obviously, if they are not renewing, for whatever reason, they may leave an issue. We tried to address that within the language saying they have to adequately describe the environmental issues in two different sections, but this does not directly address a fine for them not notifying the NDA.

Chair Swank:

Section 12, subsection 4, says, "negatively affect natural resources." What are the criteria for knowing what a negative impact on natural resources is? I feel that is a very broad statement. Will you explain the intent behind that phrase?

Lynn Hettrick:

No pun intended, but cannabis, hemp, and marijuana are weeds; that is why it is called that. It grows and spreads quite readily. If someone were to abandon, spill, or not address issues where a crop is spreading unintentionally, those are the environmental concerns that need to be addressed. We can do that under law; NDA already has laws that say you cannot allow weeds to spread on your property. If it is unregistered and it is spreading, it is a weed. If it is unregistered, NDA would have the ability, under other sections of law to address those concerns. I wanted to make it clear that you could not just ignore environmental issues if you are growing and are registered.

Chair Swank:

Thank you. Assemblywoman Titus has to leave, but before she does she would like to ask NDA a question.

Assemblywoman Titus:

Is your fee structure based on acreage?

Jennifer Ott, Director, State Department of Agriculture:

When you register with NDA, whether as a grower, producer, or handler, there is a flat registration fee. After that, there is a fee per acreage.

Assemblywoman Titus:

How much do you test? When someone applies with 5 acres that are about to go to harvest, what percent of that would you test?

Jennifer Ott:

It depends on the number of strains that are being grown and the acreage. It is a randomized sample that we collect and grind together to get a THC concentration that represents the field of the strain that is being grown.

Assemblywoman Titus:

What is the turnaround time to do the testing?

Jennifer Ott:

In slower times, we can turn it around in less than five days. When we have a lot of samples, it can take up to two to three weeks. As you know, the industry is growing and we are working on many internal procedures to speed that up. The instruments can run only so fast, but there are things that we can do better on the sample processing side that we are working to improve for this summer.

Assemblywoman Titus:

What is the ideal window of time between testing and harvesting? I know in the hay industry they test for the protein content of the hay, which is very important to the value of that crop.

Jennifer Ott:

I will outline the procedure to answer the question. We communicate with the growers and producers that 15 days prior to when they want to harvest, they notify us. If they had a specific harvest date, we ask them to keep in communication with us so we can schedule a time to go out and take the sample; that is the sample we are using for the testing for whether it is THC-compliant. As soon as the result comes in, the grower is cleared to harvest and sell. Actually, there has been some discussion about once the sample is taken and is headed to our laboratory, allowing for the harvest to take place so that the grower can enter into business as soon as they get the test results.

Chair Swank:

I will continue on with a couple more questions. In section 14, subsection 3, paragraph (b), it says that if you are obtaining agricultural hemp seed from a grower that is approved to sell agricultural hemp seed pursuant to the laws of that state. We are trying to conform to federal law here, and I am wondering why we did not say that it conforms to the federal laws. If we go with the laws of that state, and those laws are less stringent than ours, I feel like we may end up with a problem.

Jennifer Ott:

The 2018 farm bill requires that that every single state has to submit a state plan to regulate hemp under the terms of the farm bill. What we are looking for here is there might be differences that are not directly related to farm bill language. We want to ensure that if it is in compliance with the state, if it is an approved state, it will also be in compliance with the farm bill, but we need to also make sure it is a producer who is in compliance with the state as well.

Chair Swank:

You do not anticipate that we could have another state that has less stringent laws than we do and we are going to end up with something in our state that we do not want?

Jennifer Ott:

If there is a state doing business with the state of Nevada, it will be farm bill-compliant.

Chair Swank:

In section 17, why are we removing the misdemeanor and going with civil fines? I am not a huge proponent of throwing people in jail over something like this, but I would like the reason put on the record.

Senator Settelmeyer:

We have a problem finding district attorneys who actually want to process these crimes. However, processing fines seems to be more attractive. We felt this would give us more teeth.

Assemblywoman Bilbray-Axelrod:

I have been reading about hemp products and I know that Senator Settelmeyer mentioned that hemp works better than alfalfa in our climate. I am seeing that most varieties, if there was not an irrigation system, use about 25 to 30 inches of water per year. I do not know what that actually comes down to when you are looking at a drip system as opposed to other sources of irrigation. Would NDA have the different varieties that are available that would be more suitable to growing in Nevada?

Senator Settelmeyer:

When this program first started, they were very specific about what seed they could grow. There were many people who felt that the seeds that were being bought from Canada at that time were not very useful and did not grow. People planted 20 acres and plowed it under because there was absolutely no production. Since then, the varieties that are available for utilization have grown. I believe it is best to leave it up to the producer to see what works for his particular area. Much of that decision is not driven by water, but by soil, alkalinity, and things of that nature that will severely affect the plant. As the industry changes, the producers are going to Delta 9 and other factors.

Jennifer Ott:

I want to say that the NDA regulates this industry, but we also work with this industry. We want to see them successful. We want to see the natural resources of the state be used in the best manner. Absolutely, part of the conversations with growers and producers is sharing experiences—what is best water-wise, what is the newest thing out there, what have we heard from other states, and other growers and sharing that information. That is part of the process that this new industry is sourcing the right kind of seeds to be successful for Nevada.

Chair Swank:

Is there anyone here to speak in support of S.B. 347 (R1)?

Will Adler, representing Scientists for Consumer Safety:

I would like to clarify a couple of questions. There was a University of Nevada, Reno (UNR) pilot program. It was not a huge pilot program, in fact it was about 10 feet by 10 feet. Glenn Miller, Professor of Agriculture, Biotechnology, and Natural Resources, UNR, grew it and I watched him do it. It was not funded via grants or any other program, it was not funded at all. During that pilot program, we discovered that originally, and ironically, it was illegal to import hemp seeds from other states, but if you imported them from other countries, through a very weird backdoor process through a commerce clause nationally, we could import hemp seeds. We brought seeds in from Canada and all of the plants died. We brought seeds in from Ukraine and all of the plants died. The NDA was working with the industry, not against us, and they openly said, Clearly this is not working and we will allow importation from other states. At the same time, the United States federally allowed that. We brought in Colorado strains and they have actually worked quite well in Nevada, with similar climate and similar elevation.

To the question about hemp being more water-wise than alfalfa, it is all about how you grow it. Pinwheel irrigation for hemp may not be more water-wise, depending on the early stages where you have to water a lot otherwise it will burn out. Once the plant is tall enough to self-shade, it does save a lot of water. Comparatively, the marijuana industry uses maybe one-twenty-fifth the amount of water to do indoor cultivation because it uses recycling or hydroponics. That is the same plant, so how you grow it is how much water you use. If you grow indoors or in greenhouses, it does cut down on the usage.

Some of the language you see in the bill is actually based on prior drug enforcement language, with references to protection of natural resources are due to backwoods in California cartel-style growing where they do massive destruction when growing.

Adrienne Snow, Business Development Manager, Western States Hemp:

To date, Western States Hemp is the only firm in Nevada to simultaneously cultivate CBD row crop varieties of hemp and industrial fiber varieties of hemp. I am here in support of S.B. 347 (R1). The most recent farm bill was passed in December 2018, and it legalized hemp at both the federal and state level. Part of the farm bill's requirement is for the NDA to develop a state plan of implementation, which is what this bill does. We like that it gives NDA the flexibility to establish regulations based on changes at the federal level that will likely occur when the Nevada Legislature is out of session. We also appreciate Senator Settlemeyer's efforts in bringing all parties together on this matter. In response to the questions about water usage, we estimate that our industrial grow used approximately one-fifth of the water that the previous stand of alfalfa used on the same pivot in the 2017 season.

Ray Bacon, representing Nevada Manufacturers Association:

Nevada has a very split economy at this stage of the game. The rurals are suffering and have been for a long time. At some point in time, mining is going to run out. Hemp is the first crop that has come along that looks like it fits to our climate and has the potential for processing, which means manufacturing jobs. This could be a strong part of our future.

Nick Vander Poel, representing Northern Nevada Development Authority:

I have similar comments to Mr. Bacon's. We are here in support of S.B. 347 (R1). Nevada's Sierra region consists of a diverse set of industry sectors, including agriculture. There are a lot of potential economic advantages to this industry in Nevada.

Chair Swank:

Is there anyone else who would like to testify in support? [There was no one.] Is there anyone who would like to testify in opposition? [There was no one.] Is there anyone who would like to testify in neutral?

Jennifer Ott:

We appreciate the bill's sponsors and the industry working together on the language of this bill to reflect federal farm bill language that came up in December 2018 and align it with our state plan going forward.

Chair Swank:

Are there any closing remarks?

Senator Settlemeyer:

If anyone has any questions, please do not hesitate to reach out to me. I think this is a good bill for the state of Nevada for the diversification of agriculture, which could help the state.

Chair Swank:

I will close the hearing on S.B. 347 (R1). I will now move into public comment. Is there anyone here who would like to give public comment? Seeing no one, we are adjourned [at 5:17 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.