

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

**Eightieth Session
March 28, 2019**

The Senate Committee on Natural Resources was called to order by Chair Melanie Scheible at 4:00 p.m. on Thursday, March 28, 2019, in Room 2144 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to Room 4412 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Melanie Scheible, Chair
Senator Chris Brooks, Vice Chair
Senator Dallas Harris
Senator Pete Goicoechea
Senator Ira Hansen

GUEST LEGISLATORS PRESENT:

Senator James A. Settelmeyer, Senatorial District No. 17

STAFF MEMBERS PRESENT:

Alysa Keller, Committee Policy Analyst
Erin Sturdivant, Committee Counsel
Christine Miner, Committee Secretary

OTHERS PRESENT:

Tim Wilson, Acting State Engineer and Administrator, Division of Water Resources, State Department of Conservation and Natural Resources
Jim Lawrence, Deputy Director, State Department of Conservation and Natural Resources
Tracy Bower, Desert Research Institute
Kyle Davis, League to Save Lake Tahoe
Lynn Hettrick, HFM/Silver Lion Farms
Will Adler, Silver State Government Relations

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Doug Busselman, Executive Vice President, Nevada Farm Bureau
Juanita Cox, Citizens in Action; Nevada Republican Assembly; Storey County
Republican Central Committee
Leo Drozdoff, Western States Hemp
Adrienne Snow, Western States Hemp
Mona Lisa Samuelson, MJ Plan
Jennifer Ott, Director, State Department of Agriculture
Chris Rusby
Riana Durrett, Executive Director, Nevada Dispensary Association

CHAIR SCHEIBLE:

We will open the work session on Senate Bill (S.B.) 53.

SENATE BILL 53: Revises provisions governing the review of certain mining regulations. (BDR 46-218)

ALYSA KELLER (Committee Policy Analyst):

I will read the summary of the bill from the work session document ([Exhibit C](#)).

CHAIR SCHEIBLE:

I will entertain a motion on S.B. 53.

SENATOR GOICOECHEA MOVED TO DO PASS S.B. 53.

SENATOR HANSEN SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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CHAIR SCHEIBLE:

We will now move to S.B. 85.

SENATE BILL 85: Revises provisions governing the importation into this State of certain live animals or parts of the carcass of certain animals. (BDR 45-206)

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MS. KELLER:

I will read the summary of the bill and the amendment from the work session document ([Exhibit D](#)).

CHAIR SCHEIBLE:

I will entertain a motion.

SENATOR HARRIS MOVED TO AMEND AND DO PASS AS AMENDED
S.B. 85.

SENATOR BROOKS SECONDED THE MOTION.

SENATOR HANSEN:

I have a concern about a hunter from Colorado or some other state driving through Nevada who could be arrested. The person unknowingly broke Nevada law. Adding the word "knowingly" in the amendment is appreciated.

CHAIR SCHEIBLE:

Would the Committee Counsel clarify the intent of the amendment? Ignorance of the law is not a defense to breaking the law. I do not know if the amendment applies to people who know they are crossing the State border. Does it apply to people who do not know they are crossing the State border?

ERIN STURDIVANT (Committee Counsel):

Adding the word "knowingly" in the amendment applies to both instances of bringing a prohibited carcass into the State or to knowingly possess one. If a person does not know the law, the law still applies. The amendment to S.B. 85 applies to a person who does not know the border is crossed or does not know of possession of a prohibited carcass.

SENATOR HARRIS:

In seeking an amendment, I was worried about those who hunt close to the border between California and Nevada and are not aware that they had possibly stepped over the border and are now in Nevada. The amendment satisfies my concerns.

SENATOR GOICOECHEA:

Imagine a scenario of someone from California who hunts and takes an animal in Colorado. This person has the full carcass strapped on top of the vehicle. This

person is stopped in Nevada for whatever reason and is unaware of the Nevada law. Is that a defense?

CHAIR SCHEIBLE:

That would not be a defense. It is not that a person does not know the law; it is the action that is known. To prove the crime, a prosecutor must show the person knowingly crossed the border and knew of the possession of the carcass. Knowing whether it is prohibited is not germane to the prosecution of the offense.

SENATOR GOICOECHEA:

If a carcass is infected, ignorance of the law is not really a defense. We must look to the State agencies to be sure they are aware that diseased carcasses and full heads are prohibited in Nevada, regardless of what state they come from.

SENATOR HANSEN:

Ignorance is not part of the law. In criminal law, the State has the burden of proving a person performed the act with intent. A citation is warranted if a person from California, who hunts in Colorado, knowingly brings an animal from a state that possibly has the disease. If it is an honest mistake on the part of the hunter, the State will not be able to make the "knowingly" determination, and the hunter will not be cited. That is my understanding of adding "knowingly" in the amendment.

THE MOTION PASSED UNANIMOUSLY.

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CHAIR SCHEIBLE:

We will move to S.B. 136.

SENATE BILL 136: Revises the provisions of the Tahoe Regional Planning Compact. (BDR 22-736)

MS. KELLER:

I will read the summary of the bill and the amendment from the work session document ([Exhibit E](#)).

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CHAIR SCHEIBLE:
I will entertain a motion.

SENATOR BROOKS MOVED TO AMEND AND DO PASS AS AMENDED
S.B. 136.

SENATOR GOICOECHEA SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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CHAIR SCHEIBLE:
We will move to S.B. 140.

SENATE BILL 140: Revises provisions relating to the appropriation of water in certain basins. (BDR 48-541)

MS. KELLER:
I will read the summary of the bill and the amendments from the work session document ([Exhibit F](#)).

CHAIR SCHEIBLE:
I will entertain a motion.

SENATOR BROOKS MOVED TO AMEND AND DO PASS AS AMENDED
S.B. 140.

SENATOR HANSEN SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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CHAIR SCHEIBLE:
We will move to S.B. 236.

SENATE BILL 236: Revises provisions relating to a change in the place of diversion of water. (BDR 48-635)

MS. KELLER:

I will read the summary of the bill and the amendment from the work session document ([Exhibit G](#)).

CHAIR SCHEIBLE:

My concern regards section 1, subsection 1, paragraph (a) of the amendment about well sites located on the same property and under the same ownership. I understood from the hearing, well sites could be relocated on property under the same ownership even if there were two separate pieces of property. Is the amendment correct?

SENATOR GOICOECHEA:

Yes, the intent of the bill is to allow the crossing of the quarter-quarter property line. According to my conversation with the State Engineer, this language will address the intent. Crossing a property line is allowed, as long as the property has the same owner.

CHAIR SCHEIBLE:

Can we get clarification from Committee Counsel as to what the implications of using the words "same property" are in the law?

MS. STURDIVANT:

To clarify the intent of the Committee, we should remove the word "same" and put "property that is under the same ownership". "Same property" seems to imply there is one parcel, as opposed to multiple parcels that are connected under the same ownership.

TIM WILSON (Acting State Engineer and Administrator, Division of Water Resources, State Department of Conservation and Natural Resources):

The current regulations allow a person to drill a replacement well within 300 feet of the original point of diversion. It restricts crossing a 40-acre subdivision line, known as a public land survey line (PLSS). The bill allows the owner to cross a PLSS as long as the property is of the same owner. If there are two separate parcels and both are owned by the same owner, it allows crossing of the parcel line. If it is not clear in the bill, it should be made clear.

One word should be added to the amendment. In section 1, subsection 1, it states "If a person is seeking to construct a replacement well to divert already

appropriated and ... ". The word "groundwater" should be inserted before the word "appropriated."

CHAIR SCHEIBLE:

This is a conceptual amendment, and we are not bound to the particular language. Would amending the amendment to remove the term "the same" in section 1, subsection 1, paragraph (a) which would read "... replacement well site are located on property that is under the ownership ..." and still not less than 300 feet, be acceptable to your office?

MR. WILSON:

That will work to convey our intent.

CHAIR SCHEIBLE:

I will accept a motion.

SENATOR HANSEN MOVED TO AMEND AND DO PASS AS AMENDED
WITH THE ADJUSTMENTS TO THE AMENDMENT AS DISCUSSED
S.B. 236.

SENATOR BROOKS SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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CHAIR SCHEIBLE:

We will not be considering Senate Joint Resolution 4 today.

SENATE JOINT RESOLUTION 4: Expresses the support of the Nevada Legislature for certain federal legislation relating to the conservation of wildlife in this State. (BDR R-507)

We will open the hearing on Senate Concurrent Resolution (S.C.R.) 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)

JIM LAWRENCE (Deputy Director, State Department of Conservation and Natural Resources):

I will present S.C.R. 5 and read from my written testimony ([Exhibit H](#)).

TRACY BOWER (Desert Research Institute):

The Desert Research Institute (DRI) supports S.C.R. 5. For 60 years, the mission of DRI has been to promote the welfare of Nevada and its citizens through development, educational and scientific research. The importance of Lake Tahoe to the State and the region is recognized by DRI, and it supports S.C.R. 5 for the acknowledgement of the importance of science and policymaking for Lake Tahoe.

KYLE DAVIS (League to Save Lake Tahoe):

The League to Save Lake Tahoe supports S.C.R. 5. There have been a number of collaborative efforts in the Lake Tahoe Basin. These efforts have deepened the commitments of the state and local governments of California and Nevada and various stakeholders in the Basin. Progress has been made by these efforts on the important issues facing the Basin. The Tahoe Bi-State Executive Committee and the Tahoe Science Advisory Council are a big part of that to ensure the right science is there to guide the necessary environmental improvements.

CHAIR SCHEIBLE:

We will close the hearing on S.C.R. 5 and open the hearing on S.B. 347.

SENATE BILL 347: Revises provisions relating to hemp. (BDR 49-976)

SENATOR JAMES A. SETTELMEYER (Senatorial District No. 17):

A change in federal law prompted the implementation of S.B. 347. The Agriculture Improvement Act of 2018 was signed into law authorizing the production of hemp under this farm bill. It is necessary for Nevada to update its law to conform to the federal law.

I reached out to the State Department of Agriculture at the same time Mr. Lynn Hettrick of Silver Lion Farms reached out to me expressing the necessity to

make changes. The deadline date for the Governor's Administration to put forth a bill draft request (BDR) had passed. I reserved one of my BDRs for this issue.

The hemp industry is growing. Agriculture comes with successes and failures. The hemp industry allows opportunity for agriculturalists to diversify their economic portfolios.

We worked with the interim Director of the Department to find appropriate language for the bill. Since that time, the new Director of the Department has been selected. We met with the Director to hammer out any differences or problems in the bill. I have submitted the proposed amendment ([Exhibit I](#)) to S.B. 347.

One of the most important aspects of this bill is flexibility. There are still discussions on the federal level on the subject of hemp. There may be future limitation changes. It may change from a limit of 0.3 percent tetrahydrocannabinol (THC) concentration on a dry weight basis to a limit of 1 percent concentration. This would require the State to seek changes in the law at another Legislative Session. We are trying to defer this to the *Nevada Administrative Code*. This will allow flexibility to the Director of the Department to do what is best for the agricultural industry.

LYNN HETTRICK (HFM/Silver Lion Farms):

When the federal law changed, Silver Lion Farms deemed it necessary for the changes to be incorporated into Nevada law. I will explain the intent of S.B. 347 and incorporate the changes brought by the amendment [Exhibit I](#).

Sections 1 through 4 conform language to the new federal format by striking the word "industrial." Section 5 of the amendment clarifies and conforms to federal law by necessarily striking the word "raw."

In section 6, the amendment adopts the federal definition of hemp which incorporates "seed" within the definition. Section 7 contains clarifications. Section 8 changes *Nevada Revised Statutes* (NRS) 557.190 because federal law no longer applies to institutions of higher education that grow or cultivate industrial hemp; it is now relegated to the U.S. Department of Agriculture (USDA). It is being recognized that this crop is becoming a common agricultural commodity and not a regulated crop. Section 8, subsections 1 and 2 clarify the

exemptions for people from licensing or registration if they are simply buying, selling or moving the product.

Section 9, subsections 4 through 6, contain new language addressing testing and environmental concerns. When growers first started hemp crops, there were issues, and some crops did not do well. Some of the fields were not cleaned up properly and crops were not eradicated well. There can be environmental issues; the Department needs the ability to address those issues.

Section 9, subsection 7 states "Registration as a grower, handler or producer is not transferable". If the handler or producer changes its name or ownership, they must reregister. This is a simple change that is better handled in regulation, and can be dealt with as the issue arises. There can be instances for ownership change, but these need to be controlled.

Sections 10 and 11 contain clarifications to match federal law.

Section 12, subsections 2 through 4 address disposal and penalties. There must be a disposal plan, and it has to be adhered to. Under federal law, there are penalties for violations of the requirements.

SENATOR GOICOECHEA:

What would an adequate disposal plan look like?

MR. HETTRICK:

It depends on the stage of maturity of the crop and what the issue is. For marijuana crops, the parts that have to be disposed of must be mixed with dirt to make them unusable. These are disposed as garbage. A plan could be to burn a field if it is standing and dry. It must be an acceptable plan to the State Department of Agriculture. The crop must be disposed of to eliminate any issues, including environmental issues.

The amendment strikes out section 14, subsection 1, paragraph (c). This lies outside of the statutory authority of the Department, so it is stricken by mutual agreement.

Section 14, subsections 2 through 4 clarify legal seed sources and is addressed in the amendment, [Exhibit I](#). The intent is to allow seed produced in this State to be purchased in the State through any producer licensed to sell seed.

Purchasing seed from a person or producer from another state can be done if that person or producer is approved by the laws of that state.

The Department has no statutory authority on human consumption issues, so Section 15, subsections 2 and 3 are stricken. Testing language in subsection 1 is modified to follow federal guidelines.

In anticipation that the federal government will move the tolerance number higher than its current percentile for THC concentration, the amendment adjusts the language to conform to federal guidelines. One percent THC is clearly hemp. No one grows marijuana at 1 percent THC. Current federal law provides that THC concentration in hemp must not exceed 0.3 percent. If the federal government changes that to a different percentage, it is clear and simple in statute to refer to the maximum THC concentration of hemp as provided in federal law.

Section 15, subsection 4, paragraph (b) is stricken which is the definition of "intended for human consumption."

Section 17 eliminates the provision for growing or handling hemp or producing agricultural hemp seed without a registration as a misdemeanor. Instead, it requires the Department to impose an administrative fine on such a person and report the person to the appropriate local law enforcement agency for investigation.

In reality, a district attorney never prosecutes misdemeanors, making them meaningless. We recommended changes when I was at the Department, and several changes were adopted. It is more effective to issue administrative fines to penalize someone who does not follow the rules.

Sections 18 through 21 are marijuana statutes. These had to be amended to conform to federal language wherever hemp was mentioned. The last page of S.B. 347 contains leadlines of the repealed sections.

CHAIR SCHEIBLE:

As a prosecutor who deals with felonies and misdemeanors daily, I am curious about the change that makes the enforcement mechanism an administrative fine, yet still is to be reported to a local law enforcement agency. How are the

district attorneys, who never prosecute misdemeanors, going to start enforcing administrative fines?

MR. HETTRICK:

The intent of reporting to the district attorney is for felony violations or for growing marijuana. The others are simple administrative functions. Perhaps environmental issues were not cleaned up, or the disposal plan was not submitted. These issues do not rise to a level for a district attorney to address. There must be the ability to cite persons not complying with regulations.

SENATOR SETTELMAYER:

These are issues in agriculture.

MR. HETTRICK:

Yes, these refer to agricultural issues.

WILL ADLER (Silver State Government Relations):

Senate Bill 347 aligns State law with federal law. This is necessary in our hemp program. Please support this bill.

DOUG BUSSELMAN (Executive Vice President, Nevada Farm Bureau):

Nevada Farm Bureau supports the adoption of S.B. 347 in order to move forward with production and comply with federal requirements.

JUANITA COX (Citizens in Action; Nevada Republican Assembly; Storey County Republican Central Committee):

Citizens in Action, the Nevada Republican Assembly and the Storey County Republican Central Committee support S.B. 347. The changes to the legal hemp law is appreciated. Anything to further the production of this healthy product will benefit us all.

LEO DROZDOFF (Western States Hemp):

I am here on behalf of Western States Hemp and I am available for any questions.

ADRIENNE SNOW (Western States Hemp):

Western States Hemp supports S.B. 347. I will read from my written testimony ([Exhibit J](#)).

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MONA LISA SAMUELSON (MJ Plan):

I am a medical marijuana patient advocate and community activist. Nevada has serious testing issues with medical marijuana. The patients fully support S.B. 347.

JENNIFER OTT (Director, State Department of Agriculture):

The State Department of Agriculture thanks the Committee, Senator Settelmeyer and the industry for working with the Department to create the language allowing the hemp industry to move forward in a safe and successful manner.

SENATOR SETTELMEYER:

Supporting S.B. 347 is supporting the federal farm bill changes for hemp.

CHAIR SCHEIBLE:

We will close the hearing on S.B. 347 and open the hearing on S.B. 209.

[SENATE BILL 209](#): Revises provisions relating to industrial hemp. (BDR 49-584)

SENATOR DALLAS HARRIS (Senatorial District No. 11):

I will present S.B. 209 which requires the State Department of Agriculture to adopt regulations requiring testing of products made using industrial hemp and intended for human consumption.

Industrial hemp is a low THC variant of the cannabis plant. It is defined as having a THC concentration of less than 0.3 percent. Industrial hemp cannot be used by people seeking to get high, because it has no psycho-active properties. It can be used for almost anything else imaginable.

Hemp is a growing industry in Nevada and is known for producing such products as rope, clothing and paper. Hemp seeds are incredibly nutritious. Hemp can be consumed in a variety of ways including in beer, as dairy-free hemp seed milk, a protein powder or an oil.

I have submitted a proposed amendment ([Exhibit K](#)). The amendment updates section 1 of S.B. 209 to reflect Nevada's hemp industry. Previous language has been stricken referring to a State pilot program and restrictions on the production of hemp products. New language has been created around the

testing of cannabidiol (CBD) and hemp products intended for human and animal consumption.

Section 1, subsection 2, paragraph (a) of the amendment, [Exhibit K](#), adds provisions for the ability to retest for potency compliance if a first test fails.

Section 2 of S.B. 209 focuses on CBD and hemp products produced outside of Nevada. Currently, there is no testing requirement for CBD or THC potency or safety testing. This section will address this by requiring companies outside of Nevada to test their products before being allowed to be sold to the public.

MR. ADLER:

In the initial S.B. 209, there is a misnomer that hemp needed to be tested to the same degree as marijuana. There is a fiscal note attached to the bill for the original intent. The amendment, [Exhibit K](#), changes the bill considerably, and I will refer to the proposed amendment going forward. There has been further discussion with the State Department of Agriculture since the release of the proposed amendment of March 26, [Exhibit K](#). There will be additional changes.

There is a need for hemp testing in Nevada to align with federal law. Hemp is tested for its THC potency and must not exceed 0.3 percent. There should be some level of retest or second chance to prove the crop is hemp and not marijuana. Any hemp testing results over 0.3 percent is considered marijuana. It is the same plant with the same genus *Cannabis sativa* L.

Section 1, subsection 1, paragraph (a) is stricken. It refers to the "agricultural pilot program." The industry has evolved, and it is no longer a pilot program.

Section 1, subsection 1, paragraph (c) is stricken because it restricts or prohibits the production of hemp products. The new industry and federal law allow the production of CBD products and other products made from hemp.

Every reference to State Board of Agriculture should be replaced with the State Department of Agriculture. It provides clarity in the bill.

There are further deletions in section 1, subsections 2 and 3 in the initial bill. This is for clarity and is restated in section 2 of the amendment.

Section 1, subsection 2 proposes for hemp products made in Nevada to have some production product value, or for consumption of any kind, be tested at least once for verification it is a hemp product. In the extraction process to make something with CBD oil, THC must be extracted, otherwise THC is being concentrated. Testing verifies whether it is a hemp or marijuana product. This will aid in the standardization of Nevada products for distribution in the national marketplace.

Section 1 mandates the Department to allow hemp growers to retest a failed THC potency test. Growing hemp in Nevada produces a single harvest per year. Prior to harvesting, the Department provides a test within 15 days of intent to harvest. The results determine the crop as hemp or marijuana, also known as "hot hemp." Currently, if the initial test fails, and a retest fails, the field must be destroyed.

Section 1, subsection 2, paragraph (a) of the amendment, [Exhibit K](#), states "... after failing a potency compliance test issued by the Department of Agriculture, to request a retest from an ISO 17025 accredited Independent testing laboratory ...". These laboratories also test for marijuana. They are allowed to transport marijuana and are the best third-party testing laboratories because of past experience.

The amendment states "Passing of a retest qualifies a previously failed Hemp crop as a passed test for the purposes of the Nevada Department of Agriculture's testing and will be used to report a passed test to the federal USDA requirements". This should be done if it is not restricted by or there is no extra guidance from the USDA. The Agricultural Improvement Act of 2018, also known as the 2018 U.S. farm bill includes a general need for testing, but not much guidance on how the test should be done, what it should include or if there could be a retest function.

There may be a few more amendments submitted due to our discussions with the Department about this process and the lack of guidance from the USDA. Flexibility serves Nevada's growers of hemp. The key points are not violating any federal standards and not restricting future growth.

The amendment addresses the allowed level of 0.344 percent THC concentration. This is to be the Nevada standard, unless superseded by 7 U.S.C. 1621 from the federal hemp bill. Flexibility is key, but if a new

standard is produced by the federal government, Nevada can adapt in real time and not be restricted by law.

An independent testing laboratory is identified as a certified facility pursuant to Nevada marijuana laws in NRS 453A.368 and 453D.030.

Section 2 of the amendment addresses the safety and testing of products containing CBD or hemp coming into Nevada. There is no standardized testing for products produced in other states or produced in Nevada that contain CBD. This is new in this Country, because hemp is now legal and can be sold between states.

The biggest violators of false identification on products comes from outside of the Country. The Chinese and Eastern European hemp coming into Nevada is produced as an oil. These products are available in gas stations, coffee stores and other retailers; they include hemp water, CBD water and a variety of other products not sold in marijuana facilities or in pharmacies. There are few regulations or standardizations.

Studies have been done to test end products and CBD products from retailers like Walmart, smoke shops and gas stations. Only 5 percent of those products tested were accurately labeled. A product may say it contains 80 percent CBD and often contains only 20 percent. Many labels contain false claims about the THC and CBD content. Without testing standards, these products are on retail shelves in Nevada and the consumer does not know what they are buying.

No testing is done for heavy metals, pesticides or other ingredients on products from outside of Nevada. Spikes of cadmium and heavy metals have been found in products labeled as containing THC, hemp or CBD. Nevada has good standards for what is grown and produced here, but has no real knowledge of the content of unregulated products.

It is important to have some clarity on what is in the products sold in stores. The amendment seeks to create a mechanism to require products to be tested and verified as a hemp or CBD product prior to being sold to a general retailer and intended for sale in Nevada.

This section of safety testing of hemp would be best referred to the Department of Health and Human Services instead of the State Department of Agriculture,

which deals with hemp products in the field. There has yet to be a response from the Department of Health and Human Services as to whether it would be the best entity for the safety testing.

The end of the bill states that all products be identified as tested by labs under NRS 453A. It also proposes to change the language "industrial hemp" to "hemp", which conforms to federal terminology.

CHAIR SCHEIBLE:

Will you clarify whether the testing has to take place in Nevada, or can a compliant lab in another state do the testing and attach a label to the product indicating it is compliant with NRS?

MR. ADLER:

The *Nevada Revised Statutes* 453A and 453D are specific to Nevada. These are the medical and recreation marijuana statutes. Labs are only accredited through these statutes and are Nevada labs. There are no real federal standards for testing in this new marketplace. The U.S. Food and Drug Administration (FDA) has not issued guidance on testing. The testing will need to be done in a Nevada lab.

SENATOR HARRIS:

There is flexibility in the amendment to S.B. 209, [Exhibit K](#), for the State Department of Agriculture to adopt regulations to establish how testing should happen. This is where the Department may deal with this issue.

CHAIR SCHEIBLE:

There may be growers outside of Nevada who go through a testing process in their state. Does the flexibility allow for reciprocity standards for another state? Will the bill allow for a lab from another state that has passed its state standards, be allowed to apply to the Department of Health and Human Services in Nevada for certification?

SENATOR HARRIS:

The bill states the testing must be from an International Organization for Standardization 17025 accredited laboratory. It could be flexible.

MR. ADLER:

As the bill is written, it just applies to a Nevada-accredited lab. There is no ability to check on the enforceability on outside labs. There are no standardizations for hemp testing on the federal level.

CHAIR SCHEIBLE:

In other industries, a manufacturer of a consumable product must pass an FDA test which is good in any state. Would hemp growers, because there is no federal regulation, have to pass the testing for Nevada, and also for any other state to market their products, even if it is the same product?

MR. ADLER:

Yes, that is correct. For example, the word "organic" is a federal term issued by the USDA. The word "organic" cannot be listed on a marijuana product. There is no federal standard for what makes marijuana organic. Although the farm bill passed, it is not fully flushed out. It is developing. There is no standard testing for hemp to the level Nevada tests for similar products.

CHAIR SCHEIBLE:

The bill does not address labeling, specifically. I am concerned there may be a loophole for a product that does not pass the standards and could be labeled "uncertified" hemp product, or "this statement has not been evaluated by the Nevada Department of Health and Human Services."

MR. ADLER:

That is a good point and something that should be addressed in the bill.

SENATOR HARRIS:

The bill addresses the misrepresentation of certain percentages and content of THC in a product.

CHAIR SCHEIBLE:

I agree. I am sure an amendment that says "and unless this is done, a label cannot be labeled as a hemp product" no matter what the product consists of.

MR. ADLER:

Correct. Without the test, the product cannot be labeled a hemp or CBD product. Safety and security testing is important. The incidences of pesticides in tested products were so great, no one should be consuming those products.

There have been products labeled "CBD only." When a hemp plant is juiced, the oils are concentrated. One cannot claim the THC quantity in the original hemp plant may not have been below 0.3 percent. When THC is concentrated, and not extracted out, it becomes a marijuana product. These products sold in gas stations possibly contain 1, 2 or 5 percent THC. It leaves a gray area with no checking mechanism.

SENATOR GOICOECHEA:

The bill mentions "intended for animal consumption." I am aware this means as a medicine for a pet. Hemp for food animal consumption is prohibited, and the federal farm act did not change that, correct?

MR. ADLER:

You are correct. The bill provides clarification for non-agricultural animals. It addresses pet treats and random topical products being marketed to consumers with animals. There is some lack of clarity in the bill on the use of hemp in feed for animals.

SENATOR GOICOECHEA:

Under federal law, hemp products are prohibited for food animals.

MR. ADLER:

There is concern of cows eating hemp and how a CBD-concentrated cow would affect food production.

CHRIS RUSBY:

I am a small-time hemp farmer in Fallon, Nevada. I am not necessarily in opposition to S.B. 209, but I have some concerns. There is a misconception that small farmers are making a lot of money and can afford to perform the onerous testing requirements. This is not true; small farmers struggle financially.

I agree there is a need for safe products. On my farm, we make the cleanest products and are working toward an organic certification. My concern is the risk of overregulation which affects our ability to continue doing business.

There are benefits to CBD and other aspects of the hemp plant. It is incredibly rich in omega-3 fatty acids and has other health benefits. Senate Bill 209 places the burden on the Department of Agriculture in working with the regulations. I have met with them, and I am assured of their ability to do a good job.

Though important, my concern is about the unfair balance stricken for the safety of the consumer. Many hemp products from China are dangerous. Hemp is a plant which absorbs what is in the soil. If the soil is contaminated, the products will be as well. There is need for regulation and testing. Hemp comes from the same plants as marijuana; there are no differences in sight and smell of the plants. The differences are in the chemical components. Because of this association, hemp needs to be treated and tested like marijuana, and its requirements or farms will not survive. The industry will be decimated.

Batch sizes are 5 pounds for marijuana, and the full battery of tests costs \$500. Our farm does not work in five pound increments but rather thousands of pounds. Our margins are 15 to 25 percent. The testing costs will be 25 percent. This would be problematic for us.

Having testing requirements that are not required for every other agricultural product, like tomatoes and other consumable plants, and imposing the same requirements as marijuana, is short sighted and could put an end to the hemp industry.

Nevada is a small agricultural State in comparison to the rest of the Country. It is tough to compete with other states where irrigation is not necessary. There must be a fair balance favorable to farmers.

SENATOR BROOKS:

What would you consider a cost-effective alternative to guarantee your product is safe for consumption but also has the appropriate amount of THC for your entire crop? What are you doing now, and what would you suggest?

MR. RUSBY:

We are in a limbo period. There are major changes at the federal level that are being applied at the state level. We are still trying to figure it out. Hemp is a cutting edge crop and has not been around very long. We are still learning the process and determining what needs to be done. What we do affects things down the line. I do not have a direct answer to your question. I would need to sit and work it out and look long term. It looks fine on paper to test hemp for everything in these batch sizes. When the costs are computed, it becomes a different situation. I suggest taking things slower and moving with the process as needed. I do not agree with throwing requirements and regulations up front

and hoping it works out. The industry is still in process, and we do not know how it is going to work out.

There should be balance between safety for the consumer and similarities with other crop testing. Hemp should be treated like every other agricultural commodity crop. There is potential for abuse, but we need to make sure people are not taking advantage. This is where necessary licensing and testing compliance come in.

I foresee a problem for farmers, because hemp is an outdoor crop, not an indoor crop, like marijuana. Irrigation is often from traditional agricultural canals where there is no control over the quality of the water. The industry is a fresh and young one. Imposing strict requirements on heavy metals that are not imposed on other farmed consumable goods is not a fair option. More research should be done for acceptable testing levels. It will take time and money to answer these questions.

MS. SAMUELSON:

There are no FDA standards or pesticide lists. All things become concentrated when the cannabis plant is concentrated. I appreciate the testimony of Mr. Rusby and the challenges to keep costs down. In order to keep costs down concerning hemp, the alternative is to grow industrial hemp that is not for human consumption.

The most important thing for medical patients is the testing of the marijuana plant. These patients live with weakened immune systems. I will read from my written testimony ([Exhibit L](#)). Heavy metal testing is extremely important. With the creation of S.B. 209, now is the time to discuss specific testing standards. As we discuss hemp, we must address what has gone wrong with medical marijuana and address this now.

MR. DROZDOFF:

The amendment to S.B. 209 introduced by Senator Harris is a dramatic improvement; we will work with all parties to improve the bill.

MS. SNOW:

I will read my neutral written testimony ([Exhibit M](#)).

RIANA DURRETT (Executive Director, Nevada Dispensary Association):

The Nevada Dispensary Association represents 90 percent of the operating dispensaries in Nevada. Many of the members also own and operate cultivation and production facilities. Senate Bill 209 is aimed at consumer safety and awareness especially regarding the CBD products that are proliferating many retail locations.

The Association asks to work with the sponsor on the enforcement mechanism. The concern is for new testing standards that would only be enforced in licensed marijuana facilities because these are registered, easy to find and subject to audits and inspections where there is a regulatory body in place. The Association wants to ensure the new provisions will be enforced in all other retail locations, which are creating the concerns which inspired this bill. The products are not tested and often do not comport with the product labels.

In the original bill draft of S.B. 209, the Department of Taxation is mandated not to allow a licensed marijuana production facility to sell a CBD product to a licensed marijuana retail store. This is an oversight in the law. These are the facilities best qualified to sell these products. They are clean, tested and do inventory control and are regulated. The Association seeks a marijuana production facility be allowed to sell CBD to a marijuana retail store. The stores can sell CBD now but cannot obtain CBD from a marijuana production facility.

MR. HETTRICK:

I support the concept of S.B. 209 and the direction it is going. There are practical difficulties in the retesting procedure. A company invests heavily for a six to eight month growing time. For a company to fail a 0.3 percent compliance test is difficult. The plant is clearly hemp. The Department of Agriculture agrees and has attempted to assure this does not happen. It is important the law does not put the Department in the position of having no other choice.

We might consider random testing at retail facilities selling hemp products to assure the products contain what is on the label.

MS. OTT:

The Department submitted a fiscal note to S.B. 209. That note pertained to the original draft of the bill. The language in this draft no longer exists; this affects the fiscal note. The Department agrees with many of the comments, and more

work is needed on the bill. The Department will work with the sponsor and interested parties to address all concerns including the animal feed issue.

Ms. Cox:

As a user of CBD oil, I assume it to be clean and pure. I purchase it at a marijuana facility. If other citizens could be aware of the information provided at this hearing about some products misrepresenting its contents, they would be stunned. Testing of these products is vital for the health of the citizens of Nevada.

SENATOR HARRIS:

The comments heard today are being addressed with the appropriate legislative language. I consider the conceptual amendments put forth by the Department as friendly amendments. We will assure the bill conforms to its concerns.

MR. ADLER:

The intention of the bill is not to test five-pound lots from hemp fields. Testing will be agricultural-grade testing. Regulations will be set up through the Department. It is not the intention to do burdensome extra testing but reasonable testing to assure it is hemp and a safe product.

CHAIR SCHEIBLE:

We will close the hearing on S.B. 209 and open a work session on S.C.R. 5. I will entertain a motion.

SENATOR HARRIS MOVED TO ADOPT S.C.R. 5.

SENATOR BROOKS SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

* * * * *

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CHAIR SCHEIBLE:

With no further business, we will adjourn this meeting at 5:39 p.m.

RESPECTFULLY SUBMITTED:

Christine Miner,
Committee Secretary

APPROVED BY:

Senator Melanie Scheible, Chair

DATE: _____

EXHIBIT SUMMARY				
Bill	Exhibit / # of pages		Witness / Entity	Description
	A	2		Agenda
	B	4		Attendance Roster
S.B. 53	C	1	Alysa Keller	Work Session Document
S.B. 85	D	1	Alysa Keller	Work Session Document
S.B. 136	E	3	Alysa Keller	Work Session Document
S.B. 140	F	5	Alysa Keller	Work Session Document
S.B. 236	G	2	Alysa Keller	Work Session Document
S.C.R. 5	H	2	Jim Lawrence / State Department of Conservation and Natural Resources	Written Testimony
S.B. 347	I	1	Senator James A. Settelmeyer	Proposed Amendment
S.B. 347	J	1	Adrienne Snow / Western States Hemp	Written Testimony
S.B. 209	K	4	Senator Dallas Harris	Proposed Amendment
S.B. 209	L	1	Mona Lisa Samuelson / MJ Plan	Written Testimony
S.B. 209	M	1	Adrienne Snow / Western States Hemp	Written Testimony