

**MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON GOVERNMENT AFFAIRS**

**Eighty-First Session
February 22, 2021**

The Committee on Government Affairs was called to order by Chair Edgar Flores at 10:02 a.m. on Monday, February 22, 2021, Online. 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/81st2021.

COMMITTEE MEMBERS PRESENT:

Assemblyman Edgar Flores, Chair
Assemblywoman Selena Torres, Vice Chair
Assemblywoman Natha C. Anderson
Assemblywoman Tracy Brown-May
Assemblywoman Venicia Considine
Assemblywoman Jill Dickman
Assemblywoman Bea Duran
Assemblyman John Ellison
Assemblywoman Susie Martinez
Assemblyman Andy Matthews
Assemblyman Richard McArthur
Assemblywoman Clara Thomas

COMMITTEE MEMBERS ABSENT:

Assemblywoman Annie Black (excused)

GUEST LEGISLATORS PRESENT:

Assemblywoman Sarah Peters, Assembly District No. 24

STAFF MEMBERS PRESENT:

Jered McDonald, Committee Policy Analyst
Erin Sturdivant, Committee Counsel
Judith Bishop, Committee Manager
Lindsey Howell, Committee Secretary
Cheryl Williams, Committee Assistant



OTHERS PRESENT:

Terry Taylor, Fire Investigator, International Association of Arson Investigators,
Nevada Chapter
Steve Walker, representing Lyon County; Carson City; and Douglas County
Jennifer Atlas, representing the City of Reno
Charles Donohue, Administrator, Division of State Lands, State Department of
Conservation and Natural Resources
Scott Carey, State Lands Planner, State Land Use Planning Agency, Division of State
Lands, State Department of Conservation and Natural Resources
Will Alder, representing the Pyramid Lake Paiute Tribe
Jake Tibbitts, representing Eureka County
Marla McDade Williams, representing the Reno-Sparks Indian Colony
Stacey Montooth, Executive Director, Nevada Indian Commission, Department of
Tourism and Cultural Affairs

Chair Flores:

[The meeting was called to order. Committee protocol was explained.] We are going to take the agenda slightly out of order today. I will open the hearing on Assembly Bill 86 first.

Assembly Bill 86: Makes various changes relating to the recovery of certain expenses and costs incurred in extinguishing wildfires. (BDR 42-111)

Assemblywoman Sarah Peters, Assembly District No. 24:

It is my pleasure today to present Assembly Bill 86, which makes various changes related to the recovery of certain expenses and costs incurred in extinguishing wildfires. With me today to present the bill is Terry Taylor, a fire arson investigator and certified wildland fire investigator.

Assembly Bill 86 was proposed by the Committee to Conduct an Interim Study Concerning Wildfires. It was my pleasure to serve as a member of this important committee during the 2019-2020 Interim. The committee was created by Assembly Concurrent Resolution 4 of the 80th Session. It was tasked with considering methods of reducing wildfire fuels, issues related to early responses to wildfire, and economic impacts of wildfires on state and local communities. The committee consisted of three members of the Senate, three members of the Assembly, and two nonvoting members.

At the committee's final meeting, the work session on July 2, 2020, the committee recommended addressing numerous wildfire-related issues. One of those recommendations is A.B. 86, which will help us to recover costs from fighting fire caused by persons who acted in a criminal and negligent manner.

With the Chair's indulgence, I will provide you with some brief background information.

The committee received written recommendations by the International Association of Arson Investigators, Nevada Chapter, that addressed issues related to the recovery of certain costs by state and local government related to wildfires.

As you might be aware, we are experiencing increased numbers of human-caused wildfires in Nevada. Additionally, I think we have all heard of wildfires that have been started by people in a negligent manner near our communities, be they from target shooting at Tannerite in dry vegetation or from dragging chains of a trailer.

Often, local governments are the first to respond to wildfires, and they often bear the brunt of the cost associated with firefighting. Thankfully, they can receive assistance through the wildland fire protection program, which is housed in the Nevada Division of Forestry of the State Department of Conservation and Natural Resources.

After a devastating wildfire, it is important that the funds in the wildland fire protection program are not depleted and that local governments tasked with putting out the wildfires can recover their costs. However, it was brought to our attention that arson investigators have found it extremely difficult for local governments to recover these costs from fire suppression efforts in both criminal and civil investigations. The same investigators have found that adjacent states are much more efficient in cost recovery due to appropriate statutes. Our neighboring states of California, Oregon, Washington, and Idaho all have these statutes.

With the Chair's permission, I would like to now have Mr. Taylor provide a more detailed background on the bill, along with a section-by-section overview.

Terry Taylor, Fire Investigator, International Association of Arson Investigators, Nevada Chapter:

I was part of the group that put this suggestion forward to the wildland fire committee. I thank you for this opportunity to discuss what is sort of a clean-up bill to do a better job on the economic side of wildland fire.

This bill is designed to remove a series of impediments in statutes, as perceived by various district attorney's (DA) and city attorney's offices for local government jurisdictions in northern and eastern Nevada. Basically, these offices need the ability to effectively litigate for cost recovery of expenses of fighting and remediating the effects of wildfires. My colleagues who are charged with investigating these fires need to be able to move forward so that we can, in fact, cost recover, both for the wildland fire protection program to the Nevada Division of Forestry, and for uncompensated costs that occur in local government.

There are two primary statutes for cost recovery located in the *Nevada Revised Statutes* (NRS) 472.540 and NRS 474.550. As a fire captain and an investigator, I have used these existing statutes to attempt to recover costs with the guidance of local government attorneys. I am a court-certified and court-qualified wildfire investigator. I am also a certified instructor and have taught over 300 students the basic course in wildland fire origin and

cause investigation. This course covers civil recovery, and all the investigators in Nevada that have taken the course are familiar with civil recovery, as well as arson. Our arson statutes allow us to recover costs of investigation and supplemental costs for the crime of arson, usually ordered by a district court judge as an additional penalty for convicted arsonists.

Our students are trained in both cost recovery and civil investigation procedures. We have also trained the personnel of our federal partners with U.S. Fish and Wildlife Service, Bureau of Land Management, U.S. Forest Service, and the National Park Service here in Nevada. They have been doing cost recovery for the last 50 years and have been doing it very successfully. The Bureau of Land Management gave me some statistics for last year, which showed that they recovered, through the use of their federal statute, almost \$1 million in cost recovery for negligent fires, excluding arson.

In my case, I worked for East Fork Fire Protection District for 21 years. One of my duties was that I was their fire investigator in Douglas County. I have submitted, through mutual aid, cost recovery cases to a variety of jurisdictions. This obviously included Douglas County. However, I also worked in Washoe County, Storey County, Lyon County, Churchill County, Humboldt County, and Elko County, as well as the cities of Carson, Reno-Sparks, and Elko as part of an investigative team. I have faced a variety of denials of attempts to file cost recovery cases, as have my colleagues in local government and state government. This is unlike what is going on over on the federal side, where these cases are welcomed by either an assistant U.S. attorney or solicitor general and then moved into the federal system.

I would like to talk about the bill section by section, and just quickly cover a few of the issues that we think this bill is actually going to solve. I appreciate the Committee to Conduct an Interim Study Concerning Wildfires moving forward with this concept.

Section 1 of the bill adds NRS Chapter 318 districts formed to provide fire protection. One of these is my sister district, right next door to me, the Tahoe-Douglas Fire Protection District up at Lake Tahoe. When I filed cases on their behalf, I was advised by our district attorney—by the way, our Douglas district attorney supports this bill—that because of the nature of the formation, they did not have the authority to seek cost recovery for wildfires. Section 1 creates that authority. In both NRS Chapter 472 and NRS Chapter 474, there is language that talks about how a fire must "threaten human life." We have had a number of cases that have been brought forward where a negligently started fire burns into a neighbor's place, or a few neighbors' places, and the wildland, but it does not destroy any houses. We have done cost recovery and established the negligence, but when you go to interview the next-door neighbors about if they felt threatened in terms of human life, many of them do not want to participate. I understand that. For them, it is like, Hey, I have to live with these people.

In our case, there is also another thing—for those of us who are in the fire service and in law enforcement, many courts of competent jurisdiction around the West have held that fire and law enforcement do not count when it comes to a fire "threatening human life." We are all human, but because of the nature of our jobs, we have pretty much agreed to absorb these risks.

The DAs and city attorneys that I have dealt with have all pretty much talked to the neighbors—I would call them victims—of the negligent person. We have had a very poor turnout, I guess you could say. What is disturbing to me, as an investigator and also as a taxpayer, is that it really should not be up to a next-door neighbor. It should be up to a district attorney, a city attorney, or an attorney general. That individual should decide whether the negligence meets the requirements of statute and whether this person, corporation, or whoever was negligent, so the case can move forward. Taxpayer money is involved here. It is not the next-door neighbor who bears the brunt; it is all of us in Nevada that do. Section 1 takes off that part which says "threatens human life," and I appreciate the changes.

Nevada Revised Statutes 472.540, section 1, subsections 1 and 2 require that the State Forester Firewarden determine whether the fire—or other emergency which threatens human life—is willfully or negligently ignited or an unavoidable accident. The State Forester no longer employs qualified wildfire investigators to perform this task. This task has been given by interlocal agreement to the State Fire Marshal Division of the Department of Public Safety.

Nevada Revised Statutes (NRS) Chapter 477, which is the statute of powers and duties of the fire marshal, specifically excludes fire marshals' jurisdiction in Clark County, Washoe County, and Carson City unless they are requested by the fire chief of the county or the municipality. I can tell you, as a former employee and investigator for the State Fire Marshal's office, Clark County and Washoe County rarely invited us in unless there was something major. Even for major wildfires, we were not invited in; those were handled, typically, by Truckee Meadows Fire Protection District, Reno Fire Department, or Sparks Fire Department. Under this statute, you still have the "which threatens human life" issue, and you still have the "unavoidable accident" analysis, which could prevent cost recovery by the State Forester in the NRS Chapter 318 fire districts.

Section 2 of the bill amends NRS 474.550 and eliminates the aforementioned "which threatens human life" condition, which I see as a precedent condition that has to be met in order to initiate any sort of cost recovery under the two existing statutes. The number of NRS Chapter 318 fire districts is shrinking, and many of them have already been converted to NRS Chapter 474 districts or have been—or could be—absorbed by growing cities. This clears up any discussion of a lack of authority for districts created by a board of county commissioners and would allow them to participate. The three that I am aware of have investigators and could file cases for cost recovery in local courts.

Section 3 is all-new language that amends NRS Chapter 244. *Nevada Revised Statutes* (NRS) Chapter 244 is about the powers and duties of county commissions. This section specifically empowers a board of county commissioners to bring an action and to initiate cost recovery. Again, it adds important language. In my discussions with city attorney personnel around the state as well as district attorneys, one of the issues is that these cases tend to be very complex, and with the expenses incurred by the county in extinguishing the wildfire, the addition of reasonable attorney's fees and litigation expense is necessary. In some of the cases that I have already worked that have been successful under the previous statutes, what has happened is that no attorney's fees have been awarded to the public sector council. In some instances, they have had to hire outside experts to determine the value of land that was destroyed, and that was sort of eaten by the DA's office. I do not think that is correct. I have a ten-year history of working in the private sector in the insurance industry where we subrogated against tortfeasors, and attorney's fees were always awarded as part of those negotiations or court decrees.

Section 4 is all-new language. It amends NRS Chapter 268. It specifically empowers a city council or other governing body to bring an action in a court of competent jurisdiction. It also adds language allowing "reasonable attorney's fees and litigation expenses." I ran into this nine years ago with a major fire. I took a leave of absence from my fire district for a month. I put together a group of public and private investigators who investigated the first Caughlin Ranch Fire nine years ago. I was also mutual-aided to the one that happened a couple of months ago, as I work now for the North Lake Tahoe Fire Protection District. In that particular case, we were able to recover significant amounts of money from NV Energy—I cannot describe the amount, but it was very significant. As we were settling, I raised the issue of the cost that would be placed on the cities and the counties, since we had had mutual aid. A Fire Management Assistance Grant (FMAG) was sought and gained by the City of Reno, but the wildfire protection program did not exist nine years ago. We went to the City of Reno and to the other entities in Washoe County, as part of the private sector. We said, Look, we have done all of the heavy lifting. We have paid experts and we are going to get some of that money back—you could join us, and you could recover costs. Basically, what I was told was that they did not have the authority to do that. It does not take any money away from the people who were victims, who lost their homes—it is in addition to that. That is what the courts have done in the cases that I have been involved with. That would allow a city council or other governing body and municipality to move forward.

Section 5 actually amends NRS Chapter 318 again. It empowers the board of a fire district that is created wholly or in part under NRS Chapter 318—the general improvement district statute—with the authority to bring an action in a court and recover expenses and attorney's fees.

Those things are in the bill and in place. If passed without any language changes, the bill would empower these entities to go through a process to decide the following: if there is a viable defendant, if that defendant is negligent or willful in his/her activity, if there is a reasonable certainty that we could prevail in a civil case with 51 percent of the evidence, and if we can move forward to recover costs.

The wildfire protection program has been absolutely a godsend to local government. It is six years old and subscriber-based. I look at it, in my view, as sort of a self-insurance pool. It is based on past fire history. I think most of us can agree that we have a challenge there because fires tend to be somewhat randomly located and randomly occurring. We have a fire season; we know more fires occur between the months of May and October as a general rule. But we do not have—even though there are people tinkering with it at the National Fire Academy and at the National Wildfire Coordinating Group—a way to predict the number of fires, other than weather-based fire. These negligent or willful civil fires are randomly generated; it is sort of like gambling. My concern—not just as a taxpayer but as a fire service professional—is that this fund has been very effective, but it can be depleted. I believe, in my reading of the statute of the creation of the fund, that if it runs out of money, the State General Fund has to feed it. Thus, for any outstanding claims by local or state government, you would have to supplement the lack of money for a large-scale fire.

One kind of research I tried to do was to see how this fund is working. I went to my old fire chief because we had a major fire in Douglas County this last year. He gave me some information which I think was very relevant: When the program started, in years one through four, the East Fork Fire Protection District (East Fork) paid \$90,000 per year. Based on our fire history, in years five and six—six being the current year—these fees have been raised because our past fire history has actuarially not been good for the fund. We are now paying \$164,000 per year. Over the total six-year period, East Fork has paid \$588,000.

In June 2020, we had a fire ignited on the west side of U.S. Route 395, south of Gardnerville. Multiple federal, state, and local jurisdiction fire suppression resources responded. It basically took weeks to put the entire fire out. Evacuations of homes and ranches occurred; shelters were open to house people, domestic animals, horses, and other livestock. It had a major impact not only for us as Douglas County residents, but also for the region because we drew down your fire response resources, both federal, state, and local, within about a 200-mile radius. That included bringing folks over from California to help us out. The fire had multiple points of origin, so initially, there were concerns of an arson fire.

I coordinated for the Sierra Front Interagency Dispatch Center (Sierra Front), assigning multiple agency investigators to large events. Sierra Front Wildfire Cooperators has been around for almost 50 years, and was created by Lowell Smith, a former forester firewarden for the State of Nevada and the then-director of California Department of Forestry and Fire Protection. We assigned local government, as well as federal resources, to investigate the fires. That included the State Fire Marshal, federal fire and law enforcement experts, and the Douglas County Sheriff's Office. We also had the Mono County Sheriff's Office, and we used other resources during that fire. The overall cost of this fire was around \$6.5 million. You had land burning where some of it was private or tribal. Some of it was under the Bureau of Indian Affairs and the Bureau of Land Management. Even though the fire started adjacent to a state highway, it became the responsibility of the East Fork Fire Protection District—you basically had a cost-share agreement that was created later on in the game.

During the course of the fire, numerous residences, vehicles, and outbuildings were threatened; some were destroyed. We had mandatory evacuations. In the first three days, because wind was pushing the fire toward Gardnerville and Minden, there were a lot of aviation resources used, both state resources and Division of Forestry resources, as well as contract resources from the U.S. Forest Service and Bureau of Land Management. The first few days were super expensive for the fire service, but we were able to pretty much halt forward movement and not stop lateral movement; that is probably the best way to describe it.

A Fire Management Assistance Grant, or what we call an FMAG, was requested through the Nevada Division of Forestry; it was approved. That would cover 75 percent of state and local costs of respondents suppressing the fire. However, nothing is free, and nothing is complete in any of these sources of funding, whether it is the wildland fire protection program or the Fire Management Assistance Grants. What basically happened was that the FMAG covered only from the fire's ignition to the period of termination of evacuations. Yet the actual fire suppression activity lasted for another 2 1/2 weeks.

Assemblywoman Peters:

We do have a bit of a time crunch. If the Committee has a strong understanding of the bill, we can move on to questions, if that is all right with the Chair.

Chair Flores:

It seems the members, for the most part, are comfortable with it. We just have some clarifying questions.

Assemblyman Ellison:

The thing I do not see in this bill is no-fault. Things like catalytic converters can cause fires. Say you have a camper and you go down to a ditch and the chains drag in an arc—that is still no-fault, since it is still on public lands, Bureau of Land Management (BLM) lands, or the U.S. Forest Service roads. I have a problem with that. Also, what about fires like NV Energy? A lot of that was in areas where the pods did catch fire and go down, but a lot of those areas cannot be pruned, or cannot have chemicals down around the poles. That causes a fire, so NV Energy is on the hook for that. My last question is this: What about the fire department, U.S. Forest Service, or BLM employees? Look at all the fires along the highway. You look at the Department of Transportation (NDOT) and you look at the fire screen—the other day, we watched how many fires are started along Interstate 80 by cigarettes. At that point in time, who is at fault? There are cases where someone needs to be, but this is pretty broad. Somebody could make a bad mistake by driving into a trench or ditch and end up owing a million dollars in debt. Could you explain some of that, starting with the catalytic converter?

Terry Taylor:

As part of the insurance industry, we have successfully sued product manufacturers for defective products and were able to get cost recovery. Driving a vehicle is what started the fire down in Douglas County in June. The catalytic converter failed, and we had this large,

expensive event. By the way, after very thorough investigation, we were not able to locate the truck that did it. Also, all of these statutes have language that discusses accidents. For things like this, that are an accident, you are basically off the hook. The other thing I have learned in my years of following up the civil litigation is that you cannot squeeze blood out of a stone. Our federal partners are able to attach tax returns and do things like that. That is not in this bill, thank God—I am not interested in dealing with that. Motor vehicle insurance and liability insurance will pay out if you accidentally or negligently cause a fire with your vehicle. We have recovered money to the maximum amount of the motor vehicle policy that way. On a state or local level, I do not see it becoming an onerous debt that would follow somebody around for the rest of their life. The decision-making that I have seen with local government officials in the past is that we collect what we can and parse it back out to our partners that are owed money. We have some legal fees for our cost, and we move on. One of my primary concerns is being able to recover money back for the Wildfire Protection Program.

Assemblyman Ellison:

Are the BLM, U.S. Forest Service, and NDOT held to any kind of responsibility if one of their employees causes a fire?

Terry Taylor:

For fires caused by an employee, yes. I am not aware of any time when NDOT has been sued for causing a wildfire. We do have issues with both U.S. Forest Service and BLM operations; we have had litigation. What happens if they start the fire is that they pay for everything. That has not been a problem; in most cases, the Wildfire Protection Program does not even get tapped because the BLM calls their cooperators, Sierra Front, and say they need help. At that point, they are paying the bills.

Chair Flores:

Are there any additional questions? [There were none.] I would like to invite those wishing to speak in support of Assembly Bill 86 to call in.

Steve Walker, representing Lyon County:

I am representing Lyon County in support of A.B. 86. Thank you.

Jennifer Atlas, representing the City of Reno:

We are in support of A.B. 86. We have seen how destructive the wildfires can be and the high-level cost it takes to fight them. The bill provides an additional tool to the city, both as a deterrent for the situation, as well as a tool in the most egregious situations, when a party is bound to be at fault. We encourage your support.

Chair Flores:

Is there anyone else wishing to speak in support of Assembly Bill 86? [There was no one.] Is there anyone wishing to speak in opposition of Assembly Bill 86? [There was no one.] Is there anyone wishing to testify in the neutral position? [There was no one.] Assemblywoman Peters, do you have any closing remarks?

Assemblywoman Peters:

We are available if anyone has follow-up questions. I urge you to support this important piece of legislation.

Chair Flores:

At this time, I am going to close out the hearing on Assembly Bill 86 and open the hearing on Assembly Bill 52.

Assembly Bill 52: Makes various changes related to the Land Use Planning Advisory Council. (BDR 26-342)

Charles Donohue, Administrator, Division of State Lands, State Department of Conservation and Natural Resources:

With me here today is Scott Carey, the agency's State Lands Planner. It is a pleasure to be here to present A.B. 52. This is an agency-requested bill that proposes a few changes to the statute regarding the state Land Use Planning Advisory Council (SLUPAC). These changes have been reviewed by the council and are supported by the council. With your indulgence, Mr. Chair, I would like to briefly review the proposed changes outlined in the various sections of the bill.

Section 1, subsection 1 proposes to broaden the existing membership of the council from its current configuration of 17 voting members, one from each county and one nonvoting member from the Nevada Association of Counties (NACO), to also include two additional nonvoting members—one representative appointed by the Nevada League of Cities and Municipalities and one representative appointed by the Nevada Indian Commission. The intent of this change is to include representation from cities and tribal nations that are also responsible for land use planning within their jurisdictions.

As background, in 2013, this body passed legislation adding NACO to SLUPAC as a nonvoting member. The council believes it would be beneficial to also add representation from cities and tribal nations, consistent with the legislation passed in 2013 adding NACO. We reached out both to the Nevada Indian Commission and the Nevada League of Cities and Municipalities to discuss the addition and both welcomed being added to SLUPAC. Since the bill was released, the agency has heard some concerns regarding the status of the proposed Nevada Indian Commission representative as nonvoting. I would be happy to discuss this matter further with you today.

Section 1, subsection 5 provides how to handle an appointment to SLUPAC if an elected member's term in office expires prior to his or her service on the council. This is being proposed to enable local governments to have a representative on the council who they feel will represent their communities best.

Section 1, subsection 7 is the necessary language specifying that the added members serve at the pleasure of their appointing authority, the same as the existing nonvoting member.

Section 1, subsection 8 provides that the council shall elect a vice chair in addition to a chair.

Section 2, subsection 4 recognizes that the council may directly comment on land use planning and policies that may affect their local communities. Examples of this could include commenting on regional resource management plans generated by the federal government, commenting on land withdrawal proposals such as the expansion of Naval Air Station Fallon or the proposed Nellis Air Force Base expansion, as well other projects that occur on federal or state land that are routed through the Nevada State Clearinghouse.

Section 2, subsections 5-6 make explicit the duties of SLUPAC, including assisting and advising the administrator and the agency with resolving inconsistencies in land use plans as well as planning for areas of critical environmental concern (ACEC) and forwarding that input or recommendation to SLUPAC's Executive Council, formed under NRS 231.755, as needed. These revisions to statute ensure that the duties of SLUPAC members are comprehensive in nature and afford an additional layer of technical expertise.

Lastly, section 3, subsection 3 reduces the number of days required to advertise for a hearing associated with the potential designation of an ACEC from 20 to 10 days to align this period with similar notices for substantive planning changes such as zoning map changes, master plan amendments, and special use permits. I would be happy to answer any questions the Committee might have.

Chair Flores:

At this time, we will take questions, starting with Assemblywoman Torres.

Assemblywoman Torres:

I am looking at the Land Use Planning Advisory Council and wondering whether it makes sense for us to continue to have representation consisting of one person per county. We know that some regions of Nevada are much more populated than others, and as a result, those regions do not have the same level of representation for this particular council. Does this really make the most sense for Nevada? What is the opinion of the Land Use Planning Advisory Council?

Charles Donohue:

The council was established in the early '70s, and as you noted, the population in the state has increased dramatically since that time. I think one of the unique things about the council is the fact that it does have representatives from each county. That is a combination of your populated areas, such as Reno, Las Vegas, and Clark County, as well as the rural communities. I may need to ask you to further explain the last portion of your question so that I can adequately address it now.

Assemblywoman Torres:

Our largest populations are in Clark County and Washoe County. I am just wondering if the current representation on this council makes sense, considering so much more of the population is in those areas.

Charles Donohue:

The council was created, as I said, in the early '70s to address public land use policies, and I think those are relevant throughout the state, regardless of population. I believe you are from down in southern Nevada, and you are probably familiar with the disposal of federal lands within your communities. Those are established through federal legislation, but one of the critical elements of that is the Bureau of Land Management establishing resource management plans that designate what lands are set for disposal. Those are relevant whether you are in a populated area like Clark County and Washoe County, or in rural areas such as Pershing County or even Esmeralda County.

Assemblywoman Anderson:

You met with me last week about the concerns I had when it came to section 1, subsection 1, paragraph (d). I think it is very important for this representation to be present. Based on some experiences I have had, a nonvoting member cannot second an amendment or motion, and is also not able to bring forward items for discussion—if we were to keep strictly to the usual policies. I was wondering about the possibility of having the appointee of the Nevada Indian Commission become a voting member.

Charles Donohue:

I think we had a very positive, productive conversation. One of the things that I did share with you was that we are fortunate enough to have a SLUPAC meeting scheduled for next Monday. Scott Carey and I have already reached out to the Chair and requested that this item be revisited at that meeting. It may make more practical sense, instead of just having the Nevada Indian Commission representative, to circle back with the Nevada League of Cities and Municipalities and NACO. One of the things that we did discuss is that if this were to be a voting member, we would want to ensure a similar level of status, and actually have the individual go through the appointment process by the Governor as well. I think you raised that issue in terms of tweaking some language in the bill. I would appreciate an opportunity to circle back with the council and give them an opportunity to weigh in; I would be more than happy to bring that back to this Committee after that meeting next week.

Assemblywoman Anderson:

If you would like me to be part of a discussion, please feel free to let me know. With those other nonvoting members, then there is also a possibility of addressing the concern Assemblywoman Torres has brought up about the representation among the different counties. But I do have a second question about a part of the bill that I do not think I spoke with you about last week. It is from section 2, subsection 4. Is the advising that this passage talks about already happening? Also, what expertise does the council have for critical environmental concerns?

Charles Donohue:

I would say that, to some degree, we are formalizing what is currently taking place. The council actually did weigh in on at least the Fallon land withdrawal issue, if not the Nellis Air Force Base expansion—I do not remember if they weighed in on that one as well. In terms of membership on the council, our chair is currently the natural resource manager for

Eureka County. The county manager from Churchill County, Jim Barbee, used to be the director of the State Department of Agriculture. We have a combination of staff members and community development directors who are very familiar with planning issues, as well as some elected members. I think there is a good balance in terms of the composition of the council. I would say that most of the folks in the rural areas are extremely familiar with their communities; they have engaged and are very aware of what the natural resource elements are. I feel very comfortable in the makeup of the council, in terms of their expertise and in terms of review for weighing in on areas of critical environmental concern (ACEC) measures.

Assemblywoman Anderson:

I think that is an item that the Governor can consider when appointing members.

Assemblywoman Dickman:

This is not much of a policy question. In section 3, subsection 3, you mention newspapers, but do you put the notices about public hearings anywhere else? Fewer and fewer people seem to read the newspaper. The notices have ten days in the newspaper, but do they go anywhere else?

Charles Donohue:

We typically post a notice about our meetings at the Division of State Library, Archives and Public Records as well as here in the agency and on our website. There was a rather robust conversation regarding this. We actually have to publish legal notices for another element of one of our programs. As staff, we brought forward the idea of striking this because we recognize that paper print is not as readily available as it used to be, and that there are other ways to get the word out in terms of public notices. But some of our rural members on the council really wanted to keep this in place. In some of the more remote locations—in particular, Humboldt County—the local once-a-week newspaper is their lifeblood, where citizens find the notice. I feel that it is important, particularly in terms of notices for ACEC, that we cover all the bases in terms of a thorough noticing process.

Assemblywoman Considine:

I notice that there are openings on the Land Use Planning Advisory Council. I wanted to check how many openings you have—I think there may be four. How long do you expect those to be open before they are appointed?

Scott Carey, State Lands Planner, State Land Use Planning Agency, Division of State Lands, State Department of Conservation and Natural Resources:

We currently have one vacancy on the Executive Council. That person was appointed over the summer. We originally had four vacancies last year, but the council took action last summer to appoint four. We were just notified that there is one vacancy, and we hope to fill that at our next SLUPAC meeting next week. The terms on the existing council will run through May 2022.

Chair Flores:

Do we have any additional questions? [There were none.] At this time, I would like to invite those wishing to speak in support of Assembly Bill 52 to come forward.

Will Adler, representing the Pyramid Lake Paiute Tribe:

The Pyramid Lake Paiute tribe has written a letter from Chairwoman Janet Davis [[Exhibit C](#)]. I hope everyone had a chance to read that. Chairwoman Davis has stated that essentially, it has been a long time coming that the state's Native American tribes have representation on the Land Use Planning Advisory Council. She is pleased that somebody is being added to the council because that is a step in the right direction. It is vital that the voices and the knowledge of Nevada's Native American tribes be heard, and this board's work include such members who would better allow the local governments to collaborate with Native American tribes on federal, state, and local government land use and planning issues. I think that is truly the key point of this; Native American tribes are amongst our local governments and between them, in some cases, throughout Nevada. Their inclusion on this board would be for the benefit of all Nevadans. Additionally, we are in support of this measure because it is great to get some voice on this board. The Chairwoman wanted to convey to me that it is crucial that not only should they have a voice, but as Assemblywoman Anderson has indicated, it would be great to have a voting member on the board as well—not just a vocal member, but a member that could actually vote. Thank you, Assemblywoman Anderson, for bringing up that point. Chairwoman Davis would also like to say that they are in support of this, but they would support a voting member even more.

Jake Tibbitts, representing Eureka County:

I am the natural resources manager for Eureka County. As Mr. Donohue mentioned earlier, I am also the current chairman of SLUPAC, so I want to acknowledge that I am speaking on behalf of Eureka County, not SLUPAC as a body. Eureka County does support this bill; we would like to see it move forward. I will attest that Mr. Donohue is correct, that SLUPAC has pushed this forward out of the body. As chairman of the council, I am happy to bring up the issues identified today at our meeting next week. From Eureka County's perspective, we would fully support empowering that new seat representing the tribal interest to have a voting role on the council. Eureka County would support amending that language into the bill.

I would also like to just quickly address the issues related to the representation on the council. I think it is important for the Committee to understand that the Legislature has already provided land use planning authority at the local level. One of the greatest things about this council is that on every agenda, we have a roundtable, basic discussion talking about various issues. The rural communities learn so much from our urban partners on the council. I think, as well, the urban representation, where most of our citizens in the state live, learn much from what is going in the rurals. It allows us to take that information back to our local planning authorities, whether they are county commissions, planning commissions, city councils—whoever it is—to implement the best management practices, the best land use policies, and to move forward. That role, with every county on the council, is crucial to retain because it helps us, as a whole in Nevada, move forward with what is best for all the residents of Nevada.

Also, in NRS Chapter 278, which is the planning statute, the Legislature has granted that authority to local counties, to represent themselves in interests related to public lands. Again, having that seat for every county on the council allows us all to learn together and move forward. We are an advisory council—I think that is important, too, that we provide advice back to agencies, including state and federal agencies. Our goal is to work together for the betterment of Nevada as a whole, and to work by consensus whenever possible. It is very seldom, if ever—that I can remember—that we have split votes or decisions moving forward. We try to have a common voice moving forward on a lot of these issues, and hope to retain that. With that, I am looking forward to pursuing this and pushing forward and looking at amendments that can make this work for everybody.

Marla McDade Williams, representing the Reno-Sparks Indian Colony:

The Reno-Sparks Indian Colony supports A.B. 52, and we want to extend our appreciation to the members of the Land Use Planning Advisory Council, Mr. Donohue, and in particular, Mr. Carey, for recognizing an opportunity to increase communication between county and tribal issues. I am available for questions.

Steve Walker, representing Lyon County; Carson City; and Douglas County:

We are all in support of adding NACO, the Nevada League of Cities and Municipalities, and tribes to the Land Use Planning Advisory Council.

Stacey Montooth, Executive Director, Nevada Indian Commission, Department of Tourism and Cultural Affairs:

On behalf of the Nevada Indian Commission (NIC), I would like to express our support for A.B. 52. The Nevada Indian Commission is focused on developing and improving collaboration, cooperation, and communication between our 27 tribal nations, bands, and colonies; state and local governments; and related agencies with the purpose of improving the quality of life for the first stewards of this land—my Native American relatives. That is tackled through education, employment, health, well-being, and socioeconomic programs for Nevada's American-Indian citizens, while enhancing tribal sovereignty, economic development, and community development. Section 1, subsection 1, paragraph (d) of this bill would add a member of the Land Use Planning Advisory Council that is appointed by my agency, the Nevada Indian Commission. The Commission is in full support of this additional member and believes that this member of the council will help provide a Native American perspective on all statewide land use planning initiatives.

Again, our 27 federally recognized tribal nations within Nevada that make up our Indian reservations, bands, and colonies all have their own land use plan and natural resource needs. Throughout Nevada, there are over 5 million acres of land that tribal nations own, develop, and manage land use planning activities for. Each tribal nation in Nevada is unique. We have our own traditions that span generations. The commission feels that it is important that these perspectives are included on the Land Use Planning Advisory Council. As Nevada

continues to grow and plan for the future, it is important that tribal nations can better collaborate with state and local governments across the state on land use planning issues. The Nevada Indian Commission believes that the Land Use Planning Advisory Council can provide a forum for tribal nations to better collaborate and contribute to land use planning issues in our entire state, and we support A.B. 52.

In conclusion, on behalf of the Nevada Indian Commission, I want to extend my appreciation to Chair Flores, Mr. Donohue, Mr. Carey, and Director Bradley Crowell. The State Department of Conservation and Natural Resources has kept our agency informed of the creation and development of this bill. Further, I am extremely grateful that Mr. Donohue and Mr. Carey have listened to the constituents who want to consider making this NIC appointment a voting member. We appreciate that flexibility and look forward to the feedback from next week's SLUPAC meeting. I stand for questions.

Chair Flores:

Is there anyone else wishing to speak in support of Assembly Bill 52? [There was no one.] Is there anyone wishing to speak in opposition to Assembly Bill 52? [There was no one.] Is there anyone wishing to speak in the neutral position for Assembly Bill 52? [There was no one.] At this time, I would like our sponsors to come back with any closing remarks you may have.

Charles Donohue:

I thank the Committee for engaging in the conversation, and for the support the members of the community have afforded A.B. 52.

Chair Flores:

I would like to let the record reflect that we did get an email from Mr. Wesley Harper, Executive Director of the Nevada League of Cities and Municipalities, stating his support for Assembly Bill 52 [[Exhibit D](#)]. At this time, I would like to close out the hearing on Assembly Bill 52 and open it up for public comment. [There was none.] With that, this meeting is adjourned [at 11:15 a.m.].

RESPECTFULLY SUBMITTED:

Lindsey Howell
Committee Secretary

APPROVED BY:

Assemblyman Edgar Flores, Chair

DATE: _____

EXHIBITS

[Exhibit A](#) is the Agenda.

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

[Exhibit C](#) is a letter dated February 17, 2021, presented by Will Adler, representing the Pyramid Lake Paiute Tribe and submitted by Janet Davis, Chairwoman, Pyramid Lake Paiute Tribe, in support of Assembly Bill 52.

[Exhibit D](#) is an email dated February 22, 2021, submitted by Wesley Harper, Executive Director, Nevada League of Cities and Municipalities, with written testimony in support of Assembly Bill 52.