

**MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON NATURAL RESOURCES**

**Eighty-First Session
May 3, 2021**

The Committee on Natural Resources was called to order by Chair Howard Watts at 4:02 p.m. on Monday, May 3, 2021, Online and in Room 3143 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/81st2021.

COMMITTEE MEMBERS PRESENT:

Assemblyman Howard Watts, Chair
Assemblywoman Lesley E. Cohen, Vice Chair
Assemblywoman Natha C. Anderson
Assemblywoman Annie Black
Assemblywoman Tracy Brown-May
Assemblywoman Maggie Carlton
Assemblyman John Ellison
Assemblywoman Cecelia González
Assemblywoman Alexis Hansen
Assemblywoman Susie Martinez
Assemblywoman Robin L. Titus
Assemblyman Jim Wheeler

COMMITTEE MEMBERS ABSENT:

None

GUEST LEGISLATORS PRESENT:

None

STAFF MEMBERS PRESENT:

Jann Stinnesbeck, Committee Policy Analyst
Allan Amburn, Committee Counsel
Devon Kajatt, Committee Manager
Nancy Davis, Committee Secretary
Trinity Thom, Committee Assistant



OTHERS PRESENT:

Jonathan Brunjes, Deputy Administrator, Division of State Parks, State Department of Conservation and Natural Resources
Jennifer Ott, Director, State Department of Agriculture
Kacey KC, State Forester Firewarden, Division of Forestry, State Department of Conservation and Natural Resources
Arielle Edwards, Government Affairs Specialist, City of North Las Vegas
Colin Robertson, Administrator, Division of Outdoor Recreation, State Department of Conservation and Natural Resources
Dagny Stapleton, Executive Director, Nevada Association of Counties
Amber Falgout, Northern Nevada Manager, Battle Born Progress
Doug Busselman, Executive Vice President, Nevada Farm Bureau Federation
K. Neena Laxalt, representing Nevada Cattlemen's Association
Jake Tibbitts, Natural Resources Manager, Department of Natural Resources, Eureka County
Marla McDade Williams, representing Churchill County
Peter Krueger, State Executive, Nevada Petroleum Marketers & Convenience Store Association

Chair Watts:

[Roll was called. Committee rules and protocol were reviewed.] We will start our work session with S.B. 23, which revises provisions relating to the State Conservation Commission. Mr. Stinnesbeck, will you please walk us through the work session document?

Senate Bill 23: Revises provisions relating to the State Conservation Commission. (BDR 49-308)

Jann Stinnesbeck, Committee Policy Analyst:

As Legislative Counsel Bureau staff, I cannot advocate for or against any proposals that come before this Committee.

Senate Bill 23 was heard in this Committee on April 21, 2021 [[Exhibit C](#)]. This bill revises the boundaries of the areas from which certain members of the State Conservation Commission in the State Department of Conservation and Natural Resources are appointed. The bill moves Mineral County from "Area 3," which includes Clark, Esmeralda, Lincoln, Nye, and White Pine Counties, to "Area 2," which includes Carson City and Churchill, Douglas, Lyon, Storey, and Washoe Counties.

Chair Watts:

Are there any questions? Seeing none, I will accept a motion to do pass S.B. 23.

ASSEMBLYMAN WHEELER MOVED TO DO PASS SENATE BILL 23.

ASSEMBLYWOMAN GONZÁLEZ SECONDED THE MOTION.

Is there any discussion on the motion? Seeing none, we will vote.

THE MOTION PASSED. (ASSEMBLYWOMAN BLACK WAS ABSENT FOR THE VOTE.)

I will assign the floor statement to Assemblywoman Titus. I will now move on to the work session on Senate Bill 52.

Senate Bill 52: Requires the establishment of a program for awarding a dark sky designation to certain sites in this State. (BDR 35-427)

Jann Stinnesbeck, Committee Policy Analyst:

Senate Bill 52 was heard in this Committee on April 26, 2021 [[Exhibit D](#)]. The bill requires the administrator of the Division of Outdoor Recreation within the State Department of Conservation and Natural Resources to establish by regulation a program for awarding a dark sky designation to sites in Nevada that possess varying degrees of exceptional or distinguished quality of starry nights and a nocturnal environment that is specifically protected for its scientific, natural, and educational value, as well as for public enjoyment. The regulation must include: categories for which a site may be awarded such a designation; standards for awarding such a designation; and procedures for applying for such a designation, for reviewing and suspending or revoking such a designation, and for appealing such a suspension or revocation.

Chair Watts:

Are there any questions?

Assemblyman Ellison:

I like the idea of dark areas; the problem I have is around some communities that have outside illumination for security. I will be voting no, and I hope that each county will create their own dark sky areas, based on security around buildings or ranch areas.

Chair Watts:

It was discussed during the presentation that the decision would be left to each local agency and does not prohibit the use of lights for security.

Assemblywoman Titus:

Although during the testimony, we did indeed hear that it would be up to a vote of the local area, a vote means the majority of a group of folks in a certain area want it. Perhaps the individual property owners may not want it, even though the majority of the neighborhood does. I am worried about individual property owner rights, so I will be a no.

Chair Watts:

Are there any additional comments or questions? Seeing none, I will accept a motion to do pass S.B. 52.

ASSEMBLYWOMAN ANDERSON MADE A MOTION TO DO PASS
SENATE BILL 52.

ASSEMBLYWOMAN GONZÁLEZ SECONDED THE MOTION.

Is there any discussion? Seeing none, we will vote.

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

I will assign the floor statement to Assemblywoman Anderson. I will move on to the work session for Senate Bill 53.

Senate Bill 53: Makes various changes relating to the Division of State Parks of the State Department of Conservation and Natural Resources. (BDR 35-338)

Jann Stinnesbeck, Committee Policy Analyst:

Senate Bill 53 was heard in this Committee on April 21, 2021 [[Exhibit E](#)]. This bill authorizes the administrator of the Division of State Parks of the State Department of Conservation and Natural Resources to organize the areas under the jurisdiction of the Division into regions. If such regions are established, fees collected in each region must be accounted for separately and be used for certain purposes in the region in which the money was collected. The authorized use of such fees is expanded to include the repair, operation, and maintenance of communication systems. The measure further expands the authorization to collect such fees at any area under the jurisdiction of the Division, instead of only at state parks.

Chair Watts:

Are there any questions?

Assemblyman Ellison:

The digest of the bill is showing that the bill has a zero fiscal note, but the bill shows that it requires a two-thirds vote.

Chair Watts:

The reason for the two-thirds vote is because it expands the authority for the collection of a fee in statute, from just state parks to cover other facilities. As an example, that includes other things that are within the Division of State Parks, such as state recreation areas, historic sites, regional offices, and the main office where these fees are collected. This is updating

the statute to reflect that reality. Not every place where a fee is collected is a state park, even though it is administered by the Division. As a result, that language requires the two-thirds vote on the bill.

Assemblywoman Titus:

Under section 2, it states the Administrator can charge a fee for repair, operation, and maintenance of sewer, water, and communication systems. Am I understanding correctly that the fees collected can be used for communication purposes? This is not a new fee, but could be used to pay for a Wi-Fi system or something along those lines.

Chair Watts:

I think that particular question may be best answered by the Division. I believe it was indicated during testimony that there is a specific amount that is rolled into the fees that are already charged. The intent that the Division provided was that this is not adding any new fees anywhere, and this is already incorporated into the existing fee schedules for the Division.

Jonathan Brunjes, Deputy Administrator, Division of State Parks, State Department of Conservation and Natural Resources:

That is correct, there are no new fees being added to our park visitors. We are already collecting this fee. The surcharge of \$1 per entry goes into an account that is used for the infrastructure of the parks: electrical, water, sewer, and communications. It is typically used to repair existing infrastructure.

Chair Watts:

Are there any other questions? Seeing none, I will accept a motion to do pass S.B. 53.

ASSEMBLYWOMAN COHEN MOVED TO DO PASS SENATE BILL 53.

ASSEMBLYWOMAN CARLTON SECONDED THE MOTION.

Is there any discussion?

Assemblywoman Titus:

I will vote this measure out of Committee but reserve my right to change my vote on the floor.

Chair Watts:

Is there any other discussion? Seeing none, we will vote.

THE MOTION PASSED. (ASSEMBLYMAN ELLISON VOTED NO.)

I will assign the floor statement to Assemblywoman González. I will open the work session on Senate Bill 65.

**Senate Bill 65: Revises provisions relating to the State Department of Agriculture.
(BDR 50-275)**

Jann Stinnesbeck, Committee Policy Analyst:

Senate Bill 65 was heard in Committee on April 21, 2021 [[Exhibit F](#)]. This bill revises provisions relating to the composition and administration of the State Department of Agriculture. The measure creates four divisions within the Department as follows: Division of Administrative Services; Division of Animal Industry; Division of Food and Nutrition; and Division of Plant Health and Compliance. The name of the existing fifth division is changed from the Division of Consumer Equitability to the Division of Measurement Standards. The Department's director must appoint administrators of each of the five divisions who are in the unclassified service of the state and serve at the pleasure of the director. The director retains the authority to alter the organization of the Department and reassign responsibilities and duties as the director deems appropriate. Finally, the bill assigns the title of State Veterinarian to the existing position within the Department that is responsible for activities relating to the protection and promotion of the livestock industry and revises the minimum qualifications for the position.

Chair Watts:

Are there any questions?

Assemblyman Ellison:

How does the Director of the Department make the appointees who will be sitting on the board? Will this be administrative people?

Jennifer Ott, Director, State Department of Agriculture:

The positions that are in the bill are already existing; we are just changing the names of the divisions and cleaning up the language.

Chair Watts:

Thank you. Are there any other questions?

Assemblywoman Hansen:

Based on the testimony, in striking some of the verbiage in section 9, range issues will now fall under the Division of Plant Health and Compliance. Regarding the feral horses, you noted *Nevada Revised Statutes* Chapter 569, and that will fall under the Division of Animal Industry. Is that correct?

Jennifer Ott:

The feral livestock issue will remain under the Division of Animal Industry, where it has existed. The natural resources portion is normally handled under the Division of Plant Health and Compliance.

Assemblywoman Hansen:

Regarding the State Veterinarian, you do require, as part of the hiring process, that he be licensed, although it is not put in statute. Is there any consideration to amend that before this bill is heard on the floor and put in statute that it is expected that the State Veterinarian would be licensed?

Jennifer Ott:

I am happy to consider an amendment if there are concerns with this. Because of the work that the State Veterinarian does, he obviously has to be licensed. There were some questions about putting the licensure requirement in statute, and the reason we opted not to do that is because we wanted to be able to recruit out of state or out of the country for a state veterinarian with great experience. As part of accepting the job, or within a certain timeline, he would have to pass everything that needs to be in place to receive licensure by the State of Nevada. I will follow the direction of the Chair as far as a new amendment.

Assemblywoman Hansen:

My request would be, Chair Watts, that we add an amendment. I understand the process of the recruitment and hiring process, but maybe having it in statute might give us some comfort.

Assemblywoman Carlton:

If you are going to act as a veterinarian in this state, you would be out of your scope of practice if you did not become licensed. This is a chicken-and-egg type thing. We do not want to require a license to recruit, but if the chosen applicant is going to do the function, he would have to become licensed in the state. Even if the statute is silent, it has to happen; otherwise, he cannot call himself a veterinarian in this state.

Chair Watts:

Hearing the intent from the Department is satisfactory. If there are any issues that come up, I believe we could address them moving forward. The Department has been quite clear on the record about the intent to ensure that whoever is hired does end up licensed. The intent is to assist in recruiting the most qualified candidate. We have seen other bills modify the requirements in order to attract diverse and qualified hires.

Assemblywoman Titus:

I, too, had that concern during the hearing and asked that question. I appreciate that the intent was that the person would have to ultimately be a licensed veterinarian. I worry about the obstacles of licensure and the time it takes; as a physician, it can take six or more months. We know that in other professional licensure processes, there may be a delay in being able to recruit someone who otherwise meets all of the qualifications for licensure. I certainly had my reservations, but I am reassured by getting the legislative intent on record.

Chair Watts:

Are there any additional questions on S.B. 65?

Assemblyman Ellison:

Do the new divisions stay within the Department of Agriculture? Is the Department still administering all of the programs, or is that being changed?

Chair Watts:

Essentially these divisions are being renamed and they will all remain within the Department of Agriculture. Seeing no other questions, I will accept a motion to do pass S.B. 65.

ASSEMBLYWOMAN MARTINEZ MADE A MOTION TO DO PASS
SENATE BILL 65.

ASSEMBLYWOMAN GONZÁLEZ SECONDED THE MOTION.

Is there any discussion on the motion? Seeing none, we will vote.

THE MOTION PASSED UNANIMOUSLY.

I will assign the floor statement to Assemblywoman Brown-May. That concludes our work session. I will move on to bill hearings, beginning with Senate Bill 33 (1st Reprint).

Senate Bill 33 (1st Reprint): Revises certain provisions relating to natural resource management. (BDR 47-312)

Kacey KC, State Forester Firewarden, Division of Forestry, State Department of Conservation and Natural Resources:

I am here today to provide testimony on Senate Bill 33 (1st Reprint). This bill makes revisions to *Nevada Revised Statutes* (NRS) Chapter 472 and Chapter 528, which are two chapters that provide the Division of Forestry (NDF), State Department of Conservation and Natural Resources, primary work focus and define its mission of providing natural resource and wildland fire management services to Nevada citizens and visitors to enhance, conserve, and protect forest, rangeland, and watershed values; endangered plants; and other native flora.

Senate Bill 33 (1st Reprint) provides better statutory alignment for NDF between the work staff perform and the landscapes in which they work. Nevada is the most arid state in the United States; consequently, much of the state's landscapes are comprised of plant species adapted to low amounts of precipitation in low lying valleys and steppes. These landscapes are classified as deserts or rangelands, the exception being forests on higher elevation mountain ranges. The Division of Forestry's natural resource managers provide assistance to landowners regardless of vegetation type. Improving conditions in forests, rangelands, deserts, wetlands, and other vegetation types have and will continue to be the focus of NDF. Senate Bill 33 (1st Reprint) clarifies that NDF is not solely focused on forest management, but that NDF manages all of the varied renewable natural resources found across Nevada.

In addition, S.B. 33 (R1) expands the identified uses for NDF's nursery-produced plants to include practices such as xeriscaping, conserving water, providing wildlife habitat, and sustaining local economies. The Division of Forestry has a conservation plant material program that enhances its ability to provide conservation plant materials and technical natural resource assistance and support to Nevada citizens. The Division operates two plant nurseries, one in Las Vegas and one in Washoe Valley, and a seed bank in Washoe Valley under this program. Statute requires NDF plants to be used for conservation purposes. Since the establishment of the program, the science of natural resource conservation has evolved to include values previously not considered.

Finally, S.B. 33 (R1) strikes artifacts from NRS Chapter 472 for which the State Forester Firewarden no longer has jurisdictional responsibility. Prior to the abolishment of NRS Chapter 473 in the 76th Session of the Nevada Legislature [Senate Bill 494 of the 76th Session], NDF had the authority to run all-risk fire protection districts through local government agreements with participating entities. With those jurisdictional authorities came the responsibility to oversee development and vegetation management standards within the districts. The abolishment of NRS Chapter 473 removed those responsibilities from the State Forester Firewarden and placed them back with local government fire protection districts.

Chair Watts:

Are there any questions?

Assemblywoman Anderson:

Section 10, subsection 1, paragraph (g), specifically removes the Lake Tahoe Basin as well as the Lake Mead Basin. Will that be regulated in a different area at the state level, or is it going to be at the county level? Both of these lakes are very important to us as a state.

Kacey KC:

There are two areas of the bill that take out the Lake Tahoe Basin and the Lake Mead Basin. The first was in cooperation with the State Fire Marshall enforcing laws and adopting regulations. That would be applicable across the state, rather than just in those two basins. The codes and regulations on page 8, lines 21 through 25, will be managed across the state. That is dealing with the areas where originally it was the State Forester Firewarden having those enforcement capabilities. I do not have the enforcement capabilities. That is either handled at the state level through the State Fire Marshall or at local county jurisdictional levels for enforcement. We would still all work in cooperation and coordination, just across the entire state.

Assemblywoman Titus:

I, too, looked at this bill and thought, Who will be responsible? Section 10, subsection 1, paragraph (d), strikes out, "Designate the boundaries of each area of the State where the construction of buildings on forested lands creates such a fire hazard as to require the

regulation of roofing materials." Will that now be left up to local ordinances and county codes to determine what the appropriate roofing materials should be, and you will be out of that entirely?

Kacey KC:

Yes, we will still work together. The State Fire Marshall has the authority through his statutes from an adoption and enforcement standpoint for some areas of the state. In addition, local government has that jurisdictional responsibility for adopting building codes and enforcing the wildland-urban interface codes. I do not have the ability to designate, but we do work together on the designation of state wildland-urban areas. This section of the bill deals with construction materials, which I do not have any jurisdictional responsibility over now that I no longer have an all-risk fire department. That would be local government in conjunction with the State Fire Marshall.

Assemblywoman Cohen:

Section 5 has a definition of "urban forestry," adding "water quality." Will you give us an example of how urban forestry impacts water quality?

Kacey KC:

Water quality is affected by urban trees. There have been many studies done on the amount of urban tree canopy cover in urban areas and its effects not only on human health, but air quality—taking in the bad air and making it better. There is also water quality. Although it does take water to grow some of these plants, if the right plants are planted, there should not be a ton of water. Some of the bad things are filtered through the roots and the root systems, allowing for better water quality. Trees also take some of the run-off when you have large incidents of flood conditions. There are a lot of benefits for urban trees; they are similar to what you would see in a forest, but on a much smaller scale. There is a huge impact of urban trees on human health and is one of the focus areas of the Division.

Chair Watts:

Are there any other questions? Seeing none, we will move on to those wishing to testify in support of S.B. 33 (R1). Hearing no one, is there anyone in opposition?

Arielle Edwards, Government Affairs Specialist, City of North Las Vegas:

At this time, the City of North Las Vegas is in opposition to S.B. 33 (R1). It would be beneficial to us if there was, at a minimum, a three-year extension for adopting the wildland-urban interface. We do, however, look forward to continued conversations about this measure.

Chair Watts:

We will go on to the next caller in opposition. Hearing no one, is there anyone in neutral? Hearing no one, are there any closing comments?

Kacey KC:

Thank you for your time today and for your consideration of this bill.

Chair Watts:

I will close the hearing on S.B. 33 (R1) and open the hearing on Senate Bill 43 (1st Reprint).

Senate Bill 43 (1st Reprint): Revises provisions relating to the Advisory Board on Outdoor Recreation. (BDR 35-344)

Colin Robertson, Administrator, Division of Outdoor Recreation, State Department of Conservation and Natural Resources:

I appreciate the opportunity to introduce and provide testimony in support of Senate Bill 43 (1st Reprint) today. *Nevada Revised Statutes* (NRS) 407A.575 establishes the Advisory Board on Outdoor Recreation, State Department of Conservation and Natural Resources (DCNR), which consists of 11 voting members who advise the Administrator of the Division of Outdoor Recreation, DCNR, on matters concerning outdoor recreation in Nevada. Senate Bill 43 (1st Reprint) proposes a simple change to NRS 407A.575, adding 3 members to the existing 11-member Advisory Board. As articulated in S.B. 43 (R1), the 3 additional members proposed are: a Nevada Association of Counties representative serving as a voting member; a U.S. Department of the Interior representative serving as a nonvoting member; and a U.S. Department of Agriculture representative serving as a nonvoting member. Each of these proposed members represents an important perspective regarding outdoor recreation in Nevada.

The Nevada Association of Counties represents Nevada's counties and rural communities, which are gateways to some of Nevada's most beloved outdoor recreation sites and experiences. The combined knowledge of the counties' comprehensive communities and economic development strategies with conservation and recreation opportunities linked to the growth of outdoor recreation in Nevada is valuable. The significant economic, health, education, and conservation implications of outdoor recreation in Nevada are central to why this additional seat on the Advisory Board is important.

Together, the U.S. Department of the Interior and the U.S. Department of Agriculture manage the majority of public land in Nevada, totaling approximately 57 million acres of the state's 70 million acres. Many of Nevada's best recreation opportunities exist on lands managed by one of these two agencies.

Therefore, these three perspectives are crucial to ensuring the Advisory Board broadly and effectively advises the Division of Outdoor Recreation on all matters concerning outdoor recreation throughout the state. With that overview, I am happy to answer any questions the Committee may have.

Chair Watts:

Are there any questions?

Assemblyman Ellison:

What is the makeup of the board?

Colin Robertson:

The Advisory Board on Outdoor Recreation is currently an 11-member board; 7 of the seats are named by statute, and the 4 additional seats are gubernatorial appointments, representing four sectors, four key areas of outdoor recreation topics. Those topics include: conservation and stewardship, education and workforce training, health and wellness, and outdoor recreation-oriented economic development. The seven seats that are named by statute represent the Division of State Parks, the State Department of Conservation and Natural Resources, the Department of Wildlife, the Office of Economic Development within the Office of the Governor, the Department of Tourism and Cultural Affairs, Lieutenant Governor Kate Marshall, and the Nevada Indian Commission within the Department of Tourism and Cultural Affairs.

Assemblywoman Cohen:

In looking at the bill, section 1, subsection 1, paragraph (a), subparagraph (8), sub-subparagraph (II), says, "Has professional expertise or possesses demonstrated knowledge in outdoor recreation, natural resources management and economic development in this State." That sounds like a large order. What profession would that person have? I understand having knowledge in outdoor recreation and natural resources, but then economic development, those seem like three separate things.

Colin Robertson:

As you may know from the 2019 Session, the Division of Outdoor Recreation has a broad and diverse mission and purpose [Assembly Bill 486 of the 80th Session]. It is a very small agency, currently an agency of one. As a result, I think positions need to be very broad and encompassing. The importance of Nevada's outdoor recreation economy to the overall economy of the state is something that ties very closely to the state's public lands and to the natural resources that are in play when it comes to outdoor recreation and for conservation needs. I would suggest that this is an ideal candidate: someone with specific outdoor recreation experience, either on the natural resources or the industry side of things.

Assemblywoman Cohen:

If someone has an outdoor recreation business, would that cover the economic development portion? He would not necessarily need to be a member of a chamber, correct?

Colin Robertson:

The intent is as you described, to provide someone with that kind of experience and expertise in the mix.

Chair Watts:

Looking at the proposed bill, I think that many of our rural county commissioners are often dealing with many decisions related to all of these areas in terms of natural resources, land management, economic development, and outdoor recreation. Likely, with the involvement of Nevada Association of Counties, we could see some county commissioners from these smaller areas that have a background in these areas. Is that something that was contemplated when the language was brought forward?

Colin Robertson:

Yes, that is very much what the spirit has been, to ensure that the pillars of the creation of the Division of Outdoor Recreation, which I outlined with the gubernatorial appointments, is something that is considered in every representative of the advisory board.

Chair Watts:

Are there any other questions? Seeing none, I will move to those wishing to testify in support of S.B. 43 (R1).

Dagny Stapleton, Executive Director, Nevada Association of Counties:

The Nevada Association of Counties (NACO) is in favor of this bill, specifically section 1, subsection 1, paragraph (a), subparagraph (8), which has been discussed. We understand the vision behind the Advisory Board on Outdoor Recreation: to support outdoor recreation, recreation economy, and conservation related to recreation in Nevada, knowing that a significant portion of outdoor recreation happens in rural communities. Our members agree that having a representative from rural Nevada, whose local economies and livelihoods interface with outdoor recreation and who are familiar with many of the recreational opportunities and natural resources in Nevada, is very important. The NACO board is made up of representatives from each county commission, including the 15 rural counties. We agree that NACO is the appropriate body to nominate and seek out appointees for this seat. We think that this also creates an opportunity for the board to coordinate with Nevada's counties. Our rural commissioners are very connected to their communities and can help seek out candidates who have the qualifications outlined in the bill, including expertise and knowledge in outdoor recreation, natural resources management, and economic development. I want to thank Mr. Robertson for the conversations over the interim, for working with us, and seeking our input on the bill.

Amber Falgout, Northern Nevada Manager, Battle Born Progress:

We are proud to say that we fully support S.B. 43 (R1). This bill will include a diverse partnership that will oversee our recreation needs in Nevada. Including the additional representatives will provide an opportunity for more support and discussion concerning outdoor recreation. We urge the Committee to support this bill.

Chair Watts:

We will hear the next caller in support. Hearing no one, is there anyone wishing to testify in opposition? Hearing no one, is there anyone in neutral? Hearing no one, are there any closing remarks?

Colin Robertson:

Thank you for your consideration and the opportunity to present this bill.

Chair Watts:

I will close the hearing on S.B. 43 (R1) and open the hearing on Senate Bill 54 (1st Reprint).

Senate Bill 54 (1st Reprint): Revises provisions relating to the State Board of Agriculture. (BDR 50-263)

Jennifer Ott, Director, State Department of Agriculture:

Thank you for allowing me to appear before you today to present Senate Bill 54 (1st Reprint) which revises *Nevada Revised Statutes* (NRS) 561.055 outlining the membership of the State Board of Agriculture within the State Department of Agriculture. The Department is responsible for many aspects of the food supply chain, from planting and livestock production to food distribution; however, the composition of the Board is focused heavily on production. The goal of the changes is to more closely align Board positions to the industries currently funded or regulated by the Department. To put it simply, we want everyone to have a voice on the important policy discussions of the Board.

The original bill requested two members, one experienced in supplemental nutrition distribution and the other experienced in food manufacturing or processing. The amendment also reflects these two positions as well as other changes which I will review shortly [[Exhibit G](#)].

Supplemental nutrition is defined as the food provided to a person or family augmenting any food they might have to create a full and nutritious meal. The Department works with many federal programs to distribute supplemental nutrition to food insecure populations. Ninety-two percent of the overall budget of the Department in fiscal year (FY) 2021 was the responsibility of the Food and Nutrition Division, which has no Board representation. Further, in FY 2020, Nevada food security organizations received food valued at approximately \$47 million and almost none of it came from Nevada. We need to connect the groups producing the food and the groups distributing the food; the Board is a good place to start.

Food manufacturing and processing also has no Board representation, yet the economic impact for the food and beverage manufacturing sector counts for 83 percent of the agriculture industry in Nevada. Much of that is the manufacturing or processing of agricultural products sourced from outside of the state. The Board is not required to have any member with manufacturing and processing experience despite the growth and importance of this sector on Nevada's agricultural economy, which is why this position is important. We do not have a connection between production of plants, produce, and livestock and the processing and manufacturing of the same—we need to connect these groups.

At the hearing of the Senate Committee on Natural Resources, the Board of Agriculture presented an amendment. We also heard from the industry about the importance of having a cattle industry-specific position and a sheep industry-specific position. After the hearing, I worked with the Board chair on the amended language that you have before you. At this time, I will pull up a slide for everyone watching to follow along [[Exhibit G](#)].

The amended language expands the board from 11 members to 13 members. It includes the two positions I have referenced: the supplemental nutrition distribution position and the position representing food manufacturing or animal processing. I met with representatives from the Nevada Veterinary Medical Association who requested a position that can speak to animal health issues. That seemed reasonable, so we included it. Based on public comment, we reinstated a position representing the sheep industry and the cattle industry. We kept a livestock industry position to offer representation to those industry members who raise other livestock such as chickens, hogs, or goats. The total livestock positions are three members. We have two representatives in growing crops, providing representation to our specialty crop industry, but also the hemp, hay, and alfalfa industries.

In conclusion, this bill seeks to promote diversity and provide a voice to those at the end of the supply chain, those who process and manufacture from agriculture goods, and those who represent the food insecure populations that receive agricultural goods in the form of food. The bill also ensures that the current industries continue to be represented on the Board so they can continue to speak on important issues. The effective date of these changes is July 1, 2022.

Chair Watts:

Are there any questions?

Assemblywoman Anderson:

The Board of Agriculture is going to be expanded to 13 members, yet section 2, subsection 2 says, "Not more than two members may be residents of the same county." Is that still accurate? I am a little worried about being able to actually fill the Board if only two members can be in the same county.

Jennifer Ott:

The intention of the board is to increase to 13 members, with no more than 2 members from the same county.

Assemblywoman Anderson:

I know you have received support from Chair Woody Worthington of the State Board of Agriculture. Has the Board had a thorough discussion regarding this and been involved in the discussions with the bill?

Jennifer Ott:

The bill was released at the end of November 2020. It was presented to the Board at the December 9, 2020, meeting, where they discussed the bill. It was decided that the Board wanted to vote to not support the original bill. That is what was included at the Senate Committee on Natural Resources, that the Board did not support and they put forth an amendment. The amendment was to return the Board to the original makeup, adding the two positions for supplemental nutrition and food manufacturing and processing. That did not accomplish the goals. Like I said during my testimony, I met with the chair of the Board after the testimony of the Senate Committee on Natural Resources. The Department put

forth the amendment that we were hoping addressed many of the concerns of the feedback that we received during that hearing. Yes, the Board met and discussed it in December 2020 and again in March 2021.

Assemblywoman Anderson:

Thank you. I realize you are in a difficult position as the Director, and you have to work with the Board, according to NRS Chapter 561. The Board, according to NRS 561.105, subsection 1, paragraph (c), "Shall advise and make recommendations to the Governor or the Legislature relating to the policies of the State concerning livestock and agriculture." That is why I am concerned about the additional individuals being added: the Board has not been fully vetted in this process.

Assemblywoman Titus:

Along that same line of questioning, regarding the interaction of the Director and the Board, I first want to acknowledge that you did add back the sheep people who were concerned about being eliminated entirely from a position on the Board. They were promised that position decades ago. In NRS 561.105, Duties; rules and regulations, subsection 1, paragraph (d), states that the Board "Shall establish the policy of the Department." I share concerns that this legislation was not established by the Board, and I am concerned that there is a disconnect between the two. I also have had people reach out to me stating they were not involved in the recent amendment. There are a number of folks concerned about policy versus Board regulations. Who is in charge of what, and are you following directions from the Board? The Board is to establish the policy, and I am not sure I am seeing that in this particular bill. I want more assurance that, indeed, your Department is following the policy of the Board of Agriculture.

Chair Watts:

The policy is ultimately set by the Legislature, as well as the fact that the Executive Branch, the Office of the Governor, and the Department have the ability to bring forward bill draft requests for our consideration. That is something that I want all members to keep in mind as we have this discussion.

Jennifer Ott:

In talking about that portion where the Board sets the policy for the Department, I think that is the point. The Board is charged with this and not all areas of the agriculture industry or areas under the purview of regulations or funding of the Department are represented. I think that if the Board has this weighty responsibility, it is important to receive feedback and representation from a diverse audience. If you look back at Board minutes, as far as policy and bringing it to the Board, the Board votes on policies that the Department requests. I would also note that the Department does not set the agenda for the Board meeting, the Board does. When it comes to policy discussions, we wait for the direction and inclusion of those in an agenda from the Board.

Assemblywoman Titus:

I would like to acknowledge that the Department of Agriculture is not the same Department of Agriculture of my grandparents. I understand that this nation and this state have changed. My grandparents would have never thought that we would be engaged in the food manufacturing, or in the field of supplemental nutrition in our schools and all the other things that the Department of Agriculture has expanded to. I appreciate your trying to bring this up to the twenty-first century, at the same time remembering the twentieth century. It is a difficult mix, and I appreciate what you are trying to do.

Chair Watts:

I think it is timely that we are hearing this bill after the work session on Senate Bill 65, which makes some adjustments to the Department. We got to see all of the different divisions and activities that the Department is undertaking, and now we are seeing some of those roles and responsibilities being reflected in the proposed additions as well as the expansion of the Board to include those perspectives while also maintaining the perspectives that are currently established in statute. Are there any other questions from members? Seeing none, I will begin with testimony in support of S.B. 54 (R1). Hearing none, is there anyone who would like to testify in opposition?

Doug Busselman, Executive Vice President, Nevada Farm Bureau Federation:

The Nevada Farm Bureau Federation is in opposition to S.B. 54 (R1). We view the role and responsibilities of the Board of Agriculture in the context of NRS 561.105, offering oversight and direction to the Department of Agriculture. It is this view which caused us to seek an amendment to this bill in the Senate to clarify the need for the Board of Agriculture to oversee the regulations, fees, and policies related to the Department. The Nevada Farm Bureau testified that we would support S.B. 54 with our proposed amendment and the amendment that the Board of Agriculture formally adopted to support in their January 19, 2021, special meeting. This amendment by the Board proposed to continue the current designated representatives in NRS 561.055. The Board also supported the two additional seats that the Director wanted to add, the nutritionist and the representative for food manufacturing or animal processing.

Acting contrary to the direction given by the Board and the amendments they supported, the Director supported changes to the language in the bill to what you see now. The Director also openly opposed the amendment proposed by the Nevada Farm Bureau to make all regulations within the Department, while under the Board's authority to approve or deny. We believe that the actions in S.B. 54 (R1) bring us to a point which are contrary to the authority and responsibility of the Board of Agriculture. The Department's efforts to restructure the Board is opposite to the role the Board has in setting policy direction in all its forms over the activities of the Department of Agriculture. The disregard demonstrated for the Board's authority is extremely troubling and would be established to be acceptable with the passage of S.B. 54 (R1). We urge the Committee to not consider this legislation for passage and instead maintain the present membership qualifications for the Board of Agriculture as identified in NRS 561.055.

Chair Watts:

When did you bring forward your proposed amendment in relation to the Senate hearing?

Doug Busselman:

We brought that amendment forward when the hearing was first held on S.B. 54 in the Senate Committee on Natural Resources [February 23, 2021].

Chair Watts:

You did not bring it forward to the sponsor prior to the hearing?

Doug Busselman:

No.

Chair Watts:

Will you provide us with an example of a regulation that has been adopted by the Department with which you have had issue and that the Nevada Administrative Procedure Act has failed to provide an adequate remedy requiring Board action on all regulations?

Doug Busselman:

We have not had an experience at this point with that type of thing. We do see where there are conflicts in existing statutes, primarily the example that I would give is in the brand inspection section of statute where the law says that the Director shall develop regulations. We believe that should go back to the Board, as the Board's coverage of their regulative authorities are covered in other statutes.

Chair Watts:

Are there any other questions for Mr. Busselman?

Assemblyman Ellison:

You referenced a letter from January 19, 2021, when the Board made a decision. What letter was that?

Doug Busselman:

On January 19, 2021, the Board had a special Board of Directors meeting. At that meeting, they adopted a formal policy which said they would support an amendment to keep the current makeup of the Board of Agriculture as it was and add two additional seats.

Assemblyman Ellison:

Is that letter somewhere on the Nevada Electronic Legislative Information System?

Doug Busselman:

I do not know that there was a letter. It was a formal action taken by the Board of Agriculture. It was a Board motion that was adopted.

Assemblyman Ellison:

I did not know if there was notification that was sent to the Senate. I do support the request; I just did not see that request.

Doug Busselman:

There was testimony given by the vice chair of the Board of Agriculture at the hearing that was held in the Senate. He expressed what the Board's actions were.

Assemblywoman Anderson:

You do not serve on the Board, is that correct? I see you shaking your head no. Do you remember seeing an agenda item where the review of policies and procedures, as Director Ott brought up, is the responsibility of the chair? Is that an item that had been agendaized for the Board to discuss?

Doug Busselman:

There have been agenda items that have been up for discussion and for action, especially more recently than before. There have been times where they have included those kinds of agenda items. The Department also, for a number of meetings, presented policies that they felt the Board should consider. Those were also identified on the agendas in the past.

Assemblywoman Hansen:

Putting the sheep person back on the Board was an amendment. Who was that offered by?

Doug Busselman:

The sheep person being returned to the Board, as well as the additional cattle producer being reinstated and the veterinarian being brought on, were all presented as part of a work session amendment that was adopted in the Senate. There was no opportunity for testimony. It was brought forward in the work session and was adopted there.

Assemblywoman Hansen:

That amendment was presented during the work session; it is now part of the bill. The amendment you referenced from the Nevada Farm Bureau Federation, you said it was offered the day of the hearing. What was that amendment about? I know the last hearing in the Senate was March 30, 2021. Will you remind me what your amendment was and verify that it was not accepted?

Doug Busselman:

Our amendment was presented at the original hearing of the bill [February 23, 2021]. That amendment proposed to amend NRS 561.105 and to clarify the language which called for all regulations and policies that were under the direction of the Department of Agriculture to go before the Board of Agriculture for consideration.

Chair Watts:

Are there any additional questions? Hearing none, I will go on to the next person wishing to provide testimony in opposition.

K. Neena Laxalt, representing Nevada Cattlemen's Association:

The Nevada Cattlemen's Association is in opposition to S.B. 54 (R1). I provided a letter from the Nevada Cattlemen's Association [[Exhibit H](#)]. Their position on this bill has not changed. I would like to give you a little history on the Department of Agriculture and what has transpired over the years without going through every year. The Board was created in 1961; that was 60 years ago. In that time, there are a few things that have remained consistent. There are a few things that have changed, which happens with any legislation. One thing that did not change was the number of Nevada Cattlemen's Association members who served on the Board. If you look at the initial creation of the Board, which is still in NRS 561.015, it states that the purpose of the board was: "To promote the efficient, orderly and economical conduct of the various activities for the encouragement, advancement and protection of the livestock and agricultural industries of the State of Nevada." For 60 years we had status quo as far as the Nevada Cattlemen's Association goes. Now, the problem is lying in the process that has been taking place.

The Nevada Cattlemen's Association is the most impacted in this bill and has never been contacted for outreach from the Department. I believe the Nevada Cattlemen's Association did participate when the Board took the position against adding two more members, and they also did not want to lose any members. Throughout this process, the Nevada Cattlemen's Association has not been approached. They have testified in opposition and believe that this change has really been done without any outreach to many of the industries that are impacted by this bill. The Senate hearing was laced with opposition; some of those concerns were addressed. The Nevada Cattlemen's Association's concerns were not addressed. I will say that the Nevada Cattlemen's Association strongly urges your opposition to this bill. We have no problems going back, talking it over, and being part of the discussion that would take place. For now, after 60 years of status quo, we would like to be part of the process.

Jake Tibbitts, Natural Resources Manager, Department of Natural Resources, Eureka County:

Eureka County remains opposed to S.B. 54 (R1). We acknowledge the improvements with the first reprint that partially addresses some of our concerns on the original bill. We still disagree with any diminishing of range or semirange cattle grazing representation on the Board. We note that rangeland cattle ranching is the primary and most prevalent agriculture enterprise in this state, and it is of great importance to Eureka County. I will not belabor the issue, but we are also very concerned with the process on how this bill came to be. We want to note that even without recasting the Board of Agriculture as proposed, the Board and the Department can and should address the topics identified under the seats proposed to be added, but we do not feel this is the way to do it. Please do not move S.B. 54 (R1) forward.

Marla McDade Williams, representing Churchill County:

I am not disputing any of the remarks put forward by Director Ott. However, it seems if there are going to be changes to the State Board of Agriculture makeup, moving into an additional realm of policy making, that is a process that needs to be thoroughly vetted and it has not been up to this point. This bill draft was not brought before the Board members for consideration before it was submitted to the Legislative Counsel Bureau. Therefore, the

Board was not able to weigh in as required by NRS 561.105, which states, "The Board: (c) Shall advise and make recommendations to the Governor or the Legislature relating to the policies of the State concerning livestock and agriculture." Clearly the Director has authority over the Department's activities, but the Board is responsible for establishing the policies of the Department. I think that this goes beyond administrative policies. I think it goes to how the state wants to move forward with livestock and agriculture industries.

Finally, as noted, it is not clear what roles these new members will serve on the Board since they do not have a role with the "encouragement, advancement and protection of the livestock and agricultural industries of the State of Nevada." This is the Legislative declaration of NRS 561.015 for the State Department of Agriculture, which, as mentioned previously, has been in place since 1961.

We oppose S.B. 54 (R1) because we believe it needs to be fully vetted before the Board during the interim and in a public setting to allow the various constituencies to weigh in and understand and then move forward if that is what is ultimately determined. There are a lot of changes that need to be made in statute to gel this all together with the new Board. Thank you for your consideration.

Chair Watts:

Are there any other callers in opposition? Hearing no one, I will move to the neutral position.

Peter Krueger, State Executive, Nevada Petroleum Marketers & Convenience Store Association:

Many in this Committee might be wondering why someone with the petroleum industry would be addressing you on this bill. We are neutral, and the reason is that the petroleum industry enjoys a seat on the Board of Agriculture and has for more than 30 years. It is an important role, one I think many people are unaware of, that the Department of Agriculture plays in fuel quality. In fact, the Department tests and determines fuel requirements and specifications. Our position does not change with this bill; it is of extreme interest to us as we go forward.

There will be a number of hearings, such as Assembly Bill 411 (1st Reprint) that has to do with ethanol. Having a viable and consistent Board that understands business, understands and listens to both sides, especially in the case of the ethanol industry, and will really duke it out on whether 15 percent ethanol should be permitted in Nevada. I was very pleased to hear that Director Ott said she understands and is fully supportive of all provisions of NRS 561.105. That is good because we are going to really be in the thick of things, not only with the ethanol bill, but several other bills.

To let you know how important this is, in the last six or eight months, some kind of contaminant has entered the diesel fuel chain in northern Nevada; we think it is temperature related. The Department and, hopefully, the Division of Measurement Standards—as opposed to the Division of Consumer Equitability—has been very involved in trying to get to

the bottom of this. For those reasons, we are pleased to be neutral on the bill because it does not affect our position, but we are very pleased that Director Ott understands and supports NRS 561.105.

Chair Watts:

Is there anyone else wishing to provide testimony in neutral? Hearing no one, we have a question from Assemblyman Ellison.

Assemblyman Ellison:

I am wondering if we can try to resolve the issue and come up with a workable solution for this bill by proposing an amendment to be brought back to this Committee.

Chair Watts:

As with any other bill, I encourage folks who have concerns to continue bringing them forward to the sponsor of the legislation. Feel free to include me in that correspondence. With that, are there any closing remarks? Hearing none, I appreciate your presentation, Director Ott, and I will close the hearing on S.B. 54 (R1). That brings us to the last item on our agenda, which is public comment. Is there anyone wishing to provide public comment? Hearing no one, our next meeting will be Wednesday, May 5, 2021. This meeting is adjourned [at 5:33 p.m.].

RESPECTFULLY SUBMITTED:

Nancy Davis
Committee Secretary

APPROVED BY:

Assemblyman Howard Watts, Chair

DATE: _____

EXHIBITS

[Exhibit A](#) is the Agenda.

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

[Exhibit C](#) is the Work Session Document for Senate Bill 23, presented by Jann Stinnesbeck, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit D](#) is the Work Session Document for Senate Bill 52, presented by Jann Stinnesbeck, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit E](#) is the Work Session Document for Senate Bill 53, presented by Jann Stinnesbeck, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit F](#) is the Work Session Document for Senate Bill 65, presented by Jann Stinnesbeck, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit G](#) is a proposed amendment to Senate Bill 54 (1st Reprint), submitted by Jennifer Ott, Director, State Department of Agriculture.

[Exhibit H](#) is a letter dated May 3, 2021, submitted by K. Neena Laxalt, representing Nevada Cattlemen's Association, signed by Tom Barnes, President, Nevada Cattlemen's Association, in opposition to Senate Bill 54 (1st Reprint).