

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

**Eighty-First Session
May 24, 2021**

The Committee on Natural Resources was called to order by Chair Howard Watts at 4:04 p.m. on Monday, May 24, 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 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:

Assemblywoman Annie Black (unexcused)

GUEST LEGISLATORS PRESENT:

Assemblywoman Sarah Peters, Assembly District No. 24

STAFF MEMBERS PRESENT:

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



OTHERS PRESENT:

Douglas Farris, Administrator, Animal Industry Division, State Department of Agriculture
Ashley Jeppson, Administrator, Plant Industry Division, State Department of Agriculture
James R. Lawrence, Deputy Director, State Department of Conservation and Natural Resources
Emily Walsh, representing League to Save Lake Tahoe
Sean McKenna, Executive Director, Division of Hydrologic Sciences, Desert Research Institute
Sudeep Chandra, Director, Global Water Center, University of Nevada, Reno
Robert Larsen, Program Officer, Tahoe Science Advisory Council
Meghan Brown, Deputy Administrator, Plant Industry Division, State Department of Agriculture

Chair Watts:

[Roll was taken.] We will begin by opening the hearing on Senate Bill 34 (1st Reprint).

Senate Bill 34 (1st Reprint): Makes various changes relating to agriculture. (BDR 50-330)

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

Senate Bill 34 (1st Reprint) updates the titles of Peace Officers' Standards and Training (POST) qualifications of the State Department of Agriculture's (NDA) law enforcement staff. It provides inclusion of NDA law enforcement staff with first responder occupational and health disease coverage. There is also the addition of the word "visual" pertaining to brand inspections.

To provide background, the NDA currently has five sworn law enforcement staff positions utilized in educating the public and industry as well as upholding and enforcing agricultural laws across the state. The Department's law enforcement officers operate fully marked and equipped law enforcement vehicles while performing traffic stops of vehicles transporting agricultural products and investigating theft or loss of livestock, illegal killing of livestock, trespass, illegal importation of animals and agricultural products, and unlicensed agricultural businesses and products. Protection of public health and safety is at the forefront of NDA law enforcement officers' mission as first responders and certified peace officers of the state of Nevada.

The NDA officers assist local, state, and federal agencies during vehicle crashes, along with animal abuse and neglect investigations. These officers face the same risks of being exposed to harmful chemicals or inhalants either being transported in vehicles or produced due to a vehicle crash and conditions, or at a location that contains chemicals utilized in the manufacturing of illicit drugs, which is the basis for the insurance protection in this bill.

The proposed title revision is to provide clarity and update the titles to reflect titles more consistent with the job duties and nationally recognizable titles of law enforcement personnel. The Department's law enforcement staff are currently required to hold the minimum of a category II POST certificate.

Senate Bill 34 (1st Reprint) would update these requirements to a category I POST certificate, creating equity amongst NDA law enforcement staff with other state, county, and city law enforcement officers such as game wardens, state troopers, deputy sheriffs, and city police officers. All current NDA law enforcement staff already hold a category I POST certificate, so this will not negatively affect any of our staff, but would provide future benefits for the Department by providing a larger group of interested candidates when filling vacant positions.

Senate Bill 34 (1st Reprint) would also ensure that NDA law enforcement officers are included under the same occupational health and disease insurance coverages that are provided to peace officers across the state. This bill does not create any new positions in the Department. That concludes my presentation.

Chair Watts:

Are there any questions?

Assemblywoman González:

You said there are currently five officers, correct?

Douglas Farris:

There are five sworn law enforcement officer positions, six including my position.

Assemblywoman González:

Will this give you the ability to hire more officers?

Douglas Farris:

It would stay at the six positions. This is changing the classification from a category II to a category I.

Assemblywoman González:

What is the need for this?

Douglas Farris:

The intent behind S.B. 34 (R1) is due to the difficulty in filling positions for our agency. We had a position located in Elko that took over two years to fill. Part of that is that our officers are not afforded the same benefits and same classification as other law enforcement officers. We believe that with the passage of this bill, the job pool would increase, and we would be able to gain more staffing when we have vacant positions.

Chair Watts:

I would add that staffing levels are usually set through the budgetary process, so this is setting the structure for those positions. I was also going to ask about the impact this may have on recruitment.

Assemblyman Ellison:

Historically, when needed, the NDA would call the sheriff's department, which was the enforcement agency, correct?

Douglas Farris:

To my knowledge, the Department has always had sworn peace officers. We will ask for assistance, whether it be from a county, city, or state agency, if needed. I believe at one time NDA had 12 positions who were all sworn law enforcement officers.

Assemblyman Ellison:

How long has NDA had sworn peace officers?

Douglas Farris:

I do not have that information. I know at least since the late 1980s.

Chair Watts:

I would also point out that you can see some of the modifications that are made in section 11, which refers to *Nevada Revised Statutes* (NRS) Chapter 289. This is changing its reference to agricultural police officer, but the previous language was persons designated as field agents or inspectors were designated as peace officers.

Allan Amburn, Committee Counsel:

In looking at NRS 561.225, in which the Director may designate department personnel as field agents and inspectors in enforcement of these provisions, these are the enforcement personnel, and that has been around since the 1960s.

Chair Watts:

Will you let us know when the language in NRS 289.290 was initially put into law?

Allan Amburn:

I believe that was in 1993.

Assemblyman Wheeler:

Category II peace officers usually cannot carry a weapon without a dispensation, but a category I officer can. Are you planning on arming these officers?

Douglas Farris:

Category II peace officers do carry firearms. They are police officers, which is what our officers currently are. They have the powers to make traffic stops and carry firearms and other personal defense weapons. I believe category III officers do not carry firearms.

Assemblywoman Brown-May:

Are training requirements going to change as the officers go from category II to category I?

Douglas Farris:

That would not change; the training is the same. As I mentioned earlier, all our officers are currently category I peace officers. They have all attended the POST Academy, and they meet the required training of category I peace officers annually.

Assemblywoman González:

By changing the category, would anything in their job descriptions change?

Douglas Farris:

No, their job descriptions would stay the same. They would be operating under the category I certificate rather than a category II.

Chair Watts:

Are there any other questions? Seeing none, I will open up testimony for S.B. 34 (R1). Is there anyone wishing to offer testimony in support? Hearing no one, is there anyone in opposition? Hearing no one, is there anyone in neutral? Hearing no one, are there any closing remarks?

Douglas Farris:

Thank you for your time.

Chair Watts:

I will close the hearing on S.B. 34 (R1). I have been granted authority by the Speaker to waive the 24-hour requirement before work-sessioning a bill. With that I will open the work session on Senate Bill 34 (1st Reprint). Are there any questions?

Assemblyman Ellison:

I know we have sworn deputies with the State Department of Agriculture in Elko. I am going to vote yes, but I will speak with the sheriff in Elko before voting on the floor.

Assemblywoman González:

I have some reservations and will be voting no, but reserve my right to change my vote on the floor.

Chair Watts:

Are there any other questions or reservations? Seeing none, I will accept a motion to do pass.

ASSEMBLYWOMAN BROWN-MAY MADE A MOTION TO DO PASS
SENATE BILL 34 (1ST REPRINT).

ASSEMBLYMAN WHEELER SECONDED THE MOTION.

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

THE MOTION PASSED. (ASSEMBLYWOMAN GONZÁLEZ VOTED
NO. ASSEMBLYWOMEN BLACK, CARLTON, AND TITUS WERE
ABSENT FOR THE VOTE.)

I will assign the floor statement to Assemblywoman Brown-May. I will now open the
hearing on Senate Bill 438.

Senate Bill 438: Revises provisions related to agriculture. (BDR 51-1100)

**Ashley Jeppson, Administrator, Plant Industry Division, State Department of
Agriculture:**

Senate Bill 438 is specific to Title 21 of the *Code of Federal Regulations* (CFR), Part 112, which pertains to the Food Safety Modernization Act—the food safety rule. This entire rule is geared at those producing products that are commonly consumed raw in order to have preventive food safety measures as opposed to reactionary. This bill is establishing specific requirements pertaining to the growing, harvesting, packing, and holding of produce for farms of a certain size and scope. We are proposing that the State Department of Agriculture (NDA) be able to implement these federal requirements and to do so at a state level as opposed to the U.S. Food and Drug Administration (FDA). We believe we can provide the resources and the assistance needed to help producers meet compliance while also filling that inspection service as is detailed in the bill.

Title 21 CFR Part 112 talks quite a bit about the expectations that these farms have to comply to. It is typically geared at farms that are of a size or scope where they are distributing fairly broadly, not just on a local level. The farms' products are potentially distributed widely in the food system. This is ensuring that the farms are taking preventive steps.

We have learned a lot from food safety outbreaks and those lessons have been encompassed in these federal requirements. Just to give context, these requirements include water testing, monitoring for animal intrusion, and looking at the biggest risks for foodborne illness contamination on a farm and trying to have mitigation measures in place. The bill also has language that would allow us to react quickly if we did identify that there is immediate food safety risk present, in addition to ongoing compliance that could lead to an egregious situation that could pose a public health threat.

I know there are a lot of moving pieces to this portion of federal law, and I am happy to answer any questions about what we are trying to do here for public safety. One thing I will provide for clarification is these farms would have to be inspected by FDA, and we work under a cooperative agreement with FDA to do that on a state level. It is a requirement of that cooperative agreement for this to be in statute for us to continue with that service.

Chair Watts:

We are adopting some of these measures by reference. I can see we are adding a new section to Chapter 583 of the *Nevada Revised Statutes* (NRS). Either in statute or another part of regulation, is NDA already undertaking some of these activities? Is the adoption of some of these federal regulations by reference expanding the roles and responsibilities of the NDA compared to what they are currently? I know you stated this is in alignment with some of the partnerships that we have with other agencies.

Ashley Jeppson:

There are two answers to that question. One being, yes, we have been performing the compliance inspections and we have been doing that under FDA commissioning. The FDA actually releases funds to states because they know that this was a beast for our state to undertake and for farms to have to comply. There was funding to establish that cooperative agreement for states to provide education and regulatory services. At that time, the FDA allowed us to do the inspections under that FDA commissioning; however, they gave us the first five years to start working toward getting this adopted.

Now the expectation is if they are to continue to provide the funding for the state to have oversight, it has to be adopted in statute, which is a big part of what is leading us here. Regarding our previous existing authority, the only thing we have had is NRS Chapter 583. This statute allowed us to respond if there was an adulterated produce product or something that was a threat to the public, but it is fairly vague and does not reference these regulations which are very specific on the expectations of the large farms.

Assemblywoman Cohen:

If a cease-and-desist letter is ignored, and the order to recall produce is ignored, what is the next step? I understand why the cease-and-desist order is necessary, but what if products are still getting out to the public that may be dangerous?

Ashley Jeppson:

We would still be working very closely with FDA. In the event there is an immediate risk, particularly the pose of a threat to the county, state, or nationwide, the FDA would be involved as well. If the farmer were not following the cease and desist, we would be working with FDA and our local health authorities to try to immediately address a public health threat.

Chair Watts:

I believe there are civil penalties within this chapter as well.

Assemblyman Ellison:

If NDA finds there might be a problem, would the farmer be put on notice? If the farmer receives a cease and desist and then it is discovered that there is not a problem, how long does it take to clear that up, and what happens to the product in the meantime?

Ashley Jeppson:

Every instance is a case-by-case situation. I want to preface this in that our goal is to help farms comply with the regulations, to be successful, and to find out where these risks are happening. As I mentioned, there tend to be three big culprits, usually health and hygiene of staff, water, and animals. If there are things that could pose threats, as inspectors, our first goal is to notify the farmer and help him get that in alignment for public safety.

We all learn, and our goal is to help people be successful. If we see something such as a worker who is very ill and is handling products that are about to enter the stream of commerce, we need to take immediate action. That is an instance where we need to work with them to identify the severity of the issue and ensure we are exercising our authority to prevent that product from entering the stream of commerce. At that stage, we would be working with FDA in getting the farm into compliance. It would depend on the situation, whether it is truly egregious, or if we can keep it from getting out, and at what stage it is at in terms of risk. We want to react based on the level of risk to the public.

Assemblyman Ellison:

I was following a case from back East in which someone with COVID-19 went to work on a farm. Fifty people got sick, and FDA shut them down. There was another farm put on notice and shut down, but it was later found the second farm did not have issues. How long does it take to determine there was not a problem for the farm to reopen?

Ashley Jeppson:

From what I have been familiar with, every case is very different. Typically, when the issue was tied to a common processor that is packing for ten different farms, they try to isolate with the information they have from the consumers who become ill. They try to address those as quickly as they can to try to figure out where it is sourced. If they did find that something was erroneously linked to a farm with no ties, it would be fairly quick that the Centers for Disease Control and Prevention typically releases the notice that these are the operations that need to be avoided versus the other operations. The moment they have the information that there has been an error, they release that information. Unfortunately, these investigations take quite a bit of time based on the complaint and trying to link it. There is not a set time; this is very scenario-specific.

Chair Watts:

Are there any other questions? Seeing none, I will open for testimony, starting with those wishing to testify in support. Hearing no one, is there anyone in opposition? Hearing no one, is there anyone wishing to testify in neutral? Hearing no one, are there any closing remarks?

Ashley Jeppson:

Thank you for your time.

Assemblyman Ellison:

Why has Mr. Busselman [Executive Vice President, Nevada Farm Bureau Federation] not commented on this?

Chair Watts:

I do not know that the Department can answer that question. We did get notice of this hearing out well in advance so people could provide testimony. I have not seen anything indicating any issues with the measure. I will close the hearing on S.B. 438, and we will take a brief recess [at 4:34 p.m.].

I will call the Committee back to order [at 4:36 p.m.]. Pursuant to Assembly Standing Rule No. 57, I have been given the authority to open a work session without waiting 24 hours. I will open a work session on Senate Bill 438. Are there any questions? Seeing none, I will entertain a motion to do pass.

ASSEMBLYWOMAN ANDERSON MADE A MOTION TO DO PASS
SENATE BILL 438.

ASSEMBLYWOMAN MARTINEZ SECONDED THE MOTION.

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

THE MOTION PASSED. (ASSEMBLYWOMEN BLACK AND
CARLTON WERE ABSENT FOR THE VOTE.)

I will assign the floor statement to Assemblywoman Anderson. I am going to open the hearing on Senate Concurrent Resolution 9.

Senate Concurrent Resolution 9: Expresses support for the Nevada System of Higher Education to work collaboratively in its science and research efforts addressing the needs of the Lake Tahoe Basin. (BDR R-364)

Assemblywoman Sarah Peters, Assembly District No. 24:

Senate Concurrent Resolution 9 is a result of the work accomplished by the Legislative Committee for the Review and Oversight of the Tahoe Regional Planning Agency and the Marlette Lake Water System. Those familiar with the committee understand the dynamic relationship between the natural and human environments and the importance of the scientific research and application of those sciences around the Lake Tahoe Basin.

In addition to its glorious and historically pristine reputation, Lake Tahoe is the headwaters of the Truckee River and feeds a dynamic system of domestic, recreational, wildlife, and agricultural uses. Lake Tahoe is also unique in the context of jurisdictional oversight, compacts, and interlocal agreements that range in issues from transportation, infrastructure, and wildlife management to research, study, and planning for the natural environment, to name a few.

The goal of this measure is to express the support of the Legislature for the Nevada System of Higher Education to work collaboratively and enhance collaboration in its science and research efforts addressing the needs of the Lake Tahoe Basin with the Tahoe Science Advisory Council and other state agencies and decision makers in the basin. This collaborative relationship would reduce redundancies, increase efforts, and implement science-driven recommendations.

Research institutions, including the University of Nevada, Reno (UNR) and the Desert Research Institute (DRI), are already leading the way in basin-related research. This enhanced collaboration will assist in attainment of research goals outlined by the basin partners and advisory groups. We have an obligation to adopt effective, evidence-driven policy in the Lake Tahoe Basin. In the following testimony, you will see how our institutions do play an enormous role in helping us attain this goal. I am going to ask Mr. Lawrence with the State Department of Conservation and Natural Resources (DCNR) to provide a few brief statements on DCNR's interest in this particular piece of legislation.

James R. Lawrence, Deputy Director, State Department of Conservation and Natural Resources:

I appreciate the opportunity to testify in support of S.C.R. 9. As a brief background, in 2015, DCNR entered into a memorandum of understanding with the California Natural Resources Agency, which established the Tahoe Science Advisory Council (TSAC). The role of TSAC is to coordinate science and research activities in the Lake Tahoe Basin to be the bridge between the science and research community with the land managers and policy makers. The goal is to put science into action. This science into action is critical to all the divisions within DCNR, including the Division of State Lands, to coordinate with the Lake Tahoe Environmental Improvement Program for Nevada.

We also have the Division of Environmental Protection, which is responsible for coordinating and overseeing the total maximum daily load program to protect and restore lake clarity. The Division of Environmental Protection also has oversight responsibilities regarding drinking water, and Lake Tahoe is the drinking water source for many Nevadans. The Division of State Parks is responsible for making land and recreation management decisions in an environment where increasing recreational pressures are creating stresses on our environment. We have a long track record of success in environmental protection and restoration in the Lake Tahoe Basin as a result of these various environmental programs. These programs are not just for Nevada, but among all basin stakeholders.

However, we have emerging ecological threats that may threaten past and future investments. A warming climate creates new challenges regarding keeping lake clarity and protecting the basin from invasive species. Recreation demand continues to steadily increase, creating more stresses on our environment. Drought is causing more stress on the already overstocked forest, creating a forest ecosystem more prone to disease and catastrophic wildfires. As a conservation and natural resources department, we need research to inform our decisions, and we need to utilize the best available science to maximize Nevada's investment in protecting Lake Tahoe. This resolution sends a strong support for that effort as well as a coordinated science effort in order for us to make the best decisions possible based on the best available science. That concludes my testimony.

Chair Watts:

I am now going to take questions from the Committee.

Assemblywoman Titus:

I had the privilege of sitting on that committee during one interim. It was an eye-opener for me. Although I have enjoyed going to Lake Tahoe my entire life, it was a different situation seeing the challenges that Lake Tahoe has. I am questioning the need for this particular piece of legislation. One of the things I did learn on that committee is there are wonderful groups already involved in this, whether it is DRI or UNR. We went out on a boat, checked out the fish, and learned about the potential risk to water quality, invasion of mussels, et cetera.

What is lacking that this resolution is trying to fix? From what I understand, the last thing in the world that we need at Lake Tahoe is more regulation; quite the contrary, we should try to consolidate things that are happening so that there are not 35 agencies involved trying to get one decision made. After the Angora Fire, we realized that we were harming Lake Tahoe by having so many regulatory bodies and so many things to check before anything could be done. Again, what is the piece we are missing that this resolution would solve?

James Lawrence:

More than updating with more regulatory bodies, this is to support the existing Tahoe Science Advisory Council. This resolution is encouraging just what you are asking about: more coordination, less duplication. While there are continued coordinated efforts, and a lot of research institutions are doing excellent research work up there, this resolution encourages the institutions to coordinate their scientific efforts so they are not duplicating or overlapping and are being more efficient with the dollars in addressing the most critical science needs that the conservation and natural resources departments have.

Assemblywoman Titus:

This will partly help solve the problem that, for example, this is not UNR doing a study on how far you can see a disc that is dropped into Lake Tahoe while the University of California, Davis is doing that same study. You are trying to coordinate efforts to maximize time, effort, and money, is that correct?

James Lawrence:

That is correct. There is a lot of research that we need to make the best decisions that we can with our investment. We want to avoid duplication and maximize the efforts.

Chair Watts:

Are there any other questions? Seeing none, I will open up testimony. Is there anyone wishing to provide testimony in support of S.C.R. 9?

Emily Walsh, representing League to Save Lake Tahoe:

The League to Save Lake Tahoe is in support of S.C.R. 9. Coordinating efforts to address research needs and ensure we are taking care of the lake is very important. If we are also able to coordinate, we are saving money that our institutions really need. We urge the Committee to support this resolution.

Sean McKenna, Executive Director, Division of Hydrologic Sciences, Desert Research Institute:

I am happy to be here today in support of S.C.R. 9. As you know, DRI is home to more than 450 scientists, engineers, and technicians, with campuses in both Reno and Las Vegas. We have conducted a wide variety of research at Lake Tahoe over the past several decades. We do this with our colleagues at UNR and other colleagues in California. We are members of TSAC.

I am going to point out two things in support of S.C.R. 9. First, there are some new threats to water clarity at Lake Tahoe. One was discovered in Lake Tahoe two years ago by DRI scientists—microplastics. Microplastics are the remains of plastic materials, such as clothing or products, that break down into very small pieces and do not go away. Microplastics are also part of some skin care lotions and sun-blocking lotions. Because of that, they get into the lake. Their effects on Lake Tahoe and on the water and food chain are just now being realized and studied.

Additionally, there has been considerable work in the uplands, as Mr. Lawrence mentioned, around the basin. Connecting those research components done in the uplands on the forests to water quality and connecting them through riparian zones to the lake is another area that needs additional work. We have worked with our colleagues at UNR and DCNR on a federal appropriations request to further this work at Lake Tahoe. The federal request includes an emphasis on sustainable recreation in an effort to protect the lake while sustaining recreational activities. If this project is funded, one of the deliverables will be the development of an open data platform to make existing and new data of water clarity and other aspects of Lake Tahoe and the basin available to all parties. Again, this will drive more cooperation between the different federal and state agencies at the lake. Thank you for the opportunity to be here today.

Sudeep Chandra, Director, Global Water Center, University of Nevada, Reno:

Lake Tahoe has long been a major economic provider for the northern Nevada region. The environment and ecology of the lake are intimately tied to the recreational opportunities and to the Lake Tahoe regional economy. Science information has long guided our efforts to protect Lake Tahoe. The partnering of education institutions in California and Nevada, including UNR and DRI, remain committed to working with our resource agencies and planning agencies to promote an environmentally sustainable Lake Tahoe. In the last decade, UNR and DRI have worked closely together to understand the causes of near-shore habitat degradation, whether it is from the microplastics that were mentioned or nutrient runoff. Also, we have worked together to understand how to control and manage invasive species and how shifting climates might influence the upland watershed system from forests to the lake.

As Mr. Lawrence mentioned, both institutions are part of the newly formed Tahoe Science Advisory Council, a bistate California and Nevada effort to bring scientists and managers together to solve and address pressing questions related to the protection of Lake Tahoe and its economy. We are in support of this resolution, and UNR looks forward to continuing to work with DRI and our management agencies within Nevada to help protect Lake Tahoe well into the twenty-first century.

Robert Larsen, Program Officer, Tahoe Science Advisory Council:

I want to thank Assemblywoman Peters and Mr. Lawrence for their testimony and for Nevada's ongoing support towards the partnerships at Lake Tahoe. I realize that many have spoken in support, and I do not want to repeat everything that has been said. I just want to reiterate the importance of science-driven decision making in today's world. There are a lot of things changing at Lake Tahoe, and fortunately there is a strong science management partnership in the watershed, and the Tahoe Science Advisory Council will continue that tradition to leverage that partnership and to ensure we are asking the right questions and doing the right work necessary to better perform the work that we need to do. I am grateful for the opportunity to be here today and to serve both California and Nevada as the Council liaison, and on behalf of the Council and the California Natural Resources Agency, I offer our support for S.C.R. 9.

Chair Watts:

We will go on to the next caller in support. Hearing no one, we will move on to testimony in opposition. Hearing no one, is there anyone wishing to offer testimony in neutral? Hearing no one, are there any closing remarks? Seeing none, I will close the hearing on S.C.R. 9. I will now open a work session on Senate Concurrent Resolution 9. Are there any questions? Seeing none, I will accept a motion to do pass.

ASSEMBLYMAN WHEELER MADE A MOTION TO DO PASS
SENATE CONCURRENT RESOLUTION 9.

ASSEMBLYWOMAN TITUS SECONDED THE MOTION.

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

THE MOTION PASSED. (ASSEMBLYWOMEN BLACK AND
CARLTON WERE ABSENT FOR THE VOTE.)

I will assign the floor statement to Assemblywoman Peters and Assemblyman Wheeler as a backup. Next, I will open the hearing on Senate Bill 443.

Senate Bill 443: Makes various changes relating to agriculture. (BDR 51-1084)

Meghan Brown, Deputy Administrator, Plant Industry Division, State Department of Agriculture:

Senate Bill 443 proposes additions and modifications that affect the standards governing seeds. The modifications would affect those selling seeds in the state and those who wholesale or sell seeds in stores or nurseries. The State Department of Agriculture requested these changes based on the Department's strategic plan to update and modernize our regulations.

These changes will help bring the Department in line with federal seed standards and other Western states' regulations that provide consistency for those who sell seeds in multiple states. As this industry advances, neighboring states have already implemented similar or identical regulations for modernizing terminology and ensuring seed quality related to expected shelf life. Modernization of Nevada's seed law is needed to protect the integrity of the industry throughout the state. Nevada's seed law is intended to protect consumers and assist them in making informed decisions when purchasing viable products. Sellers and consumers alike need that affirmation that the products offered for sale comply with state and national standards such as the Federal Seed Act and uphold quality thresholds. When purchasing seeds, consumers need to have the assurance that the products are free from certain weed species and that the products will perform as indicated on the label.

The recommended uniform state seed law is a collection of suggested regulatory language compiled by the Association of American Seed Control Officials. The uniform seed law is what we use for the basis of the definitions that you see in this bill. It is also the recommendation of the uniform seed law to establish supply dates for seed packaging in order to ensure the market is offering viable and quality products. Again, Nevada's seed law modernization is needed to protect the integrity of the industry for sellers and consumers alike.

The proposed language in S.B. 443 that would affect seed coming into the state does not affect the retailers' actions or requirements. The wholesaler needs to know the requirements for sale in each state. Seeds should not be entering Nevada without these labeling features, so if a store owner is importing seed, he does not have any additional burden for labeling or

other requirements for selling seed. By Nevada adopting the uniform seed law standards, we are assisting the seed industry in creating consistent regulations from state to state, making the process for wholesalers consistent and potentially making it easier to sell seeds in Nevada.

Chair Watts:

Are there any questions?

Assemblyman Wheeler:

I see there is a lot of recordkeeping in section 2, subsection 2, paragraph (b). There are, "declarations, labels, purchases, sales, conditioning, bulking, treatment, handling, storage, analyses, tests and examinations." With all of that extra recordkeeping, I also notice that there is not a fiscal note attached. Are there not any fiscal consequences for the Department? Are you anticipating any new fees or increasing existing fees to cover the additional costs?

Meghan Brown:

There will be some new fees through changes in the *Nevada Administrative Code* (NAC) for wholesalers and retailers of seeds. There will be a public process to establish those fees.

Chair Watts:

There is already existing statutory authority for you to modify those fees under NAC, is that correct?

Meghan Brown:

That is my understanding, but I would defer to legal counsel or Administrator Jeppson.

Allan Amburn, Committee Counsel:

There are two sections in this specific subchapter dealing with seeds that require the establishment of a schedule of fees. One of those is *Nevada Revised Statutes* (NRS) 587.077, which requires the Director to establish a schedule of fees for certification. The other section is NRS 587.079, which authorizes the Director to establish a schedule of fees for grading and testing of the seeds.

Chair Watts:

For added clarity, are there caps on those fees?

Allan Amburn:

There are no statutory caps on those fees; one is a fee requirement and the other is a fee authority. I do not believe that this bill is addressing those.

Chair Watts:

Any adjustments are within the existing statutory authority as long as they are related to the subjects that have been laid out.

Assemblywoman Hansen:

Regarding the sell-by date in section 15, subsection 1, paragraph (b), are there federal requirements for seeds sold in the state to have to comply with the sell-by date on seed packaging?

Meghan Brown:

It is my understanding that under the Federal Seed Act, the sell-by date is not a requirement. However, in the uniform seed law, there is a recommendation to have a sell-by date so that the germination requirement is standardized throughout.

Assemblywoman Hansen:

What kind of strain will this put on your Department? It seems there is quite some oversight required to ensure all of these regulations are being followed. Is that going to require additional equipment or staff for you to oversee that those who are selling and procuring seeds are following these new guidelines?

Meghan Brown:

We currently inspect nurseries, which are the main source of seeds sold in the state, so inspections are already occurring. We do not anticipate a need to increase staff levels for inspectors who are already doing those activities.

Assemblywoman Hansen:

In the Legislative Counsel's Digest, lines 2 through 5 state, "Sections 2-11 of this bill define certain terms that apply to the standards that govern seeds, including, without limitation, terms such as 'complete records' and 'conditioning,' which appear in existing sections of Nevada Revised Statutes but not in the new language of this bill." Is that what was cited earlier? I am curious why this says it does not appear in the new language.

Allan Amburn:

Looking at section 2, for example, "complete records," I believe that term is used in NRS 587.107. In that situation, it is an existing term that was undefined and there was ambiguity in existing law. I believe the intent is to provide that specificity of the definition. I think there might be one or two situations in this bill where we have defined terms, in sections 2 through 11, and then we added in that term later on in this bill for the way that term is used. Most of these terms are defining existing terms already in statute.

Assemblyman Ellison:

Section 15, subsection 1(b)(1), states, "For a container of seeds of agricultural crops, must be not more than 15 months after the date" Is that after the date of expiration?

Meghan Brown:

That is 15 months from the test date. For those seeds that are tested for germination, there is a date that the test occurred and then not more than 15 months past that date.

Assemblyman Ellison:

I know during some of the fires when they were trying to do some reseeding, there were not enough seeds to reseed some of the areas. Could this impact any agricultural area that cannot get enough seeds if they have a pull-by date on them?

Meghan Brown:

I cannot speak to the quantity of seeds available within the state. These regulations are for seeds that are for sale in retail, which is for commercial purchase.

Chair Watts:

I would add that much of that is with the Division of Forestry, State Department of Conservation and Natural Resources. I think there are different seed supplies for reseeding and habitat restoration versus commercial level for agricultural use.

Assemblyman Ellison:

I know they did run into a problem when we had large fires. This week I went into Save Mart to look at vegetable seeds. None of the packages I looked at had a date on them.

Meghan Brown:

There is a difference between a sell-by date and how long the seeds have been for sale. The intent of the bill is to have a sell-by date that ties to germination and viability of the seeds so the consumer understands they are purchasing seeds that are still viable for production.

Assemblyman Ellison:

If that is the case, there are no dates on the packages at all right now. There is nothing on the package to indicate how old the seeds are. Are these packages going to go back to have a date put on them?

Meghan Brown:

The intention, as we move through the legislative process and the public process, is education. We are trying to address consumer protection as well as educating the wholesalers and seed sellers of the new regulations if this bill passes.

Assemblywoman Brown-May:

Based on what you said, currently the federal regulations do not require that a sell-by date be included in the packaging, but there is a coalition that believes this is the right direction to go. This would be more strict than federal regulations, is that correct?

Meghan Brown:

I would prefer to do some research to be 100 percent correct regarding the federal seed law. It is the Association of American Seed Control Officials who have provided recommended uniform state seed laws. In that recommended seed law is the establishment of a sell-by date on packaging in order to ensure the market is offering viable and quality products, and consumers are protected and are not purchasing seeds that are no longer viable.

Assemblywoman Titus:

I am at a loss of the need for this bill. With the question that was just asked, there are no federal requirements that this be done at this time, correct?

Meghan Brown:

There is no federal requirement for the sell-by date.

Assemblywoman Titus:

Are there other states that require the sell-by date?

Meghan Brown:

Yes.

Assemblywoman Titus:

Will this be retroactive? It becomes effective on passage. Will all the seed have to be pulled off the shelves? Is there a time when they have to have the sell-by date on the packages? What are the logistics behind the implementation of this?

Meghan Brown:

Many other western and neighboring states are using the recommended uniform seed law for context. I may defer to Administrator Jeppson on the time frame related to implementation involving the products already in the state.

Ashley Jeppson, Administrator, Plant Industry Division, State Department of Agriculture:

There would be a transition. We would have to have education and outreach to the sellers to ensure they are aware that they need to be adding that date. Most other states are requiring this label; it is for consumer protection. Our approach is to ensure that Nevada does not end up being the dumping ground for undated products. We are trying to have that same expectation, ensuring that viable products are coming into the state. Of course, we want to work to make sure people are successful and ensure accommodations are being made.

Assemblywoman Titus:

Are there any seed producers currently in Nevada that would be affected? Are all of the seeds that we sell in Nevada produced in another state?

Meghan Brown:

We have a few seed producers in the state who are in conversations with our staff in the seed lab. Those entities are already meeting these standards.

Assemblywoman Titus:

Along Assemblyman Ellison's question, we have heard in this Committee over several sessions about the lack of seeds for reforestation and revegetation and the impacts of wildfire, whether it is sagebrush or all of those plants native to our state. Those seeds are in

warehouses throughout our state, and there is a true lack of supply. Will this affect those entities? People go out with nets around the sagebrush to collect seeds; it is a difficult process. They are hard to germinate, and it is very challenging. Will this affect that, or is it strictly commercial products for resale on the shelves at the local stores?

Meghan Brown:

This is for commercial applications. There are separate regulations that deal with the seeds you are discussing. These particular regulations relate only to the retail market.

Chair Watts:

I appreciate the clarification that the Department provided on this applying prospectively and there being a process of engaging with the industry and consumers to educate and incorporate this. Will you let us know which other states within the region have adopted this language, particularly some of the language relating to section 15 and regarding the sell-by dates?

Meghan Brown:

I know that Arizona, Colorado, Oregon, and Wyoming have already adopted these exact terms and language. I am happy to get you a full western-state list.

Chair Watts:

Thank you. If you can send that information to our Committee staff, we can get it to the members. Are there any other questions? Seeing none, I will open up for anyone wishing to provide testimony in support of S.B. 443. Seeing no one, is there anyone in opposition? Seeing no one, is there anyone in neutral? Seeing no one, are there any closing remarks?

Meghan Brown:

I appreciate the time, questions, and engagement.

Chair Watts:

I will close the hearing on S.B. 443. I will now open the work session on Senate Bill 443. Are there any questions?

Assemblyman Wheeler:

It looks like by setting the fees by regulation, they are getting around the two-thirds majority vote. I will be a no.

Chair Watts:

I understand that, but at the same time, I think we got the record clear that we have already established the fee ability in statute. Are there any other questions?

Assemblywoman Hansen:

There are parts I like. I like the sell-by date, and the transparency. I do have some concerns with the fees being part of the regulatory process in *Nevada Revised Statutes* 587.077. I do not see that in the bill and that lack of transparency bothers me. For that, I will be a no.

Chair Watts:

As you know, sections that are not being amended do not appear in the bill but remain throughout the chapter. Are there any other questions? Seeing none, I will accept a motion to do pass S.B. 443.

ASSEMBLYWOMAN COHEN MOVED TO DO PASS SENATE BILL 443.

ASSEMBLYWOMAN CARLTON SECONDED THE MOTION.

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

THE MOTION PASSED. (ASSEMBLYMEN ELLISON, HANSEN, TITUS,
AND WHEELER VOTED NO. ASSEMBLYWOMAN BLACK WAS
ABSENT FOR THE VOTE.)

I will take the floor statement. That concludes the business on our agenda, leaving one item before us, which is public comment. Is there anyone wishing to provide public comment? Hearing no one, we may or may not meet again. This meeting is adjourned [at 5:26 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.