

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

**Eighty-First Session
March 8, 2021**

The Committee on Natural Resources was called to order by Chair Howard Watts at 4:02 p.m. on Monday, March 8, 2021, Online. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at www.leg.state.nv.us/App/NELIS/REL/81st2021.

COMMITTEE MEMBERS PRESENT:

Assemblyman 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:

Kyle Davis, representing Coalition for Nevada's Wildlife, Inc.
Larry Johnson, Secretary, Nevada Outdoorsmen in Wheelchairs
Emily Walsh, representing Nevada Conservation League
Tiffany East, Chair, Board of Wildlife Commissioners, Department of Wildlife
Tony Wasley, Director, Department of Wildlife
Jack Robb, Deputy Director, Department of Wildlife
Michon R. Eben, Manager, Cultural Resources, Reno-Sparks Indian Colony
Marla McDade Williams, representing Reno-Sparks Indian Colony
Will Adler, representing Pyramid Lake Paiute Tribe
Jeff Dixon, Nevada State Director, Humane Society of the United States
Nancy Samon, Private Citizen, Washoe Valley, Nevada
Christine Vaught, Private Citizen, Fallon, Nevada
Kendra G. Bertschy, Deputy Public Defender, Washoe County Public Defender's Office
Jennifer Ott, Director, State Department of Agriculture
Mendy Elliott, representing Nevada Humane Society
Gregory Hall, Chief Executive Officer, Nevada Humane Society

Chair Watts:

[Roll was taken. Committee rules and protocol were reviewed.] We have three bills on the agenda and will start with Assembly Bill 89.

Assembly Bill 89: Revises provisions relating to wildlife. (BDR 45-588)

Assemblywoman Robin L. Titus, Assembly District No. 38:

It is my pleasure to present Assembly Bill 89, which authorizes the transfer of hunting tags under certain circumstances.

As many of you know, my family and I hold the tradition of hunting near and dear to our hearts. My parents taught me at an early age about the importance of hunting to maintain appropriate populations of wild game and consuming what we harvest. It is important to me to continue this tradition and to share my family's knowledge with others.

Assembly Bill 89 addresses two issues. First, some big game tags cannot be used because the person who drew the tag does not meet certain requisite conditions for lawful transfer. Second, it allows for increased opportunities to mentor hunters who are 16 years of age or younger or have a disability or life-threatening medical condition.

Some of the returning members might recall Assembly Bill 404 of the 80th Session, which I introduced because a constituent had reached out to me to establish a program to mentor younger hunters within the same family. Ultimately, the bill passed, and was amended to authorize the Board of Wildlife Commissioners of the Department of Wildlife (NDOW) to

establish a program through regulation whereby a person who qualifies for an extenuating circumstance, such as an illness or injury, may:

- Transfer his or her tag to hunt a big game mammal to another individual;
- Defer use of the tag to the next hunting season; or
- Return the tag to NDOW for restoration of any bonus points used by the person to obtain the tag.

The bill from last session was a good start. Assembly Bill 89, the measure before you today, authorizes the Board of Wildlife Commissioners to establish a program that authorizes any person to transfer his or her big game tag to a qualified organization for use by a person who is 16 years of age or younger and who is otherwise eligible to hunt or who has a disability or life-threatening medical condition.

With the Chair's permission, I would now like my copresenter, Mr. Kyle Davis, representing the Coalition for Nevada's Wildlife, to continue the presentation and discuss the proposed friendly amendment [[Exhibit C](#)].

Kyle Davis, representing Coalition for Nevada's Wildlife, Inc.:

I want to thank Assemblywoman Titus and Chair Watts for sponsoring this piece of legislation and bringing it forward for the Committee's consideration. As Assemblywoman Titus mentioned, you should have a copy of the proposed amendment [[Exhibit C](#)]. The purpose of this amendment is to clarify one section of the bill as written and also to adjust for a situation that we found after the passage of the bill from last session [Assembly Bill 404 of the 80th Session].

In the first part of the amendment, we are putting some more definition around "qualified organization." Currently, in section 1, subsection 3, paragraph (b), the bill says, "'Qualified organization' means a nonprofit organization that . . ." and we added "demonstrates in their application to the Commission that it . . ." meets the criteria. The reason for that is, in conversations with NDOW, we did not think it made sense for the Commission or NDOW to be put in the position of trying to verify information to ensure someone's household income is less than 150 percent of the federally designated level, signifying poverty. That is beyond the expertise of the Commission. What we can do is ask that an applicant demonstrate that when he applies to be a qualified organization.

The second change is that, currently, the bill is not clear that an organization could be an organization that just serves persons with a disability or life-threatening medical condition. That was the intent, that it could be either an organization that serves youth, with a preference for those below 150 percent of the federally designated poverty level, or an organization that serves disabled individuals, regardless of age.

The second part of the amendment adds "death" as an extenuating circumstance. This was always intended in last session's legislation [A.B. 404 of the 80th Session]. This was an oversight. Based upon a legal analysis, it needs to be specifically spelled out that death can

be an extenuating circumstance for which a tag can be transferred among family members. We wanted to clarify that situation so the Commission can account for that going forward. I would like to turn this over to Mr. Larry Johnson, who can give more background on how this program could work in practice.

Larry Johnson, Secretary, Nevada Outdoorsmen in Wheelchairs:

I have been heavily involved in wildlife conservation and sportsmen issues in Nevada for over 35 years. Thirteen years ago, I was one of the founding directors of Nevada Outdoorsmen in Wheelchairs. We take handicapped outdoors to experience what so many of us take for granted. Wheelchair hunters exhibit the finest attitude on life that you can imagine. There is no quit and no complaint, although they often live in pain. Many have shortened life expectancies.

We are a 501(c)(3) corporation with directors located around the state. We presently have cooperative agreements with mining companies such as NV Gold Corporation and Kinross Gold Corporation as well as some ranchers who use their landowner tags for hunters. We have taken handicapped hunters on antelope, deer, elk, pheasant, and wild turkey hunts. Unfortunately, we have a lot more applicants than we have available tags. This program copies successful law in states such as Arizona and New Mexico. We lead our hunts, oftentimes with tears in our eyes, but with a satisfaction that I cannot describe. One father stated at his son's funeral that our antelope hunt was his son's finest life experience. Just ten days ago, I took a middle-aged gentleman with stage four cancer and an oxygen tank on a pheasant hunt in one of our all-terrain wheelchairs. This is a wonderful program. The need is there, and we urge you to support A.B. 89.

Assemblywoman Titus:

I want to thank Mr. Davis and Mr. Johnson for being a part of this. This has been in the planning stages for a number of years. Just to be clear, Mr. Johnson mentioned Nevada Outdoorsmen in Wheelchairs, but there are several groups who offer these types of programs to young folks. There is an organization in Winnemucca that has landowner tags which are given to youth who are in wheelchairs or handicapped. This is not just a single program, there are several in the state. We want to make this open to multiple organizations because we want to allow those tags that are so precious to be used, whether by family members in certain situations, or by a special group to help expose folks to the passion of hunting and conservation, too, because it is my firm belief that hunting is conservation.

The Department of Wildlife testified in this Committee that the pandemic has had a huge impact on folks who desire to experience the outdoors. I think the bill and amendment would allow us to expand the hunting access and give more folks the opportunity to enjoy that. One other clarification, a member of the Committee appropriately reached out to me and asked, Does this mean anybody under the age of 16? I did get clarification for that question from NDOW. The recipient still has to qualify for a hunting license; he cannot hunt unless he is 12 years of age or older. I am happy to answer any questions.

Assemblywoman Cohen:

Mr. Johnson mentioned having more people interested than there are tags available. What kind of numbers are we looking at?

Larry Johnson:

We have approximately 15 to 20 applicants for every available tag that we are able to take advantage of. Unfortunately, some of our people apply with us year after year before we have an opening and they are selected.

Assemblywoman Titus:

For clarification, this does not expand the number of tags available. The number of tags is set by the Wildlife Commission based on the number of wildlife that are available for harvesting. That is how the conservation effort is undertaken. There is always a limited number of tags based on the wildlife status. That is one of the reasons it is so hard to get these tags.

Assemblywoman Anderson:

I want to verify that section 1 does not allow for the tag to be given to an organization that primarily represents disabled individuals and allow for a silent auction type of situation. I would like to have on record that this is really just to help individuals who actually fit the criteria of a disability as defined.

Assemblywoman Titus:

The bill states the tag can be given to a family member; that was passed last session. This bill designates that the tag can go to an organization. The organization selects the person who will receive the tag. The regulation is set by the Wildlife Commission.

Kyle Davis:

I would point to section 1, subsection 1, which states the transfer goes "to an eligible qualified organization for use by a person who" The bill does restrict that the tag will be used by someone who meets these criteria as opposed to being auctioned off to benefit the organization. My reading of this is, that is the important provision, to ensure that these tags will be used by those individuals.

Assemblywoman Anderson:

That is how I read it as well; I just wanted to verify that.

Chair Watts:

I have just received a note from Allan Amburn, our committee counsel. His interpretation is the same as that provided by Mr. Davis.

Assemblywoman Hansen:

For the edification of those who may be new to the Committee on Natural Resources, perhaps someone could give us an idea of the numbers of tags issued in a deer hunt, for example, that are available versus how many apply for a tag. It might give us an idea of how

limited those tags are. This could give us an appreciation of how these tags are coveted and for an individual to be able to transfer his tag is really quite a gift.

Chair Watts:

The Department of Wildlife is here to provide comments; we can get those numbers from them when they make their comments.

Are there any other questions? Hearing none, thank you for bringing this bill forward. As someone who became interested in hunting and fishing as an adult, I especially appreciate the efforts that are placed on recruitment of young people and providing opportunities to everyone. As we discussed with NDOW earlier in the session, recruiting and retaining new sportsmen and sportswomen, and I think providing opportunities particularly to this population of people with disabilities, is well worthwhile. I will now move to testimony in support of A.B. 89.

Emily Walsh, representing Nevada Conservation League:

We are in support of A.B. 89 and we appreciate Assemblywoman Titus and Chair Watts for bringing the bill forward. Nevada has incredible outdoor opportunities, and organizations like the ones mentioned today offer experiences for Nevadans who may not otherwise be able to participate in these activities. This bill will better enable organizations to fulfill their missions and instill the value of wildlife conservation for more Nevadans. We urge your support.

Tiffany East, Chair, Board of Wildlife Commissioners, Department of Wildlife:

The legislative committee of the Board of Wildlife Commissioners supports A.B. 89 and will ask the full Commission to consider supporting it at our March 19 and 20, 2021, meeting.

We would like to thank the bill sponsors, Chair Watts and Assemblywoman Titus, for bringing this bill forward. We supported a similar bill last session and, as a result, passed a tag transfer regulation for sportsmen with extenuating circumstances.

As you have heard, Nevada's big game tags are coveted. Mentoring helps to propagate our tradition of hunting and conservation. Over the years, we have had several community advisory boards. Sportsmen and nongovernment organizations seek support and/or petition the Commission to authorize a tag transfer to a person with a disability or youth to introduce the sport to a new sportsman who has limitations and may not otherwise have the opportunity to enjoy and experience a hunt of this magnitude.

Our Committee asked me to remind you all that in Nevada the recognized age range for youth big game hunting is ages 12 to 17. We encourage you to pass A.B. 89.

Chair Watts:

I will now hear those wishing to testify in opposition to A.B. 89. Hearing none, I will move to testimony in neutral.

Tony Wasley, Director, Department of Wildlife:

The Department would certainly like to express our appreciation to Assemblywoman Titus for introducing this bill. We feel it is clear in the language that the Commission would have clear direction in developing a program. We appreciate the consideration of the language in the amendment [[Exhibit C](#)]. There have been questions asked regarding the rarity of these tags. We quickly pulled some data and Deputy Director Jack Robb is prepared to testify with some of the most current data to express exactly how that demand outpaces the supply for those tags.

Jack Robb, Deputy Director, Department of Wildlife:

The scarcity of an opportunity to go hunting is overwhelming when you hear the numbers. Last year in our big game application period, we had approximately 80,500 people apply, many of whom applied for more than one animal in a big game draw; that is just shy of 350,000 applications for just under 30,000 big game opportunities. According to my spreadsheet, 13,763 applications from resident hunters came in for 1,606 opportunities to take a bull elk. If you look at Nelson desert bighorn sheep, there were 9,261 applications for 262 tags. Those are pure applications. When you couple in the people who put in just for bonus points because there is an expressed desire to hunt in the future, for a bull elk, it was 20,855 total people for 1,606 tags available, when you include bonus points. There were 14,421 applicants for 262 opportunities this year for desert bighorn sheep, when you include the bonus points. Pretty much every one of those 80,500 people put in for mule deer, which is just under 50 percent of the total tags given out. You can see that there is tremendous demand. We have a coveted, quality resource, and getting these tags into these people's hands who can use them is what we strive for. I am available with more data and more numbers if there are any other questions.

Chair Watts:

I will now open it up for questions for NDOW from Committee members.

Assemblywoman Hansen:

This information is so helpful for those of us on Natural Resources to understand game management, which fascinates me. Of those tags that you give out, based on how many apply, will you explain the reason why the tags are limited? You only allow a certain amount of harvest of the population so that you can manage the population in a healthy manner. Maybe you can give a little insight into the reason the tags are limited, based on herd numbers. If I am not mistaken, you keep statistics so that you are always keeping the tension of the harvest at a healthy proportion to what the population can sustain and reproduce.

Tony Wasley:

That is exactly right. It varies with the species; we have guidelines that are approved by our Commission that provide the agency guidance in terms of establishing those quotas. If you look at bighorn sheep, for example, we have a guideline that sets harvest levels not to exceed 50 percent of the rams six years of age or greater. We have a male-to-female ratio pertaining to elk, deer, and pronghorn antelope harvests. We have ranges that we shoot for; for example, 30 bucks per 100 does might be a reasonable target for mule deer. Elk might be

considerably higher, and it may range considerably across the landscape depending on how local counties desire to see those populations managed. We also have some female harvests. Those harvests are typically intended to be population controlling measures. For example, we have agreements with the Bureau of Land Management, U.S. Department of the Interior, or the Forest Service, U.S. Department of Agriculture, in conjunction with the livestock industry that sets a specified number for an elk population; the most effective way to reduce that population would be through a female harvest. We also have bighorn ewe hunts to keep those populations from experiencing density-dependent epizootic disease outbreaks. We have guidelines that are approved by the Commission to provide the agency guidance to establish those quotas, and they vary, not only by species, but by gender of species.

Assemblywoman Hansen:

Thank you; it is a complicated and fascinating science. I appreciate the good work that the biologists in the Department and on the Commission do in keeping good numbers and managing our wildlife in a healthy way.

Chair Watts:

As someone who has sat on a county advisory board and looked through most of the surveys and science that went into this, I can certainly appreciate the work that goes into setting all of those quotas and levels.

Assemblyman Ellison:

We are not going to be creating additional tags; we are just allowing existing tags to be transferred over to the other organizations. People who are listening may be thinking we will be adding more tags, but that is not the case. We are just allowing the tags to be transferred to another individual or organization, is that correct?

Chair Watts:

That is correct. Are there any other questions? Hearing none, is there anyone else wishing to testify in neutral to A.B. 89? Hearing no one, are there any closing remarks?

Assemblywoman Titus:

Hopefully, you can support this bill. I have a lot of points waiting for a sheep tag that I have never received. If I should fall and break my leg before I get my tag, I want to be able to give it to one of the kids. I also want to put on record that not all tags are successful. Some of these hunts are only 50 percent successful. Taking that into consideration, these tags are truly precious.

Chair Watts:

I will close the hearing on Assembly Bill 89. [Also provided but not discussed was Exhibit D.] I will now open the hearing on Assembly Bill 103.

Assembly Bill 103: Revises provisions governing the preservation of certain prehistoric sites. (BDR 33-763)

Assemblywoman Susie Martinez, Assembly District No. 12:

I am pleased to present Assembly Bill 103 for your consideration. With me today is Michon Eben from the Reno-Sparks Indian Colony, who will also assist me with the presentation. I also have Marla McDade Williams from Strategies 360, who will be able to answer any technical questions the Committee may have regarding this bill.

Assembly Bill 103, which revises provisions governing the preservation of certain prehistoric sites, clarifies technical language from bipartisan legislation passed in 2017. Senate Bill 244 of the 79th Session provided that a person shall not knowingly excavate a prehistoric Native American burial site on private lands without first obtaining a permit from the museum director of the Nevada State Museum; however, a person who is engaging in a lawful activity on private lands, including, without limitation, construction, mining, logging, or farming, is not required to obtain a permit to engage in that lawful activity.

With the Chair's permission, I would now like to provide a brief overview to describe what the bill does. The museum director is required to provide notice and consult with the applicable Native American tribes throughout the permitting process.

Prior to the passage of S.B. 244 of the 79th Session, Nevada Native American tribes were overlooked in how their sacred burial sites were treated. Assembly Bill 103 attempts to fulfill the intent of S.B. 244 of the 79th Session by helping to protect sacred prehistoric Native American burial sites.

Statute already provides that a permit is not required to engage in certain lawful activities on private lands if those activities are exclusively for purposes other than the excavation of a prehistoric Native American burial site.

Subsection 2 of section 1 of this bill clarifies that a permit is not required if those activities are limited to a portion of the private lands that does not contain the known prehistoric Native American burial site.

I would now like to turn over the presentation to Michon Eben from the Reno-Sparks Indian Colony, who will provide additional testimony to this bill.

Michon R. Eben, Manager, Cultural Resources, Reno-Sparks Indian Colony:

Mr. Chairman and Committee members, thank you for your time and opportunity for me to present our perspective and thoughts. The Reno-Sparks Indian Colony is in support of the proposed legislation in A.B. 103.

As the Cultural Resources Manager, my duties include the protection, preservation, and respectful management of Native American ancestral remains, funerary objects, cultural resources, and traditional cultural properties. Our rich history and heritage have been passed down from our ancestors, many of whom are buried throughout the state of Nevada in their final resting places.

The core theme of A.B. 103 is to ensure protection of our ancestors' final resting place—where they were originally buried—and to ensure Nevada tribes are part of the discussions and decisions made affecting the management, treatment, and disposition of Native American ancestral human remains and funerary objects on private property. We believe that A.B. 103 is another significant step for the state to recognize that tribes, too, have standing in regard to our cultural heritage.

The understanding of Native American culture has often been reduced to a collection of unearthed artifacts with science providing its own theories and opinions that have, much of the time, not included native peoples. There are snippets of appearances in western TV shows and movies resulting in inaccurate stereotypes of Native life. Past Native culture is far richer and more complex than is generally appreciated. Native American remains and sacred objects were desecrated by early pioneers and settlers, but what remains buried throughout the state is still important to contemporary Native society. Our Native ancestral remains and items should be respected just as any human remains are respected in a cemetery.

In Native American culture when an individual dies, there are several significant aspects to the transition from the physical world to the spiritual world. First, there are certain rites and traditions that take place at the time of death, during the dead's journey to the spirit world, and at the place of burial. In addition, the relatives who are left behind partake in important ceremonies for the loss of our dead relatives. When the dead is laid to its eternal resting place here on earth, that is where they are to remain—to remain undisturbed. These same ancestors were buried in their traditional societies in a traditional way, and these are considered cemeteries. The current existing tribal communities still carry on these traditions, and we are very spiritually connected to these age-old customs. Our dead ancestors have a direct connection to our communities, to nature, to the earth, and to us as the living.

Every year, I have several Reno citizens call me, and some politely offer their cultural findings on their private properties to the Reno-Sparks Indian Colony. I have had others ask if we can purchase our ancestral items back. The latter part is offensive and disturbing. Our culture is not for sale. For far too long Native American culture has been minimized, theorized, and placed on display. It seems that our culture is glorified and then it becomes a curiosity.

Although A.B. 103 is limited to Native American human remains, there is no protection for our cultural items, and this is something we would like to change in the future.

We are requesting respectful communication with private landowners to identify any potential adverse impacts to our buried ancestors and then to cooperatively decide the appropriate protection and disposition of them.

Our spiritual practices and relationship with our past relatives have the same meaningful connection that you have to your ancestors. Our traditional burial practices are no different from any other people's burial practices of the past or even today. We are asking for mutual respect for our dead relatives. Please support A.B. 103. Thank you.

Chair Watts:

Thank you for your testimony; we have a few questions.

Assemblywoman Titus:

I appreciate the concept of this bill and thank you for the presentation, Ms. Eben. I appreciate that more by living in a rural community with multiple areas of historic preservation in my area. Is it already in statute that a cemetery cannot be disturbed, either private ownership or not? I am wondering what the parity is. Would this fall under any particular law regarding decimating or removing from a cemetery?

Marla McDade Williams, representing Reno-Sparks Indian Colony:

The statutes consider these areas to be prehistoric sites. That is how they are set up in *Nevada Revised Statutes* (NRS) Chapter 381. That goes to previous law related to inadvertent findings. If someone is building a development and he happens to dig up remains, there is a decision made as to whether those are contemporary remains or prehistoric remains. If the decision is that the remains are contemporary, then it falls under law enforcement for investigation. If the decision is that the remains are prehistoric, that is when the tribes are engaged to look for the disposition of those items. This is not specifically included under the cemetery statutes; it is prehistoric.

Assemblywoman Titus:

What is the distinction between a burial site and if someone was wounded and died at a specific place?

Marla McDade Williams:

There are ways to analyze the remains to determine what the ancestry is. In the legislation that was enacted in 2017 [Senate Bill 244 of the 79th Session], there was a decision to recognize that these are human remains and that we should not be conducting testing on them as if they were not human remains. There can still be testing done, but not invasive testing. It is really an analysis of the area itself. Often when Natives were buried, they were buried with funerary objects—items that belonged specifically to them. Those are decisions that are made as the site is worked through to determine how it is classified and which tribes to consult with.

Chair Watts:

I received a quick note from our legal counsel that Ms. McDade Williams is correct. These sites are classified as prehistoric burial sites, not as an official cemetery.

Assemblywoman Cohen:

At the bottom of section 1, subsection 2, it says, "known prehistoric Indian burial site." My concern is that we are using the word "known." How do we know there is a burial site around that area, and what does it take to be "known"? Is there any way to determine if the land that is being excavated has remains there?

Marla McDade Williams:

Under current law, if there is a finding, it is called an inadvertent finding. Under NRS Chapter 381, the landowner is required to notify the Office of Historic Preservation within the State Department of Conservation and Natural Resources. At some point, that office catalogs that finding. They keep a database and they are aware of where these sites are located. It is not a publicly accessible database, but often the landowner, through that process of discovery or an inadvertent finding, is aware of that site. At the point it becomes cataloged, it is "known." Although "known" is in the new language, it is simply carried forward from NRS 381.196. It is not a new standard for a landowner to meet. If the landowner is not aware of the site, which could happen in a sale or transfer of a property, it could happen again in an inadvertent discovery. In this case, NRS Chapter 383 kicks in and that landowner is required to work with the Office of Historic Preservation to catalog the site. At that point, it again becomes "known."

Assemblywoman Cohen:

Do you feel that is enough protection?

Marla McDade Williams:

This bill addresses the one section of the law that was enacted in 2017 as it relates to an exception. At the time we had worked with the Nevada Mining Association, Southern Nevada Water Authority, and Storey County to ensure that if you had a 100-acre property, for example, and there was a known burial site on the northeast corner, and they were developing land on the southwest corner, they would not be required to get a burial permit because they were not intending to excavate at the burial site. Instead of what we thought was a clarification to exception language, it was interpreted that there was an exemption so that a landowner did not need a permit at all to excavate the burial site. This legislation simply makes that clarification to say that as long as the activity occurs only on a portion of the private land that does not contain a known burial site, then they do not have to get the permit.

Assemblyman Ellison:

If a private property owner who does not know there is a burial site on his property begins construction and finds the site, will those remains be moved or left on his property?

Michon Eben:

There are a couple things that can take place. That is why in my testimony I talked about working in collaboration with the private owner and deciding in cooperation with the private owner and the tribe that we make that decision together. That would be the most respectful way. I would like to say that we would like to keep the remains in place. "In place" can mean several things. It could be within the same area, but put them down deeper, or maybe even the private landowner moving construction away from the remains. That is the point of us working together so that the tribe and the private landowner have that cooperation in figuring out what to do.

Chair Watts:

I would like to remind the members of the Committee that an "unknown" would be an inadvertent discovery, and a different portion of statute would apply as Ms. McDade Williams indicated in her previous response. Are there any other questions? Hearing none, I will open up for testimony in support of A.B. 103.

Will Adler, representing Pyramid Lake Paiute Tribe:

Pyramid Lake Paiute Tribe would like to add their voices in support of A.B. 103. It is understandable, as it should be for everyone here today, that if there are any known burial sites, the property owner should be working with the responsible parties to ensure those known burial sites are respected and everything possible is done to respect the remains.

Chair Watts:

We will go on to the next caller in support. Hearing no one, we will move on to testimony in opposition. Hearing none, we will move on to those neutral to A.B. 103. Hearing none, does the presenter have closing remarks?

Assemblywoman Martinez:

As we heard on the floor during the second week of session, Native Americans have made tremendous contributions to Nevada. They even played an important role in the creation of our statehood. Native American burial sites are sacred and warrant our respect and protection. I urge you to support A.B. 103, and I thank the Committee for your consideration of this bill. Thank you.

Chair Watts:

I will close the hearing on Assembly Bill 103 and open the hearing on Assembly Bill 170.

Assembly Bill 170: Revises provisions governing animals. (BDR 14-762)

Assemblywoman Susie Martinez, Assembly District No. 12:

I am pleased to present Assembly Bill 170 for your consideration. Before I begin, I would like to note that three friendly amendments have been submitted and should be available on the Nevada Electronic Legislative Information System. With me today to present the bill and to discuss the proposed amendments are: Jeff Dixon, Nevada State Director of the Humane Society of the United States; Jennifer Ott, Director of the State Department of Agriculture; and Greg Hall and Mendy Elliott representing the Nevada Humane Society.

Assembly Bill 170 provides technical fixes to Senate Bill 342 of the 80th Session, which passed with bipartisan support in 2019. Senate Bill 342 of the 80th Session revised provisions relating to impounded animals, including impounds that occur due to charges of animal cruelty. The bill also revised timelines, notices, and hearing processes resulting from impoundment.

Horrific cases of animal cruelty often make the news, but we rarely hear about what happens to the surviving animals once the perpetrators are cited or arrested. More needs to be done to protect these animals; they need to be protected and properly cared for once they are removed from these unfortunate situations.

Assembly Bill 170 is an important step in this direction. The bill requires a person who is lawfully issued a citation for certain crimes involving animals to be notified of his or her right to request a hearing. Additionally, the bill also clarifies that a hearing involving such crimes must be held in a court of competent jurisdiction.

I would now like to turn it over to Jeff Dixon from the Humane Society of the United States, who will go into more detail about the bill.

Jeff Dixon, Nevada State Director, Humane Society of the United States:

This is a bill that is needed in order to clean up a few oversights that were discovered in implementing S.B. 342 of the 80th Session. That bill was sponsored by Senator Scheible and went through judiciary committees. That bill dealt with two situations where animals had been impounded when their owner was arrested.

The first situation is when the owner is arrested on violations of the *Nevada Revised Statutes* (NRS) 574.070 which deals with cockfighting and related activities or NRS 574.100, which covers animal cruelty more broadly.

The second situation is when the animal is impounded because the owner is arrested and detained for anything else and needs to be able to locate their animal and either make arrangements to have the animal picked up or know where to go when they are released from custody.

Section 1 of A.B. 170 covers the second situation. In 2019, the law assigned "the State" to create and maintain a sign that would be posted in jails which would provide information for the animal's owner on how to locate their animal. "The State" was not specific enough and the signs were never made, so in A.B. 170, section 1, subsection 2, the State Department of Agriculture is assigned that responsibility.

After the bill was released, we learned that responsibility needed to be further divided between the department, which shall create the sign, and the local jail operator, who shall post and maintain the sign. That is covered in an amendment that has been submitted by Jennifer Ott, Director, State Department of Agriculture [[Exhibit E](#)].

Section 3 deals with that first situation where the owner is being cited or arrested on cockfighting or cruelty violations. In order to protect the animal from being returned to unsafe situations and to protect our government-contracted animal shelters from having to keep these animals indefinitely while their owner's case is being adjudicated, there was established a separate hearing which the owner could request. If the owner did not request a

hearing, or if they were found unfit to reclaim the animal at the hearing, they would lose their ownership claim to the animal.

An issue we encountered after the law was enacted was that sometimes people would request hearings and because sometimes there was no citation, there was no case, and a court would not administer the hearing. Here we have added citations, and I have been in contact with animal control about that. Capitol Partners has an amendment further clarifying citation authority for the situation at Nevada Humane Society in Carson City which contracts with the local government [[Exhibit F](#)].

We have also clarified that the hearing is to happen in a court of competent jurisdiction. I have been in contact with representatives from the courts about this element. That term is used here because there are a lot of factors that determine whether it goes to a justice court or to district court, and we felt it would be best to let that be determined locally. There is also an amendment that removes some confusing language about evidentiary standards [[Exhibit G](#)]. I am not a lawyer, but preponderance of the evidence does not fit in all situations, so we have removed that. The court will apply their usual evidentiary standard. Section 2 makes a change conforming with section 3.

Chair Watts:

Are there any questions? Hearing none, I will now move on to testimony in support of Assembly Bill 170. Hearing none, is there anyone wishing to testify in opposition?

Nancy Samon, Private Citizen, Washoe Valley, Nevada:

I have not had a chance to review the bill, but I do have a question. What caught my eye was section 1, subsection 7, paragraph (a). I realize this is existing language, but it says, "'Animal' means any dog, cat, horse, other domesticated animal or undomesticated animal which is maintained as a pet." I own horses and I pay a Livestock Assessment (Head Tax) to the State Department of Agriculture. I have a registered brand with the state of Nevada, which is to be used on horses or cattle. Under NRS 569.0085, livestock is defined as "all horses, mules, burros and asses or animals of the equine species." I was not aware that a horse, with this legislation, is considered a domestic animal maintained as a pet. Has "horse" been removed from the definition of livestock?

Chair Watts:

I will ask the sponsor of this bill to follow up with you offline. We do not take testimony in a back-and-forth debate or forum. Is there anyone else in opposition?

Christine Vaught, Private Citizen, Fallon, Nevada:

I have concerns with the bill. I have not been able to see the amendments, but one of my concerns may have been addressed with the amendments and has to do with evidentiary standards. I also have a concern that there is no definition of "a court of competent jurisdiction" language in section 2, subsection 2. It sounds like maybe that has been addressed in an amendment as well. I do have a concern with due process with this bill. In 2018, I was involved with the language of S.B. 342 of the 80th Session, and it was presented

at that time to be only about those people who were put in jail who had animals that needed to be cared for. This seems to be something very different than what we had in 2018.

I am concerned with section 2 with the expanded ability for rescue organizations to be able to seize animals based on a citation being issued or an arrest happening with no finding of guilt. By the time that case is adjudicated, those animals are gone according to A.B. 170 because the rescue organization has the right to dispose of those animals as they see fit. I do have a concern with due process with the bill.

I also have a concern with the preponderance of the evidence. When you are dealing with constitutional issues with regard to challenging the legality of an action that the state has taken against you, that is a much tougher standard than preponderance of the evidence. Preponderance of the evidence is only used in civil cases, as is a criminal citation or charge; it is the state's burden of beyond a reasonable doubt.

Kendra G. Bertschy, Deputy Public Defender, Washoe County Public Defender's Office:

I am testifying today on behalf of my office along with the Clark County Public Defender's Office. As several members of this Committee know, we had a very rigorous discussion regarding this bill last session and the changes that were brought forth. I want to thank Assemblywoman Martinez for meeting with us to discuss our concerns. Our main concerns are regarding the standard. Unfortunately, moving the standard for the burden of proof does not alleviate our concerns; it increases them. We had agreed in negotiations to have the standard for the burden of proof being by a clear and convincing evidence, which should have been on the amendment [[Exhibit G](#)].

The other additions and concerns that had been raised during the last session were because these hearings are occurring prior to the criminal case, and these individuals are not appointed attorneys in the civil case. We do not represent them; they do not have counsel. We want to ensure that the person can advocate for themselves; however, we also want to ensure that whatever they say is not used against them in a criminal trial. This has been done and found in the probation case of *Cooper v. State*, 134 Nev. 399, 422 P.3d 722 (2018). I have provided that information in the proposed amendment. It appears there are some language issues with S.B. 342 of the 80th Session, which put the onus on the animal owner to prove he is the owner, which is very difficult for people to do if they are in custody. There is discussion on the record for how that should not be in practice but, unfortunately, it is. We are hoping to correct that issue today.

Chair Watts:

I will go on to the next caller in opposition. Hearing none, I will go on to those wishing to testify in neutral.

Jennifer Ott, Director, State Department of Agriculture:

Our amendment [[Exhibit E](#)] is fairly straightforward. We are happy to take the lead on creating the signage as part of the bill. We want to save a few state dollars by running these signs all over the state and posting them, so we are requesting that the detention facilities post and maintain the signs.

Chair Watts:

Are there any questions? Hearing none, I will continue with those who wish to testify in neutral. Hearing none, that concludes testimony on A.B. 170. We do have a few questions from the Committee.

Assemblywoman Titus:

I am concerned about the due process and the timing of the disposal of these animals. If a citation is issued, that is one thing, but if someone is arrested and found not guilty, will he lose his animals? Is there a potential that the animals will be disposed of even though the person was found not guilty? Most animals are near and dear to these folks. Again, I support this bill conceptually, and I believe that people who are cruel to animals should have ramifications, but I am worried about the due process.

Jeff Dixon:

Yes, the intention is there that the court process takes a long time. These animals could sit in the shelter for a long time. In the rural areas, sometimes these shelters are very limited in space. Sometimes even urban shelters are limited on space. To have one or many animals in the shelter for a long time takes a lot of resources. If, after adjudication, the person is found guilty, the animal will be destroyed. We want to give the person a chance to get his animals back, separate from their case, and to be able to defend themselves in getting their animals back. This is an alternative to a process whereby someone who was accused of crimes would put up a bond for 30 days which would cover the cost of care for the animals in a shelter. We felt that had a bias against the poor and that the ability to keep your animals would largely depend on your ability to pay the bond. We wanted to come up with something that was income neutral and still protect the shelters from keeping these animals for a long time.

Assemblywoman Hansen:

I have a question regarding the amendment from the Nevada Humane Society [[Exhibit H](#)]. The addition of section 1, subsection 6, says, "An animal control officer may, if employed or officially designated by a city or county, prepare, sign and serve a citation to enforce an ordinance of the city or county" Are we giving more powers to animal control? Do animal control officers issue citations already? I have some concerns about who handles that process now, and are we giving animal control law enforcement capabilities that they did not have before?

Mendy Elliott, representing Nevada Humane Society:

I will defer to Gregory Hall of the Nevada Humane Society.

Gregory Hall, Chief Executive Officer, Nevada Humane Society:

The Nevada Humane Society and the animal control officers, by contract, are not fully doing our job with our animal control efforts if we are not writing citations. Presently, we will investigate and look to see if there is a basis for issuing a citation. We will then call the sheriff's department and have someone come out and actually issue the citation. We are trying to not duplicate the efforts and free up some resources for the sheriff. This would absolutely fall under the jurisdiction of an animal control officer, were we not an independent agency performing by contract. This cleans that up.

Mendy Elliott:

We are the animal control in Carson City. We are under contract to provide those services throughout the Carson City area. Unfortunately, because we are not employees of the city, as Mr. Hall alluded to, we have to contact a sheriff in order to issue a citation, because we are not officially employees of the city. Rather than taking a sheriff off his beat, this amendment would provide us the opportunity to issue a citation on behalf of the city. It would still have to be adjudicated, as with any other citation, and is limited to animal control efforts.

Assemblywoman Cohen:

Are there any guidelines about what constitutes a rescue organization? Does it have to have a 501(c)(3) before an animal is turned over to it? I have done rescue most of my adult life with voluntary groups, and there are a lot of groups that come and go.

Jeff Dixon:

We will need to get back to you on that; we do not have the answer right now.

Chair Watts:

Please follow up with that information and provide it to our Committee staff for distribution to all the members. Are there any closing remarks?

Assemblywoman Martinez:

This legislation is an important step in protecting animals by providing technical changes to bipartisan legislation passed in 2019. I thank the Committee for your consideration on this bill. Thank you.

Chair Watts:

With that I will close the hearing on Assembly Bill 170. [Chair Watts submitted a proposed amendment on March 13, 2021, [Exhibit I](#).] I will open up for public comment. Hearing none, our next meeting is on Wednesday, March 10, 2021, at 4 p.m. This meeting is adjourned [at 5:29 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 a proposed amendment to Assembly Bill 89, submitted and presented by Kyle Davis, representing Coalition for Nevada's Wildlife, Inc.

[Exhibit D](#) is a letter dated March 8, 2021, authored and submitted by Judi Caron, Private Citizen, Washoe County, Reno, in support of Assembly Bill 89.

[Exhibit E](#) is a proposed amendment to Assembly Bill 170, submitted by Jennifer Ott, Director, State Department of Agriculture.

[Exhibit F](#) is a proposed amendment to Assembly Bill 170, submitted by Nick Vander Poel, Capitol Partners, on behalf of Nevada Humane Society.

[Exhibit G](#) is a proposed amendment to Assembly Bill 170, submitted by John J. Piro, Chief Deputy Public Defender, Legislative Liaison, Clark County Public Defender's Office; and Kendra G. Bertschy, Deputy Public Defender, Washoe County Public Defender's Office, presented by Kendra G. Bertschy.

[Exhibit H](#) is a proposed amendment to Assembly Bill 170, submitted and presented by Mendy Elliott, representing Nevada Humane Society.

[Exhibit I](#) is a proposed amendment to Assembly Bill 170, dated March 13, 2021, submitted by Chair Watts, Assembly Committee on Natural Resources.