

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

**Eighty-First Session  
April 7, 2021**

The Committee on Natural Resources was called to order by Chair Howard Watts at 4:01 p.m. on Wednesday, April 7, 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](http://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:**

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  
Trinity Thom, Committee Assistant

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**OTHERS PRESENT:**

Kelly McGowan, Program Manager, Sagebrush Ecosystem Technical Team, State Department of Conservation and Natural Resources  
Christi Cabrera, Policy and Advocacy Director, Nevada Conservation League  
Tiffany East, Chairwoman, Board of Wildlife Commissioners, Department of Wildlife  
Jake Tibbitts, Natural Resources Manager, Department of Natural Resources, Eureka County  
Heidi Swank, Private Citizen, Mendota Heights, Minnesota  
Warren B. Hardy II, representing The Humane Society of the United States  
Jim Van Gorkom, Senior Vice President, Sales and Marketing, NuCal Foods, Inc., Ripon, California  
Jeff Dixon, Nevada State Director, The Humane Society of the United States  
Jerry Wilkins, Sales and Marketing Director, Morning Fresh Farms, Platteville, Colorado  
Anthony Demler, Private Citizen, Ramona, California  
Marie Camino, Policy Advisor, Mercy for Animals  
Doug Busselman, Executive Vice President, Nevada Farm Bureau Federation  
Martin Paris, Executive Director, Nevada Cattlemen's Association  
Alexandria Dazlich, Director, Government Relations, Nevada Restaurant Association  
Bryan Wachter, Senior Vice President, Retail Association of Nevada  
David Dazlich, Director, Government Affairs, Vegas Chamber

**Chair Watts:**

[Roll was taken. Committee rules and protocol were reviewed.] We will begin with bill presentations, starting with Assembly Bill 433.

**Assembly Bill 433: Revises provisions relating to the Sagebrush Ecosystem Council. (BDR 18-1104)**

**Kelly McGowan, Program Manager, Sagebrush Ecosystem Technical Team, State Department of Conservation and Natural Resources:**

I appreciate the opportunity to present and testify in support of Assembly Bill 433. Assembly Bill 433 provides authority for the Sagebrush Ecosystem Council of the State Department of Conservation and Natural Resources (DCNR) to establish by regulation a reasonable fee for administrative work associated with the Nevada Conservation Credit System. Assembly Bill 433 further provides that any monies collected be deposited in the Account to Restore the Sagebrush Ecosystem for work to be carried out to benefit the sagebrush ecosystem. Of course, any regulations approved by the Council will require approval of the Legislative Commission.

As background, in 2014 the Sagebrush Ecosystem Council developed and adopted a compensatory mitigation tool called the Conservation Credit System (CCS) as required by Nevada statutes. More recently, the Sagebrush Ecosystem Council adopted regulations

requiring the use of the CCS to mitigate for planned anthropogenic disturbances on public lands.

Generally speaking, the credit system is a habitat exchange in which landowners voluntarily carry out habitat protection and improvement projects to offset anthropogenic disturbances in sage grouse habitat. A foundation of the CCS is the habitat quantification tool which is a model used to quantify the site-specific functional benefit of the habitat for greater sage grouse. This quantification tool quantifies the number of credits associated with a project, allowing the landowner to then sell the credits to an entity that needs to mitigate for disturbances they have created within the sage grouse habitat.

Conversely, when a development project such as oil, gas, geothermal, or mining is proposed in greater sage grouse habitat, the same habitat quantification tool can be used to quantify the number of debits associated with the habitat disturbance. An equal amount of credits must be purchased, with management agreements in place, prior to the development project moving forward. The Sagebrush Ecosystem Program is responsible for certifying that the debit and credit calculations are accurate, and that the transfer of credits has occurred with all the required financial assurances and monitoring plans in place. This certification is required by *Nevada Administrative Code* Chapter 232 and by federal land managers prior to final permitting.

During the first few years of the program, the Sagebrush Ecosystem Technical Team, an interagency team consisting of five individuals, provided much of the necessary geographical information system analysis and model work associated with the habitat quantification tool without limitation on the number of scenarios that would be analyzed. The Team provides annual trainings to consultants and verifiers; currently, there are over 50 individuals who have been trained and certified to use the CCS. However, many project applicants still go directly to the Team asking for the analysis of multiple scenarios during the environmental review process, resulting in an increased workload.

As such, the Team has contemplated implementing a reasonable fee in two areas. The first would be a small fee for the required certification work done by the Team to certify that the amount of credits and debits were calculated correctly and can be used in the environmental documents. The second fee would be optional, allowing individuals who prefer to have the Team run the various development proposals as opposed to using a consultant or verifier.

These are initial thoughts and ideas regarding a structure, but final recommendations would be developed through the regulatory process including public workshops, council meetings, and hearings.

Lastly, I wish to point out that the legislation requires that any fees collected be deposited in the Account to Restore the Sagebrush Ecosystem. This is important. The CCS does an outstanding job of providing mitigation framework for proposed disturbances. However, many of the threats to the sagebrush ecosystem are the result of wildfire, invasive species, as

well as increased horse, burro, and raven populations. Monies deposited in this account can fund necessary scientific research as well as habitat rehabilitation and improvement work.

This concludes my testimony. Thank you for your time this afternoon and I would be happy to answer any questions. [Written testimony was also provided, [Exhibit C.](#)]

**Chair Watts:**

Are there any questions from the Committee?

**Assemblywoman Titus:**

Thank you for noting that the biggest impact to the sagebrush ecosystem is wildfires, horses, burros, and ravens. How much of this credit system has already been accessed? We have heard about this for multiple sessions. It conceptually started back when we were first mitigating the impact and trying to avoid sage grouse going on the endangered species list, and this was one of the solutions. We already have this program, without fees. Has it been successful?

**Kelly McGowan:**

That can be a challenging question to answer. We feel that the mitigation program has been successful in that the system is set up to compensate for disturbances. Since the regulation passed and is now required to be used, those operating within sage grouse habitat have mitigated and used the CCS for that purpose. I would say, at this point, the system has been successful.

**Assemblywoman Titus:**

Do you have the actual impact and how much acreage has been involved in the success of this program?

**Kelly McGowan:**

I do not have those numbers with me, but I would certainly be happy to provide them. I know it is in the tens of thousands of acres that have been protected to date.

**Assemblywoman Titus:**

Because of the previous legislation, correct?

**Kelly McGowan:**

That is correct.

**Assemblywoman Carlton:**

As has become the norm in this session, bills that require a two-thirds majority vote seem to have a target on them. I think it is good to have a conversation about the purpose behind these fees. If this fee does not come to fruition, how will your work get done? How have you paid for it before? What other options will we have?

**Kelly McGowan:**

Primarily, we have operated within our state-appropriated State General Fund budget. We would have to continue to operate that way. We do rely heavily on other state agency partners and federal partners to help develop some of the science, but on the side of operating mitigations, we would have to find a way, unfortunately, to continue to work within the confines of our existing budget.

**Assemblywoman Carlton:**

Approximately how much does this program cost? I hate to go down the Assembly Committee on Ways and Means road, but it seems as though—with the perspective on the two-thirds bills that we are facing over the next 40-some days, I want to know that there are options and what those costs might be. I consider this to be very important work. I do not want to see this sidelined because of a philosophical opposition to a two-thirds bill.

**Chair Watts:**

I will allow that question. This is a tight line between a policy and a fiscal matter, but essentially, the thrust of this bill is enabling a revenue mechanism.

**Kelly McGowan:**

Our budget is comprised of many parts. I can give you a ballpark estimate, which is generally around \$500,000 annually to operate our program.

**Assemblywoman Carlton:**

Thank you. I have been around long enough to remember the conversations with former Assemblyman David Bobzien about this. When you look at all the good work that has been done, and you know times are tight and the DCNR is being responsible and asking for a fee to help mitigate some of the General Fund dollars, I want that on the record so that we can have future conversations to ensure that the good work still gets done.

**Assemblywoman Hansen:**

The program is in existence, and for those who are new, will you give us a real-life example of some of the work that has been done?

**Kelly McGowan:**

One example would be this: right now all of the credit developers within the system, the people providing and improving habitat, are private landowners, mostly farmers and ranchers, with fairly large land holdings within sage grouse habitat. We have worked with them after we have run the quantification tool, which indicates areas on their property where conservation can be done to increase or improve upon the habitat. The landowner implements those; there is a robust annual monitoring plan that they have to send to us. Every 15 years they do full reverification of their project to see if it is still holding the values that were measured to begin with. Ultimately, those credit projects are put on an open market for sale to those who need to purchase them.

We have, as I stated earlier, exploration, mining, geothermal, electric transmissions, power lines, and a number of others that have reached out; to date, we have 16 transactions within our program to offset these disturbances. I think it is beneficial to our private landowners, and it is of course beneficial to the sage grouse. Some of the private lands are the most productive lands in the state. Many of them contain limited water resources and have very productive habitats. I think this has been very productive for the sage grouse. That is not to say this is only limited to private landowners. There is an opportunity for entities to create credits on public lands as well. As I mentioned, fires, invasive species, and other issues that can occur on public lands are also in great need of conservation.

**Assemblywoman Anderson:**

I have a question regarding the new language in section 2, subsection 7, paragraph (e). I see that the members of the Sagebrush Ecosystem Council are appointed. I want to make sure that I am understanding that the regulations that are being adopted would come from the volunteer members who are representing the areas that are listed in section 2, subsection 1. Is that correct?

**Kelly McGowan:**

The fees would be established through the Sagebrush Ecosystem Council, which is a Governor-appointed body.

**Assemblywoman Anderson:**

Just to verify, these members are volunteers who are representing the different areas that are mentioned in section 2, subsection 1, paragraph (a); these are the voting members. There are also some nonvoting members.

**Kelly McGowan:**

Yes, that is correct.

**Chair Watts:**

Are there any other questions? Seeing none, I will go to those wishing to testify in support of A.B. 433.

**Christi Cabrera, Policy and Advocacy Director, Nevada Conservation League:**

The Nevada Conservation League is in support of A.B. 433. Conservation of the sagebrush ecosystem is vital to Nevada's wildlife, watershed fowl, biodiversity, and outdoor recreation economy. Sagebrush habitat covers around 50 percent of our state, supports over 360 species, and provides recreational and economic opportunities. However, the sagebrush ecosystem is one of the most imperiled in the United States. Greater than 50 percent of all historic sagebrush habitats have been lost from threats such as wildfire, invasive species, climate change, and development. These threats degrade, convert, and fragment sagebrush habitats. Restoration and mitigation actions that preserve the integrity and connectivity of the sagebrush ecosystem are critical. This bill will increase our ability to mitigate damage to these very special spaces. We urge the Committee's support.

**Tiffany East, Chairwoman, Board of Wildlife Commissioners, Department of Wildlife:**

The Legislative Committee of the Board of Wildlife Commissioners, Department of Wildlife voted to support A.B. 433. Mitigation efforts to protect, enhance, or restore sagebrush ecosystems provide a firewall for sage grouse and other sagebrush obligates, such as mule deer. This ecosystem is critical to their survival. Many other programs under the Sagebrush Ecosystem Council complement the work of the Wildlife Commission and the Department of Wildlife to provide and protect habitat for Nevada's wildlife. We encourage you to support A.B. 433.

[Also provided but not mentioned is [Exhibit D](#).]

**Chair Watts:**

I will hear the next caller in support. Hearing no one, I will move on to opposition. Hearing no one, is there anyone wishing to testify in neutral to A.B. 433?

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

Thank you for allowing Eureka County to provide some insights on A.B. 433 in the neutral position. The continued dialogue regarding the Sagebrush Ecosystem Program and its lack of capacity and bandwidth can only be rectified with funding. Being statutorily authorized to manage the sagebrush ecosystem of Nevada by the Legislature, the Program needs funding to meet its obligations and to be successful. It is important to understand that the Program, the Sagebrush Ecosystem Council, and the Sagebrush Ecosystem Technical Team are not only focused on sage grouse conservation. The record is clear that the Legislature intended these entities to be focused on the entire sagebrush ecosystem, even if the focus to date has been on sage grouse.

The enabling language in A.B. 433 may assist with the administration of some programs, such as the Conservation Credit System (CCS). We note that the CCS was the first of its kind in the western United States. Its success has continued as a vehicle for real progress on sage grouse conservation. However, if the Legislature is serious about supporting the needed work of the program for sage grouse and the entire sagebrush ecosystem, we encourage long-term sustainable funding that cannot just be met by fee authority.

**Assemblywoman Carlton:**

In conversations about this bill with Eureka County, was there an issue with the fee?

**Jake Tibbitts:**

I am representing the Eureka County Commissioners, and they do not have a consensus on the issue related to fees. I live in a very conservative area, and there is always concern about certain fees. The Board of County Commissioners wanted to be neutral on A.B. 433, and we do not take a position on the fee. We wanted to point out that fee authority is not going to get us where we need to be on sage grouse or sagebrush conservation. It is going to continue to take legislative appropriation beyond the authority.

**Assemblywoman Carlton:**

Thank you, I just want to ensure we have a complete record.

**Chair Watts:**

Thank you, Mr. Tibbitts. I think you made the point clear that additional substantial investment is needed and the revenue to support that has to come from somewhere. Is there anyone else wishing to testify in neutral? Hearing no one, are there any closing remarks?

**Kelly McGowan:**

I want to say thank you again for this opportunity to present this bill to you. I would like to reiterate that the need is great. The sage grouse habitat, which is not all of the sagebrush ecosystem but where sage grouse tend to exist and thrive, is 23 million acres. We have significant issues that people have identified and you have probably heard about in the news—fires, invasive species, common raven populations exploding, and other items. It goes well beyond the CCS and our ability to mitigate. It requires science and knowledge to be able to pinpoint efforts so that we no longer continue to shotgun our approach. Time is of the essence, and this funding would help us begin to expand beyond the nature of mitigating for disturbances within sage grouse habitat.

**Chair Watts:**

I will close the hearing on A.B. 433. We will now go to our work session, beginning with Assembly Bill 85.

**Assembly Bill 85: Revises provisions relating to noxious weeds. (BDR 49-108)**

**Jann Stinnesbeck, Committee Policy Analyst:**

As Legislative Counsel Bureau staff, I cannot support or oppose any proposal that comes before the Committee. Assembly Bill 85 was heard in this Committee on March 24, 2021 [[Exhibit E](#)]. This bill removes from statute a provision that prohibits the State Quarantine Officer from designating a weed as noxious if the weed is so well established in the state that its control has been judged to be impracticable. With this prohibition removed, the State Quarantine Officer may declare by regulation any weed to be a noxious weed.

There is one amendment proposed by Heidi Swank and Eureka County that would authorize the State Quarantine Officer to limit the geographic areas in which a weed is classified as noxious so that the State Quarantine Officer could designate a weed as noxious for a certain geographic area and not have such a designation apply to the entire state.

**Chair Watts:**

Are there any questions?

**Assemblywoman Hansen:**

The amendment is important to me, and I have not seen it. Is it in print, or still conceptual?



**Chair Watts:**

It is a conceptual amendment. All we have is the description laid out in the work session document. Are there any other questions? Seeing none, I will accept a motion to amend and do pass A.B. 85.

ASSEMBLYWOMAN COHEN MOVED TO AMEND AND DO PASS  
ASSEMBLY BILL 85.

ASSEMBLYWOMAN GONZÁLEZ SECONDED THE MOTION.

Is there any discussion?

**Assemblywoman Hansen:**

I am going to vote no until I see the amendment. I reserve my right to change my vote on the floor.

**Assemblywoman Titus:**

Thank you for the conceptual amendment. I think we need to get this under control. I have worked with Dr. Swank, and provided that amendment clarifies what the Nevada Farm Bureau Federation and other folks are concerned about, I could be supportive. Until I see the amendment, I will be a no.

**Assemblywoman Carlton:**

For the Committee's information, at this time of the session, we typically do not do mock-ups. We include the amendment in the work session document, which is actually the legislative intent. Legal counsel does not do mock-ups any longer because they are still drafting budget bills and budget amendments. I want to make it clear that almost every bill we are going to see between now and the next deadline is not going to have a mock-up.

**Chair Watts:**

As someone working on many conceptual amendments myself, we are going to see a lot more amendments provided in conceptual form. The Legal Division of the Legislative Counsel Bureau is also doing quite a bit of work drafting the amendments that we have already approved. I know we are on the discussion for the motion but will note that Mr. Tibbitts is available and can speak to any conversations that led to the compromise on this bill.

**Assemblywoman Hansen:**

I understand during this time that things get busy. I thought the amendment had been in the process for quite some time, so Mr. Tibbitts, will you tell me when Eureka County was working on the amendment?

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

I want to thank Dr. Swank. We had a few text exchanges, emails, and Zoom meetings to discuss the amendment. I understand that there is a lot going on. Frankly, I would like to see the language in writing, too, but understanding where we are at, I think the conceptual amendment that is in the work session document reflects the compromise that we have on recognizing that the State Quarantine Officer can limit noxious weed designations in certain geographic areas. I will also note that current statute in *Nevada Revised Statutes* 555.150 already addresses part of our concerns that Eureka County brought forward at the hearing. Through the designation of noxious weeds, the State Quarantine Officer can already designate the manner which is required to manage any type of noxious weed. We feel that does outline the specific management and control strategies that we had originally asked to be amended in. I think, conceptually, that this amendment with the legislative intent gets us to where we need to be, where the State Quarantine Officer can limit that statewide, in watersheds, in certain geographic areas, or even in a neighborhood if the State Quarantine Officer felt it was necessary.

**Chair Watts:**

Is there any other discussion on the motion?

**Heidi Swank, Private Citizen, Mendota Heights, Minnesota:**

I would like to comment that this was not a compromise. Mr. Tibbitts had a great idea that improved the bill. We had a good meeting last Friday and we sent the change to the Legislative Counsel Bureau. Again, it was not a compromise, it is a better idea.

**Chair Watts:**

The Legal Division did review this over the weekend. Is there any other discussion? Seeing none, we will vote.

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

**Chair Watts:**

I will assign the floor statement to Assemblywoman Brown-May. We will now go on to Assembly Bill 148.

**Assembly Bill 148: Revises provisions governing mining. (BDR 46-134)**

**Jann Stinnesbeck, Committee Policy Analyst:**

Assembly Bill 148 was heard in this Committee on March 17, 2021 [[Exhibit F](#)]. This bill prohibits the issuance of an exploration or mining permit to any applicant who has defaulted on any obligation relating to reclamation or, if the applicant is a corporation or other business entity, if any of its listed principal officers has previously been listed as a principal officer of a corporation or business entity that has defaulted on any obligation relating to reclamation. The bill authorizes the issuance of such a permit if such a person pays the full amount of the

defaulted obligation and demonstrates that the conditions that led to the default have been remedied and no longer exist.

Assemblywoman Sarah Peters provided two proposed amendments, one mock-up and one conceptual. The combined amendments make the following changes:

- Replaces references to "principal officer" with "person who has a controlling interest" in the corporation or other business entity;
- Defines "person who has a controlling interest" to mean a person who: owns or controls a majority of the voting stock or holds any other controlling interest, directly or indirectly, in the corporation or other business entity that gives the person the power to direct management or determine policy; or is a partner, director, trustee, or other principal officer of the corporation or business entity;
- Defines "other principal officer" to mean "president, secretary, treasurer, or equivalent thereof and that are chosen in such a manner, holds their offices for such terms, and have such powers and duties as may be described by the bylaws or determined by the board of directors of the corporation or business entity";
- Provides that the prohibition against being issued a permit applies to an applicant or person with a controlling interest, as applicable, who is not in good standing with the applicable federal agency governing the mining operation or in any state or territory of the United States;
- Provides when a permit may be issued to a person who was not in good standing but who performed certain remediation actions; and
- Changes the effective date upon passage and approval for the adoption of regulations and for carrying out any other preparatory tasks and April 1, 2022, for all other purposes.

**Chair Watts:**

Are there any questions?

**Assemblywoman Anderson:**

A person with a controlling interest as well as the principal officer are being defined in the law. To avoid confusion, are there other areas where this is defined?

**Assemblywoman Sarah Peters, Assembly District No. 24:**

This has been the complaint for a number of stakeholders, including the state agency who is following these regulations. We have been working closely to try and clarify in statute as much, as they need to promulgate regulations to address these issues in the future. At this time, we feel we are in a pretty good place. I will continue to have conversations to ensure

that we are meeting the needs of both the state and entities who would be regulated under this bill so there is clarity in the process.

**Assemblywoman Hansen:**

Regarding the idea of good standing with other states and federal agencies, I am trying to understand, because different states will have different standards. You could have a controlling interest that might pass the standard in one state, but may not be in good standing in another state. This seems very convoluted and I am not sure how you navigate that.

**Assemblywoman Peters:**

This is another place where we had obvious concerns about the language being too broad. I think that the state agencies are the experts in this area. The regulatory process, which is a public process that includes stakeholders, can take up to 18 months and is the place to drill down what that looks like for the permit. I can tell you, having worked in regulatory permitting and compliance, that when you talk about good standing, that would be outside of any violations. Once a permittee is recognized as being in violation of his permit, he puts together a plan with the regulatory agency specifically. Once he has instituted and agreed upon that plan, he is no longer outside of that good standing. I think there are some baselines there to develop the process of identifying good standing. Additionally, we did decide to put that onus on the permittee to provide an affidavit saying that they are in good standing with their permit across the country. I think that when you run a company, you get a notice when you are in violation of something, whether it is a small business with a tax authority violation or an ordinance violation to clean up a parking lot. You, as a business owner, know those things, and I think that companies can identify when they are not in good standing with their permits and also identify when they have met the regulatory compliances to get back in good standing.

**Assemblywoman Titus:**

During the hearing we heard that the Division of Environmental Protection, State Department of Conservation and Natural Resources, was concerned they may not be able to follow the regulations or enforce the regulations or procedures. Has that been resolved?

**Assemblywoman Peters:**

Yes. That was about how to determine whether a company and its controlling interest and principal officers were in good standing on the permits. We resolved that by including the affidavit in the application process.

**Chair Watts:**

Are there any other questions?

**Assemblyman Ellison:**

What happens if there is a dispute between one state and another that they are trying to resolve? Would this hold up any permits in Nevada?

**Assemblywoman Peters:**

Can you clarify what you mean by disputes between states?

**Assemblyman Ellison:**

For example, there is a company in Canada that has a disagreement—between permits or cleanup—and the mines are in total disagreement. If that company comes into Nevada and applies for a permit, would that dispute between the two agencies create a problem and hold up the issuance of a permit? It seems like an agency can hold up an application.

**Assemblywoman Peters:**

What I am hearing is that you are concerned that if another state agency is holding up a permit in their state, that could influence the permit issuance in Nevada. Potentially, this needs some further fleshing out for "good standing" and meeting those violation standards. The intention here is to capture those who are in existing violation of an agreed-upon permit within another state or jurisdiction in the country. Just the application for a permit and disagreements in the application's validity, for whatever state, would not have an impact on their ability to get a permit in the state of Nevada. It would only be for those cases in which they are violating an existing permitted project, which is a contractual agreement with the state, obligating you to do certain functions as part of your project. Only in those cases would it hold up this process until they were in good standing with those permits.

**Chair Watts:**

I would like to clarify that this measure would not apply to foreign nations, such as the Canadian example that you gave, Assemblyman Ellison. Are there any other questions? Seeing none, I will accept a motion to amend and do pass A.B. 148.

ASSEMBLYWOMAN COHEN MOVED TO AMEND AND DO PASS  
ASSEMBLY BILL 148.

ASSEMBLYWOMAN CARLTON SECONDED THE MOTION.

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

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

**Chair Watts:**

I will assign the floor statement to Assemblywoman Peters. Next we now move onto Assembly Bill 299.

**Assembly Bill 299: Makes various changes relating to wildlife. (BDR 45-733)**

**Jann Stinnesbeck, Committee Policy Analyst:**

Assembly Bill 299 was heard in this Committee on March 31, 2021 [[Exhibit G](#)]. This bill provides that a salvageable animal accidentally killed as a result of a vehicle collision in this

state may be salvaged and possessed if a salvage permit is obtained. The permit can be obtained either from a peace officer who is at the scene of the accident or through the Department of Wildlife (NDOW). The bill requires that the salvage permit be provided at no cost and that it contain certain identifying information.

The bill requires the driver or person who finds the salvageable animal to completely remove the carcass, to ensure that the meat from the animal is only used for human consumption, and to deliver and surrender the head, hide, antlers, horns, or tusks of the animal to the Department within five business days after taking possession of the animal.

If the salvageable animal is accidentally hit and rendered crippled or helpless, the bill allows certain persons or peace officers to kill the animal in a humane manner. The bill authorizes a peace officer to inspect the carcass of the salvageable animal and the motor vehicle that accidentally hit the salvageable animal before issuing a salvage permit and a game warden to inspect the carcass and motor vehicle 20 days thereafter.

The bill authorizes the driver or person to place all or part of the carcass of the salvageable animal in storage or make a gift of the carcass to another person. However, the bill prohibits any portion of the carcass of a salvageable animal from being sold, bartered, or exchanged.

The bill provides that a driver or person who salvages and takes possession of the carcass of a salvageable animal does so at his or her own risk and further provides that the state is not liable with respect to any use made of the carcass.

The bill prohibits the salvage and taking possession of a salvageable animal from the reservation lands of any Indian tribe in this state. Lastly, the bill provides that a person who intentionally hits and renders crippled or helpless or kills a salvageable animal shall be punished for a category E felony, and who otherwise violates any provision of this bill, is guilty of a misdemeanor.

Assemblywoman Bilbray-Axelrod proposed an amendment, which would make the following changes:

- Prohibits a person from attempting to salvage an animal outside of daylight hours without a peace officer and sufficient light present;
- Limits salvage to highways with a maximum speed under 70 miles per hour, and prohibits salvage on interstate highways; and
- Clarifies that the 24-hour rule for obtaining a salvage permit is only to be used if the animal is located in a rural area where access to NDOW officials is not immediately available.

The Department of Wildlife proposed an amendment, which would make the following changes:

- Provides that a salvage permit may only be issued by a law enforcement officer if the animal was killed or injured due to an animal-vehicle collision;
- Prohibits the issuance of a salvage permit for any animal that has a tracking collar, has a tag indicating that the animal should not be consumed due to chemical immobilization, or has obvious signs of disease;
- Provides that the salvage permit needs to stay with the carcass and a completed copy of the permit for that animal has to be submitted to NDOW within five business days after taking possession of the carcass;
- Prohibits salvaging an animal from any restricted areas, any Wildlife Management Areas, public waste disposal facilities, areas deemed by NDOW to contain diseased or contaminated animals, and private property without permission of the owner; and
- Requires the salvage permit to contain information regarding the species and sex of the animal as well as by what method it was killed. Additionally, requires information of any individual who will be transporting or in possession of any portion or parts of the salvaged animal.

**Chair Watts:**

Are there any questions?

**Assemblywoman Titus:**

I would like to acknowledge the great conversation we had with the Department of Wildlife to go over their concerns. We appreciate their amendment.

**Chair Watts:**

Are there any additional questions? Hearing none, I will accept a motion to amend and do pass Assembly Bill 299.

ASSEMBLYWOMAN COHEN MOVED TO AMEND AND DO PASS  
ASSEMBLY BILL 299.

ASSEMBLYMAN WHEELER SECONDED THE MOTION.

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

THE MOTION PASSED. (ASSEMBLYWOMAN CARLTON VOTED NO.)

I will assign the floor statement to Assemblywoman Bilbray-Axelrod with Assemblywoman Titus as backup. We will not be taking action on Assembly Bill 240 today.

**Assembly Bill 240: Revises provisions governing mining. (BDR 46-936)**

We will move on to the next item on our agenda for bill hearings.

[Assemblywoman Cohen assumed the Chair.]

**Vice Chair Cohen:**

I will open the hearing on Assembly Bill 399.

**Assembly Bill 399: Revises provisions governing the production and sale of eggs and egg products. (BDR 51-559)**

**Assemblyman Howard Watts, Assembly District No. 15:**

I am pleased to present Assembly Bill 399 for your consideration. The bill seeks to ensure that eggs produced or sold in the state of Nevada meet certain standards of humane treatment for laying hens, often referred to as "cage-free" housing. Both egg producers and animal welfare advocates agree that this is the right thing to do.

I do want to note that there is an amendment to the bill [[Exhibit H](#)], which should be available on the Nevada Electronic Legislative Information System (NELIS). With me to present the bill and the amendment are two folks with the Humane Society of the United States, as well as some egg producers.

I would like to provide some brief background information. I tend a flock of six hens in my backyard. That experience has shown me how important it is for chickens to have good conditions for their well-being. It is critical for their physical and mental health that they have enough space to move, that they have appropriate nest areas, scratching areas, dust-bathing areas, and access to perches.

When you go to the grocery store, you probably can find a wide variety of eggs that have different labels like "free-range" or "cage-free" on them. Those designations are regulated by the U.S. Department of Agriculture. In those federal guidelines, eggs labeled as cage-free must be laid by hens held in spaces where they can roam free and have access to water, food, nesting spaces, and perches. That is how domestic chickens have been managed for hundreds, maybe even thousands, of years. Unfortunately, over recent decades as we went in the direction of industrialization, we saw the emergence of a model that, in the name of efficiency, resulted in some very horrific conditions with hens in battery cages. For their entire lives, chickens are confined to a space with a floor that is smaller than a piece of letter-sized paper. For anyone who has seen chickens, imagine one confined to a space that small.

More and more large food buyers such as restaurants and grocery store chains have pledged to use exclusively cage-free eggs. That is in part because customers learning about this have demanded that their products be raised in a more humane fashion. State legislatures around the country have also taken up the issue. At least seven states have passed legislation requiring only cage-free eggs to be produced and sold in their states. Those states include Colorado, Massachusetts, Michigan, Oregon, Rhode Island, Utah, and Washington. California also passed a ballot initiative requiring the same thing. Last year other states,



including Arizona, Hawaii, and Maine, also considered measures. What we are seeing, particularly in the West, is a strong move in this direction. I think it is important to not have Nevada as an island without some of these same standards in place.

In 2020, we had 69 producer certificate holders in Nevada that produced more than 54,000 dozen eggs intended for sale. I believe that most of these egg producers currently use cage-free housing systems that would meet these guidelines and are nearing compliance with the provisions of this bill.

As a very simple overview, Assembly Bill 399 requires that eggs sold, offered for sale, or transported for the purpose of selling within Nevada be produced in a cage-free housing system. It does this by having a farm owner or operator go through a cage-free certification through the State Department of Agriculture (NDA) as part of the existing inspection certification process for these producers.

The bill also prohibits a business owner or operator from selling, offering, exposing for sale, or transporting for sale, eggs that the business owner or operator knows or should have known were not produced in a cage-free housing system.

There is a friendly amendment to A.B. 399 that mostly offers technical fixes to streamline enforcement and inspection, and to give NDA more flexibility [[Exhibit H](#)]. Among other things, the amendment removes the sections that trigger the two-thirds majority vote requirement, as these can be rolled into the existing processes for egg producers and do not require any additional fees.

I would like to have my copresenters provide further background and details on the bill and amendment.

**Warren B. Hardy II, representing The Humane Society of the United States:**

This is one of those happy occasions where the industry, the egg producers, and the marketplace have joined forces with The Humane Society of the United States (HSUS) on an initiative. I will let my colleagues from the industry speak for their reasons and motivation going forward. This is a dynamic that is taking place all over the country, particularly in the western United States. What our colleagues in the industry want is certainty within the requirements for providing these eggs.

I want to thank Assemblyman Watts for his interest in this issue and for his willingness to work with us. I want to be clear; this is a cage-free requirement, not a free-range requirement. I would direct your attention to an exhibit on NELIS to see what we are talking about [[Exhibit I](#)]. Imagine in a caged environment, if you will, a hen that has to live in an enclosure the size of a piece of paper. This bill is essentially requiring the hen to have a foot to a foot and a half of space to be able to turn around, to be able to wash, and to be able to stretch.

I also want to thank your Committee counsel who has taken the time to work through these issues. I want to particularly call out the efforts of Director Ott, NDA, for her efforts in helping us get to this place on this bill.

As indicated, this should not require a two-thirds majority vote. We made several changes in the amendment [[Exhibit H](#)] addressing that issue and allowing NDA to be able to enforce and accommodate this in their regular course of business.

I would also indicate that early this afternoon, I had a conversation with Mr. Bryan Wachter, representing the Retail Association of Nevada, who is leading a coalition made up of the chambers of commerce, National Federation of Independent Business, and others who have some questions about the effective date of this legislation. I have committed to work with them. We do not have any issue with what they brought up in terms of adjusting that date. We will be continuing to work with them and, hopefully before the amendment is drafted, be able to get some language to the Committee that accommodates that concern.

I will now walk through, at a 30,000-foot-view level, the sections of the bill and the amendment. Section 1 [page 1, [Exhibit H](#)] contains a legislative declaration. I should indicate that part of the reason for the amendment is some version of this has been adopted by several states, even those near us. The language has to be pretty accurate in order to avoid any commerce clause challenges. In addition to that, as I indicated, it has to be pretty specific so we can get the NDA taken care of. One of those things that we want to provide in the bill is the legislative declaration that is contained in section 1.

Sections 2 through 15 [pages 1-4] contain the definitions for this purpose because this is a new section of statute. The definitions are crafted in a very special way to ensure we meet all the federal requirements and also very clearly reflect industry standards that are accepted.

Section 16 [page 4] is where the rubber meets the road. This section deals with the production requirement. There are two portions of the bill; one deals with the production of cage-free eggs, the other portion deals with the selling of the cage-free eggs. Section 16 is the production portion. It requires that in order to produce eggs, there has to be one square foot of space available for each hen, if it is a multilayered facility. Many aviaries have multiple layers so the hens can fly up to nest and move around on different levels. In scenarios where that is the case, the bill requires one foot of space per hen. In instances where there is a single level, the requirement is one and one-half square feet. Imagine, if you will, a warehouse that is full of hens that can move around and interact. This is not a free-range issue; that is very different.

Section 16, subsection 3 [page 5] provides certain exemptions for the requirements of this bill that we have found through the progress of this legislation in other states are necessary, such as medical research, transportation to and from fairs, certain applications for 4-H, and certain applications for husbandry. Those are exemptions that I think are important.

Sections 17 through 19 [pages 5-8] are the sections that were referenced when we worked with the NDA to ensure that the requirements of this bill fit cleanly into their current practices so they do not have to hire any new personnel; they do not have to do anything beyond what they are doing now. Section 20 addresses the actual sale of the eggs. That concludes my overview of the bill.

**Jim Van Gorkom, Senior Vice President, Sales and Marketing, NuCal Foods, Inc.,  
Ripon, California:**

NuCal Foods, Inc., is an agricultural cooperative of family egg farmers. The families that I represent are multigeneration farmers and have supplied fresh shell eggs to Nevada for decades from their farms in Utah and California. I would like to thank Assemblyman Watts and the Committee for your interest in this bill.

Consumers, businesses, animal advocacy groups, and egg farmers all understand the importance of treating animals well. As egg farmers, we understand best that the health and well-being of our hens is what keeps us in business and allows us to provide a healthy, high-quality, protein-packed food to our customers around the entire nation.

Within and around Nevada, consumers and businesses are choosing to purchase eggs from hens kept in cage-free environments. Consumer sentiment shows very clearly a strong support for it. Every year we see double digits representing an increase in the sales of cage-free eggs. As well as in Nevada, a great example is right next door in California, which passed similar legislation in 2018.

In Nevada, grocers and businesses such as Walmart, Smith's, Albertsons, Starbucks, McDonald's, along with MGM Resorts, Hilton Hotels, and Caesars Entertainment, the list goes on and on, have committed to use only cage-free eggs as a minimum standard; some now, some soon, some at slightly different dates, but it is all going to happen based on consumer demand and what our customers are telling us.

This trend toward cage-free eggs is driven in large part by the customer, but sometimes also helped and pushed along by animal advocacy groups. Assembly Bill 399 is the result of very constructive dialogue and compromise between egg farmers and the country's largest animal advocacy groups such as HSUS. By being part of the conversation, egg farmers have an opportunity to help create policy for our science-based production standards, and our animal husbandry principles align with this growing demand for cage-free eggs.

Assembly Bill 399 continues to offer consumer choice. There are many different types of eggs available on grocery store shelves and in restaurants. It provides a reasonable time period to allow commerce to convert or retrofit housing, some of which is already underway. It provides certainty for egg farmers as we look at a potential patchwork of similar yet slightly different requirements across the western states. It offers an equal application of the law for any commercial egg-producer business operating in the state, and it falls under the current procedures and practices of the State Department of Agriculture.

What this bill does not do—because it is limited to the commercial egg-laying industry—it does not affect other animal treatments. There is no encroachment on interstate commerce because of the equal application, and it does not remove consumer choice. There will still be cage-free, organic, free-range, pasture-raised, nutritionally enhanced, brown eggs, and white eggs. Those will all still be offered.

The egg industry is shifting toward cage-free operations to meet the demands of Nevadans and other western states, our customers, and much of the nation. This legislation brings Nevada into alignment with where the marketplace is going. It also aligns Nevada with states throughout the region which already have nearly identical standards in place. Those include California, Oregon, Washington, Colorado, and Utah. There are other southwest states that are looking at this issue. With these nearby states acting similarly for climate, it is important that we have consistency on a regional basis rather than be forced to comply with multiple standards across states lines.

Also, it is very important that the cage-free requirements being proposed in this bill are standards that the egg industry has endorsed as best practices to produce cage-free eggs. These methods are the best of science and animal care, where we can meet the shared goals of giving hens the ability to exhibit natural behaviors and also meet the economic liability of large-scale egg production.

We believe that passage of A.B. 399 in Nevada will help provide clarity and certainty for the nearby farms that supply eggs to Nevada. It addresses the valid concern for the humane treatment of animals, and it is responsive to the marketplace and its desire for cage-free eggs. Committee members, the egg farmers of our agricultural cooperative believe that this is good for egg farmers, animal agriculture, and Nevadans, and we support A.B. 399.

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

Thank you for the opportunity to speak in support of Assembly Bill 399. In a political climate where it sometimes seems impossible for stakeholders to come together in thoughtful, constructive dialogue, this bill is a welcome reprieve. Assembly Bill 399 is a result of Nevada's egg suppliers and humane advocates coming together for a more economically viable and humane future. This legislation is a testament to stakeholders listening, providing insight, and finding common ground for the betterment of farmers and animals alike. In particular, HSUS would like to thank Jerry Wilkins, Jim Van Gorkom, and the other egg suppliers you will hear from soon for being such terrific partners in this effort.

Millions of egg-laying chickens in the United States are confined in cages that the industry terms "battery cages." In those cages, each chicken is provided roughly 67 square inches of floor space to live her entire life. That is smaller than the dimensions of a sheet of paper. Assembly Bill 399 will get egg-laying chickens out of barren wire cages and into cage-free systems, improving their lives by providing freedom of movement. It requires key enrichments for the birds, including perches; dust-bathing, nesting, and scratching areas; and nest boxes. To the egg suppliers' credit, due to public concern for welfare, food companies' demand for a cage-free product, and legislative momentum around the United States, they

believe that the future of the egg industry is cage-free; we agree. Egg producers say that regulatory certainties with cage-free standards they already know how to follow provide security for their business; we agree. Egg producers say that this cannot happen overnight, and a reasonable time frame is needed to make the switch to cage-free; we agree. In short, this bill ushers in a thriving cage-free future for farmers using a standard crafted by the egg industry according to a timeline that is economically viable.

Assembly Bill 399 closely mirrors laws that are also supported by egg suppliers in Utah, Oregon, Washington, Massachusetts, Colorado, California, and Michigan. Several other states have egg supplier-endorsed bills pending this year. More than 200 of the world's top grocery, fast food, and restaurant companies are switching to 100 percent cage-free eggs. Among the grocery stores are Albertsons, Walmart, Kroger, Raley's, Safeway, Dollar Tree, and Dollar General. Among the restaurant chains are Denny's, McDonald's, Arby's, and Taco Bell. What these brands all have in common is that they are preferred by cost-conscious consumers.

Finally, the cage-free standard in this bill also promotes food safety because it reduces the risk for zoonotic disease transmission by providing requirements of a minimum stocking density as well as nest boxes for hens to lay their eggs so their eggs are not laid on the ground, which increases safety issues. With that, thank you for considering this farmer- and animal-friendly legislation.

**Jerry Wilkins, Sales and Marketing Director, Morning Fresh Farms, Platteville, Colorado:**

Morning Fresh Farms is a Colorado family-owned, commercial egg farm. We produce farm fresh eggs that are distributed throughout the western United States, including Nevada. I would like to thank Assemblyman Watts for sponsoring A.B. 399. His leadership in helping us find common ground is sincerely appreciated.

Committee, you may ask why out-of-state interests are supporting this bill. To be clear, there are no commercial egg producers in this state, so Nevada businesses must source eggs from many regional farms, such as Morning Fresh Farms. In many ways, we are your "local egg supplier" and have a vested interest in ensuring Nevadans can continue to enjoy farm fresh eggs from areas that are humane, safe, and affordable.

Over 200 grocers and food companies, many of which are doing business in Nevada, such as Target, Sam's Club, Dollar Tree, Subway, and more, are requiring cage-free eggs from egg suppliers either now or over the next few years. Moreover, Nevada consumers are demanding cage-free. Just five years ago, cage-free production was only 6 percent. Today, cage-free is nearly 30 percent of all eggs produced in the United States, and that number is growing fast.

Although our family farm believes in free market, there are multiple reasons why A.B. 399 is necessary as cage-free becomes the norm. Here are a few reasons: To create a more stable egg supply, this legislation creates one statewide standard. In fact, this will help create

a level playing field with one regionalized standard for uninterrupted interstate commerce in the southwest, keeping production and distribution costs in line and eggs affordable.

It takes millions of dollars to convert to cage-free. With a clear timeline for standardized regulatory framework set now, producers can confidently make capital investments in the right housing systems for their operations.

The cage-free standards laid out in this bill are the industry's own science-based, peer-reviewed best practices; these standards will ensure the hens have the ability to perform their natural behaviors, including roaming, perching, scratching, and nesting, in a controlled environment. This is not the more extreme standards such as free-range or pasture-raised, which are very expensive to produce and can expose the birds to disease and predators. The state-of-the-art cage-free housing of today is not the setup that great grandpa had. Commercially produced cage-free eggs are safe. Eggs will not be laid on the ground, but in private nest boxes, and conveyed to a processing area to be cleaned, sanitized, and packaged.

Due to advancements in lighting technology, our cage-free hens are not skittish or aggressive, but content and docile. Through quality ventilation systems, clean, fresh air is always available in a cage-free house. Because of this, dust levels are no greater than in a caged environment. This is important for both worker and bird health. Ultimately, consumers will still have a choice in the eggs they buy and serve their families with continued access to a variety of egg types, sizes, colors, and packs.

In conclusion, this bill offers a balance between prudent, science-based animal husbandry standards and the cost-effective commercial production and sale of fresh eggs in Nevada. This is why our family farm supports A.B. 399 and respectfully asks the Committee for the same consideration.

**Vice Chair Cohen:**

That concludes the presentations. I will start with the questions. In looking at the amendment [page 1, [Exhibit H](#)], section 1 refers to the Legislature's authority to protect the health and welfare of consumers and to promote food safety. Why is this better for people as far as food safety?

**Assemblyman Watts:**

As someone who is tending chickens and has worked hands-on with animals, I will say a few big picture things. You never want to eat something from an animal that is not healthy. For folks who have not worked hands-on with animals, that is a key principle. When chickens are confined in these situations, it is unhealthy. As conditions develop, they have to be treated with massive antibiotics and other medications, which have impacts as well. I will let the experts speak to the details of the quality of the product, but it certainly leads to healthier livestock, which leads to a healthier product. I believe a healthier product leads to healthier people.

**Jerry Wilkins:**

Assemblyman Watts hit the nail on the head. With this set of standards, what ensures the food safety is the fact that stocking density is in place so we are not cramming chickens in cage-free facilities with no regard to the space per bird. If you cram birds into tight spaces, it affects their stress levels, which can affect their outflow, and can promote unsafe standards for the eggs they produce. It is stocking density as well as the fact that these standards also require nest boxes. The birds will actually privately lay their eggs in these nest boxes and those eggs will be conveyed out to the end of the barn and down to the boxing area. At no time does that egg come in contact with feces or other foreign debris that can cause foodborne illnesses. The standards set forth in this bill, because they are industry standards, truly do put food safety first, as well as the bird's health, to ensure that we protect birds as well as the humans consuming the eggs.

**Vice Chair Cohen:**

As someone who is not involved in this field, I think I have heard about the birds having beaks removed. Is that going to be an issue, or is it not addressed at all?

**Jerry Wilkins:**

Beak trimming is a common practice amongst commercial egg producers. It does not matter if they are cage-free, a conventional system, organic, et cetera. Beak trimming is a standard today and will be a standard in the future, even under the cage-free standards that we set forth. With that said, the industry continues to look for other ways of not having to beak trim, but at this point, to reduce the potential for pecking and aggressive behavior, beak trimming protects the birds versus nonbeak trimming. As long as you are following the industry standards, which are set forth by the United Egg Producers, which mandates and regulates how early in a hen's life to beak trim. A chicken that is between 1 and 20 weeks of age is referred to as a "pullet." The United Egg Producers require beaks to be trimmed within the first few days of that hen's life. At that age, the beak is more pliable and the pain that the bird endures is much less, similar to trimming the nails of a dog. Beak trimming is essential today, and it will remain until the industry finds another avenue for reducing feather pecking.

**Vice Chair Cohen:**

Other than beak trimming, are there other procedures for trimming or removing anything else?

**Jerry Wilkins:**

No, there is not.

**Assemblyman Wheeler:**

I remember seeing an egg-producing plant years ago in Arkansas. They were very proud of the automation: the eggs rolled down a conveyor belt, and the feeding was automated. It was not very labor-intensive, but these were caged animals back then. I am wondering what the pricing difference will be if Nevada were to go completely cage-free. Is that a raise in price, or would it be comparatively the same?

**Jerry Wilkins:**

That is a question that we should all ask. What is the cost of an egg when this bill passes? Let us just say, 20 years ago, this would not have been economically feasible. The industry was not in a position to be able to produce eggs in a cage-free environment with efficiencies and economies to scale. In fact, the capital of the equipment that we had 20 years ago would not have sustained the need to feed 325 million Americans using cage-free production. Today, because of efficiencies in production, equipment, utilization, and diet, having a bird in a cage-free environment is actually affordable. It is cost-effective. We anticipate, based on production differences, a few cents per egg difference from the cost of today's caged egg. Many folks will say, I was at the store today and I found a specialty egg or a cage-free egg that was \$4.29 a dozen. How are you going to tell me that eggs are not going to be that much more expensive than today's caged eggs when this bill passes? Today there are some pretty aggressive markups—the retailer puts them into their added-value category within the egg case and are what we call "designer eggs" or "specialty eggs."

As cage-free becomes the norm, it becomes the commodity. When an egg or any product becomes commoditized, it becomes the devalued or affordable product on the shelf. Retailers will use it as what we call the "loss leader" to drive traffic into the stores, and what we see is a nominal difference in the cost of eggs versus what they are today. However, understand that over 200 of these food companies, including most of the retailers we know today in the Nevada area, are going to cage-free. These standards will actually keep those cage-free eggs affordable; instead of multiple different standards, we are going to have one set of standards which are going to keep those cage-free eggs affordable to the consumers in Nevada.

**Jim Van Gorkom:**

We all need to be cognizant of that potential impact. I would like to answer your question in a couple of different ways. Mr. Wilkins mentioned specialty or premium eggs, which is a generic description, which could also be pasture-raised or organic. Today, that includes cage-free. The majority of eggs sold, the "regular eggs," are primarily a commodity product. A large portion of the cost to produce an egg is the feed—corn and soybean meal—and those are commodities. The cost of those eggs changes throughout the year as a commodity based on supply and demand. Eggs are a very competitive category, both at the wholesale level and at retail.

Early this afternoon, I received a recap of all of the retailers' advertisements throughout the western United States and what eggs were in them. I think you will find this interesting. If you live in southern Nevada, you can go into Albertsons, Vons, Smith's, Smart & Final, La Bonita, or Mariana's, and you would find eggs on sale in every one of those stores. If you live in Reno or Carson City, you could go to Raley's, Safeway, Save Mart, or Smith's and find eggs on sale. As cage-free eggs become the commodity—the regular, everyday eggs—there is going to be tremendous pressure at the wholesale levels and the retail levels to be competitive, to offer the best possible price. I mentioned several retailers; none of those people want their shoppers harmed; they do not want their shoppers to pay more for eggs.



My last point is this: California has been going through this change process for years. It started in 2015 with a requirement that hens have more space. In 2020, more space was required; in 2022, it will be cage-free. The majority of everyday, regular eggs sold in California today are already cage-free. If you look at the prices in California of regular eggs today versus five years ago or ten years ago, you would have a hard time finding a difference. While it certainly is a significant amount of investment to have cage-free production, the improvements and advances that we are making in technology and in labor processes and practices, as well as the competitive nature of this business, will continue to provide a great value to Nevada residents.

**Assemblywoman Titus:**

In looking at the bill, section 8 states, "Farm owner or operator" means a person who owns a farm or controls the operations of a farm." There is no statement that I can see on the size of the farm. I am in rural Nevada and I buy local eggs that are produced by a small farm that has 200 hens. These hens are loved on and let out during the day in a large pen. At night, they put them into separate pens with nesting boxes. Would this pertain to that farmer? What is the definition of a farm, the size, and the number of acres per chicken?

**Warren Hardy:**

The definition of "business owner or operator" is contained in section 2 of the bill. We looked at that issue and had legislators ask about that prior to session. By definition, you are referring to free-range chickens. None of this would limit what they are doing.

**Assemblywoman Titus:**

This farm I am referring to sells everything. We go to them for our pumpkins, squash—they do all of it, and they barely make it. Will they have to get a certificate, be surveyed, and inspected as referenced in section 16?

**Assemblyman Watts:**

This is not actually changing the requirements of who has to get certified and inspected for eggs. If you have a producer who already falls within that, is subject to those provisions, and goes through the process with the State Department of Agriculture (NDA), we are just layering on top of that to ensure they are using a cage-free system. This is not going to put additional requirements on anyone else. I have six chickens in my backyard, and I am not going to be subject to those provisions, even though I do have a setup that would qualify as cage-free, and most of those small producers would as well. To be absolutely clear for the record, this is not going to expand the size or the qualifications for producers; it is just layering an additional level on top of those that are already managed by the NDA.

**Assemblywoman Titus:**

Does the NDA have the capacity to inspect these? I am hearing from one of your presenters that there is no such entity in our state, and most of these are already imported. Is that correct?

**Assemblyman Watts:**

We have some producers here in the state, and they are already subject to oversight by the NDA. This is just integrating this into that procedure. Again, most of those producers are already at those standards. This is codifying it to ensure that the best practice is established for everyone and there is a level playing field. Additionally, the NDA already has staff in place and has indicated that integrating this would not create an additional burden on the agency. Also, within existing language, the NDA could use private inspection assistance if they ever needed to.

**Warren Hardy:**

I would add that the on-the-ground impact of this is that out-of-state sellers would have to get the certification referenced in the legislation. This would have no significant impact whatsoever on those that are already under the jurisdiction of the NDA, and smaller ones that you referenced. The impact of this would be that out-of-state producers bringing eggs into Nevada would need to certify that they are cage-free. We are not aware of any that would not qualify. The purpose for the amendment is to ensure that they would not need any additional requirements that they could not fit within their current practice.

**Assemblywoman Titus:**

Does that mean that the NDA will now have to go to Colorado every year and inspect them and give them a special certificate for the producers to bring their eggs here? Or go inspect California every year, give them a certificate from the state of Nevada, and pay an additional fee from the state of Nevada? Does the Department have capacity for that?

**Warren Hardy:**

The onus is on the business to get the certification. It would not require a visit from the NDA. It is a certification process.

**Assemblywoman Titus:**

I know we cannot certify organic because we do not have the capacity in the NDA. They do have companies that can give a certificate that something is organic. Is that similar to what this would be, someone else would certify the cage-free eggs?

**Jim Van Gorkom:**

There are private-party certifiers, there are third-party certifiers, and process-verification organizations, all of which already exist across the country, who do regular visits and audits of farms. Those certifications could be supplied to the State Department of Agriculture to be qualified to sell the product within Nevada.

**Warren Hardy:**

There is specific language providing for that in the bill.

**Assemblywoman Hansen:**

I understand this concept; I try to live it. I think that education is what made me a consumer of cage-free eggs. I have been using them for many years. We have raised our own chickens

cage-free. Our pigs roamed free and ate the apples off the ground. While I understand the intent, and we are all horrified when we learn from the documentaries and education we get on how animals are treated, it sounds like this is consumer-driven. You mentioned in your testimony that the consumer demand in Nevada seems pretty good with restaurants and several stores. In my experience over the last 40 years of grocery shopping, I have seen quite the transition. There is still a price disparity, and I do worry about the cost regarding food insecurities and those living at or below the poverty level. If I am understanding this, there is no production in Nevada and we import all of our eggs. If this bill were to pass, only cage-free eggs would be allowed to be sold in Nevada, is that correct? I see heads nodding, and I just wanted to make sure. I think the education should continue. I have a little bit of a worldview issue with enforcing it when the market tends to be trending that way. If this is a practice that is so disturbing—and I think it is—why do we not address it at a federal level with the United State Department of Agriculture? If there are these kinds of producers in the United States, it seems it would be better to address it that way, rather than close off our border and choice when it is being allowed in other places.

**Warren Hardy:**

I would argue that part of the reason this industry needs to set these regulations is so they can have certainty. I think the prices would go up without this kind of certainty because we would be having to deal with different regulations and different states. Part of the motivation to develop a business model is because that is where the market is heading. I think it is always better with these kinds of things to have federal legislation. In lieu of that, we are trying to create a certainty in which we can build a business model that can more economically provide these.

**Jim Van Gorkom:**

We are looking for consistency on a regional basis. That consistency will allow us to be more efficient and it will allow us to get the funding we need to continue expansion. Rather than deal with the United States, we want to get Nevada aligned with what is going on in your neighboring states and have a consistency in the region, which will bring down costs and keep them lower.

**Vice Chair Cohen:**

I am going to ask any other Committee members with questions to ask them offline. I will now open it up for those wishing to testify in support of A.B. 399.

**Anthony Demler, Private Citizen, Ramona, California:**

My brother and I run Demler Brothers Egg Ranch. I am a third-generation farmer in the poultry business. My grandfather and father started the farm that I work at today over 45 years ago. I am calling in to voice my support for A.B. 399. First, I would like to thank Assemblyman Watts for sponsoring this bill. As an egg farmer, the health of our hens is the most important thing to us. Running an egg farm goes far beyond just that, though. Over the past five years, we have invested significantly and upgraded our farm, including adding cage-free production. Our customers want cage-free eggs, and we want to be responsive to that trend, which can also be seen across the United States.

The cage-free requirements proposed in this bill are standards that the egg industry adopted in 2017. These best practices for cage-free egg production were developed by an independent group of animal scientists. These practices allow the hens to exhibit natural behaviors while keeping them protected from predatory animals and inclement weather.

This bill provides the clarity and certainty that we need as egg farmers to plan our future, to obtain financing, building permits, et cetera, so we can continue supplying fresh, high-quality eggs for generations to come. It also helps immensely toward having one standard in the western United States, as several other southwest states have already passed similar legislation. We believe that A.B. 399 is good for the egg industry and Nevada, and we ask for your support.

**Marie Camino, Policy Advisor, Mercy for Animals:**

Thank you for the opportunity to comment in support of A.B. 399. Mercy for Animals is a nonprofit organization with approximately 2,000 Nevada-based supporters, dedicated to creating a more compassionate food system.

Assemblyman Watts outlined how A.B. 399 protects animal welfare and consumers. In terms of animal welfare, A.B. 399 would be one of the most comprehensive farm animal protection initiatives to date by ensuring egg-laying hens have space to exhibit natural behavior such as walking, dust bathing, perching, and nesting. All animals deserve space to exhibit natural behaviors. As Assemblyman Watts mentioned previously, Nevada would join states like California, Washington, Michigan, Colorado, and Massachusetts in creating a more compassionate food system for egg-laying hens, should this bill pass.

Another point on food safety is confining egg-laying hens in cages puts Nevadans at risk. More than a dozen studies have found that salmonella is actually more prevalent in caged egg production than in cage-free, increasing the risk of disease. Mercy for Animals supports this important step forward in animal welfare, public health, and family farming. Thank you for considering our comments.

**Vice Chair Cohen:**

I will hear the next caller in support. Hearing no one, we will go to opposition.

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

We are testifying today in opposition to A.B. 399. We believe that government has a proper role in food safety matters and oversight in making certain that the foods we eat are safe. We believe that government has a proper role in maintaining standards to make certain that animals are not mistreated or abused in the state where they are kept. We believe that animal health standards fit within the appropriate jurisdiction of federal and state agencies who have authority for such responsibilities. With these foundations pointed out, we turn to A.B. 399.

We do not believe that it is appropriate for the State Department of Agriculture to be assigned a role in checking the paperwork on whether eggs or egg products sold in Nevada have come from other states with designated management requirements that rightfully belong under the state's authority where the birds live. As far as state regulations in Nevada, we are not aware that NDA has an inspection program for this purpose. Will we need new regulations?

As a general farm organization, Nevada Farm Bureau Federation members are involved in the production of different foods and fibers. We have members in Nevada who do sell poultry and eggs. I have not gone door-to-door or searched in people's backyards to measure how much space their chickens might have. Given the already intrusive level of government, we do not believe these types of investigations would properly fit into the scope of work that Nevada government should be going through either. Given the market forces that we have been hearing about, why do we need the government to force the only choice to be what is required by this bill? Private sector vendors of eggs or egg products have a system of third-party verification that provides being able to label the eggs that they sell as coming from cage-free or not. We are opposed to A.B. 399.

**Martin Paris, Executive Director, Nevada Cattlemen's Association:**

While Nevada Cattlemen's Association does not represent any commercial poultry producers, we felt it was important to go on record in opposition of A.B. 399. While we are unaware of the existence of any commercial poultry operations in Nevada, this bill would effectively ban the in-state sale of eggs in Nevada from "caged birds" from out of state. The bill's market mandate is a huge concern and should be a major concern to direct stakeholders, the consumer. We worry that the efforts to place this proposal in statute are overreaching and unnecessary, especially considering voluntary measures already agreed to through various corporate policies. Logically, we are also led to believe that the next step is legislation extending authority on how we produce pork, dairy, beef, et cetera in Nevada. We ask that the market and consumer choice dictate what items are put on the shelf. We are concerned that policies like this set a precedent for advocacy groups to use the law to force retailers to carry their type of products. With that said, Nevada Cattlemen's Association respectfully asks the Committee not to pass A.B. 399.

**Vice Chair Cohen:**

I will hear the next person in opposition. Hearing no one, is there anyone wishing to testify in neutral?

**Alexandria Dazlich, Director, Government Relations, Nevada Restaurant Association:**

The Nevada Restaurant Association is here today in neutral to A.B. 399. We appreciate the intent behind the bill and understand that the industry is moving in the direction of greater access to cage-free eggs. However, we ask that the transition be initiated in a reasonable amount of time. As you are aware, the restaurant industry has been greatly devastated by the pandemic and will need time to recover as we continue to operate at half capacity. Instituting this level of change in the distribution and supply of a staple food on such a short timeline will likely have negative effects on many of our operators. We appreciate the bill sponsor's

openness to amending the bill and look forward to working with all the stakeholders involved to find a workable solution.

**Bryan Wachter, Senior Vice President, Retail Association of Nevada:**

I would join in with Ms. Dazlich's comments that we, too, are in neutral. We apologize for the scheduling, but we do believe that this is the direction that the industry is going. We do have concerns over the implementation period. Colorado has been mentioned several times during the presentation, and their ban does not go into effect until 2025. We would be looking for language that more closely aligns with that consistent framework that the supporters are looking for. We appreciate the sponsor for bringing this to Nevada, and we appreciate the ability to work on this as it continues to move.

**David Dazlich, Director, Government Affairs, Vegas Chamber:**

We are neutral today on A.B. 399. We do, however, share the concerns voiced by the Nevada Restaurant Association, the Retail Association of Nevada, and others. Our position in neutral is based off of the proposed amendment recommended by those associations to allow for greater timelines for implementation and greater flexibility.

**Vice Chair Cohen:**

I will remind the stakeholders to reach out to the sponsor with any proposals. I will take the next caller in neutral. Hearing no one, are there any closing remarks?

**Assemblyman Watts:**

I want to reiterate that this is something being brought forward in conjunction with the industry and animal welfare advocates. It is something we can accomplish without increasing prices, and we can improve the health of the animals, the quality of the product, and the reputation of the producers. I think this is a win-win. I appreciate the comments made by those who came in neutral. I have only just learned about those issues right before the meeting, and I am glad to work with them to adjust the implementation timeline as soon as they provide a proposal to me. I urge your support for Assembly Bill 399.

[Also provided but not mentioned is [Exhibit J](#).]

**Vice Chair Cohen:**

I will close the hearing on A.B. 399.

[Assemblyman Watts reassumed the Chair.]

**Chair Watts:**

That leaves only one item left on our agenda, which is public comment. Is there anyone wishing to provide public comment? Hearing no one, our next meeting will be Friday, April 9, 2021. This meeting is adjourned [at 6:13 p.m.].

RESPECTFULLY SUBMITTED:

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Nancy Davis  
Committee Secretary

APPROVED BY:

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Assemblyman Howard Watts, Chair

DATE: \_\_\_\_\_

## EXHIBITS

[Exhibit A](#) is the Agenda.

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

[Exhibit C](#) is written testimony dated April 7, 2021, submitted and provided by Kelly McGowan, Program Manager, Sagebrush Ecosystem Technical Team, State Department of Conservation and Natural Resources, in support of [Assembly Bill 433](#).

[Exhibit D](#) is a letter dated April 6, 2021, submitted by Tina Nappe, representing the Toiyabe Chapter, Sierra Club, in support of [Assembly Bill 433](#).

[Exhibit E](#) is the Work Session Document for [Assembly Bill 85](#), submitted and presented by Jann Stinnesbeck, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit F](#) is the Work Session Document for [Assembly Bill 148](#), submitted and presented by Jann Stinnesbeck, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit G](#) is the Work Session Document for [Assembly Bill 299](#), submitted and presented by Jann Stinnesbeck, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit H](#) is a proposed amendment to [Assembly Bill 399](#), submitted and presented by Jeff Dixon, Nevada State Director, The Humane Society of the United States.

[Exhibit I](#) is photographs of hen housing systems, submitted by Warren B. Hardy II, representing The Humane Society of the United States, regarding [Assembly Bill 399](#).

[Exhibit J](#) is a letter dated April 5, 2021, submitted by Jennifer Hauge, Manager, Legislative Affairs, Animal Legal Defense Fund, in support of [Assembly Bill 399](#).