

**MINUTES OF THE
SENATE COMMITTEE ON GOVERNMENT AFFAIRS**

**Eighty-first Session
April 28, 2021**

The Senate Committee on Government Affairs was called to order by Chair Marilyn Dondero Loop at 3:35 p.m. on Wednesday, April 28, 2021, Online and in Room 2149 of the Legislative Building, Carson City, Nevada. [Exhibit A](#) is the Agenda. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Marilyn Dondero Loop, Chair
Senator James Ohrenschall, Vice Chair
Senator Dina Neal
Senator Pete Goicoechea
Senator Ira Hansen

GUEST LEGISLATORS PRESENT:

Senator Melanie Scheible, Senatorial District No. 9
Assemblywoman Susan Martinez, Assembly District No. 12
Assemblywoman Sarah Peters, Assembly District No. 24

STAFF MEMBERS PRESENT:

Alysa Keller, Policy Analyst
Heidi Chlarson, Counsel
Suzanne Efford, Committee Secretary

OTHERS PRESENT:

Michon Eben, Cultural Resources Manager, Reno-Sparks Indian Colony
Marla McDade Williams, Reno-Sparks Indian Colony
Christine Saunders, Policy Director, Progressive Leadership Alliance of Nevada
Teresa Melendez
Terry Taylor, Fire Investigator, North Lake Tahoe Fire Protection District
Calli Wilsey, City of Reno
Jaina Moan, External Affairs Director, Nature Conservancy

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Kacey KC, State Forester Firewarden, Division of Forestry, State Department of Conservation and Natural Resources
Keith Lee, Alert Wildfire Systems
Tiffany East, Chair, Board of Wildlife Commissioners, Department of Wildlife
Christi Cabrera, Nevada Conservation League
Kyle Davis, Coalition for Nevada's Wildlife
Barbara Richardson, Commissioner of Insurance, Division of Insurance, Department of Business and Industry
Christopher Daly, Nevada State Education Association

CHAIR DONDERO LOOP:

We will open the hearing on Assembly Bill (A.B.) 103.

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

ASSEMBLYWOMAN SUSAN MARTINEZ (Assembly District No. 12):

Assembly Bill 103 revises provisions governing the preservation of certain prehistoric sites and clarifies technical language from the bipartisan legislation passed in 2017. Senate Bill (S.B.) No. 244 of the 79th Session provided that a person shall not knowingly excavate prehistoric Native American burial sites on private land without first obtaining a permit from the Museum Director of the Nevada State Museum, Division of Museums and History, Department of Tourism and Cultural Affairs. 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. 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. No. 244 of the 79th Session, Nevada Native American tribes were overlooked regarding the treatment of their sacred burial sites. Assembly Bill 103 attempts to fulfill the intent of S. B. No. 244 of the 79th Session by helping protect sacred prehistoric Native American burial sites. This bill provides that a permit is not required to be engaged in lawful activities on private lands if those activities are exclusively for the purposes other than the excavation of a prehistoric Indian burial site and occurs only on a portion of the private lands that does not contain the known prehistoric Indian burial site.

MICHON EBEN (Cultural Resources Manager, Reno-Sparks Indian Colony):
The Reno-Sparks Indian Colony supports A.B. 103.

As the cultural resources manager, my duties include the protection, preservation and management of Native American ancestral remains, funerary objects, cultural resources and traditional cultural properties.

Our rich Native American history and heritage has been passed down from our ancestors, many of whom are buried throughout Nevada in their final resting places. The core theme of A.B. 103 is to ensure protection of our ancestors' final resting places 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.

Assembly Bill 103 is another significant step for the State to recognize that tribes too have a position regarding their 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 not included Native Americans. Snippets of Native American culture appear in western television shows and movies resulting in inaccurate stereotypes of Native people and their lives. Past Native culture is far richer and more complex than generally appreciated. Native American remains and sacred objects were desecrated by early pioneers and settlers, but what remains throughout this beautiful State is still important to contemporary Native American societies. Native ancestral remains and cultural items should be respected just as any human remains are respected in any 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, certain rites and traditions take place at the time of death, during the dead person'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 their dead relative. When the body is laid to its eternal resting place here on earth that is where it is to remain undisturbed. These ancestors were buried in traditional societies in a traditional way. They are considered our Native American cemeteries.

Tribal communities still carry on these traditions and are spiritually connected to these age old customs. Their ancestors have a direct connection to their communities, to the earth, to nature and to the living. Every year, several Reno citizens call me and politely offer their cultural findings from their private property to our Reno-Sparks Indian Colony. Others have asked if we could purchase these items. The latter is offensive and disturbing. Our culture is not for sale. For far too long, Native American culture has been minimized, theorized and put on display. It seems 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. 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 to cooperatively determine the appropriate protection and disposition of our ancestors.

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

SENATOR NEAL:

I remember S.B. No. 244 of the 79th Session. There was a lot of conflict developing the permit language. What is the Nevada State Museum's position on the change in the permit language in A.B. 103?

MARLA MCDADE WILLIAMS (Reno-Sparks Indian Colony):

Nevada Revised Statutes (NRS) 381.196, subsection 1 talks about obtaining a permit for a known prehistoric burial site. When that language was put in place, we had negotiated with the Nevada Mining Association, the Southern Nevada Water Authority and Storey County to ensure they would not be asked to get a permit if they were not excavating at a burial site. For example, if someone was excavating at the far north corner of a 500-acre property, but the burial site was at the far southern corner of the property, he or she would not be asked to get a permit because he or she was not excavating at the burial site. However, if landowners knew about the burial site and wanted to put a pool there, they did not need a permit because this section of statute was interpreted as an

exemption from getting a permit. This bill will close the door on an exemption and clarify that as long as the activity occurs on a portion of the land that does not contain a known site a permit is not required.

There has been some confusion about the term "known." Under law, if someone is excavating at a site and inadvertently finds remains, a process kicks in and the State Office of Historic Preservation gets involved. It finds the culturally affiliated tribe and discusses how to handle the remains and then they are cataloged. They are not cataloged in a public database, they are cataloged in a database the Office maintains. If a decision is made to leave the remains in place but bury them deeper, the landowner now knows they are there. In that situation, if the landowner wants to excavate over that site, he or she would have to get a permit.

However, if the land changed hands and that information was not carried forward, there would be no consequence to the new landowner for excavating at the burial site because he or she did not know it was there. Once the site is discovered again, it would still fall under the inadvertent finding provision of NRS 383.

The onus on the landowner in section 1, subsection 2 of the bill is only if the landowner knows the burial site is there, then he or she must get a permit to excavate at the site.

SENATOR NEAL:

I understand the solution, but why not add something to the land description that artifacts or remains were found and where they are located. Any conveyance would have to explicitly describe what was found and where it is located. Then no matter who lives or dies or who might buy the land, the information is always carried forward in the county records. This could be added to the bill.

MS. WILLIAMS:

I do not disagree. That is a great idea. However, we have not dealt with any real estate law to understand how that would go into effect. We are happy to look at it and consider it in the future if that is a solution. For now, this is the system that is in place and it seems to work. We are open to looking at that in the future if that is something we should be doing.

SENATOR NEAL:

You definitely should be thinking about it. Land surveying goes on all the time.

SENATOR GOICOECHEA:

My concern is dealing with large tracts of land and putting something in the title. Would it have to be narrowed down to a specific area such as 10 acres or 40 acres? Some large ranches, especially in eastern Nevada, could have a burial site. Would a permit be required for the whole 10,000 acres? That is different than dealing with a lot or even 40 acres. If someone bought a piece of property with a known prehistoric Indian burial site, it would be good to know it is there and where it is located.

SENATOR HANSEN:

Does this apply only to prehistoric Indian things? Years ago, my grandfather told me a disgraceful tale about a Chinese cemetery in Reno across from what is now Hug High School. As the Chinese population declined in this area, the City of Reno would dump its sewage sludge on top of the Chinese cemetery. Eventually, it was buried and disappeared and a trailer park is there now. This was back in the 1930s. Does this bill deal with anything like that?

HEIDI CHLARSON (Counsel):

This bill only deals with prehistoric Indian burial sites.

SENATOR HANSEN:

Are there any laws about the situation I just described?

Ms. CHLARSON:

I would have to check, but I am not aware of any. I can look into that for you.

CHAIR DONDERO LOOP:

Do we know how many sites there are?

Ms. EBEN:

When we were creating the 2017 legislation, we worked with the Nevada State Museum about their protocols on the permitting process and about doing a literature search of known burial sites.

I am not sure how many sites we have. We know there are several burial sites out there. The State Historic Preservation Office identifies historical burial sites

in the Nevada Cultural Resource Inventory System (NVCRIS). It also assists the public, nonprofits, and local, State and federal agencies. One permit has been given out by the Nevada State Museum since the 2017 legislation.

MS. WILLIAMS:

Going back to Senator Hansen's question, Nevada's law is based on the Native American Graves Protection and Repatriation Act (NAGPRA) enacted by the federal government to protect these sites on federal land. A small piece of NAGPRA law is in place in Nevada statutes. Assembly Bill 103 builds on NAGPRA to apply to private land. That is also what we did in 2017.

There are hundreds of sites listed in NVCRIS; however, it is not in a public database that anyone can access.

CHAIR DONDERO LOOP:

If I am interested in preserving these sites, but I do not know where they are, how would I get that information? If I bought something, I would be able to know if there was a site or not and be helpful to the process.

MS. WILLIAMS:

There probably is a process in place in which someone could work with NVCRIS and identify current sites. One of the reasons this information is not made public is because we do not want people desecrating the burial sites. That is why that is important.

CHAIR DONDERO LOOP:

That is so true.

SENATOR GOICOECHEA:

It peaks my interest as we move into this. There are probably thousands of sites across eastern Nevada. Typically, these are not cemeteries or burial grounds. I know of at least two that my family has discovered over the years. In many cases, it is just a lone grave. It is problematic, but it was the custom of the culture.

MS. EBEN:

We know our ancestors are buried everywhere and sometimes they were alone. I have been involved in the science side of cultural resource management for 20 years. Over this time, several sites were discovered for one tribe. We came

across areas where everyone believed there were no remains and actually there were. They were unanticipated discoveries.

There will not always be a discovery. We always hope there is not. We just want to make sure when this does take place our Native American culture is protected, preserved and managed, and we can collaborate with private landowners on what is the best disposition for our Native American remains.

CHRISTINE SAUNDERS (Policy Director, Progressive Leadership Alliance of Nevada): The Progressive Leadership Alliance of Nevada supports A.B. 103. Nevada is made up of lands that our Indigenous neighbors have been stewards of for generations. Nevada must pass this legislation to show the proper respect to our neighbors and we urge your support.

TERESA MELENDEZ:

I support A.B. 103. I just wanted to share one sentiment. I am happy to see so many tribal impact bills this Session. They are incredibly important as we work to acknowledge, recognize and honor the Indigenous people of this State. It is important that our leaders in the Assembly and the State acknowledge the Indigenous voices and find, uplift and pass solutions to issues that are important to the sovereign and tribal nations of Nevada.

We often hear about allies and communities looking for ways to support tribal nations. Here we are in this Legislative Session in which there are several tribal impact bills. Tribes and tribal leaders are coming out. Knowledgeable and influential people like Michon Eben and Marla McDade Williams are speaking out on behalf of the tribal nations to advance tribal issues.

Now is the time when we need our elected officials to stand up with tribal nations and leaders to help move legislation forward that positively impacts tribal sovereignty and the needs of indigenous people in this State.

MS. WILLIAMS:

I want to draw your attention to a letter on the legislative website from the Fallon Paiute-Shoshone tribe supporting A.B. 103 ([Exhibit B](#)).

CHAIR DONDERO LOOP:

I will close the hearing on A.B. 103 and open the hearing on A.B. 86.

ASSEMBLY BILL 86 (1st Reprint): Makes various changes relating to the recovery of certain expenses and costs incurred in extinguishing certain fires and emergencies. (BDR 42-111)

ASSEMBLYWOMAN SARAH PETERS (Assembly District No. 24):

Assembly Bill 86 was proposed by the Committee to Conduct an Interim Study Concerning Wildfires. It was my pleasure to serve as a member on this important Committee during the 2019-2020 Interim.

The Committee was created by A.C.R. No. 4 of the 80th Session. It was tasked with considering methods of reducing wildfire fuels, issues related to early responses to wildfires and the economic impact of wildfires on the State and local communities.

The Committee consisted of three members of the Senate, three members of the Assembly and two nonvoting members. In its final meeting in work session on July 2, 2020, the Committee recommended addressing numerous wildfire related issues. One of the recommendations was A.B. 86.

Assembly Bill 86 will help recover the costs of fighting fires caused by persons who acted in a criminal or negligent manner.

The Committee received written recommendations by the Nevada Chapter of the International Association of Arson Investigators addressing issues related to the recovery of certain costs related to wildfires by State and local governments. As you might be aware, we are experiencing increased numbers of human caused wildfires in Nevada. Additionally, we have all heard of wildfires started by people in a negligent manner near our communities. Local governments are often the first to respond to wildfires; and, they often bear the brunt of the costs associated with firefighting. Thankfully, they can receive assistance through the Wildland Fire Protection Program which is housed in the Division of Forestry of the State Department of Conservation and Natural Resources.

After a devastating wildfire, it is important not to deplete the funds of the Wildland Fire Protection Program, and local governments that are tasked with putting out the wildfires can recover their costs. However, it was brought to our attention that arson investigators have found it extremely difficult for local governments to recover these costs from fire suppression efforts in both

criminal and civil investigations. The same investigators have found that adjacent states are much more effective in cost recovery due to appropriate statutes. Our neighboring states, California, Oregon, Washington and Idaho all have such statutes.

The bill was amended in the Assembly to provide certain exceptions for when a person, firm, association or agency may be liable for the expenses incurred in extinguishing a fire or meeting an emergency. These are best practices and the experience of arson investigators who have many years of knowledge in this area. We want to ensure that true accidents are thoroughly considered in the pursuit of these recovery dollars.

TERRY TAYLOR (Fire Investigator, North Lake Tahoe Fire Protection District):
In section 1 of the bill, the thing that has thwarted me through much of my career is being deleted. It is language that says human life must be threatened. It is tradition that those of us in the fire, police and emergency medical services are not considered human unless we are gravely injured or deceased. That has prevented local district attorneys from taking these cost recovery cases. I am working a case right now in a rural county where a house was damaged, acreage was burned and an unpermitted fire got into a grazing area, but because there were no human lives threatened at that time, other than firefighters and deputy sheriffs, there will be no movement toward cost recovery. That is a good nutshell example of what we are trying to solve.

Language in section 2 about the exceptions is repeated throughout the bill. I worked with Assemblywoman Peters and my colleagues. The fire marshals in northern Nevada have no problem with these exceptions.

In talking to State Forester Firewarden Kacey KC last night, I learned that she no longer issues burn permits. That permitting has been delegated to local counties, towns and cities. I did not submit any paperwork because it was too late in the game, but we need to amend the language to refer that process to the local jurisdiction, whether it is a fire protection district, a municipal fire department or some other as defined.

This version of the bill states that a person has to be cognizant of the forecast and existing weather conditions; the conditions of fuel moisture; and the topography of the area of the fire. If you are going to put fire on the ground, those are basic things you should be concerned with.

The ranching community was concerned because it did not want to get caught up in this. In my 26 years in Douglas County and this region, there have been few out-of-control fires due to ranchers burning off stubble to have a field ready for spring.

The bill also requires a person to call the fire department when a fire gets out of control. People do not do that. I am investigating a case like that in which the person did not report the fire, there was an attempt to suppress it, but something simple turned into an eight- or nine-acre fire in the Lake Tahoe Basin. If this bill passes, we would be able to recover costs from that type of situation.

People lie to us constantly about how the fire started. Some of the things I have been told are humorous but untrue. It is important for people to step up and tell the truth about starting fires. It has been my experience that local district attorneys are happy when this happens. If the person reports the fire, tries to put the fire out and is truthful with investigators, the district attorneys will not try to recover large amounts from him or her. We realize that some people who get involved in this have little or no financial resources. The idea is not to bankrupt people. It is to get them to do something, call, participate truthfully, and they will get somewhat of a free ride; however, there are still criminal implications in other statutes.

I heard from ranchers about warming fires and livestock issues. Most of the livestock industry has gone to electric branding rather than branding fires. Some operations in rural areas are still using branding fires. In most cases, if those fires get away, they are reported and attempts are made to put them out because they are harming grazing lands.

The bill contains a good definition of a fire-fighting agency which includes the two types of special districts from NRS 318 and NRS 474. The definition also includes municipal fire departments which we did not have before.

Twice in my career, Assemblywoman Peter's district has come close to disappearing due to fire. I am part of the ongoing investigation of the fire in November and the Caughlin Ranch fire 9 years ago. That fire is a perfect example of no exemption. An individual had started that fire, had not reported it, had not tried to suppress it and then when discovered through investigation began to lie about it. That is the exit door for being treated nicely. My

colleagues feel this is reasonable. Most people who care about their community will step up and admit what happened.

SENATOR GOICOECHEA:

We were joking as we got into this about controlled campfires for the purposes of branding calves. I guarantee, if someone is welding on a water trough and the fire gets away, that person is going to throw a branding iron in it. I was hoping we could expand that language instead of narrowing it to branding fire. If a fire started from incidents of husbandry that pertain to farm work or from trying to thaw a pipe, the fire department would be called, and the fire would be fought. Things happen on the range. The bill should be amended to include more than just branding fires in the exceptions because things happen out there. You are going to make everybody pack a branding iron.

ASSEMBLYWOMAN PETERS:

I worry about expanding this too far beyond the narrowed specific scenarios. In the case of somebody incidentally starting a fire from welding or other husbandry activities in rural communities, that person would be following the guidelines in this bill for exceptions of being held liable. Those exceptions are in the bill to cover those scenarios, such as the Girl Scout troop that started a fire because the pine cone got away from the campfire. Those kinds of scenarios are incidental, not purposeful and can impact anyone.

We do not want people to be caught in cases where they would be held definitively liable. The exemptions would cover those kinds of cases. We could go case-by-case and over-regulate in the statute to whom this would apply or to what scenario it would apply. We wanted to give it the consideration we know investigators already take and put that into statute so it is more transparent and consistent. People will be able to recognize their accountability and make sure they are doing what is required in the case of an accident.

SENATOR GOICOECHEA:

Thank you. I just want to protect my industry.

SENATOR OHRENSCHALL:

I did some research this year and found out from our State fire officials that from 2015 to 2019, 397 wildland fires in Nevada were caused by fireworks. The cost of fighting those wildland fires was above \$11 million. If this bill

passes, will the counties be able to recover some of those costs of fighting fires from people using illegal fireworks?

MR. TAYLOR:

You and I share the same opinion about illegal fireworks and even some legal fireworks. Under State law, an individual cannot get a permit for using fireworks other than commercial fireworks. Investigators believe cost recovery for a fire due to someone using illegal fireworks could be successfully sought. More interestingly, it was brought up about how that would affect a corporation that manufactures fireworks. We were not focused on that. We were focused on individuals, groups or businesses causing fires. About 80 percent of wildfires in Nevada are human caused in one way or another. Some of those are accidents, but some are intentional, and some are so stupid they should not be called accidents. The fire in August on Peavine Mountain was caused by a person setting off fireworks. It would be nice to be able to get cost recovery.

SENATOR OHRENSCHALL:

I hope this bill helps reduce fires set by fireworks.

SENATOR NEAL:

The same language appears in several places in section 1 and section 2 of A.B. 86. This is existing language in which you have inserted "city" and "general improvement district" which are the fire protection districts. How does this work with an implied contract?

MR. TAYLOR:

Are you talking about the exceptions?

SENATOR NEAL:

This is part of the bill which says the debt can be collected by the entities listed and then it says "incurring such expenses in the same manner as in the case of an obligation under a contract, express or implied." An implied contract is different than an express contract. How does that work now since that is existing language, and there is a debt collection activity under an implied contract?

MR. TAYLOR:

In talking to the district attorney's representatives, before we even brought this forward to the Committee to Conduct an Interim Study Concerning Wildfires,

the idea was that since local governments are issuing permits for legitimate legal activity, and those permits contain express and implied conditions, the permits would be the four square corners of an actual contract. That was their view and how it was explained to me. A permit would be issued for anything lawful which becomes express and then the implication is that the guidelines would be followed.

SENATOR NEAL:

After someone finishes responding to the questions by the firewarden, is truthfulness decided by a single individual or do multiple people decide and determine whether immunity will attach for the truthfulness.

MR. TAYLOR:

In discussions with the district attorneys that would be prosecuting these cases both civilly and criminally, they all said the measure of truthfulness is an objective rather than a subjective test. That would mean if a person is lying about the act itself, such as saying I did not have any fireworks or I did not do this and then it is proven to be untrue, that forms the basis for the legal action.

SENATOR NEAL:

Nevada Revised Statutes 244 addresses counties and NRS 268 addresses cities. I am curious about the court of competent jurisdiction. Within a county or a city, language which is in NRS 244 and NRS 268 respectively, you want the governing body to bring the action in the court of competent jurisdiction. I do not see the same application under NRS 472 and NRS 474. It appears to be two different standards. I only saw the court language in NRS 318 which is the fire district piece.

MR. TAYLOR:

It is also under the city council. The idea was that if you had a smaller fire event and were seeking civil redress, your court of competent jurisdiction would be a municipal court if it was in an incorporated city and a justice court if it was in a rural county. For a larger event in excess of \$50,000, the court of competent jurisdiction for civil recovery would be a district court.

CHAIR DONDERO LOOP:

How often are the events small? Fires get out of control. That is what we are trying to address with this bill. Do we actually have smaller events, such as municipal court events?

MR. TAYLOR:

The typical wildland fires we deal with daily rarely exceed 20 acres in the western Nevada region. In the eastern portion of the State, fires tend to grow bigger because there are fewer resources immediately available. Many of the smaller, unpermitted fires could be handled in justice court.

You will be looking at A.B. 100 today which includes the Wildland Fire Protection Program. A perfect example for the use of this Program is the Caughlin Ranch fire in November 2020, the Pinehaven Fire, which lasted in excess of 24 hours. That funding source was used by the Reno Fire Department to pay off its costs and the costs of all the agencies putting out the fire. That was an unusual case because of the possibility that NV Energy started that fire. The idea is that A.B. 100 can help local governments put money back into that fund.

ASSEMBLY BILL 100: Revises provisions relating to wildfires. (BDR 42-109)

That is one of the things I have been looking at. The Neighbors Fire occurred in my former fire district, the East Fork Fire District. The District was on the hook for a big chunk of money, but it received a big chunk of money from the Wildland Fire Protection Program. The District's fees will rise each year to pay back the fund.

When I worked on the Caughlin Ranch fire nine years ago, I went to the city attorneys and the district attorneys in Washoe County because all of them had expended money in recovering costs of the fire. I was part of a task force that put together the litigation against NV Energy. We could not use any of this law to include Washoe County so it could participate in what the insurance companies were doing. It seemed wrong to me that the taxpayers were funding this large operation. The insurance companies were recovering and NV Energy admitted its guilt in court. Part of what we are doing is to feed money from the local level into the Wildland Fire Protection Program.

I wanted to tie A.B. 86 and A.B. 100 together to help the Committee understand what you will be looking at today.

SENATOR GOICOECHEA:

I am concerned that the language in A.B. 86 says "willfully or negligently causing any fire." Clearly, that is an accident. If you accidentally lose a fire, it

probably was some type of negligence but, according to the bill, you failed to exercise reasonable care. Eastern Nevada gets fire control orders and no burn orders all the time from federal agencies. In fact, in some places in eastern Nevada no open fire orders are already in effect. If federal agencies have issued a no burn order and someone is doing something and starts a fire, it is pretty easy to prove negligence. I am concerned that someone out there trying to make a living can get stuck with a huge bill.

MR. TAYLOR:

This bill is nothing like the Bureau of Land Management's fire trespass program. The focus of A.B. 86 is strictly on local government, and ultimately, if it is a large fire, recovering money for the fund. That could be done by a local district attorney or even a private attorney if a county commission or a city council wanted to retain one. That cost recovery could feed back into the State. I want to make clear that was our intent all along. The federal government can do what they want as you know, Senator.

SENATOR GOICOECHEA:

If someone is doing something in the normal course of business that could possibly start a fire, it is my recommendation that he or she obtains a permit for protection because he or she could be hit with a large bill.

CALLI WILSEY (City of Reno):

The City of Reno supports A.B. 86. It allows the City to consider court action against responsible parties for willfully or negligently causing a wildfire. We have seen how destructive wildfires can be and the high cost it takes to fight them in order to protect our community. The bill provides an additional tool for the City both as a deterrent for these situations as well as a tool in the most egregious situations when a party is found at fault.

MR. TAYLOR:

The only thing we have to amend is the issue about the State Forester Firewarden no longer issuing permits. That will lead people in the wrong direction. We could insert some language that would say something like the local authority has jurisdiction. That would solve the problem, whether it is a county commission, a city council or a town board.

This bill will give investigators, district attorneys, city attorneys and town attorneys a tool. They are elected officials. I have noticed they are good judges

of people when determining who to go after. We were thrown a curve with the Girl Scout fire. I cannot imagine a district attorney being reelected after going after the Girl Scouts for something that happened accidentally out in the woods.

We are trying to distinguish between true accidents and people who are misbehaving. I just finished investigating a permitted fire that got away. The person told us what happened, which I was able to validate. It was a dust devil. A temperature imbalance between the floor and the atmosphere, took the fire and burned 14 acres. When the crews got there, they did not know what had happened. It looked like a controlled burn had gotten out of control. Once we went through everything, we were able to validate the weather. There was no liability. That is what we are paid for and volunteer for.

I think this bill can work and normal, sound people will comply. We are not out there to beat people over the head. We are out there to educate and stop these fires. Too many are happening.

CHAIR DONDERO LOOP:

I will close the hearing on A.B. 86 and open the hearing on A.B. 84.

ASSEMBLY BILL 84: Revises provisions relating to wildfires. (BDR 42-110)

SENATOR MELANIE SCHEIBLE (Senatorial District No. 9):

Assembly Bill 84 authorizes the State Forester Firewarden to enter into certain public-private partnerships (PPP) to address the threat of catastrophic wildfires.

Assembly Bill 84 was proposed by the Committee to Conduct an Interim Study Concerning Wildfires. It was my pleasure to serve as the vice chair of the Committee during the 2019-2020 Interim. It was created by A.C.R. No. 4 of the 80th Session. The Committee was tasked with considering methods of reducing wildfire fuels, issues relating to early responses to wildfires and the economic impact of wildfires on the State and local communities.

You probably heard enough about the Interim wildfire study committee. I will move through the lessons we learned and some of the science we were educated on because you all understand the need for policies addressing wildfires.

As we look into the future, the threat of catastrophic wildfires only increases. Assembly Bill 84 seeks to authorize the State to enter into PPPs. Specifically, without limitation, PPPs can invest in wildfire prevention, restoration, infrastructure and workforce development for enhancing landscape resiliency against the threat of wildfires.

JAINA MOAN (External Affairs Director, Nature Conservancy):
I have submitted my written statement on A.B. 84 ([Exhibit C](#)).

Assembly Bill 84 originated from the Committee to Conduct an Interim Study Concerning Wildfires. Their hearings brought to light a number of opportunities for enhancing wildfire prevention, readiness and response, and restoration efforts.

As the Committee was wrapping up its meetings, Assemblywoman Heidi Swank asked the Nature Conservancy if it had any ideas that would help the State address the issue of wildfires that did not require a financial outlay. At that time, we were in the thick of the pandemic and the outlook for State revenue was grim, as it still is. Assembly Bill 84 was one of the ideas that resulted from our discussion with Assemblywoman Swank in response to that question.

Public-private partnerships are financial and legal arrangements that use private investments to fund or provide public goods or services. The PPPs are frequently used to develop transportation and infrastructure projects. Three Nevada statutes authorize PPPs: NRS 338 authorizes PPPs for transportation facilities; NRS 321 authorizes PPPs for the preservation and adaptive reuse of historic properties; and, in NRS 408.357, PPPs were approved to complete the Boulder City bypass project.

In these instances, PPPs were established to help finance large infrastructure or renovation projects. With A.B. 84, we are proposing they be used to address wildfire threat. We know we need to reduce fuel loads and enhance healthy soils in our forests and rangelands. These activities are large natural infrastructure endeavors. The rationale behind A.B. 84 is that a PPP model can help leverage public funds with private investments in wildfire threat reduction and landscape resiliency enhancement.

We have done a little research into how PPPs have been used to address wildfire threat. We found they are a multi-purpose tool. They can be used to

enhance wildfire prevention and readiness efforts by directly deploying conservation crews. For example, in 2010 the City of Auburn, California used a PPP to mobilize local volunteers and conservation corps for forest thinning projects. Public-private partnerships have also been used to provide direct wildfire response with both equipment and operation support. In San Diego in 2013, utilities and the Erickson Air-Crane company joined agencies through a PPP to provide helitanker equipment and manpower to support wildfire suppression operations.

Public-private partnerships have also been successfully used to implement forest restoration on a large landscape level. Effective forest restoration treatments seek to avoid stand-replacing fires by reducing fuel loads through mechanical treatments and prescribed fire. To be effective, forest restoration needs to be done on a large scale which requires a substantial investment. The National Forest Foundation has helped establish PPPs to provide long-term funding for forest restoration work. There are two examples of successful PPP efforts. First, the Yuba Project in Sierra County, California, which is a partnership between the Yuba Water Agency, the Tahoe National Forest and a non-governmental organization (NGO) called Blue Forest Conservation in the California Department of Forestry and Fire Protection. This PPP is funded by a forest resilience bond financed by collective contributions from partners and has taken the lead on implementing projects on over 5,000 acres in the Yuba River watershed. Projects are designed to reduce surface and ladder fuels to a level that would allow for safe fire suppression and improve wildlife habitat.

The second example is the Northern Arizona Forest Fund where a power and water utility, the Salt River Project, partnered with the National Forest Foundation to implement a forest restoration project in the headwaters of the Salt and Verde rivers which are a source of drinking water for the Phoenix metro area. The source of revenue for the forest fund is a mixture of public and private revenue generated from forest restoration investment packages. The fund is used to implement on the ground restoration and fuel reduction projects.

The PPP model is also being used to enhance resiliency in range lands. In 2020, a PPP called the Cheatgrass Challenge was launched in Idaho. In this inaugural year, the challenge selected six restoration projects in sagebrush habitats to receive a total of \$750,000 of investment generated from a mix of federal and state agency funds and private investment. In addition to establishing innovative

funding mechanisms for forest and rangeland restoration, these PPPs help provide jobs and connect communities to their watersheds.

I want to acknowledge that an amendment to A.B. 84 is being proposed by Alert Wildfire Systems ([Exhibit D](#)). We consider this a friendly amendment that can help strengthen early wildfire detection efforts thus further enhancing our ability to prevent and fight catastrophic wildfires.

Public-private partnerships are a useful mechanism for addressing the threat of wildfires in both our forests and rangelands. Assembly Bill 84 will give Nevada's State Forester Firewarden the ability to enter into and manage PPPs. It will be another tool in our box for tackling this complex problem.

SENATOR NEAL:

The last page of the bill mentions workforce development and investment in wildfire prevention. What funding do you expect from the PPP? Is workforce development tied to existing government programs?

Ms. MOAN:

The dollar amount for the PPP varies based on the purpose for that specific PPP. This bill will give the State Forester Firewarden the ability to enter into PPPs should it be deemed necessary to do so. It does not allocate specific funding for a specific project. The money is raised differently for each PPP, but it is typically an investment among all of the partners in the partnership. Private partner investments are matched by public investments. The revenue is shared. However, committees decide how money is spent in the PPP.

It is a tool for rangeland and forest restoration groups to be able to pursue those larger pots of funding together so we do not burden one person or agency.

SENATOR NEAL:

Yes, it does. Who are the private companies or individuals you are thinking about getting into a partnership with?

Ms. MOAN:

That is a good question. We provided this suggestion with our knowledge of PPPs that have worked, such as those that I cited, as a way for Nevada to approach the issue of wildfire threat. We do not have many specific public-private projects in mind.

The Nature Conservancy conducts a number of forest restoration projects on its own property in the Sierra Nevada range. It does its own controlled burns. It also partners with the National Forest Service in the Lake Tahoe area and with others on rangelands and sagebrush to implement various land restoration projects. The goal is to understand the dynamics of how the land is responding to wildfire and climate change threats. But they also help us develop solutions for managing those areas.

In our work at the Nature Conservancy, we have mapped out the wildfire threat to the Truckee River watershed and have identified several areas that we can target for treatment. That treatment would be effective in not only reducing the risk of stand-replacing fire but also reducing the risk of the sediment load that would run off the landscape after a fire. It is in this work that we have come to understand the value of pre-restoration treatments in our forested lands which involve mechanical thinning. They are very expensive and take a number of years to effectively implement and treat a large area of land.

The issue in Nevada is there is more need than there is revenue to meet that need. We proposed A.B. 84 as a potential solution for opening it up. It was not directed at a specific project.

Workforce is key to treating our forests and rangelands. Not only can we employ more people and create more jobs, but these jobs to treat forests are full-time jobs. The workforce development component can also feed into workforce development opportunities on our rangelands, especially if we look into research and development opportunities for enhancing the health of our rangelands to be more resilient against fire.

Those are some of the areas that would be receiving investment money.

SENATOR GOICOECHEA:

There is a piece of legislation pending now regarding a change in who is the State Forester Firewarden. Did it go from the State Fire Marshal to the State Forester Firewarden or from the State Forester Firewarden to the State Fire Marshal?

MS. CHLARSON:

I need to research what that bill does and where it is. When A.B. 84 was requested for a wildfire study, we were dealing with the State Forester

Firewarden. That is the existing position. Often during session, things change when we are dealing with bills. To the extent that another bill would conflict with this one, we need to deal with that. I will double check the status of the State Forester Firewarden.

SENATOR GOICOECHEA:

I believe it makes the State Fire Marshal the State Forester Firewarden. I am not sure. I saw that bill someplace.

KACEY KC (State Forester Firewarden, Division of Forestry, Department of Conservation and Natural Resources):

I am not aware of a bill that changes the title over to the State Fire Marshal. We did have provisions in Senate Bill 33 which would move some of the duties from the State Forester Firewarden to the State Fire Marshal's office, but those have been stricken. I am not aware of a title change bill.

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

SENATOR GOICOECHEA:

You would know, Ms. KC. You are the State Forester Firewarden and will continue to be.

Ms. KC:

I think so. I do not have ownership of the title, but that is how it is listed in statute.

CHAIR DONDERO LOOP:

There is an amendment to A.B. 84.

KEITH LEE (Alert Wildfire Systems):

I would like to answer Senator Neal's question to Ms. Moan about how PPPs work. They work effectively in California. Independently owned utilities are part of the PPP with the California Division of Forestry and Alert Wildfire Systems. The first fire camera ever placed in Nevada in 2013 was an ALERTWildfire|WildfireLIVE camera funded by the private sector. Many NGOs can participate in this. They all have their own interests.

I testified in support of A.B. 84 in the Assembly, and I support it here. It is an important tool. We have seen some limited success with it and we hope this will open it up to greater success in terms of the NGOs and others getting involved in assisting the State in fire suppression and detection efforts.

I would like to call your attention to S.B. 180 which was heard in this Committee on March 17, 2021. A more detailed presentation was given by Dr. Graham Kent who is the director of the Nevada Seismological Laboratory and who developed these fire cameras and put them in place. The ALERTWildfire.org website allows you to see the cameras that are in place and the time lapse.

SENATE BILL 180: Revises provisions relating to fire prevention. (BDR 42-601)

The fire camera system started in 2013 with a single camera on Snow Valley Peak in the Carson range. It was funded by the private sector. Alert Camera Systems has expanded to more than 800 cameras in 5 states with another 200 to 300 to be deployed this year. Alert Camera Systems has entered into an agreement with Australia where it has deployed six cameras. It is obviously a going concern that is effective in early detection. The Pinehaven Fire was located 1.2 seconds after the 911 call came in. One of Alert Camera Systems' cameras, across the valley from the fire, detected and confirmed the fire. It is an important tool.

The conceptual amendment to A.B. 84 includes language taken from S.B. 180. The amendment adds a new provision to NRS 472.040, subsection 2, paragraph (f), Exhibit D. It gives the State Forester Firewarden "the ability to purchase or otherwise acquire cameras or other equipment for early warning or detection of wildfires." I stress "acquiring" cameras because we are not asking for any kind of appropriation to purchase these cameras. It is about the ability to deal with the federal government, the private sector and NV Energy, to leverage money to acquire and install these fire cameras.

CHAIR DONDERO LOOP:

When we heard S.B. 180, my biggest concern was not the acquisition by donations but the word "purchase." Whenever you put purchase in a bill, dollar signs are in it whether you say they are or not. What is the purpose of the word "purchase" in the amendment?

MR. LEE:

It is language that adds another tool. We understand that the General Fund is stretched, and we have many issues to deal with. It is a tool we want to give to the State Forester Firewarden in the event funds are available down the road. It is not our intent to chase dollars this Session to acquire cameras.

CHAIR DONDERO LOOP:

We may want to consider amending the amendment if we are going to use the word "purchase" because I am not sure if it would be picked up by the Senate Committee on Finance or not.

TIFFANY EAST (Chair, Board of Wildlife Commissioners, Department of Wildlife):
The Board of Wildlife Commissioners unanimously supports A.B. 84 as presented. While the Commission has not yet reviewed the friendly amendment, it supported S.B. 180.

You have heard a lot about wildfires this afternoon. We agree it is critical to wildlife survival that we provide the State Forester Firewarden with the tools necessary to access essential resources to limit the loss of habitat for our wildlife or implement restoration projects to provide much needed help to the ecosystem. Many of the State's wildfires have destroyed much needed habitat and forage for our wildlife, especially sagebrush. We encourage you to support A.B. 84.

CHRISTI CABRERA (Nevada Conservation League):

The Nevada Conservation League supports A.B. 84. We are also supportive of the proposed amendment and believe early detection is key to ensuring wildfires are kept under control and properly extinguished.

Science tells us climate change is making the West hotter and dryer contributing to our enduring, more intense wildfires. Last year's fire season set new records in terms of geographic scale, fire intensity and rate of spread. These wildfires have a disastrous impact on natural areas and wildlife habitats and the pollution effects from the smoke are hazardous to our health.

Encouraging collaboration, partnerships and early detection will help the State better mitigate and respond to wildfires. We urge the Committee's support of A.B. 84.

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KYLE DAVIS (Coalition for Nevada's Wildlife):

The Coalition for Nevada's Wildlife supports A.B. 84 and the proposed amendment. Early detection of wildfires is incredibly important for the protection of wildlife habitats.

I echo Ms. East's comments and urge the Committee's support for both the bill and the proposed amendment.

MS. MOEN:

As we were talking, and per Senator Neal's questions, I briefly looked at some past records for projects the Nature Conservancy has identified for large natural infrastructure, forest reduction and fuel reduction projects. One is in the Mt. Rose corridor and one is in the Truckee River watershed. We have been working on these projects for a while. The delay is due to little funding for them. These projects have a combined estimated cost of about \$5.5 million. These projects would protect our water resources, forest health and our communities from wildfire. These costs are huge and exorbitant. Any way we can find to spread the costs out over a larger portion with multiple people contributing in a PPP is what we are interested in with this bill. Those are just two examples of how a PPP could be used.

CHAIR DONDERO LOOP:

We will close the hearing on A.B. 84 and open the hearing on A.B. 100.

MS. KC:

Assembly Bill 100 was proposed by the Committee to Conduct an Interim Study Concerning Wildfires. I have provided background for the sections in the bill that would change NRS 472 in my written statement ([Exhibit E](#)).

BARBARA RICHARDSON (Commissioner of Insurance, Division of Insurance, Department of Business and Industry):

I will present section 9 of A.B. 100 in my written statement ([Exhibit F](#)).

SENATOR NEAL:

What incentives will you provide to promote this behavior?

MS. RICHARDSON:

We talked about the incentive issues prior to this meeting. We found that in California, incentive programs can be put in place to have insurance carriers

support community efforts. There is a mitigation cost break for the consumer. That is the kind of program we will be looking at. We have worked with some federal partners to determine what kind of incentive programs would be helpful. One of the things we will focus on is that human behavior needs to be adjusted. People need to be aware there is a change in potential wildfire concerns in western states. One of the focuses would be on education. If you put all of these in place, insurance carriers will be able to sell more insurance because they are not afraid of walking away from risks because the risks will be more controlled.

SENATOR NEAL:

If an insurance company offers incentives to property owners, what do they receive? Do they get a reduction in premium?

MS. RICHARDSON:

The idea is to do much like they do with hurricanes. Certain mitigation offerings come from insurance carriers. However, sometimes those mitigation efforts cannot be done by a single person. They need to be done through a community-focused program. For example, if we were addressing the Lake Tahoe area, we would look to the insurance carriers servicing homes in the area to develop mitigation efforts. It would be more than just making sure someone has a sprinkler system in his or her home because that would not help the entire community. Community efforts can be put in place to help all community members and also provide breaks and cost controls and, one would hope, a decrease in premiums for the consumers.

MR. TAYLOR:

A real-world example would be a homeowners association (HOA) liability insurance in a wildland-urban interface which is difficult to write and place with carriers. We have had success in my fire department because it is in a wealthier community. When carriers have pulled out of the HOA market with properties surrounded by big trees and a variety of brush types native to the area, the HOAs are able to come up with money. It is matched with a \$1,000 grant that comes from a third party. We use our fire crews as well as private crews to create a defensible space. A defensible space inspection is done. The work is completed and the HOA insurance carrier is happy because the common areas for the condo, apartments or townhouses have been sufficiently protected.

In the last 30 years, Incline Village has been able to keep insurance in the community even though it is windy, steep and has a lot of fuel.

CHAIR DONDERO LOOP:

Is there a mandate for this in section 9, or is it just creating this information and encouraging this to happen? You were just talking about condos and apartments. Is there a mandate for them to have liability insurance?

MR. TAYLOR:

To my knowledge, all of those HOAs carry liability insurance. They also carry property protection for the common areas and the exterior of the structures.

Incline Village uses a mix of public and private sector funding which has included grants from insurance carriers such as State Farm. That money is given to a property owner in reimbursement after the work is done. However, property owners are required to do it under the Wildland-Urban Interface Code which Incline Village has adopted and is now adopted Statewide. That is your balancing test.

Incline Village is a wealthier community. It has had fundraisers, and other things, such as neighbors helping neighbors. The most you can get from any of our programs in North Lake Tahoe is a \$1,000 stipend toward the work that needs to be done.

We have four inspectors who are authorized to inspect vegetation. You cannot get a sign off on any sort of home remodel or new construction unless you go through a defensible space inspection. From that point on, my organization follows through and makes sure the work gets done.

Insurance carriers have abandoned areas due to wildfire. Incline Village is a prime wildfire area because of the prevailing winds, steep slopes, lots of fuel and big trees. It does not have a problem renewing insurance.

Ms. KC:

Wildfire is a critical issue in Nevada, not only to lives and property but to our ecosystems. You have heard about many ways we can try to prevent and reduce that risk across the State. I appreciate the time you took, and I appreciate the Interim Committee and some of these ideas that came out.

CHAIR DONDERO LOOP:

We will close the hearing on A.B. 100.

CHRISTOPHER DALY (Nevada State Education Association):

On Monday, 40 educators from across the State convened in Carson City for our Educator Lobby Day. Thanks to all of you who sat down and listened to educators this week.

One of the concerns raised is the impact of language included in S.B. No. 543 of the 80th Session, the new school funding formula, which raises the amount of the ending fund balance walled off from collective bargaining to 16.6 percent of district operating budgets. Unless amended, this provision is set to go into effect on July 1 and will be one of the biggest anti-union shifts on collective bargaining in decades.

In the late 1960s, teacher strikes and walkouts became increasingly common in both Clark County and Washoe County. In response to this, in a movement across the Country, Republican Senator Carl Dodge brought forward Nevada's public sector collective bargaining process in NRS 288. This provided public employers and employees a process for discussion and resolution of differences regarding wages, hours and conditions of employment while ensuring that services to the public would continue without interruption.

The collective bargaining process is designed to push parties to reach an agreement whenever possible. This is accomplished through a series of proposals and counterproposals for parties to move toward an agreement. It also includes binding arbitration with a last, best offer package. If parties cannot reach an agreement, either side can declare an impasse. When this happens, parties present their proposals to an arbitrator who accepts either the employer's or the employee's proposal, and both parties are bound to that decision.

This process also requires the parties to determine the district's ability to pay for the issues before the arbitrator. This is why the issue of ending fund balance is important. In most negotiations, ending fund balance is the main source of funds identified to cover proposals with the financial cost proposed by employee associations. This includes raises and benefits, like health care and retirement, but it also includes many proposals related to workplace safety.

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If the 16.6 percent ending fund balance language goes unchanged during this Legislative Session, it will drastically slant bargaining in the favor of employers making it nearly impossible for employees to win even the most modest proposals through the collective bargaining process.

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CHAIR DONDERO LOOP:

Having no further business to come before the Senate Committee on Government Affairs, the meeting is adjourned at 5:32 p.m.

RESPECTFULLY SUBMITTED:

Suzanne Efford,
Committee Secretary

APPROVED BY:

Senator Marilyn Dondero Loop, Chair

DATE: _____

EXHIBIT SUMMARY				
Bill	Exhibit Letter	Begins on Page	Witness / Entity	Description
	A	1		Agenda
A.B. 103	B	1	Marla McDade Williams / Reno-Sparks Indian Colony	Written Testimony from the Fallon Paiute-Shoshone Tribe
A.B. 84	C	1	Jaina Moan / Nature Conservancy	Written Testimony
A.B. 84	D	1	Jaina Moan / Nature Conservancy	Proposed Conceptual Amendment
A.B. 84	D	1	Keith Lee / Alert Wildfire Systems	Proposed Conceptual Amendment
A.B. 100	E	1	Kacey KC / Division of Forestry, Department of Conservation and Natural Resources	Written Testimony
A.B. 100	F	1	Barbara Richardson / Division of Insurance, Department of Business and Insurance	Written Testimony