

**MINUTES OF THE
SENATE COMMITTEE ON NATURAL RESOURCES**

**Eighty-first Session
February 11, 2021**

The Senate Committee on Natural Resources was called to order by Chair Fabian Donate at 3:31 p.m. on Thursday, February 11, 2021, Online. [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 Fabian Donate, Chair
Senator Melanie Scheible, Vice Chair
Senator Chris Brooks
Senator Pete Goicoechea
Senator Ira Hansen

STAFF MEMBERS PRESENT:

Jennifer Ruedy, Policy Analyst
Allan Amburn, Counsel
Christine Miner, Committee Secretary

OTHERS PRESENT:

Kacey KC, State Forester Firewarden, Division of Forestry, State Department of Conservation and Natural Resources
Jaina Moan, External Affairs Director, The Nature Conservancy
Mike Dzyak, State Fire Marshal, State Fire Marshal Division, Department of Public Safety
Colin Robertson, Administrator, Division of Outdoor Recreation, State Department of Conservation and Natural Resources
Dagny Stapleton, Executive Director, Nevada Association of Counties
Tom Clark, Nevada Outdoor Business Coalition

CHAIR DONATE:

I will open the hearing on Senate Bill (S.B.) 33.

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

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

I will read from my written testimony outlining the changes in statute proposed by S.B. 33 ([Exhibit B](#)) and the proposed amendment striking some of those changes ([Exhibit C](#)).

SENATOR HANSEN:

Does this bill give the State Fire Marshal a new level of authority over determining building materials, or does the Fire Marshal already have the authority?

Ms. KC:

The proposed amendment, [Exhibit C](#), proposes to strike statutes from *Nevada Revised Statutes* (NRS) 472. The statute gives the State Fire Marshal ability to adopt the International Wildlife-Urban Interface Code (IWUI) for Nevada. The IWUI outlines building compliance, defensible space requirements and other standards for fire safety for adapting communities. The ability to adopt this exists at the State level but is enforced at the local government level. Local governments can adopt more stringent standards but not less standards than those of the State.

SENATOR HANSEN:

I understand it is about transferring responsibilities. Does S.B. 33 require the use of indigenous plants?

Ms. KC:

There are no changes in the bill regarding the use of indigenous, non-native or native species. The Division has always used non-natives, and there is a place in rehabilitation and revegetation practices in Nevada using non-native species and growing them in our nurseries. The nurseries have tried to grow species that are adaptive to the State, but not necessarily native.

SENATOR HANSEN:

I thought you were restricted to only indigenous species. It is a good idea to find appropriate species to plant for firebreaks and similar issues.

SENATOR GOICOECHEA:

I am concerned with the fact that the State Fire Marshal is no longer in charge of fuel reductions close to residences and is losing the ability to enforce this.

Ms. KC:

The responsibility is not being removed by S.B. 33; the enforcement of the codes are being removed. The Fire Marshal is still responsible for fuel breaks and protecting Nevada's natural landscapes. The State Fire Marshal is responsible for the adoption of the IWUI for enforcement of defensible space and the various levels of building requirements. The Fire Marshal will not have the enforcement responsibility for private landowners. That responsibility reverts to local government fire protection at the district level.

SENATOR GOICOECHEA:

I agree with that and needed clarification on how the Fire Marshal has the ability for enforcement, even on a limited basis.

Ms. KC:

The proposed amendment, Exhibit C, strikes those additions to the statutes concerning the State Fire Marshal in NRS 477, other than a mirroring statute change allowing the Fire Marshal and the Division of Forestry to continue working together on some of these issues.

JAINA MOAN (External Affairs Director, The Nature Conservancy):

I will read from my written testimony in support of S.B. 33 (Exhibit D).

MIKE DZYAK (State Fire Marshal, State Fire Marshal Division, Department of Public Safety):

The State Fire Marshal Division supports S.B. 33 with the proposed amendment, Exhibit C. I have been in conversations with the State Forester Firewarden about the alignment of responsibilities in NRS 477 which allows the State Fire Marshal to absorb the responsibilities and take them out of the wheelhouse of the Division of Forestry. The initial concerns were about responsibilities, authorities and expertise. The State Fire Marshal Division has adopted the 2018 IWUI which became the base code for Nevada. Local entities can adopt more stringent regulations than what is required by the base code.

During the last code adoption, there were concerns by some fire chiefs, so the IWUI was not adopted in its entirety, but the vast majority of the codes were adopted. The provisions of NRS 477 allow limited enforcement by the State Fire Marshal and omit residential code, or dealing with private residences. Each local entity is better suited for those responsibilities.

The wildland high-hazard fuels vary with each county in the State. No one size fits all. The State Fire Marshal works with rural partners to handle whatever is needed within statutory authority.

SENATOR HANSEN:

Are you in favor of the NRS 477 portion of the bill? It sounds as if you do not want the responsibilities that the law throws your way.

MR. DZYAK:

I am in support of the S.B. 33 as amended. The responsibilities of the State Fire Marshal are the concerns in NRS 477. There are population caps within the Counties of Washoe, Clark and Carson City. In addition, potential issues could come into play where the authorities of the State Fire Marshal go and where the statutes have taken them away. I have no concerns with the removal of those authorities. Much of that is done now. The lack of expertise and resources prevents the State Fire Marshal Division from determining the wildland urban interface for each area of the State. It is a local issue. The different types of fuels vary from county to county and region to region. With the adoption of the IWUI, each of the regions and counties are given the ability to determine what is best for its region.

SENATOR HANSEN:

Are we discussing the original bill, or is there an amendment?

CHAIR DONATE:

The bill and the proposed amendment are available on the legislative website.

SENATOR GOICOECHEA:

I am apprehensive on whether you have the resources, and ultimately, you will end up in some rural regions not having many codes adopted to enforce. Maybe they are not enforcing defensible space and some of the buildings do not need code.

MR. DZYAK:

The authority of the State Fire Marshal Division within the wildland, especially on private residences, is restricted. It deals primarily with commercial facilities. If a rural county without a building official, such as Esmeralda County, wanted to build a Dollar General store, NRS 477.030 does not put that store in the authority of the State Fire Marshal. However, because there is no one in the

County to oversee it, the State Fire Marshal would act as the official. It is easier to assert some authority on a commercial facility, but with private residences and defensible space, the magnitude of calls for building up of tumbleweeds has always rested with the local jurisdictions.

SENATOR GOICOECHEA:

Are ranch properties, homesteads and ranch headquarters considered commercial or residential?

MR. DZYAK:

Those are considered residential. The base codes are adopted by the State Fire Marshal and apply throughout the State. The ability to enforce the codes changes by the population caps in certain areas. If a rural county or city is not adopting the codes, the base codes still apply. The counties can add to the codes and adopt, for example, residential fire sprinklers. As an agency, the State Fire Marshal Division is not in the business to be involved in ranches or homesteads. If a local authority asks the Division in a formal letter to intercede on an issue, it would be handled on a case-by-case basis.

There are not many sworn officers in the Division, and the Elko office was forced to close. There is a sergeant, a lieutenant in Carson, two officers in the northern region, and two officers in Las Vegas. There are two full-time inspectors, one in Carson and one in Las Vegas. There is one plans examiner, and some things are handled through contracts. The expertise for determining wildland and high fuel hazard in accordance with the adopted code lies with the local governments.

CHAIR DONATE:

We will close the hearing on S.B. 33 and open the hearing on S.B. 43.

SENATE BILL 43: Revises provisions relating to the Advisory Board on Outdoor Recreation. (BDR 35-344)

COLIN ROBERTSON (Administrator, Division of Outdoor Recreation, State Department of Conservation and Natural Resources):

I will introduce and read my written testimony in support of S.B. 43 ([Exhibit E](#)) and the proposed amendment ([Exhibit F](#)).

SENATOR GOICOECHEA:

In the original version of S.B. 43, section 1, one of the members of the Advisory Board is the Executive Director of the Nevada Association of Counties. With the proposed amendment, it will now be a designee from the Nevada Association of Counties. Will that person have the appropriate qualifications?

MR. ROBERTSON:

Yes, the change is the result of the review of the State's statutes regarding the limitation of the number of boards or committees in which an individual person is eligible to participate.

SENATOR SCHEIBLE:

Would you give us a perspective on the makeup of the Board? How many men and women are on the Board? Is there a person from the indigenous community or tribes? Are there any members with disabilities or from the LGBTQ community?

MR. ROBERTSON:

The Advisory Board on Outdoor Recreation created in 2019 consists of seven seats named by statute and four seats appointed by the Office of the Governor via nominations. The seven seats named by statute consist of the Lieutenant Governor as Chair; the Director of the State Department of Conservation and Natural Resources; the Executive Director of the Office of Economic Development; the Administrator of the Division of State Parks; the Director of the Department of Wildlife; the Director of Department of Tourism and Cultural Affairs; and the Chair of the Nevada Indian Commission.

The gender makeup is equally split. The four appointed seats by the Governor's office are members representing professional knowledge. The areas represented are conservation interests, public health, education and workforce training and development, and the outdoor industry.

The Chair of the Nevada Indian Commission is named by statute as an indigenous member of the Advisory Board. There is no one on the Advisory Board with a documented disability.

SENATOR SCHEIBLE:

Please break down the gender makeup.

MR. ROBERTSON:

I will get that information to you at a later date.

SENATOR SCHEIBLE:

Why does the nonvoting representative for the Department of Interior include the Bureau of Land Management (BLM), the National Parks Service or the United States Fish and Wildlife Service rather than specifying which agency?

MR. ROBERTSON:

There are terms specified for the seats on the Advisory Board on Outdoor Recreation. From the Department of the Interior, three agencies, managed primarily through the BLM, control very large portions of Nevada. The U.S. Department of Agriculture (USDA), through the U.S. Forest Service, also manages large portions of Nevada's public lands. The intention is to leave those seats tied to the overarching department so that an appropriate candidate be nominated from the various areas.

SENATOR SCHEIBLE:

Does that mean there are people in line to fill the position?

MR. ROBERTSON:

No, this is not the case. This is an effort to describe the eligible agencies from the USDA and the U.S. Department of the Interior.

SENATOR BROOKS:

Why are we doing this? It is a complicated-looking Board. It is difficult managing any of the Nevada boards and filling the positions. This Advisory Board as it exists has a level of specificity that I have not seen on any other board. Now S.B. 43 adds additional positions with even more specificity. Why is this?

MR. ROBERTSON:

The principal reasons are tied to Nevada rural places, counties and communities which are gateways to some of the most important recreational assets in the State. The perspective of someone from those rural communities is missing from the Advisory Board as it was designated in the original legislation. Aligned with the goals of the Shared Stewardship Strategy of the USDA, it is important from an outdoor recreation standpoint as much as from a conservation standpoint to understand what the situations are for the U.S. Forest Service and BLM as the principal land managers for Nevada's public lands.

SENATOR BROOKS:

That is a good goal, but I see this as something that will come back to the Legislature with conversations about why the seats cannot be filled or the ability to get a quorum. The Board is a complicated-looking Board. I am concerned with the number of members.

DAGNY STAPLETON (Executive Director, Nevada Association of Counties):

The Nevada Association of Counties (NACO) supports S.B. 43 with the proposed amendment, [Exhibit F](#). The Nevada Association of Counties understands the vision of creating the Advisory Board on Outdoor Recreation to support outdoor recreation and recreation economies in Nevada. The Association recognizes the significant amount of outdoor recreation happening in the rural communities. Our members agree to the importance of having representatives from rural Nevada allowing local economies and livelihoods to interface with outdoor recreation. The Board of NACO consists of a representative from each county commission including the 15 rural counties. It is agreed that NACO is the appropriate body to nominate appointees for the Advisory Board on Outdoor Recreation. It creates an opportunity for the Advisory Board to coordinate with Nevada's counties. The rural commissioners are well connected to their communities and can help seek out the candidates who have the qualifications outlined in the proposed amendment, [Exhibit F](#).

TOM CLARK (Nevada Outdoor Business Coalition):

The Nevada Outdoor Business Coalition was instrumental in the creation of the Division of Outdoor Recreation and the Advisory Board on Outdoor Recreation. Mr. Robertson, as the administrator of the Division, has done an exemplary job. Short-staffed and short on resources, he has excelled in carrying forward the mission of the Division as it was prescribed in 2019.

The Coalition supports S.B. 43 and the proposed amendment, [Exhibit F](#), to include a number of the rural communities with less than 100,000 residents. In the creation of the Division, in working with the stakeholders on A.B. No. 486 of the 80th Session, the Advisory Board was modeled after other states creating divisions or offices of outdoor recreation. The number of members on the advisory boards in other states provided the guidance for the Advisory Board on Outdoor Recreation in Nevada and the areas for representation.

I encourage the Committee not to allow the proposed amendment, [Exhibit F](#), to become a "Christmas tree" for others who want to join the Advisory Board. The

intent behind adding members from the rural communities is simply to create a forum for other stakeholder groups besides the members of the Advisory Board to promote the outdoor recreation industry in Nevada.

MR. ROBERTSON:

In response to the request of Senator Scheible for the makeup of the Advisory Board on Outdoor Recreation, there are 11 members. Seven men and four women. All but one of the seven men on the Board are in positions named by statute.

CHAIR DONATE:

Hearing no further testimony, I will close the hearing on S.B. 43.

SENATOR HANSEN:

The Nature Conservancy testifier for S.B. 33 mentioned there have been studies done on the Truckee River watershed. I request to see those studies.

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CHAIR DONATE:

Hearing no public comment, I adjourn this meeting at 4:20 p.m.

RESPECTFULLY SUBMITTED:

Christine Miner,
Committee Secretary

APPROVED BY:

Senator Fabian Donate, Chair

DATE: _____

EXHIBIT SUMMARY				
Bill	Exhibit Letter	Begins on Page	Witness / Entity	Description
	A	1		Agenda
S.B. 33	B	1	Kacey KC / Division of Forestry / State Department of Conservation and Natural Resources	Written Testimony
S.B. 33	C	1	Kacey KC / Division of Forestry / State Department of Conservation and Natural Resources	Proposed Amendment
S.B. 33	D	1	Jaina Moan / The Nature Conservancy	Written Testimony
S.B. 43	E	1	Colin Robertson / Division of Outdoor Recreation / State Department of Conservation and Natural Resources	Written Testimony
S.B. 43	F	1	Colin Robertson / Division of Outdoor Recreation / State Department of Conservation and Natural Resources	Proposed Amendment