

MINUTES OF THE
MEETING OF THE SENATE COMMITTEE
ON NATURAL RESOURCES

SIXTY-FIRST SESSION
NEVADA STATE LEGISLATURE
March 30, 1981

The Senate Committee on Natural Resources was called to order by Chairman Norman Glaser at 2:00 P. M., Monday, March 30, 1981, in Room 323 of the Legislative Building, Carson City, Nevada. Exhibit A is the Meeting Agenda. Exhibit B is the Attendance Roster.

COMMITTEE MEMBERS PRESENT:

Senator Norman Glaser, Chairman
Senator Wilbur Faiss, Vice Chairman
Senator James H. Bilbray
Senator Lawrence E. Jacobsen
Senator Joe Neal

COMMITTEE MEMBER ABSENT:

Senator Floyd R. Lamb

STAFF MEMBERS PRESENT:

Robert E. Erickson, Senior Research Analyst
Carolyn L. Freeland, Committee Secretary

ASSEMBLY BILL NO. 198

Mr. Jac Shaw, Director of State Lands, said this is a house-cleaning bill to correct an error from the 1979 Legislative Session, and he explained that error, saying Section 9 had been removed in its entirety. This bill would restore Section 9 in its original amended form.

Senator Neal moved Do Pass Assembly Bill No. 198 (Exhibit C).

Senator Bilbray seconded the motion.

The motion carried unanimously. (Senator Lamb was absent for the vote).

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ASSEMBLY BILL NO. 28

Mr. Erickson briefly reviewed this bill, saying it had been submitted by the State Engineer's office. He said one of the key elements is contained on page 2, at the top, stating if an application was in error, the state engineer could reject it without having to return it for correction. On page 3, line 16, it states where previous applications had been denied in an area at the limit of appropriation, the applications could be denied without publication. On page 4, there had been discussion on "well drillers" and the committee had wished to amend this portion of the bill, starting on line 12 through line 15. There was committee discussion on the proper language to be used. Chairman Glaser directed Mr. Erickson to have an amendment drafted to bring back to the committee, incorporating the fact the well driller is required to possess a license but any person working on the drill rig does not have to be licensed, being under the jurisdiction of the licensed well driller.

SENATE BILL NO. 178

Mr. Erickson said this bill was to be held until Assembly Bill No. 16 came across to the Senate. He said that bill is still in the Assembly Committee on Economic Development and Natural Resources, and amendments to it are being considered on this date. He reviewed the bill, saying it called for some type of registry of wells; the concept of the Senate Committee on Natural Resources was to set up a registry of wells and for plugging wells when domestic water became available. Senator Bilbray mentioned a time limit that was to be set in order to allow a well owner to obtain some value from the well before tying into a domestic line. The Chairman directed Mr. Erickson to bring a report back to the committee on the status of Assembly Bill No. 16 and also some sample language for Senate Bill No. 178 amendments.

Senator Jacobsen requested the Chairman to direct the Committee Secretary to prepare an index of bills previously considered in order to facilitate final action on such bills. The Chairman so directed the Committee Secretary.

SENATE BILL NO. 176

Mr. Erickson said feedback had been requested from certain agencies regarding the amendments to this bill. Mr. Stone, Director of the Department of Transportation, submitted his remarks for the record in a letter to the Chairman (Exhibit D). Mr. Erickson reported he had spoken with Mr. Roland Westergard, Director of

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Conservation and Natural Resources, who expressed concern that no provision had been made in this bill for properties at Lake Tahoe under the Santini-Burton Bill.

Mr. Newman, State Water Engineer, referred to page 1 of Amendment No. 306, the last two lines, saying if the Bureau of Land Management or any other federal agency made application to appropriate those waters, according to state law, the department could not issue a permit because of public policy.

There was extensive discussion on the language contained in Amendment No. 306, page 1, subsection 2 of section 2, starting on line 8 with the words, "The water law of this state..." continuing on through that paragraph to the top of page 2. Mr. Harry Swainston, Deputy Attorney General, said there are a number of key words in this language. He said the "unreserved, unappropriated public lands" refers to the lands managed by the Bureau of Land Management and does not deal with national forest reserves and other federal enclaves. Therefore, if the federal government was to apply for water for secondary purposes on non-Bureau of Land Management lands, this public policy statement would not apply.

Mr. Swainston continued that what this public policy basically addresses is the effort on the part of the United States in recent years to try to reunite the lands and the waters as a basis for retention on its part; this policy would prohibit that action.

Chairman Glaser asked Mr. Swainston if this policy would preclude the Bureau of Land Management in a specific purpose. Mr. Swainston replied the application would have to be reviewed, asking the Bureau to identify the purpose for which the application is being made; if it were for management, this public policy would apply.

Senator Neal said he did not understand the language on the bottom of page 1 of Amendment No. 306, and Mr. Swainston briefly recapped an explanation on this portion of the amendment. Mr. Swainston also presented information pertaining to proprietary rights.

Senator Bilbray expressed concern regarding repeal of 328.201, which is state consent to acquisition of land or water for migratory bird reservations or water fowl production areas. Mr. Swainston gave a rationale for this action, saying the particular section in question requires the federal government to come to the Legislature whenever it chooses to create a fowl refuge and acquire private lands for that purpose. He said the former

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procedure involved the county commissioners and the Department of Fish and Game.

Senator Bilbray said he favored the old procedure where the federal government had to go to the people directly affected in a given area. He feels the local desires in these matters might be overridden by legislative action, and feels there should be county approval of such application, which will then go to the legislature for its consent.

Chairman Glaser said, if agreeable with the committee, the language could read ... "may be granted only by the legislature after being reviewed and recommended by the county" or language to that effect.

Mr. Westergard, Director of Conservation and Natural Resources, said he had grave concerns about the language on the bottom of page 1 of Amendment No. 306, which purports to establish public policy of the State of Nevada as regards appropriation of water rights by the federal agencies. He said the state had been trying for years to get the federal government into a posture where it would comply with state water law and state appropriation procedures. He feels that goal has almost been reached, and he feels for the State of Nevada to say at this point that its policy is not to consider the federal government as an applicant just as it would any other individual, it would create a backlash. If this language were to pass and the state engineer was to start denying applications to federal agencies just because of enunciated public policy, it would be detrimental. The state water law contains a number of safeguards in determining eligibility of applications. He feels this amended section, therefore, would be in error.

Senator Bilbray asked if Mr. Westergard was suggesting that the committee strike Amendment No. 306 language beginning on page 1 the sixth line from the bottom, "The water law"...continuing to page 2, the first line, "of this state." Mr. Westergard replied he felt it would be an improvement.

Mr. Westergard then said he had another comment, regarding the validity of acquisition of certain properties within the Lake Tahoe Basin by federal agencies, particularly the Forest Service, specifically, the acquisition of the Jennings hotel-casino site. He said it has been alleged by a certain party that under the current statutes the United States Department of Agriculture, Forest Service, should obtain the permission of the Nevada Tax Commission prior to the acquisition of that property. He said it has evolved

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into a potentially difficult situation and he reminded the Chairman of a request for a bill to clarify the matter. He does not know the status of that request, and if perhaps it should be incorporated into the bill under consideration. He said he would rather see the problem addressed in a separate bill.

Chairman Glaser replied that bill request is in the "pipeline" and he has had no word on it to date.

Senator Bilbray suggested a follow-up on the matter, as time is running short before adjournment. Chairman Glaser asked Mr. Westergard if he wished to have it placed in Senate Bill No. 176 as an amendment, and Mr. Westergard replied not necessarily; he only wanted the committee to be reminded it is an important matter to be disposed of. Chairman Glaser said the committee might process Senate Bill No. 176 and if the bill regarding the Lake Tahoe property is not received in time, it could be amended into Senate Bill No. 176 in the Assembly.

Mr. Jac Shaw, Director of State Lands, referred to the intent of this bill, making it apparent to the people of Nevada when the federal government acquires land in the state. He feels the bill takes a circuitous route to achieve that goal. The three areas in which he feels there is too much involvement are transportation, water and his department. He feels there could be considerable fiscal impact upon the three departments as the bill is written. He referred to other states where the original intent had been covered in a much shorter form.

Chairman Glaser replied the difference between Nevada and other states in this regard is that Nevada is spelling out in detail, in regard to land and water, the relation between the state and the federal government.

Senator Bilbray noted there are two theories of government: one is to make it as brief as possible and let the courts decide; the second is spell it out so the courts have some guidance; the former could lead to litigation and delay. He feels this is what the committee must decide. He is in favor of being specific in the bill.

Chairman Glaser said it it was agreeable with the committee, the last six lines on page 1 of Amendment #306 and the top line of page 2 would be dropped (Exhibit E).

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Senator Bilbray moved to amend Senate Bill No. 176 (Exhibit F) dropping the lines indicated by the Chairman.

Senator Jacobsen seconded the motion.

The motion carried unanimously. (Senator Lamb and Senator Neal were absent for the vote).

The Chairman then referred to the letter from Mr. Stone of the Department of Transportation; Mr. Erickson read the letter into the record (Exhibit D), indicating that department's hesitation to become involved in this matter.

The Chairman asked Mr. Swainston why the Department of Transportation had to be involved in the bill and why the county commissioners could not have been included instead. Mr. Swainston replied this had been the suggestion of the Legislative Counsel Bureau which was trying to identify the state agencies most concerned, and the state agency should have some say in road closures, as perhaps a county might not always act in the best interest of the state.

Mr. Swainston saw no problem with the county commissioners, as in the past, having the primary responsibility in the area. He referred to the desire to have substantial public awareness of acquisition of land by the federal government, and its possible intent to close roads upon that land, or to infringe in any way upon state sovereignty. He said public input could be accomplished at the county commission level.

Chairman Glaser said perhaps the county commissioners could, by resolution, petition the Department of Transportation to hold a hearing after local level input had been received, as there might be statewide ramifications.

Chairman Glaser and Senator Bilbray discussed the responsibility of the Department of Transportation in this matter, and the Chairman felt the Department should at least hold hearings even if it is not responsible for certain roads at the local level. Senator Bilbray expressed the opinion it is the Department of Transportation's responsibility.

The Chairman asked for the feelings of the committee on the involvement of the Department of Transportation in this bill. Mr. Swainston briefly explained the acceptance of the grant of a public user right of way.

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It was the consensus of the committee to leave the language as written in regard to the Department of Transportation.

Senator Bilbray moved Amend and Do Pass as Amended Senate Bill No. 176 (Exhibit F), incorporating county review regarding acquisition of land or water for migratory bird reservations or water fowl production areas, and, deleting the last six lines on page one of Amendment No. 306, commencing with the words, "The water law," and ending with the words, "of the state," on the first line of page 2 of that Amendment.

Senator Jacobsen seconded the motion.

The motion carried unanimously. (Senator Lamb and Senator Neal were absent for the vote).

SENATE BILL NO. 381

The Chair announced the amendments were not in hand as yet on this bill, so it would not be considered at this time.

SENATE BILL NO. 241

Mr. Erickson reviewed this bill saying there had been a great deal of testimony on it. There was a recommendation that Section 1 be deleted. A further amendment was suggested by Mr. Steve Bradhurst, MX Project Director, to amend Section 7, page 3, by deleting lines 22 and 23, and inserting language to read "for the purpose of providing facilities and services necessary...", adding just the words "and services."

Senator Bilbray moved Do Pass Senate Bill No. 241 with the proposed amendments and the amendments to the amendments (Exhibit G).

Senator Faiss seconded the motion.

The motion carried unanimously. (Senator Lamb and Senator Neal were not present for the vote).

Chairman Glaser asked how this bill relates to the amelioration bill, Senate Bill No. 381. Mr. G. P. Etchevery, of the Nevada League of Cities, said he has a problem with one section of Senate Bill No. 241, page 2, line 45. He referred to action

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on Senate Bill No. 389 taken in the Senate this day. He would like the committee to consider further action on Senate Bill No. 381 and Senate Bill No. 241 after a pertinent meeting in Washington, D. C., on April 3, and he would like to see any action help up on Senate Bill No. 241 and Senate Bill No. 381 until after that meeting.

Senator Bilbray noted that Senate Bill No. 241, although action had been taken, could be held until after April 3, and it could be reconsidered at that point.

Chairman Glaser said the committee intended to put all the MX-related bills out on the Senate Floor at one time to explain them altogether as a package, and to explain their relation to each other. He further said it is necessary to be certain these bills dovetail and that is the reason they have been held and considered together.

The Chair said Senate Bill No. 241 would be held up until after the April 3 meeting, and asked Mr. Erickson to analyze Senate Bill No. 241 and Senate Bill No. 381 in context with each other to ascertain if there is a conflict.

Mr. Etchevery said Clark County had some reservations about page 2, line 35 in Senate Bill No. 389, which would be resolved undoubtedly in light of the other two bills.

Senator Jacobsen asked if there would be an advantage to adopting these amendments and having them sent back to committee in reprint form.

Chairman Glaser asked if the committee wished to amend the motion on Senate Bill No. 241.

Senator Bilbray withdrew his previous motion to Do Pass as amended Senate Bill No. 241, and moved to Amend, Do Pass and have re-referred to the committee Senate Bill No. 241 (Exhibit G).

Senator Jacobsen seconded the motion.

The motion carried unanimously. (Senator Lamb and Senator Neal were absent for the vote).

SENATE BILL NO. 164

The Chairman noted this bill had been reprinted and re-referred to the committee. Mr. Kelly Jackson, Nevada Department of Energy,

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supports the bill as it appears in the first reprint. Mr. Dick Richards, Supervisor of Research and Development for Sierra Pacific Power Company, said his company had failed to track this reprint in order to present some perspective on what it felt should have been included as utility incentives.

He asked permission from the Chair to present his comments at this time, and it was so granted. Mr. Richards said he certainly concurred with the original section that was removed regarding utility incentives. He feels the bill now appears to be a strictly geothermal bill, but his feelings and recommendations would still pertain. In general, the recommendation would be to an additional section to the bill mandating the commission... "shall promote the development of geothermal energy for electrical generation. Regulations to provide utility incentives for development must include provisions which apply to geothermal energy resources only in their developmental stages..." He also wants the restriction of the application of these incentives to plants and facilities which generate electricity, collect energy, disburse it, and more or less adhere to the original wording of the bill.

Senator Bilbray remarked the argument against placing incentives in the bill was advanced that the Public Service Commission would be in a better position to provide those incentives.

Mr. Jackson says his department could not support the adoption of amendments such as suggested by Mr. Richards and to do so at this time would jeopardize the bill. Mr. Jackson feels the Public Service Commission has the power to provide incentives on a case-to-case basis and would suggest putting these recommendations in another bill where it could receive fuller public debate.

Chairman Glaser noted there had been a prior hearing on this bill. Senator Bilbray commented he liked the final draft of Senate Bill No. 164 and feels it would receive a great deal of support.

Senator Bilbray moved Do Pass Senate Bill No. 164 (Exhibit H).

Senator Jacobsen seconded the motion.

The motion carried unanimously. (Senator Lamb and Senator Neal were absent for the vote).

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There being no further business, the meeting was
adjourned at 3:35 P. M.

Respectfully submitted by:


Carolyn L. Freeland, Secretary

APPROVED BY:


Senator Norman Glaser, Chairman

DATE: April 8, 1981

SENATE AGENDA

COMMITTEE MEETINGS

EXHIBIT A

Committee on Natural Resources, Room 323.
Day Monday, Date March 30, Time 1:30 P. M.

A. B. No. 198--Requires person requesting sale of state land to deposit money for costs of handling, appraisal and publicity.

FINAL ACTION

A. B. No. 28--Changes various provisions relating to appropriation of underground water.

S. B. No. 178--Requires permits for domestic wells within designated basins.

S. B. No. 176--Provides for legislative or gubernatorial approval of acquisitions or uses of certain lands by Federal Government. Amendments.

S. B. No. 381--Directs governor to contract with Federal Government for money to ameliorate financial effects of "MX" missile project. Amendments.

S. B. No. 241--Provides for temporary water permits for construction purposes, grants additional powers to political subdivisions and municipal corporations. Amendments.

S. B. No. 164--Relates to the development of geothermal resources; provides for administration and utilization. Amended, reprinted, re-referred to committee.

(REPRINTED WITH ADOPTED AMENDMENTS)

FIRST REPRINT

A. B. 198

ASSEMBLY BILL NO. 198—ASSEMBLYMAN MARVEL

FEBRUARY 24, 1981

Referred to Committee on Government Affairs

SUMMARY—Requires person requesting sale of state land to deposit money for costs of handling, appraisal and publicity. (BDR 26-762)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State or on Industrial Insurance: No.

EXPLANATION—Matter in *italics* is new; matter in brackets [] is material to be omitted.

AN ACT relating to the sale of state lands; restoring the requirement that money be advanced for the costs of handling, appraisal and publicity by a person requesting the sale of state land; and providing other matters properly relating thereto.

The People of the State of Nevada, represented in Senate and Assembly, do enact as follows:

- 1 SECTION 1. NRS 321.335 is hereby amended to read as follows:
2 321.335 1. Except as provided in NRS 321.450 and 321.510, after
3 April 1, 1957, all sales of any lands to which the State of Nevada or any
4 department, agency or institution thereof has title, except the department
5 of transportation and agricultural associations organized pursuant to
6 chapter 547 of NRS, including lands theretofore subject to contracts of
7 sale which have been forfeited, are governed by the provisions of this sec-
8 tion.
- 9 2. Whenever the state land registrar deems it to be in the best
10 interests of the State of Nevada that any lands owned by the state and
11 not used or set apart for public purposes be sold, he may cause those
12 lands to be sold at public auction or upon sealed bids, for cash or pur-
13 suant to contract of sale, at a price not less than their appraised value
14 [and in no event at less than \$3 per acre,] plus the costs of appraisal and
15 publication of notice of sale.
- 16 3. Before offering any land for sale, the state land registrar shall
17 cause it to be appraised by a competent appraiser.
- 18 4. After receipt of the report of the appraiser, the state land registrar
19 shall cause a notice of sale to be published once a week for 4 consecutive
20 weeks in a newspaper of general circulation published in the county
21 where the land to be sold is situated, and in such other newspapers as he
22 deems appropriate. If there is no newspaper published in the county

- 1 where the land to be sold is situated the notice must be so published in
2 some newspaper published in this state having a general circulation in
3 the county where the land is situated.
- 4 5. The notice must contain:
- 5 (a) A description of the land to be sold;
- 6 (b) A statement of the terms of sale;
- 7 (c) A statement of whether the land will be sold at public auction or
8 upon sealed bids to the highest bidder; and
- 9 (d) If the sale is to be at public auction, the time and place of sale; or
- 10 (e) If the sale is to be upon sealed bids, the place where the bids will
11 be accepted, the first and last days on which the bids will be accepted,
12 and the time when and place where the bids will be opened.
- 13 6. The state land registrar may reject any bid or offer to purchase if
14 he deems the bid or offer to be:
- 15 (a) Contrary to the public interest.
- 16 (b) For a lesser amount than is reasonable for the land involved.
- 17 (c) On lands which it may be more beneficial for the state to reserve.
- 18 (d) On lands which are requested by the State of Nevada or any
19 department, agency or institution thereof.
- 20 7. Upon acceptance of any bid or offer and payment to the state land
21 registrar in accordance with the terms of sale specified in the notice of
22 sale, the state land registrar shall cause a patent to be issued as provided
23 in NRS 321.310 to 321.330, inclusive, or enter into a contract of sale
24 as provided in NRS 321.240 to 321.300, inclusive, as appropriate; but
25 those contracts must require that the remainder of the purchase price be
26 paid within 25 years from the date of the contract and that the contract
27 will immediately be declared forfeited if any installment of principal or
28 interest remains unpaid for a period of 6 months after the installment
29 becomes due and payable pursuant to the contract.
- 30 8. Nothing in this section applies to or affects any pending contract
31 or application for the purchase of land from the State of Nevada, whether
32 title to it is in the state or the state is in the process of acquiring title to
33 it under any method of exchange or selection between the state and the
34 United States or any department or agency thereof.
- 35 9. *Any person requesting that state land be sold under the provisions*
36 *of this section shall deposit a sufficient amount of money to pay the costs*
37 *to be incurred by the state land registrar in acting upon the application,*
38 *including costs of publication and expenses of appraisal. This deposit*
39 *must be refunded whenever the person making the deposit is not the suc-*
40 *cessful bidder. The costs of acting upon the application, including publi-*
41 *cation and appraisal expenses, must be borne by the successful bidder.*



STATE OF NEVADA
DEPARTMENT OF TRANSPORTATION

1263 SOUTH STEWART STREET
CARSON CITY, NEVADA 89712

March 30, 1981

A. E. STONE
Director

TRANSPORTATION BOARD
ROBERT LIST, Governor, Chairman
RICHARD H. BRYAN, Attorney General
WILSON MCGOWAN, State Controller

IN REPLY REFER TO

The Honorable Norman Glaser
Chairman, Committee on Natural Resources
Nevada Senate
Carson City, NV 89710

EXHIBIT D

Dear Senator Glaser:

Thank you for notifying me of the proposed amendment to SB 176.

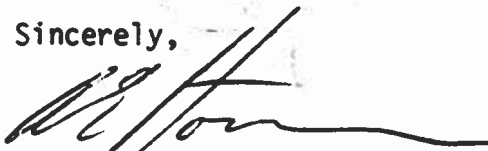
The amendments, as now written, on pages 11, 12, 13, and 14, require DOT to hold hearings, promulgate regulations, give notices, make recommendations to the Transportation Board of Directors who are impressed with the responsibility of closing or opening a "public road".

The definition of "public road" as set forth in NRS 405.191, is all inclusive and does not comport with the jurisdiction and authority given DOT in NRS 408.285 (see enclosed). However, the language in SB 176 as amended gives the final determination to the Transportation Board over roads and trails which they would ordinarily have no control over. In addition, the determination of the Transportation Board could run contra to that of the entity or entities where the road is located and which would or could lead to discord.

In SB 176, as proposed to be amended, the DOT would become the lead agency in any Federal action proposing closure of a public road on public land. This would include notifying appropriate planning agencies, formating application procedures, conducting public hearings, receiving testimony, and preparing recommendations for the Transportation Board consideration.

If the Federal Government should be active in pursuing road closures, it would significantly increase the DOT's workload and operational costs.

Sincerely,



A. E. STONE
Director

AES:jn
Enclosure

THE STATE HIGHWAY SYSTEM

408.285 State highways described; state park roads.

1. The highways which are constructed, reconstructed, improved and maintained by the department in accordance with the provisions of this chapter are state highways, and the department is responsible for their construction, reconstruction, improvement and maintenance. Money available to the state through the Acts of Congress described in NRS 408.245 or any other federal acts may be used therefor. When federal money is made available under federal acts authorizing the use of federal funds to build roads in the national forests, the board may set aside for that purpose and expend highway money on state highways built by the Federal Government.

2. Other highways which are not constructed, reconstructed, improved and maintained by the department may be designated by the director as state highways if:

(a) They connect or extend existing state highways; or

(b) Their construction, reconstruction, improvement and maintenance by the department is anticipated within a reasonable period.

3. For department administrative purposes all highways may be selected, designated and assigned route numbers by the director. Numbers selected may conform so far as possible to applicable federal route designations.

4. All roads connecting state parks with state or county highways or city streets, where the title thereto is in the state, are parts of the state highway system and may be maintained by the state. The department may construct and maintain roads within state parks subject to approval of locations and design by the division of state parks of the state department of conservation and natural resources.

(Added to NRS by 1957, 673; A 1961, 181; 1963, 833; 1977, 224; 1979, 1770)

408.290 Establishment of new routes by department. The department may establish new routes into or in the vicinity of municipalities and metropolitan areas with the approval of the board of county commissioners of the county in which an addition is proposed and with the approval of the city council of any incorporated city directly affected.

(Added to NRS by 1957, 673; A 1959, 599; 1977, 225)

HIGHWAY NAMES, MARKERS

408.303 U.S. Highway No. 6 designated as Grand Army of the Republic Highway; placement of markers.

1. United States Highway No. 6, as now or hereafter located in this state, is designated as Grand Army of the Republic Highway and U.S. 6.

(1979)

15445

1981 REGULAR SESSION (61st)

ASSEMBLY ACTION	SENATE ACTION	Senate	AMENDMENT BLANK
Adopted <input type="checkbox"/>	Adopted <input type="checkbox"/>	AMENDMENTS to <u>Senate</u>	
Lost <input type="checkbox"/>	Lost <input type="checkbox"/>	<u>Joint</u>	
Date:	Date:	Bill No. <u>176</u>	<u>Resolution No.</u>
Initial:	Initial:	BDR..... <u>26-85</u>	<u>EXHIBIT E</u>
Concurred in <input type="checkbox"/>	Concurred in <input type="checkbox"/>	Proposed by..... <u>Committee on Natural Resources</u>	
Not concurred in <input type="checkbox"/>	Not concurred in <input type="checkbox"/>		
Date:	Date:		
Initial:	Initial:		

Amendment N^o 306



Amend section 1, page 1, line 2, by deleting "6," and inserting "7,".

Amend the bill as a whole by deleting sections 2 through 5 and adding 5 new sections designated as sections 2 through 6, following section 1, to read as follows:

"Sec. 2. An officer of an agency or instrumentality of the United States may apply to:

1. The director of the legislative counsel bureau pursuant to sections 3 to 5, inclusive, and 8 to 10, inclusive, of this act to obtain a cession of concurrent criminal jurisdiction or other jurisdiction from the State of Nevada.

2. The state engineer pursuant to Title 48 of NRS to appropriate water on the public lands or other lands of this state. The state engineer has continuing jurisdiction over any acquisition by the United States of the waters of the State of Nevada, whether by purchase, gift, condemnation, appropriation pursuant to the state's water laws or otherwise, and whether appurtenant to lands acquired by or retained by the United States. The water law of this state is the rule of decision in all matters relating to water rights acquired by the United States, and the appropriation or acquisition of water rights in this state solely for proprietary purposes relating to the retention and management of the unreserved, unappropriated public lands is inconsistent with the public policy

To: E & E
 LCB File
 Journal ✓
 Engrossment
 Bill

Drafted by..... WC:ab..... Date..... 3-22-81.....

of this state.

EXHIBIT E/2

3. The department of transportation pursuant to the procedure set forth in sections 21 to 24, inclusive, of this act for consent to close a public road, as defined in NRS 405.191, which is located on the public lands of this state.

4. The state land use planning agency pursuant to the procedure set forth in sections 12 to 15, inclusive, of this act for consent to use land held solely for proprietary purposes relating to the retention and management of the public lands, if that use interferes with the sovereignty of this state respecting the land within its borders.

Sec. 3. 1. Upon application by an officer of an agency or instrumentality of the United States in accordance with clause 17 of section 8 of article I of the Constitution of the United States, the legislature, or the legislative commission when the legislature is not in regular session, may by resolution cede concurrent criminal jurisdiction to the United States respecting any land held by the United States for the erection of forts, magazines, arsenals, dockyards or other needful buildings, or for another governmental purpose authorized by the Constitution, subject to the conditions and reservations set forth in this section and section 4 of this act. Jurisdiction other than concurrent criminal jurisdiction may be ceded only by the legislature when in regular session.

2. Federal jurisdiction over land to which this state has not ceded its jurisdiction is limited to carrying out governmental purposes authorized by the Constitution of the United States, and federal jurisdiction over lands held for other purposes is limited to that exercisable by an ordinary proprietor under the laws of this state.

(REPRINTED WITH ADOPTED AMENDMENTS)

FIRST REPRINT

S. B. 176

**SENATE BILL NO. 176—COMMITTEE ON
NATURAL RESOURCES**

FEBRUARY 3, 1981

Referred to Committee on Natural Resources

SUMMARY—Provides for legislative or gubernatorial approval of acquisitions or uses of certain lands by Federal Government. (BDR 26-85)

**FISCAL NOTE: Effect on Local Government: No.
Effect on the State or on Industrial Insurance: Yes.**

EXPLANATION—Matter in *italics* is new; matter in brackets [] is material to be omitted.

AN ACT relating to federal lands; providing for individual approval by the legislature of cessions of jurisdiction respecting certain federal lands; providing for individual approval by the governor of certain uses of those lands; providing for approval by the board of directors of the department of transportation of closures of public roads on the lands; providing for hearings and recommendations by the planning agencies of affected local governments; and providing other matters properly relating thereto.

*The People of the State of Nevada, represented in Senate and Assembly,
do enact as follows:*

- 1 SECTION 1. Chapter 328 of NRS is hereby amended by adding
2 thereto the provisions set forth as sections 2 to 7, inclusive, of this act.
3 SEC. 2. *An officer of an agency or instrumentality of the United*
4 *States:*
5 1. *May apply to the director of the legislative counsel bureau pursu-*
6 *ant to sections 3 to 5, inclusive, and 8 to 10, inclusive, of this act to*
7 *obtain a cession of concurrent criminal jurisdiction or other jurisdiction*
8 *from the State of Nevada.*
9 2. *Shall apply to the state engineer pursuant to Title 48 of NRS to*
10 *appropriate water on the public lands or other lands of this state. The*
11 *state engineer has continuing jurisdiction over any acquisition by the*
12 *United States of the waters of the State of Nevada, whether by purchase,*
13 *gift, condemnation, appropriation pursuant to the state's water laws or*
14 *otherwise, and whether appurtenant to lands acquired by or retained by*
15 *the United States.*
16 3. *Shall apply to the department of transportation pursuant to the*
17 *procedure set forth in sections 21 to 24, inclusive, of this act for consent*
18 *to close a public road, as defined in NRS 405.191, which is located on*
19 *the public lands of this state.*

1 4. Shall apply to the state land use planning agency pursuant to the
2 procedure set forth in sections 12 to 15, inclusive, of this act for consent
3 to use land held solely for proprietary purposes relating to the retention
4 and management of the public lands, if that use interferes with the
5 sovereignty of this state respecting the land within its borders.

6 SEC. 3. 1. Upon application by an officer of an agency or instrumentality
7 of the United States in accordance with clause 17 of section 8 of
8 article I of the Constitution of the United States, the legislature, or the
9 legislative commission when the legislature is not in regular session, may
10 by resolution cede concurrent criminal jurisdiction to the United States
11 respecting any land held by the United States for the erection of forts,
12 magazines, arsenals, dockyards or other needful buildings, or for another
13 governmental purpose authorized by the Constitution, subject to the conditions
14 and reservations set forth in this section and section 4 of this act.
15 Jurisdiction other than concurrent criminal jurisdiction may be ceded
16 only by the legislature when in regular session.

17 2. Federal jurisdiction over land to which this state has not ceded
18 its jurisdiction is limited to carrying out governmental purposes authorized
19 by the Constitution of the United States, and federal jurisdiction
20 over lands held for other purposes is limited to that exercisable by an
21 ordinary proprietor under the laws of this state.

22 3. An application for a cession of jurisdiction must set forth:

23 (a) The purpose of the application and the nature and extent of the
24 jurisdiction sought;

25 (b) The legal description of the land involved, together with a map of
26 the land;

27 (c) A statement of the governmental purpose to be carried out on the
28 land and the federal statute authorizing that activity; and

29 (d) A verification by an officer of the agency or instrumentality who
30 has knowledge of the contents of the application.

31 4. The legislative commission, upon the advice of the attorney general
32 and after a hearing, may cede concurrent criminal jurisdiction to the
33 United States on behalf of this state if it finds that the contents of the
34 application are true and the cession is in the best interests of this state.
35 Notice of its hearing must be given as required by law.

36 SEC. 4. It is the policy of this state, with respect to conditions which
37 may be imposed on a cession of concurrent criminal jurisdiction or a grant
38 of consent to use land or close a public road, to reserve:

39 1. Its right to tax all the personal property, all activities of persons
40 and all buildings erected on the land to the extent permitted by law;

41 2. All civil and political rights, including the right of suffrage, which
42 persons residing on the land would have had if the cession were not made;

43 3. Its right to control, maintain and operate all state highways constructed
44 upon the land;

45 4. Its jurisdiction over the appropriation of water, including the full
46 power to control and regulate its acquisition, distribution, diversion, control
47 and use;

48 5. The right of the state and its citizens to prospect for, mine and
49 remove all deposits of minerals, including oil and gas;

1 6. Its authority to serve and execute all civil and criminal process
2 issued by any court of competent jurisdiction or public officer having
3 authority to issue such process and any order issued by such a court
4 which is necessary to be served upon any person who is on the land or
5 any building erected on it, in the same way and manner as if jurisdiction
6 had not been ceded;

7 7. Its criminal and civil jurisdiction, other than that expressly ceded,
8 to the extent permitted by law; and

9 8. Such other legislative jurisdiction over the land as does not inter-
10 fere with the express purpose of the cession or consent,
11 and to impose a condition that the jurisdiction ceded or consent granted
12 to the United States continues only as long as the land belongs to the
13 United States and is held by it for the purpose for which jurisdiction is
14 ceded or consent is granted and in compliance with each of the conditions
15 and reservations of the cession or grant.

16 SEC. 5. Any offer or agreement by the State of Nevada to grant a
17 cession of jurisdiction before the effective date of this act must be con-
18 strued according to the law in effect at the time of the cession. If any
19 condition of the federal or state laws which were in force at that time has
20 not been complied with before the effective date of this act, the state's
21 conditional cession of jurisdiction is declared to be void and of no effect,
22 and as to such land the state retains the entire jurisdiction it exercised or
23 was entitled to exercise when the United States acquired the land.

24 SEC. 6. 1. The consent of the State of Nevada to the acquisition of
25 lands by the United States for wildlife refuges pursuant to the Migratory
26 Bird Conservation Act of 1929, as amended, 16 U.S.C. § 715, et seq.,
27 whether in fee or by lease or easement, may be granted only if recom-
28 mended by the planning agency within whose jurisdiction the land is
29 located and approved by the legislature by law.

30 2. As used in this section, "planning agency" means:

31 (a) The planning commission for the city in which the land is entirely
32 located; or

33 (b) A county or regional planning commission, if there is one, or the
34 board of county commissioners or Nevada Tahoe regional planning
35 agency, within whose jurisdiction the land is located.

36 SEC. 7. 1. The state land registrar shall:

37 (a) Create and maintain a registry of all lands and interests in land in
38 Nevada, other than the unreserved, unappropriated public lands, owned
39 or held in trust by an agency or instrumentality of the Federal Govern-
40 ment.

41 (b) With the advice and assistance of the attorney general and the dis-
42 trict attorneys, determine and state in the registry the nature and extent
43 of the Federal Government's jurisdiction over each tract of land or inter-
44 est in land entered in the registry.

45 2. The department of taxation, with the cooperation of the state land
46 registrar, shall advise the county assessors of:

47 (a) Those lands and interests in land in the registry which may be
48 taxed and the taxable activities conducted on them; and

49 (b) Any changes in the taxable status of those lands and interests when
50 the changes come to their knowledge.

1 SEC. 8. NRS 328.100 is hereby amended to read as follows:

2 328.100 1. The [consent of the state shall] *cession of jurisdiction*
3 *by the state must* be evidenced by a [certificate executed on behalf of
4 the state by the Nevada tax commission and countersigned by the gov-
5 ernor. The certificate shall] *resolution signed on behalf of the state by*
6 *the president of the senate and speaker of the assembly and attested to*
7 *by the secretary and chief clerk of those houses, respectively, or by the*
8 *chairman and secretary of the legislative commission. The resolution*
9 *must then be delivered to the secretary of state, who shall affix the seal*
10 *of the state thereto and shall thereupon deliver [the same] it to the*
11 *United States.*

12 2. The [certificate of consent shall accurately describe the premises
13 or rights requested.

14 3. The certificate shall be eligible for recordation in the deed rec-
15 ords of the county or counties to which it relates.] *resolution must*
16 *contain an accurate description of the land, a statement of the jurisdic-*
17 *tion ceded to the United States, the purpose of the cession and all power,*
18 *authority and jurisdiction reserved to the state.*

19 3. *The cession of jurisdiction does not vest until certified copies of it*
20 *have been filed with the state land registrar and recorded in the offices of*
21 *the county recorders of the counties in which the land is located.*

22 SEC. 9. NRS 328.110 is hereby amended to read as follows:

23 328.110 1. A recorder of conveyances of real property in this state
24 shall not accept for recordation any deed of conveyance wherein the
25 United States is the grantee unless there is recorded with the deed of con-
26 veyance [:

27 1. A certificate of consent pertaining to the transaction as provided
28 for in NRS 328.100; or

29 2. The] *the written statement of a representative of the United*
30 *States, contained in the deed, or a notarized statement by such a repre-*
31 *sentative accompanying it, that the United States does not seek exclusive*
32 *jurisdiction over the property.*

33 2. *A deed of conveyance, patent, decree or other instrument vesting*
34 *in the United States the title to land within this state is not effective as to*
35 *a subsequent purchaser of that land if he takes in good faith, for a*
36 *valuable consideration and without notice of ownership of that land by*
37 *the United States until the United States records such an instrument in*
38 *the counties in which the land or any part of it is located.*

39 SEC. 10. NRS 328.120 is hereby amended to read as follows:

40 328.120 On matters under the provisions of [NRS 328.030 to 328.-
41 150, inclusive,] *sections 3 to 5, inclusive, and 8 to 10, inclusive, of this*
42 *act affecting water rights, reclamation flood control and watershed protec-*
43 *tion, the [Nevada tax] legislative commission shall call upon the state*
44 *engineer for technical and engineering advice, and the water law of this*
45 *state [shall be] is the rule of decision in all matters relating to water*
46 *rights.*

47 SEC. 11. Chapter 321 of NRS is hereby amended by adding thereto
48 the provisions set forth as sections 12 to 15, inclusive, of this act.

49 SEC. 12. 1. *Upon receipt of an application by the United States for*

1 consent to a use of public land, the state land use planning agency shall
2 give written notice of the application to the planning agencies of the local
3 governments, within 1 week after its receipt of the application.

4 2. Each planning agency so notified shall within 45 days after the
5 notice is sent hold a public hearing on the application at the place where
6 it normally meets. If the land is located within the jurisdiction of two or
7 more planning agencies, each of those agencies must hold a hearing.

8 3. Each planning agency shall notify the public by publication in one
9 issue of a newspaper of general circulation published in each of the coun-
10 ties in which the land is located. The notice must be published at least 20
11 days before the date set for the hearing and set forth a description of the
12 land and the use for which consent is sought as stated in the application.
13 The cost of publishing the notice must be borne by the United States or
14 by someone in its behalf.

15 4. Each planning agency shall deliver its written recommendation on
16 the application, including the reasons for its recommendation, to the state
17 land use planning agency within 15 days after the conclusion of its hear-
18 ing on the application.

19 5. The application must contain such information and supporting
20 documents as are prescribed in regulations adopted by the state land use
21 planning agency and approved by the director of the state department of
22 conservation and natural resources.

23 SEC. 13. 1. The state land use planning agency shall hold a hearing
24 on an application for consent to use public land within 45 days after it
25 receives the written recommendation from the planning agencies. The
26 state agency shall give notice of its hearing as required by law. At its
27 hearing the state agency shall receive any testimony pertaining to any
28 use of the land which is not repetitive and shall consider the written
29 recommendation of the planning agency.

30 2. The state agency shall deliver its written recommendation on the
31 application, including the reasons for its recommendation to the gov-
32 ernor within 15 days after the conclusion of its hearing on the applica-
33 tion.

34 SEC. 14. 1. The governor in deciding whether to grant or deny the
35 consent of the state to a use of public land shall:

36 (a) Balance the interests of the Federal Government and the state; and
37 (b) Not apply standards or impose conditions respecting the use of land
38 which are more restrictive than those generally applicable to other persons
39 or governmental agencies in this state.

40 2. In granting the consent of the state the governor shall not grant or
41 waive any right, privilege, immunity or other incident of sovereignty pro-
42 vided for in section 4 of this act.

43 3. Any recommendation of the state land use planning agency which
44 is not acted on by the governor within 30 days after he receives it and
45 which is not in conflict with the requirements of this section is auto-
46 matically approved unless the governor in a writing which is attached to
47 the application and recommendations defers the decision for a good cause.

48 4. The consent of the governor to a use of public land must be evi-
49 denced by a certificate signed by him and delivered to the United States.
50 A copy of the certificate must also be delivered to the state land registrar.

1 **SEC. 15.** *In considering applications to obtain consent to a use of the*
2 *public lands, the state land use planning agency shall transfer the applica-*
3 *tion to the state engineer for his decision or refer it to him for technical*
4 *or engineering advice if the application or use affects water rights, recla-*
5 *mation, flood control or protection of watershed. The water law of this*
6 *state is the rule of decision in all matters relating to water rights.*

7 **SEC. 16.** NRS 321.655 is hereby amended to read as follows:

8 321.655 As used in NRS 321.640 to 321.770, inclusive, [:] and
9 sections 12 to 15, inclusive, of this act:

10 1. "Administrator" means the executive head of the division of state
11 lands of the state department of conservation and natural resources.

12 2. "Area of critical environmental concern" means any area in this
13 state where there is or could develop irreversible degradation of more
14 than local significance but does not include an area of depleting water
15 supply which is caused by the beneficial use or storage of water in other
16 areas pursuant to legally owned and fully appropriated water rights.

17 3. "Planning agency" means:

18 (a) *The planning commission for the city in which the land is entirely*
19 *located; or*

20 (b) *A county or regional planning commission, if there is one, or the*
21 *board of county commissioners or Nevada Tahoe regional planning*
22 *agency, within whose jurisdiction the land is located.*

23 **SEC. 17.** NRS 405.191 is hereby amended to read as follows:

24 405.191 As used in NRS 405.193 and 405.195, "public road"
25 includes: [in addition to a]

26 1. A United States highway, a state highway or a main, general or
27 minor county road and any other way laid out or maintained by any gov-
28 ernmental agency. [:

29 1.] 2. Any way which exists upon a right of way granted by Con-
30 gress over public lands of the United States not reserved for public uses
31 in chapter 262, section 8, 14 Statutes 253 (former 43 U.S.C. § 932),
32 and accepted by general public use and enjoyment before or after July
33 1, 1979. Each board of county commissioners may locate and determine
34 the width of such rights of way and locate, open for public use and
35 establish thereon county roads or highways [.] , but public use alone
36 has been and is sufficient to evidence an acceptance of the grant of a
37 public user right of way pursuant to former 43 U.S.C. § 932.

38 [2.] 3. Any way which is shown upon any plat, subdivision, addi-
39 tion, parcel map or record of survey of any county, city, town or por-
40 tion thereof duly recorded or filed in the office of the county recorder,
41 and which is not specifically therein designated as a private road or a
42 nonpublic road, and any way which is described in a duly recorded con-
43 veyance as a public road or is reserved thereby for public road purposes
44 or which is described by words of similar import.

45 **SEC. 18.** NRS 405.195 is hereby amended to read as follows:

46 405.195 1. The governing body of any political subdivision affected
47 by a public road which meets the requirements of NRS 405.191 may
48 bring *and maintain* an action in the district court of the county in which
49 the public road lies to prevent any person, including a public agency,

1 *except an agency of the Federal Government, from denying public use of*
2 *that road.*

3 2. *The attorney general may bring and maintain an action in any*
4 *court or before any federal agency if an agency or instrumentality of the*
5 *Federal Government denies the use of a public road located on public*
6 *land in this state.*

7 SEC. 19. *Chapter 408 of NRS is hereby amended by adding thereto*
8 *the provisions set forth as sections 20 to 23, inclusive, of this act.*

9 SEC. 20. *"Planning agency" means:*

10 1. *The planning commission for the city in which the road is entirely*
11 *located; or*

12 2. *A county or regional planning commission, if there is one, or the*
13 *board of county commissioners or Nevada Tahoe regional planning*
14 *agency, within whose jurisdiction the road is located.*

15 SEC. 21. 1. *Upon receipt of an application for consent to close a*
16 *public road on public land, the department shall give written notice of the*
17 *application to the planning agencies of the local governments, within 1*
18 *week after its receipt of the application.*

19 2. *Each planning agency so notified shall within 45 days after the*
20 *notice is sent hold a public hearing on the application at the place where*
21 *it normally meets. If the road is located within the jurisdiction of two or*
22 *more planning agencies, each of those agencies must hold a hearing.*

23 3. *Each planning agency shall notify the public and every person*
24 *known to have a vested private right of way over the road for the purpose*
25 *of grazing, mining or any other purpose for which such a private right*
26 *vests, by publication in one issue of a newspaper of general circulation*
27 *published in each of the counties in which the land is located and by*
28 *mailing to the last known address of each private user of the road. The*
29 *notice must be published at least 20 days before the date set for the hear-*
30 *ing and set forth the location of the road and the purpose for closing it*
31 *as stated in the application. The cost of publishing the notice must be*
32 *borne by the United States or by someone in its behalf.*

33 4. *The planning agency shall deliver its written recommendation on*
34 *the application, including the reasons for its recommendation, to the*
35 *department within 15 days after the conclusion of its hearing on the*
36 *application.*

37 5. *The application must contain such information and supporting*
38 *documents as are prescribed in regulations adopted by the department*
39 *with the approval of the board.*

40 SEC. 22. 1. *The department shall hold a hearing on an application to*
41 *close a public road on public land within 45 days after it receives the*
42 *written recommendation from the planning agency. The department shall*
43 *give notice of its hearing as required by law. At its hearing the department*
44 *shall receive any testimony pertaining to any use of the road which is not*
45 *repetitive and shall consider the written recommendation of the planning*
46 *agency.*

47 2. *The department shall deliver its written recommendation on the*
48 *application, including the reasons for its recommendation, to the board*
49 *within 15 days after the conclusion of its hearing on the application.*

1 **SEC. 23. 1. The board in deciding whether to grant or deny the con-**
2 **sent of the state to close a public road on public land shall:**

3 **(a) Balance the interests of the Federal Government and the state; and**
4 **(b) Not apply standards or impose conditions respecting the closure of**
5 **a public road which are more restrictive than those generally applicable to**
6 **other persons or governmental agencies in this state.**

7 **2. In granting the consent of the state the board shall not grant or**
8 **waive any right, privilege, immunity or other incident of sovereignty**
9 **provided for in section 4 of this act, except subsection 3 of that section.**

10 **3. Consent to such a closure or the extinguishing of a public use**
11 **does not constitute consent to extinguish a private use, and the state's**
12 **consent is contingent on compensation by the Federal Government for**
13 **the loss of a vested private right of way.**

14 **4. Any recommendation of the department which is not acted on by**
15 **the board within 30 days after it receives the application and which is**
16 **not in conflict with the requirements of this section is automatically**
17 **approved unless the board in a writing which is attached to the applica-**
18 **tion and recommendations defers the decision for a good cause.**

19 **5. The consent of the board to close a public road on public land**
20 **must be evidenced by a certificate signed by the chairman of the board**
21 **and attested to by its secretary, and delivered to the United States.**

22 **SEC. 24. NRS 408.020 is hereby amended to read as follows:**

23 **408.020 As used in this chapter the words and terms defined in NRS**
24 **408.035 to 408.095, inclusive, and section 20 of this act, unless the**
25 **context otherwise requires, have the meanings ascribed to them in those**
26 **sections.**

27 **SEC. 25. NRS 328.010, 328.020, 328.030, 328.040, 328.050, 328.-**
28 **060, 328.070, 328.080, 328.090, 328.130, 328.140, 328.150, 328.160,**
29 **328.170, 328.180, 328.190, 328.200, 328.201, 328.206, 328.207, 328.-**
30 **208, 328.209 and 328.2091 are hereby repealed.**

31 **SEC. 26. This act shall become effective upon passage and approval.**

S. B. 241

SENATE BILL NO. 241—COMMITTEE ON
NATURAL RESOURCES

FEBRUARY 17, 1981

Referred to Committee on Natural Resources

SUMMARY—Provides for temporary water permits for construction purposes, grants additional powers to political subdivisions and municipal corporations. (BDR 48-519)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State or on Industrial Insurance: No.



EXPLANATION—Matter in *italics* is new; matter in brackets [] is material to be omitted.

AN ACT relating to government; providing for temporary permits to appropriate water for construction; granting powers to the State of Nevada, certain of its officers and political subdivisions to accept grants of money and other property and acquire land from the Federal Government to provide facilities necessary for carrying on community life substantially expanded by the deployment of the MX missile project in the State of Nevada; changing the provisions for branch county jails; suspending the population requirement for the incorporation of a city; and providing other matters properly relating thereto.

*The People of the State of Nevada, represented in Senate and Assembly,
do enact as follows:*

- 1 SECTION 1. NRS 534.120 is hereby amended to read as follows:
2 534.120 1. [Within an] *The state engineer may, within any area*
3 *that has been designated by [the state engineer, as provided for in this*
4 *chapter] him* where, in his judgment, the ground water basin is being
5 depleted, [the state engineer in his administrative capacity is herewith
6 empowered to] make such rules, regulations and orders as are deemed
7 essential for the welfare of the area involved.
8 2. In the interest of public welfare, the state engineer [is authorized
9 and directed to] *shall* designate preferred uses of water within the
10 respective areas so designated by him and [from which the ground water
11 is being depleted, and in] *when* acting on applications to appropriate
12 ground water he may designate [such] preferred uses in different cate-
13 gories with respect to the particular areas involved within the following
14 limits: Domestic, municipal, quasi-municipal, industrial, irrigation, mining
15 and stock-watering uses.
16 3. The state engineer may [:] *within an area pursuant to subsec-*
17 *tion 1:*

1 (a) Issue temporary permits to appropriate ground water which can
2 be limited as to time and which may be revoked if and when water can
3 be furnished by an entity such as a water district or a municipality pres-
4 ently engaged in furnishing water to the inhabitants thereof.

5 (b) Deny applications to appropriate ground water for any purpose
6 in areas served by such an entity.

7 (c) Limit depth of domestic wells.

8 (d) Prohibit the drilling of wells for domestic use, as defined in NRS
9 534.010 and 534.180, in areas where water can be furnished by an
10 entity such as a water district or a municipality presently engaged in
11 furnishing water to the inhabitants thereof.

12 4. For good and sufficient reasons the state engineer may exempt
13 the provisions of this section with respect to public housing authorities.

14 5. *If an application to appropriate ground water within any area
15 whether or not designated as one where ground water is being depleted,
16 includes among the intended beneficial uses construction not related to
17 the diversion of the water appropriated, the state engineer shall issue a
18 temporary permit for the quantity to be so used, limited to the estimated
19 time of completion of the construction, and every such permit is
20 automatically revoked without notice upon expiration of the time speci-
21 fied in the permit.*

22 6. *Any holder of a temporary permit may file a written application
23 for an extension of that permit with the state engineer. Upon good cause
24 shown, the state engineer may extend that permit but any extension is
25 limited by the provisions of subsection 5 and paragraph (a) of subsec-
26 tion 3.*

27 SEC. 2. NRS 211.090 is hereby amended to read as follows:

28 211.090 1. A board of county commissioners or metropolitan police
29 commission may establish a branch county jail in any [town] township
30 in the county [,] *except the township containing the county seat*, if in
31 its judgment the public needs require it, and provide that persons charged
32 with or convicted of a misdemeanor in [such town or other town or
33 townships] *the township* mentioned in the order [shall] *must* be impris-
34 oned in [such] *the* branch county jail instead of in the county jail at
35 the county seat.

36 2. Any judge or justice of the peace before whom [such] a convic-
37 tion may be had may order that a prisoner be imprisoned in the county
38 jail of the county wherein such conviction may be had if the public
39 safety or the safety of such prisoner requires it.

40 SEC. 3. NRS 211.110 is hereby amended to read as follows:

41 211.110 The board of county commissioners or the metropolitan
42 police commission may direct the jailer of such branch county jail to
43 work the prisoners on the [public streets of such town or on the] public
44 roads of the county where the branch county jail is located.

45 SEC. 4. NRS 265.020 is hereby repealed.

46 SEC. 5. The operation of NRS 265.010 is suspended until July 1,
47 1983.

48 SEC. 6. In addition to its powers conferred by general law, the board
49 of trustees of a school district may, on behalf of the school district:

1 1. Purchase or otherwise acquire from the Federal Government and
2 its agencies and instrumentalities all or any portion of available land near
3 an MX missile deployment site or sites at intervals during any period
4 when such purchase or other acquisition may be made as provided by
5 the Congress of the United States, including any extension of time.

6 2. Accept the benefit of any Act of Congress providing financial
7 assistance for school districts affected by the deployment of the MX
8 missile project in this state without reference to any regulation of the
9 state board of education concerning the provision of assistance by the
10 Federal Government.

11 **SEC. 7.** 1. Notwithstanding the provisions of any other law:

- 12 (a) The board of county commissioners of any county;
13 (b) The governing body of an incorporated city;
14 (c) The governing body of an unincorporated town;
15 (d) The board of trustees of a general improvement district;
16 (e) The state department of conservation and natural resources;
17 (f) The governing body of a county fire protection district;
18 (g) The board of directors of a flood control district; and
19 (h) The governing head of a conservation district,

20 may exercise the powers specified in subsection 2.

21 2. The powers conferred by this section are:

22 (a) To accept grants from the Federal Government and its agencies
23 and instrumentalities for the purpose of providing county facilities neces-
24 sary for carrying on community life substantially expanded by the deploy-
25 ment of the MX missile project in this state.

26 (b) On behalf of the governmental agency, purchase or otherwise
27 acquire from the Federal Government and its agencies and instrumentali-
28 ties all or any portion of available land near an MX missile deployment
29 site or sites at intervals during any period when such purchase or other
30 acquisition may be made as provided by the Congress of the United
31 States, including any extension of time granted by the Secretary of the
32 Interior, or otherwise.

33 **SEC. 8.** 1. This act shall become effective upon passage and
34 approval.

35 2. Sections 6 and 7 of this act expire by limitation on July 1, 1983.

(REPRINTED WITH ADOPTED AMENDMENTS)

FIRST REPRINT

S. B. 164

SENATE BILL NO. 164—SENATORS JACOBSEN
AND GETTO

FEBRUARY 2, 1981

Referred to Committee on Natural Resources

SUMMARY—Relates to the development of geothermal resources; provides for administration and utilization. (BDR 48-156)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State or on Industrial Insurance: No.



EXPLANATION—Matter in *italics* is new; matter in brackets [] is material to be omitted.

AN ACT relating to the development of geothermal resources; providing for their administration and utilization; and providing other matters properly relating thereto.

The People of the State of Nevada, represented in Senate and Assembly, do enact as follows:

- 1 SECTION 1. NRS 533.030 is hereby amended to read as follows:
2 533.030 1. Subject to existing rights, all such water may be appro-
3 priated for beneficial use as provided in this chapter and not otherwise.
4 2. The use of water, from any stream system as provided in this
5 chapter and from underground water as provided in NRS 534.080, for
6 any recreational purpose, is hereby declared to be a beneficial use.
7 3. *The use of groundwater for its energy, including heat and pressure,*
8 *is a beneficial use of the groundwater, whether it is accomplished through*
9 *an actual diversion, for which a water right must be obtained, or a process*
10 *which is not diversionary but extracts heat, for which a water right may*
11 *be obtained to protect utilization of the energy produced by groundwater.*
12 SEC. 2. NRS 534.010 is hereby amended to read as follows:
13 534.010 1. As used in this chapter:
14 (a) "Aquifer" means a geological formation or structure that transmits
15 water.
16 (b) "Artesian well" means a well tapping an aquifer underlying an
17 impervious material in which the static water level in the well stands
18 above where it is first encountered in the aquifer.
19 (c) "Domestic use" extends to culinary and household purposes, in a
20 single-family dwelling, the watering of a family garden, lawn, and the
21 watering of domestic animals. *The term also includes the use of geo-*
22 *thermal resources for domestic heating purposes.*

1 (d) "Percolating waters" are underground waters, the course and
2 boundaries of which are incapable of determination.

3 (e) "Person" [shall be interpreted to mean] *means* any individual,
4 firm, partnership, association, company or corporation, municipal cor-
5 poration, power district, political subdivision of this or any state, or a
6 United States Government agency.

7 (f) "Waste" is defined as causing, suffering or permitting any artesian
8 well to discharge water unnecessarily above or below the surface of the
9 ground so that the waters thereof are lost for beneficial use or in any canal
10 or ditch conveying water from a well where the loss of water in transit is
11 more than 20 percent of the amount of the water discharged from the
12 well.

13 (g) "Well driller" means any person who [shall drill] *drills* a well or
14 wells, for compensation or otherwise.

15 (h) "Well drilling" or "drilling a well" are synonymous, and [consti-
16 tute] *mean* drilling or boring new wells, placing casing in wells, cleaning
17 and repairing existing wells, cementing wells and doing all other things
18 normally associated with the construction or rehabilitation of wells.

19 2. As used in this chapter, the terms "underground water" and
20 "ground water" are synonymous.

21 SEC. 3. NRS 534A.010 is hereby amended to read as follows:

22 534A.010 As used in this chapter, unless the context otherwise
23 requires, "geothermal resource" means [heat or other associated geo-
24 thermal energy found beneath the surface of the earth.] *the natural heat*
25 *of the earth and the energy associated with that natural heat, pressure and*
26 *all dissolved or entrained minerals that may be obtained from the medium*
27 *used to transfer that heat, but excluding hydrocarbons and helium.*

28 SEC. 4. NRS 322.005 is hereby amended to read as follows:

29 322.005 As used in this chapter, "geothermal resource" means [heat
30 or other associated geothermal energy found beneath the surface of the
31 earth.] *the natural heat of the earth and the energy associated with that*
32 *natural heat, pressure and all dissolved or entrained minerals that may be*
33 *obtained from the medium used to transfer that heat, but excluding*
34 *hydrocarbons and helium.*

35 SEC. 5. NRS 361.027 is hereby amended to read as follows:

36 361.027 "Geothermal resource" means [:

37 1. All products of geothermal processes, embracing indigenous steam,
38 hot water and hot brines;

39 2. Steam and other gases, hot water and hot brines resulting from
40 water, gas or other fluids artificially introduced into subsurface forma-
41 tions;

42 3. Heat or other associated energy found beneath the surface of the
43 earth; and

44 4. Byproducts of any of the items enumerated in subsections 1 to 3,
45 inclusive, such as minerals (exclusive of oil or hydrocarbon gas that can
46 be separately produced) which are found in solution or association with
47 or derived from any of such items.] *the natural heat of the earth and the*
48 *energy associated with that natural heat, pressure and all dissolved or*
49 *entrained minerals that may be obtained from the medium used to trans-*
50 *fer that heat, but excluding hydrocarbons and helium.*

1 **SEC. 6.** NRS 445.178 is hereby amended to read as follows:
2 445.178 "Pollutant":

3 1. Means dredged soil, solid waste, incinerator residue, sewage,
4 garbage, sewage sludge, munitions, chemical wastes, biological materials,
5 radioactive materials, heat, wrecked or discarded equipment, rock, sand,
6 cellar dirt and industrial, municipal and agricultural waste discharged
7 into water;

8 2. Does not mean water, gas or other material which is injected into
9 a well to facilitate production of oil or gas, or water derived in association
10 with oil or gas production and disposed of in a well, if the well is used
11 either for facilitating production or for disposal purposes and if the
12 department determines that such injection or disposal will not result in
13 the degradation of ground or surface water resources.

14 3. *Does not mean water, gas or other material injected into a well or*
15 *used to stimulate a reservoir of geothermal resources if the department*
16 *determines that the injection or stimulation will not result in the degra-*
17 *dation of ground or surface water resources.*

18 **SEC. 7.** Chapter 704 of NRS is hereby amended by adding thereto
19 a new section which shall read as follows:

20 1. *Except as provided in subsection 2, every corporation or other*
21 *person who sells geothermal energy to the public is affected with a public*
22 *interest, is a public utility and is subject to the jurisdiction and control*
23 *of the commission. The authority of the commission to regulate such per-*
24 *sons is limited to the authority granted by this section and NRS 704.033*
25 *and 704.035.*

26 2. *This section does not apply to any corporation or other person*
27 *described in subsection 6 of NRS 704.030 or to any political subdivision*
28 *of the state authorized to sell energy to the public.*

29 3. *The commission shall adopt just and reasonable regulations gov-*
30 *erning the sale of energy from geothermal resources to the public. The*
31 *regulations must provide for a system of operating permits which:*

32 (a) *May not be denied because the area which the applicant proposes*
33 *to serve is already being served by a gas or electric utility.*

34 (b) *May not convey an exclusive right to supply geothermal energy in*
35 *the area which the applicant proposes to serve.*

36 (c) *Specify in each case the geographic area in which the applicant rea-*
37 *sonably can provide the services authorized in the permit.*

38 (d) *Require the applicant to enter into a contract with each customer*
39 *served by the utility. The form and scope of the contract must be subject*
40 *to review and approval of the commission. The contract must specify at*
41 *least:*

42 (1) *The period of time during which service will be provided. The*
43 *contract must provide for a period of at least 3 years unless such a provi-*
44 *sion is expressly waived by the customer.*

45 (2) *The rates or the formula for determining rates to be charged dur-*
46 *ing the term of the contract.*

47 (3) *That the utility will submit to binding arbitration, pursuant to*
48 *chapter 38 of NRS, matters relating to damages suffered by the customer*
49 *as a result of a disruption in service and that in any such arbitration, the*
50 *utility is liable for damages unless it establishes that the disruption was*

1 *caused by circumstances beyond its control, or another affirmative*
2 *defense, or establishes that it was not negligent.*

3 4. *Before issuing an operating permit the commission must find that:*

4 (a) *The applicant is fit, willing and able to provide the services author-*
5 *ized in the permit.*

6 (b) *The applicant has tested the geothermal reservoir to determine*
7 *whether it appears to be capable of providing sufficient energy to supply*
8 *the intended uses.*

9 (c) *The system which the applicant intends to use to produce and dis-*
10 *tribute the heat meets appropriate standards.*

11 5. *The commission has continuing authority to regulate the utilities*
12 *described in this section to ensure that each utility adheres to the condi-*
13 *tions set forth in its operating permit and that the utility provides ade-*
14 *quate services.*

15 SEC. 8. NRS 704.030 is hereby amended to read as follows:

16 704.030 "Public utility," as used in this chapter, does not include:

17 1. Corporations, partnerships, sole proprietorships, associations of
18 natural persons, their lessees, trustees or receivers (appointed by any
19 court whatsoever) insofar as they own, control, operate or manage motor
20 vehicles operated as hearses, ambulances or hotel buses engaged in the
21 transportation of persons for hire exclusively within the limits of a city
22 of this state.

23 2. Corporations, partnerships, sole proprietorships or associations of
24 natural persons engaged in the production and sale of natural gas, other
25 than sales to the public, or engaged in the transmission of natural gas
26 other than as a common carrier transmission or distribution line or sys-
27 tem.

28 3. Corporations, cooperatives, nonprofit corporations or associations,
29 partnerships, sole proprietorships, associations of natural persons, their
30 lessees, trustees or receivers appointed by any court whatsoever, engaged
31 in the business of furnishing, for compensation, water or sewer services,
32 or water and sewer services, to persons within this state if:

33 (a) They serve 25 persons or less; or

34 (b) Their gross sales for water or sewer services, or water and sewer
35 services, amounted to \$5,000 or less during the immediately preceding
36 12 months,

37 and in either case they do not own or control any other such business
38 entity furnishing water or sewer service or water and sewer service within
39 this state.

40 4. Any common motor carrier, contract motor carrier of passengers
41 or property, or private motor carrier subject to the provisions of chapter
42 706 of NRS.

43 5. Corporations or other persons not normally engaged in water pro-
44 duction and sales and which sell or furnish water as an accommodation in
45 an area where water is not available from a public utility, cooperative
46 corporations and associations or political subdivisions engaged in the
47 business of furnishing water, for compensation, to persons within the
48 political subdivision.

49 The commission may by subpena require any person claiming to be

- 1 exempt from regulation by reason of this section, to appear before it
2 with all of his relevant books, papers and records, and to testify concern-
3 ing the scope, nature and conduct of his business.
- 4 6. *Corporations or other persons who are engaged in the production*
5 *and sale of geothermal energy to public utilities, cities, counties or other*
6 *entities which are reselling the energy to the public.*
- 7 SEC. 9. NRS 704.870 is hereby amended to read as follows:
8 704.870 1. An applicant for a permit shall file with the commission
9 an application, in such form as the commission may prescribe, containing
10 the following information:
- 11 (a) A description of the location and of the utility facility to be built
12 thereon;
- 13 (b) A summary of any studies which have been made of the environ-
14 mental impact of the facility;
- 15 (c) A statement explaining the need for the facility;
- 16 (d) A description of any reasonable alternate location or locations for
17 the proposed facility, a description of the comparative merits or detri-
18 ments of each location submitted, and a statement of the reasons why the
19 primary proposed location is best suited for the facility; **[and]**
- 20 (e) *A summary of the examination of conservation measures and*
21 *alternative sources of energy which was made before the construction of*
22 *a facility using fossil fuel; and*
- 23 (f) Such other information as the applicant may consider relevant or as
24 the commission may by regulation or order require. A copy or copies of
25 the studies referred to in paragraph (b) **[shall]** *must* be filed with the
26 commission and be available for public inspection.
- 27 2. A copy of the application **[shall]** *must* be filed with the chairman
28 of the state environmental commission created pursuant to NRS 445.451.
- 29 3. Each application **[shall]** *must* be accompanied by proof of service
30 of a copy of such application on the clerk of each local government in the
31 area in which any portion of such facility is to be located, both as pri-
32 marily and as alternatively proposed.
- 33 4. Each application **[shall]** *must* also be accompanied by proof that
34 public notice thereof was given to persons residing in the municipalities
35 entitled to receive notice under subsection 3 by the publication of a sum-
36 mary of the application in newspapers published and distributed in the
37 area in which such utility facility is proposed to be located.