Natural Resources and Public Lands Generally

A.B. 289 (Chapter 401)
Assembly Bill 289 requires the Administrator of the Office of Historic Preservation to establish a stewardship program to protect cultural resources on public land in Nevada. The Administrator must select, train, and certify unpaid volunteers as well as coordinate the activities of federal agencies, private industries, Native American tribes, and local and state governmental agencies to carry out the program. Further, the measure requires the Commission on Tourism to transfer from the Fund for the Promotion of Tourism to the Office of Historic Preservation funding for the program in the amount of $62,608 for Fiscal Year (FY) 2005-2006 and $77,225 for FY 2006-2007.

This measure became effective on July 1, 2005.

S.B. 81 (Chapter 174)
Senate Bill 81 authorizes the Office of Historic Preservation to enter into an agreement with State agencies or political subdivisions regarding land those agencies plan to acquire from the federal government. This agreement must:

- Ensure protection for any prehistoric or historic sites at a level equivalent to the protection that would have been provided if the land had remained under federal ownership;
- Require the managing agency to consult with the Historic Preservation Office if proposing a land use change or a new project on the land; and
- Require the managing agency to pay any expenses associated with implementing the agreement.

The measure further requires the agency or political subdivision to submit information related to the agreement to the Office. The bill also makes it a crime for a person knowingly and willfully to engage in such conduct with respect to a historic or prehistoric site on state land. It also makes it a crime to receive, traffic in, or sell cultural property appropriated from state land. A person who engages in such conduct is guilty of a misdemeanor for a first offense, punishable by a fine or $500, and is guilty of a gross misdemeanor for a second or subsequent offense, punishable by imprisonment for up to a year, or a fine of not more than $3,000, or both a fine and imprisonment. The person is also liable for the payment of civil damages to the state agency or political subdivision that has jurisdiction over the state land. A person or entity who is following an agreement made with the Office of Historic Preservation or who is acting in accordance with a permit is not subject to the criminal penalties.
S.B. 294 (Chapter 60)
Senate Bill 294 expands the duties of the State Conservation Commission to include the authority to apply for available grants. The bill also revises the Commission’s ability to provide grants to qualified conservation districts throughout Nevada. Existing law allows the Commission to provide such grants from funds available through legislative appropriations. Senate Bill 294 authorizes the Commission to provide grants of money from sources other than legislative appropriations.

S.J.R. 1 (File No. 58)*
Senate Joint Resolution No. 1 urges Congress to work with all interested Nevadans, land managers, affected parties, local governments, special interest groups, and members of the public in addressing issues concerning the designation of Wilderness Areas in Nevada. Specifically, the resolution requests that Congress continue the policy of releasing or disposing of federal lands that are no longer suitable for wilderness designation and doing so in a timely manner, as well as considering military operations in determining whether to designate land as a Wilderness Area.

This measure became effective on May 9, 2005.

Agriculture and Ranching

A.B. 181 (Chapter 140)
Assembly Bill 181 removes the requirement that a cash buyer or the agent of a cash buyer of farm products or livestock obtain a license from the State Department of Agriculture.

The portion of this measure that exempts a cash buyer or his agent from being required to obtain a license became effective on July 1, 2005. Section 1 of this measure, which defines an “agent,” became effective on October 1, 2005.

A.B. 407 (Chapter 339)
Assembly Bill 407 provides that if a governmental agency seizes any animals subject to a brand inspection, the State Department of Agriculture shall not issue a brand inspection clearance certificate to transfer, sell, or transport the animals unless the governmental agency obtains approval for the seizure from a court of competent jurisdiction before the animals are seized.

This measure further provides certain exemptions for the necessary seizure of estray and feral livestock, wild horses and burros, impoundments by the Department, and animals that must be seized to protect public health and safety or to prevent cruelty to animals.

Air Quality

S.B. 26 (Chapter 240)
Senate Bill 26 revises provisions governing the distribution of money in the Pollution Control Account. It requires that the revenue collected for emission control certification forms must be distributed quarterly to certain local governmental agencies in areas with high levels of air
pollution, rather than requiring those agencies to apply for annual grants as provided in existing state law. The bill further requires these agencies to report annually to the Legislature on the use of the money received. Finally, local governments may continue to receive grants from excess funds remaining in the Account at the end of the fiscal year, but the excess reserve is increased from $500,000 to $1 million.

This bill became effective on July 1, 2005.

Environmental Matters Generally

A.B. 220 (Chapter 144)
Assembly Bill 220 clarifies that alternative fuels must comply only with any applicable regulations adopted by the United States Environmental Protection Agency pursuant to the standards established in the federal Clean Air Act Amendments of 1990. The measure also expands the types of finished diesel fuels that qualify as alternative fuels.

S.B. 16 (Chapter 105)
Senate Bill 16 allows the Division of Environmental Protection, State Department of Conservation and Natural Resources, to spend up to $250,000 per year from the Fund for Cleaning Up Discharges of Petroleum to pay costs incurred by the Division for cleaning up discharges of petroleum from storage tanks and mobile tanks used to transport petroleum on roads and highways. These discharges involve petroleum as well as other hazardous materials if petroleum is also involved, but does not include discharges from pipelines. Senate Bill 16 further provides that money from the Fund must be used to augment, not replace, other sources of revenue. If the Division is reimbursed for the cleanup, it must deposit that money in the Fund.

Finally, the bill deletes a requirement that Nevada’s Board for the Regulation of Liquefied Petroleum Gas notify licensees and applicants before adopting safety regulations.

The bill became effective on July 1, 2005.

S.B. 73 (Chapter 25)
Senate Bill 73 establishes a maximum reporting fee of $15,000 per year for any person who is required by federal law to submit a toxic chemical release form. The bill also requires the State Emergency Response Commission (SERC) to establish a method for limiting the total amount of fees a person can be required to pay if they are subject to both the annual fee for storing an extremely hazardous material and the fee for toxic chemical release reporting. Combined, storage and reporting fees may not exceed $15,000 in any calendar year. Finally, the measure directs the SERC to refund any fees in excess of $7,500 paid by a person in the filing of toxic chemical release forms for calendar years 2003 and 2004.

This measure became effective on April 22, 2005.
S.B. 263 (Chapter 363)

Senate Bill 263 adopts the Uniform Environmental Covenants Act in Nevada with regard to contaminated property. It provides for a perpetual real estate interest, known as an environmental covenant, to regulate the use of contaminated land when ownership is transferred.

Senate Bill 263 provides necessary definitions and sets forth the terms and rules for the application of environmental covenants. Each covenant must include a legal description, use limitations, names of the holder(s), and information regarding environmental response projects. It may also include notification requirements, access rights, a description of the contamination, and other information. Environmental covenants and any amendment or termination must be recorded in the county or counties in which the land is located, and must be registered by the State Department of Conservation and Natural Resources.

Under S.B. 263, an environmental covenant remains with the property unless it is limited to a specific duration or terminated by various means. Finally, an environmental covenant does not authorize a use of real property that is otherwise prohibited by zoning, another law, or a recorded instrument with priority over the covenant. However, the covenant may prohibit or restrict uses of real property authorized by zoning or by another law.

S.B. 293 (Chapter 260)*

Senate Bill 293 provides that a portion of the money collected by the State Department of Agriculture for the registration of certain brands of pesticides may be used for the eradication and control of noxious weeds. Additionally, this measure expands the number of members that may serve on the board of directors of a weed district from three members to three or five members.

This measure became effective on July 1, 2005.

S.B. 395 (Chapter 171)

Senate Bill 395 transfers full responsibility for the Safe Drinking Water Program from the Health Division within the Department of Health and Human Services, to the Division of Environmental Protection within the State Department of Conservation and Natural Resources. Among the duties assumed by the Division of Environmental Protection are the certification of certain laboratories and water system operators, issuance of permits to operate water systems, inspection of water systems, review and approval of various plans and specifications, issuance of warnings and penalties for violation of drinking water standards, and participation on the Board for Financing Water Projects.

Finally, the measure adds necessary definitions and reassigns regulatory authority for drinking water standards from the State Board of Health to the State Environmental Commission.
S.B. 396 (Chapter 387)
Senate Bill 396 revises provisions for sanitation and recycling programs and grants, as administered through the State Department of Conservation and Natural Resources and its Division of Environmental Protection. Due to a recent United States Supreme Court decision, the bill eliminates the ability of the State Environmental Commission to establish fees for the importation of solid waste, and instead authorizes fees for the disposal of solid waste in areas under the jurisdiction of the Department. Because Clark and Washoe Counties have their own solid waste management authorities, this provision applies only to the remaining 15 counties. The bill similarly replaces outdated language to recognize the solid waste agencies in Clark and Washoe Counties throughout Chapter 444.

Senate Bill 396 requires the installation of a liner and leachate collection and removal system to hazardous waste disposal facilities, and adds relevant definitions to statute. The measure further defines the times and areas of a solid waste facility that can be inspected by the Department without a search warrant.

Under S.B. 396, municipal recycling programs in Clark and Washoe Counties must provide information about their programs to business license applicants. The frequency for review of these programs is increased from every three to every two years. Finally, S.B. 396 gives the Division of Environmental Protection authority to award grants to enhance solid waste systems and to promote recycling, and eliminates a requirement that the Division develop recycling markets in Nevada.

Water

A.B. 20 (Chapter 71)
Assembly Bill 20 increases the dollar cap on the amount of general obligation bonds that may be issued by the State Board of Finance for the Fund for Grants for Water Conservation and Capital Improvements to Certain Water Systems. The bill raises the bond cap from $90 million to $125 million. The bill also changes the way the cap is applied. Under the provisions of the bill, the amount of bonds issued cannot exceed $125 million outstanding at any one time.

The measure became effective on July 1, 2005.

A.B. 49 (Chapter 55)
Assembly Bill 49 authorizes the Director of the Department of Administration to issue revenue or general obligation bonds to finance capital costs of improving and modernizing the Marlette Lake Water System. The aggregate principal amount of the bonds must not exceed $25 million. Before any revenue bonds are issued, the bill requires the State Board of Finance to confirm the availability of sufficient revenue in the Marlette Lake Water System Fund to pay the interest and installments of principal as they become due. Finally, money in the Fund may be used to repay the bonds for which money has been pledged.
**A.B. 80 (Chapter 130)**
Assembly Bill 80 requires the State Engineer to adopt regulations for the abandonment of wells that allows for a waiver of the regulation that otherwise requires the well to be plugged. The measure also requires the State Engineer to adopt regulations for continuing education requirements for well drillers.

The bill became effective on July 1, 2005.

**A.B. 323 (Chapter 185)**
Assembly Bill 323 requires the Bureau of Consumer Protection in the Office of the Attorney General to conduct an audit and investigation of the rate-setting practices of the Truckee Meadows Water Authority. The cost of the audit and investigation shall not exceed $100,000 and shall be paid for by the Truckee Meadows Water Authority. The results of the audit and investigation shall be reported to the Director of the Legislative Counsel Bureau no later than December 1, 2005, for transmittal to the Legislature.

The measure became effective on July 1, 2005.

**S.B. 18 (Chapter 273)**
Senate Bill 18 revises provisions concerning grants administered by the State of Nevada for capital improvements to certain water projects and water systems. The measure expands the list of projects eligible for grant awards to include the connection of a well to a municipal water system, if the well water quality fails to comply with the standards of the federal Safe Drinking Water Act.

The measure became effective on July 1, 2005.

**S.B. 35 (Chapter 146)**
Senate Bill 35 redesignates the tax on certain inter-county or inter-state transfers of water as a fee. The bill also increases the fee from $6 to $10 per acre-foot.

The provision redesignating the tax as a fee became effective on July 1, 2005. The provisions that increase the fee are effective on January 1, 2007.

**S.B. 62 (Chapter 493)**
Senate Bill 62 concerns the appropriation of water rights when water rights are conveyed and a conflict in the chain of title exists. The bill clarifies that confirmation of a report of conveyance is not a determination of ownership and only a court of competent jurisdiction may adjudicate conflicting claims to water rights. This measure requires that the State Engineer take appropriate administrative action to conform necessary records if a court of competent jurisdiction confirms or resolves a conflict over the chain of title. Further, any previously approved permit or certificate must be amended or withdrawn as a result of the judgment.
Subject to certain exceptions, the bill requires the State Engineer to approve or reject, within six months after the final date for filing a protest, an application to change a point of diversion to a location on the same parcel or to a contiguous parcel owned by the applicant.

Senate Bill 62 also creates a fund in the State Treasury designated as the Water Rights Technical Support Fund to be administered by the Board for Financing Water Projects. The Fund may be used to make grants to local governments for the purposes of obtaining expert and technical assistance or funding projects, to enhance or protect existing water rights. However, the funds may not be used only for collecting data or information that will be used in administrative or judicial proceedings. The bill appropriates the sum of $1 million to the Fund.

Finally, S.B. 62 creates the Water Planning Section within the Division of Water Resources, State Department of Conservation and Natural Resources. The bill transfers most of the duties of the former Division of Water Planning to the Water Planning Section. Responsibility is assigned to a Section Chief, and duties focus primarily on planning, water policy recommendations, review of local and federal water planning documents, hydrographic data compilation, technical assistance, promotion of water conservation programs, administration of the Nevada Floodplain Management Program, and coordination with local governments.

The provisions relating to the State Engineer are effective on June 17, 2005, and apply retroactively. The provisions relating to the Fund are effective on July 1, 2005.

**S.B. 136 (Chapter 107)**

Senate Bill 136 revises the Interstate Compact for Jurisdiction on the Colorado River to provide law enforcement officers concurrent jurisdiction within five air miles of the Colorado River or any lake formed by the Colorado River. The measure also provides that any claim brought against a present or former officer or employee based on any alleged act or omission under the authority of the Compact is subject to the conditions and limitations on civil actions established by the party state of that officer or employee.

**S.B. 395 (Chapter 171)**

Senate Bill 395 transfers full responsibility for the Safe Drinking Water Program from the Health Division within the Department of Health and Human Services, to the Division of Environmental Protection within the State Department of Conservation and Natural Resources. Among the duties assumed by the Division of Environmental Protection are the certification of certain laboratories and water system operators, issuance of permits to operate water systems, inspection of water systems, review, and approval of various plans and specifications, issuance of warnings and penalties for violation of drinking water standards, and participation on the Board for Financing Water Projects.

Finally, the measure adds necessary definitions and reassigns regulatory authority for drinking water standards from the State Board of Health to the State Environmental Commission.
Senate Concurrent Resolution No. 26 directs the Legislative Commission to appoint an interim committee to study the use, management, and allocation of water resources in Nevada. The resolution provides for a committee of eight legislators that will undertake an analysis of existing laws, regulations, policies, reports, and studies concerning water. The committee is further required to evaluate the need for additional information, develop appropriate recommendations, evaluate relevant issues, and consider the feasibility of creating a permanent Legislative Committee on Water Resources.

The measure also authorizes appointment of a subcommittee to study the advisability of consolidating water-related services in Washoe County, and describes the appointment of members and duties of the subcommittee.

Finally, a report of the results and recommendations of the studies authorized by S.C.R. 26 will be submitted for consideration by the 74th Session of the Nevada Legislature.

Wildlife

Assembly Bill 15 authorizes Nevada’s Department of Wildlife annually to expend 75 percent of the money deposited in the Wildlife Heritage Trust Account during the previous year and the total interest earned on the Account during the previous year. Additionally, this measure expands the types of programs that may be funded from the Account to include programs for the management and control of predatory wildlife.

Assembly Bill 159 expands the number of members that may be appointed to the county advisory board to manage wildlife in large counties. In a county with a population over 400,000 (Clark County), the Board of County Commissioners may appoint five or seven members to the county advisory board to manage wildlife.

Assembly Bill 379 authorizes a person to act on behalf of another to obtain a license, tag, or permit from Nevada’s Department of Wildlife if acting pursuant to a power of attorney that: (1) is written for the specific purpose of obtaining a license, tag, or permit; (2) is written for a specific season; and (3) includes a jurat or other certification. Any license, tag, or permit obtained by a written instrument that does not comply with these provisions is void.

This measure became effective on July 1, 2005.

Senate Bill 192 prohibits the importation to Nevada of Rocky Mountain elk, mule deer, white-tailed deer, and other animals susceptible to chronic wasting disease. Due to their
susceptibility to the disease, the bill further deletes Rocky Mountain elk from the list of “alternative livestock” currently defined in statute.

This bill became effective on May 10, 2005.

S.B. 397 (Chapter 349)
Senate Bill 397 authorizes Nevada’s Department of Wildlife to take any wildlife from any place, including private property with consent of the owner, for conservation purposes or to collect biological samples.

The measure increases the number of demerit points that may be accumulated before the Department is required to provide notification, establishes penalties for failing to appear in court, increases periods of suspension or revocation for a license or permit issued by the Department, and sets a penalty for violating wildlife laws by a person who does not hold the necessary license or permit.

Senate Bill 397 allows for seizure of certain property if information obtained from aerial sources is used to unlawfully kill big game mammals. Additionally, unclaimed property may be donated to programs benefiting children.

The measure also revises the provisions governing the licensure of master guides and sub guides. Specifically, the bill exempts certain sub guides from certain licensing requirements and requires the use of a special use permit to operate as a master guide in certain areas.

S.C.R. 15 (File No. 48)*
Senate Concurrent Resolution No. 15 expresses the Legislature’s gratitude and recognition of the many groups, organizations, policymakers, and stakeholders involved in preventing the sage grouse from being listed as a threatened or endangered species by the United States Fish and Wildlife Service. The resolution also commends and encourages the continuation of efforts to restore sage grouse populations and habitat.

This measure became effective upon passage.

Miscellaneous

S.B. 70 (Chapter 305)*
This measure authorizes the Legislative Committee on Public Lands to review and comment on any matter relating to the preservation, conservation, use, management, or disposal of public lands that the Committee’s chairperson or a majority of its members deems appropriate.

The bill became effective on June 8, 2005.
S.B. 81 (Chapter 174)*
Senate Bill 81 authorizes the Office of Historic Preservation to enter into an agreement with State agencies or political subdivisions regarding land those agencies plan to acquire from the federal government. This agreement must:

- Ensure protection for any prehistoric or historic sites at a level equivalent to the protection that would have been provided if the land had remained under federal ownership;
- Require the managing agency to consult with the Historic Preservation Office if proposing a land use change or a new project on the land; and
- Require the managing agency to pay any expenses associated with implementing the agreement.

The measure further requires the agency or political subdivision to submit information related to the agreement to the Office. The bill also makes it a crime for a person knowingly and willfully to engage in such conduct with respect to a historic or prehistoric site on state land. It also makes it a crime to receive, traffic in, or sell cultural property appropriated from state land. A person who engages in such conduct is guilty of a misdemeanor for a first offense, punishable by a fine or $500, and is guilty of a gross misdemeanor for a second or subsequent offense, punishable by imprisonment for up to a year, or a fine of not more than $3,000, or both a fine and imprisonment. The person is also liable for the payment of civil damages to the state agency or political subdivision that has jurisdiction over the state land. A person or entity who is following an agreement made with the Office of Historic Preservation or who is acting in accordance with a permit is not subject to the criminal penalties.

This measure became effective on October 1, 2005.

S.B. 400 (Chapter 441)*
Senate Bill 400 requires Nevada’s Department of Taxation to adopt regulations governing the authorization of an off-highway vehicle dealer to issue a Certificate of Operation for an off-highway vehicle in the form of a sticker to be placed upon the vehicle. An authorized dealer must issue the sticker upon the sale of a vehicle, or upon the request of the owner of a vehicle that was purchased prior to this bill taking effect. A dealer must also issue a sticker for a vehicle purchased outside this state after January 1, 2006, if the owner proves he has paid Nevada sales tax on the vehicle, or if he pays the tax when requesting a Certificate of Operation. A dealer is not entitled to any compensation for providing this service, nor may a dealer charge a fee for a Certificate of Operation.

The measure provides that no off-highway vehicle may be operated on a highway in Nevada unless the vehicle carries a Certificate of Operation sticker and is equipped with certain safety equipment.
A county or city may designate certain portions of a highway within the county or city as permissible for the operation of off-highway vehicles for the purpose of allowing off-highway vehicles to reach a private or public area that is open for use by off-highway vehicles. With the approval of the Department of Transportation, a county or city also may designate portions of a state highway for off-highway vehicle use in order to provide access to land open to these vehicles. A person may not operate an off-highway vehicle in a city whose population is 100,000 or more unless the highway is specifically designated by the city for such use. No governmental entity may designate any portion of an interstate highway for off-highway vehicle use. A local government that designates a portion of highway for off-highway vehicle use may adopt an ordinance requiring that any person under the age of 16 who operates such a vehicle on a highway must be under the direct visual supervision of a person who is at least 18 years of age. The driver of an off-highway vehicle may operate such a vehicle on a highway for up to two miles or, in order to cross the highway, to load or unload the vehicle for transport, and during an emergency if directed to do so by a peace officer.

Finally, the measure exempts from these provisions an off-highway vehicle that is owned by a federal, state, or local government entity; is engaged in work for or at the direction of a public utility; is part of an off-highway vehicle dealer’s inventory; is registered in another state; or is used solely in relation to husbandry.

This bill is effective on January 1, 2006.