

Eureka County Opposition Testimony to SB 287

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Eureka County opposes SB 287. We have been informed there may be an amendment to pare down the bill to remove the provisions related to Cooperative Extension and focus on the addition of UNLV and DRI as land grant institutions of the University of Nevada. From what we understand, this amendment would give the Chancellor the authority through a mandate to develop a plan to manage the assets and resources held by or afforded to the institutions identified above. It should not be left to some future “plan” but the bill support itself must provide adequate information and analysis now as to the fiscal impact this legislation would have on the university system and the impact to current important and imperative agricultural programs such as 4-H, research, and rural assistance and development and support.

There was a similar effort in the 2017 Legislature to also designate UNLV and DRI as land grant institutions through AB 407. While AB 407 passed, Governor Sandoval vetoed the bill based on the “risks substantially outweigh its potential benefits.” Governor Sandoval expressed concern about the conflict with the Nevada Constitution and stated “There is no question that UNR is the land grant institution contemplated by the Nevada Constitution.” The veto statement also discussed the splitting of funding, “decimation” of faculty”, and “division of scarce federal funding.” His statement that AB 407 “could risk harming a system that has been working for over a century without any guarantee that such a seismic change would improve programs and not dilute them” holds true on SB 287.

SB 287 has many legal implications and may be legally questionable. It would be a mistake to pass SB 287 with the legal uncertainties and federal funding implications that would follow. UNR is and always has been (after the State University was moved from Elko) the designated land grant university. Dr. Ian Maw, Vice President for Food, Agriculture, & Natural Resources at the Association of Public and Land Grant Universities (APLU), went on record at one of the 2017 legislative hearings on that session’s similar effort under AB 407 and stated that only Congress can designate new land grant universities and warned about the legal implications of politicizing land grant status as happened when Central State University pursued the same thing **BUT** got an Act of Congress passed to recognize them as a land-grant. The splitting of resources did occur in that circumstance even with an Act of Congress.

Due to the concern of states trying to stand up duplicative, new land grant entities, Congress included in Section 1419D of the Agriculture Improvement Act of 2018 (2018 Farm Bill, Public Law 115-334) a “Prohibition on Designation” and clarifying that “no additional entity may be designated as eligible to receive funds under a covered program” and “**No State shall receive an increase in funding under a covered program as a result of the State’s designation of additional entities as eligible to receive**

such funding.” This law specifically clarified “For purposes of this section, the term ‘covered program’ means agricultural research, extension, education, and related programs or grants established or available under any of the following: (1) Subsections (b), (c), and (d) of section 3 of the Smith-Lever Act (7 U.S.C. 343). (2) The Hatch Act of 1887 (7 U.S.C. 361a et seq.) (3) Section 1444, 1445, and 1447. (4) Public Law 87-788 (commonly known as the McIntire-Stennis Cooperative Forestry Act; 16 U.S.C. 582a et seq.).”

Federal capacity grants, also known as Formula Funds, provide annual funding to land grant institutions for research, education, and extension) through USDA National Institute of Food and Agriculture (NIFA). In Nevada, Smith-Lever Act and the Hatch Act are the primary sources of federal capacity funds for Cooperative Extension and the Agricultural Experiment Station, respectively.

The rural population of Nevada is one of the primary factors in the formulas to allocate these funds – it is rural Nevada and rural counties contributing the primary factor for federal funds. Yet, SB 287 can do nothing but divert resources from and assistance to Nevada’s rural people and communities.

For the Smith-Lever Act (Extension Funding), federal capacity grants provide about 65% of total federal funding for extension activities. These capacity funds are distributed on a base amount (at 1962 levels) and any sums appropriated by Congress in excess of the base level are distributed to states in the following manner:

- 20% equally to each state;
- 40% in amounts proportionate to **the relative rural population of each state to the total rural population of all states**; and
- 40% in amounts proportionate to **the relative farm population of each state to the total farm population of all states**.

For the Hatch Act (Experiment Station funding), federal payments have a fixed base (at 1955 levels) and any sums appropriated by Congress in excess of the base level are distributed to states in the following manner:

- 3% to the USDA for administration of the Hatch Act;
- 20% equally to each state;
- 26% to each state in amounts proportionate to **the relative rural population of each state to the total rural population of all states**;
- 26% to each state in amounts proportionate to the **relative farm population of each state to the total farm population of all states**; and
- 25% to the Hatch Multistate Research Fund for multi-disciplinary, multi-institutional research activities to solve problems concerning more than one state.

Designation as a land grant, since the First Morrill Act of 1862, was a means of linking federal support to the land grant college. Since its inception, federal land grant formula funds have always gone to

UNR. Subsequent to the original federal grant of land through the Morrill Act of 1862, the land grant supplementary Acts of Congress, namely the Hatch Act of 1887 and the Smith-Lever Act of 1914, have provided federal capacity funds through USDA for the Agricultural Experiment Station and Cooperative Extension, respectively. These supplementary land grant acts are married together with the original land grant act of 1862 and cannot be separated according to federal law and regulation and state law and SB 287 threatens to undermine this requirement. The State of Nevada assented in the Nevada Constitution and state law (NRS 396.690 through NRS 396.790) to expressly use land grant funding through a **singular** college of Agriculture as required in the federal land grant acts. Specifically, the Nevada Constitution calls for “all proceeds...for a college [singular] for the benefit of Agriculture...appropriated exclusively for the benefit of the first name departments to the **University** [singular] as set forth.” (Nevada Constitution Article XI, Sections 4 and 8). Neither UNLV nor DRI have a College of Agriculture and cannot receive land grant supplementary funds without running afoul of federal and State law.

SB 287 does not comport with the intent of the Land Grant Acts. The Morrill Act of 1862 was intended to use federal resources – grants of federal land – to build and run colleges for the agricultural and industrial classes. The federal government, through USDA, has continued to use federal resources to keep the original mission alive by providing annual capacity funding. SB 287 would only serve to divide and dilute this continued annual federal capacity support expressly working against the intent of the land grant acts. Also, as with any federal support, there are strings attached. The federal funds for the land grant, Cooperative Extension, and Agricultural Experiment Station require match and other obligations. Dividing the federal resources amongst UNR, UNLV, and DRI does not divide or lessen the federal mandates. SB 287 is based on specious assumptions that recognizing UNLV and DRI as land grants would create positive impacts on Nevada communities. SB 287 ignores the impacts and success of UNR through CABNR, UNCE, and NAES in all of Nevada’s 17 counties with overwhelming and substantial benefits to Clark County.

SB 287 will work to dilute resources and increase fiscal burdens on rural counties who are already struggling to meet rural research, extension, and teaching needs. Rural socioeconomic conditions in rural Nevada, where there is a major reliance on agriculture, needs strengthening of the UNR College of Agriculture, not impairing it like SB 287 would do. The bill will very likely reduce funding available to all counties, especially those outside of Clark County. If SB 287 were passed as is, there will very likely be a waste of public funds and unwarranted duplication rather than synergy of resources and staff. Rural county fears are bolstered by statements of groups in the past that have stated on the record that this is an effort to draw more state and federal money to Las Vegas.

When USDA was asked by R. David Paul (previously with UNLV) in 2015 to recognize UNLV with Land Grant Institution Status, USDA responded that that this request was worrisome and provided potential federal funding implications (see Attachment 5 at <https://www.leg.state.nv.us/App/NELIS/REL/79th2017/ExhibitDocument/OpenExhibitDocument?exhibitId=29128&fileDownloadName=Legal%20Analysis%20of%20Land%20Grant%20Status%20in%20Nevad>

[a%20Higher%20Education.pdf](#)). USDA requested specific information from UNLV providing "documentary support of the designation" as a "land-grant institution under the First Morrill Act." USDA also informed Mr. Paul that **there would be a split in capacity funds** and asked for documentation on how the funds would be split should UNLV, DRI, etc. be designated as land-grants. USDA said they would also seek a formal legal opinion from the USDA Office of the General Counsel after receiving the requested documentation from UNLV. USDA has not been able to complete their legal opinion because there is no "documentary support of the designation" available for UNLV to provide.

In 2017 with AB 407, the bill sponsors said on record quite a few times that it was not their intention to take resources from UNR. We hope this is the same intent with SB 287. If SB 287 is to be pursued, there must be a "no harm" amendment which states that upon Land Grant designation to UNLV and DRI that Federal and state land grant funding and resources will not be redistributed without UNR being completely compensated for the losses. Regarding the federal capacity funding, if SB 287 were to move forward it is crucial to amend with something like "Any federal funding received as outlined in NRS 396.690 through NRS 396.790 shall continue to be appropriated to and expended through the University of Nevada, Reno College of Agriculture."

Due to the breadth of legal, fiscal, and other issues associated with SB 287, we respectfully request that you do not pass it out of committee. If the Committee chooses to move the bill forward, at a minimum, please include the language above of "Any federal funding received as outlined in NRS 396.690 through NRS 396.790 shall continue to be appropriated to and expended through the University of Nevada, Reno College of Agriculture."