

**MINUTES OF THE MEETING  
OF THE  
ASSEMBLY COMMITTEE ON TRANSPORTATION**

**Seventy-Third Session  
April 7, 2005**

The Committee on Transportation was called to order at 1:30 p.m., on Thursday, April 7, 2005. Chairman John Ocegüera presided in Room 3143 of the Legislative Building, Carson City, Nevada. [Exhibit A](#) is the Agenda. All exhibits are available and on file at the Research Library of the Legislative Counsel Bureau.

**COMMITTEE MEMBERS PRESENT:**

Mr. John Ocegüera, Chairman  
Ms. Genie Ohrenschall, Vice Chairman  
Mr. Kelvin Atkinson  
Mr. John Carpenter  
Mr. Chad Christensen  
Mr. Jerry Claborn  
Ms. Susan Gerhardt  
Mr. Pete Goicoechea  
Mr. Joseph Hogan  
Mr. Mark Manendo  
Mr. Rod Sherer

**COMMITTEE MEMBERS ABSENT:**

None

**GUEST LEGISLATORS PRESENT:**

Assemblywoman Francis Allen, Assembly District No. 4, Clark County (part)  
Assemblyman Lynn Hettrick, Assembly District No. 39, Douglas County, Carson City (part), and Washoe County (part)

**STAFF MEMBERS PRESENT:**

Marji Paslov Thomas, Committee Policy Analyst  
Randy Stephenson, Committee Counsel

Angela Flores, Committee Manager

**OTHERS PRESENT:**

Edgar Roberts, Administrator, Motor Carrier Division, Nevada  
Department of Motor Vehicles

Ronald Levine, Assistant Managing Director, Nevada Motor  
Transport Association, Inc.

Matthew Christian, attorney, Las Vegas, Nevada

Matthew Sharp, Member of the Board of Governors, Nevada Trial  
Lawyers Association

Bill Bradley, Member of the Board of Governors, Nevada Trial  
Lawyers Association

Laurel Stadler, Director, Lyon County Chapter, Mothers Against  
Drunk Driving, Dayton, Nevada

Fred Haas, Detective, Las Vegas Metropolitan Police Department,  
Las Vegas, Nevada

Michael Geeser, Government Relations, Automobile Association of  
America, Las Vegas, Nevada

Rose McKinney-James, Legislative Representative, Clark County  
School District, Las Vegas, Nevada

Curtis Jordan, Superintendent, Esmeralda County School District,  
Goldfield, Nevada

Kevin Curnes, Transportation Director, Carson City School District,  
Carson City, Nevada

Samantha Blaney, Tour Bus Patron, Carson City, Nevada

Kurt Svare, Transportation Director, Washoe County School  
District, Reno, Nevada

Tom Fronapfel, Administrator, Field Services Division, Nevada  
Department of Motor Vehicles

Troy Dillard, Administrator, Compliance Enforcement Division,  
Nevada Department of Motor Vehicles

Martha Barnes, Administrator, Central Services and Records  
Division, Nevada Department of Motor Vehicles

Norm Chamberlin, Owner, Valley Towing, Carson City, Nevada

**Chairman Ocegüera:**

[Meeting called to order. Roll called.] [Opened the hearing on A.B. 505.]

**Assembly Bill 505: Revises provisions relating to registration of certain motor vehicles. (BDR 43-973)**

**Edgar Roberts, Administrator, Motor Carrier Division, Nevada Department of Motor Vehicles:**

[Read from [Exhibit B.](#)]

The Department, working with industry, is pleased to speak to you today regarding A.B. 505. I want to thank the Nevada Motor Transport Association for working with the Department and requesting this bill before you that will allow the staggering of the Motor Carrier registration renewal period for 100 percent Nevada-based vehicles. This bill will allow the Department, through regulation, to establish periods of registration as required by the Department.

The Department has estimated there will be some additional costs, as well as cost-savings in overtime associated with the implementation of A.B. 505, as reflected in our fiscal note. The Department has estimated there will be a one-time programming cost of \$33,500 for the Department's I.T. [Information Technology] staff, to make the necessary programming changes. However, cost-savings in the future biennia include a reduction in overtime cost of \$26,000 and a savings in our contract cost of \$6,000 by removing the 100 percent Nevada-based carriers portion from our outside vendor contract with Affiliated Computer Services, commonly known as ACS. The total future biennia savings amounts to \$30,900 per each biennium after forms and expenses are incurred.

Currently, all Motor Carrier registrations expire on December 31 of each calendar year. By staggering the registration renewal period of 100 percent Nevada-based vehicles, the Division will be able to more evenly distribute workload throughout the calendar year, providing more responsive and expedient customer service.

The Division plans to move the expiration date of one-half of our 100 percent Nevada-based licensees to March 31, and one-half of our 100 percent Nevada licensees to September 30 of each calendar year. The Division will gain opportunities for improving efficiency while opening a better line of communication between the agency and Nevada's motor carriers. There will be a shorter preparation time for mailing the annual renewals to our customers,

and Nevada's motor carriers will be assisted in managing their cash flow by spreading out their registration fees throughout the calendar year.

[Edgar Roberts continued.] Interstate apportioned vehicles will continue to expire on December 31. Nevada's motor carriers will continue to have the ability to pay their annual renewal fees in quarterly installments. There will be more consistent distribution of revenue throughout the year to Nevada's counties and the Highway Fund, providing those entities with the ability to forecast budgetary needs with increased efficiency and consistency. This is a win-win solution for both the industry and the Motor Carrier Division.

**Chairman Ocegüera:**

So basically, everything was happening on January 1, or some specific date, and now you're letting them start throughout the year, right?

**Edgar Roberts:**

Correct.

**Assemblyman Goicoechea:**

There wouldn't be the ability to register, say, for three quarters or two quarters. Even though you're Nevada-based, you would have to register for the full year whether you registered in March or September?

**Edgar Roberts:**

We prorate carriers who buy a new vehicle, to the end of the year.

**Assemblyman Goicoechea:**

It's been a long time, but we used to be able to drop a quarter and then maybe register for the balance of the year. But that wouldn't be available?

**Edgar Roberts:**

Yes. You can drop a quarter and apply for a refund.

**Assemblyman Carpenter:**

Does this have any effect on the vehicles that are under that apportionment situation?

**Edgar Roberts:**

This applies to our 100 percent Nevada-based carriers. Our apportioned carriers which travel within two or more jurisdictions will stay with their December 31 renewal period.

**Assemblyman Carpenter:**

Do you know what the rules are in regard to the apportionment of a vehicle—how long they have to stay in Nevada before they would have to register in Nevada?

**Edgar Roberts:**

Once a carrier stays in Nevada for over a 12-month period, we would request that they register with us as the base state.

**Assemblyman Carpenter:**

Is there any penalty or anything, or can you make them do that?

**Edgar Roberts:**

Yes, there is a penalty associated with that—a 10 percent penalty for not registering correctly.

**Assemblyman Carpenter:**

Do you do it on each vehicle? It's not a company; it's based upon the vehicles, right?

**Edgar Roberts:**

Correct. It's based on the vehicles.

**Ronald Levine, Assistant Managing Director, Nevada Motor Transport Association, Inc.:**

For the record, we are in support of the bill. We figure it is a win-win situation for the state and for industry, and we support the staggered registration for the Nevada-based companies.

**Chairman Ocegura:**

We'll close the hearing on Assembly Bill 505. The Chair would be inclined to take a motion.

ASSEMBLYMAN GOICOECHEA MOVED TO DO PASS  
ASSEMBLY BILL 505.

ASSEMBLYMAN MANENDO SECONDED THE MOTION.

THE MOTION CARRIED. (Mr. Sherer was not present for the vote)

**Chairman Ocegura:**

We'll go to A.B. 261 now, Ms. Allen.

**Assembly Bill 261: Revises provisions concerning negligence and causation in relation to certain acts of unrestrained riding within or upon motor vehicle. (BDR 43-900)**

**Assemblywoman Francis Allen, Assembly District No. 4, Clark County (part):**

Assembly Bill 261 would alter Nevada's seatbelt laws by removing provisions that prohibit the introduction of evidence of nonuse of a seatbelt in civil proceedings to show negligence or causation. Currently, a plaintiff injured in an automobile accident, who is not wearing a seatbelt, can sue for the full amount of damages suffered, even when those damages could have been significantly reduced or even eliminated if the seatbelt had been worn, as required by the law. Most states in the west permit the introduction of evidence of the nonuse of seatbelts. This bill would permit judges to make the decision whether or not seatbelt use is relevant. Currently, there is no judicial discretion. Nevada's seatbelt laws should be encouraged, and the use of a seatbelt should be encouraged. We shouldn't reward citizens who fail to wear them.

**Matthew Christian, Attorney, Las Vegas, Nevada:**

Our firm did take a case that involved an automobile collision. We were representing the defendant in the case. I was surprised that under the Nevada statutes, evidence of the plaintiff's nonuse of a seatbelt was explicitly inadmissible in the case. Our case was interesting on this point because evidence was that the plaintiff would not have been injured, or would have been much less injured, had he been wearing his seatbelt. In my research on this issue, what I uncovered was that in most other states, the nonuse of a seatbelt was admissible in state court to show that the plaintiff either contributed to his own negligence or failed to mitigate his damages, or was somehow responsible for his own damages. In these other states, however, the big difference is that there was no statute that explicitly directs a district court or trial court on how to exercise its discretion with regard to this sort of evidence.

I think the history of how this provision got into our statutes is particularly interesting, and I thought I would quickly go through it. The four provisions that this bill would change specifically state that evidence of nonuse will not be admissible to show causation or negligence in a civil case. The provisions were passed in 1969. At that time, Nevada, like most states, followed the rule of contributory negligence. Under that rule—it was a very harsh rule—the plaintiff, if they were negligent at all in causing their own damages, was barred from recovery altogether. For instance, if a person slipped and fell in a grocery store and there was a puddle of water on the floor, it was the fault of the grocery store. If the plaintiff was running around or was not paying attention, evidence

of the plaintiff's own negligence would have barred recovery altogether. That was a very harsh rule, and because of that, courts tended to restrict the type of evidence that was admissible to show a plaintiff's contributory negligence. In 1973, however, Nevada, like most every state around that time, did away with contributory negligence in favor of comparative negligence. Now, in that scenario, the plaintiff would recover something, but his damages would simply be reduced by the amount of his own negligence, as would be determined by a jury.

[Matthew Christian continued.] In the other states that accept what is known as the seatbelt defense—in other words, the admission of evidence that the plaintiff was not using his seatbelt when injured in a car crash—the discretion is left entirely to a judge. In the 1960s and before, these other states had the same rule that we have in Nevada; this sort of evidence is not admissible. It was because of the contributory negligence rule. When those other states developed comparative negligence, which was a much less harsh rule on the plaintiffs, the courts modified this rule and began permitting the introduction of evidence of the nonuse of the seatbelt. Again, here in Nevada, courts don't have that discretion because unlike most other places, our rule was codified, and that code has not been changed.

There are a couple of other reasons why other state courts, at their discretion, have decided to allow in evidence the nonuse of a seatbelt to show a plaintiff's negligence or the causation of his own damages. Those are: federal law now requires the installation of seatbelts in every vehicle and states now require the use of seatbelts under their own statutes. And probably one of the most important things is scientific and statistical evidence is now very clear that the use of seatbelts is a good thing, it saves injuries, and it saves lives.

In 1969, when our provision was passed, that statistical and scientific evidence was much less clear and it was much less easy to show that a plaintiff caused his own injuries by not wearing a seatbelt. In summary, what the bill attempts to do is allow the courts to have the discretion of whether or not this evidence should be admitted. Courts generally have that discretion with most types of evidence. This is unusual to have a provision that specifically mandates how a court will exercise its discretion. When courts could exercise their discretion, and exercise it in a way of precluding this sort of evidence, it was long ago and times were far different. Today, we have mandatory seatbelt laws, we have better evidence, and we have comparative negligence as a standard instead of contributory negligence.

The bill makes good sense. It would enable courts to adopt a more modern rule. As Assemblywoman Allen has already stated, it certainly would encourage the

use of seatbelts and promote Nevada's other laws that obviously require the use of seatbelts.

**Assemblyman Hogan:**

Could you clarify the effect of this change on the situation of a taxi or limousine passenger who fails to secure his or her seatbelt in the vehicle?

**Matthew Christian:**

This bill changes four sections of the statutes that govern when and where a seatbelt must be worn, or, for instance, when a baby must be restrained. Wherever those provisions appear in the statutes, there also appears this provision that says it's the law to wear a seatbelt, or it's the law to put your baby in a seatbelt. A little further down in the provision it says, but if you don't, and you're injured because of that, not wearing a seatbelt won't come in as evidence. So, in the statutes wherever the provision is with regard to taxicabs, it would also affect that same provision in the same ways.

If it's required to wear a seatbelt in a taxicab, and one is not worn or the taxicab does not provide the seatbelt, then that evidence would now be admissible.

**Assemblyman Hogan:**

Does the effect of the provision with respect to taxicabs and limos essentially make the owner or operator of the taxicab not responsible if they have provided working seatbelts and the required sign reminder to passengers? It would tend to shift all the risk to the passenger and pretty much eliminate—or make unlikely—the liability of the owner/operator.

**Matthew Christian:**

I would certainly think so. As long as the responsibility under statute is followed to either wear the seatbelt or provide the seatbelt, the provisions would only change the injured person's ability to sue for as much. To clarify, this bill does not in any way preclude an injured person's ability to sue, and it certainly doesn't direct a judge to automatically admit evidence of the nonuse of the seatbelt. That would be up to the judge under Nevada's evidentiary code. Some evidence is relevant, some of it is not relevant, and in a certain case, the nonuse of the seatbelt would arguably have nothing to do with whether or not the plaintiff was actually injured, and a judge would have the discretion not to admit that evidence. Right now, there's no discretion. It is not admissible, period.



**Assemblywoman Gerhardt:**

I am envisioning a situation where there has been an accident and in the heat of the emergency, obviously the seat belts are taken off. Once it gets to court, are victims going to be put in a situation where they have got the burden to prove that they did, in fact, have those seatbelts on?

**Matthew Christian:**

That's where the court's discretion, and subsequent to that, the jury's discretion, comes in. That's like any other bit of evidence introduced to trial. If the injured person was wearing a seatbelt and that's what they testified to, or when the medical people arrive on the scene and they testify that the seatbelt was buckled. In every police report I've seen in a case like this, the police have to check off whether the seatbelt was worn or not. I think whether they were or not is going to be easily proven, and where it is a factual issue as to whether they were or not, that would be a decision that would be left to the jury, like any other factual issue that's in contention.

**Assemblywoman Gerhardt:**

I guess I would disagree; this is not going to be easily proven, because I think most first responders would say that most people, if they are able, are out of the car by the time they respond, and oftentimes that's the same case with the police officers. If there are injuries and they're able to get out of the car, most people are going to get out of the car.

**Matthew Christian:**

Absolutely. If a defendant's theory of the case was that the plaintiff was not wearing a seatbelt and that contributed to the plaintiff's injuries, the fact of the nonuse, it would be the defendant's burden to prove that, not the plaintiff's burden.

**Assemblywoman Gerhardt:**

But it will be an issue that will come up.

**Matthew Christian:**

It could be, sure. Whereas right now, it could never be an issue, because it's not admissible.

**Assemblyman Manendo:**

What happens to the victim who's not wearing a seatbelt?

**Matthew Christian:**

The victim is certainly still able to sue. For instance, in a case I was involved in where this issue first came up, the plaintiff in the case was driving his vehicle.

He was not wearing his seatbelt. He was struck by another vehicle. The defendant was clearly liable. The defendant struck the plaintiff. So the primary negligence in the case was on the defendant. Mitigating circumstances or the contributory negligence could've been the failure to wear the seatbelt. This provision doesn't in any way eliminate a plaintiff's ability to sue. It would only in certain cases enable a defendant to argue that the damages should be reduced in some way, as determined by a jury, by the amount of negligence attributable to the nonuse of the seatbelt. In a comparative negligence state, like we're in, when a negligence case goes to a jury, the jury is given the ability—actually the obligation—to determine how much negligence should be attributed to each party. If the jury determines that the defendant running into the other car is 90 percent of the cause of the injuries, then the plaintiff will recover 90 percent of his damages. If 10 percent is attributed to the nonuse of the seatbelt, then the total of damages would be reduced by 10 percent. And that goes in any negligence case in Nevada. My previous example—if you slip and fall in Albertson's and 10 percent of it was your own lack of attention, or you were running or not paying attention—the jury would have the ability to assess that and to attribute the amount of negligence to each party, and this would just allow the same thing to happen.

**Assemblyman Christensen:**

Some bills are very colorful, others are monochromatic. I'm thinking this is one of the more monochromatic bills, and so I'm trying to understand. It seems like you're trying address something very specific. As we're looking at bills, laws, changing things, revising statutes, and putting things into statute, it's typically designed to help somebody in need, or help a situation that needs help. Who is this designed to help? Who is the real benefactor of this bill that we're talking about?

**Matthew Christian:**

The benefactor is just everybody in the state of Nevada who's required to wear a seatbelt because the way the law is written now, it's inconsistent. You're required to wear seatbelts, but at the same time, there's no consequence if seatbelts are not worn. I think the benefit is to everybody. It encourages safety.

**Assemblyman Christensen:**

Give me a very quick example of how it benefits me.

**Matthew Christian:**

For instance, if someone is injured in an accident and they're not wearing their seatbelts, their damages could be higher because of the nonuse of the seatbelt.

**Assemblyman Christensen:**

Because of their negligence.

**Matthew Christian:**

Because of their own negligence, right. I guess the benefit is simply the consistency in the law, to encourage the use of seatbelts, and maybe to not provide what I think I called at some point a perverse incentive not to wear a seatbelt. The nonuse of a seatbelt could actually increase the amount of your recovery. Anything that would encourage the use of seatbelts would benefit everybody in the state.

**Assemblyman Christensen:**

I agree. In fact, that's an example I often use as far as cultural change. Twenty years ago, hardly any of us wore seatbelts. Now I'd say 90 plus percent of us do.

**Matthew Sharp, Member of the Board of Governors, Nevada Trial Lawyers Association, Reno, Nevada:**

We are opposed to A.B. 261. Negligence, simply put, is paying attention to your driving. The seatbelt bears no correlation to the cause of the accident. If I run a red light and happen to hit somebody, I'm negligent, I'm responsible. We have a longstanding principle under the law that you are responsible for the person you hit. You fix what you broke, period. It's not intellectually consistent to say the seatbelt—or lack thereof—bears any correlation in that question.

Certainly all of us would encourage people to wear seatbelts, but the fact of the matter is, I'm sure each one of us in this room from time to time, regardless of what we've heard on radio ads or newspapers, has driven a vehicle without a seatbelt. Again, that doesn't bear any correlation to whether or not I'm paying attention on the road; whether I caused an accident or not. That's the longstanding principle there. In addition to that, we keep talking in these various committees about how to streamline the litigation process to make things more accessible to both sides in a courtroom. Here's a situation where you're inviting litigation virtually in every case on the question of the seatbelt.

As Assemblywoman Gerhardt points out, generally whether or not a seatbelt is worn by somebody is that person's testimony. Very rarely is there going to be a witness to verify that. There are cases—unfortunately not unique—where seatbelts fail, and/or people have different recollections of events surrounding the seatbelt. Now you're going to create a whole other area for litigation, so Mr. [Bill] Bradley and I will now have to hire an expert on seatbelts, because the insurance company will have their experts as they always do—they have in-house experts. So now we've created another area of cost, and who

ultimately pays for those costs? Well, it's going to be the victims; the insurance companies are going to have to pay for that. It's going to cost more money and more time. I'm not aware, in a given accident, if the precise scientific evidence can prove that a particular injury would not have occurred but for a seatbelt. Whereas facially something like this sounds good; it may even look good. When you scratch below the surface, it doesn't make any sense in a litigation setting, and that's why this state has had a longstanding public policy that the seatbelt is not related to the accident itself.

**Bill Bradley, Member of the Board of Governors, Nevada Trial Lawyers Association:**

This bill originally came in about 20 years ago. Quite frankly, it was at the time when airbags were just starting to be considered necessary safety devices in an automobile. The Automobile Manufacturer's Association was actually represented by Spike Wilson. The Automobile Manufacturers came forward with the bill in all 50 legislatures because if they got two-thirds of the legislatures to approve a mandatory seatbelt law, then they got to delay the implementation of airbags for an additional five years. The public policy back then, although it sounded good, and we all thought we were about safety, was pure, hard politics in terms of giving the manufacturers a break for a period of time while they refined the art of constructing airbags.

There is a certain class of engineer called a biomechanical engineer, and sometimes they have some medical background and some engineering background. You get competing biomechanical engineers to come in and testify. The biomechanical engineer that I hire—who charges approximately \$5,000 to \$10,000—will testify that the failure to wear a seatbelt did not make a difference. The in-house insurance industry expert biomechanical engineer will come in and testify, "oh yes, it would've made a huge difference." You get a significant increase in the cost of litigation and it doesn't benefit society.

There is a penalty here, and the penalty is a criminal penalty for failing to wear a seatbelt. That is the penalty that should be imposed, not an additional penalty in terms of the impact on civil litigation.

**Laurel Stadler, Director, Lyon County Chapter Mothers Against Drunk Driving, Dayton, Nevada:**

This bill first came to my attention because it had to do with seatbelts, and after looking at it, it could in some cases be punitive to innocent victims. I appreciate you bringing that up. If the goal of this bill is to make people wear their seatbelts, we would definitely support a primary seatbelt law.

**Chairman Ocegüera:**

I will close the hearing on A.B. 261.

**Vice Chairwoman Ohrenschall:**

[Opened the hearing on A.B. 368.] Mr. Ocegüera, you may proceed.

**Assembly Bill 368: Authorizes designees of certain law enforcement officers to remove abandoned vehicles from public property. (BDR 43-356)**

**Assemblyman Ocegüera, Assembly District No. 16, Clark County (part):**

Currently, only commissioned officers, marshals, sheriffs, and similar law enforcement personnel are authorized to remove abandoned vehicles from public property. Assembly Bill 368 authorizes designees of sheriffs, marshals, and policemen to remove abandoned vehicles from public property in their jurisdiction. The designee must be affiliated with law enforcement, such as a cadet or a parking enforcement officer. Under the provisions of A.B. 368, a commissioned officer will continue to respond to a call concerning an abandoned vehicle; however, if the officers are busy and need to be available for other calls, a cadet or some other type of law enforcement official can stay with the abandoned vehicle until it's removed.

**Assemblyman Sherer:**

I really like this bill, Mr. Chairman. In the district I represent, there are a lot of old vehicles which have been there for a long time. To clean up some of the areas, such as Mina, we had to get title searches and all those things to get rid of them. Does this take care of that issue?

**Assemblyman John Ocegüera, Assembly District No. 16, Clark County (part):**

I don't know that this bill specifically does. However, I think another bill that we're going to hear in a minute from Mr. Hettrick addresses that concern. I know Mr. Carpenter has a concern along the same lines, with trailers in parks or abandoned in the desert. I think that we can probably create an amendment in one of these bills to address that as well.

**Fred Haas, Detective, Las Vegas Metropolitan Police Department, Las Vegas, Nevada:**

We are in full support of this bill and thank Chairman Ocegüera for bringing it forward. This is going to affect Metro [Las Vegas Metropolitan Police Department] by allowing the first responder commissioned officers to respond to the high priority calls first and allow our cadets and public service

representatives to take care of the recovery of stolen vehicles and vehicles that are left abandoned in the areas of the jurisdictions.

**Vice Chairwoman Ohrenschall:**

It certainly seems as though it's the most efficient use of talent.

I'll declare the hearing on this bill closed. I'd be willing to take a motion.

ASSEMBLYMAN ATKINSON MOVED TO DO PASS A.B. 368.

ASSEMBLYMAN SHERER SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

**Chairman Oceguela:**

I'd like to open the hearing on A.B. 411.

**Assembly Bill 411: Requires appropriate safety restraints in school buses.  
(BDR 34-260)**

**Assemblyman Kelvin Atkinson, Assembly District No. 17, Clark County (part):**

When we get to talking about children and the safety of kids, I get a little passionate, and I get a little frustrated sometimes. Some of you sit on Government Affairs where we talked about sidewalks—another issue dealing with children's safety in school. This bill is in that same scope. This is a bill that came to me from some concerned parents in my district. Those concerned parents see the same television footage that we see sometimes when school buses are in accidents. Back in January or December, a school bus in Ohio luckily had a camera in it so we could get a vision of what happened when that bus turned over and how all the kids' heads hit the roof. A lot of those kids were injured.

I asked for this bill to take a look at the feasibility, cost, and what it would take to have school buses equipped with restraint devices. I know you'll hear testimony that talks about the fiscal impact, how much it's going to cost the district, and what it's going to do to certain budgets. I'll say to you what I said about the sidewalk bill. When it comes to children's safety, I don't think we can spend enough. We do a lot in the Legislature where people talk about a waste of taxpayer dollars and how we're utilizing our time. This is a good use of our time and it's a good use of taxpayer dollars to have seat restraints in school buses.

**Assemblyman Claborn:**

I've often wondered why in the world they didn't have seatbelts in school buses. Is it really the money? Can't they buy these buses with seatbelts already installed in them?

**Assemblyman Atkinson:**

Those are the same questions I had. I did get a small synopsis from the School District just today explaining some of it. Ironically, I had someone tell me, "Well, no one else does it." That kind of touched me. Because no other state does it, does that mean Nevada shouldn't do it? Nevada is always the last at everything, and if we did something like this, it sure would make us look good, being number one in something.

**Assemblyman Christensen:**

I think it's a great bill. I support it, as a father of four young boys who are in public school. I can only imagine what they're doing on their bus. I like the idea of them being restrained. I've seen the video footage that you're referring to and I wish I could find it to show everyone who has any question on this. Those children inside of that enormous school bus were like marbles in a candy jar, being thrown all about. As a father, just imagining, what if those were my kids, what would I do? I'm with you. I would do anything to make sure that my kids, or anyone else's kids, don't suffer what those little innocent kids went through because somebody didn't put a seatbelt in the school bus and made sure that they buckled it.

**Assemblyman Atkinson:**

When I talked about that video—and I couldn't get a copy of it to play it today—it was around that time that I went to a neighborhood meeting in my own district where parents were just screaming. One of them said to me—which resonates with me today—that there's a law in place for us to put on seatbelts in our vehicles, but we don't have that same law that applies to school buses. That's what struck me, and it was about an hour after that when I called the LCB [Legislative Counsel Bureau] and asked them to get a bill draft going on this. The other irony is that the driver of the school bus does have a seatbelt.

**Michael Geeser, Government Relations, Automobile Association of America, Las Vegas, Nevada:**

We support A.B. 411 by Assemblyman Atkinson. The bill would require seatbelt restraints to be installed on school buses. It would also allow the parents or legal guardian the chance to get some sort of clearance or notice from a medical doctor stating that they don't believe it's in the best interest of their child.

There is a lot of evidence out there on both sides of this issue; evidence that determines it's harmful, and evidence that determines it's helpful. AAA's position is that there simply is a lack of analysis, and at this point, we believe we should simply, in this state, err on the side of caution. These are our children we're talking about, and if it's an issue of money, that's one thing. But if it's simply an issue of traffic safety, AAA spends a lot of time, money, and energy around this state, in particular, advocating the use of safety restraints. We fully support this bill.

**Assemblyman Christensen:**

What other states have passed this kind of legislation? Either they've passed it so they've gone and retrofitted buses, or they've made it to where every bus that districts buy from now on uses some form of restraint.

**Michael Geeser:**

I simply don't have a list of states that require the restraints now. Much of that evidence stating that these are harmful to children relied on a lap belt, and when I say the word "lap belt" that has a different meaning than a restraint. A lap belt—and maybe some of you can remember back to when you were in school and rode a bus—simply went across your lap. The two-point and three-point harness restraints that are now in use, come over your body and create a different type of restraint than that lap belt did. What AAA would like to see is more evidence shown on what these restraints do, as opposed to the lap belts.

**Rose McKinney-James, Legislative Representative, Clark County School District, Las Vegas, Nevada:**

I might ask your indulgence, Mr. Chair. I am not the expert for the Clark County School District on transportation. I have provided the Committee with some handouts ([Exhibit C](#)), but in order to make the testimony more meaningful, I might defer to my colleagues and then offer some specific comments.

**Curtis Jordan, Superintendent, Esmeralda County School District, Goldfield, Nevada:**

I am here to oppose A.B. 411 because it's another unfunded mandate that is going to create a hardship for our district. We may have to eliminate much of our busing, if it's passed. We bus children about 100,000 miles a year and we do not have a single bus in our fleet that we can put restraints in at this time without completely renovating them. We haven't purchased a new bus since as long as anybody in the District can remember; I think it was 15 to 20 years ago. We buy second-hand or used buses, through the gracious contributions of Clark County, Carson City, and Washoe County. We buy their used buses and use those. They're very effective for us. Our problem is the cost of renovation.



[Curtis Jordan continued.] Certainly, I could support this bill to a certain degree if you will fund it 100 percent. If we had to use our operating budget to renovate our buses, we would have to shut our transportation department down. Once they're renovated, then we have the problem of who monitors the seatbelts. You put a driver on a bus with 60, 70, 80 kids, and is that driver supposed to walk around and make sure all those seatbelts are fastened? Or, when a student gets on the bus, is that driver supposed to escort that student to his or her seat to make sure it's buckled? We feel this will probably lengthen the route time, up to double or triple, which will increase our operating costs significantly. It will also upset a lot of parents when their kids have to be picked up an hour earlier than they are now. The other alternative, of course, is that we could hire an aide to put on the bus to walk around and make sure all the seatbelts are buckled and that they remain buckled. But there again—operating costs. Do we pull our aides out of the classroom and put them on the bus to watch seatbelts, because we certainly can't afford both?

You talk about safety—we have people on both sides of that. It's the opinion of our transportation directors and drivers that if they have an emergency situation with 60-80 kids strapped in a bus, it's going to be very difficult for one person to get those belts undone and get those kids off the bus. If that bus catches fire, you're going to have one big disaster. I believe that if this bill passes without funding, we're going to have to eliminate much of our busing.

**Assemblyman Atkinson:**

You mention that it's an unfunded mandate, and I think we understand that there's a financial part of this. But I take exception to safety for kids being "an unfunded mandate." I heard your testimony about how much it's going to cost, but no solutions. Would you have a solution to this problem?

**Curtis Jordan:**

A solution, sir, would be for the Legislature to include the funding to do it.

**Assemblyman Atkinson:**

So if we included the funding, you wouldn't have an issue with it, and think it would be a good idea?

**Curtis Jordan:**

Well, I could live with it. I'm not totally convinced it would be a good idea, because I haven't seen the effect seatbelts are going to have on little kids when you haul them for two or three hours at a time.

**Assemblyman Atkinson:**

If we come up with the funding, do you think it's a good idea?

**Curtis Jordan:**

I think I could support the idea.

**Assemblyman Hogan:**

You've indicated it would be a crushing financial burden, particularly in the case of your county and the way you've acquired and nurtured over the years all of these vehicles. Do you have at least a ballpark number as to the cost per seat of providing the necessary implements?

**Curtis Jordan:**

Not at this time. My transportation director is working on that and I can email you that.

**Chairman Oceguela:**

Mr. Hogan, the Esmeralda County School District has indicated that they would have to purchase two new buses and that would be \$80,000 in each fiscal year; \$80,000 in FY2006 and \$80,000 FY2007, for two new buses.

**Curtis Jordan:**

I think that should've been per year. We couldn't buy two new buses for \$80,000. We have four route buses and activity buses. We'd have to replace them all. I don't think there are any used or renovated buses in the state. There may be outside the state somewhere where we could pick them up.

**Assemblyman Hogan:**

Are there any new buses available already equipped with restraints?

**Kevin Curnes, Transportation Director, Carson City School District, Carson City, Nevada:**

Yes, all manufacturers do have that option available at this time.

**Chairman Oceguela:**

You said it was an option?

**Kevin Curnes:**

It's an option.

**Chairman Oceguela:**

It would be interesting to know if we're buying buses with seatbelts in them now.

**Kevin Curnes:**

Not in the state of Nevada.

**Chairman Ocegüera:**

We're not buying them with seatbelts? Interesting.

**Assemblyman Hogan:**

Do you have a rough idea of the difference in the cost of a new school bus with and without the restraints?

**Kevin Curnes:**

Depending on the manufacturer, anywhere from \$5,400 to \$8,000 per unit more.

**Assemblyman Sherer:**

It has the number of seats on this cost chart ([Exhibit C](#))—28 seats—but is that three kids per seat or two kids per seat?

**Rose McKinney-James:**

The document that you're referencing ([Exhibit C](#)) is from the School District, and what you have before you is an overview of all of the buses by model year. It varies from model year to the buses we're looking at in terms of the seats. But generally, we have three kids per seat in the buses, on average.

**Assemblyman Atkinson:**

I know there are a number of new buses in the School District that we have purchased that aren't even being used. When we have that kind of situation, do we ever have the opportunity where we can help other districts or other counties?

**Rose McKinney-James:**

I am not aware of a budgetary mechanism that allows us to do that. I believe that after a bus has a certain amount of use, we may have a program where we then provide those to some of the smaller counties at their request, and I believe Mr. Jordan probably has a better working knowledge of how that works.

**Curtis Jordan:**

We are allowed to purchase buses after they're depreciated out, or reach a point where they are obsolete. We purchase them at a very reasonable rate, either through the auction or directly. We certainly have no means to purchase their new buses. They buy new ones, we get their old ones.

**Assemblyman Atkinson:**

Then that means you could get them for a lot less than the price you gave us a moment ago, is what I'm saying.

**Curtis Jordan:**

Yes, but those are the buses that wouldn't be renovated. We'd have to go in and renovate those buses, put new seats in with the restraints and all that.

**Assemblyman Atkinson:**

But they would still be less than the \$80,000 you quoted us.

**Curtis Jordan:**

I am not sure of that.

**Chairman Ocegüera:**

Mr. Christensen, our researcher found us that information. As of 2004, New York, California, Florida, Louisiana, and New Jersey all have seatbelts mandatory in school buses. Minnesota has seatbelts, but it's permissive language, so it's not mandatory.

**Assemblyman Christensen:**

What will be interesting is talking to some of our colleagues who represent those states to find out what they went through—how they handled this. I see a new opportunity now in retrofitting Blue Bird and Thomas buses with restraints. I'm going to figure out some way to do that in a cost-effective way for you, Mr. Superintendent.

From a high level, I'm very interested in knowing more about what kind of tests have been done. If these big states have enacted this kind of legislation, I'm sure there is some research that they have done. If anybody out there has anything that can help this Committee understand this a little bit deeper and also help our comrades in the finance committee understand this, I think that would be helpful.

With respect to your point, Mr. Superintendent, on who monitors this, it's a valid point that you raised. In a situation where you have to evacuate quickly, then what? Who's going to get the kids off the bus? I can understand that point. At the same time, I'm looking at it from a high level and I'm thinking it's similar to my aunt's 15-passenger van. When something bad happens, we have to judge what's worse, the impact, or fire or water coming into the vehicle. I think research will help us understand that. At the end of the day, who monitors this? I don't think we have to put an aide on the bus or anything like that. Keeping the kids in the belt, training them, this is a cultural issue. Twenty years

ago, I didn't wear a seatbelt and neither did my family. Hardly anybody did. It was a cultural issue. Somebody out there started the buckle-up campaign, it caught on, and it changed things over time.

[Assemblyman Christensen continued.] Over a couple year's time, as you and your School District and other districts take this upon themselves to just plant it in the students' minds, eventually they'll get on the bus, sit down, and buckle up. I think that'll happen. You make a fifth-grader the weekly monitor on the bus to make sure all the kindergarteners and first-graders are buckled up. I think we can do this without any kind of fiscal impact. If the research supports this and we can make this happen, at the end of the day I think we'll have safer kids. There are always ways to bring great ideas to the table and make good things happen.

**Kevin Curnes:**

A couple of questions have been asked that deserve some follow-up. There are three major organizations that have done extensive studies. One of them is the National Highway Transportation Safety Administration (NHTSA). The other one is the National Transportation Safety Board (NTSB), and the other is the National Academy of Sciences (NAS). I just pulled up the latest quote on the NHTSA site, and their statement is, "Because the safety record of school buses is outstanding, and because there is no compelling evidence to suggest that seatbelts would provide even higher levels of occupant protection in crashes, NHTSA agrees with the NAS report that there is insufficient reason for a federal mandate for seatbelts on larger school buses." One of the reasons for this is, a school bus is not built like an automobile. A school bus is heavier, bigger, taller, and the impact zones are farther off the ground. You've got a system called compartmentalization, which envelops the children to protect them, and that's using well-padded, evenly spaced, forward facing flexible seats to absorb the energy in case of an accident. Does it do well in a roll-over? No, but the protection afforded to the students is there for that.

Another concern that our school district has in retrofitting older buses, is that all buses are made to Federal Motor Vehicle Safety Standards (FMVSS). How do we ensure that when we retrofit an old bus, it's still safe once it is done? There is no vehicle in the industry to take that bus, after we have put seatbelts into it, and to have it checked. All of your studies right now point to where a lap belt is insufficient and would possibly cause more injuries. You would have to go to a 3-point harness system, in which you would lose 34 percent of your seating capacity in every bus. That means you go from three elementary students to two in a seat. For the Carson City School District, that requires us to put on six more units, which would be a cost of \$450,000.

[Kevin Curnes continued.] Continuing costs would be about \$157,000 a year for drivers, overhead, and maintenance on that unit. I don't think cost should be the consideration on this. Right now, we are 172 times safer in a yellow school bus than in a passenger car. There are more children killed on the outside coming to and going away from a bus than there are in a bus accident. We need to look at other areas that would give us more bang for our buck. We need to look at our load zones; we need to look at the passers-by who go through red lights when we're loading and unloading children. What it's going to cost to retrofit it depends on the unit's age and condition. Some of the older units, such as in Esmeralda, won't be able to be retrofitted. The seats do not meet the current FMVSS. Those would either have to be replaced, or the bus be replaced. I know we have sold some of our older units to other school districts, and those could not be retrofitted. They would have to be replaced.

**Assemblyman Sherer:**

Over the past three years, how many accidents have there been in Clark County, Esmeralda County, and Churchill with buses? Can you give me a ballpark figure on that?

**Kevin Curnes:**

In the last five years, counting non-fault and fault accidents, we have reached maybe two per year. So that would be 10 to 12.

**Curtis Jordan:**

In the three years I've been in Esmeralda County, we have had none.

**Rose McKinney-James:**

Mr. Sherer, I do not have that statistic, but I would happy to provide it for you.

**Assemblyman Goicoechea:**

Do passenger buses—Greyhound, et cetera—have seatbelts?

**Samantha Blaney, Tour Bus Patron, Carson City, Nevada:**

No, they do not, Mr. Chairman. I just came in on a tour bus and it did not have seatbelts.

**Rose McKinney-James:**

We are grateful when the Legislature recognizes that these are issues that we are all wrestling with and we appreciate the fact that you feel strongly enough about it to bring it forward in this measure. The reason that we are required to stand opposed to the bill is related to a couple of areas. The first has been articulated, and this is that there are substantial costs associated with the

purchase of school buses that have safety restraints, either a lap belt or the 3-point safety harness that's referenced in your bill.

[Rose McKinney-James continued.] In addition to that, we struggle with trying to find the right balance in public policy. This topic has been under discussion for decades. As I did my research, I found references in our files to 1987. In 1987, the NTSB recommended against equipping school buses with lap belts, and in March, 1987, the National Education Association voted to oppose mandatory seatbelts. Congress in 1987 requested that the National Academy of Sciences examine the causes of bus accidents and evaluate the effectiveness of safety measures including seatbelts, which might better protect children while they are boarding, riding, and leaving school buses. The National Academy of Sciences National Research Council issued its report in May, 1989, and it recommended that seatbelts not be required on school buses. They recommended that additional attention be given to bus driver training, stop signal arms, school bus routing, pedestrian safety of school children, and cross-view mirrors.

It would appear that over the course of this discussion, based on the research that you have referenced here, there are other states which somehow have gotten beyond this. We are still struggling with this, and I think it's fair to say that the jury is still out with respect to whether or not seatbelts on buses are truly effective, or whether they cause additional hazards. The hazards that I reference are things like: what happens when a rambunctious child trips over a belt, or the harness, or in their excitement to board the bus, doesn't recognize traffic signals? They run around the bus into the traffic. Our emphasis has been on the areas that were recommended by the National Academy of Sciences which related to the bus routing, pedestrian safety, and driver training.

There's been some discussion with respect to retrofitting. We obviously have already invested a substantial amount of our budget in our bus fleet, and as a result, the document that I have shared with you ([Exhibit C](#)) indicates that a retrofit—just for the lap belt, not the 3-point—would be \$1.9 million. The director of our Department of Transportation indicates to me that if we would go to the 3-point safety belt, it could be \$8.2 million to \$11.7 million, assuming that our current buses could even be equipped with the 3-point safety belts. These are logistical challenges that we face.

As the superintendent has indicated, if the resources were available, at the very least we could look to some sort of pilot program, or some means of determining whether or not this would make sense for our fleet. The record needs to be clear that all of our special needs buses—every special needs bus that we own—is equipped with a restraint. All the buses that we have

purchased since and including model year 2000, which are what we call seatbelt ready, meaning that the seat frames in these buses are designed to accommodate the bolt on mounting of a belt assembly, are designed to withstand the forces involved with a crash. This requires a minimal amount of labor time to install each assembly, and all buses prior to that would require the belt assemblies to be bolted to the floor, which is probably not a favorable scenario, given the fact that we have youngsters who are not always prepared in their own minds to be as safe as they need to be.

[Rose McKinney-James continued.]We're able to sit three elementary students, or two middle or high school students, in a 39-inch seat, and that's our standard seat. You cannot outfit a 39-inch seat with three shoulder harnesses. There are several options that we could consider to retrofit a bus, but it would result in reduced seating, additional costs, and of course the labor that's associated with it. I don't want to belabor the three points. I want to go back to the point where we're focused on child safety and we appreciate the fact that you are, as well. If we can find that middle ground, and we can pay for the middle ground, we would be happy to work with you. As the bill is currently written, we are opposed.

**Chairman Ocegura:**

I haven't even talked to Mr. Atkinson about this, but what if we said, any bus you purchase beyond FY2007 would have to be seatbelt equipped. We then set some date in the future, 6 years out, where you haven't budgeted for it yet, so that you can budget for it.

**Rose McKinney-James:**

I'm not sure that my opinion really counts, but I believe that we would be willing to discuss that. Obviously, having the resources makes a big difference. Coming to terms with the policy issues—again, we don't have an aide on every bus to oversee the strapping and unstrapping of seatbelts for little ones who might become confused, so that's an additional issue. What I provided to you are the costs associated with installing those assemblies. We would be willing to discuss that with you.

**Assemblyman Sherer:**

How many of your buses have air conditioning?

**Curtis Jordan:**

None of our buses have air conditioning.



**Assemblyman Atkinson:**

You said this issue has been around for quite some time, and you mentioned the 1980s. If it has been around since the 1980s, and it's an ongoing issue, I would like to know why the School District hasn't taken steps to do something about it. It's not going to go away. I don't think it'll go away after this session. If nothing happens this session, it'll be back. When the Chairman mentioned having a gradual process, I don't have an issue with that either. I'm not advocating the District go out and spend every dime they have left putting seatbelts in today. But each bus purchased after today needs to be equipped. You've all talked about the transition process and bringing new buses in and getting rid of the old ones, et cetera. I don't know if that's the best way to go, but if it's been around since the 1980s, I don't think it's going anywhere until we address it.

**Rose McKinney-James:**

The discussion that I referenced, that goes back to the 1980s, still has major research organizations and educational organizations suggesting that based on their analysis, it is not necessarily in the best interest—in the safety interest—of school districts to include belts in buses. As a result, while the discussion has been there, at least the comments that I have back from our transportation official suggests that there is no clear and concise direction that suggests that this should be integrated into our transportation policy.

**Assemblyman Atkinson:**

The last research that you referred to was 1989. This is 2005. A lot has changed since that research, and if the school district wants us to consider other options, I think we need to be provided with some research that's a little more current. A lot has changed with traffic; a lot has changed with the way our kids are. My own daughter, who turns 9 this year, has been strapping herself into a car seat since about one and a half. She went on a school trip about a year and a half ago and that was the first time she'd even gotten on a school bus, and she was upset. She got home and said, "Daddy, I got on that school bus and looked around and I couldn't find my seatbelt." Kids are becoming more and more programmed to put on their seatbelt. When we talk about information, I just would like it to be a little more current.

**Rose McKinney-James:**

Your point is well-taken, Mr. Atkinson. Let me, then, go up an additional decade. October, 1999, in an MSNBC report, in a hearing concerning seatbelts on school buses, the following information was revealed. A federal investigator stated that it might be best if children are not belted when riding a school bus. The Safety Board has doubt about the effectiveness of restraint systems now available for large school buses. On average, only 13 people are killed each year

in bus accidents. It is considered the safest form of highway transportation. It should also be noted that the NTSB did not mandate the installation or requirement for seatbelts. Candidly, I understand that I am giving you the breadth of the time frame for this discussion, but I don't believe anything changes if I were to ask for their position for 2001, 2003, or 2005.

**Assemblyman Manendo:**

Even in elementary schools they have cafeteria monitors, and they're the kids. They go around and make sure kids aren't misbehaving in the cafeteria and make sure they're throwing their food away. I've seen them leading the little kids on to the buses to make sure they're on the right buses. I know my fourth grade nephew, who actually does this as well, could probably go around and make sure that those kids are strapped in.

What buses have the seatbelts now?

**Rose McKinney-James:**

Special needs buses.

**Assemblyman Manendo:**

Why are they strapped in? Why do they have the seatbelts?

**Rose McKinney-James:**

In many instances, these are students who have braces; who have other implements that require them to be strapped in because they cannot set up for themselves. But I'm getting out of my comfort zone, so I will defer.

**Kevin Curnes:**

Most of the restraints on there are to keep the children in their seats. Most of them are not aware of their surroundings. They need that extra harness just to stay in that seat.

**Chairman Ocegüera:**

Mr. Goicoechea, our researcher has found the answer to your question. The federal regulations make it mandatory to have seatbelts for buses under 10,000 pounds. Generally, larger buses over 10,000 pounds are exempt.

**Kurt Svare, Transportation Director, Washoe County School District, Reno, Nevada:**

My colleagues have expressed most of the concerns I was going to bring up today, and they've done it very well. I wanted to answer a couple questions that were brought up. Basically, the other states that have implemented seatbelts in their school buses—New York and New Jersey being the first two

several years ago—did so where the buses were not required to be retrofitted. They did allow a number of years for those buses to have seatbelts installed. I think that's a good way to go if we're going to consider this. In our School District, we have had two buses roll over in the past 35 years that I've been working for the school district. One had 64 students at the time. It did three-quarters of a roll. It didn't make a complete roll back on its tires. All 64 of those students were checked, transported to the hospital, and only one stayed in the hospital overnight.

[Kurt Svare continued.] We recently had another accident just about three months ago where a bus hit a patch of ice and went off the road. It did almost a half a roll, and landed back on its side. Twenty-one students on the bus, again, no major injuries. The design of a school bus, with the compartmentalization and the padded seats, does work even in those kinds of accidents. I did see the video of the bus in Ohio. It was very scary. If the state of Nevada decides at some point that a lap/shoulder belt is the way to go in school buses, I think that would be a difference, obviously, in a rollover accident. Most accidents in school buses nationwide are minor and involve frontal impact, or being hit from the side by a small vehicle. Very little damage to the bus or injuries to the students occur. That's something to consider. School buses are the safest means of transportation in the United States when it comes to ground transportation.

I certainly agree that we should work with you on this issue. I've been working for the School District since 1968 when I started driving a bus. I had the advantage of becoming the director several years ago, and it's been an issue all the time I can remember through my career at the School District. It's not going to go away. There are some states that have adopted it, but I think it really needs to be looked at carefully. We need to make sure, if we're going to consider this, that it's lap/shoulder belts and not lap belts themselves because it's been proven through many, many tests that lap belts are not the best way to go for small children because of their bone structure. It puts a lot of pressure on their hips if there's any kind of frontal impact, and basically their head and neck take the brunt of the injuries by hitting the seat in front of them. If you're going to consider anything, a lap/shoulder harness would be the way to go, but they are very expensive. They do reduce the capacity of the bus, and that is a consideration we need to look at.

**Assemblyman Carpenter:**

How much capacity is reduced when you put in the safety belts?

**Kurt Svare:**

Recently I found a company that does have a design where you can put a 45-inch seat in that allows three harnesses, and then you can do a 30-inch seat that allows two. So you're reducing the capacity of your bus by 23 percent. That's a pretty expensive proposition. That's \$1,052 per row. It gets expensive, but it would be 23 percent up to 33 percent, depending on the design and the seat spacing.

**Chairman Oceguera:**

We will close the hearing on A.B. 411.

We're going to move to a work session to work on A.B. 307.

**Assembly Bill 307: Makes various changes concerning registration of motor vehicles and operations of Department of Motor Vehicles. (BDR 43-346)**

**Marjorie Paslov-Thomas, Committee Research Analyst, Legislative Counsel Bureau:**

Assembly Bill 307 makes various changes concerning registration of motor vehicles and operations of the Department of Motor Vehicles. It was sponsored by Assemblywoman McClain.

[Read from Exhibit D.]

This bill requires the DMV to refund the entire amount of the registration fee and governmental services tax attributable to the current registration period if 180 days or more remain on the registration at the time a person cancels his registration and surrenders the license plates. If less than 180 days remain on the registration at the time of cancellation and surrender of license plates, the existing pro rata refund applies.

The bill reduces the monetary threshold for a refund to an amount that exceeds \$50 and removes extenuating circumstances that a person must relinquish his driver's license to qualify for a refund.

Finally, the measure requires the DMV to inquire of each person who applies for an instruction permit, identification card, or driver's license, whether he wishes to declare that he is a veteran of the Armed Forces of the United States. The DMV must record the number of declarations and report that number quarterly to the Office of Veterans' Services.

[Marjorie Paslov-Thomas continued.] If you turn to the next page, there are some proposed amendments from Mr. Tom Fronapfel of the DMV. Under Tab A ([Exhibit D](#)) is a copy of that proposed language, and a copy of a mock-up that was prepared by the Research Division for the sponsor. The first amendment would be to delete the provisions requiring the DMV to provide a list to the appropriate local law enforcement agencies of people who did not register their vehicle within 30 days after becoming a resident, or at the time they obtain their driver's licenses. That was added. Currently, the DMV does report that information to public safety.

The second amendment would be to delete the provision requiring the DMV to refund the entire amount of the registration fee and governmental services tax attributable to the current registration period if 180 days or more remain. It would also delete the provision if less than 180 days remain on the registration at the time of cancellation, that the existing pro rata refund applies. So that whole section is basically deleted. It would also amend the bill by deleting the provisions concerning extenuating circumstances a person must meet to qualify for a cash refund and add a new section to provide circumstances under which a person may receive a cash refund.

If you look at the suggested amendment by Mr. Fronapfel, that would be if a person requests a refund at the time the registration is canceled, the plates are surrendered. If the person requesting the refund is a resident of Nevada, the amount exceeds \$50, the vehicle has been sold or otherwise disposed of, or if the vehicle has been determined to be inoperable and the person does not transfer the registration to a different vehicle, they would have to meet all of those conditions in order to receive a refund. Also, the Department would not issue a refund for vehicles considered to be dormant or those used on a seasonal basis.

Finally, number 5, as was discussed in Committee, would be that a person must also provide evidence to the DMV that they were honorably discharged from the armed forces before he could declare himself of that.

**Assemblyman Sherer:**

When we changed it from \$100 to \$50, what's the amount that's going to be given out? How many hundreds or thousands?

**Chairman Oceguela:**

You mean the amount of refunds? I think we asked the DMV to look at the language and come up with some numbers. It may have been so quick that they may not have been able to come up with some numbers. When we talked about

it before, we said we'd get to the language and then we'd know better what the money would be.

**Assemblyman Carpenter:**

It looks like the amendments from the DMV kind of gut the bill so that there won't be much of a refund. Marji Paslov-Thomas has had time to study the amendments. Can you tell us what the real impact is?

**Marjorie Paslov-Thomas:**

I believe what this amendment is doing is changing the existing statute. As you recall, someone had to still request a refund at the time the registration is cancelled, they still had to surrender their plates, and they had to be a resident of Nevada. But the amount had to be \$100 or more and they had to meet those extenuating circumstances that were determined. What this is doing is decreasing the amount to \$50, and they don't have to meet any more of the extenuating circumstances that were put into law last time, such as, your car was destroyed or someone has died. This, instead, says that if you sold your car or otherwise disposed of it, or it was determined to be inoperable, then that person could request a refund in cash rather than applying it to their next year registration.

**Assemblyman Carpenter:**

Amendment Number 2 ([Exhibit D](#)) from the DMV says, "Delete the provision requiring the DMV to refund the entire amount of the registration fee."

**Marjorie Paslov-Thomas:**

That's written in A.B. 307 as it currently is introduced, and the sponsor wanted to take out that provision. It's not currently in the law.

**Assemblyman Carpenter:**

The sponsor, then, agrees with the conceptual amendments?

**Chairman Ocegüera:**

Mr. Carpenter, that's affirmative.

**Assemblyman Goicoechea:**

When it talks about one being inoperable, what kind of documentation are you going to have to provide? Does that mean if you destroy an engine and it's broken down, you just go in and sign a "non-op?"

**Tom Fronapfel, Administrator, Field Services Division, Nevada Department of Motor Vehicles:**

Currently, what we ask for from those individuals for inoperable vehicles is evidence that the vehicle is in a repair shop, as an example, documenting that the vehicle is, in fact, in a nonoperating condition.

**Assemblyman Goicoechea:**

You do have a form, I know, if you're late in registering a vehicle it allows you to sign a certificate, or a "non-op," they call it, would that work?

**Tom Fronapfel:**

In theory, I suppose it would, but that one's dedicated strictly to a vehicle that has been dormant, or has not been operated during a portion of the registration period. But I suppose we could revise that particular form to include similar provisions.

**Assemblyman Goicoechea:**

I'm just concerned with an old beater. They're not going to take it to a shop. They would walk back in and ask for their money back if they had over \$50 coming, and down the road they'd probably patch it in their spare time or shade tree it.

**Assemblyman Sherer:**

Mr. Chairman, I know how hard we worked last session trying to fix this thing with the \$100. I know all we do is continue to root away the money from DMV, and I think this is just another feature where we continue to undermine the money that we're collecting there, and I don't think it's the right thing to do.

ASSEMBLYMAN ATKINSON MOVED TO AMEND AND DO PASS  
ASSEMBLY BILL 307, AND REREFER TO WAYS AND MEANS.

ASSEMBLYWOMAN GERHARDT SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

**Chairman Oceguela:**

We'll open the hearing on A.B. 277.

**Assembly Bill 277: Revises certain presumptions relating to abandoned vehicles. (BDR 43-1041)**

**Assemblyman Lynn Hettrick, Assembly District No. 39, Douglas County, Carson City (part), and Washoe County (part):**

Assembly Bill 277 actually came from my son. He and I very much enjoy riding in the Pine Nut Mountains south of here in eastern Douglas County. It sickens us to go out there and ride around and find abandoned vehicles. They're everywhere. In fact, one week ago, he and I went riding and found four new abandoned vehicles; one with license plates on it, one totally burned out, and some just destroyed, sitting there. We talked some time ago about our desire to try to do something to get these vehicles off public land. We were concerned about how to do that.

I had originally written a bill and suggested a bill to drafting, and that's what you see in the printed form, and that's why I handed you a new one. That bill would've been impossible for us to do. It required that DMV would have to remove vehicles; the fiscal note would've been huge. It simply would never have happened. Under the current law, judges aren't going to prosecute people for vehicles that are abandoned sitting out there. They're not going to fill the courtrooms; they're not going to fill the jails; they're not going to do anything. So we have no method of trying to get these people to remove a vehicle. So I went and spoke to Ben Graham. Ben said, "I think I have an idea that works, let's try this." That's what you have here in A. B. 277.

[Assemblyman Hettrick continued.] Let me thank DMV. These folks on either side of me have really been helpful. Obviously, they had a heart attack when they saw the first bill. They came over and said, "Okay, tell us what you want." They worked with me twice to go through this language and come up with something that works. I want to say that Mr. [Mo] Denis passed A.B. 169 in this Committee, which addresses Section 1, subsection 2(a) of this bill. I would use the language that your Committee already passed in place of this language, which I think you saw in A.B. 169 already, because I think that's probably the better of the two. Mr. Denis and I have been talking about combining the bills and saving time and effort because we could do some sort of amendment and go over and jointly testify in the Senate if that works for this Committee.

Section 1 is essentially existing law. It says that every person who abandons a vehicle is responsible to remove that vehicle. Section 1, subsection 2 says an abandoned vehicle is presumed to have been abandoned by the registered owner unless he does one of two things. We're adding paragraph b to it. The first is, he proves by bill of sale according to A.B. 169 that he sold the vehicle. If he doesn't own it and he can prove that was done before the vehicle was found abandoned, he's off the hook. He's not responsible for that vehicle. Paragraph 2 says, or if he filed a police report saying the vehicle was stolen



from him prior to notification from DMV that the vehicle was abandoned. So he can't write it up after the fact and say, "by the way, it was stolen from me." It has to be filed with an appropriate law enforcement agency prior to the date of the notification.

[Assemblyman Hettrick continued.] Assuming those two things he can't prove, this is what's going to happen: My son and I go out and ride somewhere in the mountains. We come across a car abandoned. We look for the VIN [Vehicle Identification Number]. We write the VIN down on a piece of paper and we take it to the sheriff's department. We say, "This vehicle is abandoned in the mountain, and we'd like to see it removed." The sheriff's department, as they do right now, can run it instantly on a computer and tell you whether or not it's a registered vehicle in the state of Nevada. If it comes up negative, not registered, bad VIN number, whatever, it's over and done with. Nothing happens because we have no way of finding an owner. If, however, they find that the vehicle, in fact, is registered to an owner in the state of Nevada and has not been reported stolen on their record already, then they're going to send a notice to these folks at DMV. DMV will probably verify that, but they will then send a registered letter—30-days notice—to the owner that says, you have 30 days to do one of three things: prove to us you sold it, prove to us it was stolen, or remove it. These are your three options. If you can't do that in those 30 days and come back to us and tell us you did it, we're going to cancel the registration on your other vehicles. Ben Graham's question was, why should they get to drive another one if they're going to go abandon it in the hills again? Why should we let them do this? They should be responsible for the one they left the first time. That's the current law; they're supposed to remove it. All we're trying to do is come up with a way to make them remove it. We can't do it now.

Subsection 4 says a sheriff's office receiving notification of an abandoned vehicle is responsible for notifying the reporting party. We want the person who reported the vehicle to know whether or not it was a valid VIN. If I reported a vehicle and the sheriff immediately said to me, there is no valid VIN on this vehicle, so it's not registered in the state of Nevada and there's nothing we can do, I'm not going to worry about it; I can't do anything about it. But if there is a valid VIN and I'm out riding in the hills 45 days later and the same car is still sitting there and I know there's a valid VIN, I'm going to go file another report. Why would I want to?

If the person sends something to DMV that says, "I got your notice and I've removed the vehicle," I can't have the DMV get on their ATV [all terrain vehicle] and drive out in the hills to confirm whether or not the person has removed the vehicle. Upon receipt of a letter, they are going to take the word of the

reporting party that the vehicle has been removed. So what's going to happen when I ride out there 45 days later? I'm going to write it down again, go right back to the sheriff, and this time they're going to know the guy lied to them in the first place, now the 30-day notice is up, and they cancel the registrations. We're going to get somebody's attention to go and move these vehicles. There are not going to be a lot of these. When we go out and find these vehicles abandoned, most people take a hammer and beat the VIN off; they torch them; they do anything they can to hide the VIN. So this isn't going to be a huge number of vehicles, but we're going to get some.

[Assemblyman Hettrick continued.] When we discussed this language, our hope was that DMV will be able to become proactive on this and put a notice into registration renewals saying, the state law has changed. If you abandon a vehicle and we can prove it belongs to you, you're going to be forced to remove that vehicle or you're going to have your registration on every other vehicle you own, cancelled. We hope to get proactive so that people quit doing this. This is where we're headed with the bill.

We had some folks here from the tow companies who were concerned about the fact that if they towed, they wanted to make sure the lien provisions, the storage provisions, and the tow cost provisions didn't change in the bill, and indeed that's subsections 5(a) and 5(b) at the bottom. I believe they are satisfied unless there's some question beyond what I know of.

The only thing that brought a little question to my mind is number 5 in the middle of the page. It says, "The Department shall rely on the reporting sheriff's office to determine whether the vehicle was removed or not." That doesn't mean the sheriff has to go out and check either. It's not an unfunded mandate; they're not going to have to go do anything. The reason that's in there is, if it's not removed, we just wanted to make clear how it would come back through to DMV, so they would know that it was still there. That's the intent of the bill. I think it's pretty straightforward. It's a shot to move a few; we won't get a lot because the people who do a lot of abandoning of vehicles destroy VINs. But if we get a few, it's better than what we have now, and maybe the proactive side will help us get people to stop doing it in fear that we'll find a way to get a VIN they missed, and they'll end up having to haul these vehicles off.

**Assemblyman Sherer:**

In the district that I have, there are so many abandoned vehicles to go through the process. We have some folks who want to try to clean up their town and to go through that whole process of getting rid of those abandoned vehicles is a nightmare. There were about 70 different cars in Mina, and we can only get rid

of 22 of them because the others, we couldn't find any VIN, so we had to leave them there. Is there something we can do to fix that?

**Assemblyman Hettrick:**

I wish there were, but anytime we say, mandated removal for any governmental agency, the fiscal note is immense. It's just not going to happen. The hope is that we can prove who owns these vehicles and make them do it, but if we can't, we can't.

**Assemblyman Sherer:**

What I was looking at was not making the government or agency do it. We wanted to do it, but we couldn't move the vehicle because we could not get the VIN number.

**Assemblyman Hettrick:**

The issue is that without proof of ownership, you don't have a right to move it, and there could be liability issues as well. I think there has to be some declaration by somebody that it's abandoned and can be removed. I know they do that in the Pine Nut Mountains now. The people who like to go out and ride in the Pine Nut Mountains every so often organize an expedition and go out and trash these things, pull them apart, load the pieces and parts, and haul them off to the best of their ability. Some of these people get them into places where it actually took a helicopter to get one of these things out. It's not easy to get rid of them, but I think there are more steps to go through to get to the point where you can actually go remove one where you can't identify the owner.

**Randy Stephenson, Committee Counsel, Legislative Counsel Bureau:**

I may be encroaching on some assumptions here, but perhaps I could help Mr. Sherer a little bit. NRS 487.230 [*Nevada Revised Statutes*] says, "At the request of an owner or person in possession or control of private property, who has reason to believe that a vehicle has been abandoned on his property, a vehicle may be removed by the operator of a tow car or on an automobile wrecker from that private property." So it sounds like there are provisions concerning private property. You just get a tow car company to come in. The following subsection does have certain procedures that the person has to follow; it has to be taken to the nearest garage, and all that sort of stuff. As to the public property, the authority of the sheriff is already there to remove any abandoned vehicle from public property.

**Assemblyman Christensen:**

I just went through this last week with the City of Las Vegas. The City posted a notice 24 hours ahead of time; a tow car came out and towed it because nobody responded. At least in the City of Las Vegas it was 24 hours notice.

**Randy Stephenson:**

The way I read the statute, it would just be private property. It doesn't really matter where it is. It's private property.

**Assemblyman Carpenter:**

We have that same problem out in the public lands, where there's no VIN on them; you can't prove ownership or anything. It seems to me that the DMV could assign a VIN or something to these vehicles so that we can get them out of there. We have the same problem in our trailer park with RVs [Recreational Vehicles] and trailers where they've taken the VIN off. If it'd been abandoned for 60 or 90 days, we'd advertise it to the last known owner, and then if no one replies to that notice, the DMV could give it a VIN, or give you some kind of certificate of ownership. Like Randy was saying, the tow owners don't want to come and get an RV or something that costs a lot of money to take to the dump, or that they have to dismantle. If we could get some kind of ownership of those so we could do something with them, it would sure help. I've had them sit there for three years and I've had DMV out there, but they just can't find anything. We have to have some way to get them out. Seems to me like you could help us some way with a certificate or a decal or put a VIN number on them with your stamp machine. You ought to be able to do something.

**Assemblyman Hettrick:**

Mr. Carpenter, are you asking for them to come out and put a VIN on it so you could take ownership?

**Assemblyman Carpenter:**

Yes.

**Assemblyman Hettrick:**

They obviously haven't had a chance to discuss that, but I understand where you're going, because without the VIN now, you can't do anything. I don't know if it's possible to even do that, but I'd leave that to them.

**Troy Dillard, Administrator, Compliance Enforcement Division, Nevada Department of Motor Vehicles:**

You cited the problem as the tow companies don't want to come and get a junker vehicle that they're going to incur more cost in obtaining than what they're going to get for selling it. The DMV does have provisions for VIN stamping, but the vehicles you're talking about are fairly worthless vehicles, I believe. If the sheriff's office directs the tow company now to come get it, that's typically what they do, they're just not very happy about it. They incur a cost to their business and they're going to lien sell that vehicle off, typically to a

wrecker if it's in that type of shape, or even possibly at a public auction if the vehicle is safe enough to be titled in a different format. Their costs, typically, will exceed the value of that. If it goes to the public auction, you can purchase such a vehicle at auction and there's a provision for obtaining proper ownership from the DMV.

**Assemblyman Carpenter:**

Right at the end of your statement, you said exactly what I've been thinking. If you put a VIN number on it, or I could get ownership of it, I wouldn't mind paying for somebody to come and take the thing. But without that ownership, they don't want to take the responsibility. We're not talking about a mobile home that's registered with the county assessor or manufactured housing. If there was some way you could come out and put a stamp on them, so that we can get ownership of them and get them off trailer courts and public lands.

**Assemblyman Goicoechea:**

How far back can you go with a VIN number? I'm assuming the vehicle doesn't have to be currently registered. You could go back with a VIN number and say it was registered sometime in the past and that was the last known registered owner. How far back can you go?

**Martha Barnes, Administrator, Central Services and Records Division, Nevada Department of Motor Vehicles:**

If we have it in our system because it was a Nevada registered vehicle, we could probably go back and find it. We have a history of those VIN numbers on file. If it has never been registered in Nevada, then we don't have that capability.

**Assemblyman Goicoechea:**

You could probably find out who the last registered owner was for abandoned vehicles we see, especially in rural Nevada, if you could find a VIN number on them.

**Martha Barnes:**

If it is in our system, yes, we would be able to find that information.

**Assemblyman Goicoechea:**

Typically it would be, if it was registered in the state of Nevada?

**Martha Barnes:**

It should be in our system, yes.

**Assemblyman Claborn:**

Mr. Sherer, in the city of Las Vegas we have an ordinance. If there are no license plates on it, they place a notice on it. If they don't have a license by 30 days, they haul it off. It caused such a commotion in Las Vegas that I got hundreds of calls over it. That might be your ticket, to look up the ordinance that they have in Las Vegas.

**Assemblyman Sherer:**

What I'm talking about are vehicles that are older than I am. The ones that are all rusted out, that you don't want.

**Chairman Ocegüera:**

For the DMV, there's a chapter—482.290 [*Nevada Revised Statutes*—where you assign the VIN number. How does that work? Maybe there's a way to do what Mr. Carpenter wants already in the statute.

**Troy Dillard:**

Unfortunately, neither of us sitting at the table has the answer to that question for you. That's done by our field services division.

**Assemblyman Carpenter:**

The only question I have is if it's okay to work something out with the DMV, and have them to try to help us on that problem.

**Chairman Ocegüera:**

It's okay with me if it's okay with Mr. Hettrick.

**Assemblyman Hettrick:**

I think they're willing, too. We can't do something that's going to create a fiscal note. I wouldn't do that to Mr. Denis if we decide to amend. I certainly don't want to do it to this. They've been good enough to say that sending certified letters isn't going to be enough of a fiscal note to worry about, as long as we can do it within their parameters and ours. If we don't ruin Mr. Denis' bill or mine, I'm happy to do it.

**Chairman Ocegüera:**

Mr. Denis' bill is actually on the Chief Clerk's desk right now. It's through second reading and it's been amended. What would you propose?

**Assemblyman Hettrick:**

I simply discussed with Mr. Denis that I don't care about having my name on this bill. I thought if it went over there and he and I went over and sat down and testified on it, we might have a better chance of getting it out of the Senate

as a bipartisan bill trying to deal with abandoned vehicles. I really have no pride of ownership. I just want to see us have some chance to get at these. Whatever works best. If yours isn't on the desk, he was ready to let his go. We could draft a floor amendment and put it on your bill and put it on his bill. Either way, it would go out as a floor amendment, go to the Senate, we'd go over and testify on it, and maybe we can get the thing out.

**Chairman Ocegüera:**

So we could leave his bill on the desk and do a floor amendment, drafting this bill completely into his, basically.

**Assemblyman Hettrick:**

Exactly. That was my thought.

**Chairman Ocegüera:**

I'd like to have the answers for Mr. Carpenter, though, but we need to do that in the next two days.

**Norm Chamberlin, Owner, Valley Towing, Carson City, Nevada:**

I'm happy to see that someone is putting some attention in regard to the abandoned vehicle problem. This isn't even a tenth of the percent of the problems we face out there with abandoned vehicles. I think what you're going to be finding in the future is that the abandoned vehicle problem is going to be a public problem, not just a private problem for Mr. Carpenter on his property, but also for your local law enforcement agencies. It's growing and it's become bigger and bigger. As a business owner, towing for the local enforcement agencies, I'm not sure if you understand how those contracts read when we go into contract with the law enforcement agencies in the towing of vehicles. In that contract, it says you have to take the good with the bad. You get some good cars that are picked up; you've got to eat the bad ones. I'm at a point, in the business decision for Carson City with the sheriff's department, where the bad is overwhelming the good. Can I afford to keep towing for Carson City sheriff's department? The other businesses have the same economic situations that I do. They're not going to be able to do that, and the next thing you know, Carson City sheriff's department has nobody to tow accidents off the road or remove the abandoned vehicles.

California DMV has a program—and I have a copy of that program in my desk—it's called the Abandoned Vehicle Abatement Program. It's managed through the Department of Motor Vehicles and a small percentage of the funds, collected through the motor vehicles, are put back to counties and cities to help them dispose of abandoned vehicle problems. There is funding there that's collected as a percentage of the DMV costs in registration to allow money to get rid of

those cars, which is going to be a continuing problem, and it's going to be a public problem.

[Norm Chamberlin continued.] We have run into many instances where we've towed vehicles off of private property for folks. However, we do have a charge to do that. DMV has an appraisal department that'll come out and certify that vehicle has no VIN number and write us some paperwork, where we're allowed to basically dispose of it at the junk yard.

**Assemblyman Hogan:**

It occurs to me that if that exists for the tow truck folks, I don't see why the owner of private property on which a vehicle without a VIN number is located shouldn't be given the same latitude that you have.

**Norm Chamberlin:**

We fax in a form every week because we accumulate so many vehicles. They'll send their appraiser out and give an appraisal on the car which tells us how we can dispose of it. If it's a junkster, we can get rid of it immediately. But I think the way it is now, they only allow tow car operators to do that, not private parties.



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**Chairman Ocegüera:**

I'll close the hearing on A.B. 277. The meeting is adjourned  
[at 4:30 p.m.].

RESPECTFULLY SUBMITTED:

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Angela Flores  
Committee Attaché

APPROVED BY:

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Assemblyman John Ocegüera, Chairman

DATE: \_\_\_\_\_

**EXHIBITS**

**Committee Name:** Committee on Transportation

**Date:** April 7, 2005

**Time of Meeting:** 1:30 p.m.

<b>Bill</b>	<b>Exhibit</b>	<b>Witness / Agency</b>	<b>Description</b>
	A	Agenda	
	B	Edgar Roberts, Motor Carrier Div.	Prepared statements, AB 505. 3 pages
	C	Rose McKinney-James, CCSD	Handouts, AB 411. 2 pages
	D	Marjorie Paslov-Thomas	Work session document. 10 pages