

## **SENATE COMMITTEE ON TRANSPORTATION AND HOMELAND SECURITY**

**Seventy-third Session**

**March 1, 2005**

The Senate Committee on Transportation and Homeland Security was called to order by Chair Dennis Nolan at 1:37 p.m. on Tuesday, March 1, 2005, in Room 2149 of the Legislative Building, Carson City, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file at the Research Library of the Legislative Counsel Bureau.

### **COMMITTEE MEMBERS PRESENT:**

Senator Dennis Nolan, Chair  
Senator Joe Heck, Vice Chair  
Senator Mark E. Amodei  
Senator Michael Schneider  
Senator Maggie Carlton  
Senator Steven Horsford

### **COMMITTEE MEMBERS ABSENT:**

Senator Maurice E. Washington (Excused)

### **GUEST LEGISLATORS PRESENT:**

Senator Sandra Tiffany, Clark County Senatorial District No. 5

### **STAFF MEMBERS PRESENT:**

Patrick Guinan, Committee Policy Analyst  
James Puffer, Committee Intern  
Joshua Selleck, Committee Intern  
Lee-Ann Keever, Committee Secretary

### **OTHERS PRESENT:**

Tom Jacobs, Public Information Officer, Department of Motor Vehicles  
Russ Benzler, Administrator, Management Services and Programs Division,  
Department of Motor Vehicles

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Rhonda Bavaro, DMV Services Manager, Management Services and Programs  
Division, Department of Motor Vehicles

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

John P. Sande, III, Nevada Franchised Auto Dealers' Association

Dennis Colling, Chief, Administrative Services Division, Department of Motor  
Vehicles

Dan Musgrove, Clark County

Santana Garcia, City of Henderson

Cheri L. Edelman, City of Las Vegas

Chair Nolan explained the Committee asked the Legal and Audit Divisions of the Legislative Counsel Bureau (LCB) to review the most recent audit conducted on the operation of the Robert N. Broadbent Las Vegas Monorail (Monorail). He asked Patrick Guinan, Committee Policy Analyst, to summarize the review.

Mr. Guinan said the Legal and Audit Divisions of the LCB reviewed the audit; the review included potential exposure to the State. Mr. Guinan stated the Audit Division completed its review of the audit and noted the Legal Division had not completed its review of the audit. Mr. Guinan referred to the Audit Division's report ([Exhibit C](#)) during his presentation to the Committee.

Mr. Guinan said regarding the risk to the Monorail bondholders, [Exhibit C](#) read: "The bond documents clearly state that the bonds will not constitute indebtedness or other liability of the State or of any political subdivision thereof." The Audit Division believed the language in the bond documents was sufficient.

Mr. Guinan stated Paul V. Townsend, Legislative Auditor, Audit Division, LCB, reached four conclusions regarding the audit: 1) adequate information was available through the annual audit and performance report to monitor the financial stability of the Monorail; 2) bond documents indicated the State and political subdivisions would not be liable for repayment of the Monorail project revenue bonds; 3) holders of first-tier bonds were protected by bond insurance, restricted assets and debt service requirements while the holders of second- and third-tier bonds were not protected by bond insurance and had a much greater risk and 4) an escrow fund had been established for the removal of structures should the project not continue.

Mr. Guinan offered to provide copies of [Exhibit C](#) to those individuals who wanted a copy.

Chair Nolan opened the hearing on Senate Bill (S.B.) 33.

**SENATE BILL 33**: Authorizes Director of Department of Motor Vehicles to enter into agreements for certain placements of advertisements. (BDR 43-396)

Tom Jacobs, Public Information Officer, Department of Motor Vehicles (DMV) read from prepared text ([Exhibit D](#)) and offered an amendment to S.B. 33 ([Exhibit E](#)). He urged the Committee to support the bill. Mr. Jacobs stated that if the bill were passed into law, it would allow the DMV to accept advertising in its offices, mailings and publications. Funds generated through the advertising would be used to educate the public on alternative means of doing business with a DMV office. Mr. Jacobs said the amendment contained in [Exhibit E](#) would allow advertising on the DMV's Web site.

Mr. Jacobs concluded his presentation by saying the DMV's efforts to persuade Nevada's motorists to use alternative services had been successful and resulted in significant benefits to the DMV and the State. Every online transaction meant there had been one less transaction in a DMV office.

Vice Chair Heck asked Mr. Jacobs whether the DMV would use advertising on the Web pages or pop-up ads on the DMV's Web site if the DMV were allowed to add electronic publications. Mr. Jacobs said there were over 1,000 DMV employees in Nevada and that any action which prevented those employees from providing the fastest, most effective service to Nevada's motorists would not be tolerated. That was the reason the DMV would not permit pop-up ads on its Web site.

Vice Chair Heck referred to the proposed language contained in section 3 of S.B. 33 and asked for confirmation that the funds raised pursuant to this section could only be used for educational purposes. Mr. Jacobs replied, "That is correct, sir."

Senator Carlton said she remembered this issue from past Legislative Sessions. She asked Mr. Jacobs what he meant when he said certain advertising content would be a poor match to the DMV's guidelines and asked whether or not those

advertisers would not be allowed to advertise at the DMV. Mr. Jacobs replied, "That is correct."

Senator Carlton said she had concerns about how the DMV would select the appropriate advertising content. She noted that in Nevada's business climate, there was little advertising content which could be considered a poor match. Mr. Jacobs said there were existing guidelines in place that the DMV would use. He cited the restrictions placed upon the vanity license plates ordered by individuals as an example of the existing guidelines. The wording for a vanity license plate had to be appropriate and not contrary to law enforcement efforts in Nevada.

Mr. Jacobs said all advertising content would be reviewed to ensure the advertising content was appropriate and in the public interest. The advertising guidelines would be rigid. He added other states permitted their DMVs to advertise on agency Web sites and in agency publications or mailings.

Senator Carlton stated she was not comfortable with the testimony on the advertising content. She said there were 1.5 million people in southern Nevada, all of whom had different ideas about what was and was not appropriate advertising content. Senator Carlton said she was concerned there could be the possibility that when she opened a DMV mailing, it would contain advertising which she considered inappropriate, but which other people considered appropriate. Senator Carlton said she was not sure about the DMV's proposed regulations for advertising.

Mr. Jacobs said he understood the Senator's concerns and requested that Senator Carlton provide him with a specific example of her concerns. Senator Carlton mentioned gaming and asked whether gaming would be an area of advertising sanctioned by the DMV.

Mr. Jacobs said "Offhand, yes," adding gaming was a big industry in Nevada which was accepted. Mr. Jacobs said he had discussed advertising content with the staff of the *Nevada Magazine* in addition to the advertising content that publication accepted. He said during the course of the discussion, the issue of legal advertising was discussed and whether or not the DMV should accept such advertising. Mr. Jacobs said the DMV would accept legal advertising, but would not accept a legal advertisement which promised drunk drivers that they could beat driving-under-the-influence charges. He noted lawyers provided

valuable services to people; legal advertising would be as valid as that of any other profession.

Mr. Jacobs stressed the advertising content accepted by the DMV would have to be decided on a case-by-case basis. Senator Carlton said whether or not the DMV accepted an advertisement depended on the wording used by the advertiser. Mr. Jacobs agreed with the Senator that the wording of an advertisement would be an important factor in the DMV's decision to accept or reject an advertisement. Mr. Jacobs noted that the insurance industry would probably be one of the DMV's biggest advertisers.

Senator Carlton reminded Mr. Jacobs that in his presentation, he mentioned placing advertising in the Nevada Department of Motor Vehicles Driver's Handbook (Driver's Handbook) and that the Driver's Handbook would contain 25-percent advertising. She noted the Driver's Handbook would be given to teenagers to study in anticipation of receiving their drivers' licenses. The Senator stated she was not in favor of the Driver's Handbook containing advertising. She said she wanted the teen drivers to study the Driver's Handbook, not be distracted by advertising.

Mr. Jacobs said the DMV had considered placing advertising at the back of the Driver's Handbook rather than having it spread throughout the publication such as a magazine or newspaper. The estimated figure of 25-percent advertising in the Driver's Handbook was considered by Mr. Jacobs to be unobtrusive, but would still generate revenue for the DMV. Mr. Jacobs offered to place all the advertising in the back of the Driver's Handbook. Such placement would not interfere with the text of the Driver's Handbook.

Senator Carlton wanted to know how much profit the contractor would make doing business with the DMV. Mr. Jacobs said the DMV would let a request for proposal (RFP) on the issue. He noted that the standard commission paid most advertising contractors was 15 percent.

Senator Horsford asked whether or not there was a fiscal note attached to S.B. 33. Mr. Jacobs replied, "No." Senator Horsford referred to the official mailings as described in section 1, subsection 1, paragraph (b) of the bill. He asked Mr. Jacobs to describe what constituted an official DMV mailing. Mr. Jacobs said the official DMV mailings contained registration and driver license renewal notices.

Senator Horsford asked Mr. Jacobs what advertising would be included with official DMV mailings. Mr. Jacobs used the term stuffers to describe the advertisements currently placed in official DMV mailings. He said the stuffers included a subscription card for the *Nevada Magazine*, an explanation of how tax dollars were spent by the DMV, a stuffer promoting the organ donor program and one explaining the DMV's Insurance Verification Program.

Mr. Jacobs said the DMV envisioned the advertisements placed with the official mailings would be similar in nature to those he mentioned. Senator Horsford stated the stuffers mentioned by Mr. Jacobs were informational in nature and asked if S.B. 33 were passed, would the informational stuffers be discontinued and replaced with revenue-generating stuffers.

Mr. Jacobs said he thought future DMV mailings would include two informational stuffers and two for-profit stuffers. He explained the limitations of the equipment used by the Mail Services, Department of Administration, mandated that only five pieces of information could be included with a mailing and return envelopes were considered to be one of the five pieces.

Senator Horsford stated the DMV was limited as to the number of pieces it could include in its official mailings and wanted to know if the limitation had been imposed in order to keep mailing costs down. Mr. Jacobs replied that mailing costs were a factor, while the limitations of the equipment and personnel of the Mail Services were another factor.

Senator Horsford referred to section 2, subsection 1, paragraph (b) of S.B. 33 and asked whether that paragraph allowed the DMV to accept billboard advertising. Mr. Jacobs said that paragraph gave the DMV the latitude to accept billboard advertising, but stressed the DMV would only permit acceptable advertising content on billboards. Mr. Jacobs said the DMV offices were for Nevada's motorists and the DMV would not allow any activity which would deter a person from doing business with the DMV.

Senator Horsford said he understood Mr. Jacobs' position and noted S.B. 33 gave the DMV director authority and discretion over the contents of the advertising. He stated while the Committee might have confidence in the current DMV director and her decisions, future directors might not follow the

same guidelines. People could be offended by the advertising decisions of future DMV directors.

Mr. Jacobs said the director's authority over the advertising content would be limited by the regulations the DMV would enact if S.B. 33 were passed. Mr. Jacobs said the DMV had electronic reader boards in its offices. He noted the Nevada DMV was one of 14 state DMVs who contracted with the reader board company. Nevada was the only state out of the 14 states that paid for the use of the reader board because advertising was not permitted at DMV facilities in Nevada. Mr. Jacobs said the only advertising which the DMV envisioned would be on the reader boards.

Senator Nolan said there was no fiscal note attached to the bill, that it was intended to generate revenue. He asked whether or not the DMV had an estimate on the potential revenue which might be generated if S.B. 33 were passed. Mr. Jacobs said he had researched the subject and learned that some of the states which permitted advertising in the DMV offices had been successful while other states had not been. He noted the successful states were the ones which had been aggressive in their advertising campaigns.

Mr. Jacobs said there were a number of factors which might interfere with the success of DMV's ability to sell advertising space in its facilities, mailings and publications. One factor was the DMV's ability to sort addresses by zip code. If the DMV was not able to sort addresses by zip code, then only statewide advertisers would be interested in the DMV's address list. Another factor was the target audience of the Driver's Handbook which consisted of new drivers or new residents. Some advertisers wanted a much broader spectrum of readers, so they would not buy advertising in the Driver's Handbook.

Mr. Jacobs said there was no established track record for programs such as the one detailed in S.B. 33; such programs tended to start slowly and gain momentum as the program matured.

Chair Nolan said the concept of a government agency selling advertising space was not a new one in Nevada. He mentioned that the regional transportation commissions in both northern and southern Nevada sold advertising space in their facilities, publications, mailings and on their vehicles. Both those entities had established guidelines for potential advertisers. The county commissions in Clark County and Washoe County passed strict advertising guidelines. He

suggested that if S.B. 33 were passed, the DMV could use the guidelines established by Clark County and Washoe County as a benchmark. Chair Nolan stated both regional transportation commissions had been parties to legal challenges concerning their ability to sell advertising space and could provide valuable advice to the DMV.

Chair Nolan said he agreed with Senator Carlton's statements on the inappropriateness of advertising being placed in the Driver's Handbook. The Driver's Handbook was provided as a public service to new drivers in Nevada. Many of the new drivers were teenagers. The Chair said the Driver's Handbook should be strictly educational to assist the teen drivers. Chair Nolan stated he did not want the Driver's Handbook to be considered anything other than educational. The chair noted the DMV would have other advertising opportunities besides the Driver's Handbook. He stated he wanted that section of the bill deleted and asked whether or not Mr. Jacobs objected to deleting that provision. Mr. Jacobs said he did not object to removing advertising in the Driver's Handbook from S.B. 33, adding the Driver's Handbook had a narrow advertising market and limited distribution.

Vice Chair Heck said he thought there might be a potential benefit in selling advertising in the Driver's Handbook to those advertisers who could provide teen drivers with a valid message. He cited a stop smoking campaign by local health departments and advertisements warning of the dangers of drunk driving as two examples of valid advertising. Vice Chair Heck said a portion of the Driver's Handbook could be used as a public service announcement (PSA) rather than an advertisement. He stated there might be some benefit if the DMV were permitted flexibility in the types of advertising which would be placed in the Driver's Handbook. Mr. Jacobs agreed with the Vice Chair's statements, but added he was not sure how the DMV would determine which advertising would be appropriate for inclusion in the Driver's Handbook and how the percentage of advertising to be placed in the Driver's Handbook would be decided.

Vice Chair Heck said the percentage of advertising should be lowered from 25 percent, placed at the end of the Driver's Handbook and could contain some commercial advertising in addition to public service announcements. He said he thought the DMV should be allowed flexibility when placing advertisements in the Driver's Handbook.

Chair Nolan said he was going to impose on Senator Amodעי's legal experience and asked Senator Amodעי whether restricting advertising content in the Driver's Handbook would create a legal challenge, especially if restrictions were not placed on the content of other advertising mediums used by the DMV. Senator Amodעי said, "Yes."

Chair Nolan stated he agreed with Senator Amodעי and said he thought the DMV might be in a difficult position if it restricted advertising content in one medium, but not others.

Senator Carlton asked whether or not the DMV needed permission to place PSAs in the Driver's Handbook. Mr. Jacobs said the DMV did not require permission to include PSAs in the Driver's Handbook. He said he thought the Vice Chair was referring to paid advertisements which served as a PSA being used in the Driver's Handbook.

Chair Nolan stated the bill could be amended to permit the DMV to include paid advertising from nonprofit organizations in the Driver's Handbook. He said he wanted the percentage of such advertising in the Driver's Handbook to be reduced from 25 percent.

Chair Nolan said he would be willing to accept a motion amending the bill as provided for in [Exhibit E](#) and the amendment discussed regarding the advertising content for advertising space in the Driver's Handbook. He asked Mr. Jacobs if that would be acceptable.

Mr. Jacobs said he thought the DMV had the ability to include PSAs in the Driver's Handbook as the DMV already included PSAs in the document. He noted the DMV's Web site contained a link to the organ donor program. The DMV was prohibited from displaying paid advertising in its facilities and mailings or on its Web site or vehicles.

Vice Chair Heck wanted to know whether other printed materials distributed by the DMV would be affected if the provision concerning advertising in the Driver's Handbook was deleted. He suggested deleting section 1, subsection 1, paragraph (c) of S.B. 33. Mr. Jacobs said he thought deleting that line would be sufficient as the Driver's Handbook was the DMV's primary printed material.

Chair Nolan asked whether Mr. Jacobs would be agreeable to deleting section 1, subsection 1, paragraph (c) from the bill in addition to the amendments contained in [Exhibit E](#). Mr. Jacobs said he was agreeable to those proposed amendments.

For the record, Senator Horsford said:

I'm opposed to the bill. I think in section 1, subsection 1, paragraph (b), official mailings of the Department and section 1, subsection 1, paragraph (a), the use of State buildings for advertising purposes sets a dangerous precedent and I don't think the taxpayers want to be unduly influenced in their mailbox anymore than they already are. So, I'll be voting against the bill.

SENATOR AMODEI MOVED THAT THE SENATE COMMITTEE ON TRANSPORTATION AND HOMELAND SECURITY AMEND AND DO PASS S.B. 33 BY DELETING SECTION 1, SUBSECTION 1, PARAGRAPH (C) FROM THE BILL AND BY INCLUDING PROPOSED AMENDMENTS CONTAINED IN [EXHIBIT E](#).

SENATOR SCHNEIDER SECONDED THE MOTION.

THE MOTION CARRIED. (SENATORS CARLTON AND HORSFORD VOTED NO. SENATOR WASHINGTON WAS ABSENT FOR THE VOTE.)

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Chair Nolan closed the hearing on S.B. 33 and opened the hearing on S.B. 34.

[SENATE BILL 34](#): Increases fees for issuance and renewal of noncommercial drivers' licenses. (BDR 43-241)

Russ Benzler, Administrator, Management Services and Programs Division, Department of Motor Vehicles, introduced Rhonda Bavaro, DMV Services Manager, Management Services and Programs Division, Department of Motor Vehicles. He explained that Ms. Bavaro was also the project coordinator for the DMV's kiosk project.

Mr. Benzler said S.B. 34 offered Nevada's motorists a convenient alternative to standing in line when conducting business with the DMV. He noted the bill stated there was no fiscal impact associated with it. However, as the bill raised the driver's license renewal fees, it would have a positive effect on the Highway Fund. The DMV prepared a fiscal note which would be submitted to the Legislature in the future.

Ms. Bavaro said S.B. 34 altered the driver's license fee structure as contained in the *Nevada Revised Statutes* (NRS) 483.410, subsection (1) by increasing the fee charged to renew a driver's license by 50 cents. The bill's intent was to create an even dollar amount which would allow a greater number of DMV customers to renew their driver's license using a kiosk. She explained that when a driver's license was renewed, NRS 483.415 required the DMV to collect an additional 50-cent fee in addition to the renewal fee. The money collected under NRS 483.415 was used for traffic safety and education efforts in Nevada.

The current fees charged for renewing a driver's license were \$19.50 and \$14.50 for senior citizens. The kiosks used by the DMV to facilitate DMV transactions were technologically sophisticated but unable to make coin change. The machines' inability to make coin change made using the machines inconvenient for those people who preferred to use cash when dealing with the DMV. Ms. Bavaro said approximately 56 percent of the DMV customers preferred to pay cash for DMV transactions rather than paying by check or credit card.

Ms. Bavaro said if S.B. 34 were passed, approximately 100,000 customers would be able to use a kiosk for their DMV transactions instead of having to stand in line at a DMV office. Ms. Bavaro encouraged the Committee to pass S.B. 34.

Vice Chair Heck asked for clarification on the fee structure. Ms. Bavaro said the fees the DMV charged for renewing a driver's license were contained in NRS 483.410, subsection (1) and 483.415.

Senator Horsford asked whether or not the DMV had considered reducing the fees charged for renewing a driver's license by 50 cents. Ms. Bavaro said the DMV had considered the reduction of fees; however, if the DMV reduced the fees charged for renewing a driver's license, its budget for fiscal year 2004 would be reduced by \$167,000. The reduction would affect the DMV's

operating expenses and the DMV's 22-percent cap. The amount realized by the requested increase would increase with the growth projections for each fiscal year.

Senator Carlton addressed the subject of fee reduction and asked how the DMV arrived at the figure of \$167,000 in lost revenue when compared to the money saved if the estimated 100,000 people would use the kiosks to transact their DMV business. She wanted to know whether or not the DMV had considered the man-hours and money it would take for the DMV employees to help those 100,000 people when they went to a DMV office.

Mr. Benzler said the DMV had not considered the man-hours when it requested the fee increase. The DMV had considered the 22-percent cap and the benefits which the general public would receive from the increase. The DMV also had taken into consideration the fact Nevada has one of the lowest driver's license renewal fees in the country. Senator Carlton stated she understood that, but she said she thought if the DMV wanted to encourage people to use alternative means by which to conduct business with the DMV, then it should consider reducing the fees. Senator Carlton stated if 100,000 people did not have to stand in line at a DMV office, then there was probably no need to increase the driver's license renewal fees. She suggested lowering the driver's license renewal fee by 50 cents.

Chair Nolan reminded those present that the Committee recently processed S.B. 87 which eliminated the \$1.50 fee charged to renew a driver's license by mail.

**SENATE BILL 87**: Eliminates additional fee charged for renewal of driver's license by mail. (BDR 43-1036)

The Chair said the fiscal note associated with S.B. 87 resulted in approximately \$111,000 being eliminated from the DMV's operating budget. He asked whether or not the DMV had considered using the requested 50-cent increase to cover the projected deficit associated with S.B. 87.

Mr. Benzler said the DMV had not considered using the requested 50-cent increase to cover the projected \$111,000 deficit. Mr. Benzler said the DMV had not considered that possibility as it believed the requested increase to be reasonable. Mr. Benzler said the DMV preferred S.B. 34 to be processed as

written, but would support any amendments the Committee made to the bill. He noted that the DMV's primary concern was the fees charged for renewing a driver's license in Nevada be an even dollar amount which would permit people to use the DMV kiosks.

Chair Nolan said he understood the bill's intent and asked whether or not the Committee had a sense of the bill. Senator Carlton said she understood that the fees needed to be in even dollar amounts and that it made great sense for those individuals who preferred to use cash when dealing with the DMV. She noted some of the fees charged by the DMV were being reduced or eliminated and that the State had a surplus of money. Based on those two factors, she favored reducing the driver's license fee by 50 cents which would still permit people to use the DMV's kiosks. Chair Nolan said he thought Senator Carlton's suggestion was a good one.

Chair Nolan reminded the DMV that the Committee recently processed S.B. 33, which generated additional revenue for the DMV. He suggested reducing the fees charged to renew driver's licenses in Nevada to \$18.50 and \$13.50 for senior citizens. Mr. Benzler said the fee reduction proposed by the Committee worked for the DMV.

SENATOR HORSFORD MOVED TO AMEND AND DO PASS S.B. 34. THE LANGUAGE IN SECTION 1 OF THE BILL CONCERNING THE FEES CHARGED BY THE DMV TO RENEW A DRIVER'S LICENSE TO BE CHANGED TO \$13.50 AND \$19.50.

SENATOR CARLTON SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR WASHINGTON WAS ABSENT FOR THE VOTE.)

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Chair Nolan closed the hearing on S.B. 34 and opened the hearing on S.B. 55.

**SENATE BILL 55**: Authorizes certain persons to arrange sale of certain governmental vehicles without being licensed as broker or dealer. (BDR 43-722)

Senator Sandra Tiffany, Clark County Senatorial District No. 5, provided the Committee with S.B. 55's background. She told the Committee she was a contractor working for the City of Las Vegas (City) to sell used City vehicles online on eBay. Senator Tiffany wanted to be properly licensed on both a county and state level to sell the vehicles due to the public office she held.

Senator Tiffany said under current Nevada law, she would have to be a licensed car dealer in order to sell the City vehicles online. She contacted DMV, met with DMV staff and reviewed the requirements she needed to meet in order to be licensed as a Nevada car dealer. Senator Tiffany did not qualify to be licensed as a car dealer under current law. The requirements included a physical location which was fenced and a garage license.

Senator Tiffany said she did not meet either of those requirements, so she did not qualify to be licensed as a car dealer. The Senator said she only wanted to photograph used City vehicles and post the photographs on eBay.

Senator Tiffany then reviewed the requirements a person had to meet in order to be licensed as a car broker in Nevada. Senator Tiffany did not qualify for licensing as a broker due to the fact that in Nevada, brokers represented people who wanted to buy, not sell, vehicles. She noted that eBay facilitated electronic auctions.

Due to the licensing limitations, Senator Tiffany agreed to provide advertising for the sale of used City vehicles. This allowed her to comply with all licensing requirements on both county and state levels. The advertising had to be defined as the sale of government-owned vehicles conducted at public auctions.

The public auctioneer for government sales in Nevada was TNT Auction, which was based in Utah. The State of Utah called Nevada's DMV and requested an investigation into Senator Tiffany's car-selling activities. The result of the investigation was S.B. 55. Senator Tiffany directed the Committee's attention to the proposed amendment for the bill ([Exhibit F](#)). She said she was in complete agreement with the proposed amendments. The amendment allowed a government agency to use an advertising company to sell surplus vehicles.

Senator Tiffany reviewed the proposed amendments. At Senator Tiffany's request, Troy Dillard, Administrator, Compliance Enforcement Division, Department of Motor Vehicles, addressed the Committee. He said the DMV had

been contacted by Senator Tiffany to explain the impact S.B. 55 might have regarding online vehicle sales. The DMV provided expertise on existing statutes and regulations and discussed the possible impact the proposed legislation might have on the industry.

Mr. Dillard stated that DMV officials provided the same information to the Research Division, LCB, for its consideration when drafting S.B. 55. Mr. Dillard said the DMV did not support or oppose the bill. However, the DMV requested the amendments contained in [Exhibit F](#) be included in the bill if S.B. 55 were passed.

Mr. Dillard referred to the proposed amendment ([Exhibit G](#)) and the reason the amendment had been requested. Mr. Dillard explained the bill did not address negotiations for the vehicles' prices. A government entity was required to provide that information. Advertisers acting as agents for a government agency would not set the selling price of the vehicles; the government entity would be responsible for determining the selling price. Mr. Dillard stated the DMV would continue to monitor for compliance with that provision.

John P. Sande, III, Nevada Franchised Auto Dealers Association, said he met with Senator Tiffany prior to the 2005 Legislative Session and reviewed S.B. 55 with her. He stated the Nevada Franchised Auto Dealers Association had no problems with the bill.

Senator Carlton said she misread the bill and thought the bill addressed the sale of all types of vehicles. She asked for clarification on which entities would be affected by S.B. 55. Mr. Dillard said the bill applied only to government entities selling used vehicles in Nevada.

Chair Nolan stated he understood the process of electronic purchasing and wanted to know who the successful bidder would contact once he or she purchased a vehicle from a government agency, the advertiser or the governmental agency. Senator Tiffany said all the transactions were done electronically with all communications being sent and received through e-mail. The advertiser would arrange, through e-mail, for a time when the government entity would be open and able to transfer title to the buyer.

Chair Nolan again asked who the buyer would contact, the advertiser or the government entity. Senator Tiffany said the buyer would arrange with the

advertiser as to where and when a vehicle would be picked up. The advertiser would act as the clearing house when arranging a time for a vehicle to be picked up by the buyer. Senator Tiffany noted that the buyer would take physical possession of a vehicle from the government agency's physical location, not the advertiser's physical location.

Chair Nolan stated S.B. 55 affected only the sale of governmental vehicles. Those vehicles were currently sold at auction by TNT Auction. He wanted to know how often a vehicle auction was held. Senator Tiffany told him a vehicle auction was conducted every six months.

Senator Horsford asked whether other groups would be affected by the bill or was it specific to Senator Tiffany's situation. Senator Tiffany said she was not aware of other people being affected by S.B. 55. She added she had been working on the legislation for the past 11 months and had not met anybody else who might be affected by the bill. The public auction houses would be the direct competition for the sale of government vehicles.

Senator Carlton asked whether Senator Tiffany's business was the small niche of selling used government vehicles online. Senator Tiffany stated the sale of government vehicles was one activity she did online.

Senator Carlton said she wanted to make sure others would not be affected by the bill. Senator Tiffany said she did not understand the question. Senator Carlton asked whether or not other advertisers would be affected by the bill. Senator Tiffany stated she had a relationship with a car dealer and was familiar with car dealers due to that relationship.

Due to her relationship, Senator Tiffany learned there were people in other states selling vehicles online; these individuals were not identified in statute, did not carry liability or workers' compensation insurance, were not licensed and did not enter into contracts with the sellers. Due to the lack of regulation, the respective DMVs had no way to investigate complaints against individuals due to the lack of oversight. Senator Tiffany noted the statutes of many states were not current with technology and online activities.

Senator Carlton said she had been confused about the legislation's intent. It would regulate individuals who sold used government vehicles over the Internet, but not people who were selling private vehicles over the Internet.

Senator Tiffany said she was introducing a piece of legislation which would address private parties who sold vehicles over the Internet. Senator Carlton stressed that one piece of legislation would not be tied to another.

Senator Tiffany stated there was an exemption in the statute. She added Nevada counties had also requested clarification from the DMV on the statutes and regulations which oversaw the sale of vehicles in Nevada. The Senator requested S.B. 55 due to her involvement in the business. She added Nevada's DMV statutes needed to be modernized.

Chair Nolan asked how other states addressed the sale of vehicles over the Internet. Senator Tiffany replied she had not asked LCB to research that subject, but would if the Chair thought it important. She reported that she attended automobile trade shows and talked to the eBay staff at one such show. From the eBay staff, Senator Tiffany learned that the regulation of vehicles over the Internet was on a state-by-state basis. She noted the eBay staff favored legislation such as S.B. 55 as they wanted the sale of vehicles over the Internet to be legitimate.

Chair Nolan asked Mr. Dillard for clarification on the nature of the complaint TNT Auction had lodged with the DMV against Senator Tiffany. Mr. Dillard stated the complaint was received by the DMV as an individual who was selling cars for profit over the Internet. The DMV conducted an investigation to determine whether or not the practices being followed required licensure by the State.

Chair Nolan asked whether the DMV's investigation concluded Nevada's statutes did not cover a situation such as Senator Tiffany's, which meant the Senator had not violated any State law. Mr. Dillard said as an individual, a person could sell up to three vehicles for profit as long as the vehicles were registered to the seller. Nevada defined the business practices which had to be followed when vehicles were sold for profit. At that point, Nevada's statutes and regulations came into play.

Mr. Dillard explained the statutes addressed the for-profit sale of vehicles which meant Nevada government entities were exempt as those vehicles were not sold for profit. A government agency in Nevada did not have to be licensed as a Nevada car dealer. Most Nevada governmental agencies used the services of a third party to liquidate an agency's used vehicles. When a government agency

sold its used or surplus vehicles, it could sell the vehicles outright or use the services of a third party to liquidate the vehicles. The sales practice used by the third party determined whether or not the third party had to be licensed by the State. An advertiser would need to be licensed when he or she negotiated the sales prices of the vehicle, profited specifically from the sale of a vehicle, and participated in title transactions. Mr. Dillard said TNT Auction was licensed as an automobile dealer by the State. He added there were other licensed automobiles dealers the government agencies in Nevada used when selling used or surplus vehicles.

Chair Nolan referred to [Exhibit F](#) and [Exhibit G](#). He said he wanted the Committee to review those documents before taking action on [S.B. 55](#). Chair Nolan requested the Research Division provide the Committee with an overview of the statutory means by which other states addressed the subject of Internet automobile sales in their statutes. The Chair said the Committee would take action on the bill at its first work session.

Chair Nolan closed the hearing on [S.B. 55](#) and opened the hearing on [S.B. 54](#).

**[SENATE BILL 54](#)**: Revises provisions relating to refund provided in certain circumstances upon cancellation of registration of vehicle and surrender of license plates. (BDR 43-859)

Senator Tiffany provided the Committee with the background information on [S.B. 54](#). She said one of her constituents called her after having an unsatisfactory encounter with the DMV in southern Nevada. The constituent ordered a new vehicle, but could not take delivery immediately as the vehicle was specially ordered by the constituent. The constituent went to surrender his registration and license plates to the DMV until such time as the new vehicle was delivered. There was a credit of approximately \$348 on his registration. The gentleman asked the DMV to hold onto the credit until he took delivery of the new vehicle; he would then apply the credit towards the registration costs of the new vehicle. The DMV employee told him that was possible; however, the credit would be reduced on a prorated basis for every day it was not used by the constituent.

The constituent then requested the DMV issue him a check for the amount of the credit. He had been told the only way DMV would issue him a check for the credit would be if he surrendered his driver's license to DMV officials. The

constituent was upset when he contacted Senator Tiffany as he thought he was following procedure when he surrendered his vehicle's registration and license plates.

The constituent felt the credit was his, but that he would not receive the full amount of the credit unless he surrendered his driver's license. The DMV office in Henderson faxed Senator Tiffany a copy of the form which the constituent had been asked to sign. The form stated when a person wanted to receive a check for the amount of a credit for vehicle registration, he or she would have to first surrender his or her driver's license.

Based on the constituent's experience, Senator Tiffany requested S.B. 54. The bill, if passed, would give people a choice when they surrendered their vehicle registration and license plates. Those individuals could either receive a check for the amount of the credit or freeze the credit until such time as it could be applied towards the registration costs of a new vehicle. The credit would not be prorated. The Fiscal Analysis Division, LCB, felt there would be a fiscal impact if the bill were passed. Senator Tiffany said she thought the money committees of the Legislature would conduct hearings on S.B. 54. Senator Tiffany and Dennis Colling, Chief, Administrative Services Division, Department of Motor Vehicles, presented the Committee with a copy of S.B. 54's fiscal note ([Exhibit H](#)).

Mr. Colling said in 1999, legislation had been passed which became effective on January 1, 2001. The legislation offered refunds to those individuals who surrendered their vehicle registration and license plates. In 2003, the Legislature reviewed the negative fiscal effects resulting from the 1999 legislation.

In order to combat the negative fiscal effects resulting from the 1999 Legislation, A.B. No. 30 of the 72nd Session had been passed. The legislation contained certain conditions under which a Nevada motorist could receive a refund when surrendering vehicle registration and license plates.

Mr. Colling said S.B. 54 returned the DMV refund policy to its original state before modification by A.B. No. 30 of the 72nd Session. Mr. Colling said prior to the bill being passed, the DMV issued approximately 10,000 refund checks per month or \$5 million dollars a year in refunds. The negative fiscal impact had a growth rate of 15 percent per year.

Mr. Colling stated with the thresholds outlined in S.B. 54, there would be approximately 32,000 refunds in fiscal year (FY) 2006 resulting in a revenue reduction of \$2,368,814. Mr. Colling said in FY 2007, there would be approximately 33,000 refunds resulting in a revenue reduction of \$2,437,510. The DMV had requested an additional staff person to process the refunds, handle walk-ins and answer telephone inquiries. Mr. Colling said the process would delay all refunds by 30 days; this time frame would deter people from registering their vehicles at the beginning of the week and then canceling the registration at the end of the same week. The delay would ensure all checks issued to the DMV were cleared by the issuing bank and not returned to the DMV for insufficient funds.

Chair Nolan stated it appeared as though Mr. Colling was only providing the Committee with information on the bill and not advocating either support or opposition on S.B. 54. Mr. Colling replied, "That is correct, Mr. Chairman."

Senator Tiffany said the Committee could consider an outright refund or allow people to use the credit for another vehicle registration. Senator Tiffany suggested a review of the DMV's refund policies to determine how those policies could be tightened before the bill was sent to the Senate Committee on Finance.

Mr. Colling told the Committee it needed to be aware of certain issues connected with S.B. 54, including the length of time the DMV would retain refund money before it was claimed by a vehicle owner or what would happen to the money if it was not claimed. Chair Nolan said the Research Division would list those concerns for consideration by the Committee.

The Chair asked Mr. Colling for recommendations on what the average retention period should be and which would not place the State in an unfavorable position with the DMV's customers who requested refunds. Mr. Colling said he was not sure what a reasonable time would be. He added that extensive computer programming would be required in connection with the refund program.

Senator Tiffany asked whether or not the unclaimed credits would fall under the purview of the Office of the State Treasurer's Unclaimed Property program. The statutes were clear on what happened with unclaimed property. Chair Nolan said he would ask the Research Division to determine whether or not the

unclaimed money would be considered part of the State Treasurer's Unclaimed Property program.

For the record, Dan Musgrove, Clark County, said:

We don't feel in our position as local government it's our position to essentially debate the policy of whether this money should be refunded back to the individuals, obviously. We just want to put on the record depending on what scenario that was just discussed, whether you hold on to it, whether you use it as a pro rata, as it's something that you can use later, the bottom line is that that money probably would not be then distributed to the local governments through the government services tax. That, based on Mr. Colling's numbers, approximately 65 to 70 percent of that money goes directly to Clark County; all the entities in Clark County, whether it's local government or the school districts, we figure that at about \$1.5 million the first year, \$1.84 million the second year and \$1.6 million in FY 2008. That's simply what we wanted put on the record that that would be money that would be no longer going to those entities in Clark County.

For the record, Santana Garcia, City of Henderson, said:

When we first looked at S.B. 54, it was difficult for us to calculate what the fiscal impact would be. We didn't have any numbers. But we believed, at that point, that it would be minimal. After looking at the DMV's numbers, we see that it would be more significant than we originally thought. However, we still remain neutral. We have no problem with this bill.

Cheri Edelman, City of Las Vegas, said she wanted to echo the comments about S.B. 54 which were made by the representatives of the City of Henderson and Clark County.

Chair Nolan said the refund issue was clearly a DMV policy issue. The Committee would have to decide what should happen to the refund money if it was not used for its intended purpose. He noted that if the DMV attempted to

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hold the money or make a separate accounting, there could be additional fiscal notes attached to S.B. 54.

Chair Nolan directed Mr. Guinan to research the questions raised during the course of the meeting and report back to the Committee.

Chair Nolan said S.B. 54 and S.B. 55 would be considered by the Committee at a future work session.

There being no further business, the meeting of the Senate Committee on Transportation and Homeland Security was adjourned at 2:57 p.m.

RESPECTFULLY SUBMITTED:

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Lee-Ann Keever,  
Committee Secretary

APPROVED BY:

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Senator Dennis Nolan, Chair

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