

**MINUTES OF THE  
SENATE COMMITTEE ON TRANSPORTATION AND HOMELAND SECURITY**

**Seventy-third Session  
March 3, 2005**

The Senate Committee on Transportation and Homeland Security was called to order by Chair Dennis Nolan at 1:35 p.m. on Thursday, March 3, 2005, in Room 2149 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to the Grant Sawyer State Office Building, Room 4412, 555 East Washington Avenue, Las Vegas, 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 Maurice E. Washington  
Senator Mark E. Amodei  
Senator Michael Schneider  
Senator Maggie Carlton  
Senator Steven Horsford

**GUEST LEGISLATORS PRESENT:**

Senator Valerie Wiener, Clark County Senatorial District No. 3

**STAFF MEMBERS PRESENT:**

Patrick Guinan, Committee Policy Analyst  
Joshua Selleck, Committee Intern  
Sherry Rodriguez, Committee Secretary

**OTHERS PRESENT:**

Ted Farace, Volunteer Homeland Reserve Unit  
Former Assemblywoman Vonne Chowning, Clark County Assembly  
District No. 28  
Bob Fregeau, Fraternal Order of Police  
Dean Ishman, Volunteer Homeland Reserve Unit

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Martha Barnes, Administrator, Central Services and Records Division,  
Department of Motor Vehicles  
Dan Musgrove, Clark County  
Martin J. Manning, Director, Public Works, Clark County  
Christopher Figgins, Deputy District Attorney, Clark County  
Janine Hansen, Nevada Committee for Full Statehood  
Charles W. Fulkerson, Executive Director, Office of Executive Director for  
Veterans' Services, Office of Veterans' Services

CHAIR NOLAN:

We will open the hearing beginning with Senate Bill (S.B.) 143.

**SENATE BILL 143**: Provides for issuance of special license plates recognizing current or former employment as professional law enforcement officer. (BDR 43-300)

SENATOR VALERIE WIENER (Clark County Senatorial District No. 3):

Senate Bill 143 is a license plate bill requested by the Nevada Coalition of Police Organizations and the Volunteer Homeland Reserve Unit. One appealing component of this bill is that it would create a special fund to provide assistance to the families of slain or disabled peace officers.

I want to give some perspective as to why I chose to bring this bill to the Committee versus the Commission on Special License Plates. In 1999, I started the idea of sending license plate legislation to the Department of Motor Vehicles (DMV); I introduced S.B. No. 67 of the 70th Session at that time. It was my intent, because of the 120-day session time limit, to streamline the activities of our committee and floor work, regarding proposed legislation for license plates presented to committees. I also wanted to provide a 24-month out of 24-month opportunity for consumers to approach the Legislature and request special license plates. It was not my intent, as the first of three sponsors of legislation, to send special license plate ideas to DMV. It was not my intent to preclude the legislative process in consideration of the bill; it was only to streamline the process.

I am requesting support for S.B. 143 for a couple of reasons; one is that these people who serve our community deserve recognition. It is their request to have an opportunity for these plates to be put on their vehicles.

The legislation refers to active and retired law enforcement; that was at my request. The bill was originally presented to me as a plate for retired law enforcement. I asked for the inclusion of active law enforcement to allow them the same opportunity.

Ordinarily, a special plate requires a minimum of 1,000 people making a commitment to retain the special plate. This one does not have a minimum requirement; we can certainly talk about that. The reason we do not have a requirement is that this is a special population. Usually, the 1,000-plate requirement would be open to the entire population; they are plates anyone can access. The people who would purchase this specific-subject plate would need to qualify for it. They must show evidence of being either active or retired peace officers. That qualification requirement could actually throw roadblocks in the way of the purchase of the plate and the commitment of the 1,000 people.

Nevada has other special plates that do not require a minimum number of interested individuals. The University of Nevada, Reno and University of Nevada, Las Vegas commemorative collegiate plates do not have a minimum. Most veterans' plates do not have a minimum. The Nevada 125th anniversary plate did not have a minimum. We have special plates recognizing and honoring those who have made a commitment to the communities in this State, such as ex-prisoners of war, disabled veterans, Congressional Medal of Honor winners, who were also, in a way, public servants just as these law enforcement officers are or have been.

In addition to my request for this, I want to stress that when I introduced S.B. No. 67 of the 70th Session with the intent of streamlining the process, I knew at that time, though the commission did become a reality, it does not preclude this Legislature from acting on a special plate bill.

It gives us an opportunity to allow people in law enforcement to be recognized for their selfless commitment to their communities and to this State. Also, the extra money generated through the issuance and renewal of such a license plate would allow for a fund that would serve the families of slain and disabled officers who have dedicated their lives in service to our communities.

For those reasons, I urge your support for S.B. 143.

CHAIR NOLAN:

Are there any questions for Senator Wiener?

SENATOR CARLTON:

In section 1, subsection 10, paragraph (b), the bill states: "Nevada Coalition of Police Organizations means," accompanied by a description and then followed by a list of separate entities involved with that organization. In the future, if anyone wanted to join that organization, would they need to come to the Legislature to get their names statutorily added?

SENATOR WIENER:

That information was provided by one of the witnesses who approached me to introduce this bill, Ted Farace. In section 1, subsection 10, paragraph (b), subparagraph (11) states: "Any other association, club or organization that the Coalition recognizes as a member organization."

SENATOR CARLTON:

Sometimes, organizations can be territorial. We see it happen in labor, management and in many different areas. We are putting into law one particular organization that will decide who participates. That makes me uncomfortable.

SENATOR WIENER:

For many of the plate bills introduced several sessions back, many of those funds were established and the monies designated, often there is an organization that does that or its successor. Looking at the coalition associated with this place, it is really an organization with many organizational members. I have not seen many plate bills with this amount of participants. Chair Nolan, if Mr. Farace could respond to Senator Carlton, he is the person who came forward with the bill. He may have the answer.

SENATOR CARLTON:

Could Mr. Farace also address why I only see the Nevada Constables' Association on the bill and not any of the other numerous law enforcement associations we have in this State? Why are they not listed? That would answer my question.

TED FARACE (Volunteer Homeland Reserve Unit):

This is an evolving coalition of police organizations we were able to identify that had an interest in working together on common causes. Any organization in the

State that wishes to join our coalition is more than welcome. We have reached out to both active and retired law enforcement groups; they have not responded. The coalition is not closed. We are always looking for more coalition members to participate. In unity there is strength.

I believe we can represent both retired and active law enforcement officers. Some members are active law enforcement people. The police and fire license plate society, for example, is composed of Las Vegas Metropolitan Police Department and Las Vegas Fire Department personnel, both active and retired. We do have active police. The coalition is open for participation by any organization.

I understand your point and believe Senator Wiener's focus on section 1, subsection 10, paragraph (b), subparagraph (11), "Any other association, club or organization ..." serves as an open door for anyone else to join our group. The more active and retired law enforcement organizations we can get together as a coalition, the more it will benefit the people of this State. I hope that answers your question.

SENATOR CARLTON:

It does answer the question. But if you read on, the bill states, "... the coalition recognizes." So in essence, this means they must apply to the coalition and the coalition would need to recognize them before they would have the opportunity to apply for a special license plate. Is that correct?

MR. FARACE:

That paragraph refers to a member organization becoming part of the coalition. It is not the intent for the coalition to have final say on who benefits from the issuance of this plate. The coalition is presenting this as it stands today. Tomorrow, there could be three other organizations, maybe as a result of this hearing, wanting to join the coalition. They would be more than welcome. We would never limit any organization from participating with us. Like I said earlier, the more people we can get together in unity, that is my goal.

SENATOR CARLTON:

Thank you for making it clear.

CHAIR NOLAN:

Are there any other questions for Mr. Farace?

VICE CHAIR HECK:

Would you give us some background on the Volunteer Homeland Reserve Unit (VHRU)?

MR. FARACE:

I retired in 1987 from the New York City Police Department after 23 years of service. I then became a managing director of corporate global security for an investment bank in New York. After 15 years, I retired and relocated to Nevada in August 2001.

I had a problem dealing with the tragedy of September 11, 2001, and the events taking place in my home city of New York that I had left just a month prior. It was frustrating to not be able to do anything. I got the idea to organize retired law enforcement people and offer our services in the homeland security area. That is how VHRU was conceived.

I developed the coalition of police organizations to meet other active and retired law enforcement professionals. As a result of my networking, I was able to solicit members to volunteer their time in the VHRU. The VHRU has recently signed a memorandum of understanding (MOU) to be a State resource with the Division of Emergency Management under the Department of Public Safety. Currently there are 162 participating members. We are getting more applications everyday; it is an ongoing process. I envision a few hundred more members, over the next few years, mainly retired police officers in this State. We could really use their help providing this type of service to the communities.

We also have agreements with the four police agencies in southern Nevada. We have an office in the city of Henderson's Police Department. We work out of that office coordinating issues for which the police departments may need our services. Even though it is not homeland security, the value of having former law enforcement officers available is immeasurable. They do not need to be trained; this small army of professional people already know exactly what needs to be done from door to door.

With regard to homeland security, now that we are a resource for the State, we are developing training programs and neighborhood watch programs in southern Nevada. We are reaching out across the State to other individuals. I will be going to Reno to develop a team in northern Nevada. We are spreading from

southern Nevada across the State trying to get more police personnel involved in homeland security.

My goal is to have, in the near future, a small force of qualified, trained individuals that can be deployed anywhere in the State when needed. That is a quick history of the VHRU. What we want to do is help. We have a lot of people with terrific experience and credentials. Members of this organization range from chiefs of police right down to police officers. The years of experience are averaging 25 or more. This is an invaluable group of people that can help homeland security in our State.

CHAIR NOLAN:

I am aware of two other long-standing organizations in this State that are not among the list of organizations currently in section 1, subsection 10, paragraph (b) of the bill. One is Nevada Conference of Police and Sheriffs (NCOPS) and the other one is Peace Officers Research Association of Nevada (PORAN). These groups represent a number of peace officers in this State. Have they been approached on this? Have you spoken to them about membership within your organization?

MR. FARACE:

I am not familiar with PORAN or NCOPS. It can be difficult to find these organizations. There are a number of organizations not on the list that I would like to have as members. Police departments are reluctant to get involved with retired law enforcement associations outside their departments. It is difficult to break that barrier. I would be more than willing to explore those possibilities and if they wish to participate in the coalition, I welcome any organization. As stated earlier, the more strength we have, the more we can help the community. I will definitely look up these organizations.

CHAIR NOLAN:

They are large, recognized organizations. Senator Carlton is familiar with them.

SENATOR CARLTON:

I am getting these confused; there are multiples. I am thinking of the State Peace Officers Council of Nevada (SPOC) which is affiliated with Service Employees International Union Local No. 50. The NCOPS is more of an umbrella-type organization; I do not believe it is as large as it used to be.

MR. FARACE:

The SPOC was a participating member. Unfortunately, they did not have enough time to participate in the coalition due to their other commitments within the State.

I would like to add that the coalition is a high-level think tank. We meet quarterly and discuss issues brought forward by any of the organizations. By sharing with the others, we might be able to team up together and form a group of people to focus on a particular issue. For example, basic things such as holiday parties for retired and active law enforcement, picnics, helping different charities and getting volunteers. We took 75 kids from Boys Town in Boulder City on a picnic; we all participated in that. Those are the kinds of things on which the coalition works. I would welcome any group to join us.

CHAIR NOLAN:

Are there any questions for Mr. Farace?

VICE CHAIR HECK:

I commend the efforts of the VHRU in trying to mobilize valuable resources to augment what our State needs in times of emergency. I certainly applaud the intent of trying to generate revenue for the families of slain or disabled officers.

Historically, active law enforcement opposes specialty plates because for every specialty license plate issued there is another code issued. They have to enter the code before they run the plate; that tends to put them at risk. So usually, active law enforcement is not a big proponent of specialty plates.

Have you discussed with any active law enforcement agencies whether or not members would be interested in having a specialty plate? Everyone I have talked to in active law enforcement said they did not want their car marked in such a way, and they would not take the plate.

MR. FARACE:

The plate, with our suggested design ([Exhibit C](#)), is the standard color of the existing Nevada license plate today. It is something an officer would recognize as a Nevada plate. The only difference is, it conforms to the new legislation, one-third/two-thirds design, which we specifically did on this plate. It is basic with the same color standards.



Being a former police officer myself, yes, you always worry about people targeting your vehicle or your family because they realize you are a police officer. Having a specialty plate on an officer's personal vehicle is an issue for active law enforcement. This plate could be designed a number of different ways. It could state active, retired, or simply initials. It depends on how the plated design is approved and how the DMV wants to put this through.

As for retirees, we have done our service. We want to support active law enforcement. We realize as the State's population grows, it is inevitable law enforcement will be involved in more serious incidents, such as officers killed or injured. We want to do something to help. We are willing to put the plate on our cars and not worry about them being targeted, scratched or dented.

I have spoken with active law enforcement officers concerning this situation. They would support the specialty license plate if they could buy the plate as a souvenir; once they retire, they would then put the specialty plate on their cars. But right now, they are a little reluctant to do that. We are mainly focusing on the retiree population of law enforcement.

SENATOR WIENER:

I would like you to know, Chair Nolan, that when Mr. Farace approached me, it was strictly for a retired law enforcement plate. It was my request to change it. I did not want to single out a population within a population. Theoretically, retired law enforcement would not be targeted. The public would know by evidence of the specialty plate that they are no longer active law enforcement. That was my decision; it was not his recommendation.

CHAIR NOLAN:

Mr. Farace, I have a list of members from your organization who have signed up in support of S.B. 143. I will have these names entered into the record as being in favor of this bill: Noah Grimm, James Button, Ron Hohenstein, Kristine Stephens, Al Charak, Charles Licata, Gene Altobella, Robert Moran, Mike Searcey, Pete Dingee, Joseph Kostew, Wayne Curtis, Alvin Fields, Martin Rapkine, Tom Savage, Bill Rettle, Mello Leutwyter, John Liba and Joe Anastasi.

We will now hear testimony from former Assemblywoman Vonne Chowning concerning this bill.

FORMER ASSEMBLYWOMAN VONNE CHOWNING (Clark County Assembly District No. 28):

It is a privilege to be here in support of S.B. 143. As you know, I had the privilege of passing a number of special license plate bills. It thrills me to know the Lake Tahoe specialty plate has raised \$2.5 million. Some of the others include the arts plate, which has raised almost \$100,000, and the United We Stand license plate, which funds go towards antiterrorism training and equipment, has raised nearly \$100,000 within the first two months.

The great thing about special license plates is they are a method for raising funds for worthy causes, without taxing our taxpayers. It is voluntary. If someone does not want to purchase one of the plates, they do not have to do so.

We have passed legislation in the past providing scholarships for fallen officers' families and other measures to help our fallen officers' families. This is a marvelous attempt at helping families, not only fallen officers' families but disabled officers' families as well. That is why I am so proud to step forward and support this special license plate. We cannot do enough to say thank you to the people who protect us. This license plate is one that will be easily recognized by law enforcement because it is simply a logo, on the left third of the plate.

In 2003, legislation was passed which created the Commission on Special License Plates, of which I was the Chair. It was the intent of the Legislature, in my opinion, not to supplant, not to override any session of the Legislature. It was only to act upon special license-plate issues during the interim between Legislative Sessions. One Legislative Session cannot tie the hands of the next or any future Legislative Session.

I want to clarify, this is an exception to the rules that apply to other special license plates. This plate is not available for purchase by the general public, much like the recognition of professional firefighters and volunteer firefighters. Therefore, the plate should not and does not, in this bill, have an application minimum.

I want to address the coalition. If this language had been in the special license-plate bill recognizing professional firefighters, we would have saved a lot of headaches. The only reason the coalition is noted here is to help identify the

recipients of the plate. As you can see in section 1, subsection 4, the recipients of the special license plate must be identified as a professional law enforcement officer. If someone does not want to join the coalition, they do not have to. It is simply an aid to identify who is eligible to own this specialty plate. One of the items that must be given to the DMV is a letter from the law enforcement agency which currently employs or formerly employed the individual, from the coalition of police officers, from the Volunteer Homeland Reserve Unit or from the chief officer of a law enforcement agency.

If we had this type of help in place with the volunteer firefighters and the professional firefighters specialty plates, we would have saved the DMV a lot of headaches. I am happy that is in here.

Lastly, I want to touch on the license plate as a souvenir. As you know, we passed legislation that said specialty plates may be sold as souvenir plates. That is another form of raising revenue; it raises thousands of dollars even though the plates are never placed on a vehicle. It is my honor to ask for your support of S.B. 143.

BOB FREGEAU (Fraternal Order of Police):

I am a retired adult parole and probation officer from the State of Nevada. I echo the comments made here this afternoon. The Fraternal Order of Police (FOP) is a police organization made up of law enforcement agencies around this State, which include the Las Vegas Metropolitan Police Department (Metro), Nevada Highway Patrol, Henderson Police Department, Boulder City Police Department and the entire Nye County Sheriffs Department. All are FOP members. I would like to include that the members I have spoken to on this issue are happy to support the retired law enforcement officers' specialty plate.

DEAN ISHMAN (Volunteer Homeland Reserve Unit):

I am a squad leader for VHRU and also the president of a retired police organization, the Law Enforcement Association of Nevada, Incorporated. We support S.B. 143; it is a noble cause. I want to assure you the bill's intent was to be all-inclusive; we are not attempting to be restrictive in any way. All law enforcement organizations are welcome to participate in this coalition and be recipients of this plate. I solicit your support for S.B. 143.

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MR. FARACE:

We have another gentleman, metro police officer, Mr. Grimm who is in favor of this bill. Mr. Grimm represents the Nevada Police and Fire Emerald Society. He had to leave this hearing, but has requested his written statement be included in the minutes of today's hearing ([Exhibit D](#)).

MARTHA BARNES (Administrator, Central Services and Records Division,  
Department of Motor Vehicles):

I have written testimony that I would like to read to this Committee ([Exhibit E](#)).

CHAIR NOLAN:

There have been some concerns mentioned with regard to S.B. 143. I commend Senator Wiener and the organizations which have stepped forward in support of this bill.

We are going to hold the bill over for a work session. Any concerns members of this Committee have expressed can be addressed with Senator Wiener and me. We will try to work those out before we take any final action on the bill.

Ladies and gentlemen who have appeared before this Committee to testify, we acknowledge your dedication to law enforcement and your service to your communities and country. We thank you for staying active, especially in the homeland security front for us.

We will close the hearing on S.B. 143 and open the hearing on S.B. 10.

**SENATE BILL 10**: Limiting to certain counties right of state residents to petition board of county commissioners concerning use of public roads.  
(BDR 35-332)

DAN MUSGROVE (Clark County):

I will briefly introduce what we are trying to accomplish with S.B. 10. Clark County is asking to be exempted from the provisions of *Nevada Revised Statute* (NRS) 405.195, which allows any five Nevada residents to essentially close or abandon a road. Clark County has become so urbanized with a population of 1.6 million, we believe those provisions could be problematic for Clark County.

There is a provision in NRS 278.480 that allows abutting property owners to vacate, close or abandon a street or easement. We think that is a more proper venue for such property owners. I would like for Mr. Manning and Mr. Figgins to go over the details of what we are trying to accomplish.

MARTIN J. MANNING (Director, Public Works, Clark County):

I have written testimony I will read and would like to be entered into the record ([Exhibit F](#)).

Here with me today is Christopher Figgins from our district attorney's office. He has some information to share on some of the legal history related to this matter. We appreciate the opportunity to present this information to your Committee and are prepared to provide you with any further information that would be helpful in your consideration of S.B. 10.

CHRISTOPHER FIGGINS (Deputy District Attorney, Clark County):

I would like to discuss a few legal concerns we have with the statute as it is currently written. Under subsections 2 and 3 of the statute, the county, in my opinion, must act much like a court of law in making determinations as to the public status of a roadway and also the specific findings set forth in subsection 3.

In 1995, the Nevada Supreme Court, in opinion of the *Nevada Public Land Access Coalition, Incorporated v. Humboldt County Board of County Commissioners* 111 Nev. 749 (1995), opines that the matters pertaining to NRS 405.195 should be disposed of by filing a complaint for relief in the district court. In that case, the property owner, Mr. Montaro, blocked off Leonard Creek Road which runs through his land onto public lands in Humboldt County. The Nevada Public Land Access Coalition sought to have the board of commissioners reopen the road pursuant to NRS 405.195. In the concurring opinion, the Nevada Supreme Court stated the county does not have the power, under NRS 405.195, subsection 3, to order the road across Mr. Montaro's property to be reopened in order to give the public the right of access on Mr. Montaro's land.

The county board meeting was not an adversarial proceeding in which conflicting claims and interest in real property can permanently be adjudicated. The proceedings under NRS 405.195 are not adversarial or judicial in nature. They do not provide a notice to all interested parties' properties. To resolve this

controversy, either Mr. Montaro, the Nevada Public Land Access Coalition or some other interested party must file an appropriate civil claim for relief.

When this petition was presented to us this past year, we too had difficulties determining the status of whether or not that road was a public road under the definition of subsection 2. Therefore, because we have other procedures that allow us to vacate or open roads, it is our request that you leave Clark County out of this statute and let us use our usual procedures.

SENATOR AMODEI:

Can you explain your rationale for this? I have heard nothing that is unique to Clark County in your analysis. Why is it okay for the other 16 counties to continue this way? If we accept your premise, why is there not someone here from the Nevada Association of Counties? Why is there no one here from the other counties? Why are we only dealing with Clark County?

MR. FIGGINS:

We would not be opposed if other counties want to join us on this bill. We drafted the statute because of our population. We have a few rural areas within the county into which our population is intruding. If other counties would like to join in this, we would be more than glad to have this issue presented to them.

SENATOR AMODEI:

Did you make an effort to coordinate with other counties regarding your concerns?

MR. FIGGINS:

Not that I am aware of.

SENATOR AMODEI:

Because of Clark County growth, was there any thought given to changing the number of residents from 5 to 30, or something like that? What was the analysis whereby you just wanted to be exempted from statute entirely, instead of increasing the number of people?

MR. FIGGINS:

I do not think the problem is with respect to increasing the number of people as much as it is with the procedure under subsections 2 and 3, which in my opinion, asks us to act much like a court of law in making a determination. Once

we make a determination, the county is supposed to issue an order. The order is supposedly binding on a party who is not even a party to the proceedings. That is what causes the difficulty with us even holding a hearing regarding such a matter.

I do not think it is a matter of the number of people, because under NRS 278.480, even one person can file a petition. We are not objecting to the number of people; we object to the process.

SENATOR AMODEI:

For instance, in NRS 405.195 under subsection 1, it states: "The petition must be accompanied by proof of petitioners' residency and," this is the part that is important to me for purposes of your answer, "adequate maps and documentation to justify a hearing on the petition."

What is Clark County's procedure for judging maps and documentation? You have indicated that we have to figure out the property ownership, survey and all the other stuff. I do not see anything in here that prevents the county from requiring someone to submit information or evidence of that nature to you prior to conducting a hearing.

In the instance of a petition like this being filed, does Clark County have a procedure that specifies the definition of adequate maps and documentation to justify a hearing requiring preliminary title reports, survey records and licensed-surveyor mapping? Is there anything like that presently required by the county when they are presented with one of these petitions?

MR. FIGGINS:

There are no county code requirements. The only requirements we have are pursuant to NRS 405.195. In the specific case that we had, the property owners did submit the various documents and in order for us to verify those, we literally had to have our surveyor go out and perform a survey on the roads to determine what the status and ownership of the roads were, based on his findings.

SENATOR AMODEI:

I see a ton of discretion within the county here. You have referenced a situation on Rainbow Boulevard; in the last five years, how many times have you been presented with petitions of this type in Clark County?

MR. FIGGINS:

I know of only this one. There may have been another one with respect to the closure of a road within a subdivision, but I am not sure. This one did present various difficulties when it was presented to us.

SENATOR AMODEI:

I am just going on the presented testimony, which referenced the growth of the county, and I think there was something about considerable staff effort. Was all that testimony based on one precipitating event, in your recollection, representing the county?

MR. FIGGINS:

Yes, that is my recollection.

SENATOR AMODEI:

How long have you been representing the county in this capacity?

MR. FIGGINS:

I have been doing this for 19 years.

SENATOR AMODEI:

Thank you.

VICE CHAIR HECK:

I am curious. If your concern was because of the process, then why does the draft legislation not try to fix the process as opposed to just opting out Clark County?

MR. FIGGINS:

I think, as Mr. Manning indicated, there are already some processes in place in which property owners can petition to vacate and abandon streets. The process allows a property owner to come before the county commission and through a resolution, ask for a street to be opened or closed. Those processes already exist. That is why we did not think additional processes should be allowed.

If you look at the history of this, I think this was a statute that was created for rural areas where miners or people with some type of claim were trying to go through properties. Landowners would put up fences to keep them from getting to those rural areas.



SENATOR HORSFORD:

Can you explain the situation on Rainbow Boulevard? I represent the northwest section of Las Vegas; the area you are referring to may be in my district.

MR. MANNING:

The area was within the Rainbow Grand Teton vicinity. That area within Las Vegas is growing rapidly. There are existing property owners adjacent and near the area that wanted to close Rainbow Boulevard; they undertook a petition to do just that. Since this was a petition to the county to close, what essentially was a city street, we met with property owners and city representatives to work out a solution. Ultimately, we were able to do so. As a result, the property owners withdrew their petition. They seemed to be satisfied with the answers from the City of Las Vegas and Clark County.

SENATOR HORSFORD:

Mr. Manning, in the third to last paragraph of your written testimony, you referred to neighbors wishing to keep "cut-through" traffic out of their neighborhoods. You specifically referenced the area of Spencer Street and Harmon Avenue. I know of residents in my district who have petitioned successfully and have had roads closed due to gang drive-by shootings, drug trafficking and other sorts of activities. What precedent would this bill set in hampering residents' ability to have legitimate issues addressed that would preserve or protect their neighborhoods?

MR. MANNING:

I do not think the statute addresses issues dealing with neighborhood security.

In this particular instance, it was a difference of opinion between property owners. Some of these property owners were the dedicators of public roads and needed to make a decision as to whether or not they wanted to be able to vacate and abandon portions of the roads. Those decisions would obviously have some negative impacts on other property owners in terms of their ability to maintain convenient accessibility to their homes and property. The decision for vacating is one that affects immediate property owners.

Property owners associated immediately with those vacated locations were being requested to vacate, or make application to vacate, but they declined the opportunity, primarily because they were concerned about the convenience to them and the access to their property.

MR. FIGGINS:

I would like to point out that during the 19 years I have been here, we have allowed people to come before the county commission and request roads to be opened or closed, based on their neighborhoods. They did not use this process.

MR. MUSGROVE:

I would like to answer that question. They would have used the provision already in existence, NRS 278.480; they were actual property owners. Those property owners could make that petition to the government. That is what happened in the areas Senator Horsford represents.

SENATOR SCHNEIDER:

Does this affect developers who want to put in a large subdivision or community with a golf course or other such amenities as that? Does that prevent them from coming in and changing streets? Because the developer petitions the government also, does this affect them in any way?

MR. FIGGINS:

I also represent the Clark County Planning Commission. The process by which developers comes through and ask for the realignment or vacation of streets is through the vacation statutes found in NRS 278. I have yet to have one of them come through and utilize this statute.

SENATOR NOLAN:

I asked Patrick Guinan to research when this provision was enacted into statute and when this particular section may have been amended.

PATRICK GUINAN (Committee Policy Analyst):

The NRS 405.195 was originally added to the statutes in 1979. It was amended in 1981, 1993 and 1997.

CHAIR NOLAN:

My interest in asking that question is to follow up on Mr. Figgins' comment that this section of statute may have originally been initiated to help accommodate some of the lesser-populated rural counties. It seems this has been addressed by the Legislature during recent-growth periods, especially in Clark County. Washoe County has experienced an enormous population increase over the last decade. I am sure this has been looked at. It sounds as though there was one initiating event that brought this forward. That event eventually concluded in a

mutually satisfactory resolution for both the people who had petitioned the county and for the county itself. Although, there were a lot of resources expended to come to that resolution.

How does the Committee want to proceed? We have not been offered any amendments or alternatives to the bill, although Senator Amodei posed questions regarding consideration given to increasing the number of people that could petition or perhaps making it more restrictive to immediately adjacent property owners versus any five residents in the State. It did not seem as though that was the direction that the sponsor of the bill wanted. It sounds like they want to leave this provision. In my opinion, this could be somewhat problematic only because the right to petition the government is a fundamental right of the citizens. Citizens should have the ability to access, even if it requires us to expend more resources. Understand this particular provision, although it has only been used once that we know of in 19 years, did cause some problems. It was available to the citizens. That is my perspective.

SENATOR CARLTON:

If this has only happened once, yet now they are saying this is such an onerous provision and it lays a burden on the county commission, I cannot equate one instance being that burdensome. Could someone elaborate on that for me?

MR. FIGGINS:

I am not so sure the situation we encountered was onerous. We are concerned about the future and how we would handle something like this, especially in light of the court case I cited. That case specifically addressed NRS 405.195 and basically said these proceedings belong in a court of law, not under a county commission. That is why we decided to push the bill forward.

This, with respect to what Chair Nolan said, in section 1, subsection 2, paragraph (a) of S.B. 10, is what I was deriving my conclusion from, with respect to where it states: "Construction of the improvement occurred while the land was unappropriated, unreserved public land." Generally, this will deal with things that occurred a few years ago. Those are difficult to research. That is why such areas are generally not depicted as part of the dedication of road maps for subdivisions or part of a development within developed areas of the county.

SENATOR AMODEI:

I have also read the Nevada Public Land Access Coalition case. Interestingly enough, the case did reaffirm the authority of the county commission to act under this particular statute. I understand what you are saying about trying to determine what happened in the past. Although, it seems to me that the past is a much more current proposition in Clark County, even more than any other developing area in the State.

I am sure when we talk about, for instance, Rainbow Boulevard, that was something taken care of in the Comstock times. We are worrying about looking at records that are 140 years old to figure out how some of the major arterials got there.

Section 1, subsection 3, of the bill states, "If the board concludes that the road is a public road, the board may ... ." Then at the end, it essentially says the board can do anything they want. The discretion and authority in the statute given to the county commission is pretty extensive. It is not preordaining or limiting in any way their discretion in dealing with these things.

When you refer to NRS 278.480, in terms of abutting landowners, that is an interesting prospect since traffic engineers all speak of regional interest in terms of traffic flow. To restrict regional interest to a property owner whose property is used as frontage on a road and then say those are the only folks that are arguably interested in circulation and traffic patterns, seems to me to be at odds when talked about proposed plans for traffic. It is not just a matter of what happens in front of one person's driveway, entrance or exit, onto a major arterial and collector. Those tend to be regional things.

I completely sympathize with you, and the requirement should not be five citizens from anywhere in the State. There probably ought to be language that states citizens who are impacted in some way, shape or form, or at least be in the county they are petitioning. But to attempt to subvert NRS 405.195, based on its potential use in the future, seems to be counterproductive to getting input from folks who have a pretty decent interest in what happens with traffic on their property.

I am not sure where the problem is in the policy sense or resource sense. I do not know there is anything in the statute prohibiting you from enacting a county ordinance that specifies the documentation and maps that are adequate to

justify a hearing. But exempting Clark County, based on growth, while doing nothing for the rest of the State and pointing to the fact that adjacent landowners have a remedy seems to ignore the whole idea of circulation, in a regional sense.

MR. FIGGINS:

The case was writ of certiorari that is, the court determined that the board did not exceed its jurisdiction. This is the last sentence of the Nevada Supreme Court's ruling: "We must emphasize again, however, that the Board's determination is not dispositive of the question of whether the Road should be open to the public." All they did was dismiss the case saying the county could not make a determination, so therefore, we dismiss the case. But, they certainly invited the case to come back and have the courts adjudicate whether or not to open that road.

Senator Amodei, I understand what you are saying about the discretionary power as outlined in the statute, specifically subsection 3. Contrary to how we usually determine to open or close roads, as provided for by NRS 278.480, the property owners and other interested individuals can come before the board seeking resolution by asking the board to consider closing a road.

Section 1, subsection 3, of the bill states, "The board's decision must be based on specific findings, including, but not limited to," then it lists paragraphs (a), (b) and (c). Those findings are in addition to the board's discretionary powers and subject to review by a court. That makes it a little more burdensome for us to make those findings. Whereas in the normal process, under NRS 278.480 or with property owners coming to ask the board of county commissioners, those standards are not set forth in statute. We would not have to meet those and be subject to judicial review.

SENATOR AMODEI:

I am sure it comes as no surprise to you that anything the county commission can do is subject to someone wanting to go to court and talk about it. Whether it is this subject or another one, it does not really matter. Subsection 3, paragraphs (a), (b) and (c), are not much different when you look at it for a special-use permit and findings that are made. The fact this would require findings to be made is not a new exercise for the most sophisticated county commission with the most resources in the State.

To say that Clark County should not have to comply with the statute and yet indicate if someone in Esmeralda County wants to gripe about a road in Goldfield, they should have to comply, escapes me as to what we are trying to do here in terms of public participation and procedures. This is particularly the case in a jurisdiction which many people look to lead the way for how we ought to do things properly, in a public context, in the State.

MR. FIGGINS:

The essence of what we are trying to say, in light of the *Public Land Access v. Humboldt* case, is the court looked at this statute and clearly indicated it has problems with respect to those adversarial proceedings. It is not proper for the county to make these determinations. That is what we are concerned with in the future, even if we made the decision as to whether or not to open or close a road.

It is not going to be binding on the party who has not been given a notice of the proceedings. Notice does have to be given that these proceedings are going to affect one's property under this statute; whereas in NRS 278.480, notice must be provided. The notice is required, pursuant to this statute, to be provided to the adjoining property owners.

That is our concern. It is not just the fact we are trying to escape this situation. We are trying to avoid a problem. I do not know how we can resolve some of these issues in a county commission hearing. It would be better served in a court of law rather than having the county commission decide on an issue that would ultimately go to the court. In my opinion, that is what the court was saying in the Humboldt case.

SENATOR AMODEI:

I find it interesting that a decade-old case, and one instance has precipitated, not an effort to change the notice procedures, but a reaction which just basically says, "We want to be exempt from this and the rest of the State is on its own." To me, this does not reflect a thoughtful, innovative approach to maintaining citizen input considering the concerns you have enunciated as far as the NRS 278.480 notice procedures, which are easy to amend if that were the effort.

I appreciate that you are thinking forward, but this would be more persuasive to me had the statute been used as some sort of destructive tactic for the agenda

of the Clark County Commission. However, your own testimony indicated that it precipitated all the parties getting together and working out the issues. It escapes me who the victim is when I look at the proposed solution.

JANINE HANSEN (Nevada Committee for Full Statehood):

One of the things we are concerned about is maintaining access on roads in the State. We came with an open mind to hear the testimony. This Committee has represented some of our concerns well.

First of all, we were concerned about the precedent Clark County might set regarding the right to petition. It might set a precedent where this right would be taken away in other counties.

Washoe County is getting close to the 400,000 population threshold; that is something to be considered in any legislation that uses this threshold.

We have been very involved in a lot of issues involving the right to petition. In fact, I spent a little time in jail this last year associated with the right to petition, but was exonerated. The right to petition is important. I was glad to hear that case was resolved amicably within the county; I was not aware of that.

People want to be able to go to their elected officials, under the law, and express their concerns and have them resolved at the local level without having to go to court. Most people do not have the money it takes to go to court. It can be difficult to hire a lawyer. If things such as this can be resolved at a local level with elected officials, it is a good way to proceed. People are more responsive on that level.

We appreciate the questions and issues brought up by the members of this Committee. There is a better way to resolve this. As I said, we are particularly concerned about the precedent this would set in the whole State. We have no particular issue with Clark County whatsoever. We were not aware of all their concerns.

CHAIR NOLAN:

If there is no further testimony to be heard at this time, I will accept a motion from the Committee on S.B. 10.

SENATOR AMODEI MOVED TO INDEFINITELY POSTPONE S.B. 10.

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SENATOR CARLTON SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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VICE CHAIR HECK:

I will open the hearing on S.B. 14.

**SENATE BILL 14**: Revises provisions relating to certain special license plates.  
(BDR 43-322)

CHARLES W. FULKERSON (Executive Director, Office of Executive Director for Veterans' Services, Office of Veterans' Services):

There are two amendments in the bill, one for NRS 417.145 and the other one for NRS 482.3764. The amendment addressing NRS 417.145 removes the \$100,000 cap on monies donated by veterans to the State Veterans' Home when they purchase 1 of 13 special veteran license plates.

Presently, all monies donated in excess of \$100,000 revert to the General Fund at fiscal year (FY) end. These funds donated by veterans have grown from \$54,000 in FY 2001 to \$186,000 in FY 2004. Presently, as of January 2005, there is \$121,000 in that fund. This amendment will ensure that all funds donated by veterans through the purchase of a veterans' specialty plate will remain in the Gift Account for Veterans' Homes.

The amendment to NRS 482.3764 addresses the 13 specialty plates currently afforded to veterans. There are three special plates of which veterans are allowed only one set: the Pearl Harbor Survivor, EX-POW and Disabled Veteran's, and the Purple Heart recipients. All the other special veteran license plates are authorized for two sets. This amendment will allow these three special plates to be obtained as two sets also.

SENATOR CARLTON:

Are you allowed two sets for all the other specialty veteran license plates?

MR. FULKERSON:

At the current time, the NRS allows all the other specialty plates to issue two sets to the same veteran.



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SENATOR CARLTON:

Is this an oversight when we did this? Was there a reason for that?

MR. FULKERSON:

I am sure that it was.

VICE CHAIR HECK:

I would like to ask the Committee's policy analyst. When I tried to look through this bill, I noticed that this provision of no more than \$100,000 was just added last Legislative Session.

MR. FULKERSON:

That is correct.

VICE CHAIR HECK:

In trying to research why the cap was implemented, seemed rather convoluted. I could not find an answer. Do you know why?

MR. GUINAN:

No, I do not know, but I will find out for you.

VICE CHAIR HECK:

Is there any other testimony for this bill? Does anyone from DMV want to add any knowledge about why the \$100,000 cap was added to begin with?

MR. FULKERSON:

I can answer that. There has been a long history of trying to get the money to go into the Gift Account for Veterans' Homes since the veterans' home was created in 1999; it was always defeated. Last Legislative Session, we were successful in getting the money to go into the Gift Account for Veterans' Homes and stay there and not revert. But, when it was passed, it was passed with the \$100,000 cap.

The veterans purchasing these specialty plates knowingly pay an extra \$20 as a donation to the Gift Account for Veterans' Homes. All we want is that donated money to go to that account entirely.

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VICE CHAIR HECK:

If there is no further testimony, I will close the hearing on S.B. 14 and accept a motion from the Committee.

SENATOR CARLTON MOVED TO DO PASS S.B. 14.

SENATOR AMODEI SECONDED THE MOTION.

THE MOTION PASSED. (SENATORS NOLAN AND WASHINGTON WERE ABSENT FOR THE VOTE.)

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VICE CHAIR HECK:

That concludes today's testimony. If there is no other business to come before this Committee, I adjourn this meeting at 3:08 p.m.

RESPECTFULLY SUBMITTED:

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Sherry Rodriguez,  
Committee Secretary

APPROVED BY:

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Senator Dennis Nolan, Chair

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