

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

**Seventy-third Session  
March 31, 2005**

The Senate Committee on Transportation and Homeland Security was called to order by Chair Dennis Nolan at 1:37 p.m. on Thursday, March 31, 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 Warren B. Hardy II, Clark County Senatorial District No. 12  
Senator Sandra J. Tiffany, Clark County Senatorial District No. 5

**STAFF MEMBERS PRESENT:**

Donna Esposito, Committee Manager  
Patrick Guinan, Committee Policy Analyst  
Sherry Rodriguez, Committee Secretary

**OTHERS PRESENT:**

David L. Howard, Dacole Company  
Robert A. Ostrovsky, 3M Corporation  
Ted J. Olivas, City of Las Vegas  
Eugene Campbell, Assistant Fire Chief, Las Vegas Fire and Rescue

Tim McAndrew, Emergency Manager, Fire and Rescue Headquarters, Office of  
Emergency Management, City of Las Vegas  
James Green, Lieutenant, Henderson Police Department  
Raymond McAllister, Professional Firefighters of Nevada; Treasurer, Las Vegas  
Fire Fighters L-1285  
K. Neena Laxalt, City of Sparks; Nevada Propane Dealers Association  
J. David Fraser, Nevada League of Cities and Municipalities  
Steve K. Walker, Truckee Meadows Water Authority  
Kent Lauer, Nevada Press Association  
Allen Lichtenstein, American Civil Liberties Union of Nevada  
Richard L. Siegel, American Civil Liberties Union of Nevada  
Robert Roshak, Sergeant, Las Vegas Metro Police Department; Nevada Sheriffs'  
and Chiefs' Association  
Tom Fronapfel, Administrator, Field Services Division, Department of Motor  
Vehicles  
Gary E. Milliken, Yellow-Checker-Star Cab Company  
Jack Owens, Yellow-Check-Star Cab Company  
George Baleban, Desert Cab Company  
Brent Bell, Whittlesea Taxi; Henderson Taxi  
Denny Weddle, Desert Cab; Nellis Cab  
Patrick Smith, Frias Holding Company  
Robin H. Joyce, Las Vegas Clean Cities Coalition  
Dan Hyde, Executive Director, Las Vegas Regional Clean Cities Incorporated;  
Fleet and Transportation Services Manager, City of Las Vegas  
Dennis Ransel, Las Vegas Clean Cities Coalition  
Marty O'Connor, Haycock Petroleum; Las Vegas Clean Cities Coalition  
Joe L. Johnson, Toiyabe Chapter Sierra Club  
Ronald S. Levine, Nevada Motor Transport Association  
Peter Krueger, Nevada Emissions Tester's Council  
Colleen Cripps, Chief, Bureau of Air Quality Planning, Division of Environmental  
Protection, State Department of Conservation and Natural Resources

CHAIR NOLAN:

We will open the hearing with Senate Bill (S.B.) 251.

**SENATE BILL 251**: Authorizes operation of certain motor vehicles without front  
license plate under certain circumstances. (BDR 43-463)

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DAVID L. HOWARD (Dacole Company):

Per your recommendation, Chair Nolan, we came up with an agreeable amendment ([Exhibit C](#)). We are in support of this amendment to S.B. 251.

ROBERT A. OSTROVSKY (3M Corporation):

We have agreed to this amendment and we offer our support.

CHAIR NOLAN:

Mr. Ostrovsky, 3M was the only entity in opposition to this bill. Since both parties have agreed to this amendment, we will vote on S.B. 251 today.

SENATOR CARLTON:

Before we vote, I have a question. In section 1, subsection 2, "or any other manner provided by the manufacturer," will there be any cars that will comply with this? If we are talking about the hole that has not been punched out, that is in every car. If I am wrong, please correct me.

MR. OSTROVSKY:

Yes, we are talking about the holes that are punched in the front of a car bumper. Many imported vehicles do not provide any mechanism on the front bumper for a license plate. Those bumpers would need to be retrofitted in order to attach a front license plate. Those types of vehicles would be exempted from having to display a front plate under this amendment.

SENATOR CARLTON:

Would I be required to put a plate on the front of an old Chevy Cobalt?

MR. HOWARD:

We believe this will address the concerns of the individuals who asked us to bring this bill to the Legislature for the cars that do not come with the holes in their front bumpers. As far as that old Chevrolet, I could not guarantee that for you.

MR. OSTROVSKY:

There are vehicles that we are aware of that have no front-plate mechanism whatsoever. Your common, everyday vehicle that comes from General Motors or Ford Motor Company, I would say 98 percent of those vehicles do have the holes in the front bumper to allow placement of a license plate. This amendment satisfies those individuals who brought this bill forward.

SENATOR CARLTON:

I still have concerns. Not having a license plate displayed on the front of your vehicle was considered a primary offense; I have always been uncomfortable with that. If you feel this will solve part of the problem, that is fine with me. This does not appear to be a significant change. I think the amendment changes the bill backwards. But, if the proponents of this bill are happy and this is a good first step for them, then that is fine.

SENATOR HECK MOVED TO AMEND AND DO PASS S.B. 251.

SENATOR AMODEI SECONDED THE MOTION.

THE MOTION PASSED. (SENATORS WASHINGTON, SCHNEIDER AND HORSFORD WERE ABSENT FOR THE VOTE.)

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CHAIR NOLAN:

We will now take testimony on S.B. 115.

**SENATE BILL 115**: Authorizes governing bodies of local governments and advisory bodies to such governing bodies to hold closed meetings concerning matters relating to security and terrorism in certain circumstances. (BDR 19-601)

TED J. OLIVAS (City of Las Vegas):

I would like to briefly go over the bill before turning over the discussion to Chief Campbell to provide additional details. The intent of S.B. 115 is to allow local governments the authority to hold a closed meeting to discuss security-related issues. This authority is consistent with that of the Nevada Commission on Homeland Security.

Section 1, subsection 2 specifically defines what security topics can be discussed. It also requires a determination, by a majority vote, of the governing or advisory body that public disclosure would likely threaten the safety of the public.

Section 1, subsection 2 requires a motion which specifies the nature of the business to be considered in the closed meeting.

Section 1, subsection 3 specifies that all information materials, minutes and other reproductions related to the meeting are considered confidential.

Finally, subsection 4 defines acts of terrorism consistent with that used by the Nevada Commission on Homeland Security and *Nevada Revised Statute* (NRS) 239C.030.

EUGENE CAMPBELL (Assistant Fire Chief, Las Vegas Fire and Rescue):  
I have prepared testimony that I would like to read to this Committee ([Exhibit D](#)).

VICE CHAIR HECK:

Thank you for bringing this to our attention. I appreciate the concerns related to balancing sensitive information and the public's right to know. I support this bill but I have one question.

In section 1, subsection 1, the term, "any advisory body ..." causes me a little bit of angst. We could be talking about anything from a planning commission to anything to be considered an "advisory body." I feel that needs to be tightened up to an "advisory body" that has duties related to homeland security. We do not want just any "advisory body" thinking they can claim one of their meetings will contain information relating to a possible threat to local or state security and close their doors to that meeting.

CHIEF CAMPBELL:

I appreciate that suggestion. I would be open to that amendment.

CHAIR NOLAN:

Regarding a majority of its members, generally speaking, if there is truly a terrorism threat or threat of security or the need to have a briefing by a governing body, I do not believe there would be a lot of opposition to that. Obviously, a briefing such as that would rise to a level of almost a state of emergency for the city to have the need to meet on those issues. I do not see it happening that often. But, I also understand the need to have occasional briefings for preparation and prevention of such terrorist attacks and to examine vulnerability assessments and those types of things.

When you speak about a majority vote of the members, is that one-half of the members plus one? Under the circumstances, do you think that a higher

threshold could be just as easily obtained by a governing body, then elevating this to the importance of perhaps a two-thirds majority to be allowed to conduct this type of meeting?

MR. OLIVAS:

We understand that position. We got this wording from NRS 239C and tried to model it after the "state level" group. With that being said, if there is an appetite to potentially make a change in that regard, we could certainly do that. But the intent was to model it after NRS 239C.

CHAIR NOLAN:

I understand that, thank you.

Regarding the Nevada Commission on Homeland Security, of which I am a member, we are subject to review by the Office of the Attorney General (OAG) as well. We are staffed with an OAG member; so were we to convene a closed-door meeting, there would not only be participation by the OAG, but that office would be charged with upholding and enforcing the Open Meeting Law of this State.

Would you have any objection in giving the OAG the ability to, in confidence, review the actions and reasons for such a closed meeting? Perhaps, the OAG member should be given the information about the business conducted as well. You know that we are going to have a number of people from the media and other sources that will express concerns in this area. I want to know if having the OAG available to review the situation and what business was conducted solely for the purpose of ensuring the public that the meeting conducted met statutory requirements might be something you would consider as a possible amendment?

MR. OLIVAS:

We have had those same thoughts. We were in the process of developing a potential amendment covering that but with a little difference. We were contemplating adding a new subsection that would require the governing or advisory body to submit a copy of the meeting minutes to the Nevada Commission on Homeland Security so they would be aware of exactly what was happening in these closed meetings. Certainly the OAG is an option to that as well. We would be open to anything in that regard.

SENATOR CARLTON:

I understand the purpose behind the Nevada Commission on Homeland Security having this information. It seems as though, at every level, people want to have more meetings where the public cannot be involved. I understand that you are trying to protect certain types of information. I thought those discussions were going to be with the Nevada Commission on Homeland Security and not at the local level. The local level would go to the Commission and present what was happening. I find it hard to understand why we need to have another set of meetings where the public is not allowed to know what is happening.

TIM McANDREW (Emergency Manager, Fire and Rescue Headquarters, Office of Emergency Management, City of Las Vegas):

Senate Bill 115 was designed to address issues that are specifically threatening the local jurisdiction of government as well as the local emergency operation and response plans designed for that local jurisdiction. All materials developed at the local level are submitted to the Nevada Commission on Homeland Security. However, if there was a threat pending against a local community, we want to ensure that we immediately address the local jurisdiction governing board that has the responsibility and authority over that area.

The suggestion is to forward that information to the Nevada Commission on Homeland Security, if there were a threat. With regard to the actual emergency response plans prior to a threat or prior to an attack occurring, all of that is a local level responsibility. It is their responsibility to develop, review and adopt local emergency response plans prior to submission to the Nevada Commission on Homeland Security.

JAMES GREEN, (Lieutenant, Henderson Police Department):

I currently serve as the homeland security lieutenant and possess a national security clearance. There have been times when I have participated in security briefings, and I would have welcomed the opportunity and ability to reach out to our governing bodies and pass on some of the intelligence information that affected our community. I believe we have an obligation to speak with one voice to our communities. Conducting certain individual meetings can produce fragmented information.

I support Chief Campbell's remarks. In reference to the National Incident Management System (NIMS), we are mandated by the federal government to adopt NIMS, along with the National Response Plan, as part of our funding

requirements for fiscal year 2005. In NIMS, it describes coordination between two groups, policy groups and organizational or operational groups. Policy is defined as governmental officials, governors, mayors, county managers and city managers. Homeland Security Presidential Directive-5 states the objective of the federal government is to ensure that all levels of government across the nation have the capability to work efficiently and effectively together using a national approach to domestic incident management.

Currently, at the local level we are operating under different rules. I feel this has a negative impact. There are a few states that have similar statutes in place. Minnesota stipulates that meetings may be closed in order to receive security briefings and reports. California government code allows local government bodies to convene closed sessions for matters posing threats of security. New York, Utah, Texas, Massachusetts and Missouri all have different forms of language supporting the ability to have this type of legislation.

RAYMOND MCALLISTER (Professional Fire Fighters of Nevada; Treasurer, Las Vegas Fire Fighters L-1285):

We support S.B. 115 for several reasons. Although, we certainly understand the media's right to give information to the public and the public's right to know certain things. Conversely, we feel there are certain things the public does not need to know about every detail associated with strategically planning a homeland security event, because of the situation or the strategic planning that goes behind such events.

For example, there are times when we have had to request the media cease filming or videotaping our bomb squad crews as they go out to investigate explosive devices. If they film such activities, the tactics and strategies that our bomb squad members use when investigating or perhaps detonating a bomb device may get televised throughout all of Nevada. Certainly, we do not want the bad guys knowing how we operate in those cases. The bomb squad has held media days to show some of their equipment. But, we do not need the bomb squad techniques displayed on television (TV).

How many times have you turned on your TV and seen Special Weapons and Tactics team members in deployment positions for different situations? That is the information the bad guys want. They want the ability to look at what our people are doing and where we are placing our units.



Various public and nonpublic events are at risk for terrorism activity. Whether it be a New Year's Eve celebration or various centennial events the city of Las Vegas may be having, such events should have discrete planning without everyone knowing where we are placing our units and what we are going to do for certain scenarios.

In closing, I would like to state that the ability for city councils or advisory groups to get together in a closed meeting, all at once, is not necessarily a bad thing under these circumstances. Currently, under the Open Meeting Law, the chief of a fire department or the sheriff can go individually to different council members and give a report on the plan. This can be done individually, but there cannot be more than two individuals at a time. In the case of the city council and the county commission, there are seven members; the plan would need to be repeated seven different times. Questions will arise and then the person reporting the information will need to go back and answer the questions for each of the other members. It is an extreme inconvenience to relay one plan so that everyone involved knows, plans, and operates under the same guidelines. As a kid, you played games where you whispered a secret in somebody's ear and they passed it on and on and on; it never comes out the same at the end. This bill would alleviate that. Everyone would hear the same plan at the same time including any possible questions and answers.

We stand in support of S.B. 115.

CHAIR NOLAN:

It is interesting that you made the analogy about whispering and how the story changes at the other end. At the beginning of this Legislative Session, each of my Committee members was given a copy of the report of the September 11, 2001, tragedy (9/11). The report is one of the largest critique documents of that tragedy. One of the most blatant areas discussed in that book was when the head of North American Aerospace Defense Command asked if the Vice President actually gave the command to shoot down a passenger aircraft that did not respond to orders given to it. The answer given was, "Yes, he did." At the same time, the Vice President was asking if the military had given that command. While the command was not made, the order was out there, and the passenger aircraft could have been shot down. Clearly, the criticism was with the inability to have straight-line communications. I understand the point you were trying to make.

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K. NEENA LAXALT (City of Sparks):  
The City of Sparks supports S.B. 115.

J. DAVID FRASER (Nevada League of Cities and Municipalities):  
The Nevada League of Cities and Municipalities are in support of S.B. 115. I appreciate what has been presented here today. It is the league's position that local elected officials have a primary responsibility to protect public safety. The staff that is tasked with putting together and carrying out those details also has a duty to report them to their local officials and to do that without giving too much information to those who would use that information to harm us and our citizens.

During the tragedy of September 11, 2001, I was a city manager in the state of Kansas. The Kansas Legislature went into Session in spring of 2002 and passed legislation very similar to this. It allows local governing bodies to discuss security issues in closed meetings. As city staff, that was something we appreciated very much for all the reasons stated here today. Kansas legislators decided this kind of legislation was necessary; Kansas does not have high-target areas like we do in Nevada.

SENATOR HORSFORD:

Does the league do any type of training or consultation with the cities? Is there any training conducted with the cities to know how to properly implement proper use of closed meetings? That is something I could encourage. We need to be assured closed meetings are going to be used for the expressed intent we are legislating and nothing else.

MR. FRASER:

In cooperation with the Nevada Association of Counties and the university, there are elected officials training modules called the Public Officials Workshops: Education and Resources (P.O.W.E.R.) Orientation Program. If you complete all of the sessions, you will receive a certificate. One of those modules does include the Open Meeting Law. Obviously, if this legislation is passed, that would be part of the training provided to our elected officials in that format.

STEVE K. WALKER (Truckee Meadows Water Authority):

We have a different perspective. We are required to do vulnerability assessments. We have done them and now have recognized capital expenditures to address our vulnerabilities. When we put them in our Critical

Infrastructure Protection plan, sometimes there are questions on the assessment in the open meeting. It creates a situation where we really cannot discuss it because we are on TV or in those types of situations. That is where a water district or water purveyor could fit under this legislation. We would support this legislation with the amendments proposed.

CHAIR NOLAN:

We will add the name of Santana Garcia representing the City of Henderson to the record as being in favor of S.B. 115.

KENT LAUER (Nevada Press Association):

We oppose S.B. 115. The language authorizing closed meetings is too broad. It gives local governing boards too much authority to meet in secret. For example, security briefings could cover a lot of ground. We are concerned that the broad exception to open public meetings could be abused.

I would like to point out that Jim O'Brien, Emergency Management Director for Clark County, does not believe that secrecy is necessary. In July 2004, he was quoted in the Las Vegas Review-Journal stating:

The types of things that would be a concern are only known by those who have security clearances and are privy to intelligence I'll never know. I get a call from Metro that says it would be good to set up the emergency operations center; that is all I need to know.

I am curious. If there is such a need for this legislation, why does Clark County not see that need? The Clark County Sheriff also stated he does not believe the Nevada Commission on Homeland Security needs to conduct closed meetings. He states that is an advisory group and not a tactical working group. Therefore, he does not believe the Commission needs to conduct secret meetings either.

If there is such a compelling need for this secrecy, then where are law enforcement officials in this discussion? I did not see one law enforcement official here testifying that closed meetings are necessary.

CHAIR NOLAN:

We appreciate hearing quotes from others when they are not able or elect not to testify on their own behalf. We need to give that the weight it deserves.

ALLEN LICHTENSTEIN (American Civil Liberties Union of Nevada):

We do not have a problem with the intent behind S.B. 115. Clearly, there are matters discussed, on rare occasions, that do need to be secret. Something like this, or any piece of legislation, must be carefully drafted to make sure there are no unintended consequences. We have concerns with part of the language and feel it needs to be tightened up.

What exactly is an advisory board? Does it involve any and every public agency including the water and building departments? A lot of things concerning public meetings, such as budgets to fight terrorism, for example, are not topics that should be held secret. In Elko, issues were discussed concerning the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act (USA PATRIOT ACT) of 2001 and passed a resolution; that is really part of open government.

One of our concerns with the language is in lines 11 through 14 of page 2, the phrase: "if the governing body or advisory body determines, upon a majority vote of its members, that the public disclosure of such matters would be likely to compromise, jeopardize or otherwise threaten the safety of the public." That particular phrase, as written, only applies to section 1, subsection 1, paragraph (c): "Discuss deficiencies in security with respect to public services, public facilities and infrastructure." It does not apply to section 1, subsection 1, paragraphs (a) or (b), as written.

Presumably, I think we can agree that no meeting should be secret that is not likely to compromise, jeopardize or otherwise threaten the safety of the public. It needs to be made crystal clear that only in such limited circumstances would a meeting be secret.

Another issue deals with checks and balances. Section 1, subsection 3 talks about related materials being kept confidential; it leaves no room for judicial review. Under these circumstances, there is no way a court could subpoena these records to see whether or not anything was discussed at these particular hearings that might have been in violation of the Open Meeting Law. It leaves them totally unchecked by anyone. We believe that judicial review is crucial to avoid the kinds of abuses nobody wants. We have no objection to the intent of this bill, but we feel there needs to be some changes in the language.

RICHARD L. SIEGEL (American Civil Liberties Union of Nevada):

I agree with the statements made by Mr. Lichtenstein, and I would like to add some additional concerns.

Regarding section 1, subsection 1, line 4, "... may hold a closed meeting ...", I am concerned that the concerns expressed by the proponents are not that of an entire meeting. We should be encouraging the fact that we are not closing a meeting per se; we are closing only a portion of a meeting as deemed necessary. Everyone agrees that we are trying to balance the open meeting interest with that of necessary security.

I want to reinforce something Mr. Lichtenstein alluded to in section 1, subsection 1, paragraph (b); this section refers to terrorism and related emergencies. Paragraph (c) does not directly refer to terrorism or related circumstances. We only talk about deficiencies in security with respect to public services, public facilities and infrastructure. A deficiency in security, unfortunately, is an overbroad term when we are talking about something likely to compromise, jeopardize or otherwise threaten the safety of the public.

I would like to emphasize that whatever the authority, the intention of this bill is to relate closed meetings to discussions of terrorism and related emergencies. We are not necessarily talking about how to make the city safe in any degree. The public has a right to participate in general discussions of urban safety. If there is anything the public does not have a right to participate in, it is the specific planning. The public should be involved in asserting its own concerns about public safety.

Remember, we want the public to have an opportunity to express its concerns about public safety, and if we close meetings to the public, the public will not have that opportunity. We can support a bill but it needs to be a much tighter bill.

CHAIR NOLAN:

It appears that the consensus is that this type of legislation would be useful. But, it looks as if, based on the testimony of others, we should tighten up the wording and still try to achieve the desired intent.

I would like to go over those potential amendments we have heard today with you, Mr. Siegel, and try to come to some agreement. We can draft an

amendment and bring S.B. 115 back to the Committee in a work session. We can get copies of the amendment out to the interested parties for any additional input prior to that work session. Once we go into work session, we try not to take any testimony; that is the time for Committee members to look at the amendment and vote on the bill.

I want to go over the proposed amendments and get some consensus amongst you as the primary sponsors of this bill.

To better define an advisory body, is it my understanding that we relate an advisory body to law enforcement or emergency-type responders of a municipal agency. Is that what we really want to do? Were these the type of people being considered to include in the advisory body, and who are reporting back to the municipality?

MR. MCANDREW:

That is correct. What I would suggest to you is in the pre-9/11 era, "law enforcement" would have been appropriate. In the post-9/11 era, where we operate in a multiagency, multidisciplined and all-hazards approach, I would suggest the better definition is: "Those agencies that provide public safety services."

CHAIR NOLAN:

Mr. Guinan, as part of the amendment we are drafting, we will use that as a definition. We will research the statutes as well on this subject.

SENATOR HORSFORD:

What about the concern from the water department?

CHAIR NOLAN:

It is suitable to consider, in those briefings, the utility departments and other critical infrastructure. We will draft an amendment to include those. That narrows down or better defines an advisory body.

One of the other issues under section 1, subsection 1, paragraph (a), is ensuring security briefings are relevant to acts of terrorism or potential terrorism. Is that what we need to do?

CHIEF CAMPBELL:

Yes, that defines what we would like to do.

CHAIR NOLAN:

It is my understanding this takes into consideration both domestic and foreign terrorism acts. When we talk about the types of things that happened during the Columbine High School shooting on April 20, 1999, and other similar issues, those are discussions that can be included.

CHIEF CAMPBELL:

Yes.

CHAIR NOLAN:

We will make sure that type of language is included in this section of statute. That would address some of Mr. Siegel's concerns. What about the two-thirds majority vote?

CHIEF CAMPBELL:

We would amend the bill to state two-thirds majority vote.

CHAIR NOLAN:

The other part referred to by Mr. Lichtenstein is that there should be some type of judicial oversight. We would not necessarily get into a judicial setting unless there was some type of violation of the statute. The consensus is that there needs to be the opportunity to review these types of special activities. I, as a member of the Commission on Homeland Security, believe that any such closed-door hearing should have some briefing of the activity. I am not sure, statutorily, if this is one of the charges; although you could bring it to this Committee and we could make that a charge in this section of statute.

It is my feeling we should make closed meetings subject to an OAG's review. That way, if there is some question about some impropriety or whether or not the need for the closed meeting met the statutory requirement, then a member of the public could request a review by the OAG and be given limited information as to whether the closed meeting met the statutory requirement. I feel that would be enough, and if not, they could proceed with whatever civil recourse deemed necessary.

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CHIEF CAMPBELL:

We would be open to that amendment.

CHAIR NOLAN:

We are going to make sure the topics of discussion are relevant to threats of homeland security or terrorism.

SENATOR HECK:

I know that we have tightened up paragraphs (a), (b), and (c) of section 1, subsection 1, but it sounds as if Mr. Siegel is not concerned with closing an entire meeting, but would like the flexibility for an advisory body, or governing body to close any portion of a meeting they deemed necessary.

MR. SIEGEL:

I would request that

MR. OLIVAS:

We certainly support that as well.

CHAIR NOLAN:

We will include that.

SENATOR HORSFORD:

In subsection 3, the materials provided to the governing body or the advisory body are not for the entire closed portion of the meeting but just that portion on those items that are confidential in nature.

CHAIR NOLAN:

We will make that apply as well. With the exception of making sure the language carries through the intent with respect to the deficiencies in security, we are going to tighten that language so it complies with the rest of the intent dealing with relevant issues of homeland security and terrorism.

Mr. Guinan will draft an amendment for review by the interested parties. I would ask that prior to scheduling S.B. 115 for a work session, we would get any suggestions back that you may have on the amendment we provide to you.



SENATOR HORSFORD:

Those materials that are limited for the purposes of providing information on terrorism or other related emergencies, the bill states: "are confidential, not subject to subpoena or discovery ... ."

CHAIR NOLAN:

It is our intent to make sure that type of information is eligible for review by the OAG. We will be careful how we draft the language. We will ask Legal Division staff to review this to ensure those things that may be a violation of statute but are of a confidential or classified nature will remain that way through the judicial review process.

SENATOR HORSFORD:

You used the events of 9/11 as an example. Once a vulnerability or liability has been identified, the victims and their families have some legal recourse. While that type of information may remain confidential in limited proceedings, I do not want that information to not be used for judicial proceedings that support that area.

CHAIR NOLAN:

We would have to ask the entity that would be in violation to make a case before whatever body would be reviewing this. The information needs to remain confidential and the judge or legal process must determine whether or not the secrecy of that information outweighs the interest of the aggrieved parties and the public. We will be careful in how we draft the language.

We will close the hearing on S.B. 115 and open the hearing S.B. 242.

**SENATE BILL 242**: Requires entities that register motor vehicles to perform certain inquiries to determine if vehicle is stolen. (BDR 43-350)

SENATOR WARREN B. HARDY II (Clark County Senatorial District No. 12):

I introduced S.B. 242 at the request of the Las Vegas Metropolitan Police Department. The idea behind this bill makes a great deal of sense to me, and I wanted to express my endorsement to this Committee.

ROBERT ROSHAK (Sergeant, Las Vegas Metropolitan Police Department (Metro); Nevada Sheriffs' and Chiefs' Association):

Law enforcement feels that the bill before you will help with the recovery of stolen motor vehicles. Currently, the Department of Motor Vehicles (DMV) does not run identification (ID) numbers when vehicles are registered. This legislation will enable them to do that. A study done by Metro and DMV in 2003 revealed that 350 stolen vehicles had been reregistered to lawful owners.

Using this legislation, the DMV would notify the sheriff's office that a reported stolen vehicle had been registered. The sheriff would contact the registered owner for further investigation and possibly find out where the vehicle came from and the circumstances behind that.

We also have some friendly amendments from DMV with which we are comfortable. The DMV will explain those to this Committee.

VICE CHAIR HECK:

Are there any questions from the Committee?

SENATOR CARLTON:

Can you tell me what type of delay this will cause? Will this slow down the process for our constituents being able to get their vehicles registered? Will they need to wait longer? What are the intricacies of that?

You stated there were 350 vehicles involved in a study; people are buying cars and receiving a title. If they are getting a title, they must be the lawful owner. It sounds as if there must be some title fraud happening in conjunction with this dilemma.

SERGEANT ROSHAK:

Yes, there could be.

TOM FRONAPFEL (Administrator, Field Services Division, Department of Motor Vehicles):

In response to Senator Carlton's question about the wait time, we did evaluate that in terms of the time it would take to run record searches as part of the registration-transaction process. We determined it as basically a negligible amount of time that would affect customers. No, there would not be any additional time associated with waiting in line.

I have provided copies of our amendments ([Exhibit E](#)) to this Committee. The only other changes we are requesting pertain to effective dates. We request that our proposed amendments to section 2, subsection 3, with regard to the adoption of regulations be effective October 1, 2005, and the remainder of the bill become effective July 1, 2006. That will allow us time to develop the regulations in conjunction with local law enforcement agencies.

We have identified approximately 423 programming hours for our staff to make the changes identified in the bill which will allow us to do the searches on vehicle inquiries. It would also allow us time to become comfortable with the National Motor Vehicle Title Information System for which we have obtained a \$300,000 grant. We are in the process of putting programming together for that system. It is a national title database program similar to what is used on driver's licenses to identify whether a title exists on a specific vehicle in a national database; as well as whether or not that vehicle might have been stolen. It provides us with additional information and resources to identify a particular vehicle by the ID number.

With regard to the fiscal note that Senator Carlton raised, for the first fiscal year (FY) 2006, combined expenses between programming and transaction costs is 4 cents per transaction. That would be paid to the Department of Public Safety for running these vehicle inquiries. This amounts to roughly \$65,000 FY 2006, \$55,000 in 2007 and approximately \$56,000 in 2008. It then becomes an ongoing expense of roughly \$58,000 per year.

VICE CHAIR HECK:

Sergeant Roshak, do you concur with all the additional verbal requests proposed by Mr. Fronapfel?

SERGEANT ROSHAK:

Yes.

PATRICK GUINAN (Committee Policy Analyst):

Mr. Fronapfel, would you go over the effective dates once again for the record?

MR. FRONAPFEL:

We propose that with our amendments for section 2, subsection 3, relating to the adoption of regulations in conjunction with local law enforcement that

particular provision be effective October 1, 2005. The remainder of the bill would become effective July 1, 2006.

SENATOR CARLTON:

If a person buys a car, they have a title and believe they legally own the car. They do the right thing and register the vehicle. Then, they find out that the car they just paid for and have a title for is stolen. Does the vehicle get confiscated at that moment?

MR. FRONAPFEL:

No, we do not want the DMV technicians to deal with that type of situation. The technician will not know a vehicle has been identified as stolen. We plan in conjunction with law enforcement on a daily basis, to run queries from the previous day, which would identify vehicles that came up as being stolen in the national database. We would notify the appropriate local law enforcement agency that a stolen vehicle has now been registered. We do not intend to have DMV technicians or county assessors do our work for us and be put in a position of dealing with an angry customer at the counter. The individual would receive their registration, and the vehicle would become registered. If the vehicle came up as being reported stolen, a provision in the bill would allow that individual to recover all of their registration fees and apply them to another vehicle.

SENATOR CARLTON:

But, they have already paid for a stolen vehicle. This question is for Metro. What happens after you find out they have purchased a stolen vehicle?

SERGEANT ROSHAK:

We would impound the vehicle because it was stolen. Unfortunately, those people would lose that investment in the vehicle.

SENATOR CARLTON:

What consideration would be taken in the fact they thought they had a legitimate title in their hand? They register their car and Metro shows up two days later stating the vehicle now belongs to law enforcement. All of a sudden their car is gone.

SERGEANT ROSHAK:

By doing it in this fashion, we would not be pulling them out of a car during a citation. We would hopefully be able to get information from them such as from whom they purchased the car. Then, through an investigation we can determine who these people are that are selling stolen vehicles.

Realistically, we have no way to compensate them for the purchase of stolen property.

VICE CHAIR HECK:

We will hold this bill over until we get all the amendments typed and then review the bill. We will close the hearing on S.B. 242 and open the hearing on S.B. 243.

**SENATE BILL 243**: Revises provisions governing operation of taxicabs in certain counties. (BDR 58-919)

SENATOR HARDY:

I introduced S.B. 243 at the request of Gary Milliken and his client. I would like to express my endorsement to this Committee.

GARY E. MILLIKEN (Yellow-Checker-Star Cab Company):

Before you is an amended version of S.B. 243 ([Exhibit F](#)). The gentlemen in Las Vegas are going to explain the amendments to this Committee.

JACK OWENS (Yellow-Checker-Star Cab Company):

Our amendment to S.B. 243 basically keeps the aging of our cabs the same as we have had for the last 20 years. We needed to clarify the description of the method we have been using.

We purchase new vehicles each year. We and our taxicab board interpreted the law that our model years start at the end of the model year of a vehicle. In other words, a 2000 model car that was produced at the end of 1999, early 2000, or late 2000, would not start as a model year. We would have that full year of manufacture to put that cab into service as a new cab and relegate the oldest cabs to spares.

As far as the model years are concerned, we would have four model years after that initial year, plus the 90-day carryover at the end of the year to satisfy the

demands of the traveling public for the large conventions that occur in the early part of a year. That is really what we are trying to achieve. We want to allow the full-five model years if those vehicles are purchased early or four model years if those vehicles are purchased late in a year without counting the first year as a model year.

GEORGE BALEBAN (Desert Cab Company):

I have been operating Desert Cab Company since 1979. The statute that existed then stated four model years; it did not have what exists now. The statute, as it exists, states four model years or 52 months, whichever is longer.

At the end of 1979, I purchased 1980 model year vehicles. We have always determined that if you bought a 1980 you could not continue using it for the business in 1985. You could keep that vehicle in service through 1984; that would be four years. We were not counting the model year, 1980, as a natural year. If you purchase a new vehicle early, within the last couple months of the year before the model year starts, i.e., if you purchase a 1980 model vehicle in September, October, November or December of 1979, you could actually use that vehicle for approximately 62 months.

The Taxicab Authority (TCA) in Las Vegas inspects our vehicles every quarter. They know how long the vehicle has been in service. The TCA has been letting us operate under those guidelines because they interpreted the statute the same way we have done. So, for the last 25 years, we have been buying brand new cars a couple months before the model year starts and running them for basically 5 years plus a couple months. We are getting 62 months of service out of each vehicle.

Somewhere between 1979 and now, they have added to the statute, "or 52 months, whichever period is longer." The reason behind the 52 months was to allow us to purchase used vehicles and the 52 months' time period was from the date the vehicle was placed into service. We felt the concept behind that was for companies to buy brand new vehicles with the incentive that they were going to be able to use that new vehicle longer, 60 months, because of buying a brand new vehicle. The 52 months is for somebody who is going to purchase a used vehicle; they can run it for 52 months from the day it is put into service.

Currently, the TCA has been told they are going to go forward and interpret the old statute. They are going to say the four model years included the first year.

We are only going to be able to run brand new vehicles for 50 months, which of course we would never do, because we would choose the other part of the statute which says 52 months.

There is no incentive to buy new vehicles. It would make no sense. It turns the regulation upside down. The fact that we put 52 months in there some time ago means that the intent was not to count the first model year in the equation. The TCA believes that year should be counted. We have come up with the regulation which clarifies it so we are able to operate the same way we have been for the last 25 years. This is the same way the TCA has been regulating for the last 25 years until now.

BRENT BELL (Whittlesea Taxi; Henderson Taxi):

I would like to reiterate the statements of Mr. Owens and Mr. Baleban and add for the record that this is something we have been doing for over 20 years. The only reason we are here is because the new administrator of the TCA interpreted the statute differently. We are not asking for something new. We are not asking to extend the life of the taxicab. We are simply asking to be able to do the same thing we have been doing for more than 20 years.

I also want to note that most of the cabs in their last years of service are what we refer to as spare cabs. Nearly every operator operates the same way. These spare cabs, in the fifth year of service, are rarely pushed into service. They are used during breakdowns of regular cabs and when there are special events or big conventions in town. There is definitely not a safety issue. They do not operate as much as the regular cabs and they are inspected on a quarterly basis as well.

SENATOR CARLTON:

Could we solve this problem by going to a calendar year instead of dealing with model years so there would actually be a starting and ending date for the service of a cab?

MR. BELL:

The trouble with a calendar year is if you recall the Comdex Convention that was in town, we would actually buy our new cabs a few months prior to that convention so we could supply more cabs to the riding public. That would allow us to run those cabs and take them all the way through five model years and then a few months beyond. Now that the Comdex Convention is not held here,

we have shifted gears and are buying cabs right before the end of the year. This allows us to run those cabs longer through the end of the five years.

We do not know whether Comdex is going to come back here, but we would like to have the ability to service more of the riding public depending on when that convention comes to town. That is the reason why, I believe, we were given those extra months a few Legislative Sessions back.

SENATOR CARLTON:

I understand that. It seems to me that you have a certain amount of time that a cab is allowed to be in service. You are just trying to maneuver model years around actual dates. I guess I do not understand. If we have a certain time that a cab is allowed to operate, if the day you register the vehicle is day one and you get five solid calendar years of service, you are getting the full value of that cab no matter where you start from. Am I wrong?

MR. BELL:

No, you are actually right. You have a good suggestion. If we went to 67 months for the entire life of a taxicab, then we would be able to accomplish our goal.

DENNY WEDDLE (Desert Cab; Nellis Cab):

We are in favor of S.B. 243; it is a good bill. We would like to offer a friendly amendment ([Exhibit G](#)). In NRS 706.8826 it states: "... shall pay to the Taxicab Authority \$100 per year for each taxicab that the Taxicab Authority has allocated to the certificate holder and a fee set by the Taxicab Authority that must not exceed 20 cents ... ." We would like to eliminate the \$100-per-year amount and make it only the 20 cents for each compensable trip.

VICE CHAIR HECK:

Have you discussed your amendment with the sponsors of the bill?

MR. WEDDLE:

I have spoken with them and they are not in agreement. They want to be sure they keep the bill intact. My clients would like to go forward with this proposed amendment.

VICE CHAIR HECK:

Are there any questions from the Committee?



SENATOR CARLTON:

Why do you want to eliminate the \$100-per-year fee?

MR. WEDDLE:

My clients feel that is an adequate compensation for 20 cents per trip.

SENATOR CARLTON:

What type of fiscal impact would there be upon the authority by eliminating this \$100 per year?

MR. WEDDLE:

That, I do not know.

PATRICK SMITH (Frias Holding Company):

We are in support of S.B. 243.

VICE CHAIR HECK:

We are going to hold the bill pending a fiscal note from the TCA. We will close the hearing on S.B. 243 and open the hearing on S.B. 288.

[SENATE BILL 288](#): Revises provisions regarding alternative fuels. (BDR 43-889)

SENATOR SANDRA J. TIFFANY (Clark County Senatorial District No. 5):

Senate Bill 288 was brought to my attention when I was involved in eBay sales for fleets in North Las Vegas. The fleet manager asked if I would take a look at the NRS and the *Nevada Administrative Code* (NAC) to see if there was a way to coordinate the two because they seem to be out of sync from when we passed a bill last Session for what constituted alternative fuels.

We had a meeting with fleet managers for the school districts, the sanitation district, all the cities and counties. They stated that when they use alternative fuel, it does not make a lot of sense to have a smog check because these fuels do not emit detectable traces of hydrocarbons and oxides of nitrogen. We also decided to put a section in for local government using certain types of alternative fuel that they would not have to get the smog check.

It seemed to be a problem with local government having their employees take the time out to have these alternative-fuel vehicles smog tested when an alternative-fuel car never fails a smog test. That is the reason for this bill.

When we got the bill draft back, it was not written correctly. That is why you see the amendments ([Exhibit H](#)); it is because of the drastic changes we needed.

ROBIN H. JOYCE (Las Vegas Clean Cities Coalition):  
We are here in support of S.B. 288 with the amendments before you.

DAN HYDE (Executive Director, Las Vegas Regional Clean Cities Incorporated;  
Fleet and Transportation Services Manager, City of Las Vegas):  
I am here in support of S.B. 288. Item number 1 on the amendment presented to you deals with language issues. It was an inadvertent mistake on my part to empower somebody with power they do not have. It is essentially being the boss of the bosses. That is an informational thing to correct.

We are bringing attention to the clear definition of an alternative fuel. The original statute passed by the Legislature in 1991 was an excellent start, but it did not go into the detail of what constitutes an alternative fuel.

This list with the amendment goes into specific detail as to what are those fuels. It also puts the proposed legislation into direct alignment with the Energy Policy Act of 1992 that was passed and signed into law by the U.S. Congress and the President of the United States that lists alternative fuels that apply.

Under item 2, we deleted a section which had to do with liquid fuels derived from coal or another source of power, including, but not limited to, electricity. We did not insert that into the bill draft. Our concern was that such fuels could include gasoline because gasoline is a liquid fuel. That is contrary to the intent of this bill and certainly contrary to what it was when adopted in 1991.

The other section under item 3 is to insert the definition of those fuels. It includes a change on the last item (b), in dealing with biodiesel fuel. It states it must have at least a 5-percent biodiesel fuel. The intent is that anything that exceeds what the current statute states as 20 percent would qualify as an alternative fuel. It made no sense to have something that had a limit of 20 percent when in fact, if somebody opted to do 100 percent, they would not receive some type of credit.

DENNIS RANSEL (Las Vegas Clean Cities Coalition):

I am in support of S.B. 288 as amended. Our main issue is that this particular part of the NRS provides for a mandated program for the government fleets in Nevada to use alternative fuels. This bill helps to clarify the fuels that are used and gives some benefit to the government agency in the use of those fuels. From the air-quality perspective, the more we can advance the use of alternative, clean-burning fuels the more opportunity we have to clean up the air. We are supportive of those types of efforts.

It is the government agencies that are helping to build the infrastructure and to advance the technologies for the use of these fuels and hopefully help to get them exported into the private sector as well.

MARTY O'CONNOR (Haycock Petroleum; Las Vegas Clean Cities Coalition):

I am in support of S.B. 288 and the proposed amendments.

CHAIR NOLAN:

Senator Tiffany, would you like to add anything?

SENATOR TIFFANY:

I think it is clear that we are trying to distinguish in statute, and to coincide with the NAC, what is considered to be alternative fuels. We changed the biodiesel portion and the emissions testing. This is a pretty straightforward bill.

JOE L. JOHNSON (Toiyabe Chapter Sierra Club):

I had originally signed in as opposing this bill, but these amendments have changed that. I would like to be recorded as in favor of S.B. 288 with the proposed amendments.

MS. LAXALT (Nevada Propane Dealers Association):

I am neither in favor or opposed to this bill. I am here to provide you with some history of what happened with special fuels last Session. The Senate Committee on Natural Resources was running a bill that would require all special-fueled vehicles which were prior to last Session exempt from emissions testing would then be required to be regulated for emission testing. I fought that and lost.

We agreed to compromise with the Division of Environmental Protection (DEP) to work on regulations that would be fair and take into consideration some of the federal requirements and testing standards specifically for liquefied

petroleum gas (LPG). Over the interim, we came to a compromise that allowed private fleets to do their own testing, which is what they have been doing up to this point. They do their self testing. That was allowed to continue.

There is a very small percentage of private vehicles that are under LPG specifically. I believe, in time, they will also be required to be emission tested. I came here with the same argument that these are special-fueled vehicles and therefore have no output of emissions. I was informed that if that were true, then I should not have a problem with testing. I had to concede to that point.

I just wanted to provide you with some history of what has been happening with the alternative-fuel vehicles for the private sector. I would request that whatever policy is made in this Committee be carried over in the private sector as well.

RONALD S. LEVINE (Nevada Motor Transport Association):

We support this bill except for the proposed amendment in item 3 of [Exhibit H](#), "that would EXEMPT the following alternative fuels from Emissions testing:" The DMV Advisory Committee on Emissions, about four years ago, came up with A.B. No. 36 of the 72nd Session. It states it will test diesel-using vehicles to 10,000 pounds. That was added to test more diesel vehicles and other alternative fuels as the department acquired the equipment and knowledge to test. They already have been testing the 8,500- to 10,000-pound diesels, and they are working on hydrogen testing at this time. A lot of thought and work has been spent to test these vehicles. Other states have been testing them. That is why we are in opposition.

PETER KRUEGER (Nevada Emissions Tester's Council):

I signed in as being neutral to the bill. I am supportive of the idea behind the concept of doing a better job of delineating alternative fuels. When I read the amendment that provides an exemption for natural gas, LPG, and the biodiesel products, I had to speak against that. Whether hydrogen or electric power can be tested is probably still academic and I will not dispute that, if the Committee chooses to move forward with exempting those two fuels. That would be fine.

However, the assertion that all these fuels are clean burning and do not put out any emissions, while that may be true under laboratory conditions, may not be true in operation. Once a vehicle is on the road it is how well the agency or

owner maintains the vehicle with regard to timing and the things needed to maintain our vehicles.

These vehicles can pollute at a rate greater than a gasoline- or diesel-powered vehicle. We are in opposition to exempting natural gas, LPG, and biodiesel from the testing portion; otherwise, we are fine with the bill.

VICE CHAIR HECK:

Do you have any data that supports that these fuels pollute just as much as the other fuels or is that a speculation?

MR. KRUEGER:

The data is being developed. That is to what Ms. Laxalt referred. I do not have it here with me today but, there is laboratory data. We do not have any real-time data yet, but I could provide that to the Committee.

VICE CHAIR HECK:

Does the laboratory data indicate that these fuels pollute just as much as other fuels?

MR. KRUEGER:

I cannot say they pollute just as much, but they do pollute.

CHAIR NOLAN:

Are you confident there are not testing processes in place for the electric or hydrogen vehicles?

MR. KRUEGER:

I do not know about those two.

COLLEEN CRIPPS (Chief, Bureau of Air Quality Planning, Division of Environmental Protection, State Department of Conservation and Natural Resources):

The Division originally has some serious concerns with S.B. 288, particularly the portion of the bill which transfers authority from the State Environmental Commission to the DEP.

We agreed with the bill's intent to clarify the definition of what is an alternative fuel, but had some concerns with the section 4, subsection 8: "Liquid fuels derived from coal or another source of power, including, but not limited to,

electricity," and how broadly that could be interpreted. The amendments to this bill have addressed those concerns and we are no longer opposed.

MR. OWENS:

We support S.B. 288. We have been using alternate fuel since the middle of 1970. We started with compressed natural gas and have since gone to LPG for the last 24 years. Mr. Krueger's comment objecting to the exemption from emission testing for LPG and natural gas vehicles is outdated. The U.S. Environmental Protection Agency (EPA) has mandated that any converted vehicle for LPG, or natural gas, has to be certified by the EPA lab.

In doing that, you have to make sure the emissions are cleaner than gasoline and acceptable to EPA standards. You have to do a degradation test after 100,000 miles to make sure that your original conversion is still as clean, or acceptably clean, as it was when you originally certified.

I see no problem with exempting alternate-fuel vehicles. It would only encourage more people to use alternate fuels.

CHAIR NOLAN:

Who does the testing on your vehicles, and how often do they conduct those tests?

MR. OWENS:

We have our own dynamometer and we do our own test and conversions. We have an affiliation with a company in Phoenix, Arizona, that has taken our vehicles to the lab, our conversion kits, and submitted them to Ann Arbor, Michigan, for approval and certification for those engines.

CHAIR NOLAN:

Are there federal requirements with regard to testing vehicles you are using with these alternative-fuel sources?

MR. OWENS:

Yes. The EPA specifies the manner in which they will certify an engine on conversion. It must meet that criteria, including degradation and the emission standards for that particular engine family.

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CHAIR NOLAN:  
Thank you.

SENATOR TIFFANY:  
Could we have Mr. Hyde, who represents a large fleet, give his history of five or ten years of testing these alternative fuels and why they never fail an emissions test?

CHAIR NOLAN:  
We have had some opposition. Mostly, the opposition seemed to have been removed by way of your proposed amendment. Mr. Levine and Mr. Krueger have some exceptions with some of the fuel sources listed in your amendment.

In light of that opposition, if you would not mind talking to the opponents, see if there is some consensus language to which you can agree. We will hold the bill for a work session and I will process it as soon as you are ready to move forward.

MS. LAXALT:  
Some clarification needs to be made. I believe this bill applies only to governmental fleets. That is where the alternative-fuel definition comes in; special fuels apply to the private sector. There is a big difference. Private sector is required to be emission tested under most of these alternative-fuel definitions. This bill does not deal with the private sector.

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CHAIR NOLAN:

The meeting of the Senate Committee on Transportation and Homeland Security  
is adjourned at 3:36 p.m.

RESPECTFULLY SUBMITTED:

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Sherry Rodriguez,  
Committee Secretary

APPROVED BY:

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Senator Dennis Nolan, Chair

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