

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

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

The Senate Committee on Transportation and Homeland Security was called to order by Chair Dennis Nolan at 1:39 p.m. on Thursday, April 7, 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 Barbara K. Cegavske, Clark County Senatorial District No. 8
Senator Warren B. Hardy II, Clark County Senatorial District No. 12
Senator Dean A. Rhoads, Northern Nevada Senatorial District

STAFF MEMBERS PRESENT:

Patrick Guinan, Committee Policy Analyst
Stephanie Landolt, Committee Intern
Sherry Rodriguez, Committee Secretary

OTHERS PRESENT:

Chris Ho, Intern to Senator Cegavske
John R. Johansen, Highway Safety Representative, Office of Traffic Safety,
Department of Public Safety
Cameron Waithman, Staff Game Warden, Department of Wildlife

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Bruce W. Nelson, Vehicular Crimes Unit, Clark County District Attorney's Office
J. David Fraser, Nevada League of Cities and Municipalities
Randall C. Robison, City of Mesquite
Dan Musgrove, Clark County
Kaitlin Backlund, Nevada Conservation League
Joe L. Johnson, Toiyabe Chapter Sierra Club
Gail Ferrell, Snowlands Network
Dawn Lietz, Supervising Auditor, Motor Carrier Division, Department of Motor Vehicles
Kent Cooper, Assistant Director, Planning Division, Nevada Department of Transportation
William Bainter, Lieutenant, Nevada Highway Patrol, Department of Public Safety
Gary E. Milliken, Prepared Response
James Finnell, Chief Executive Officer, Prepared Response
Robert Gerye, Principal, Spring Valley High School, Las Vegas
Robert Roshak, Sergeant, Las Vegas Metropolitan Police Department; Nevada Sheriffs' and Chiefs' Association
Michelle Youngs, Nevada Sheriffs' and Chiefs' Association; Washoe County Sheriff's Office
Maggie Saunders, Coordinator, Alternative Mode Program
Erin Breen, Director, Safe Community Partnership
Susan Martinovich, Deputy Director, Director's Office, Nevada Department of Transportation
Cheri L. Edelman, City of Las Vegas
Susan Fisher, City of Reno; Nevada Off-Highway Vehicle Enthusiasts
Stephanie Garcia-Vause, City of Henderson
Steve Hill, President, Chairman, Southern Nevada Concrete and Aggregate Association
Richard Warren, Executive Director, Southern Nevada Concrete and Aggregate Association
Judy Stokey, Nevada Power Company; Sierra Pacific Power Company
John Madole, Associated General Contractors, Nevada Chapter; Nevada Association of Mechanical Contractors
Robert G. Johnston, International Brotherhood of Electrical Workers Local Union 1245
Ernie Adler, International Brotherhood of Electrical Workers Local Union 1245
Debra Jacobson, Southwest Gas Corporation

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Steve Benna, Granite Construction; C B Concrete Company; Sierra Nevada Concrete Association

Ronald S. Levine, Nevada Motor Transport Association

Anthony Bandiero, Nevada Petroleum Marketers and Convenience Store Association

Dr. John Fildes, Medical Director, Level 1 Trauma Center, University Medical Center

Rory Chetelet, Emergency Medical Services, Clark County Health District

Fred L. Hillerby, Washoe Health System

Daniel J. Klaich, Vice Chancellor of Legal Affairs, University and Community College System of Nevada

Steve L. Tognoli, District Chief, Mason Valley Fire Protection District

Lacey Parrott, Vice President, Nevada Emergency Medical Association

Barbara Smith, Nevada Emergency Medical Association Coordinator; University of Nevada School of Medicine

Ron Titus, Court Administrator and Director of the Administrative Office of the Courts, Office of Court Administrator, Nevada Supreme Court

Jay D. Dilworth, Municipal Judge, Department 1, Municipal Court, City of Reno

John Glenn, Nevada Off-Highway Vehicle Enthusiasts

Bob Brown, Dunes and Trails All Terrain Vehicles Club

Steve Robinson, Advisor on Wildlife, Conservation and Rural Nevada Issues, Office of the Governor

Clay Thomas, Deputy Director, Department of Motor Vehicles

Greg McKay, Central Regional Director, California Nevada Snowmobile Association

Wayne Fischer, President, North Tahoe Snow Travelers

Matt Leck, Elko County

Dan Heinz

Grace Potorti

David K. Morrow, Administrator, Division of State Parks, State Department of Conservation and Natural Resources

Pam Robinson, Lake Tahoe Basin Management Unit, Forest Service, U.S. Department of Agriculture

David Strickler, Motorcycle Racing Association of Northern Nevada; Motorcycle Racing Association of Southern Nevada

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CHAIR NOLAN:

We are going to start with a work session on Senate Bill (S.B.) 242 prior to hearing testimony for today's agenda. Patrick Guinan will give us a summary on the bill, then we will take a motion.

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

PATRICK GUINAN (Committee Policy Analyst):

A summary of S.B. 242 ([Exhibit C](#)) has been provided to the Committee along with a copy of the mock-up ([Exhibit D](#)).

SENATOR HECK MOVED TO AMEND AND DO PASS S.B. 242.

SENATOR HORSFORD SECONDED THE MOTION.

THE MOTION PASSED. (SENATOR CARLTON VOTED NO. SENATORS WASHINGTON AND SCHNEIDER WERE ABSENT FOR THE VOTE.)

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CHAIR NOLAN:

We will open the hearing on S.B. 344.

SENATE BILL 344: Establishes crime of driving under extreme influence of alcohol. (BDR 43-339)

SENATOR BARBARA K. CEGAVSKE (Clark County Senatorial District No. 8):

I have a summary of key points to read pertaining to S.B. 344 ([Exhibit E](#)).

CHRIS HO (Intern to Senator Cegavske):

I will read my testimony ([Exhibit F](#)).

CHAIR NOLAN:

Where can we find the documentation pertaining to the number of arrests related to driving under the influence (DUI)?

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MR. HO:

That would be the document labeled A2 titled, "2003 DUI Arrests in Nevada by Jurisdiction" ([Exhibit G](#)).

CHAIR NOLAN:

Where is the documentation on the blood alcohol concentration (BAC) levels for drivers that were tested?

MR. HO:

That would be the document labeled A4 ([Exhibit H](#)). You can also find supporting information on A5 titled, "Fatalities at or above a .15 BAC – 2001-2003" ([Exhibit I](#)). There is additional supporting information in the document labeled A6 titled, "Traffic Safety Facts 2002, State Alcohol Estimates" ([Exhibit J](#)).

I have also included a packet labeled B3 ([Exhibit K](#), original is on file at the Research Library), which pertains to other states surrounding Nevada and their approach to the issue of extreme BAC levels.

Document A8 is an article written by Senator Bruce Johnson of Ohio titled, "Dealing With Extremely Drunk Drivers" ([Exhibit L](#)).

I have also provided the Committee with various other supporting documentation and research as it relates to my testimony ([Exhibit M](#), original is on file at the Research Library).

SENATOR CARLTON:

Does the judiciary system not have the opportunity to impose enough penalties and jail time? Do we need to give them more avenues for that? What is the need for this?

MR. HO:

A license can be revoked for a year. According to the *Nevada Revised Statute* 484, there is also the ability to impose certain jail sentences at a maximum amount.

This amendment would address those people who are convicted in court for offenses associated with that high of a BAC level, and give those individuals more time in jail to think about the consequences of what they have done.

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Some states impose similar sentences of jail time; some states have more. In Arizona, the maximum fine for a first offense is \$2,500, while Nevada has only a \$1,000 fine.

The judges have guidelines they use. They can only do so much and go so high with regard to jail time.

SENATOR CARLTON:
Thank you.

VICE CHAIR HECK:
I am looking at the proposed revised penalties compared to what currently is in statute. The most obvious thing I see is the minimum sentence has increased by four days. The maximum sentence remains the same. The fines appear to stay unchanged. What am I missing, other than making the minimum sentence increase by four days? What warrants having the extreme DUI? An increase in the minimum sentence by four days can still be commuted based on whether or not the person takes an alcohol education course.

MR. HO:
You summed it up. We have added four additional days. If there are any amendments from the Committee, we would be open to those.

CHAIR NOLAN:
Ultimately, what we would hope to see by passing legislation like this is either a reduction in the number of accidents involving DUI drivers or, a reduction in the number of arrests of DUI drivers.

You did a good job comparing Nevada to our surrounding western states. Do you have any data showing a reduction in arrests or accidents involving the DUI drivers when those states enacted a higher BAC threshold?

MR. HO:
At this time I could not tell you, but I would be happy to get that information for the Committee.

JOHN R. JOHANSEN (Highway Safety Representative, Office of Traffic Safety, Department of Public Safety):

Much of the information Mr. Ho has presented was furnished by our office. Officially, we take no position on the bill. As a state employee, I am also federally funded and there is a prohibition against lobbying. So, I am officially neutral on the bill.

I will present a brief recap of the status of impaired driving within Nevada ([Exhibit N](#)). To answer an earlier question; I am not aware of any specific studies relating to a high BAC. The problem has been almost invariably a high BAC is enacted along with other laws, and it is very difficult to isolate the effect of a specific law. There are several bills currently in front of this Legislature addressing impaired driving. For us to measure the results of one specific law would be problematic.

CAMERON WAITHMAN (Staff Game Warden, Department of Wildlife):
The Department of Wildlife supports S.B. 344.

BRUCE W. NELSON (Vehicular Crimes Unit, Clark County District Attorney's Office):

I would like to state for the record that the District Attorney's Association supports this bill. I will give you one statistic that may not have been included in Mr. Ho's material.

A 150-pound man would need to drink ten 12-ounce beers in one hour to reach a 0.18 BAC level. Each beer contributes approximately 0.02 BAC; the body eliminates at the rate of approximately 0.02 an hour. Therefore, 10 beers would result in a 0.20 BAC and with the elimination rate, the BAC level would go down to 0.18.

That is a very intoxicated individual, and they certainly deserve a higher penalty than a person who might be at a 0.08 BAC level.

VICE CHAIR HECK:

Do you believe that the increased penalty proposed in this bill, which is simply increasing the minimum sentence by four days, is justified? What is your opinion on the increased sentence?

MR. NELSON:

We should have a somewhat longer sentence. This is similar to some of our bills. For example, if someone robs a person over 65 years of age, the perpetrator gets more jail time than if the victim were under the age of 65.

The extended six-day sentence would be important, because typically when a drunk driver gets arrested, they spend two days in jail. Under current law for a first offense, the driver gets credit for time served. The offender is not required to perform community service, nor are they required to do additional jail time.

With the 0.18 provision, such DUI offenders will be required to do additional jail time, house arrest, or perhaps community service. In that regard, the punishment is greater than simply the time they spent in jail for the initial arrest. It obviously is not going to be a cure-all, but it will have an effect.

CHAIR NOLAN:

If there is no other testimony, we will close the hearing on S.B. 344 and open the hearing on S.B. 378.

SENATE BILL 378: Authorizes city or county to designate certain highways as permissible for operation of off-road vehicles. (BDR 43-507)

J. DAVID FRASER (Nevada League of Cities and Municipalities):

This bill was suggested by the City of West Wendover. This bill is enabling legislation that allows a city, by local ordinance, to designate all-terrain vehicle (ATV) routes in their community. It was suggested because our rural communities have areas where people like to ride ATVs immediately outside the corporate boundaries of a jurisdiction.

There may be subdivisions right at the edge of the city where a person would be required to trailer their ATVs two or three blocks in order to get to the designated riding area. The idea behind this bill is that by local ordinance, cities would be able to designate a route where these individuals could simply ride the ATVs right out of the city. The bill is enabling so that any community that did not want to do this, would not be required to do so. But, those who wished to, could pass a local ordinance to do just that.

SENATOR CARLTON:

I understand what you are trying to do, but I have concerns with a 12-year-old riding an ATV on a highway. That age seems rather young.

MR. FRASER:

As written, the bill indicates the city could designate the age. This proposal would not allow a city to set an age lower than 12 years of age, but the city could set an age higher than 12 years. We are not married to that designated age. If there is a suggestion for that to be altered, we would certainly be open to that.

SENATOR CARLTON:

I think about the main thoroughfare behind my home. It is actually a state highway. No one realizes it is a state highway; they just call it Bonanza Road. This legislation could possibly give Clark County the option of allowing kids to ride ATVs on a major thoroughfare. Is that true?

MR. FRASER:

I believe that could be the case. That would be a local decision. For example, the City of Las Vegas would not be interested in doing this, but this legislation is enabling and therefore the city would not be required to implement this.

SENATOR CARLTON:

If we pass this legislation, then the city could make the decision to implement this in the future, if they receive pressure from constituents. They may not have an inclination to do it now, but we do not know what might happen five or ten years from now.

Was there any discussion about having this apply more to the rural or frontier areas of the State?

MR. FRASER:

Yes, it could. As currently written, the legislation enables any city the opportunity to do this. We would not object to a population cap. It is our smaller communities that are interested in this.

My only caution is that one of our smaller cities that has an interest is Mesquite in Clark County. If we were to provide a population cap on a city basis, that would be no trouble. But, if we were to cap based on county population, we

would want to ensure the wording would be something to the effect of, counties under a population of X and cities under a population of X including those that might be in counties of over X. The wording might be a little tricky, but we would certainly be open to amend it that way.

CHAIR NOLAN:

The way I understand it, the city or county, in electing to do this, would have to proceed in a normal public-hearing environment. Then, they can designate any path; it does not necessarily need to be a highway. They can designate a small roadway from a populated area out into the hinterland. I would think that it would probably not take too long to get out there from most surface streets.

I am assuming one of the discussions you may have had in processing this bill was the responsibility of elected officials and municipalities to make the correct decision and not put younger motoring enthusiasts in harm's way. They would make sure the route they are allowing them to drive on is safe.

Chances are those with ATVs who live close enough to the desert right now are driving down the street anyway. What we are trying to do is prevent police officers from having to cite them, which they are probably not doing anyway in those rural areas.

Is there anyone else wishing to testify in favor S.B. 378?

RANDALL C. ROBISON (City of Mesquite):

We are in support of this bill for many of the reasons that have been mentioned. We have a healthy population of ATV enthusiasts. We view this bill so that we would be able to use our discretion in our community to designate safe routes that would allow riders access to gas stations or to get out into the desert without creating a burden or unsafe situation.

CHAIR NOLAN:

Both Mesquite and West Wendover are booming and the populations are growing. What is a dirt road out into the desert today will be a neighborhood tomorrow. I am interested in determining how often these access roads will be reviewed. We might approve something today that is a nice, safe shortcut, and sometime in the future it might be a paved road. Should we have some type of established process for reviewing approved routes?

MR. FRASER:

I certainly would not object to putting a review period in the bill. Since this would be done by local ordinance, it could also be quickly changed by local ordinance.

DAN MUSGROVE (Clark County):

When the bill was originally offered by the Nevada League of Cities and Municipalities, I had a conversation with Mr. Fraser. I wanted to make sure that the bill was enabling, because it was not something Clark County had contemplated due to the population of our county as well as air-quality issues. We wanted to make sure it was not something that we would be required to do.

We appreciate the opportunity to have local authority and local jurisdiction over this matter. It would go through a complete public hearing and ordinance process if we chose to go in that direction. I do not think incorporated areas of Clark County would be likely to consider enacting something of this nature.

KAITLIN BACKLUND (Nevada Conservation League):

We would like to go on record as neutral to this bill. However, we do have some concerns. As a conservation organization, we are deeply concerned about some of the natural resource damage that is occurring as a result of inappropriate or unlawful use of off-road vehicles (ORVs) and to the extent that the bill is enabling language that would further promote the use of ORVs without having something in place regarding enforcement. We have already had some comments today about the fact that there is little enforcement out there right now.

We would strongly encourage the Committee to listen to the testimony on another bill that you will be hearing today to get a better comprehensive picture of what is going on in this State with regard to ORV use.

JOE L. JOHNSON (Toiyabe Chapter Sierra Club):

We are neutral on this bill. I would like to address several issues. The intent stated was to facilitate access by ATV users to the outdoors. Unless you designate the entire street system, those not living on a designated route would still be in violation while getting to the designated route from their homes. That is one problem I see in implementing the bill.

The other problem is that these are unregistered vehicles without identification (ID). There are vehicles without liability insurance and operators without helmets. There will be potential liability for the city that allows that. I think there are many problems yet to be addressed in this bill that are probably unintended consequences of facilitating the efforts of a rural person getting to the area they seek.

I am particularly concerned with 12-year-olds operating an ORV on the highway.

GAIL FERRELL (Snowlands Network):

We are very concerned and opposed to S.B. 378 for a variety of reasons. The ORVs are exempt from registration. The drivers are also exempt from needing driver's licenses. The bill does not address the pollution standards that we have for motor vehicle operation on public roads and highways that are very stringent. These are the most polluting vehicles.

As a citizen, I want to talk about the street I live on in Washoe County. We have an ordinance that prohibits ATVs and ORVs from operating in my neighborhood. However, I live on a dirt road and they are near our bedroom and in our yard. It has been impossible to control this behavior. So, to open this up more to that kind of behavior would create a lot of undesirable behavior in our urban and rural areas as well.

DAWN LIETZ (Supervising Auditor, Motor Carrier Division, Department of Motor Vehicles):

I have written testimony ([Exhibit O](#)) that I have prepared for this Committee.

KENT COOPER (Assistant Director, Planning Division, Nevada Department of Transportation):

The Nevada Department of Transportation (NDOT) respectfully opposes S.B. 378 as written. We do understand the concerns of ORV users and their needs. The safety improvements automobile manufacturers have made over the past decade have made for dramatic improvements in safety on our highways and roadways. Off-road vehicles offer no protection to the operator or passengers if they are involved in a crash. In addition, the judgment and reactions of individuals of the age designated in this bill are not at a level we feel should be allowed on a state highway system. The Department believes there are visibility, operational and safety concerns with ORVs operating on

highways, including concerns over licensing, insurance, registration, lights, turn signals, et cetera.

Currently in Nevada, another vehicle with limited visibility, that is obviously legal, is the motorcycle. We have seen a doubling of fatalities from 2003 to 2004. While not directly related to this, we feel there are some corollaries here.

The Department would find an amendment acceptable that inserted the words: "under their local jurisdiction," between the words, "highway" and "within" in section 3, subsection 1, lines 5 and 6.

I would caution the Committee that this could still allow conflicts where local roads meet state highways. Obviously, if you designate a roadway within your local jurisdiction, sooner or later it could cross a state road. How do you handle that intersection when those drivers want to cross that highway?

WILLIAM BANTER (Lieutenant, Nevada Highway Patrol, Department of Public Safety):

The Nevada Highway Patrol (NHP) opposes S.B. 378. This would allow the operation of ATVs by minors as young as 12 years old on portions of Nevada's highways. This in and of itself would create a serious issue.

In addition, the majority of ATVs, if not all of them, do not have rear differentials which allow one tire to spin faster than the opposite tire when negotiating a turn. They have low, three- to five-pound tire pressure. These characteristics create a very unsafe and unstable condition when operating on pavement.

For product liability alone, the manufacturer of ATVs specifically rivet warning labels on the vehicle that state, "Never use on public roads." In addition, the owners manuals state, "Avoid operating an ATV on any paved surface, including sidewalks, driveways, parking lots and streets." They are unsafe vehicles for operating on pavement. They were never designed for it.

CHAIR NOLAN:

There are issues with this bill that the Committee will want to address. We are going to hold S.B. 378 over for a work session.

There was some valid opposition with regard to juveniles operating these vehicles, the safety of the vehicles on the street and the size of the streets and thoroughfares over which these ATVs may have to cross or may be permitted to cross. Before we move on this piece of legislation, we want assurance that those issues are addressed. So, to the proponents of the bill, I would suggest that you take a look and see if you can address some of those concerns with an amendment. I would like for you to get that to us by Monday, April 11, 2005.

We will close the hearing on S.B. 378.

I would like to take a moment and announce to the audience that we will not be hearing S.B. 309 today. That bill has been pulled from today's agenda.

SENATE BILL 309: Makes various changes relating to motorized scooters and miniature motorcycles. (BDR 43-288)

CHAIR NOLAN:

We will open the hearing on S.B. 365.

SENATE BILL 365: Revises provisions relating to public safety. (BDR 19-286)

CHAIR NOLAN:

The genesis of S.B. 365 had a twofold issue to address. The first and probably least controversial part of this bill was dealing with Code Adam. Some of you may be familiar with Code Adam in a voluntary context. Code Adam is a nationwide program which was established for the purpose of helping to find lost children.

Code Adam was established after a child had become lost and was later found to have been abducted and taken out of a mall. Video tapes indicated the child was in the mall for quite some time. Had there been some type of system in place that could have alerted all the retailers and employees of that mall and provided them with information, they felt that particular child could have been saved. Subsequently, there have been other cases where children could have been saved with Code Adam.

The bill was originally requested as a resolution. I cannot explain how it came out as a bill, but there was no time to amend it back into a resolution.

The resolution was to encourage places of public business to try to adopt a Code Adam system. That is one aspect of the bill.

The second aspect of the bill was to encourage public businesses and schools to begin to adopt programs to respond to both domestic and foreign threats of terrorism, especially schools. In the United States, the threats have been more domestic than foreign. It is distressing to see the numbers of ever-increasing mass acts of violence which are occurring in our schools in the United States. Outside the United States there is the example of what recently happened in the attack on the elementary school in Russia. Hundreds of children were killed by terrorists. We are not completely void of those opportunities in this country.

It would be my intention to return this bill to resolution form. Another intention was to encourage schools and public businesses to establish mapping systems, systems of alert and systematic evacuations. We teach kids how to evacuate in a fire-alarm situation. In an act of violence, triggering a fire alarm could just line students up for slaughter. The evacuation system we have in place, which is the only one with which we are required to test children for evacuation, is completely inadequate in the case of an act of violence.

The intent of S.B. 365 is to encourage schools and places of business to establish those types of safety systems. I have some people here today who are going to show you the types of systems which are available in other states, particularly the state of Washington. Washington has implemented a system very similar to what we are hoping to promote here. We also hope to get our schools and places of public business interested in such a system.

GARY E. MILLIKEN, (Prepared Response):

I have James Finnell with me here today. He will be giving a demonstration of what their company does.

JAMES FINNELL (Chief Executive Officer, Prepared Response):

I would like to give a brief presentation to demonstrate what a similar program in Washington State has accomplished in terms of trying to address terrorism and other types of hazards. Rather than explaining this verbally, I have a presentation ([Exhibit P](#), original is on file at the Research Library) with two short news clips that basically outline how the program works in the field.

The first clip is actually a news story done when Washington State decided to pilot a program. The program was originally designed to focus on school safety. This was before the tragedy of September 11, 2001 (9/11). Subsequently, when the program started there was a lot of interest in homeland security and terrorism.

It was difficult to determine what is critical infrastructure. The state of Washington started a pilot program with their schools.

Two weeks after this pilot program was deployed, a student arrived in an eastern Washington school with a 9-millimeter handgun and started shooting at teachers and students. Part of the richness of this program is not the technology; rather, it is what we do and what the programs do to bring a lot of disparate stakeholders together to work out their emergency plans in advance.

With a program like this, the whole goal is to provide the first responders with all the information they need to mitigate events quickly.

The second clip is about how the system is used. It will give you a few highlights of the program and how it has been successfully deployed in Washington and several other states. This particular program is actually run by the Washington Association of Sheriffs and Police Chiefs. They have taken on the responsibility for the state to deploy the program statewide.

A key feature inherent to a program like this is that it fits a lot of homeland security issues because of taking a regional approach to dealing with issues rather than having silos of information. This is not only for terrorism; it can be used for any type of event. A bill like this addresses interoperability questions, because there would be a state platform rather than a bunch of information silos statewide contributing to interoperability issues.

Here are some basic facts about the Washington program. This system can be used with or without Internet connectivity. There are two separate pieces to it that can be deployed. We understand that a lot of people in the rural areas and even metropolitan areas do not have robust Internet connectivity out in the field.

Again, the goal is to provide first responders with all the information they need to mitigate incidents quickly and not have to spend time trying to

assess the situation when they get there. The system was designed to work on off-the-shelf equipment; it also has a very high degree of security. Another unique feature is once this system is deployed, any information related to particular venues can be updated in the field by the venue stakeholders, whether it is a business, commercial building, or a state or public building.

One last closing comment is that the system and the deployment of it and a program like this really tends to bring responders together to work out plans in advance. It develops a great sense of teamwork. In the particular case of Washington, we found that getting the school and public safety stakeholders to collaborate on a program like this was extremely beneficial and useful just to start an ongoing dialogue between them.

CHAIR NOLAN:

The program that Mr. Finnell brought to me is one of several products on the market that are helping communities do exactly what we are hoping to try to do in what will eventually become a resolution again.

In the case of Washington, what was the impetus behind the state implementing this for their school system? How did it start and how long did it take? Is it still ongoing to map out their schools? What was the priority; were schools or public buildings first priority?

MR. FINNELL:

It was quite unique. The Sheriffs' and Police Chiefs' Association wanted to take this project on for the state of Washington. We, and they, had a lot of difficulty understanding what specifically was going to be designated as critical infrastructure. While I understand that debate is still ongoing in Washington, D.C., it was an easy decision for the Washington State participants to say that, as far as they are concerned, in their state schools are their critical infrastructure, and they chose to work on those first. Their goal is to have the entire Kindergarten through Grade 12 school system available to all first responders across the state by the end of 2007.

CHAIR NOLAN:

I have also received some input from Dr. Dale Carrison, Director, Nevada Commission on Homeland Security, regarding this bill. Dr. Carrison had some proposed amendments, which I agree with, which take the Commission on Homeland Security off the hook for a lot of what we are hoping to do in this

resolution. We will work with those amendments to try to redraft this back to where we want it.

We will close the hearing on S.B. 365 and open the hearing S.B. 310.

SENATE BILL 310: Establishes provisions relating to promotion of safety of pedestrians. (BDR 43-290)

CHAIR NOLAN:

The purpose of S.B. 310 is twofold. First there are provisions dealing with traffic safety and individuals who cause injuries to pedestrians as a result of their reckless behavior where the accident results in significant injury or death of a pedestrian. There is a bill coming from the Assembly with similar stipulations dealing with a new misdemeanor, manslaughter provision. The new Assembly bill provision addresses the case where someone's reckless or negligent acts cause a major injury, but because they were not violating a traffic law at the time, they could not be charged with that death or injury.

The provisions on page 3, section 5, subsection 2 of S.B. 310 provide a penalty for those types of activities. We will probably amend that language out of S.B. 310 and amend it into the Assembly bill.

The second aspect of S.B. 310 came about from calls I received from constituents regarding dangerous intersections where multiple accidents have been occurring. Those constituents had attempted to call local municipalities, either law enforcement agencies initially or subsequently the public works departments in those municipalities. In many cases, it appeared as though the public works departments were either not responding to or had some level of indifference to the complaints, because there was no activity associated with the complaints being filed.

In one case, after numerous complaints about an intersection in southern Nevada and nothing having been done, there was a tragic accident at that intersection which took the life of a little girl. Immediately following the accident, the public works department installed larger stop signs at the very large four-way intersection accompanied by solar-powered flashing lights. There was not a huge infrastructure issue. Many of the residents said this work should have been done in the first place, before the tragic accident.

With stories like that, it seems to me if we were able to respond to a tragic accident so expeditiously, we ought to be able to handle valid, legitimate complaints on the front end to address these situations.

CHAIR NOLAN:

Robert Gerye is a principal at the Spring Valley High School. I will disclose that my son attends that high school. It is a newly opened high school and one of the largest high schools in Las Vegas. Shortly after the high school opening, it became clear that there was a major traffic problem. Principal Gerye shared those problems with me. I sat out there one day and literally watched a student get hit by a car. Fortunately, he landed on his feet and kept running for what was going to be a late first-period class.

I made a call to the local public works department and requested that something be done before a student was killed. I was transferred from one department to another, even after identifying myself as a Senator representing that particular school. I finally ended up with an individual who told me they would conduct a six-month study before they would do anything. This to me was absolutely ridiculous.

This is the impetus that prompted me to bring this type of bill forward. We need a more expeditious way to address these types of situations, especially when the lives of our citizens may be at stake. I am willing to take a look at any reasonable way to achieve that end.

ROBERT GERYE (Principal, Spring Valley High School, Las Vegas):

Our story begins back in January 1994, when we were very fortunate to move into a new school. At that time, we had no students because we would not open until August 1994. We immediately identified a problem with the way the county had put the median together; there is one ingress and egress to the school. We also identified West Twain Avenue and South Buffalo Drive as problems.

Parents began making calls to the county public works department and to our representative on the county commission. The Clark County School District also began trying to work with their zoning and demographics people. We were hoping to get the median redesigned and have a light put in at the intersection of West Twain Avenue and South Buffalo Drive. We were also

told a study would be conducted, and the intersection of Twain and Buffalo did not merit a light.

School opened, and there was no signal. We do have flashing lights and 15-miles-per-hour signs. We have six buses. Approximately 300 students out of 1,800 ride the bus. The rest of the students either walk or are driven to school. Here we are today, April 7, 2005, and we still have no light nor has the median been redesigned.

My concern is not so much the politics of getting this done; my concern is that I have approximately 1,000 to 1,200 students who cross those streets every day in order to get to school. At least once a week there is a near miss with a child crossing the street. We have had at least four major accidents at that intersection.

We are living on borrowed time until someday a child gets hit, killed or permanently crippled, because we have not had a response to getting the median redesigned and having a signal installed.

The responsiveness has been really slow. In reading Senator Nolan's bill, section 3, subsection 2 states: "After establishing such a system and within 24 hours after receiving a complaint, the applicable public authority shall verify the accuracy of the complaint by," This provision really puts some pressure on people. I am not sure that anyone can work that quickly, but the intent is to get something done so a child does not get hit or killed, because they cannot get across the street to go to school.

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

We are in favor of this legislation pertaining to the requirements of law enforcement to provide accident reports to the various entities. We have no issues with that. We currently do give that information.

MICHELLE YOUNGS (Washoe County Sheriff's Office; Nevada Sheriffs' and Chiefs' Association):

The Washoe County Sheriff's Office is in support of this legislation with regard to law enforcement's responsibility.

CHAIR NOLAN:

There were some concerns expressed by the opposition that we are going to address with a possible amendment. Was there anything specific or issues you saw where we might be able to make some changes to make this a better piece of legislation?

SERGEANT ROSHAK:

Just delineate the responsibilities of law enforcement versus public works so we know who is responsible for what.

MAGGIE SAUNDERS (Coordinator, Alternative Mode Program):

I would like to voice my support of S.B. 310 with one additional comment. What is the definition of a dangerous condition? Maybe you could put some examples in the bill of what would be considered a dangerous condition with regard to pedestrian and motorist conflicts.

CHAIR NOLAN:

Thank you. That is language we will work on. As a consideration for an amendment, we will look at better defining that specific language.

MR. NELSON:

I would like to indicate that the Clark County District Attorney's Office is also in support of this bill.

ERIN BREEN (Director, Safe Community Partnership):

In several parts of the bill, you discuss freeways, highways, roads and streets. Since pedestrians are prohibited on a freeway, I would like to see that wording removed or somehow identify that when a pedestrian is stuck on a freeway, it is pedestrian error; I do not know of a time when it is not pedestrian error. Otherwise, we completely support this bill.

CHAIR NOLAN:

Thank you. We will take that into consideration.

MS. BREEN:

I know you were hoping that Dawn Blender would be here, but the reason she is not is because they are activating the signals at Hualapai Way and Desert Inn Road. She was asked to attend the activation of that signal with the city council and the Clark County commissioners.

CHAIR NOLAN:

For the record, the accident I referenced earlier with regard to the fatality of a little girl at that particular intersection was Ms. Blender's daughter. She was the one who had made the initial calls to the county to try to get signs erected. Those signs went up afterwards. Now, several months later, they were able to hardwire actual traffic signals.

SUSAN MARTINOVICH (Deputy Director, Director's Office, Nevada Department of Transportation):

The NDOT supports the intent of the bill but, respectfully opposes some language as written. Specifically, the time limits identified in sections 3 and 4 of the bill.

We receive over 1,300 complaints on issues from potholes to accidents and incidents every year. They come through phone calls, e-mails, faxes and letters. Although we work to respond to them in a timely manner, there is always room for improvement.

We would like to recommend those sections be modified to give agencies some flexibility but, still meet the bill's intent. We are recommending that the bill, instead of being very specific on time constraints, could require that an agency develop a plan on how to respond to those conditions. The plan would need to include time frames for responses and actions. Responses and actions could be recommending a study, specific time frames to do early action items and then some long-term planning items. There could be priorities given for schools or other pedestrians.

We also recommend, for assurance of action by the agency, the plan could then be adopted by the respective governing board or a report could go back to the Legislature. We appreciate the opportunity to work on this, and we will be working with our partners in the local entities to come to some resolution.

SENATOR CARLTON:

I had an instance a couple of years ago where we were constantly having accidents on the corner where I live. Doing some investigation, I found it very difficult to get information about how many accidents happen at the intersection. What should I have done to get that information? Did I go about it the wrong way?

I ended up going through the police department, pulled accident reports and went through each one myself to figure out which accidents took place at that particular intersection. Do you have a more user-friendly system in place in order to do this? Otherwise, it seems like this legislation might be needed.

MS. MARTINOVICH:

The quick and easy answer is no. But, we are working very closely with local partners and local law enforcement agencies to develop something like that. It is called Nevada Citation and Accident Tracking System (NCATS). It will enable that type of information to be obtained by way of automated data retrieval. Eventually, it will be possible to get that type of accident information on your computer.

Right now, the challenge is law enforcement agencies collect the data; NDOT receives certain parts of the data and we track the data related to state roads and some of the other roads. Some other local entities receive certain other parts of the data. The information is not all in one area. Efforts are being made to put it all into one area for the very reason that you talked about. Sometimes, we need to look at the big picture and not just little individual parts of it.

CHERI L. EDELMAN (City of Las Vegas):

I gave the Committee a proposed amendment for S.B. 310 ([Exhibit Q](#)). We came up with a more exact amendment. We do support Ms. Martinovich's amendment where we would come up with a plan with local agencies. However, if that does not meet your need, then we would support the amendment that we have provided to you today.

The reason for that amendment is precisely what Ms. Martinovich had stated. The time frames referred to in the bill are contentious because we do not think that we can react quite that quickly. We have proposed 7 days instead of 24 hours to determine if there is a credible, dangerous situation. If we determined that to be the case, we would react within 72 hours.

We still have some concerns; we do not want to put out a temporary solution to a permanent problem. That would create liabilities for the agencies. We want to make sure that when we do correct a problem, we are doing it the right way.

Just because we get a complaint does not necessarily mean there is a problem. Sometimes, there is driver or human error involved. Someone might have been

jaywalking across the street, which is illegal. We cannot prevent that type of thing. That is one of our concerns throughout the bill.

Finally, we do not want there to be too much signage. This bill addresses a lot of signage issues. Although, we think signage is a good thing, we do not want the public to become desensitized to signage. We want to ensure that we do not put up so much signage that people no longer pay attention to the signs.

I did speak to the Las Vegas Metropolitan Police Department (Metro) regarding the NCATS program Ms. Martinovich had mentioned. We do have a difficult time getting some of that information in a form that is usable. We need to work with Metro and with the State to get that information to us so we can properly process it.

MR. MUSGROVE:

Personally, I am very disturbed by my agency's responsiveness described in testimony earlier. As you know, the accident that took place at Hualapai Way and Desert Inn Road has become somewhat the poster event for how traffic signals and those types of things get activated within the Las Vegas Valley. I am not an expert on the whole warrant process. If you have those kinds of questions, there are many people in this audience who might be able to answer them.

The Hualapai Way and Desert Inn Road accident was a unique situation. However, it does not excuse what happened. My county commission had numerous meetings. They assembled a task force that included home builders, developers, commercial properties and traffic engineers to determine what we can do to make sure these mistakes do not happen again.

I think the intent of this legislation is admirable; we support that. We absolutely have some of the same concerns that have been testified to here today. The logistics of how to react to a claimed incident or accident, determining who is at fault, determining whether the accident was preventable or not, determining whether a jaywalker caused the accident, determining if road conditions or the environment caused the accident or if causes beyond our control such as driver error were involved are the kinds of things toward which this legislation directs us. We hope that Ms. Edelman's amendment could be considered as well as the amendment presented by Ms. Martinovich.

Senator Nolan, please call on me. I am your key to working through that maze of bureaucracy. On behalf of Clark County and my board of county commissioners, we do not take traffic safety lightly.

CHAIR NOLAN:

You do not need to apologize on behalf of your county or for the people who failed to take action in these cases. I am not going to get upset with you for something that is not your fault. I think we would not be looking at this legislation if we were more responsive at the municipal level. I know public works people get inundated with calls, and perhaps they become desensitized. Sometimes, we have traffic situations that are very serious which unfortunately fall on deaf ears. We will work with this and the amendments that have been proposed.

SUSAN FISHER (City of Reno; Nevada Off-Highway Vehicle Enthusiasts):

We support the concept behind S.B. 310. We have the same concerns that were discussed previously. I assume that we would be able to support the proposed amendment from the City of Las Vegas. We certainly support pedestrian safety. We have instituted a Drive 25 Program within the city of Reno where we work with the Reno Police Department and the neighborhood advisory boards to identify problem areas. We have the "safe officers." They are retired neighborhood officers without real policing duties, but they will stop vehicles if they see them speeding through neighborhoods and give them a warning.

We are also concerned about the timelines referred to in the bill with regard to fixing a problem once one has been identified. Sometimes, it takes longer to take care of it.

STEPHANIE GARCIA-VAUSE (City of Henderson):

We would like to state for the record that we are in support of this legislation, and we feel that it is very important. We would also be in support of the amendments proposed by the City of Las Vegas. We share some of the same concerns in terms of response time.

CHAIR NOLAN:

If there is no other testimony, we will close the discussion on S.B. 310 and open hearing on S.B. 245.

SENATE BILL 245: Establishes provisions concerning hours of service for intrastate drivers. (BDR 58-80)

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

I was asked by the Southern Nevada Concrete and Aggregate Association to present this bill. Currently, the Federal Motor Carrier Safety Administration issues hours of service regulations for both long-haul and short-haul drivers. The federal regulation allows some variations within certain parameters for short-haul truck drivers. This is not a problem for most people, but it is a unique problem because of the nature of the concrete and aggregate industry. This is particularly true for the ready-mix concrete truck drivers. We are introducing this legislation in an attempt to help them with their dilemma.

I have heard from the NHP and others who are somewhat concerned this might have some impact on the federal law and the federal funding that the State receives. I and the individuals who asked me to sponsor this bill, are committed to ensuring nothing in here is less stringent than the federal regulations, and nothing will jeopardize the federal funds we receive.

I think it will be relatively easy to ensure compliance with the federal regulation provided to the states. This is a serious issue for one of our major industries in southern Nevada. I would appreciate this Committee's consideration.

STEVE HILL (President, Chairman, Southern Nevada Concrete and Aggregate Association):

We would like to address several issues in this bill. The first is to take allowable driving hours in a day from 11 hours to 12 hours. The Federal Motor Carrier Safety Administration (FMCSA) allows up to 12 hours. On-duty hours are different than driving hours. Driving hours are the time a driver is actually sitting behind the wheel and operating the truck. On-duty hours involve clocking in, cleaning and checking the truck for safety issues, doing maintenance and anything other than driving. We are requesting that the on-duty hours be up to 15 hours; the administration allows up to 16 hours.

The one area in which our bill is obviously out of compliance with what the federal government would allow is our request to decrease the time between shifts from ten hours to eight hours. The federal government only allows a minimum of ten hours. In a letter from the FMCSA, they state less than ten hours is not permitted and that it is in violation of their tolerance

regulations. So, we would ask that the Committee allow us to remove that request, and keep the ten hours between shifts of continuous off-duty time.

We have also asked that drivers be permitted to work up to 70 hours in any 7-day period. The federal guidelines allow either 70 hours in 7 days or 80 hours in 8 days in a continuous stretch.

We are also asking for an amendment that reaffirms the federal guidelines currently in place for intrastate drivers that states the 7- or 8-day clock can be reset after 24 continuous hours off work. We would like to see that as a state regulation.

We ask the Committee to allow the request of the 150-mile radius dismissal and keep the 100-mile radius which is the same standard the federal government currently allows without tolerance. Finally, we ask that intrastate drivers that do not exceed that 100-mile radius be exempt from keeping trip logs.

Our industry and many short-haul industries have unique challenges. We operate exclusively within the short radiuses. Our drivers perform many other duties. Our drivers typically spend much less than half of their day actually driving their trucks. They spend more time at the job site than actually driving the truck. The trips in which they are engaged are typically less than 30 minutes. They start and end the workday at the same location. They are in their own homes each night, and they are not subject to the monotony and subsequent fatigue that long stretches on the highway can cause. That is what the original federal regulations were designed to cover.

The current federal hours-of-service rules tend to paint the long-haul drivers and the short-haul drivers with the same brush even though they are subject to different operating conditions.

Other than the 16-hour exemption that drivers are currently allowed 1 day a week and the 24-hour clock reset versus the 34-hour clock reset for long-haul drivers, the current federal regulations are the same for both interstate and short-haul drivers. Overall, FMCSA predicts fatigue-related crashes to be significantly more of a problem in long-haul rather than in short-haul operations. The reductions in short-haul crashes were much smaller than the reduction in long-haul crashes both in relative and in absolute terms.

The FMCSA further admits they found that restricting those drivers who return to the normal reporting locations at the end of every shift has the unintended consequence of requiring a significant increase in new drivers. These new drivers would increase both cost and crashes.

SENATOR CARLTON:

In section 7 of the bill is the term on-duty time; what is your definition of on-duty time? We were talking about driving time versus on-job time versus just sitting in the seat and dispensing concrete. I am confused about which times are going to be included in this.

MR. HILL:

There are two definitions. On-duty time is the total time the driver is on the clock. The other definition applies to driving time. Driving time not only includes the time the driver is actually driving the truck, but also the time that a driver may be sitting in the seat but is only operating, in a front-discharge mixer, the controls to discharge the concrete. Currently, that is included in the federal statute as the definition of driving.

RICHARD WARREN (Executive Director, Southern Nevada Concrete and Aggregate Association):

I am here to indicate the support from all of our members of the Southern Nevada Concrete and Aggregate Association.

JUDY STOKEY (Nevada Power Company; Sierra Pacific Power Company):

We support of S.B. 245. We fall under the hours-of-service regulations; all utility departments do. We have a concern with the emergencies as stated in section 10, subsection 3 where it talks about interruption of service. Those are outages which can occur from windstorms or numerous other reasons.

There are times when our employees are working a normal 8- to 10-hour workday, and then they are on call for those types of emergencies. We want to make sure that this legislation will allow us to adhere to regulations and restore power to our customers as soon as possible.

JOHN MADOLE (Associated General Contractors, Nevada Chapter; Associated General Contractors, Las Vegas Chapter):

We want to be on the record as being in support of S.B. 245.

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ROBERT G. JOHNSTON (International Brotherhood of Electrical Workers, Local Union 1245):

We are supporting the bill for the same reasons as Sierra Pacific Power Company and Nevada Power Company.

ERNIE ADLER (International Brotherhood of Electrical Workers Local Union 1245):

In conversations with some of our members, they have said that sometimes when they go out on a job, initially, it does not appear to be an emergency but turns out to be one. They are concerned about inadvertently violating the law as it is currently worded. This would help them to respond to true emergencies and restore service. It is their goal as employees of the power companies to restore service quickly.

DEBRA JACOBSON (Southwest Gas Corporation):

We are here in support of S.B. 245.

STEVE BENNA (Granite Construction; C B Concrete Company; Sierra Nevada Concrete Association):

We would like to go on record as being in support of this bill.

LIEUTENANT BAINTER:

The NHP opposes S.B. 245 as written because of the potential possibility of affecting our funding. This legislation increases the hours of service for an intrastate carrier from 11 hours to 12 hours. It decreases the hours of off-duty time from 10 hours to 8 hours.

The FMCSA has an allowable variance in their *Code of Federal Regulations* (CFR) 350.341. It does not allow a decrease in off-duty time for intrastate carriers, which would clearly put us in noncompliance with that variance.

Under CFR 350.343, the FMCSA strongly discourages exemptions for specific industries. In this bill, they are exempting tow carriers. We also have concerns with the declared-emergency section in this bill as not being compatible with the federal regulations.

We are committed to working with the sponsor and all affected parties to derive different language that will work for all. The NHP receives approximately \$1.3 million in grant funding from the FMCSA every year. I contacted the Nevada FMCSA district administrator, William Bensmiller. It was his

representation that if this bill were to pass, I would have to, as a commercial coordinator, request a state variance. There are no guarantees that a variance would be approved.

Mr. Bensmiller also gave me an example with the state of Florida. Florida passed some legislation that was less stringent than the federal government and their FMCSA funds were reduced by 50 percent. The only difference now is that it is not a percentage of the funds that a state is docked; they simply do not provide you with any funding.

RONALD S. LEVINE (Nevada Motor Transport Association):

The NHP adopted the federal regulations of hours of service in the 1980s. It is my understanding that if a state adopts the regulations, they cannot make changes to them. The FMCSA recently changed the hours of service of driving from 10 hours to 11. The total on-duty hours decreased from 15 hours to 14.

We are willing to work with the sponsor to make sure there are no funds in jeopardy because of mix-ups. These funds also affect other federal highway funds. We would not want to see any funds lost to the State. One of the problems would be the two sets of rules and regulations, one set for interstate and one set for intrastate. As a former officer, I know when you pull someone over you do not know if they are actually working intrastate or interstate. With two different sets of rules, enforcement becomes a little more difficult. We do not want an unenforceable or confusing law.

ANTHONY BANDIERO (Nevada Petroleum Marketers and Convenience Store Association):

We do like the flexibility this law provides. Having more hours to drive during a day helps some employers that need the flexibility. One concern we have is in the administration of this legislation. We have drivers who are both intrastate and interstate. When they are being dispatched, the dispatcher will need to know what that driver has been assigned over the last seven days. It will make it more difficult for the dispatcher to assign drivers for work, because our clients transport fuel and heating oil; those can be trucked intrastate or from out of state.

Another issue is in the emergency-waiver section. Currently, how it is done if we have an emergency such as a bad snowstorm, it will take a lot longer to

deliver that heating oil. The delay could run the driver over their allotted hours. We request a waiver through the FMCSA through the Office of the Governor.

This law allows the employer to make that declaration. The definition of what constitutes an emergency is very broad. We feel this could be used without proper discretion; that is our concern.

SENATOR HARDY:

I wanted to express my appreciation to Lieutenant Bainter who contacted me over a week ago and expressed his concerns on S.B. 245. He expressed a willingness to work with me. I wanted to clarify there was not a courtesy extended to me by the other gentleman who testified in opposition to the bill.

In the case of the Nevada Petroleum Marketers and Convenience Store Association, they contacted me minutes before this hearing began. I understand there were circumstances that caused that to occur, especially with the limited time we have to process these bills. However, in the case of the Nevada Motor Transport Association, I sought them out a week ago and asked them to work with the sponsors of the bill. The sponsor of the bill made repeated attempts to contact them and those calls were not returned.

I would like to express my frustration and lodge what I feel is an inappropriate behavior on their part to come forward and oppose this legislation without giving me the courtesy or opportunity to work out their concerns. I would be happy to work with the NHP on their concerns with regard to federal funding.

VICE CHAIR HECK:

If you could work on that and get the changes to this Committee by Monday morning, that would be helpful. We could then schedule this bill for our next work session for Thursday, April 14, 2005.

SENATOR HARDY:

We will endeavor to turn that around as soon as possible. We will involve our legal staff as well as the federal group that Lieutenant Bainter spoke of earlier. It certainly is not my intent, or Mr. Hill's, or the bill sponsor's to jeopardize any federal funding. We will take whatever measures are necessary to make sure that does not occur.

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VICE CHAIR HECK:

If there is no further testimony, we will close the hearing on S.B. 245.

CHAIR NOLAN:

We will open the hearing on S.B. 124.

SENATE BILL 124: Provides for imposition of administrative assessment for certain traffic violations to be used to support emergency medical services and services for treatment of trauma. (BDR 43-887)

VICE CHAIR HECK:

I have written testimony for this Committee ([Exhibit R](#)) and a proposed amendment to S.B. 124 ([Exhibit S](#)). I have also provided a brief comparison of similar programs in other states in spreadsheet format ([Exhibit T](#)).

CHAIR NOLAN:

Are there questions for Senator Heck?

SENATOR CARLTON:

Can you address the fact that this does increase something and it does not have the two-thirds notation on the bill?

VICE CHAIR HECK:

I was unaware of that. This is the bill as it came back from the drafters. I have been informed by the Research Division that it will probably require a two-thirds majority vote. It will be so amended on the reprint.

DR. JOHN FILDES (Medical Director, Level 1 Trauma Center, University Medical Center):

The leading cause of death for Nevadans between the ages of 1 and 44 is injuries. The ability to treat these patients hinges on having an organized system of care that involves both emergency medical services (EMS), hospital and trauma center interactivity. That interactivity requires that there be an organized system to administer, monitor and direct such activities. Financial support is a major consideration for this.

The EMS technical advisory group at the Health Resources and Service Administration in Washington, D.C., has cataloged the methods that states have

used to support this activity. Overwhelmingly, it is through the surcharge to motor vehicle traffic citations.

I strongly support this. As you know, the EMS and trauma systems woven though our State's public safety net are the backbone for the amplified approach to disaster management. This would place additional administrative burden on those people who are the major users of the system.

RORY CHETELET (Emergency Medical Services, Clark County Health District):
We are in support of this legislation. Recent federal funding cuts that have been announced are going to severely impact EMS, especially in the rural communities. Through this type of funding, we hope to be able to expand our programs of training and equipment for the implementation and care of patients as they occur in the emergency medical fields in not only the urban areas but, also in the rural locations.

SENATOR CARLTON:

Senator Heck, the amendment designates \$5 for each violation. I know it is possible to be cited on several violations pertaining to one traffic accident. Would that be an additional \$5 for each violation with regard to the one traffic accident?

VICE CHAIR HECK:

Yes, that is the intent. The initial language was to have the additional penalty placed on all moving violations that would have resulted in demerit points. There were concerns from the Senate Committee on Judiciary with regard to that. The concerns were along the lines of assessing a fee or tax on a larger user group that did not utilize the services. In an attempt to ratchet that down to those who disproportionately use the services, we went to those who are involved in motor vehicle collisions.

You are correct in that if there is only one accident, there may be several citations issued. One of the issues that arose if we tried to pick out one citation is the bookkeeping of only putting it on one citation and not allowing it on the other four as the office processes the violations.

Realize that by ratcheting it down from all moving violations to just those involved in motor vehicles collisions, we have drastically diminished the

resource pool. So, the intent as written is for every violation related to a motor vehicle collision.

SENATOR CARLTON:

Do we have an estimate of the amount of dollars that this might generate?

VICE CHAIR HECK:

The number of citations issued in Clark County in 2004 related to motor vehicle collisions was 338,785.

SENATOR CARLTON:

That would calculate out to \$1,693,925 based on the proposed legislation. Would that money be disbursed across the whole State?

VICE CHAIR HECK:

Yes.

SENATOR HORSFORD:

Can you explain the Health Division and how the monies are currently distributed for trauma? Can you then describe how these additional monies would potentially be allocated and whether or not it would be appropriate for monies to be allocated to private institutions?

VICE CHAIR HECK:

I cannot address how the Health Division currently disburses their funds. The intent behind this legislation is for funding to be disbursed to provider agencies, as well as those entities involved in trauma-systems development.

This money is not intended for subsidized patient care or anything along those lines at a facility. It would be involved with trauma education and trauma outreach that a facility may provide to either the provider agencies or the community at large.

SENATOR HORSFORD:

Can you give some examples of what the end product would be? When you say to expand, operate or promote programs, what type of programs could we see derived from this allocation of resources?

VICE CHAIR HECK:

There are some individuals here who could better answer those questions. I know of one that has some potential. In the last Legislative Session, a law was passed that required mandatory weapons-of-mass-destruction training for all licensed EMS personnel. There was no funding mechanism for those personnel to get that education. That is a problem for the rural areas. They need to complete that education before they can renew their license. So, one area where that funding might be used would be to provide education to the rural members so they can meet that unfunded mandate passed last Legislative Session. This would enable them to keep serving the communities in which they live.

SENATOR SCHNEIDER:

Dr. Fildes, this Committee will be addressing the repeal of the helmet law for motorcycle riders. Since you are in charge of the trauma center at University Medical Center (UMC), how would the repeal of that law affect UMC's trauma center and the State? What would the fiscal impact be for your trauma center and possibly Nevada if we repealed the helmet law? I understand that you have to take care of all these injuries whether or not the injured have insurance.

DR. FILDES:

My opinion on the issue of repealing the helmet law is that it would be a mistake to do so. There are states that have repealed their helmet laws and the results have not been good. There is an argument that people want to exercise their personal freedom to not wear a helmet. Yet, neighbors and friends want to exercise their freedoms to not pay for uninsured, injured patients who were injured in this manner.

These types of crashes are often cited as the helmet lacked the protection for riders in high-speed motorcycle crashes. Yet, the overwhelming majority of motorcycle crashes occur at low speeds of 30 to 40 miles per hour where the effect of protection is extraordinary.

I stand in favor of maintaining the laws that require riders to wear helmets.

FRED L. HILLERBY (Washoe Health System):

We are in support of S.B. 124. I have one comment and one proposed amendment. One of the things I would like to clarify is that the majority of this money will go to Clark County because the money is going to be rationed based

on population, not on where the fees or fines were assessed. As Senator Heck and I have discussed, those ratios would probably be the same because of the number of fines.

I want to be sure it is understood that the remaining dollars will all be spent across the rest of the State, not in Clark County. Those funds will be administered by the Health Division, Department of Human Resources. I want to be sure that those agencies that are eligible for grants and funding from the Health Division would go to the rest of the State and not back to Clark County.

Washoe Health System is the only level 2 trauma center in northern Nevada. We do a lot of the things Senator Heck has envisioned. We do outreach and education for the rural communities in the attempt to help the whole emergency medical system work.

Now, I will speak about our proposed amendment. As I understand this process, the Health Division would administer a program to prioritize who would be eligible for these grants and in what order. Section 1, subsection 4, paragraph (c) states, "To provide grants of money to state agencies, local governments and local governmental agencies" In our case, as the level 2 trauma center, we are none of those things described. We would ask that you amend this section to include "nonprofit organizations."

That should cover some of the concerns of the volunteer EMS groups that they should also be eligible for some of these grants, because they are not governmental.

SENATOR HORSFORD:

I agree with that suggestion. Section 1, subsection 4, paragraph (b) states, "... quality of facilities and services for the treatment of trauma" Is this program being administered by the Health Division without regard to whether the entity is public, private or nonprofit?

VICE CHAIR HECK:

That would be correct. The Health Division would promulgate the supporting regulations they deemed appropriate. The intent is primarily to get funding in the way of grants out to the rural-provider agencies so they can continue to provide the services that they do in their communities.

DANIEL J. KLAICH (Vice Chancellor of Legal Affairs, University and Community College System of Nevada):

I am in support of this legislation. I can tell you about one program in rural Nevada that could benefit from this type of funding. Great Basin College and the University of Nevada School of Medicine's Office of Rural Health participated in EMS training and a three-year grant over the last year. As part of that grant, we trained and provided financial aid to 167 basic emergency medical technician (EMT) students and 135 intermediate EMT students. This grant supported over 10 percent of the basic students in the State over that 3-year period and almost a quarter of the intermediate students in the State.

Of the students who went through the program, 111 of them became volunteers for rural ambulance services. Certain hardware was placed both in Elko and Tonopah. We also provided tuition for ongoing education and videoconferencing. That grant is going to expire this year, and we have not yet identified funds to continue the program. For the record, we hope the bill will pass, and when funds are available, that this type of program will qualify for a grant request.

STEVE L. TOGNOLI (District Chief, Mason Valley Fire Protection District):

I would like to see a few words incorporated into the bill to guarantee some money is going to be available. For the rural areas, this funding is very important in order to provide services. We want to make sure that some of the funding is directed towards the Health Division but, also the EMS section. The Committee on Emergency Medical Services, Health Division, is represented by all avenues of hospitals, volunteer services and fixed-wing companies for air ambulances. It is a good representation. There are ex officios from Clark County who are on the EMS Committee. We want to make sure that money and how it is distributed is kept within the health districts and also the Health Division.

LACEY PARROTT (Vice President, Nevada Emergency Medical Association):

We are in support of S.B. 124. Trauma training is very important since there is a lack of trauma centers nearby.

BARBARA SMITH (Nevada Emergency Medical Association Coordinator; University of Nevada School of Medicine):

We are in support of this legislation, but we would like to see the word "nonprofit" added so we could receive grants from those funds.

CHAIR NOLAN:

It sounds as though we have some amendments that Senator Heck might want to consider such as inserting the word nonprofit and the other amendments providing others with a piece of this funding.

RON TITUS (Court Administrator and Director of the Administrative Office of the Courts, Office of Court Administrator, Nevada Supreme Court):

I would like to point out a few issues. The Constitution of the State of Nevada states that any fines for misdemeanor violations go to the State General Fund. Our basic problem is that the Legislature may be setting a precedent contrary to what we see the purpose of the Judicial Branch. That being, you will be having the courts collect fees to fund services that are generally considered to be the responsibility of the Executive Branch. All of a sudden, the Judicial Branch is not enforcing the laws of the State but, basically collecting fees.

JAY D. DILWORTH (Municipal Judge, Department 1, Municipal Court, City of Reno):

I am speaking only for myself today. For philosophical reasons, I oppose this bill. I understand the change in language from administrative assessment to penalty. We are getting to a point where the penalties or administrative assessments are more than the fine itself, especially in minor accidents where there is no medical personnel used such as a fender bender in a parking lot.

I am not arguing that there is no need for the funding. My concern is, what is the next need? Before you know it there will be a \$40 ticket with a \$300 assessment.

If this bill is passed, one thing not addressed is law-enforcement issues. Citations are issued with the actual amount of the fine already on it. This is done by a handheld computer. When an officer cites you for duty to decrease speed and enters that into the computer, your ticket states the fine is \$115. I hope law enforcement will have the ability to adjust the citation.

The other thing relates to the statement, "Traffic accident." Are you inferring one car hit another vehicle, a car hit a tree or something else?

CHAIR NOLAN:

We will hold this bill and give you time to look over the proposed amendments. We will schedule this for a later work session. We will close the hearing on S.B. 124 and open the hearing on S.B. 400.

[SENATE BILL 400](#): Provides for regulation of off-road vehicles. (BDR 43-426)

MS. FISHER:

We are in full support of S.B. 400. We have a number of amendments we would like to propose ([Exhibit U](#)). Simply, we are looking to register off-highway vehicles.

VICE CHAIR HECK:

Why would this be a good bill?

JOHN GLENN (Nevada Off-Highway Vehicle Enthusiasts):

I own an off-road vehicle dealership. One of the problems we see, because we do not have a title or registration, people can go to another state, buy an ATV, bring it back here and use it in this State; they never pay any sales or use tax on it. There is no means of catching them because there is no licensing program such as there is for cars. They generally will never be caught unless the Department of Taxation catches them.

This problem cost Nevada dealers \$35 million in revenue last year alone. That is based on numbers from the manufacturers. That equates to \$2.5 million in sales tax for Nevada that was not collected. If this continues over the next 10 years, with a moderate growth it would be a loss to Nevada dealers of approximately \$750 million. The State will lose \$53 million in uncollected sales tax.

The solution for this problem is to have some form of titling and registration.

SENATOR DEAN A. RHOADS (Northern Nevada Senatorial District):

I have some documentation to give this Committee, "Excerpt from Public Lands Committee Report – For Use In Discussing S.B. 400" ([Exhibit V](#)).

MR. GLENN:

We know there is a fiscal note. We feel in the long run it will more than pay for itself.

BOB BROWN (Dunes and Trails All Terrain Vehicles Club):

We have coordinated our presentation with the ATV community and I believe there were no negative comments. I have prepared a document titled, "S.B. 400 – Off Highway Vehicle Owner's Perspective" ([Exhibit W](#)). There is a lot of good information in there. This bill incorporates the best practices of our neighboring states. The fees are in line with what they charge. The process for allocating the funds is also similar to the states that surround us.

The funds provided can be used to support trail development and improvement. The funds can also be used to protect the environmentally sensitive areas. The ATVs in Nevada are attractive to thieves because we do not register or title them. The vehicle ID number is not on file when you buy an ATV. Another benefit is that it attracts tourists to the rural areas of Nevada.

STEVE ROBINSON (Advisor on Wildlife, Conservation and Rural Nevada Issues, Office of the Governor):

We recognize the problem that is present with the use of ORVs in this State. We know some sort of regulation of those vehicles is necessary. As far as who would enforce this, the bill calls for the Department of Motor Vehicles (DMV) to do so.

We recognize that the dealers are losing sales and the State is losing tax revenue. That should be addressed. The Governor's Office receives numerous letters on this subject; we receive them from both sides of the issue.

The federal government also feels this is a problem. Most of this is their land. Some kind of arrangement on how to enforce this has to be made with those agencies that manage 92 percent of our land.

Finally, we would like to work with you on this, but it has a long way to go before we see this put into effect.

CHAIR NOLAN:

Senator Hardy has worked very hard on this issue. We really need to find some kind of resolution to it.

CLAY THOMAS (Deputy Director, Department of Motor Vehicles):

I believe the more important issue here is the constitutionality of the bill. The issue we are faced with is the DMV is a Highway-Funded agency. The DMV is tasked with collecting fees for motor vehicles. These are vehicles that drive on the highway. As written, this bill indicates that the DMV is responsible for this ORV bill. As such, we question whether the technicians working the counter at the DMV are the appropriate individuals to collect funds for the General Fund for the State of Nevada.

In addition, we attempted to put a fiscal note together to address this issue. However, we have been unable to do so. The reason for that is the number of ORVs operating in Nevada. Our records indicate for fiscal year 2004, we issued approximately 9,900 titles for these types of vehicles. The figures we received from the motorcycle industry council, which tracks all ORV purchases in the State, indicates approximately 15,000 ORVs were sold in calendar year 2004. During testimony last Legislative Session, the president of the United Four-Wheelers Association indicated there were approximately 200,000 ORVs.

We cannot get our arms around it to even make a determination of what it would require, in terms of a fiscal impact, to administer this program.

The second issue is that the effective date is January 1, 2006. There is no indication of a grandfather clause. I would assume that they plan to grandfather these other vehicles and capture all prior ones or effective on that date they will move forward from that point.

Section 6, subsection 5, indicates the DMV is responsible for administering the administrative fines. We would ask for clarification through this Committee as to whether the DMV is ultimately responsible for enforcement. The DMV is not prepared to administer a program and is not prepared to be the enforcement aspect of this bill.

MR. COOPER:

Nevada Department of Transportation respectfully opposes S.B. 400 as written. The Department's opposition to this bill is similar to my earlier comments regarding S.B. 378. We do understand the issues and position of off-road users and the desire to collect funds and manage off-road use of these vehicles. The ORV community is to be commended for their work leading up to this. However, the bill contains owner, safety and jurisdictional issues. The bill is vague with

regard to the disposition of the \$12.50 vehicle registration fee in section 5 and, in Las Vegas, whether the \$12.50 per-vehicle fee that goes to the fund for ORV is a one-time or biennial fee that is in section 9.

The Department has issues with section 13, subsection 2, paragraphs (b) and (d). Also section 14, subsection 3, we would like to have the words "under their jurisdiction" placed as we discussed with regard to S.B. 378.

We also have issues with section 14, subsection 4, and section 15, subsection 2. We will defer further comments to a subcommittee or as you desire.

GREG MCKAY (California Nevada Snowmobile Association):

In light of previous testimony, we would support the work group to work out some of the details. There are some considerations with regard to snowmobiles that are unique and not applicable to jeeps, ATVs, or motorcycles.

WAYNE FISCHER (President, North Tahoe Snow Travelers):

We support S.B. 400; however, we do have some concerns. I have a list of our issues titled, "Snowmobile Community Issues with S.B. 400" ([Exhibit X](#)). I would support a subcommittee to work out some of the details. One of the benefits of collecting additional funds is for signage, maps, public education, law enforcement et cetera.

MATT LECK (Elko County):

I want to go on the record that Elko County commissioners voted unanimously in support of S.B. 400.

MS. FERRELL:

We are opposed to S.B. 400 for the following reasons. Although it has its benefits, registration does not go far enough. What needs to be taken further is that some kind of vehicle ID for all motorized recreational vehicles be devised. We are addressing a license plate, not to be used as a vehicle license plate for highway use but for identification purposes. The reason we are advocating a license plate is the ability to control, manage and deal with the problems of trespassers and abuse of motorized recreation. Such abuse is the U.S. Forest Service's number one problem throughout the United States. Here, it is a huge issue as the Governor's Office representative addressed earlier. Most of the recreational vehicles will be used on public land.

I have an article from the *Tahoe Daily Tribune and The Lake Tahoe News*, dated April 6, 2005, as an example of how a license plate to identify use would be helpful. The article is titled: "Man accused of attacking officer with snowmobile" ([Exhibit Y](#)).

Because there are no identification plates on recreational vehicles, there is no way to identify those individuals who got away. I have examples of snowmobile license plates used in Connecticut ([Exhibit Z](#)). We would like to state that registration alone is not sufficient. License plates would be required as well.

We are also in opposition of road use of motorized recreational vehicles for many reasons including the issue the NHP addressed earlier. Snowmobiles will be totally inappropriate on a road, and this bill does not address that.

DAN HEINZ:

I have written testimony ([Exhibit AA](#)) which has been given to this Committee for the record.

GRACE POTORTI:

I am not against ORVs. I live in an area where there is vacant land behind our home. This is a personal issue for me. My husband is a retired Army Master Sergeant who is 100 percent, service-connected disabled. He suffers from congestive heart failure and post-traumatic stress syndrome.

He has an extreme startle reaction to loud noises. The ORVs that are ridden behind our home are less than 25 feet from our bedroom window. My husband has been awakened by these ORVs with heart palpitations from the noise generated from these vehicles.

We have called the police. Although they have not ignored us, it is simply not a priority call for them. By the time they arrive, the vehicles are often gone. We have no way to identify these vehicles. A license plate would help identify them. According to the Washoe County Code Ordinance No. 1188 ([Exhibit BB](#)), they should stay at least 500 feet from our property.

I urge you to require some type of visible identification so that we can deal with the people who are not playing by the rules.

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DAVID K. MORROW (Administrator, Division of State Parks, State Department of Conservation and Natural Resources):
I have prepared testimony ([Exhibit CC](#)) that is being given to this Committee.

PAM ROBINSON (Lake Tahoe Basin Management Unit, Forest Service, U.S. Department of Agriculture):
For us, this is a management-consistency issue for lands between California and Nevada. We are neutral on this issue and would be happy to work with the Committee on any issues.

DAVID STRICKLER (Motorcycle Racing Association of Northern Nevada; Motorcycle Racing Association of Southern Nevada):
We have a lot of questions about the bill. We would like to be involved anywhere we can to arrive at a reasonable piece of legislation for all parties concerned.

When this bill refers to department, it never actually stated DMV. Is that the definition of the Department in this bill? Is it the DMV? The answer to that will help me when I attend the workshop.

MR. GUINAN:
I believe that the DMV believes they are the department described in this bill.

CHAIR NOLAN:
We are going to take this issue to a workshop. This is one of those issues where there are emotions on both sides. There are some real compliance and enforcement issues.

My office received a letter ([Exhibit DD](#)) from Robert V. Abbey, State Director, Nevada, Bureau of Land Management, United States Department of the Interior. The letter expressed support of S.B. 400 which will be added to the record.

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The meeting of the Senate Committee on Transportation and Homeland Security
is adjourned at 5:26 pm.

RESPECTFULLY SUBMITTED:

Sherry Rodriguez,
Committee Secretary

APPROVED BY:

Senator Dennis Nolan, Chair

DATE: _____