

**MINUTES OF THE JOINT MEETING OF THE
SENATE COMMITTEE ON TRANSPORTATION AND HOMELAND SECURITY
AND THE ASSEMBLY COMMITTEE ON TRANSPORTATION**

**Seventy-third Session
May 24, 2005**

The joint meeting of the Senate Committee on Transportation and Homeland Security and the Assembly Committee on Transportation was called to order by Chair Dennis Nolan at 2:09 p.m. on Tuesday, May 24, 2005, in Room 1214 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to the Grant Sawyer State Office Building, Room 4401, 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.

SENATE COMMITTEE MEMBERS PRESENT:

Senator Dennis Nolan, Chair
Senator Joe Heck, Vice Chair
Senator Michael Schneider
Senator Maggie Carlton

ASSEMBLY COMMITTEE MEMBERS PRESENT:

Mr. John Ocegueda, Chair
Ms. Genie Ohrenschall, Vice Chair
Mr. Kelvin D. Atkinson
Mr. John C. Carpenter
Mr. Chad Christensen
Mr. Jerry D. Claborn
Ms. Susan Gerhardt
Mr. Pete Goicoechea
Mr. Joseph M. Hogan
Mr. Mark A. Manendo
Mr. Rod Sherer

Senate Committee on Transportation and Homeland Security
Assembly Committee on Transportation
May 24, 2005
Page 2

SENATE COMMITTEE MEMBERS ABSENT:

Senator Maurice E. Washington (Excused)
Senator Mark E. Amodei (Excused)
Senator Steven Horsford (Excused)

STAFF MEMBERS PRESENT:

Katherine Andrews, Assembly Committee Attaché
Andrew Diss, Intern to Assemblyman Ocegura
Angela Flores, Assembly Committee Manager
Patrick Guinan, Committee Policy Analyst
Marji Paslov Thomas, Assembly Committee Policy Analyst
James Puffer, Intern to Senator Nolan
Linda Ronnow, Assembly Committee Secretary
Joshua Selleck, Intern to Senator Nolan
Lee-Ann Keever, Committee Secretary

OTHERS PRESENT:

Lisa Foster, Deputy Chief of Staff, Office of the Governor
Don Soderberg, Chairman, Public Utilities Commission of Nevada
Richard Hinckley, Commission General Counsel, Public Utilities Commission of Nevada
Sandra Lee Avants, Chairman, Transportation Services Authority, Department of Business and Industry
Daryl E. Capurro, Nevada Motor Transport Association
Denny Weddle, Nellis Cab; Desert Cab

Chair Nolan opened the hearing on Assembly Bill (A.B.) 505.

ASSEMBLY BILL 505 (1st Reprint): Revises provisions relating to registration of certain motor vehicles and reorganizes Transportation Services Authority. (BDR 43-973)

Chair Nolan provided those present with the bill's background. The bill transferred the Transportation Services Authority (TSA) from the Department of Business and Industry (DBI) to the Public Utilities Commission of Nevada (PUCN). In 1997, the Legislature enacted legislation which created and then

transferred the TSA from the PUCN to the DBI, transferring the regulation of certain transportation carriers from the Public Service Commission of Nevada (PSCN) to the TSA.

Lisa Foster, Deputy Chief of Staff, Office of the Governor, said that during previous Legislative Sessions, proposals concerning the TSA's operation had been considered. The proposals ranged from minor changes to total abolishment of the TSA. Ms. Foster told the Committee that the administration proposed an amendment to A.B. 505 which would transfer the TSA's powers to the PUCN. Ms. Foster stated the PUCN had an excellent reputation for stability, professionalism and the ability to complete assigned tasks.

Chair Ocegüera referred to the brief he received concerning the proposed amendment to A.B. 505. He asked about the fee changes contained in the amendment; specifically, the Chair wanted to know whether the Office of the Governor was aware of the proposed fee changes.

Ms. Foster said she believed that the Governor's Office found the proposed fee increases acceptable as the fees could be considered board and commission fees. She noted the Governor's Office found the fee increases proposed for other boards and commissions during the Session acceptable for the same reason.

Don Soderberg, Chairman, Public Utilities Commission of Nevada, told the Committee that at one time the PUCN had been known as the Public Service Commission of Nevada (PSCN) and the TSA's duties had been under the jurisdiction of the PSCN. Mr. Soderberg explained the PSCN's jurisdiction included oversight of both the utility and transportation industries. In Nevada, the transportation industry was treated in the same manner as the utility industry.

Mr. Soderberg noted that in other states, the transportation industry was not regulated in the same manner as the utility industry. He reiterated that, in 1997, the Legislature reorganized and renamed the PSCN. During the reorganization, a new division, the TSA, was created as a division of the DBI.

With regard to Nevada's utilities, Mr. Soderberg explained the PUCN regulated an almost monopolistic carrier which sold a needed service to the citizens

versus the transportation industry which largely served people on a discretionary basis and whose rates were competitive. Mr. Soderberg added that the utilities in Nevada were a basic service required by all people living in the State.

Mr. Soderberg stated that the federal government deregulated much of the cargo-transportation industry. The resulting changes in law reduced the transportation division of the PSCN. Mr. Soderberg repeated his previous testimony concerning the reorganization of the PSCN and the creation of the TSA in 1997.

At that time, the TSA assumed responsibility and oversight for the passenger-car transportation, the tow-car industry and the household-goods movers from the PUCN. There were many reasons for the transfer of responsibilities, none of which were clear-cut. Many individuals associated with the transportation industry in Nevada during that time felt they had not been treated equitably by the PSCN.

Prior to 1997, there were five Governor-appointed commissioners serving on the PUCN. Even with five commissioners serving on the PSCN, few transportation-related meetings were ever conducted by that agency. The lack of meetings meant the representatives of the transportation industry did not have a forum to discuss their concerns.

Mr. Soderberg continued by saying during that same time, there had been an increase of illegal limousines operating in the State, especially in Las Vegas. Many of these operators would drive their limousines in from Los Angeles, California, on Friday night and operate over the weekend. Some of the illegal limousine operators poached business from licensed carriers or treated the customers reprehensibly.

The transportation industry had been unable to direct the PUCN's attention to the illegal operators. Mr. Soderberg said during the creation and transfer of the TSA to the DBI, those involved in the process had not given much thought to the best means of accomplishing the transfer. Those individuals believed that the quickest solution was to separate the duties assumed by the TSA from the PUCN.

In 1997, Governor Miller requested Mr. Soderberg transfer to the TSA. Mr. Soderberg said his tenure with the TSA made him realize it had been a mistake to split the two entities. The TSA functioned as though it were a utility regulatory agency designed to review electric rates. That manner of operation did not work for the transportation industry.

The TSA received its funding from the Highway Fund and often did not have sufficient money to operate properly. The TSA's structure was quasi-military in nature with its duties resembling drug-enforcement activities. The TSA had numerous problems as a result of its organizational structure. In 1999, Governor Miller reassigned Mr. Soderberg to the PUCN.

Mr. Soderberg told the Committee that current the TSA Chair, Sandra Lee Avants, had been appointed to the TSA first as a commissioner and then as chairman. Commissioner Avants faced the same problems Mr. Soderberg encountered while on assignment to the TSA. He added that the TSA made numerous improvements in its operations, especially in its administrative duties, with regard to its approach to case management.

Mr. Soderberg said the basic structure of the TSA was set by statute and did not allow the TSA the flexibility it required to accomplish its statutory goals. The TSA's goals and objectives had been forced into the structure established by the PSCN.

Mr. Soderberg stated A.B. 505 would do the following: remove the TSA from the jurisdiction of the DBI and transfer it to the PUCN as a division within that agency; create a full-time transportation hearings commissioner who would be responsible on a day-to-day basis to focus on transportation issues and give the transportation industry the attention it needed and deserved; preserve those objectives the PUCN accomplished on the utility side and would not reallocate resources from the TSA which would detract from its legal representation or administrative attention.

Mr. Soderberg noted that the PUCN's administrative structure was excellent and the bill would allow the TSA to utilize the efficiencies of the PUCN's administrative structure. The utilization of the PUCN's administrative structure would then permit better enforcement by the TSA and better regulatory compliance by the regulated industries.

Mr. Soderberg told those present that the proposed amendment ([Exhibit C](#), original is on file at the Research Library) contained fee increases. Both Mr. Soderberg and the TSA discovered that the current fining mechanism did not provide a sufficient deterrent to those companies who violated state law. The application fee was no longer compensatory as it had not been increased for a number of years. This meant an applicant did not pay for the costs of processing his or her application, even though the applicant paid the appropriate fee currently charged by the TSA. Every other business regulated by the State paid its way.

Mr. Soderberg said the proposed fee increase per vehicle was modest. The TSA collected a myriad of fees; the fee collected depended on the regulated industry. The limousines based in southern Nevada paid the bulk of all fees collected by the TSA. Mr. Soderberg noted there were other transportation-related industries which required much of the TSA's attention but who contributed little or nothing to the State's enforcement efforts. Some of these industries were illegal operators or uncertificated carriers.

Mr. Soderberg stated that despite the proposed fee increases contained in [Exhibit C](#), he could not promise the Committee that the TSA would become self-funded and not require additional monies from the Highway Fund. He said he thought the State needed to institute a guide so that a regulated industry which benefited from that regulation paid for its share of the regulation.

Mr. Soderberg said he had not heard any negative feedback concerning the proposed fee increases contained in [Exhibit C](#). He added that the PUCN abided by the State's philosophy that all regulated businesses in Nevada should contribute their fair share for their regulation.

Other changes in [Exhibit C](#) would assist both the PUCN and the TSA in eliminating those statutory provisions which did not permit the smooth operation of the TSA's statutory functions or whose origins were unknown.

Mr. Soderberg told the Committee that Governor Guinn had tasked the PUCN with assimilating the TSA into its operation and making the TSA work as originally intended. It was important for the Committee to remember that fact. There were numerous great ideas about the best means by which to make the TSA fully functional and operate as prescribed by statute.

Mr. Soderberg stated he did not know the best means by which to make the TSA work, that he did not have all the answers. If passed, [A.B. 505](#) would become effective on October 1, 2005. The effective date meant the PUCN would have four months to determine the best means to implement its transportation division consisting of the TSA. He wanted the TSA to increase its effectiveness when dealing with the problems presented to it by representatives of transportation industry.

Mr. Soderberg said he hoped to incorporate the TSA into the PUCN's structure in such a fashion that the members of the Legislature no longer received letters or telephone calls complaining about the TSA's operation.

Richard L. Hinckley, General Counsel, Public Utilities Commission of Nevada, presented the Committee with a broad overview of [Exhibit C](#) ([Exhibit D](#)). Mr. Hinckley said utility regulation in Nevada was covered in two chapters of the *Nevada Revised Statutes* (NRS), 703 and 704. Mr. Hinckley said the PUCN was not looking to combine, but rather retain, the transportation regulations contained in the NRS 706, bringing the TSA under the PUCN's jurisdiction. The NRS which governed the warehousing of household goods and those provisions dealing with the TSA employees who had peace-officer status would also be affected by the proposed amendment.

Mr. Hinckley said the PUCN's goal was to shift the regulations, but not to change any substantive provisions within NRS 706 as that might impact the Department of Motor Vehicles (DMV). The PUCN's sole objective was to shift the oversight of the TSA with the following exceptions: modify the fees, delete brokers from regulations and hire such personnel as was necessary. Mr. Hinckley stated that the regulations concerning brokers had not been affected. Additionally, brokers generally sold only common-carrier services, a regulated industry.

Mr. Hinckley noted that the PUCN had not specified which positions would be hired by the TSA as the TSA would be given the discretion to hire personnel as needed. The TSA would designate which positions would have peace-officer status. All TSA personnel dealing with the regulation of transportation services would serve as unclassified state employees with the exception of those individuals serving in clerical positions.

Mr. Hinckley said the decisions issued by the Taxicab Authority (TA) were currently subject to review by the TSA. The proposed amendment eliminated that review and provided that all future decisions rendered by the TA would be subject to judicial review pursuant to the NRS 233B.

Mr. Hinckley addressed the TSA's funding. He told the Committee that utility companies in Nevada were assessed a charge which funded the PUCN. By statute, the money collected could only be used for that purpose. The PUCN proposed that the TSA be funded in a similar fashion. There would be no commingling of funds. Mr. Hinckley stated the TSA would be self-supporting and would receive little or no monies from the Highway Fund. Mr. Hinckley said the impound opportunities would be enhanced and equally applied to all the transportation industries regulated by the TSA. The fees had been assessed at a level which was equal among the different types of transportation providers.

Mr. Hinckley stated the proposed amendment in [Exhibit C](#) would abolish the existing TSA as of October 1, 2005. Its jurisdiction and authority would be transferred to the PUCN. The PUCN would promulgate regulations which would prepare the new TSA to begin operation on October 1, 2005.

Vice Chair Heck asked Mr. Hinckley to explain the proposed changes to those TSA employees who were currently classified as peace officers. Mr. Hinckley said the TSA had a manager of transportation position which had investigator positions working under it. These positions were all classified as class II peace officers in Nevada. All TSA employees classified as peace officers had to receive the appropriate training through and be certified by the Peace Officers' Standards and Training Commission (P.O.S.T.).

Mr. Hinckley noted that once the TSA was reorganized and became a division of the PUCN, some of its employees would need to retain their peace-officer status while other employees would no longer need that status. As an example, he cited the manager and some of the investigators who did not need to be classified as peace officers in order to continue their employment with the TSA. The proposed amendment granted the TSA chairman the authority to determine which positions should be classified with peace-officer status.

Senator Carlton revisited the funding mechanism for the TSA. She noted that there would be money made available to the TSA from the Highway Fund and

asked whether there would be General Fund appropriations to the TSA. Mr. Soderberg replied, "No, there will not." The Senator asked whether regulatory fees would be imposed. Mr. Soderberg replied, "Yes."

Senator Carlton stated she was concerned about the regulatory fees. She noted that other boards and commissions were required to be self-sufficient and self-regulated. These boards and commissions did not rely on General Fund appropriations. She added she was concerned about funding the TSA with Highway Fund money. The reason for that being, Highway Fund dollars were limited and there were a number of highway projects which would benefit from Highway Fund appropriations. The Senator wanted to know why the industries regulated by the TSA did not contribute to its funding.

Mr. Soderberg told the Senator that he agreed with her. The proposed amendment contained fee increases for the vehicles which the TSA regulated. He told Senator Carlton that the TSA began receiving its appropriation from the Highway Fund long before his employment with the PUCN commenced. Mr. Soderberg explained that when the PSCN was an active agency, its activities had been funded in one of two ways; Highway Fund money which had been used to fund the transportation regulatory duties and the utility companies' fees which paid for the utility regulatory duties. A nominal fee of approximately \$25-per-vehicle had been charged for those taxicabs operating in the Reno-Sparks area.

Mr. Soderberg said he discussed the proposed fee increases with the Governor's Office and added he did not know what fees would have to be imposed on TSA-regulated vehicles in order for the TSA to become self-funded. Mr. Soderberg said the PUCN had to take the first step towards making the TSA self-funding by increasing the fees. He noted that the transportation industry might not like the increased fees as it had been receiving free regulation and service from the TSA for the past 20-plus years. Mr. Soderberg stated it might not be possible to make the TSA self-funded immediately; the fees might have to be increased gradually over a period of time.

Senator Carlton said, in Nevada, peace officers were generally supervised or managed by another peace officer and that it was unusual for a civilian to supervise a peace officer. The reason being, the manager or supervisor with peace-officer status understood the conditions under which his or her people

were required to operate and the qualification process the employees needed to complete. She stated that employing a non-P.O.S.T.-certified person to supervise peace officers might create problems. Senator Carlton asked Mr. Soderberg to keep that in mind and cautioned him not to allow the PUCN and the TSA to become "cross-wired" when providing supervision to the TSA's employees who had peace-officer status.

Assemblyman Carpenter asked Mr. Soderberg to explain the TSA's operation once it was incorporated into the PUCN. Specifically, would the PUCN regulate Nevada's taxicabs in the same fashion the utility companies were regulated. Mr. Soderberg said he hoped that the TSA would not regulate the transportation industries in the same fashion as the PUCN regulated utilities. He said to regulate the transportation industry in such a fashion would be a mistake, adding the PSCN made the same mistake in the past when regulating transportation industries.

Mr. Soderberg said he envisioned creating a separate division with its own resources which would be more akin to beneficial actions undertaken by the TSA in the past. The division would also use the processes which other regulatory agencies in Nevada found useful. There would be a three-member board who would cast the votes on transportation applications. Mr. Soderberg said he hoped the PUCN did not take the utility model and apply it to the transportation model. He noted that was the best answer he could give Assemblyman Carpenter.

Assemblyman Carpenter said it appeared to him that the utility-related questions and applications took a long time to process. He asked whether or not the PUCN would have time to process the transportation-related matters which might come before the TSA and still have sufficient time to devote to utility-related matters.

Mr. Soderberg replied that the PUCN felt it had the administrative resources which would allow it to process both utility and transportation matters. The proposed amendment would not become effective until October 1, 2005; this effective date allowed the PUCN to use the TSA's management resources when working on the transition.

Mr. Soderberg said he would not create a division within the PUCN which did not have sufficient resources to support it. Mr. Soderberg stressed the PUCN's management team was excellent and that both agencies would work together on the reorganization. The PUCN would have one transportation commissioner appointed by the Governor. This appointment would permit the appointee to focus on policy for transportation-related matters pending before the TSA. He said he thought one transportation commissioner would be beneficial. During the PSCN's existence, a commissioner had not been assigned to work on transportation matters. Mr. Soderberg said he thought that staffing decision had been a detriment to both the PUCN and the transportation industry.

Assemblyman Carpenter said he thought the Legislature would have to wait and see whether or not the incorporation of the TSA into the PUCN was successful.

Senator Carlton said that during the interim there had been a study on allocation of limousines per A.B. No. 518 of the 72nd Session. She asked Mr. Soderberg to share his thoughts on the study and comment on whether or not the PUCN would work towards implementing the recommendations made by the study group.

Mr. Soderberg said he believed that a limousine allocation in southern Nevada would have been appropriate. His frame of reference was the problems with the limousine industry the TSA encountered during the late 1990s. At that time, there had been numerous illegal limousines operating in southern Nevada. He stated that he could not tell the Senator whether or not he currently thought limousine allocation was a good idea. The PUCN had not requested legislative authorization to study limousine allocation. Mr. Soderberg said he would be willing to work with the regulated limousine operators if they wanted such a study. Mr. Soderberg stated he did not know whether the PUCN wanted to review limousine allocation during the current legislative hearings.

Chair Nolan addressed the budgeting problems the TSA and PUCN might encounter. He asked Mr. Soderberg whether he had considered those problems and how they might be corrected. Mr. Soderberg said the PUCN was considering a budget structure which provided the TSA with the operational resources it required to operate properly. He added he did not remember having budget problems with the TSA when it was a part of the PSCN. However, at that time, the regulated industries contributed a minimal amount towards the

operation of the TSA and the PSCN had to request supplemental appropriations from the Highway Fund. Mr. Soderberg noted that administrators did not like to request supplemental funding. The TSA was poorly funded while the PSCN had been well funded through the fees it imposed.

Mr. Soderberg said the PUCN needed to keep the past budget shortfalls in mind when trying to properly fund the TSA. A proper budget would provide the TSA with the focus and attention it required to operate efficiently. By operating efficiently, the TSA would be able to use its limited resources in the best way possible.

Sandra Lee Avants, Chairman, Transportation Services Authority, Department of Business and Industry, said the TSA's functions would not encroach upon the time of the PUCN's commissioners. The TSA's proposed reorganization would use existing staff in different positions than they currently held. Budget management and enforcement would not be a part of the TSA's commissioner's administrative duties. The reassignment of duties and responsibilities would alleviate the problems the TSA was experiencing and give the transportation commissioner additional time to address transportation issues and conduct hearings.

Commissioner Avants told the Committee that in the past the TSA hearings were long. She said she hoped the reorganization of the TSA would eliminate those long hearings. In the future, the applications and the applicants' requirements would be summarized and a package prepared for each application.

A recommendation would be made as to the approval or denial of the application and would be forwarded to the transportation commissioner. This new process would allow the transportation commissioner to render decisions in a more timely manner. Additionally, proposed orders would be reviewed by the PUCN's full commission.

Commissioner Avants stated it would be beneficial to the TSA if it was no longer responsible for its administrative duties and the duties of the transportation commissioner were defined and supported.

Daryl E. Capurro, Nevada Motor Transport Association, stated he supported the provisions of A.B. 505 which pertained to the staggered registration of heavy-duty vehicles. He said he hoped those provisions would survive the legislative process and be implemented by the Department of Motor Vehicles (DMV).

Mr. Capurro said the provisions of A.B. 505 which transferred the TSA into the PUCN did not concern him. He stated the transfer might resolve some of the issues the transportation industry had with the current TSA. Mr. Capurro reminded the Committee members that the proposed amendment was ministerial in function as it only transferred the TSA's authority to the PUCN.

Mr. Capurro said he had told previous legislative committees there needed to be additional discussions on issues relating to A.B. 240.

ASSEMBLY BILL 240 (2nd Reprint): Revises provisions governing owners and operators of charter buses which are not fully regulated carriers. (BDR 58-55)

The bill dealt with the ability of the TSA, or its successor, to continue to enforce charter-bus operations in Nevada. Mr. Capurro asked the Committee to consider making changes to the structural part of the proposed amendment, keeping in mind the amendment recommendations Mr. Capurro made for A.B. 240.

Mr. Capurro recapped his proposed amendments to A.B. 240. Those proposals included vesting the insurance requirements with the DMV, not the TSA. The reason for that being, charter buses were not fully regulated carriers in Nevada that did not fall under the provisions of the NRS 706.291, subsection 1, but did fall under the provisions of the NRS 706.291, subsection 2.

Mr. Capurro addressed the motor-vehicle reports (MVR) which were subject to the Federal Motor Carrier Safety Regulations and which had been adopted by the State. Mr. Capurro reminded the Committee that he had previously provided information on that subject. The material indicated that the NRS and the *Nevada Administrative Code* (NAC) conflicted with the federal preemption law for charter-bus operations.

Chair Nolan told those present that the Senate Committee on Transportation and Homeland Security would be meeting after the joint committee meeting adjourned. He asked Mr. Capurro to hold any comments regarding A.B. 240 until such time as the subcommittee meeting convened. The Chair noted that Mr. Capurro's comments on the proposed amendment to A.B. 240 were germane as they would also apply to A.B. 505 and the reorganization of the TSA into the PUCN. He added that if either bill were enacted, the appropriate regulations contained in the NAC would have to be modified to reflect the legislative changes.

In closing, Mr. Capurro said he supported the proposal by the Governor's Office which would transfer the TSA from the DBI to the PUCN. He added he hoped there would be an opportunity to work on other transportation-related issues.

Chair Nolan explained a joint committee hearing on A.B. 505 was being conducted as it addressed an important, significant policy issue and both committees were running out of time in which to hear and process the measure due to legislative deadlines.

For the benefit of the Committee, Chair Nolan asked Mr. Hinckley to explain the amendment. The Chair thought the majority of the amendment had been designed to allow the TSA to be reincorporated into the PUCN. Chair Nolan stated the Senate Committee on Transportation and Homeland Security had a clear understanding regarding the need for A.B. 505.

Chair Nolan explained the manner in which the bill would be processed: the Senate Committee on Transportation and Homeland Security would have to vote to amend and do pass the measure and the bill would be returned to the Assembly for concurrence where, if the Assembly amended the bill, a conference committee would be appointed. The Chair said the Senate Committee on Transportation and Homeland Security would vote on the bill at the conclusion of the joint hearing.

Chair Nolan asked Mr. Hinckley to review the amendment as the Committee members had not had an opportunity to review it prior to the meeting.

Chair Oceguera said the amendment to A.B. 505 had been made anticipating the resignation and retirement of the TSA commissioners. These personnel actions provided the opportunity to reorganize the TSA.

Mr. Hinckley addressed [Exhibit C](#), page 1, the proposed amendment to A.B. 505. The exhibit contained the enabling legislation for the PUCN as well as the proposed changes to any NRS under which the PUCN operated. The makeup of commissioners would remain at three members. The new language concerning the duties of the transportation commissioner was contained in the proposed amendment for the NRS 703.130, subsections 1 and 3.

Mr. Hinckley said the proposed amendment provide for hearing officers to have complete authority to adjudicate impoundment issues. By statute, once a vehicle was impounded, the matter had to be adjudicated within 48 hours of impoundment.

Mr. Hinckley said the proposed amendment included making all staff, except the clerical staff, unclassified state employees.

Mr. Hinckley said that the NRS 703 had been implemented to cover utility regulation by the PUCN and contained fine and inspection schedules. Those provisions were mirrored in the NRS 706. The mirroring was the reason only minimal changes to the NRS 703 were required.

Mr. Hinckley directed the Committee's attention to [Exhibit C](#), page 10, which contained the definitions which would be used by the PUCN and TSA when the TSA became part of the PUCN. Mr. Hinckley stressed that the NRS 706.151, which contained the legislative declaration of purpose, had not been changed by the proposed amendment.

Mr. Hinckley explained that [Exhibit C](#), page 15, deleted the various statutory provisions which originally established the TSA. Those provisions would not be needed after October 1, 2005, if A.B. 505 were enacted.

The annual report provision contained in the NRS 706.1518 was removed as the NRS 703.180 contained the same provision.

Mr. Hinckley stated that legal representation for the TSA was provided by the Office of the Attorney General (OAG). Once the TSA's reorganization was completed, its legal counsel would be provided by the PUCN's in-house counsel per the NRS 706.1715.

The amendment deleted the NRS 706.176, subsection 1, which provided for the appointment of a deputy. The NRS 706.176, subsection 2 would be left as it permitted the PUCN the discretion to hire such employees as were necessary for the TSA to operate efficiently.

Chair Ocegüera wanted to know about the hearing-officer position and whether that position would be filled by the transportation commissioner who would be transferring from the TSA. He asked about the title, the pay and benefits associated with the position. Mr. Hinckley said the person's title had tentatively been designated as transportation hearing commissioner; the position had been designed as a hearing officer who would make recommendations to the PUCN commissioners and who would not be a member of the PUCN commission. As far as salary and benefits were concerned, the PUCN had not addressed those issues, expecting them to be addressed by the legislative money committees.

In [Exhibit C](#), page 20, the proposed fee increases were listed as contained in the NRS 706.197. Mr. Hinckley discussed those fee increases. The increases were significant over the fees which were currently being collected. The current fees were nominal. The increased fees were appropriate due to the administrative time required to process applications. He added the increased fees were low in terms of what the TSA would do for the applicants. The section also allowed the TSA to waive any fees associated with processing complaints if the TSA decided a complaint had merit. However, the TSA would be able to assess the complainant the cost of processing his or her complaint.

Mr. Hinckley referred to the NRS 706.201 which established the Transportation Services Authority Regulatory Fund and explained how allocations from the Highway Fund would be used to supplement it.

Mr. Hinckley said a good portion of the proposed amendment applied to the DMV. In those sections, the only change had been to remove the word "Authority" as it applied to the TSA and replace it with PUCN. These changes would provide for the transition.

Senator Carlton referred to the fee schedule listed in [Exhibit C](#), page 20 and noted the proposed fee increases were not small. As an example, she cited the NRS 706.197, subsection 2, paragraph (a) which increased the fee from \$200 to \$500. She noted the phrase, "not to exceed" was contained in that statutory provision and asked what the starting point would be for the increased fees. Mr. Hinckley said he understood that the \$500 would be assessed for processing applications and petitions. He explained that applications and petitions would not be received on a regular basis by the TSA.

Senator Carlton stated a fee increase from \$200 to \$500 was not a small increase. Mr. Hinckley replied "Yes, ma'am." She added that \$500 was a significant amount to a small carrier.

Senator Carlton referenced the NRS 706.197, subsection 2, paragraph (c) and asked why the figure of \$100 had been underlined. Mr. Hinckley replied the original fee of \$10 had been increased to \$100. Senator Carlton wanted the fee increase of \$100 from \$10 on the record.

Senator Carlton stated that the fees contained in [Exhibit C](#) were significant. Mr. Hinckley said "Yes," adding he would explain each increase.

Mr. Hinckley directed the Committee's attention to the NRS 706.2883, [Exhibit C](#), page 24, which had been deleted. The section previously provided for judicial review of the TA's decisions by the TSA. The proposed amendment provided for judicial review of all TA decisions.

Mr. Hinckley directed the Committee's attention to the NRS 706.391, subsection 3, on [Exhibit C](#), page 32. That statutory provision addressed the costs which would be imposed on applicants. Previously, there had been concerns about enforcing such a provision as it was felt the provision was not consistent with other legislation. The proposed amendment clarified the fact that the applicants would bear the investigative costs of processing the applications.

Mr. Hinckley said the NRS 706.451 addressed fee increases for tow cars operating in Nevada from \$36 to \$200; the NRS 706.465 addressed fee increases for limousine operating in Nevada from \$100 to \$200 per year per

vehicle and the NRS 706.471 addressed fee increases for those taxicabs operating in Nevada under the TSA's jurisdiction. These increases would be on a per-vehicle basis.

Chair Nolan wanted to know whether the proposed rates were consistent with those charged by other state regulatory agencies. He added one of the TSA's problems had been a lack of appropriate funding on which to operate. The lack of funding led to some of the problems and/or issues in the transportation industry which in turn led industry representatives to request relief from the Legislature Session after Session and which finally resulted in the drafting of A.B. 505.

The Chair stated he understood the PUCN's need to increase fees in order to fund the TSA and he applauded the PUCN for taking the time to consider a proper funding mechanism for the TSA. Chair Nolan said he thought the transportation industry would benefit from the proposed changes to the TSA. He told Mr. Hinckley that transportation-industry representatives indicated they would be satisfied if the reorganized TSA provided fair and consistent regulation. The Chair said he found the proposed fee increases acceptable, but added the increases were significant.

Mr. Hinckley said he had polled Utah, Arizona, California and Idaho to see what those states charged the transportation industry in way of fees. He noted that most of the states he polled had alternative regulatory schemes which differed from Nevada's. California's fees were higher than those contained in the proposed amendment. Arizona's fees for taxicabs and limousines were comparable to the ones proposed in Exhibit C. Mr. Hinckley reached the conclusion that the proposed fee increases were comparable to those charged by other states.

Mr. Hinckley reiterated his previous testimony concerning the fee increases contained in the NRS 706.465 which increased the fee for limousines to \$200 on a per-vehicle basis and the NRS 706.471 which increased the fee for taxicabs from \$75 to \$200 per vehicle.

Mr. Hinckley spoke about the warehouses in which household goods were stored. Under the NRS 712.050, subsection 2, the fee for an annual warehouse permit had been increased from \$50 to \$500.

Mr. Hinckley said the fee increases were necessary for the continued operation of the TSA.

Mr. Hinckley referred the NRS 706.476, subsections 1 and 2, [Exhibit C](#), page 41, which authorized the TSA to impound those passenger vehicles, tow cars or moving vans which did not have the required permits issued by the TSA. The sections outlined the hearing process by which the appropriateness of the impound action would be determined.

Mr. Hinckley told the Committee the DMV provisions which had not been changed and the TA's statutory authority as described in the NRS 706.8818 had not been changed and that was reflected in the balance of the proposed amendment.

The NRS 289.320 defined which PUCN employees would require P.O.S.T. certification as a peace officer in order to work for the PUCN. The NRS 289.470 defined a category II peace officer and the NRS 289.550 defined those persons who were required to be P.O.S.T. certified.

Senator Carlton said the TSA currently employed individuals who were designated as peace officers and who performed a peace officer's job. The Senator stated she did not want to see a TSA employee who had not been trained as a peace officer performing a portion of the peace-officer duties. The Senator said she was concerned about permitting the new TSA to decide which employees would have peace-officer status and which employees would not have that status. She noted the NRS defined the term peace officer.

Senator Carlton stated she required clarification and a comfort level in order to approve that provision. She added she did not want to see the employees who were not classified as peace officers 100 percent of the time put in harm's way.

Mr. Soderberg said there were TSA job duties which required peace-office training in order for transportation regulation to be performed. However, those job duties were few. He added the TSA needed to find the appropriate mix of non-peace-officer duties versus peace-officer duties in order to carry out its enforcement duties. He noted most of the TSA employees with peace-officer

status dealt with the traditional business regulatory functions. The PUCN wanted to design a division which had the right people for the right job.

Mr. Soderberg noted there were successful regulatory agencies in Nevada, such as the State Gaming Control Board, whose employees were a mix of employees with and without peace-officer status and who were specifically trained for their jobs.

Senator Carlton wanted to know how many peace officers were employed by the TSA and how many the TSA would be hiring in the future. Mr. Soderberg said he was not sure how many peace officers were currently employed by the TSA and did not know how many peace officers the TSA would hire in the future.

Commissioner Avants told Senator Carlton that the TSA's manager of transportation position was designated as a peace-officer position. That position had been vacant since February 2005. The nine positions serving under the manager of transportation were categorized as category II peace officers; two of the nine positions were supervisory in nature.

Mr. Hinckley told the Committee that if it enacted the current draft of A.B. 505 and its amendment, [Exhibit C](#), references to the commissioner of the TSA would have to be removed from the bill.

Assemblyman Carpenter asked how much revenue the proposed fee increases would generate. Mr. Soderberg said the PUCN had not reviewed that aspect of the proposed fee increases. Those figures would have to be reviewed by the Interim Finance Committee (IFC) in order to prepare the final budget for the reorganization. He stated the PUCN thought of the proposed fee increases as revenue-neutral. The PUCN wanted to assess the transportation industry in order to make the TSA self-funding instead of relying upon appropriations from the Highway Fund.

Chair Nolan stated that the greatest challenge in approving A.B. 505 and the proposed amendment would be the significant fee increases. The Chair noted that both the Assembly and Senate Committees attempted to adhere to policy issues. However, there were times when those committees heard bills with fiscal concerns and then referred them to a legislative money committee.

The Chair said he thought that while the funding issue would be reviewed by the IFC, the legislative money committees would require an explanation of the proposed budget enhancements, especially with regard to the service provided by the TSA to the transportation industry. One of the questions asked would be whether the increased fees would result in increased service.

For the benefit of those present, Chair Nolan stated there would be other opportunities for the public to comment on A.B. 505. He added that due to the lack of budget information, the Committee would have to review the bill on a policy-issue basis. The Committee would rely upon the legislative money committees to examine and approve the proposed fee increases.

The Chair asked whether anybody present in the audience wished to comment on either the bill or its proposed amendment. There were no comments presented on the bill and its proposed amendment.

Denny Weddle, Nellis Cab; Desert Cab, read from prepared text ([Exhibit E](#)), which contained an amendment to A.B. 505. Mr. Weddle said his amendment addressed the TA, not the TSA.

Chair Nolan wanted to know whether or not a copy of the materials Mr. Weddle previously presented to the Senate Committee on Transportation and Homeland Security was available for review by the committees. The material was not available, but would be made available to the Assembly Committee on Transportation if the Committee decided to use [Exhibit E](#).

Senate Committee on Transportation and Homeland Security
Assembly Committee on Transportation
May 24, 2005
Page 22

There being no further business, the joint meeting of the Senate Committee on Transportation and Homeland Security and the Assembly Committee on Transportation was adjourned at 3:28 p.m.

RESPECTFULLY SUBMITTED:

Lee-Ann Keever,
Committee Secretary

APPROVED BY:

Senator Dennis Nolan, Chair

DATE: _____

Assemblyman John Ocegüera, Chair

DATE: _____