

**MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON TRANSPORTATION**

**Seventy-Fourth Session
May 24, 2007**

The Committee on Transportation was called to order by Chair Kelvin Atkinson at 2:35 p.m., on Thursday, May 24, 2007, in Room 3143 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at www.leg.state.nv.us/74th/committees/. In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (email: publications@lcb.state.nv.us; telephone: 775-684-6835).

COMMITTEE MEMBERS PRESENT:

Assemblyman Kelvin Atkinson, Chair
Assemblyman Mark Manendo, Vice Chair
Assemblyman David Bobzien
Assemblyman John C. Carpenter
Assemblyman Jerry D. Claborn
Assemblyman Ty Cobb
Assemblywoman Susan Gerhardt
Assemblyman Ed Goedhart
Assemblyman Pete Goicoechea
Assemblyman Joseph Hogan
Assemblywoman RoseMary Womack

GUEST LEGISLATORS PRESENT:

Assemblyman Tom Grady, Assembly District No. 38
Assemblyman James Settelmeyer, Assembly District No. 39
Senator Bob Coffin, Clark County Senatorial District No. 10

STAFF MEMBERS PRESENT:

Marjorie Paslov Thomas, Committee Policy Analyst
Sharon Wilkinson, Committee Counsel
Christine Henriksen, Committee Secretary

Minutes ID: 1398



Matt Mowbray, Committee Assistant

OTHERS PRESENT:

Russ Law, Chief, Operations Analysis Division, Department of Transportation

Sohila Bemanian, Independent Consultant, Reno

John Madole, Executive Director, Nevada Chapter, the Associated General Contractors of America, Inc.

Doug Busselman, Executive Vice President, Nevada Farm Bureau

Edgar Roberts, Administrator, Motor Carrier Division, Department of Motor Vehicles

Peter Kruger, Representative, Nevada Petroleum Marketers and Emission Controllers Council

Lydia Ball, Regional Representative, Sierra Club

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

Kyle Davis, Policy Director, Nevada Conservation League

Chair Atkinson:

We have a bill that was posted on our agenda and another one that was not. We will try to do both of them, as we are running out of time. We do have a presentation first.

Russ Law, Chief, Operations Analysis Division, Department of Transportation:

I would like to talk about the most important roads that Nevada has, which are the ones we already have; it is not the new roads we want to built, nor the glorious things that we want to do with current ones, but the roads that we already drive on. They may be the only ones we get.

If you look at the handout I have for you ([Exhibit C](#)), there is a document that says "Price Trends for Federal-Aid Highway Construction." We are in a situation now where we are building roads with 1992 dollars. We have done nothing for highway taxes since 1992. Since then, our costs have gone up 75 percent, especially in the last couple of years. The construction industry is highly sensitive to energy prices and all of us know what has happened to those in the last few years.

The next page has a graph of our preservation work. It shows that we need to do almost 400 miles of pavement preservation every year to stay even. This is what we have to do to accommodate normal annual deterioration. It is similar to changing the oil in your car, if you want to look at it that way. That red line on the graph is the nearly 400 miles that we have to do every year. If you will

go back to the first page that I showed you, you can see what inflation has done to highway construction prices. We have seen them increase up to 60 percent for overlays in the last couple of years. The red line on the graph denotes what we have to do every year to stay even. This is in comparison to the blue line. It shows what we have actually done in miles of preservation work. In 1999 and 2000, we had the Department's biggest preservation program; we did an outstanding job those two years and we are riding on that work right now. In general, our pavement lasts 12 years. On the interstate, it only lasts 8 years; on some of our high-volume routes, it only lasts 10 years. But, generally across the State, as I said, it usually lasts 12 years. A lot of this pavement which was done in 1999 and 2000 is coming due in the next few years. Some of it is past due, quite frankly.

This next graph shows what has happened to highway congestion in Nevada, which is in competition with preservation. For 19 years straight, we have been the fastest-growing state in the nation. As expected, congestion keeps rising. We have run out of capacity, so capacity dollars are competing with maintenance for maintaining our roads. We have enough to do one or the other, but not both. We have \$250 million left per year for contractor pavements. We need that much just to preserve our system.

The next chart highlights the ubiquitous \$3.8 billion shortfall from the Blue Ribbon Task Force. When we did this work, our prices were much lower than they are now. This \$3.8 billion shortfall has risen due to substantial inflation. In the next two pages I would like to show how that has risen in the world of pavement preservation. You can see that we had a \$400 million backlog in 2005 when we started the Blue Ribbon Task Force work. That is represented by the chart on page four with the grey-shaded area at the top; that was our backlog of work that needed to be done, that we did not have the funding to accomplish. That \$400 million is now \$ 800 million.

If you look at the same chart, you will see projected preservation project costs for the period between 2006, when we started the Blue Ribbon Work, and 2015. In 2006, the cost was at \$2.0 billion, but if you look at the final page of the handout you will see a backlog there of \$800 million, putting the new funding number at \$3.2 billion. That is a 60 percent increase in cost and I wish that had not happened; we like to get things done cheaply. We do not like spending public money anymore than we like spending our own.

If you will open the pavement preservation report ([Exhibit D](#)) to page 3, this is our statewide report. We do this every biennium. This report is required every biennium by law. It is to be delivered to the Legislature. In this report, we must detail the condition of our roads and what we are going to do to correct

and improve them over the succeeding 12 years. If you will take a look at page 3 of that report, we had such a huge cost increase that I wanted to justify why my numbers were so far off from the previous report. I put a graph in on what has happened to our pavement costs. As you see, from 2003 to 2004, we had a huge price spike. Average overlay costs went from \$132,000 per lane mile, which is one lane wide by one mile long, to \$223,000. The next year it was essentially flat. Last year, it declined slightly, but only a third of our projects were in that final year, so that is kind of sparse data and it is a little specious that final year. Our costs went up tremendously.

The final thing on this page that I would like to point out is what our action plan looks like for preserving our pavements. Our action plan for pavements is based on the same concept you use when you change your oil in the car. We change the oil before we find the metal flakes in it. When we get to the point between where we need to overlay and reconstruct things, at that point we have a huge increase in damage and very little increase in the life of the pavement. As a result of that, we hit our pavements with timely overlays before we go to reconstruct. Why do we do that? Because when we have to go to reconstruct, our overall costs on the system rise 60 percent and the inconvenience to the public rises exponentially.

When we have to reconstruct things, we cannot simply let traffic on the road two-and-a-half hours later; we have to barrier-rail it off, remove its full depth, and repave that whole section before we can open another lane and do the same thing all over again. The user cost certainly exceeds the 60 percent increase; it is huge. We have a system that is saving us, as compared to what we used to do, \$50 million per year. Also, compared to everything going to reconstruct, we are saving \$120 million per year by doing timely overlays. What is happening to us right now with not being able to do timely overlays because of lack of money is the equivalent of going to Mesquite with \$120 million and throwing it in the air, letting it blow into Utah.

The timely overlay concept is a huge one. We have dedicated ourselves to saving the public money and I have dedicated my career to it. It makes me sick to see what is happening. This is a pavement preservation report for one year, from 2001. You have another one in front of you that is for three years. It is this thin. We are doing three Interstate 80 projects this summer. Sohila Bemanian, until recently, was our Pavement Engineer. For 14 years, she dedicated her life to making this work. She would like to talk to you.

Sohila Bemanian, Independent Consultant, Reno:

The message that I would like to leave with you today is that you have to act now, in this legislative session, to address the crisis that we have in

transportation. If you act two years from now, the cost to the taxpayers and the traveling public will be four times more. I appreciate and understand your concerns about raising taxes, but if you approve the entire Blue Ribbon proposal, we are only talking about 25 cents per person, per day. If you do not approve the proposal this year, doing the same thing two years from now will cost \$1 per person.

Everyone is concerned about taxes. This morning I was driving to Carson City for this meeting and I was asking myself, if a person is making \$6 per hour, or even minimum wage, and they were stuck in traffic two-and-a-half minutes a day, would they pay for that 25 cent increase? That minimum-wage person is the individual who cannot afford being stuck in traffic because they will have to pay extra for daycare or they will be getting late to work.

As Russ indicated, the projects that we are talking about are very time-sensitive. Nevada is the lead state for having good roads. The reason for that is because we took a different approach. About ten years ago, we changed the way we do business. We tried to take the approach of a private company. How would a private company maintain their assets? We wanted to spend the least amount of money and get the maximum value, and that is exactly what we did. I have two handouts for you ([Exhibit E](#) and [Exhibit F](#)).

Pavement is like our cars. When it performs in good condition, it is at this level. It stays flat, so the traveling public does not see what is happening. But at a certain point, say 8 to 10 years, it starts deteriorating very rapidly. All of a sudden, instead of spending \$1 on that pavement, you are spending \$4 to \$10 doing the same section. For example, we are doing Interstate 80 through Winnemucca and we are spending about \$10 million to rehabilitate ten miles of the highway. Mr. Carpenter might know that we are doing a project in Elko right now. It is 20 miles, and we are spending \$40 million because we are a couple of years late. The amount of money that it costs doing the same section of the roadway goes up exponentially. That is why we are so passionate about having the transportation funding passed this year, in this legislative session, not two years from now. By then, it is just being reactive, and it is too late.

We know that your job is very difficult and you have to justify a tax increase, but for a 25-cent investment, that is the best investment anyone can make for the return that they will get. We have received national recognition for our pavement preservation program and the reason we are here is not because we are not doing our job or crying wolf. The fact of the matter is I have some numbers here. The price of hot mix has increased since 2002. We used to pay, in 2002, \$24 a ton for hot mix in Las Vegas. Right now, we are paying \$68, which was last year's price. In Elko, we used to pay \$36 per ton for hot

mix; last year, it was \$60. Our buying power has eroded by half, just by overlaying our pavement. We are not being a typical public agency saying we need more money, but our buying power has eroded significantly. That is why we are so desperate. We need that funding increase today, so we can save our assets in pavement while they are still in reasonably good shape. Two years from now, it will be too late. Thank you very much, and I hope you do the right thing for the taxpayers.

Chair Atkinson:

We do not get people here very often who tell us to raise taxes. Mr. Law, if you can come back, I know they have a couple of questions. Mr. Carpenter?

Assemblyman Carpenter:

You kept mentioning "25 cents." What did you mean by that?

Sohila Bemanian:

This is assuming that the average person will be driving 30 miles a day and you are raising the gas tax by 5 or 6 cents per gallon. If you look at the Blue Ribbon Task Force and all the impact that you would have per person, driving 30 miles per day, getting 20 miles per gallon, that impact would be about 25 cents or less, actually.

Assemblyman Carpenter:

You are talking about raising the gas tax—how much?

Sohila Bemanian:

I am talking about looking at the entire proposal of the Blue Ribbon Task Force. If you use it as a case study, looking at what the Blue Ribbon Task Force is recommending and adding those numbers, then dividing them by 365, you will find out that the impact is going to be less than 25 cents per day, making the assumption of driving 30 miles per day and the average vehicle getting 20 miles per gallon.

Assemblyman Carpenter:

Thank you.

Sohila Bemanian:

If you raise the gas tax 5 cents per gallon, 25 cents would be five gallons, correct? Five gallons will take you 100 miles.

Chair Atkinson:

Are there any other questions from the Committee members? Seeing none, I want to thank you for your testimony. Thank you, Mr. Law. I know this is a very passionate issue for you and for a lot of us. We appreciate your testimony.

John Madole, Executive Director, Nevada Chapter, the Associated General Contractors of America, Inc.:

I understand that time is short and I will be very brief. We attempted to prepare a presentation. I happen to have information here for Senator Raggio's district, which incorporates a couple of the Assembly districts. We are trying to make up maps for each of your districts that could show, in red, projects that would be deferred beginning this year. For example, this one happens to show, in red, seven miles which is on Highway 395 north of Reno; next year, on the Virginia City highway, there is some roadwork that will not be done; the following year, roadway located at Cold Springs will not be done. In each of your districts, we wanted the deferred maintenance to be highlighted so that we could point out it is not something that is occurring somewhere else. It is in everyone's district and if time were not so short, we would have had today something for each of your districts to relate that information. It is an important issue and we appreciate what you are trying to do to solve it. Thank you.

Chair Atkinson:

Did you say that you had copies of those today?

John Madole:

I could make a copy of Senator Raggio's, but not realizing when the hearing would start, I did not have time to run over to Kinko's and get more copies. I only have one; if somebody would like a copy, I would be glad to get copies made and deliver them to your office.

Chair Atkinson:

Are there any questions from the Committee members? No. I know this is just a presentation and I know there is probably another person or two that wanted to make a quick comment. Is there anyone else who wanted to add any comments?

Russ Law:

One last thing I forgot to tell you that is really disturbing and is disconcerting to me is that we keep losing contractors in this State. We are begging people to do contracting work. It is getting harder and harder to find people who will do the kind of job that Americans do not want to do. We lost so many contractors

that we actually did some analysis to see what happened to us, by contract size and everything else.

It did not matter how big or how small a contract was; we went from having 3.3 bids per contract in 2003, which was kind of low in historic terms, to 2.9 bidders on average in 2004. In 2005, it went down to 2.3 bidders. We are right at the place where pretty soon we will have less than 2 bids per contract, which is the same as a monopoly at that point. Our second largest job that we will ever do is the I-15 design build job, which was estimated at close to \$200 million. For that project, we only had 2 companies who were willing to give us bids. We initially had 3, and one dropped out. We only had 2 bidders on a contract which will be the second largest that we have ever awarded.

Assemblyman Hogan:

Do you know the extent other states in this region are experiencing a similar decline in the number of bidders? Or is it specific to Nevada?

Russ Law:

It is not unique to Nevada. It is a nationwide problem. As a result of this, we have gone out and tried, especially in the minority community, to promote construction technology. We have a program where we work together with the Associated General Contractors in Clark County and getting those people to help us out on these matters. It is a risky business; the average return on an investment is worse than just putting your money in something akin to what bond rates pay. There are few people willing to take the huge risk that they assume when they do that kind of dangerous work. Furthermore, there are very few people willing to get so little in return.

Chair Atkinson:

I guess the theme is fairly accurate and kind of the feeling the rest of us have been feeling all session about transportation funding and paying 25 cents now or \$1 later pretty much says it all. I can assure you we are going to work up until the last minute this legislative session to come up with a transportation funding solution. I hope cooler heads will prevail and we draft something that is broad-based and that will raise enough for the highway fund so that these projects can be funded. Again, I am far from giving up and I can assure you that I will be working until 11:59 p.m. on June 4, 2007, to try and address this problem. I know people on this Committee and those others in the Body are doing the same and hopefully we will come up with something shortly.

Thank you for your presentation. Are there any other questions or comments from the Committee? No? I want to thank the Associated General Contractors and Ms. Belz for putting this presentation together. It was very informative and

very helpful. I do not think they could have gotten two more passionate people to testify with us today. I want to thank them again for their efforts. Thank you.

Assembly Bill 624: Provides that special mobile equipment or a farm vehicle that contains dyed special fuel in the fuel tank may be operated on certain highways in this State in certain circumstances. (BDR 32-1509)

Assemblyman Pete Goicoechea, Assembly District No. 35:

This is an emergency bill we received from the Minority Leader. We have had a number of complaints across rural Nevada over the last three or four months. In some cases it was modified, but in many cases we had citations being written to tractors traveling on either a county or state highway. The citation was for having red fuel in those tractors. The way the existing law is written, if you have a tractor on your farm and you do, in fact, want to have it repaired, you have to pull on the highway. The tractor has red fuel in it. You are eligible for a \$1,100 ticket. The bottom line is the only recourse you have is to drain the tractor, change the filter, and purge the tanks, even if you are only going a half mile down the road, to a garage or to your neighbor's farm. In any of those scenarios, it is a violation.

We did bring this emergency measure forward. There are a couple key points in the bill but I think the main thing we are trying to do with it is to clarify the laws that pertain to agricultural equipment on these rural farms. If you look at subsection 4 of Section 1, I think we worked very hard to take into account special mobile equipment that is incidentally operated and moved on the highway or farm equipment. That language ties into Assembly Bill 39, which we passed earlier in this session. It is enrolled and has been signed by the Governor. That, in fact, goes to the last section of the bill, subsection 6, which says, "The Department shall, by regulation, define 'incidentally operated or moved upon a highway' for purposes of this section." This bill takes this portion and ties it right back to Assembly Bill 39, which was the special mobile equipment bill we passed earlier in session out of this Committee. It was a good piece of legislation.

We have worked with Edgar Roberts, at DMV, so that the language in this bill only pertains to agricultural equipment, located in agricultural areas. Mike Lawson from NDOT came forward and said he had some concerns because the language in the bill would allow unlimited mileage for farm tractors or agricultural equipment on a highway. My response was that we were speaking about agricultural areas. If you have a \$100,000 tractor, you are not making any money driving it on a highway, no matter what color fuel is in it. You cannot afford to do it. It is clearly an issue. Whenever a tractor like that is on the highway it is only because it had to move from one point to another.

The language is fairly simple in the bill. It defines farm equipment. The real genesis of the bill was geared towards a vehicle or unit not being registered with the DMV and being able to run red fuel. If the vehicle has to be registered, it has to be licensed. So, clearly, bailers, swathers, and tractors will not have a title on them and you cannot go to DMV and get them registered. Therefore, they are classified as agricultural equipment or special mobile equipment. The language in subsection 4 addresses special mobile equipment, stating it will be covered under regulation by the DMV for incidental movement.

Assemblyman Claborn:

I vaguely remember legislation similar to this last session. It was in my committee. You have a 15-mile radius in the language to allow equipment to be driven on the highway. The reason for the problems with the red fuel is you do not pay taxes on it and that is why agricultural areas use it. I do not know why the DMV would be ticketing people. The Legislature passed a bill last session and we have had it in Committee the past two sessions. It is already a law that a person can drive on the highway within a certain radius from their farm or other location. Again, I do not know why they are ticketing people. We have had discussions on it. We have had it on record that you can move your equipment if you have to. If you have a hay truck or whatever and you are moving from one field to another, there is a 15-mile radius up and down the highway we put into statute. Why would you be driving a tractor up and down the highway anyway if you are going from one field to another field? Like I said, it is already a law. I do not know why we are bringing this bill forward.

Assemblyman Goicoechea:

Unfortunately, the miles you can travel are set by regulation. Unbeknownst to most of the people in the industry, incidental use has fallen to almost nil. You have no leeway.

Assemblyman Claborn:

But we have it on record here. If you can fight it in court, you need to do it. It is already established what you can do, in the *Nevada Revised Statutes* (NRS).

Assemblyman Goicoechea:

It is not in the NRS. It is in the *Nevada Administrative Code* (NAC). That is where we are running into the snag.

Assemblyman Claborn:

We passed this in the Natural Resources, Agricultural, and Mining Committee. It is a law. That is where this bill should have come to, to begin with, dealing with red fuel.

Assemblyman Goicoechea:

It went to the Committee it was assigned to go to. The bill we passed last session in Natural Resources, Agriculture, and Mining mostly pertained to control of access roads and if you had a pilot car in front and behind, you can in fact be on a control access road up to a 15-mile radius. Unfortunately, in the NAC, incidental use is defined and it is currently negligible. No one knew that. They are making these tickets stick. That is why we brought the language forward. We want to clarify it once and for all.

Assemblyman Claborn:

I distinctly remember dealing with the issue of the equipment being on the highway. We would not have a problem if they were confined to dirt access roads. When Assembly Bill 39 came forward, that is what it was all about. It was not about receiving taxes on red fuel. The solution we worked out was if it was agricultural, they did not pay taxes for the red fuel. We also had to work out a solution for them being able to put those vehicles, those agricultural vehicles, to where they could go back and forth from field to field, home to home, from barn to home, and so on. We passed that as a law. It is in the NRS. Now, if you are letting them use the NAC to ticket people, then they are being allowed to do that.

Assemblyman Goicoechea:

This is exactly what this bill is about. We are just trying to clarify things and make sure there is not a loophole anywhere. We want to make sure what was intended is what we are living with.

Assemblywoman Womack:

As a city girl, not knowing anything about farm equipment, how do you know it is red fuel that is in the tank?

Assemblyman Goicoechea:

They stop the vehicle and they can tell by looking at the filters. They can dip the fuel or open the tank to see, also.

Assemblywoman Womack:

It is red in color?

Assemblyman Goicoechea:

It is dyed red because it does not have the tax paid. It is the same fuel but they have to dump red dye into it.

Assemblywoman Womack:

So what is happening? Do they feel they have gone too far or too fast, and they stop them? I do not understand what this is about.

Assemblyman Goicoechea:

Under the existing law today, or the current interpretation of it, any time you get a tractor on the road, because there is no allowable incidental use, you are in violation if you have red fuel. They stop you and check the fuel and then fine you \$1,100. In most cases, the farmers are dealing with their local justices of the peace. They are able to get the citation forgiven, sometimes. We did, however, have a big meeting in Lovelock where all the farmers came together. It has been an issue in Mason Valley and in Gardnerville. I do not know what happened, but they have started hanging paper on some of these vehicles and tractors. We are just bringing this language forward. Clearly, it was not an issue at the start of the session like it is today. We brought this out as an emergency measure just to clarify the fact that there is an exemption for agricultural equipment and red fuel.

Assemblyman Goedhart:

I wanted to attest to the necessity of bringing this piece of legislation forward. One of my constituents does some farming in Pahrump, even though they have more houses than fields now. He runs several different pieces of land which are anywhere from a few hundred yards to a mile from each other. Because of that, he has been pulled over and has been cited for having a tractor on the highway. These tractors have little disks behind them and go 15 to 20 miles per hour. You are definitely not going to transfer transportation from a car to a tractor. They are fairly uncomfortable. Most often they are low-speed vehicles. He was told by law enforcement that if he crossed a road with his tractor he would be in violation.

Sometimes we have to go back and revisit the NRS and make them clear so we alleviate the confusion from the law enforcement point of view. A lot of these people are trained outstandingly well at the Academy or at POST (Peace Office Standards and Training) but they do not have very much farm experience or rural knowledge. They come out to a rural community and the NAC does not back up, necessarily, what was said in the hearings when the changes to NRS were debated. I think this legislation will go a long way towards alleviating that confusion and will solidify the intent that the Legislature has presented in these situations. This is nothing unusual. Almost any state you go to has similar provisions. There is nothing here that is being presented that is any different or more onerous than in any other state.

Assemblyman Claborn:

Is this the new language that is going to take care of this? It says you can transfer any agricultural product from a field to other areas owned or leased by the operator of the farm equipment and in the crops, agricultural products grown to a field, yard, silo, cellar, shed or other facilities. Are you sure these people are not using red fuel in their pickups or something? The language in statute seems to cover the provisions you need. Why are you deleting language and adding new provisions is beyond me. This is what we worked out last session. All the Highway Patrol has to do is check the statute or check with their supervisor. I am sure their supervisor will tell them it is under a different statute.

Assemblyman Goicoechea:

The reason we deleted that language is to take away that scenario that if you are not going from your property directly to your adjoining property, this new language allows you to, now. It is farm equipment that does not need to be registered; that means I can take my tractor and go to your farm and help you and not be in violation of the law. The strict interpretation of it says I can only go where "it is owned or leased by the operator of that equipment." We had to move away from that language because it did not allow someone to go to a garage or did not allow them to move down the road and help their neighbor.

Chair Atkinson:

The question that remains, then, is how do we know that is what you are doing?

Assemblyman Goicoechea:

If the vehicle is not registered, you can still be on the road with it. That is the argument that Mike Lawson from NDOT raised. In other words, how do you know someone is not just driving around with it? Well, a farm tractor is not something you drive up and down the road to school on. I think, realistically, that if that is what you wanted to do, you would have to put white fuel in the tractor. Then you are no longer in violation. Again, if you take a \$100,000 tractor that is rubbing off \$1,000 worth of rubber every mile you drive on the highway, that is not something you want to do. You are not going to use it for transportation.

Assemblyman Tom Grady, Assembly District No. 38:

Just so you know, this is a real problem. We had a gentleman in my office who is a farmer in the Mason Valley area. His neighbor got two tickets within the last week. They were \$1,100 each. This was a result of going from farm to farm.

Maybe I can help shed a little light on why they are not joyriding on these tractors. Most of these tractors have additives in the tires and they wear out very easily. To replace them is not like going out and getting a \$49 tire for a sports car. You are talking about a lot of money. Farming is being done differently in our valley and many others. We are big in the onion business in our area and you do not grow your onions all in one area. You have them spread around the valley because of hailstorms and things like that, which can damage the crops. So, these people need to move from farm to farm. The onion business as well as other agricultural businesses uses high-end equipment. They cannot buy this equipment for each farm they have. So, it is necessary they be able to move the equipment from one location to another, as well as taking it from the field to the shop to get worked on. So, this is a real problem and we are just trying to clear the language up so that these folks can be left alone to make a living.

Chairman Atkinson:

I know tractors and trailers are not used for the road, but the question still remains why the language is coming out on lines 29 through 32 on page 2 of the bill. I understand the argument about taking the language "owned or leased by the operator" because a person may be going to another property. Why is the entire paragraph coming out?

Assemblyman Grady:

I think the farmer sitting next to me really wants to answer that question.

Assemblyman James Settelmeyer, Assembly District No. 39:

The concept of the road comes about from various situations. I, myself, have a property that is five miles away now due to the fact that a couple of rooftops have grown around me in Douglas County. I am five miles away from Les Schwab. In the particular interpretation of that portion of the language, if I go down to Les Schwab, I am not going from field to field. I am in trouble. Rather than paying \$700 to have the equipment loaded up on someone else's truck and transported five miles down the road, I will drive down the road five miles and have that tire serviced at Les Schwab because it is much cheaper and timelier to do it that way than to have a field truck come out and have it take two or three days. Obviously, when things are broken, you need to fix them. Nowadays, farm equipment is costing a lot more. The machine actually transports the hay bale by bale.

Chair Atkinson:

I can understand you are not going from field to field. The language says "field to field or other area."

Assemblyman Settlemeyer:

The language I was trying to get to was "owned or leased by the operator." Nowadays, because it costs so much, you end up doing deals with your friends. One of you may buy one piece of equipment . . .

Chair Atkinson:

I understand that and that is my point. Again, we can say "from a field or of an area of a farm in which the crop . . ." Do you understand what I am saying? We are taking out owner or operator. I do understand that concern but do not understand the entire argument.

Doug Busselman, Executive Vice President, Nevada Farm Bureau:

Actually, the editorial work which was done on the bill came from our search of other states. Once you include the exemption for non-registered vehicles, a lot of the language we currently have in our legislation, you no longer need. So, what we were doing was we were copying the same kind of language which is in place for other states. Once you had in the principle that an unregistered farm vehicle was involved, the other language which is being deleted was no longer necessary to explain what it was you were trying to do.

Assemblyman Goedhart:

I think one of the reasons why the other states went to the term "not required to be registered with the Department of Motor Vehicles" is for an illustration of Farmer A, such as myself, leasing ground out in Elko, where the best alfalfa in the world is grown. I store the crop in Amargosa Valley. The way the original legislation was crafted, I could theoretically take my semi-tractor trailer because I own land in Amargosa and I own land in Elko and I am transporting my hay from Point A to Point B. I can do that using red fuel under the current legislation. This new legislation basically tightens up and eliminates that loophole by going with "which is not required to be registered by the Department." At the same point and time, it does allow the tractors to make incidental use of the roadways.

Assemblyman Goicoechea:

It is for the pleasure of the Committee. If they want the old language put back in, clearly Bill Drafting took that out. They felt it flowed better. I know our own legal counsel worked on this bill, too. If the Committee can make the language flow better, we have no problem with taking the language out or leaving it in. That is just the way the bill was drafted.

Assemblyman Claborn:

The scenario Assembly Goedhart just went through said he could take his tractor. Are you talking about a truck, hauling hay down the highway with red fuel? I think not.

Assemblyman Goedhart:

If you look at the existing language there, it would show that you were harvesting and transporting crops or other agricultural products from an area owned or leased by the operator to an area that is used to store or process the crops or agricultural products. Absolutely, under the way the current language is, you could do that.

Assemblyman Claborn:

Under the original law, the bill we passed last session, you could not even use red fuel on the highway because they do not pay taxes for that. So, you would not be able to put your truck on the highway. You might think you could get away with it by pulling your tractor. You can not be on the highways with red fuel. Your scenario is flawed.

Assemblyman Goedhart:

I am not saying I have done that. What I am saying . . .

Chair Atkinson:

Mr. Claborn, I think that is the whole purpose of the bill. I think we are losing track. This bill is allowing for the farm equipment to be on the highway with the red fuel. Am I correct?

Assemblyman Goicoechea:

The key component is if the equipment is unregistered. It is just clarifying language and I think we have worked with DMV and everyone else on it, trying to be clear on what we are trying to do. We are only discussing agricultural equipment and red fuel.

Chair Atkinson:

If we are talking about agricultural equipment and talking about highway uses, then lines 29 through 32 on page 2 of the bill does not make sense in the bill any longer because we are talking about highways.

Assemblywoman Gerhardt:

On page 2 of the bill, at line 29, instead of using the current deleted language, if we took out "or other area owned or leased" at line 32, and then deleted lines 33 through 36, I think we keep what was valuable from the original language and still address the concerns of the Committee.

Chair Atkinson:

I think that was my explanation. This bill is really for the highway. So, lines 30 and 31 do not really apply anymore because we are just talking about the highway. It does not matter if it stays in or is taken out.

Assemblywoman Gerhardt:

I was trying to get a comfort level from the other members.

Chair Atkinson:

I understand.

Assemblyman Grady:

I think one of the problems with the language that is in there is that it defeats what Mr. Settelmeyer was just talking about. You could not take your equipment to the tire shop or take it to the mechanic. So, we are trying to cover everything and give everyone a comfort level. We are not riding these tractors for pleasure. We are using them in the pursuit of agriculture.

Doug Busselman:

We actually worked on this legislation about three sessions ago, when Speaker Dini was still involved with the legislative process. Most of this language was crafted at that time. We thought, at that time, that we were able to do the normal operations of transporting our vehicles on the highways and doing what we needed to be doing and that is why the language was what it was. The language in the bill that says "to the extent authorized by federal law," suddenly became defined as you could not be on the highway at all anymore. We started getting calls at the Farm Bureau office in December, 2006, starting in Fallon. We then heard from the Gardnerville and Minden area. Then we started hearing from the Lovelock area. There was even a meeting of the agricultural producers in Lovelock to discuss the situation. At that time, we were under the impression that if it looked like a tractor, we were okay. If it looked like a truck, then it was not going to fly anymore. So, we then went through the process of advising our members, farmer and rancher members across the State, that if it looks like a tractor, you can use the dyed fuel and if it looks like a truck, you better start working at getting that to clear fuel. Then, applying back through the process, you would get the road miles or the non-road miles as a reimbursement. All of a sudden we started getting tickets on tractors. Part of the reason for the emergency bill was we have been shooting at a moving target in terms of trying to comply with whatever the law was going to be. We had a meeting and looked at what other states had done. Iowa, Minnesota, Wisconsin and all those other farm states, there are tractors, right now, driving up and down roads, getting fields ready for planting and doing the kind of work that agricultural producers do. We started looking at

what they have in their laws. We also looked at what was in the federal Internal Revenue Service code. It says if you are a non-registered vehicle, then you are good to go. So, that is why we brought forth this emergency legislation, to try and clarify what we believe we had all along but had lost, somehow. We went for several years without having any problems, whatsoever. Then, in December, we started getting the phone calls saying, "I just got a ticket. What can you do about it?" So, this was a response to that situation. What we did is went and looked at what was available in the national code, as well as what other states have done in their situations and we tried to emulate that in the language that we brought to you.

Assemblyman Claborn:

Mr. Busselman, you are probably right, but I think you are a little wrong in your theory, as well. When you say if it looks like a truck, it might be a truck, the thing of it is, what do you do with that truck if it looks like a truck? It is supposed to be for agriculture. It is not supposed to be for hauling hay down the highway. It is not supposed to be on the highway at all with red fuel in it. You cannot use red fuel because taxes have not been paid on it. You are paying for the use of the highway. To use the highway, you have to pay taxes. Agriculture does not pay taxes because they use the red fuel. So, those vehicles you were describing were probably trucks that were hauling stuff down the highway they probably should not have been hauling. It is already a law. We have been through this last session. I will be more than happy to show you the minutes and everything in my office anytime you want to come over.

Doug Busselman:

Some of the trucks we have that look like trucks are used as feed trucks, used to feed livestock. They have to go across and down to a field to pick up feed to haul back to the feed yard. There are also situations where they are hauling manure from the lots to the fields and dumping it. There are a number of different non-registered uses, not relegated to road uses. Equipment is used to haul agricultural products in different situations and this is what this would apply to, as well as tractors, swathers, balers, et cetera.

Assemblyman Settlemeyer:

The other issue Mr. Claborn addressed before about a vehicle having red fuel not being allowed to be on the road—that interpretation is the problem. We are having officers reinterpret that. We are talking about a John Deere vehicle or tractor that can go a maximum of 25 miles an hour, and they are giving them a ticket because they are literally interpreting what Mr. Claborn mentioned. If it has red fuel, it should not be on the highway. Therefore, they ticket the person.

I got pulled over one time for just hopping across the road. I told the officer, "That is great, I never asked you to pave the road to begin with." They took the road by eminent domain and they paved it. He kind of laughed at me and said he would leave me alone. But that kind of thing occurs.

Chair Atkinson:

Did you have your Assembly plates on your tractor?

Assemblyman Settlemeyer:

I did not, though I have thought about it.

Assemblyman Claborn:

We have all heard this before. The same thing you are saying, I have heard many times. If you go horizontal across a road, no problem. You can go up to a 15-mile radius if you were going from farm to farm or from ranch to ranch or whatever. Nothing says you cannot go down the highway if you are pulling something. But if you are going to use the equipment like an automobile, yeah, you are going to have to pay taxes on it.

Assemblyman Settlemeyer:

I agree 100 percent that was the intent of the NRS. Unfortunately, through the NAC, they have interpreted it differently and some ranchers may not feel like going down and fighting a ticket. So, for that reason they are paying a \$1,000 ticket. I personally believe the prerogative would be to not ticket someone for something that is not illegal. You are agreeing with us that it is not an illegal usage. It seems problematic that some people are just paying the ticket.

Chair Atkinson:

Any other questions from the Committee members? Can the DMV quickly clarify this?

Edgar Roberts, Administrator, Motor Carrier Division, Department of Motor Vehicles:

We did work with the farm caucus and we did add some language to A.B. 624. If you look on page 2, line 40, we added the term "does not include a truck-tractor or any other vehicle primarily used for hauling loads long distances over a public highway." Also, we added, on page 3, at the top of the page, part (c), "'truck-tractor' has the meaning ascribed to it in NRS 482.130." Also, we added (d), which is "'vehicle' has the meaning ascribed to it in NRS 482.135." So, that would take care of the concerns previously mentioned about dyed diesel and vehicles.

Assemblyman Goedhart:

This question is directed for Edgar. You had involvement with the bill and you are happy with the way it has been drafted?

Edgar Roberts:

We are in support of the bill as it is and it does address the concerns Mr. Claborn had mentioned.

Peter Kruger, Representative, Nevada Petroleum Marketers:

We are the people who supply clear and dyed fuel to the citizens of Nevada, including the agricultural and construction community. We are in support of this bill. It does everything that Mr. Claborn and the DMV says it will do. I just want to clarify that no one buys dyed fuel without certifying that they understand the NRS. They know dyed fuel is not to be used in any shape or form on the highway. That was legislation that was passed last session. Further, the pumps are controlled so you cannot just drive up and start to unload dyed fuel. So, this is a good bill and it goes a long way to solving some problems that legitimate users of this product have. We ask for your support.

Chair Atkinson:

Mr. Busselman, I have a question. What are the penalties for violations? I know there are parameters for someone who is going to be using dyed fuel. You can not just pull up and say you want it. What are the penalties for someone who did do that?

Doug Busselman:

I am unaware of what the fines are in terms of the tickets. I believe it is based on the amount of gallons that your fuel tank will hold. The ticket is basically ratioed to the proportion of how much fuel you are capable of hauling in that vehicle. There is probably an expert that can tell you better. Again, the key is that dyed fuel is designed for offroad application.

Edgar Roberts:

In answer to your question, last session, we worked on Assembly Bill 255 of the 73rd Session, which addressed your concerns. Also, the administrative fines for the first instance are \$2,500. It goes to the first instance to the second in increments of \$2,500, up to \$10,000.

Chair Atkinson:

Are there any other questions from the Committee?

Assemblyman Goicoechea:

Just to comment, I do think because of the fine and fee structure that there is a lot less red fuel being burned than there was in the past. I think everyone would be in agreement with that. What we are trying to change with this bill is to make sure those legitimate uses are recognized. We do appreciate DMV and Edgar working with us on that.

Chair Atkinson:

We will close the hearing Assembly Bill 624. I will take a motion.

ASSEMBLYWOMAN WOMACK MOVED TO DO PASS
ASSEMBLY BILL 624.

ASSEMBLYMAN MANENDO SECONDED THE MOTION.

Assemblyman Claborn:

Since this bill is going to put all the language into one big conglomerate in NRS and help the farmers and ranchers, I support the bill. I just wanted to go on record and say that we did this. I will support it because of what DMV and others are intending to do.

THE MOTION PASSED UNANIMOUSLY.

Senate Bill 161 (1st Reprint): Exempts hybrid electric vehicles, for a certain period, from the program for the control of emissions from motor vehicles. (BDR 40-252)

Senator Bob Coffin, Clark County Senatorial District No. 10:

I understand perfectly well and you have every reason to Indefinitely Postpone the bill if you need to or choose to. I was on the Floor sleeping, along with the rest of the members of the House of Lords. It looked like a religious gathering. People sit there and then if the Spirit moves them, they stand up and speak. It takes a while. I am sure you can appreciate that. We eventually adjourned. Thank you very much for extending me the privilege of holding the bill. I want to give thanks to all of you.

This is one of those bills that have been compromised down to a small amount of steak you can really get your teeth into. It is really a bill for the consumer who is attempting to do their very best for the atmosphere, for saving fuel, for trying to conserve our environment, for people who buy hybrid vehicles. It is one of the few ways to stick it to the man, so to speak. You spend a little more

but you buy something that gives you a benefit, at least in your own personal pride, using less fuel.

This bill originally started out as a bill to exempt a lot of other vehicles from smog checks. That was defeated by other interests. We came down to the point, with agreement, from our State Environmental Commission and with the environmental agencies of Washoe and Clark County, to endorse this bill, which would exempt hybrid vehicles from inspections for six years. Now, that does not mean that a car that is five years old would get one more year of exemption. A hybrid purchased this year would get five or six years, depending on the date. The point is, there needs to be an incentive to recognize the effort that people have gone to in doing their best to save the environment. This is that one, small thing. It has a very small fiscal note, so small that the Finance Committee finally let the bill out.

I think we all agree on getting this small step forward. I can answer questions. I think it is fairly easy. I know you have got to go to the Floor. I am willing to stay here until I have to resume my nap.

Assemblyman Claborn:

I want to thank you for bringing this bill here today. This car you are talking about is very, very low on emissions. I think it is the car of the future and so on. Six years is pretty minimal. That is a pretty good deal for these people who own these automobiles. Maybe, once every six years is something that needs to be checked. You are doing a very good job and I support this bill 100 percent. I think you hit it right on the head again. Thank you for bringing this bill up. I like it.

Senator Coffin:

There is a friendly amendment being offered by the Sierra Club, which I support. It is up to you how you treat it. They have agreed that they will try to work it on the Senate side to see if it passes, if you choose to add it. I do not object. Add anything you want, as long as it is good for the people.

Chair Atkinson:

I think the amendment is being handed out right now. If there are no other questions for Senator Coffin, we will let the Sierra Club come up and offer their amendment.

Lydia Ball, Regional Representative, Sierra Club:

I want to thank you for the opportunity to offer this amendment ([Exhibit G](#)) and for your consideration of it. Senator Coffin did a wonderful job of explaining hybrids. I just wanted to touch on a few other things. Hybrid electric vehicles

decrease our fuel consumption, which decreases our dependence on foreign oil. It also releases lower emissions, which leads to pollution in our air. I know that all of you have been to Las Vegas and have seen the air quality that we have in Las Vegas. A lot of those problems in the air lead to asthma attacks, particularly in children.

If the bill increases the number of hybrid vehicles on the road, therefore a decrease in our ozone problem and our air quality problems in Clark County and saves one child from having an asthma attack, I think we should do it. The amendment I am asking for basically is a small incentive to purchase a hybrid electric vehicle. It is for driving in the high-occupancy vehicle lanes, which we do not technically have yet in Clark County but should have by the end of this year. We do not have them, as far as I am aware, in the rest of the State.

Chair Atkinson:

How would we know about saving a child from asthma?

Lydia Ball:

It is the air quality. That air quality leads to asthma in children, if it is poor air quality. That was just an example of what can happen. If we decrease the air quality rate in Clark County, then it is correlated together.

Assemblyman Bobzien:

The existing statute provides a form of transportation for people who adopt regulations for this hybrid electrical vehicle exemption. For hybrid vehicles, I know there is some controversy over just what is a hybrid and what is not a hybrid. Essentially, what you are proposing is that the Nevada Department of Transportation (NDOT) develop a rule making process and say, "This is a hybrid. This is a hybrid. This one is not." That is essentially what they would be doing. Can we get them on record as having the ability to do that? Is it feasible?

Lydia Ball:

That is a good question. The way this is written, hopefully it will convey giving all the authority to NDOT to adopt the needed criteria. Scott Rolen, the Deputy Director, was called and asked. He wanted to be able to have this power. I tried to get in touch with him again today, as well as Kim Guinasso from the Legislative Counsel Bureau. We were not able to get in touch with Mr. Rolen, however.

Assemblyman Bobzien:

But it is your understanding they have reviewed this and they believe they can do this. Is that what you are representing or are you able to do that?

Lydia Ball:

My understanding is that they have requested to be able to do that, to set the requirements. What I was told by Kim Guinasso was that this does give them the ability to do that.

Assemblyman Bobzien:

I understand the language does that. I am asking, as an implementation issue, if it is feasible for them to do this. I am trying to get to what they would do, on their side of the issue.

Lydia Ball:

I did not get to ask them that.

Assemblyman Bobzien:

In California, of course, what they do is they have a sticker that goes on the car to help out. It seems feasible they would be able to go and look at the different models and be able to do that. I just wanted to raise that issue to make sure we have that on the record.

Assemblywoman Gerhardt:

Along the same lines as my colleague, I see a problem with law enforcement. As hybrids become more popular, which it is my sincere hope that they will be more popular and more affordable, they are going to be looking more and more like any other vehicle we are driving. So, I can envision a problem with law enforcement as they are trying to police who can and cannot use that car pooling lane, when and if we ever get carpooling lanes. How is law enforcement going to know which car is a hybrid and allowed to only have one person in the vehicle. I just see a whole lot of problems implementing this. I support, very much, giving incentives for this kind of behavior but I think we are putting the cart before the horse. I do not think we are quite prepared to do this. Putting something into law prematurely causes a whole lot of unintended consequences. I kind of see some problems with this.

Lydia Ball:

I thought the same thing, also. This might be a problem for law enforcement. I did speak to Gary Wolff. He did not have a problem. He is the lobbyist for the Nevada State Law Enforcement Association. He was unable to be here. I simply asked him if he saw a problem with doing this and he said no. Unfortunately, I did not get a specific answer that he would have. I did speak to him and he did not foresee a problem.

Assemblyman Goedhart:

I guess the language states there is a six-year exemption, eliminating the necessity of having a vehicle smog check every year. Or is it every other year? I am not sure. What does that normally cost?

Lydia Ball:

It is every year, each time you register your vehicle. It ranges from \$25 to \$30.

Assemblyman Goedhart:

It is my hope we can have this voted on in an affirmative fashion. Anything we can do to promote these cleaner-burning cars, which use less fuel, is a good thing. I am also one of those that does not like to send too much of their money overseas. In regards to making a comment about Cowboy Day, with Mr. Carpenter standing behind me, the horses cowboys utilize are the original green energy machines. Everything is grown and recycled and we are not putting any additional hydrocarbons into the air. Once again, we have to look at the wisdom of the old cowboys.

Assemblyman Goicoechea:

We had the original hybrid—it is called a mule.

Assemblyman Bobzien:

One thing that might help, regarding the enforcement, I am wondering if under rulemaking, if NDOT would take that into account and provide some mechanism for identification, so you would end up with the little yellow sticker like you see on the cars in California. I do not know if that is within the scope of the rulemaking, if that can be considered. I do not know if anyone from NDOT can speak to that.

Chair Atkinson:

Does anyone have any clarifying remarks? This decal we are talking about will be issued through the DMV, correct?

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

Just to expand on what Senator Coffin alluded to, there is a fiscal impact as a result of this piece of legislation. Having reviewed the amendment just moments ago, it does not appear it will have any impact as to the fiscal note. This does not affect the highway fund, though. It affects the Pollution Control Account, which is specifically tied to the smog checks, which is what the exemption is for. There is roughly a \$28,000 reduction to the pollution control revenues in the first year and \$32,000 in the second year and \$123,000 in the future biennium. The popularity of these vehicles is growing rapidly. We are seeing a

60 percent increase per year in our registrations for hybrids, so therefore there is an exponential increase as the years go on. However, the counties are the ones that really are impacted in this reduction of funds because they are excess reserves within that pollution control account. It is about a \$9 million account. So, as Senator Coffin testified, there is a small impact at this time, although it will grow over the years.

Chair Atkinson:

Is the DMV concerned with it growing? Are we concerned about future revenue loss?

Troy Dillard:

At this point in time, it appears the account revenue is growing faster than the impact of what this bill will do for the foreseeable future. The counties are really the ones impacted. They agreed with Senator Coffin on the bill as it is presented today.

Assemblywoman Gerhardt:

Just because our good Chair mentioned this, is it possible for the DMV to provide any kind of identification sticker in order to facilitate the amendment?

Troy Dillard:

Currently, the vehicles which fall under the definition contained within the bill are according to federal regulations. We designate those vehicles as a fuel type classification within the DMV system today. You can tell if that vehicle qualifies through the existing system.

There is a fuel code designator within the DMV computer application, so if you have a hybrid vehicle, you are in that fuel code designator. So, we know that vehicle qualifies as a hybrid.

Assemblywoman Gerhardt:

How is law enforcement going to know that vehicle qualifies?

Troy Dillard:

It is feasible that qualifier code could appear in the registration record that is run when a law enforcement officer runs a plate or vehicle identification number from a vehicle. I would have to research as to whether or not it is currently in there. I do not believe that it is. Of course, it would take programming to make that happen.

Assemblywoman Gerhardt:

So you are talking about a fiscal note. How about for the sake of goodwill, the DMV just once comes up and says, "Sure, we can do that, free of charge."

Chair Atkinson:

He makes a good point, though. I see problems with the amendment. How do we do that? If we do that, then I think there are more consequences, not just for the DMV but for a few more agencies. You have to be able to identify them. Officers are pulling them over if they do not have the sticker and then finding out later they do qualify. It just seems to open up problems. The DMV would have to have a program for that but would have to program for the offenders because you would have to do something with them.

Assemblyman Hogan:

I am just thinking that because the terms of the amendment are permissive and they contemplate our transportation going through a process, presumably rule making and so on, hopefully there would be an opportunity to address and deal with and get public input on each of these problems, including some that may not be anticipated here today. So, I would hate to give up on this, on the possibility that problems would come up. I think we are calling for a process that includes bringing in all the interested parties and the rulemaking process and resolving the problems. If big problems come up, to which no resolution can be found, it is still permissive and I trust our friends at NDOT are not going to install a system until they believe they have worked out all the bugs. How cautious do we want to be? Do we want to be cautious enough to not let this move forward at all or do we want to be cautious enough to keep it permissive so that it cannot sneak up on us and suddenly be installed before the problems are worked out? So, I would like to be a little bit more hopeful that we have ways of dealing with this and the good that is in this amendment could be preserved. We can just let NDOT, in its inimitable way, work out the problem.

Assemblyman Manendo:

My understanding is that high occupancy lanes are for two reasons. One is to promote carpooling. The second is to help with our emissions. I am convinced that hybrid cars are essential and very important to our environment. I do not see, however, that fits into the occupancy because if you have one person in the car, it kind of defeats that purpose. Maybe not all the cars in the high-occupancy lane are the hybrids, so those lanes can fill up and we back to square one. I hope we get enough hybrids on the street at some point. Right now I am not convinced that this is a friendly amendment to this bill and I would want to see the Senator's bill the way he worked on it to get it to this point. I do not think I can support the amendment. I can support the bill as is so we can move it forward and get it to the Floor soon.

Assemblyman Bobzien:

I appreciate my colleague's concern about the nexus and I think, ultimately, that is an important conversation to have, though it is late in session and it probably would not get through. I do want to make the point that my colleague from southern Nevada made and that it is permissive language and NDOT could come up with the regulations and they could deal with the identification issue. I hate saying this but they do it in California. So, it is possible. I think we do need to keep in mind innovative ways to making the technology an incentive.

Assemblywoman Womack:

I think we are putting the cart before the horse, here. I hope this dialogue continues. I hope that as we look at hybrids and we look at the possibility of extra lanes on the highway that we are able to continue with this great conversation. I think, right now, it is a little premature. I would support the bill without the amendment language.

Chair Atkinson:

Is there anyone else wishing to testify in favor of Senate Bill 161?

Kyle Davis, Policy Director, Nevada Conservation League:

We are in support of the bill and also the amendment. The one thing I wanted to point out, and this is just a follow up to some of the discussion the Committee was having, is that as I read the bill, it is important to note that it is permissive language that NDOT may adopt these regulations to carry out the provisions. They do have the authority for any other vehicle designated by regulation anyway. I think it is important to note it is permissive language, rather than something saying that they have to do this. So, if there are huge problems, as I read it, they would not have to go through with it. I may be wrong in that case.

Assemblyman Bobzien:

I appreciate that is permissive language, but I think given the questions of the nexus, we do not want the executive agency making the policy determination as to the nexus issues.

Chair Atkinson:

Are there any more questions or comments from the Committee? Is there anyone else wishing to testify in favor of Senate Bill 161? In opposition?

Peter Kruger, Representative, Emission Testers Council:

We are the people who perform the smog checks. We are in support of the amendment and would like to commit to this Committee that we will be at those regulatory hearings and will commit to supporting a form of identification

to get this thing going. This makes a lot of sense. I think to overcome the objections that some of the members might have about law enforcement's responsibilities, a simple designation, decal, or otherwise, could be added. I will commit to the Committee now that when we are at those hearings I will, along with my friends from the Sierra Club and every other environmental group that I am supportive of, will be happy to work with us to get that done.

I did not know about the amendment. I do support the amendment and I support the bill. I am not neutral, I am not completely for, and I am not against it. It is a good bill and does do a lot. I talked to the sponsor of the bill. Because hybrids are fairly new, our only concern is, instead of making it six years, or five model years, that we change that number to five. In thinking about it, we will just come back next session and we will know whether we have a problem financially and environmentally. There are many unknowns. My amendment would be to allow for five years, instead of six. I would hope the Committee would move on the original amendment and support getting the proper regulations in place to ensure identification.

Chair Atkinson:

Are there any further questions or testimony? We will close the hearing on Senate Bill 161. The Chair will entertain a motion.

ASSEMBLYMAN CLABORN MOVED TO DO PASS SENATE BILL 161.

ASSEMBLYMAN CARPENTER SECONDED THE MOTION.

Assemblyman Hogan:

I would just add, for the record, that if it were not for the very late hour of this session, I would be inclined to argue in favor of including the amendment. Given the time, given the fact the amendment does introduce some new issues, we better go with what we are sure we can get. I will be supporting the motion.

THE MOTION PASSED UNANIMOUSLY.

Meeting adjourned [at 4:24 p.m.].

RESPECTFULLY SUBMITTED:

Christine Henricksen
Committee Secretary

Matthew Baker
Transcribing Secretary

APPROVED BY:

Assemblyman Kelvin Atkinson, Chair

DATE: _____

EXHIBITS

Committee Name: Committee on Transportation

Date: May 24, 2007

Time of Meeting: 2:40 p.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Guest list
	C	Russ Law, NDOT	Price trends handout
	D	Russ Law, NDOT	Payment Preservation Report
	E	Sohila Bemanian, Independent Consultant	Cost of Pavement Preservation
	F	Sohila Bemanian, Independent Consultant	Pavement Rate of Deterioration
	G	Lydia Ball, Sierra Club	Amendment language