

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

**Seventy-fourth Session  
May 8, 2007**

The Senate Committee on Transportation and Homeland Security was called to order by Chair Dennis Nolan at 2:39 p.m. on Tuesday, May 8, 2007, in Room 2149 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to the Grant Sawyer State Office Building, Room 4412, 555 East Washington Avenue, Las Vegas, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

**COMMITTEE MEMBERS PRESENT:**

Senator Dennis Nolan, Chair  
Senator Joseph J. Heck, Vice Chair  
Senator Maurice E. Washington  
Senator Maggie Carlton  
Senator John J. Lee  
Senator Joyce Woodhouse

**COMMITTEE MEMBERS ABSENT:**

Senator Mark E. Amodei (Excused)

**GUEST LEGISLATORS PRESENT:**

Assemblywoman Susan Gerhardt, Assembly District No. 29  
Assemblyman Tom Grady, Assembly District No. 38

**STAFF MEMBERS PRESENT:**

Lynette M. Johnson, Committee Secretary  
Nicholas Marquart, Intern to Senator Nolan  
Matt Szudajski, Committee Policy Analyst  
Sharon Wilkinson, Committee Counsel  
Carolyn Allfree, Committee Secretary

**OTHERS PRESENT:**

Garrett D. Gordon, Norm Baker Motor Company  
Troy L. Dillard, Administrator, Compliance Enforcement Division, Department of Motor Vehicles  
Heath Caldwell, Norm Baker Motor Company  
Rusty McAllister, Professional Firefighters of Nevada  
Brian O'Callaghan, Detective, Las Vegas Metropolitan Police Department  
Ray Flynn, Deputy Chief, Las Vegas Metropolitan Police Department  
Ray Bacon, Nevada Manufacturers Association  
Brian Aillaud, Hazardous Materials Safety Technician, Department of Risk Management and Safety, University of Nevada, Las Vegas  
Randy Robison, Q Tires, Incorporated  
Bruce Starr, Q Tires, Incorporated  
Dan Newell, City Manager, City of Yerington  
J. David Fraser, Nevada League of Cities and Municipalities

CHAIR NOLAN:

We will open the hearing on Assembly Bill (A.B.) 321.

**ASSEMBLY BILL 321 (1st Reprint)**: Exempts certain vehicles from inspection requirements for the control of emissions. (BDR 43-1185)

GARRETT D. GORDON (Norm Baker Motor Company):

Assembly Bill 321 exempts replica vehicles from emissions standards. Replica vehicle owners are leaving Clark and Washoe Counties and registering these vehicles in other counties because they do not meet the emissions standards in Clark and Washoe Counties. The intent of this bill is to allow them to register in Clark and Washoe Counties as replica vehicles. A replica vehicle is a passenger car or light-duty motor vehicle which has a body manufactured after 1968 and is made to resemble a vehicle of model and manufacture before 1968. It is not for daily transportation, but is only for club activities, parades and tours. We have worked with Washoe and Clark Counties' air-control personnel to allow for a maximum of 100 vehicles a year to be registered under this statute.

SENATOR CARLTON:

Section 1, subsection 2, of the bill says, "For purposes of this section, 'replica vehicle' has the meaning ascribed to it in NRS 445B.759." The *Nevada Revised*

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*Statute* (NRS) 445B.759 includes military tactical vehicles. Are we going to be calling these replica vehicles military tactical vehicles?

MR. GORDON:

This bill provides exemptions for two different vehicles, one being a military tactical vehicle and the other a replica vehicle, which is defined under section 2, subsection 2, paragraph (b) of the bill.

SHARON WILKINSON (Committee Counsel):

The term "replica vehicle" is being defined under current NRS 445B.759. It is also being defined in the bill and will be placed in the same section of the NRS where military vehicle is defined.

SENATOR CARLTON:

Why are we doing this?

MR. GORDON:

Owners who purchase these vehicles, which are very expensive, need to go outside Clark and Washoe Counties to register the vehicles. We looked through the statute to see if these may be registered under "custom vehicle" or some other category, and none was available. We had to create a new definition.

SENATOR CARLTON:

If I understand you correctly, they cannot be registered at all right now.

MR. GORDON:

No, they cannot be registered because they do not meet the emissions standards set for the Department of Motor Vehicles (DMV).

SENATOR CARLTON:

We are buying a brand new car that is a look-alike of an older car and costs a whole lot of money, but it will not pass emissions standards.

MR. GORDON:

That is correct. Owners are going from the larger counties to smaller counties to register these vehicles.

SENATOR CARLTON:

How much would it cost to register this expensive car?

MR. GORDON:

Price is not the problem; it is a matter of passing the emissions test.

SENATOR LEE:

I once had a kit car. I understand these are being built as replicas. Are you putting a new engine into a new kit? Do old-timer vehicles get this exemption?

TROY L. DILLARD (Administrator, Compliance Enforcement Division, Department of Motor Vehicles):

A fiscal note is attached to this bill. The bill came out of the Assembly Committee on Transportation and did not go through the Assembly Committee on Ways and Means prior to coming here. The fiscal note is primarily for programming costs to change the database to allow for these vehicles to be identified. The implementation date for the bill is July 1, 2007. There is no way we can meet that date without having a programmer perform the changes. Over 120 hours of programming is necessary.

I will attempt to answer some of Senators Carlton's and Lee's questions. The vehicles are manufactured in 2007, but the engines they are putting in them do not meet today's emissions requirements. The law requires that you must have an engine that meets 2007 requirements if you have a 2007 car. That means it must be on-board-diagnostic compliant. These vehicles do not have compliant engines in them. The owners go outside Clark County or Washoe County to register the cars. Most are registerable vehicles, but they do not qualify in Clark or Washoe because they cannot pass the emissions inspections.

HEATH CALDWELL (Norm Baker Motor Company):

I am a resident of Clark County and the owner of the Norm Baker Motor Company in Las Vegas. We sell the cars in question. A limited number are sold each year, probably not more than 20 throughout the State. The cars are probably driven fewer than 300, 400 or 500 miles a year. They are used for parades and shows and by Sunday drivers. Our customers go to Pahrump to have them registered. They are 2006 and 2007 automobiles and the engines are new, but they do not meet the emissions requirements in Clark County because they have no smog equipment on them.

SENATOR CARLTON:

Is the smog equipment left off because of the authenticity value of the car?

MR. CALDWELL:

That is correct. These are what we call continuation series cars. They are built to represent a car from the middle 1960s. To be authentic, they must have the type of engines the cars had then. The value of the car would be greatly reduced if a modern-day engine were put into it.

SENATOR CARLTON:

What type of gas mileage do they have? Is it in the double digits?

MR. CALDWELL:

No, it is not.

CHAIR NOLAN:

Our concern with this kind of bill is that it may be an attempt at an end run. I want to make sure that the purpose of these vehicles is exactly what you imply. We do not want someone to come along later and find something they could use as a regular means of transportation that fits into this category. In section 2, subsection 2, paragraph (b), subparagraphs (3) and (4) state that the vehicle: "Is maintained solely for occasional transportation, including exhibitions, club activities, parades, tours or other similar uses; and is not used for daily transportation."

Law enforcement would enforce the emissions requirement only if the car were to be stopped for some reason, did not have a vehicle registration and was cited for such. I am wondering if it would be a problem to change that to "is maintained solely for occasional transportation, limited to exhibitions ... " instead of "including exhibitions." If we are granting an exemption, I want to be sure it is truly for the purpose you have stated on the record and the intent stated.

MR. GORDON:

Subparagraph (4) says it is not used for daily transportation, but I will defer to the Committee for language to show the intent.

CHAIR NOLAN:

We will leave it to the Committee. I see that it is maintained solely for occasional transportation, but an officer pulling it over for some unrelated reason would have no idea whether it is being used for occasional transportation at the time the registration is being waived. It is just a matter of one person's

word at the DMV as to how it will be used. I do not have any other issues with the bill.

We will close the hearing on A.B. 321 and open the hearing on A.B. 91.

**ASSEMBLY BILL 91 (1st Reprint)**: Makes various changes to provisions governing explosives. (BDR 42-691)

ASSEMBLYWOMAN SUSAN GERHARDT (Assembly District No. 29):

Assembly Bill 91 addresses the threat of terrorist activities that is posed by explosive materials in Nevada. It is time to strengthen our storage, reporting and notification laws, which are inadequate. Currently, there are no requirements to report the unusual sale, theft or loss of explosives.

Section 2 of the bill defines an explosive to include any material on the list of explosives published and revised annually by the U.S. Department of Justice. This will allow us to remain current without requiring the Legislature to update a statutory list on an ongoing basis.

The bill requires proper labeling of storage containers as described in section 3. This is simply a reference to existing laws and regulations. Section 4 and section 5, which provide certain reporting and record-keeping requirements, are the heart of the bill and go hand in hand with each other. Section 4 requires that anyone who is aware of an unusual sale, purchase, loss or theft of an explosive must report it to the local enforcement entity and the local fire department within 24 hours. Fire departments are included because they are trained to deal with hazardous materials. Local entities are in the best position to quickly respond to potential problems and threats. Section 4 also includes a penalty for failing to make this report. Violators would be guilty of a gross misdemeanor.

The bill provides a rebuttable presumption that an activity is unusual if it does not regularly occur in the ordinary course of business.

Section 5 requires a written record of anyone who manufactures, imports, purchases or distributes an explosive. Details of the written record are described in section 5 and depend on whether the transaction involves a person, business or governmental agency. This will not affect our reloaders or hobbyist friends unless they are storing more than 50 pounds of powder. Section 5 requires

notification within 24 hours to local law enforcement and the local fire department whenever someone stores explosive materials.

The bill excludes the mining industry from the record-keeping and reporting requirements, since explosives are regularly used safely by this industry with internal safeguards already in place.

RUSTY MCALLISTER (Professional Firefighters of Nevada):

We stand in support of A.B. 91. We worked with Assemblywoman Gerhardt, the representatives from law enforcement and numerous other parties, including the mining industry. We are very interested in having our local departments notified with regard to people who are purchasing large or unusual quantities of explosives or storing them either in magazines or in their homes. We are the ones who will go out there during the course of an emergency.

Currently, the Las Vegas Fire Department is the recognized bomb-response unit for all of southern Nevada and has been for more than 30 years. It is somewhat unusual, in that bomb squads are usually law-enforcement agencies. We respond to all explosive-device calls to identify, render safe or dispose of the device. It is important for us to know what is out there.

Every one of our fire engines in southern Nevada has a computer. With this bill, when we receive a dispatch to a certain location there can already be notes in the computer that would pop up on the screen and tell us to be aware that on the site is registered a certain quantity of a certain explosive material.

One reason this bill excludes mining is that they follow federal guidelines which are much more stringent than this. They must inventory, on a daily basis, the explosives they have on-site and file the inventory with the federal government daily.

SENATOR LEE:

I am not familiar with the federal guidelines on explosives. Sometimes, volume determines how explosive something is. The bill does not state volume; it just refers to the list.

ASSEMBLYWOMAN GERHARDT:

We did some checking because we had interest from the reloaders and people who use powder for various hobby activities. Under federal guidelines, they would not have to report if it is 50 pounds or less.

SENATOR LEE:

Fifty pounds makes sense to me.

BRIAN O'CALLAGHAN (Detective, Las Vegas Metropolitan Police Department):

Mr. McAllister pretty well covered things. This bill will help us track unusual trends for the explosives and the precursors and will put us on notice when we respond to those incidents.

MR. MCALLISTER:

Once, a university in southern Nevada evidently lost a large quantity of chemicals from its chemical laboratory. Singularly, the chemicals probably did not cause a big problem, but in certain combinations they were extremely explosive. The problem was that the university did not know what to do or whom to notify concerning the missing chemicals.

Seven or eight months later, they contacted the Southern Nevada Health District, and the Health District did not know what to do. No one from law enforcement or first responders was notified for a year or more that the chemicals were missing. This bill is an attempt to fix that problem.

ASSEMBLYWOMAN GERHARDT:

When I was approached about this bill, what really struck me, having a law-enforcement background myself, was that these people want to be proactive. When something is stolen or missing, they would like to be able to go out and investigate before we have a tragic event.

SENATOR HECK:

I appreciate that you have addressed the issue of the sportsmen and the black powder reloaders, but I do not see it specifically excepted in the bill. The exceptions are in 18 *United States Code* (U.S.C.) 845. There are other exceptions in the chapter that talk about the use by the military or government. It is important to make sure the exceptions that are listed in the U.S.C. are excepted out of this bill.



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ASSEMBLYWOMAN GERHARDT:

Assemblywoman Marilyn Kirkpatrick checked with the Legal Division, Legislative Counsel Bureau. However, if we need further clarification, I do not have a problem with adding a word or two to take care of the concern.

SENATOR CARLTON:

Mr. McAllister, did the incident to which you referred take place at the university?

ASSEMBLYWOMAN GERHARDT:

Yes, it took place at a university in southern Nevada.

SENATOR CARLTON:

Most of our universities have university police. No one thought to tell them?

ASSEMBLYWOMAN GERHARDT:

I do not have an answer for that.

SENATOR LEE:

Once I notify you, do you come over and make sure that where I want to store my explosives is safe? Do you have a veto or some kind of jurisdiction over where I may store them?

MR. MCALLISTER:

All fire departments in Nevada have adopted either the International Fire Code or the Uniform Fire Code. Once a fire department is notified, they would go out and review the storage and make sure it met with the guidelines set up through the fire codes.

SENATOR LEE:

That is what I wanted to hear.

CHAIR NOLAN:

Ted J. Olivas, representing the City of Las Vegas, has signed in as being in favor of A.B. 91. We will put that into the record.

RAY FLYNN (Deputy Chief, Las Vegas Metropolitan Police Department):

This is an important bill to those of us in law enforcement, especially in this day and age when there is reason to believe terrorists will probably not buy these

explosives legitimately. If things go missing, the faster law enforcement can respond, the better success rate we will have.

I am aware that the incident at the university was a failure to report to anyone. We found out by accident some time later. People did not know it should be reported.

CHAIR NOLAN:  
Was it ever recovered?

MR. FLYNN:  
To my knowledge, the items were never found.

MR. FLYNN:  
Regarding the discussion on black powder of the muzzle loaders, this bill would fit hand in hand with the federal statute. No more than 25 pounds at a time may be bought and no more than 50 pounds may be stored at a residential location.

RAY BACON (Nevada Manufacturers Association):  
We are neutral on this bill. We fully understand the reason law enforcement brought it forward; we fully support that. We had significant problems with the original version of the bill. At this stage, this bill does what is needed in Nevada statute. The Nevada statute and the federal rules will overlap somewhat. The only question we have at this point is that every person who handles explosives must be licensed by the Bureau of Alcohol, Tobacco and Firearms (ATF).

Any storage facility located in Nevada must be licensed by the ATF. There is a database. In the process of working through this with Assemblywoman Gerhardt, I was amazed to find that the list is a public record, so if you are a terrorist you know where to go. It is not located on a Website, but the ATF record is a public record. About one-third of the storage facilities licensed in this State are connected to the mining industry. The balance are related to construction or to pyrotechnics involved with the casino properties.

The issue this bill will not address is that somebody handling the material illegally will not play by the rules. As a former firefighter, I would like to take the risk to zero, but it cannot be done. I believe the private sector will be good about reporting a theft or loss, but we need to notify them so that when they

make a call it gets to the right person. If we send it into the dispatch center, it may or may not get to the person who really needs to know. That is our only concern.

As of April 6, the federal regulation on chemical-plant safety became effective. It deals with a lot of the issues surrounding chemical plants and control of facilities, etc. While it does not directly impact explosives, it does deal with safety regarding the ingredients that can become explosives. The industry, across the board, is improving with regard to homeland security.

CHAIR NOLAN:

I appreciate your pointing out that these people are licensed through the ATF. The information regarding their licensure can be made public by the ATF, which is a little concerning. It might be something to discuss.

MR. BACON:

The list would be available to any citizen who files a request under the Freedom of Information Act.

BRIAN AILLAUD (Hazardous Materials Safety Technician, Department of Risk Management and Safety, University of Nevada, Las Vegas):

I am not aware of a loss of chemicals at the University of Nevada, Las Vegas (UNLV) or any other university in southern Nevada, but I am fairly new with the university. I cannot comment on those statements. However, we have some concerns with the bill. The rules for explosives are reasonable. We would want to report the theft of an explosive as quickly as possible. All of the researchers at UNLV who use explosives are licensed through the ATF and use approved systems. We work closely with the Clark County Fire Department for approval of our storage of hazardous materials.

A major concern for us, beyond the confidentiality of storage locations, is that much of the language in the bill includes items which would not normally be explosives but could be used in an improvised explosive device (IED). It would limit much of the research we conduct. Since we have quite a few chemicals on campus, holding faculty members responsible to a gross misdemeanor if something gets stolen and happens to be used in an IED will limit our ability to conduct research and would likely cause research funding to go to other states, which could hurt the Nevada System of Higher Education.

We are not outright opposed to this bill, but we are concerned about the language that defines explosives so inclusively as any chemical that could be used in an IED.

SENATOR CARLTON:

If you do not report the theft, it is a gross misdemeanor. If you are required to keep track of something hazardous and it disappears and you do not report it, you are guilty of a gross misdemeanor. As long as you let us know that it is no longer within your control, you are fine. This is about making sure we keep tabs on it. Do you read it differently?

MR. AILLAUD:

Our concern is with something like acetone, isopropyl alcohol or ether. Any number of the standard research chemicals could be used to create an IED. If a gallon of acetone, which is very common in the laboratories on the campus, were to go missing, it would probably not alarm the researcher. It could have been used by a graduate assistant, for example. If it were reported to our Department of Risk Management and Safety, it would not necessarily cause alarm for us because it is such a small quantity of a common material. If it were then used to do harm, our concern is that it would come back to us. There would be no reason to report a missing gallon bottle of acetone. I think the Las Vegas Metropolitan Police would agree that they have better use for their time than taking a report like that.

SENATOR CARLTON:

Does section 2 not address your concerns?

MR. AILLAUD:

Section 2, A.B. 91, refers to section 841 of 18 U.S.C. That would take away our concern entirely, except that section 841 refers to section 844 in which a hazardous material is used in something like an IED. Then we are back to our initial concern wherein anything could potentially be used as an explosive and fall under this bill.

SENATOR CARLTON:

I do not believe that was the intent. We can have our Legal Division clarify that for you.

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CHAIR NOLAN:

When we take action on the bill, we will make sure that is clarified for the Committee members.

ASSEMBLYWOMAN GERHARDT:

When we originally drafted the bill, we had a laundry list of ingredients. We deliberately took it out and used the federal guidelines. Fertilizer could potentially be used as an explosive in the right combinations. We did not want to affect agriculture in Nevada. I think the federal list does address Mr. Aillaud's concerns.

CHAIR NOLAN:

We will close the hearing on A.B. 91 and open the hearing on A.B. 493.

**ASSEMBLY BILL 493**: Revises provisions relating to studded tires.  
(BDR 43-1394)

RANDY ROBISON (Q Tires, Incorporated):

We have talked with you about the product this company is developing for market. We have a brief presentation on DVD to show you ([Exhibit C](#)).

BRUCE STARR (Q Tires, Incorporated):

I live in Hillsboro, Oregon, and I am here representing Q Tires, Incorporated, and have provided you with a copy of my testimony ([Exhibit D](#)). We are here because Nevada, like most states, regulates studded tires. That is appropriate. Most states regulate according to time of year. Nevada law does not differentiate between a retractable studded tire and a permanently studded tire. In order for the company to market these tires as all-season, all-weather tires, we would like for consumers to be able to drive these tires year-round. Without A.B. 493 they could not. This bill allows consumers to drive these tires year-around and creates an exemption from the statute that relates to permanently studded tires.

The tire is manufactured with two air chambers, a main chamber and a secondary chamber. The consumer will push a button remotely that will equalize the pressure between the two chambers. The air pressure extends the studs and pushes them out. When the button is pushed again, the air in the secondary chamber is released and the studs retract.

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SENATOR CARLTON:  
Are there any other brands of this type of tire?

MR. STARR:  
As far as I know, Q Tires is the only company that has developed the retractable studded tire.

SENATOR CARLTON:  
Do you have a patent on it?

MR. STARR:  
Yes, we do.

SENATOR CARLTON:  
Nobody else can develop one, can they?

MR. STARR:  
Using the patent that Q Tires has secured they could not, but there might be other means by which a tire company could do so.

SENATOR CARLTON:  
With this definition, "pneumatic tires containing metal-type studs of tungsten carbide or other suitable material," are we going to be closing the door on anyone in the future?

MR. STARR:  
No, you will not. That language is boiler-plate language that describes studded tires.

CHAIR NOLAN:  
It seems to be a great idea.

SENATOR CARLTON MOVED TO DO PASS A.B. 493.

SENATOR WOODHOUSE SECONDED THE MOTION.

THE MOTION CARRIED. (SENATORS HECK AND AMODEI WERE ABSENT FOR THE VOTE.)

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CHAIR NOLAN:

We will close the hearing on A.B. 493 and open the hearing on A.B. 289.

**ASSEMBLY BILL 289**: Exempts the rental or lease of certain space at certain local governmental airports from requirements relating to appraisals and public auctions. (BDR 44-344)

CHAIR NOLAN:

I will turn the Committee over to Senator Washington.

ASSEMBLYMAN TOM GRADY (Assembly District No. 38):

This bill addresses small, rural city airports. The chair of the Assembly Committee on Government Affairs has been working on another bill in an effort to get all parties together for a bill on airports in general. We felt we had an emergency in Yerington, so I have brought forward A.B. 289 at Yerington's request.

The bill focuses on one issue, the lease of city space in an airport owned by a city. Presently, the NRS states that the city must obtain two appraisals, advertise in a local paper, have a public hearing, etc. to collect about \$100 a year in leases for a T-hangar-type lease. This bill will allow the city, after a duly noticed public hearing, to lease an area for a T-hangar.

DAN NEWELL (City Manager, City of Yerington):

Airports are a large part of small community economies. Local leaders know what they need to make their airports work. That, of course, is airplanes leasing hangar space. Current law makes the leasing process so cumbersome and expensive that it is easier and cheaper to let the aircraft owner lease a lot from another airport.

Current law requires local governments to get not one, but two appraisals on airport lease lots and then auction the lease before awarding it. These appraisals are cost-prohibitive, especially for a small airport, costing an average of \$3,000 each. An example of this high cost would be leasing a 1,000 square

foot T-hangar lease lot at 20 cents a square foot, for a \$200-a-year lease payment to the city. With a cost of \$3,000 for each appraisal, it takes the community 15 years to get back the appraisal fee. This becomes increasingly difficult with a five-year lease in that a community may never get its money back.

Assembly Bill 289 allows local leaders to lease property to aircraft owners without the extra expense of appraisals and the auction procedure. This bill deals with local control for leasing airport property, and I ask for your support.

SENATOR LEE:

You have not been required to get professional appraisals in the past. Did this just come up? Are we codifying something we have been doing for years?

MR. NEWELL:

This was brought to our attention by our city attorney, who was doing research on something else and found this.

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

We believe this a good bill. It will be a benefit to other smaller communities.

SENATOR LEE:

This is for populations less than 40,000. Are we capturing all the right people so it will not have to be done again?

ASSEMBLYMAN GRADY:

We asked the same question. Technically, Lyon County is over 40,000 now. We were told by the Legal Division to use the last census. That is what we will use until the next census. If we are required to adjust the figures after the next census, they will be adjusted at that time.

SENATOR LEE:

Is 100,000 the next level?

ASSEMBLYMAN GRADY:

I believe the next level is 75,000. The reason we went with the smaller number is that we did not want to get involved with any commercial airport. Elko has a commercial airport, and there is a lot of commercial business done at the



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Douglas County airport. We tried to make it narrow and not open it up to other than T-hangars at small airports.

SENATOR LEE:  
That is a smart idea, Assemblyman Grady.

ASSEMBLYMAN GRADY:  
The bill currently in the Assembly Committee on Government Affairs will cover everything. It will address all of the other airports.

SENATOR WASHINGTON:  
We will close the hearing on A.B. 289. There being no further business, the meeting of the Senate Committee on Transportation and Homeland Security is adjourned at 3:48 p.m.

RESPECTFULLY SUBMITTED:

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Carolyn Allfree,  
Committee Secretary

APPROVED BY:

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Senator Dennis Nolan, Chair

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