

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

**Seventy-fourth Session
April 10, 2007**

The Senate Committee on Transportation and Homeland Security was called to order by Chair Dennis Nolan at 2:30 p.m. on Tuesday, April 10, 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:

Senator Barbara K. Cegavske, Clark County Senatorial District No. 8
Senator Dean A. Rhoads, Rural Nevada Senatorial District
Assemblyman Kelvin D. Atkinson, Assembly District No. 17

STAFF MEMBERS PRESENT:

Elana Graham, Assistant to Committee Manager
Lynette M. Johnson, Committee Secretary
Dan Lindholm, Intern to Senator Nolan
Nicholas Marquart, Intern to Senator Nolan
Michael J. Stewart, Principal Research Analyst, Research Division, Legislative Counsel Bureau
Matt Szudajski, Committee Policy Analyst

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Sharon Wilkinson, Committee Counsel
Carolyn Allfree, Committee Secretary

OTHERS PRESENT:

Susan L. Fisher, Nevada Powersport Dealers Association
Gary Clinard, Nevada OHV Owners
Michon R. Eben, Cultural Resource Coordinator, Reno-Sparks Indian Colony
David K. Morrow, Administrator, Division of State Parks, State Department of Conservation and Natural Resources
Gene Kolkman, Nevada Responsible Trails Alliance
Carrie Sandstedt, Nevada Responsible Trails Alliance
John Hiatt, Red Rock Audubon Society
John Glenn, Nevada Powersport Dealers Association
Wayne Fischer, North Tahoe Snow Travelers
Ken Freeman, Southern Nevada Off-Road Enthusiasts
Doug Hunt, Deputy Director, Department of Wildlife
Clay Thomas, Deputy Director, Department of Motor Vehicles
Dan Heinz
Jacob Snow, General Manager, Regional Transportation Commission of Southern Nevada
Gary Young, President, outdoor promotions, incorporated
Fidel Calixto, Manager, Engineering, Regional Transportation Commission of Southern Nevada
Judy Stokey, Director, Government Affairs, Nevada Power Company; Sierra Pacific Power Company
Kent Cooper, Assistant Director, Planning Division, Nevada Department of Transportation
Sabra Smith-Newby, Director, Intergovernmental Relations, Clark County
Denis L. Cederburg, Director, Public Works, Clark County
Shaun E. Jillions, City of Henderson
Ted J. Olivas, City of Las Vegas
Margaret McMillan, EMBARQ
Steve Schorr, Vice President, Cox Communications
Debra Jacobson, Director, Government and State Regulatory Affairs, Southwest Gas Corporation
Michael D. Geeser, AAA Nevada
Robert L. Compan, Farmers Insurance Group

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Derek W. Morse, Deputy Executive Director, Regional Transportation
Commission of Washoe County
Cotter C. Conway, Washoe County Public Defender's Office
Chris Perry, Colonel, Chief, Nevada Highway Patrol, Department of Public
Safety
Gary Schmidt
Martha Barnes, Administrator, Central Services and Records Division,
Department of Motor Vehicles
Virginia (Ginny) Lewis, Director, Department of Motor Vehicles
Gary Peck, American Civil Liberties Union of Nevada
Janine Hansen, Nevada Eagle Forum

CHAIR NOLAN:

We will open the hearing on Senate Bill (S.B.) 434.

SENATE BILL 434: Revises provisions governing off-highway vehicles.
(BDR 43-400)

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

I have provided you with a printed copy of my statement, which is an overview of discussions by the Legislative Committee on Public Lands during the 2005-2006 interim regarding off-highway vehicles (OHVs) ([Exhibit C](#)).

I would like to ask Michael J. Stewart, Principal Research Analyst, Research Division, Legislative Counsel Bureau (LCB), to walk you through the bill.

MICHAEL J. STEWART (Principal Research Analyst, Research Division, Legislative Counsel Bureau):

The LCB is nonpartisan and, as a member, I cannot take a position on any measure. I served as the staff person for the Legislative Committee on Public Lands and I will briefly go through the highlights of S.B. 434, as outlined in [Exhibit C](#).

SENATOR RHOADS:

The Committee on Public Lands understands there are some concerns with the bill, as written. Many experts have been working on this for 18 months. Some of them are here and will be offering their suggestions.

CHAIR NOLAN:

We have been dealing with this issue for at least six years. There are two divergent ideas of how OHVs should be regulated. We are still at an impasse with regard to those individuals and organizations, which have some very deep-rooted ideas about how OHV use should be regulated.

SENATOR RHOADS:

Six or eight year ago, nobody wanted anything. All of a sudden, during the last two years, people started getting concerned and, now, they do want some regulations.

CHAIR NOLAN:

The bill is the Committee's bill now. I have had discussions with different parties and different interests who say they will or will not support the bill, depending upon what the Committee does. I would like to see this legislative body do something, and I do not expect anybody to be completely happy with everything we do.

SENATOR LEE:

I have heard from people on both sides of the issue, also. Does this bill apply to nonresidents?

SENATOR RHOADS:

I think it applies only to residents of Nevada.

MR. STEWART:

I believe there is a certain period of time in which a person must register after receiving ownership. I think the bill calls for 30 days.

SENATOR LEE:

If I have a friend from out of state bring his OHV into the state and I am out riding with him, would I have any liability?

SENATOR RHOADS:

We never discussed that in committee.

SENATOR HECK:

Is the reason for the Class 2 certificate to grandfather the vehicles purchased prior to January 2008? I note that anyone who purchases an OHV after

January 2008 must apply for a certificate of title. Why are there two separate certificates?

MR. STEWART:

I believe the Class 1 certificate applies to those who have a title and Class 2 to those who do not. Others may be able to give you a more definitive answer.

SUSAN L. FISHER (Nevada Powersport Dealers Association):

We support this bill. There are a couple of housekeeping issues. Mr. Stewart stated that the makeup of the proposed committee is 14, but it is 12. The committee would be comprised of seven voting members and five nonvoting members.

In response to Senator Lee's question, an out-of-state visitor can be here for 90 days, if they are here visiting. If they have moved here and are a resident, they have 30 days in which to register, the same as for any other motor vehicle. Currently, there are 39 other states with OHV registration programs. If someone is visiting from a state that has a program in place, they have reciprocity. Currently, someone from Nevada who goes to another state to ride must purchase a season pass. If we have a program in place, he would not have to buy the season pass to ride in another state.

The bill is not clear about where the funds go. Part of the funds goes to the Department of Motor Vehicles (DMV) to cover its costs for the registration and titling. In addition, the authorized dealers in the state are willing to do registration in-house and submit the data and the funds to the DMV to help build their database. It is not clear that other funds go the Division of State Parks. We need to clarify that the Division of State Parks is made whole for overseeing the OHV program.

This is now the fourth session this body has taken up this issue. Last session, we took a baby step with the sticker program, which has been fairly successful. There are about 2,500 stickers on bikes now. We have been collecting some data. The stickers did not get distributed to dealers to give to OHV owners until toward the end of summer and we did not have a lot of time to get them out. This session, we would like to add a little more. This is modeled precisely after the Idaho program, one of the most successful programs in the nation.

I have provided you with a letter to David K. Morrow, Administrator, State Department of Conservation and Natural Resources, Division of State Parks, from David W. Claycomb, manager of the Idaho Parks and Recreation OHV program ([Exhibit D](#)). I have also provided, for your information, a letter written to Senator Nolan from Dick Dufourd, Trail Consultant, RecConnect, LLC, Bend, Oregon ([Exhibit E](#)).

CHAIR NOLAN:

With regard to amendment, you would like us to include the Division of State Parks in the distribution of funds. Is that correct?

MS. FISHER:

That is correct. The funds would be for administration, because they will be overseeing the advisory committee.

GARY CLINARD (Nevada OHV Owners):

The main reason we are doing this is that the OHV community cares about its future. We looked at which states were successful in their programs and which states were unsuccessful. Several sessions ago, there was almost universal contempt on the part of OHV users for a program like this. Probably the biggest fear of the users was that a program would turn into what has developed in California, where the OHV committee has been taken over by hostile forces, so to speak. The money is not used for the improvement of the sport, but is used against it. This has caused OHV users to resist any kind of registration or legislation.

We have modeled our program after Idaho's very successful and respected program, where a lot of good things are done on the ground. There is little overhead and administrative cost. The users support it and they supply the kinds of information, education and critical maintenance necessary to help the sport and the environment.

We probably need to tweak the bill a little, but we do not want to get into a position of unacceptable California-style legislation.

CHAIR NOLAN:

How many members do you have in your organization?

MR. CLINARD:

This is an organization of different clubs and associations. There are several thousand altogether.

CHAIR NOLAN:

In the discussions I have had with all parties involved, everybody seems to be fine with paying registration fees. The opposition comes in two forms: where is the money going and how will it be used, and who is making that determination? These cause the greatest level of discord among the different organizations. Is that a fair statement?

MR. CLINARD:

Yes, that is a fair statement. Again, we are basing our model on Idaho's success, where the funds come from different geographical areas and different types of users, with some advisors from state agencies and the conservationist community.

The grant money ought to be used to solve problems, e.g., if there is a problem, such as an environmental issue or an area that is being torn up, what can be done? One of the problems now is that agencies, such as the Bureau of Land Management (BLM), cannot use funds for studies and planning. We feel that the grant money should be used to make things happen: a study, planning, environmental assessment, whatever is required to solve a problem. We want to solve OHV problems and we think a responsible committee, with its hands not tied, is the best possible approach.

SENATOR CARLTON:

I have heard users say that they are afraid the trails are going to start being closed. They say that if they do not start getting proactive about regulating their own, they are afraid they will lose access to those trails. Is that an accurate portrayal of some of the concerns?

MR. CLINARD:

Yes, that is accurate. Most of the land used for recreation in Nevada is federally owned. It is managed by the BLM and the U.S. Forest Service (USFS). The regulation on use is done by the federal agencies. They are strapped for funds. We want a little money and a grant program to solve problems. It can be done by volunteers, with matching grants and study grants to solve environmental or access issues.

SENATOR CARLTON:

Do you see any of these funds being used in legal matters to keep certain trails open? The last thing I want to do is see this money ending up in a court battle.

MR. CLINARD:

Legal expenses are not in the list of uses for the funds.

SENATOR CARLTON:

I want to be sure that is clear, because some folks are thinking this money could be used for that. I wanted to have it on the record that is not the intent.

MR. CLINARD:

That is certainly not the intent. This is a proactive program. We want to do something ahead of time. This is a user-created, self-taxation system. We are willing to step up and pay the fees and begin a process. There is currently nothing in Nevada available for doing that.

SENATOR CARLTON:

That brings to mind the Governor's statement on fees and taxes. Today, on the Senate Floor, we watched an innocuous physical therapy bill get defeated because a fee was involved. Can anyone speculate on that particular part of this problem?

MS. FISHER:

I have spoken extensively with the Governor's Office on this particular issue. His policy statement states clearly that he is opposed to any new fees or taxes, unless there is support from those who will bear the new fee. We have a lot of support from the OHV community. I have told the Governor's office about the support, they have been receiving numerous letters and you have received a number of e-mails and letters. You have before you a letter from Anthony Z. Livreri, the president of the Motorcycle Racing Association of Nevada ([Exhibit F](#)). They have well over 1,000 members and are in support of the bill.

The Governor's Office could not tell me definitively that it will be approved, but the odds are good.

SENATOR CARLTON:

We have to get it past the Senate, first.

CHAIR NOLAN:

We try to look at policy issues, but we are concerned that we do not waste our time on a bill that will not succeed. If I had not had support from both sides, we would not be hearing this bill today.

MICHON R. EBEN (Cultural Resource Coordinator, Reno-Sparks Indian Colony):

I am a resident and a Reno-Sparks Indian Colony (RSIC) Tribal Council member. Our community in Hungry Valley is surrounded on three sides by BLM public land that is heavily used by OHVs ([Exhibit G](#)).

The RSIC supports S.B. 434, as long as it includes two items ([Exhibit H](#)). We will be asking for an amendment from the Assembly.

SENATOR HECK:

Section 13 does not say where the sticker should be affixed or whether it needs to be visible. I could find nothing in the bill addressing that issue.

MS. FISHER:

We favor as large a sticker as possible that will fit on a dirt bike or any OHV. California's sticker is a good example. The regulation is specific on where the sticker should be placed on each type of vehicle, the stickers must be reflective and the identification number large. We would be happy to put sticker language into the bill.

CHAIR NOLAN:

Ms. Eben, our legal staff has your conceptual idea to include either a tribal member or somebody with more of an environmental background on the makeup of the committee.

DAVID K. MORROW (Administrator, Division of State Parks, State Department of Conservation and Natural Resources):

We oppose S.B. 434. However, some of our opposition has been tempered by discussions with the supporters of the bill. We would need to reevaluate it, based on the amendments they have recommended. These include funding to cover the costs associated with our involvement in the program.

I have provided you with a copy of my statement ([Exhibit I](#)). We are concerned that the bill does not delineate the responsibilities of the Division of State Parks in relation to the committee on OHVs. Those responsibilities need to be clearly

stated and outlined. Simply indicating that it would be the responsibility of the committee does not provide for sufficient oversight. Our opposition to the bill will stand until we see amendments that address those concerns.

We appreciate and support all of the efforts that have gone into this legislation. We also realize there is a demonstrated need for registration and for promoting OHV use and opportunities. With the support and direction of the Legislature and the Governor, we would be willing to work with the OHV community to address our concerns.

I would add that this is not part of the Governor's recommended budget for us, so we will be concerned about our involvement, based on the Governor's opinion on the overall legislation.

CHAIR NOLAN:

To summarize your opposition, your concerns are funding to administer the program and the makeup of the committee that would be overseeing this program. If you have any suggestions as to how we can make it a more fair and equitable committee for you to work with, tell us, and we will put it on the record and consider it for an amendment.

MR. MORROW:

It is not so much the makeup of the committee; it is the description of the involvement of the Division of State Parks in working with the committee and the responsibilities the Division of State Parks has in auditing and overseeing the monies that come into the account. We think that should be spelled out clearly, with language similar to what is used in the Recreational Trails Program, which is a successful federal program that we administer.

We also feel strongly that our participation would be dependent upon approval of the Governor.

CHAIR NOLAN:

We will have staff look up the federal program and try to incorporate some of your suggestions into an amendment.

GENE KOLKMAN (Nevada Responsible Trails Alliance):

I live in Ely and have owned all-terrain vehicles ever since I can remember. I got involved in this issue because, as an OHV owner and user, I have seen a

proliferation of roads and trails over the last decade that are beginning to have an unacceptable impact on the landscape. Every time we have evaluated those impacts, managing OHVs has been an important component. There is more to managing OHV use than just licensing them.

The piece that concerns us most, aside from registration and an identifiable tag, is that a balanced board administer the fund. We can demonstrate, time and again, how small groups of like-minded people get together with the best of intentions, design something, put a lot of energy and commitment into it and, toward the end, find a lot of people coming out of the woodwork who are opposed to it and kill it.

We have a similar situation in Ely on a wonderful proposal. Some local landowners were left out, some adjoining ranchers were left out, some conservationists and environmentalists who use the area were left out and sportsmen were left out. Now, two years after the effort was started, those folks are fighting the proposal. We need to see that kind of input brought in at the front of this process, rather than at the end.

CARRIE SANDSTEDT (Nevada Responsible Trails Alliance):

We want to thank Senator Rhoads and the Committee for addressing this issue. We are unenthusiastically opposed to S.B. 434. In principle, it is a good idea. You have in front of you our proposed amendments ([Exhibit J](#)) as well as some of our analysis of this bill ([Exhibit K](#)). What we would like to see in this legislation is a diverse and balanced committee, increased safety measures, including adequate law enforcement and safety requirements for minors and a unique, identifiable tag.

We are not advocating limited use; we are advocating for responsible use of OHVs and comprehensive planning. I agree with Mr. Clinard that grant money needs to solve problems. Directions for how these funds are spent should be included in this legislation. We do not support fees going to a committee that does not have balanced representation and does not have oversight by a State agency.

SENATOR LEE:

The makeup of the committee seems to be the biggest issue. The OHV committee might be a little heavy on the people within the industry, but this amendment completely turns it around. It is skewed the other way, now.

MR. KOLKMAN:

It is important to understand that most of these improvements are going to occur in rural areas. The people who will be directly impacted will be the local ranchers who run livestock, local sportsmen who hunt in the area, a local ecologist or mountain biker. We are trying to find a way to get a local balance so we get some recognition of the ecology of the area with the other dominant uses, so they can be compatible.

SENATOR LEE:

If that is the case, you can separate Nevada into five regions and have one person from each region on the committee. It seems to me, you are including a lot of people who do not know what is going on behind Cave Lake or other parts of the State, but you are expecting them to be experts concerning the whole State.

CHAIR NOLAN:

We are on a fact-finding mission. This Committee will take as much information as we can and come up with what we think will work, based upon the testimony.

SENATOR CARLTON:

You were working together for a while and things were going well, then they were not. I would like to know what you agreed to before the negotiations broke down. There is no reason to recreate what you, in the past, agreed to. I would like to know where it fell apart so I can start from there and move forward.

JOHN HIATT (Red Rock Audubon Society):

I oppose S.B. 434, as presently written, because it does not address the needs of the environment, it is not fair and balanced and does not have a visible sticker component. I support the position of Ms. Sandstedt and Mr. Kolkman. We need registration of OHVs in the State, but this bill does not do the job.

JOHN GLENN (Nevada Powersport Dealers Association):

The reason I got involved in this is that Nevada powersports dealers lose 38 percent of their business to out-of-state buyers. That equates to millions of dollars in tax revenue and \$30 million in revenues to the dealers. This is a sales tax issue. People who buy vehicles out-of-state should pay the use tax, but most do not, and they do not get caught. This is a bill about registration, not

about regulations on public land. Regulations on public land are set by the BLM and USFS. We are not opposed to OHV regulation; it is the next step.

WAYNE FISCHER (North Tahoe Snow Travelers):

I have submitted a written statement ([Exhibit L](#)) and I will summarize some of the points. The snowmobile community does support this bill. I would like to point out that we, as recreational vehicle people, proposed this bill. We are looking for a proper balance between environmental, social and economic issues. The rural counties, in particular, could use more revenue. We need more control, regulation and law enforcement. What the proposed committee will do will be totally open; it will not be done in the dark. The environmental people will know what we are doing and we will listen to their needs. The state of Idaho and Lassen Volcanic National Park in California have successful snowmobile programs.

KEN FREEMAN (Southern Nevada Off-Road Enthusiasts):

Our group supports this bill. It is time to start licensing and making the owners of OHVs responsible for their actions. An incorrect statement was made earlier regarding public land available for OHV use. Only one percent of public land in the State is open; the rest is either closed or limited-use, which means only existing trails and routes may be used. In Clark County, where over 66 percent of the OHVs are presently operated, only 10,000 acres are set aside as an open area. With this bill, there may be some way to designate trails and keep these areas open for the future. I have some misgivings about the State Parks being in charge of the funds, since OHVs are not allowed in the State Parks.

Our organization would like to see some kind of training of minors, so they know the rules and regulations and are responsible users.

CHAIR NOLAN:

How many members are in your organization?

MR. FREEMAN:

We currently have 1,400 members.

CHAIR NOLAN:

Your membership is in support of paying registration fees. Is that correct?

MR. FREEMAN:

Yes, we are. We have come to the conclusion that it is better to be a part of this and get something we can live with, rather than to stand on the side.

DOUG HUNT (Deputy Director, Department of Wildlife):

We recognize that this legislation is not in the Governor's budget. It has moved in a positive direction over the past several sessions. However, as we heard earlier from Ms. Eben, there are law-enforcement issues. According to section 10, subsection 2, the committee " ... may award a grant of money from the Fund for ... " law enforcement, among other things. Our concerns relate, largely, to the law-enforcement component.

We have had discussions with the proponents of the bill and others and discussed our force of 32 terrestrial game wardens. At this point, we must oppose the bill because it is difficult to run a law-enforcement program on a grant of money which may or may not be provided. With that and the education component, we must oppose the bill.

CHAIR NOLAN:

To summarize your opposition, the lack of funding for law enforcement is your primary opposition.

MR. HUNT:

That is correct, that and the education component. In our boating program, we have a law-enforcement and boating-education program. We would like to see something similar in this bill.

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

I am here in opposition to S.B. 434. As I have testified in the past, we do not believe the DMV is the appropriate agency to implement or administer an off-road program. Article 9, section 5 of the *Nevada Constitution*, and chapter 408 of the *Nevada Revised Statutes* (NRS) specifically require all money from the State Highway Fund be used exclusively for the construction, maintenance and administration of the Nevada highways.

Since the DMV is a highway-funded agency and, absent an appropriation from other sources, its sources must be used in the furtherance of the State highway system. By definition, OHVs do not fall within this category. Instead, their use and regulation are related to the use of public lands and recreational

opportunities within the State. Both areas, which are general governmental issues by nature, are already provided for within NRS chapters 407, 488, 501 and 548.

Specifically, the Commission on Natural Resources, through the State Department of Conservation and Natural Resources, and the Department of Wildlife govern the use of renewable natural resources, which include public lands and recreational activities. Clearly, OHVs are related to public lands rather than highway systems. As such, the registration, titling and regulation of OHVs would more appropriately fit under one or both of these agencies.

Senate Bill 434 identifies the DMV as the agency responsible for administering this program. A fiscal note has been prepared, based upon limited verifiable information as to the actual number of OHVs operating in the State and assumptions made from the drafted language. Further, although not necessarily for this Committee to consider, is the issue of start-up costs necessary for the implementation of the program. Consideration needs to be made concerning from which funding source, general or highway, the monies will be drawn. Although the bill implies the program will be self-funding, start-up monies will be necessary for the implementation.

Another concern is section 14, which mandates that the OHV owners, with few exceptions, possess a certificate of operation and have the sticker attached to the vehicle. Nowhere in the bill is enforcement addressed to ensure compliance. Without enforcement, the program remains voluntary. The lack of willingness to voluntarily possess a sticker is demonstrated by the minimal number of stickers issued since October 2005, when the sticker program went into effect. The number issued from October 2005 through February 2007, which is 17 months, was 2,480.

Even if broad language is written into the bill giving all law-enforcement agencies the authority to enforce this provision, the issue of noncompliance will not be eliminated. The majority of police agencies concentrate their operations where the populace resides and patrol city streets and highways, not dirt trails or the wide-open expanses of undeveloped areas where these types of vehicles will be operating.

To underscore this issue of noncompliant registration, the Legislature needs to look no further than the problem this State faces pertaining to individuals who

reside and work here, but fail to register their personally owned vehicles. The bottom line is that law enforcement needs to be where the violations are occurring and this bill fails to take that into account.

Additional issues that need to be addressed are administrative fines, which do not exist in the law-enforcement community; time frames for the submission of the funds by an authorized dealer, which is in direct conflict with NRS 353.250; and the Class 2 certificate, which is valid in perpetuity, even after the vehicle is sold. A difficult task for whatever agency administers the program will be the ability to confirm the rightful ownership. This bill exempts vehicles manufactured before January 1, 1976, from having to obtain a certificate of operation. That means any OHV 33 years old or newer will have to be registered or titled. The odds of having proof of ownership for the majority of these vehicles will probably be minimal. The ability to properly establish an ownership documentation trail will be improbable, if not impossible.

CHAIR NOLAN:

The information you have provided is critical to our decision-making process.

DAN HEINZ:

I reside about 90 minutes north of Reno on an isolated tract of land. I agree with most of what has been said in opposition to S.B. 434. I am retired from the U.S. Forest Service, have administered a number of OHV programs and have participated as a citizen. In other words, I have experience on both sides of the desk.

One of the things that makes this a difficult issue is that too many off-roaders have no idea of the impact they have on nonmotorized uses. It is hard to work out a compromise. It is much like a smoker in a roomful of nonsmokers. The nonmotorized do not necessarily agree among themselves. There are hunters, horseback riders, hikers, bicyclists, ranchers and bird watchers. Few hunters will be comfortable with Sierra Club environmentalists representing their interests.

We need careful prioritization of the expenditure of funds in the legislation. Education, enforcement and restoration of existing damage should come first. I would like to emphasize that an identification tag on the rear of the vehicle is important for law enforcement. Most citizens are timid about walking around the side to get the number. It will be more effective if they can get a number as

the vehicle leaves. I have had conversations with administrators of the Charles M. Russell National Wildlife Refuge in Montana. They require traditional license plates on the rear of the vehicles and find it helps a great deal.

CHAIR NOLAN:

We will close the hearing on S.B. 434 and open the hearing on S.B. 417.

SENATE BILL 417: Enacts provisions to facilitate the construction and maintenance of benches, shelters and transit stops for passengers of public mass transportation in certain counties. (BDR 32-955)

SENATOR JOHN J. LEE (Clark County Senatorial District No. 1):

Senate Bill 417 will allow bus shelters to be built behind sidewalk areas of public easements for transit-rider safety. Our goal is to move people off the sidewalk and out of the street. If a shelter must be moved for construction or utility repair, the shelter contractor will remove the shelter and relocate it until work is finished, then reinstall the shelter at no expense to the utility.

JACOB SNOW (General Manager, Regional Transportation Commission of Southern Nevada):

I have provided you with a written copy of my remarks ([Exhibit M](#)). We have some pictures we would like to show you ([Exhibit N](#)). We have made a lot of progress since last session in getting a number of new bus shelters out in the community. We have had a lot of input from the community. Gary Young, of outdoor promotions, incorporated, was successful in a competitive process to obtain the contract for all of the bus stop shelters in Clark County. We anticipate a tripling of the revenue from bus stop shelters and, as part of the contract, a doubling of the maintenance on those shelters.

We have had a lot of input for the new design of shelters. We had old equipment which sent the message to the community that the bus system is a second class form of transportation. We feel the shelters should look nice and be well maintained.

One thing that concerns us in this bill is that the shelters are on the sidewalk where they become a barrier to pedestrians and to individuals in wheelchairs. Additionally, errant vehicles sometimes get on the sidewalk, causing significant injuries and death. This bill will allow us to improve the safety of those who use this system.

There is an amendment that we are supporting ([Exhibit O](#)), which reflects our ongoing commitment with the county and the cities on where the shelters ought to be located. We will coordinate with our traffic engineers. We have been in contact with the planned communities in the valley and support an amendment they have provided ([Exhibit P](#)). They do not want a bus shelter to appear when they are not expecting it, and have asked for 30 days' notice. We think that is reasonable.

To be successful, we need this program to be consistent. We bear responsibility for providing the shelters and we are committed to working with the municipalities to coordinate their placement. This bill will help us to accomplish that.

GARY YOUNG (President, outdoor promotions, incorporated):

I brought two photographs that illustrate the situation we face ([Exhibit Q](#)). One picture is of a shelter on the sidewalk. You can see how the people are dangerously close to automobile traffic. It is this way at many of the stops. The other photograph represents a shelter we installed during the past year. It was installed with a concrete pad, which we provided. This is on a public right-of-way or utility easement which allows for a concrete pad and installation of the shelter off of the sidewalk.

SENATOR LEE:

Henderson currently allows this scenario within their municipal code, but the other entities do not have it within their codes. We are trying to get a uniform easement-applicability law with which Mr. Young and Mr. Snow can work. That is why we are here today.

CHAIR NOLAN:

I would like to commend the Regional Transportation Commission (RTC) and Senator Lee for their public concern in providing shelters.

SENATOR LEE MOVED TO AMEND AND DO PASS S.B. 417 WITH THE AMENDMENT SUBMITTED BY THE REGIONAL TRANSPORTATION COMMISSION OF SOUTHERN NEVADA, DATED APRIL 10, 2007.

SENATOR WOODHOUSE SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR AMODEI WAS ABSENT FOR THE VOTE.)

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CHAIR NOLAN:

We will close the hearing on S.B. 417.

We will reopen the hearing on S.B. 417. We have an amendment reflecting the concerns of a common-interest community and requesting a 30-day notice in writing prior to commencement of the installation of any benches or shelters.

We will have to rescind our action and take a new vote.

SENATOR LEE:

I did not realize there was another piece of paper; I thought it was combined with the other amendment.

SENATOR LEE MOVED TO RESCIND THE PREVIOUS ACTION TAKEN ON S.B. 417.

SENATOR WOODHOUSE SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR AMODEI WAS ABSENT FOR THE VOTE.)

* * * * *

MR. SNOW:

We are supportive of both amendments.

SENATOR LEE MOVED TO AMEND AND DO PASS S.B. 417 WITH THE AMENDMENTS FROM THE REGIONAL TRANSPORTATION COMMISSION OF SOUTHERN NEVADA AND THE COMMON-INTEREST COMMUNITY.

SENATOR WOODHOUSE SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR AMODEI WAS ABSENT FOR THE VOTE.)

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CHAIR NOLAN:

We will close the hearing on S.B. 417 and open the hearing on S.B. 350.

SENATE BILL 350: Requires regional transportation commissions to take certain actions to minimize the impacts of street and highway projects. (BDR 32-1311)

SENATOR JOYCE L. WOODHOUSE (Clark County Senatorial District No. 5):

I have provided you with a copy of my statement ([Exhibit R](#)). I have also provided you with a copy of the minutes of April 14, 2005, hearing on S.B. No. 322 of the 73rd Session ([Exhibit S](#)). If that bill had passed, it would have required the RTCs to take certain actions to minimize the impact of certain street and highway projects. However, the parties involved agreed to convene a consortium and work on the problems identified. After you hear their report today, you may find this present bill unnecessary.

MR. SNOW:

The consortium has met more than a dozen times during the interim. Road work is an important part of our ability to provide utility service, new homes and road capacity for 100 new cars a day in southern Nevada. You sent us a letter which summarized this Committee's desires, and we want to show you some of the progress we have made in response to things you specifically told us we should have as goals ([Exhibit T](#)).

The stakeholders who participated in the meetings all participated in good faith and strove to help improve the situation. One of the issues raised by those stakeholders was that the RTC has the statutory authority to impose proposed changes only on those roadway projects funded by the RTC, which comprise just a fraction of the projects involved in tearing up roads and putting out cones. The majority of the projects come from private development and utility work. The RTC is not responsible for issuing encroachment permits to the utilities or private developers. That is done by the cities and counties.

We now go through an extensive review and coordination process to ensure that utility conflicts are resolved. We have made some changes in our contracts to incorporate resolutions and construction plans approved by the county and cities, to ensure that we have conflict resolution. The traffic-control plans are accepted and approved by the agency having jurisdiction and ownership of the right-of-way. The agencies consider peak travel times, detours and working hours.

We use project contract avoidance Web software (PCAWeb) to coordinate projects. Because of this coordination, the projects are going to take longer than they used to, but that is a good thing. We will not be finishing one project only to have someone else come three months later and dig up the road again. Where we can, and where the utilities are able to get funding, we bundle the projects together. There are certain types of projects that must be done during certain seasons. We try to take that into account when we coordinate the projects.

The RTC hosts a monthly utility coordination committee, with representatives from all of the stakeholders. The stakeholders are the local governments, the utility companies and the various private and not-for-profit agencies. They have made commitments to us and to you on the Committee to participate fully in this process. All member agencies adhere to our five-year, no-cut policy. If for any reason they do not, they have to replace the entire section of pavement; they cannot just patch it.

The RTC has standard specifications that contain provisions to address traffic and transit access. We will avoid tearing up an entire section of road and bypassing a number of transit stops. We have a bigger commitment from the county and cities not to do that. As part of our monthly meetings, we have created a geographic information system coverage that shows all of the bus stops.

We follow the federal government's Manual on Uniform Traffic Control Devices for placing cones and barricades.

CHAIR NOLAN:

It is a common complaint that cones go out days before construction begins and roads close prematurely, and the signs and cones remain days after a project is finished.

MR. SNOW:

Our utility companies and member agencies are using some innovative construction techniques in order to minimize delay. There is often a perception that cones are out when no work is taking place, because people cannot see any workers or equipment. However, there are actually open manholes and people working underground.

Sometimes cones are out and should not be. We have had major support from the Associated General Contractors, who have sent out a letter to their member contractors. A public safety issue is involved. We will ensure the safety of the traveling public, yet not unnecessarily impede their travel.

We have made provision for improved public access to construction information. We have a proposed new construction sign that is easier to read and has contact information, [Exhibit T](#), page 7. The county and the cities have made a commitment to us to staff the phone lines. As stated earlier, the RTC is involved in only a fraction of the construction projects. The other stakeholders have agreed to a generic sign for non-RTC projects, [Exhibit T](#), page 8.

CHAIR NOLAN:

I appreciate the work that has gone on to accomplish what we set out to do. We appreciate your leadership.

SENATOR LEE:

Are RTC jobs inspected by the municipalities or do you have your own inspectors?

MR. SNOW:

We use both. We employ one full-time construction inspector who goes to all the RTC-funded projects. The entity doing the design and construction management of a project employs its own inspectors.

SENATOR LEE:

I know that sometimes it is hard to get signed off on some of these projects because the entity's inspectors do not go out in a timely manner. Was that discussed?

FIDEL CALIXTO (Manager, Engineering, Regional Transportation Commission of Southern Nevada):

That issue was not discussed. It is an ongoing issue with the agencies who contract or permit the work. It is an agency issue and not an RTC issue.

SENATOR LEE:

Is there some way we can speed up the process?

MR. CALIXTO:

It can be accomplished. It will take some time, but we can work toward that.

CHAIR NOLAN:

The intent of this bill is what you are currently doing. Absent your leadership, Mr. Snow, we do not know if this will continue without some type of statutory guidance. It would be our intent that what you have started will continue in perpetuity. I would like your sense of the legislation and whether we need to move forward to guarantee that this cooperative process will continue.

MR. SNOW:

We heard you when you told us we had some problems and needed to fix them. Based upon the commitment I have seen, I believe the stakeholders heard you as well. There were aspects of the bill last session that we did not want to see. We did not want the RTC to become a permitting agency for everybody who wanted to dig in the street; we are not set up for that function. With this working group and the cooperation we now have, we have met the spirit of the law and, for the most part, the letter of the law. I would like to recommend that you continue to hold us accountable. If you find that we do not take the commitment seriously, look to legislation at that time.

CHAIR NOLAN:

Has the working group been formalized at the county level, with the approval of the county commission?

MR. SNOW:

It has not been taken to the county commission, but it is a standing monthly committee at the RTC. Our new conflict-avoidance software has been very successful and, so far, everybody is onboard.

JUDY STOKEY (Director, Government Affairs, Nevada Power Company; Sierra Pacific Power Company):

I want to go on the record to formally thank the RTC for its leadership in bringing this group together, and thank you, Senator Nolan, for forcing it on the group.

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

We are committed to working with the RTC regarding these issues, have participated on the utility coordination committee and are fully supportive of this effort.

CHAIR NOLAN:

Do you have one person who is formally assigned to attend these stakeholder meetings? Do you participate regularly?

MR. COOPER:

Yes, we have one person who is assigned full-time. Typically, we will have a couple of members at each meeting.

SABRA SMITH-NEWBY (Director, Intergovernmental Relations, Clark County):

We are also in support of the working group and have been working with them.

DENIS L. CEDERBURG (Director, Public Works, Clark County):

We support this effort.

SHAUN E. JILLIONS (City of Henderson):

We feel the working group is working well and appreciate Mr. Snow's leadership.

TED J. OLIVAS (City of Las Vegas):

We, too, support this effort.

MARGARET MCMILLAN (EMBARQ):

EMBARQ was formerly Sprint, the local telephone company in Las Vegas. We have a member on the committee and support the working group.

STEVE SCHORR (Vice President, Cox Communications):

I would like to add my voice. Additionally, I would like to congratulate Jacob Snow and his entire group, especially Mr. Calixto. Mr. Calixto is the one who typically runs the meetings and has done an incredible job. Even when issues developed that created some concern, the working group has done a tremendous job in working out the issues. I think it is because of the leadership Mr. Snow and his team have put forth.

DEBRA JACOBSON (Director/Government and State Regulatory Affairs, Southwest Gas Corporation):

We are members and will continue to work with the group.

SENATOR WOODHOUSE:

I know that, because of the work you are doing, the calls are going to slow down from angry community members and residents. I want to thank all of you.

CHAIR NOLAN:

It seems as though enough stakeholders are involved that, if something goes awry, we will hear from them and the public. Senator Woodhouse's intent was open-ended as to what the Committee should do. Is there any Committee member who feels we need to move further in processing S.B. 350?

SENATOR CARLTON:

I am comfortable with where we are. Did the bill we passed last Session have a sunset?

CHAIR NOLAN:

The bill did not pass. We held off on formalizing a bill and sent a letter on behalf of the Committee, instead.

SENATOR CARLTON:

My recommendation would be to send another letter.

CHAIR NOLAN:

Mr. Snow, we appreciate that you have restored some confidence in our being able to do something without mandating it through legislation. We will send another letter and ask you to keep doing what you are doing.

We will close the hearing on S.B. 350 and open the hearing on S.B. 293.

SENATE BILL 293: Revises provisions governing drivers who are 16 or 17 years of age. (BDR 43-6)

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

Since 1997, I have introduced legislation supporting graduating licensing systems, known as graduating driver's license (GDL). The program is designed to phase beginning drivers into full driving privileges while they mature and develop their driving skills, ensuring that initial experiences are accumulated under low-risk conditions. Since inexperience is a leading factor in traffic crashes involving youth, GDL makes good sense. Injuries resulting from motor vehicle crashes are the number one cause of deaths among teenagers in the United States.

Most of you are familiar with this issue, and I appreciate your support. This bill would add three months to the passenger restriction, for a total of six months. The other thing that came to mind is the issue of who is responsible for allowing a teenager to drive a vehicle without a license. We have parents who have bought cars for children who do not have a license or training, or even a permit.

Police have a program they present at high schools, especially after there has been an accident involving one of the students. I attended such a program. An officer asked for a show of hands of how many had driven without a permit or license, and the numbers were staggering. He then asked how many were there that day with a vehicle but no driver's license. Again, the numbers were staggering. It was more than half. Most had parental consent.

I have a proposed amendment that reflects my original intent for this bill, which is to provide for parental responsibility for any violation of the provisions we have for the GDL ([Exhibit U](#)). It provides that, if the parent or guardian knowingly and willingly allows a person under 18 years of age to operate a motor vehicle without a valid driver's license or permit, the parent or guardian is liable for all fines, fees, assessments and other monetary penalties and restitution the driver may incur.

SENATOR CARLTON:

Does paragraph 1(b) of the amendment apply only to when the parent is allowing a minor to operate a vehicle without the appropriate permit or driver's license? It is not anything other than that, is it?

SENATOR CEGAVSKE:
That is correct.

SENATOR LEE:
If a young adult has a job delivering pizzas and commits an infraction, but had a good driving record when he was hired, is the employer liable, if he did not know the license was revoked or suspended?

SENATOR CEGAVSKE:
No, he is not. This is the responsibility of the parent or legal guardian.

CHAIR NOLAN:
Ms. Wilkinson, please explain the meaning of "knowingly and willfully."

MS. WILKINSON:
"Knowingly and willfully" is a standard phrase used throughout the NRS. "Willfully" simply means intentionally. The two standards are used together throughout the NRS.

MICHAEL D. GEESER (AAA Nevada):
The GDL law which Nevada currently has is a very good one. I hear it in the traffic-safety circles in which I travel throughout the country. One component can be tightened, and Senator Cegavske is trying to do that. Changing the three-month passenger restriction to six months will not only save lives in the State, but could possibly give Nevada the best GDL law in the country. The American Automobile Association (AAA) supports this bill.

SENATOR CEGAVSKE:
I would recommend parents look at the AAA's GDL program. They have a contract for parents and teens to sign, which is excellent, and a compact disk that goes along with it.

MR. GEESER:
I have provided a letter expressing our support ([Exhibit V](#)). Attached to it is a copy of our AAA Parent-Teen Driving Agreement.

SENATOR CEGAVSKE:
Insurance companies have come forward with amazing help for teenagers.

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ROBERT L. COMPAN (Farmers Insurance Group):
Farmers Insurance Group supports this bill. I like the provisions that will put some responsibility on the parents.

SENATOR CEGAVSKE:
Farmers Insurance Group also has a wonderful program for youthful drivers.

SENATOR HECK MOVED TO AMEND AND DO PASS S.B. 293 AS AMENDED.

SENATOR WOODHOUSE SECONDED THE MOTION.

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

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CHAIR NOLAN:
We will close the hearing on S.B. 293 and open the hearing on S.B. 394.

SENATE BILL 394: Makes changes relating to certain traffic violations.
(BDR 43-991)

CHAIR NOLAN:
This is my bill. It is a culmination of a number of concerns regarding traffic safety, particularly in southern Nevada, where conditions are abysmal. This bill addresses reckless driving and intentional careless acts. Law enforcement in southern Nevada would admit that there is no way, with the growth we have, to have officers everywhere they need to be to enforce traffic laws and try to deter what seems to be an ever-increasing number of reckless drivers.

My hope is to promote better traffic safety. Optimizing "SAFETY" as an acronym, there are six components of this bill:

The S is for safe drivers, who will avoid a \$50 penalty. Senate Bill 394 imposes a \$50 penalty for the third and each subsequent moving violation occurring during the period of time between driver's license renewals. The penalty must be paid before a renewed license is issued. Of the proceeds collected, 80

percent will go to the Highway Fund and 20 percent to the State General Fund for use by the DMV.

The A is for aggressive drivers, who will face an enhanced penalty. The current penalty for aggressive driving is a misdemeanor. Senate Bill 394 provides specific misdemeanor penalties, depending upon the status of the offender. A first-time offender will be punished by a fine of at least \$500, but not exceeding \$1,000, or by both fine and imprisonment not to exceed six months; for the second offense, the offender will be punished by a fine of at least \$1,000, but not exceeding \$1,500, or both by fine and imprisonment not to exceed six months; a third or subsequent offense will be punished by a fine of at least \$1,500, but not exceeding \$2,000, or by both fine and imprisonment not to exceed six months.

The F is for providing future penalties for reckless drivers. Currently, the penalty for reckless driving is a misdemeanor. Senate Bill 394 provides specific misdemeanor penalties, depending upon the status of the offender. A first-time offender will be punished by a fine of at least \$500, but not exceeding \$1,000, or both by fine and imprisonment; a second offense will be punished by a fine of at \$1,000, but not exceeding \$1,500, or by both fine and imprisonment not to exceed six months.

Ms. Wilkinson, my understanding is that the six-month penalty is current statute in each of these cases.

MS. WILKINSON:

Yes, currently a misdemeanor is punishable by up to a \$1,000 fine and up to six months in prison. You are increasing the fine and also providing for a minimum fine. Currently, it is \$0 to \$1,000, at the discretion of the judge.

CHAIR NOLAN:

So, for the enhanced and repeat offense, we have a minimum fine. An offender's third or subsequent reckless driving offense will be punished by at least \$1,500, not exceeding \$2,000, or both by fine and imprisonment not to exceed six months. The bill also increases the penalty for reckless driving resulting in death or substantial bodily harm to another from a term of imprisonment between one and six years, a fine or both, to mandatory imprisonment and a fine of not less than \$2,000.

CHAIR NOLAN:

The E is for providing increased penalties to those who attempt to elude law enforcement. A driver who intentionally flees or eludes a police officer when signaled to bring his vehicle to a stop is guilty of a category D felony, which is punishable with imprisonment of at least one year, but not more than four years, and a fine of not more than \$5,000. This offense is currently punishable as a misdemeanor, which is punishable by imprisonment of not more than six months, a fine not exceeding \$1,000 and a fixed period of community service or a combination thereof. The bill increases the penalty for causing death or bodily harm to another while fleeing or eluding a police officer, from a maximum term of 15 years, to 20 years and fine of \$10,000 to a maximum of \$50,000.

The number of high-speed chases that occur as a result of people attempting to elude police officers is common knowledge. The current methodology with law enforcement is to evaluate the danger involved in a pursuit versus the alternative of allowing those individuals to escape.

The T is for making it easier to ticket reckless and aggressive drivers. Senate Bill 394 provides that, if two or more people who are not known to the offender file a complaint with local law enforcement regarding a vehicle operated in a reckless, aggressive or dangerous manner, a local law-enforcement agency may issue a citation to the person who has presumably operated the vehicle. The bill also provides that, if a witness of the vehicle operated in a reckless, aggressive or dangerous manner calls 911, the dispatcher may inform the witness that he may file a complaint with the applicable local law enforcement agency.

This originates from the fact that law enforcement may receive a number of 911 calls and not necessarily find the persons committing the offenses. In addition, a lot of people who drive recklessly and aggressively do so because law enforcement is not present. This provision of the bill provides citizens with the opportunity to help law enforcement find these people.

Finally, under S.B. 394, a person who is convicted of two or more moving traffic violations in unrelated incidents within a 12-month period and is subsequently arrested or issued a citation within that 12-month period, shall appear personally in court with or without counsel. This is an attempt to get around ticket fixers, who serve as legal counsel and go in on behalf of

individuals who may not find the convenience or time to appear personally in court. People who have multiple traffic offenses should stand before a magistrate or judge and address those concerns themselves; it should not be so convenient to have someone else standing in their place.

DEREK W. MORSE (Deputy Executive Director, Regional Transportation Commission of Washoe County):

The RTC supports S.B. 394. Any measure that increases the safety of our transportation system is great, because it also increases the reliability of the transportation system. We would like to offer a friendly amendment to the bill ([Exhibit W](#)). We proposed a new section at the end.

Transit is a significant aspect of maintaining air quality and reducing congestion in our urban areas; it plays a vital role in getting significant numbers of workers to their jobs reliably, safely and economically; it provides mobility for significant numbers of persons with disabilities, many of whom are seniors, to keep them actively participating in society; and transit provides safe, affordable means of getting around for many of our youth.

Key factors in making transit successful are reliability and safety. Our proposed amendment would enhance both of these features. The proposed amendment requires that motorists would be required to allow transit vehicles to reenter traffic after they have pulled off to pick up or discharge passengers. Transit vehicles would be equipped with flashing signal devices on the rear, giving notice of their intent to reenter the travel lane. This system has been used reliably in Oregon for a number of years and is credited with improving the safety of transit vehicles attempting to enter traffic, reducing accidents and increasing the on-time performance of transit.

CHAIR NOLAN:

For the record, Mr. Morse had approached me prior to this hearing for consideration of this bill as an appropriate vehicle for his proposed amendment, since we are dealing with traffic safety, and I was agreeable to having this proposed amendment.

SENATOR HECK:

In southern Nevada I see buses with their turn signals on the entire time they are loading and unloading the bus. They need to merge into traffic, as everybody else does. It is the driver's responsibility to merge safely.

MR. MORSE:

Legislation does not relieve the driver of the responsibility to reenter the traffic lane safely. This proposed amendment has the support of the RTC of Southern Nevada. Many times people are friendly and will allow our vehicles back into traffic, but there is no requirement for them to do so. It creates safety problems when someone is trying to maneuver a big vehicle, with limits of visibility and so much going on in a busy street. This would benefit everyone and certainly would benefit the transit operations, not only in terms of safety, but in staying on time, which we would like to see happen to encourage transit ridership in the urban areas.

CHAIR NOLAN:

We will include the proposed amendment in our work session document when we process this bill.

COTTER C. CONWAY (Washoe County Public Defender's Office):

We are neutral regarding this bill. We support much of the bill, but our concern is with the change in section 7, concerning eluding law enforcement. Currently, a graduated system is in place. It is a misdemeanor for a person to fail or refuse to bring his vehicle to a stop. When he poses a risk or causes damage, it goes to a felony. It does not take much. I can think of a number of cases in which the person did not stop right away or went off the first off-ramp, hoping the officer would not follow. Beyond that, they pose no risk and it should stay as a misdemeanor.

I agree, Senator Nolan, about the high-speed chases and concerns officers have in trying to deal with them, but we are already up to a felony by then. The misdemeanor is important for us to have when we are dealing with someone who simply did not pull over right away or thought they could take the exit and avoid the officer. If the officer sees him and pulls him over, it should not be a felony. I would like this Committee to support the bill, but take out the language in section 7, subsection 1, which changes it from a misdemeanor to a felony.

CHAIR NOLAN:

In accidents where somebody is intoxicated and flees the scene on foot, what are the penalties for conviction of leaving the scene versus conviction of driving under the influence (DUI)? In the last year, I have seen two accidents involving DUI drivers hitting telephone poles. In one case, a youthful driver sheared a telephone pole off and totaled the truck. I pulled over and, after talking with the

driver, knew he had was under the influence of something that smelled like alcohol, and he and his passengers ran away.

In another case, an individual who was being followed by someone else hit a telephone pole, got out of her car and was picked up by the individual following her and disappeared. Apparently, potential imprisonment for failing to stop at an accident involving damage to a vehicle or property is zero to six months and up to a \$1,000 fine. It looks like punishment for the first DUI conviction is 2 days to 6 months in jail, with a \$400 to \$1,000 fine. Second and subsequent DUI convictions have potential for longer imprisonment and higher levels of fines.

It appears that, if you have had a DUI conviction, there is no incentive not to run from the scene of an accident.

MR. CONWAY:

Running from the scene is not considered eluding, under the statute. Eluding is trying to get away in a vehicle. If they hit something and continue driving the vehicle and are under the influence, an officer can cite them for a felony because they pose a risk.

CHAIR NOLAN:

I am sorry. I shifted gears on you. I did not have any questions on the section you cited. I was posing another question, with regard to a possible amendment to this bill. I probably should be talking with law enforcement. There is no disincentive to not leave the scene. My proposed amendment would be for an increased penalty for running away from the scene of an accident. I wanted your thoughts on that.

MR. CONWAY:

I believe it would be a misdemeanor, currently, unless there were an injury. Hit and run with any injury, something as simple as a bruise, is a felony.

CHRIS PERRY (Colonel, Chief, Nevada Highway Patrol, Department of Public Safety):

We support S.B. 394, in its intent. We have an issue with the \$50 fee charged, in section 1, to a person convicted of a third moving violation in a one-year period. It is fundamentally problematic for a law-enforcement agency to take any kind of funding directly related to a fee-based funding stream. We ask that

some consideration be given to that, since we are a State Highway Funded agency.

CHAIR NOLAN:

We will include that in our work session.

GARY SCHMIDT:

I am a 35-year resident of Washoe County. Changing willful failure to stop to a category D felony under NRS 484.348 would have made a felon of me two years ago. I was pulled over for an expired registration. I own about 15 vehicles and drive about 50,000 miles a year. I was pulled over on U.S. Highway 395, heading south on the elevated portion of the freeway. I began to slow down and I turned on my signal to get off the freeway, because there is a dead drop-off and it was not a safe place to stop. I was cited for failure to stop. I tried to fight it, but finally gave up.

If you are accelerating and actually trying to flee, it would be one thing. But, any time you give an officer of the law the capacity, in his judgment, in a one-on-one, to disrupt an individual's life, you give an officer the capacity to discriminate and act in a manner that is biased. I cannot support making that particular situation a felony. I think you need a better description of what it means to flee. Thank you.

CHAIR NOLAN:

You just made a point that I find valid. We will look for an amendment to do what you propose and try to tighten up the language so we do not penalize people in your situation, who are not able to pull over immediately when requested to do so.

MR. SCHMIDT:

It has been 25 years since I had a moving violation other than that one.

MARTHA BARNES (Administrator, Central Services and Records Division, Department of Motor Vehicles):

The DMV submitted a fiscal note for this bill. We anticipate the revenue generated could be \$120,720 in fiscal year 2007-2008 and \$174,857 in fiscal year 2008-2009.

CHAIR NOLAN:

We will close the hearing on S.B. 394 and open the hearing on Senate Joint Resolution (S.J.R.) 5 and Assembly Joint Resolution (A.J.R.) 6.

SENATE JOINT RESOLUTION 5: Urges the United States Congress to repeal the REAL ID Act of 2005. (BDR R-1390)

ASSEMBLY JOINT RESOLUTION 6: Urges Congress to repeal the REAL ID Act of 2005. (BDR R-1393)

CHAIR NOLAN:

During the first couple of days of this Session, in a joint hearing between our Committee and the Assembly Committee on Transportation, we indicated there would be a joint resolution on behalf of the Legislature to address our displeasure with the REAL ID Act of 2005 (REAL ID Act). We have two bills that are slightly different. In front of you is an analysis of the bills ([Exhibit X](#)). Our intent today is to reconcile the differences we have and pass a resolution.

ASSEMBLYMAN KELVIN D. ATKINSON (Assembly District No. 17):

The bills are identical, except for the two issues pointed out in the comparison analysis. We requested A.J.R. 6, and all 42 members of the Assembly have signed onto it. We wanted to send a strong voice to the U.S. Congress about the REAL ID Act.

VIRGINIA (GINNY) LEWIS (Director, Department of Motor Vehicles):

I can update you, today, on where we are with the Department of Homeland Security (DHS) on the REAL ID Act. There are still a lot of unanswered questions and we are currently in the public-comment period. It is a 60-day period which started on March 8, 2007. During this time, the biggest voice is from all the jurisdictions in the country who are working in concert with the National Governors Association and the National Conference of State Legislatures. We have asked for money, time and flexibility. When the draft rules came out on March 1, 2007, we were not given the money or the time we requested. They gave us an extension, but the extension was for the implementation date, not for the final reenrollment, which is in 2013.

The extension did not help us. Our message to the Congress continues to be that we need money and we need a ten-year reenrollment, which would eliminate a huge cost to Nevada for the additional staff and the extended hours.

SENATOR LEE:

The Senate's bill asks Congress to repeal the REAL ID Act. The Assembly's bill asks for the money to start doing what the Congress is asking us to do. Is that correct, Assemblyman Atkinson?

ASSEMBLYMAN ATKINSON:

Both bills urge the Congress to repeal the REAL ID Act. The difference is that our bill is urging the Congress to repeal the act, but if they do not repeal the act, to give us the money we need to implement it.

CHAIR NOLAN:

All Assembly members have signed onto this bill. Regardless of whether we have an Assembly Joint Resolution or a Senate Joint Resolution, I am sure the entire Senate will sign on as well. The only substantive differences between the bills is that we had asked the Congress to repeal the REAL ID Act and try to achieve the intent through the current identification program the State has in place or through a federal passport program. Our thought was to give the Congress a couple of alternatives.

MS. LEWIS:

The issue of the passport is coming up for discussion. I would caution the Committee against making any kind of recommendation there. In the draft rules, the secretary of the DHS has made it clear that he can expand the requirements at any time. Today, the act says that a REAL ID-compliant card would be required to board a commercial airline, enter a federal building, access federal funds or enter a nuclear power plant. People are saying they will just use a passport to board a commercial airline.

The DHS is starting to see and hear that this is a direction states are trying to go. I believe that, when those final rules come out at the end of the summer, we will close the door on the passport issue. I do not recommend putting it into your resolution, because I believe the DHS is watching what is happening and will try to lock it up.

SENATOR CARLTON:

From what you know about how they are going to handle the passports, will they be able to say that all current passports are null and void?

MS. LEWIS:

I would never try to figure out what the federal government is going to do. I feel there are more unanswered questions now than we had four months ago. It concerns me, because we are trying to get a budget passed and provide the Legislature with some answers, but I do not have those answers. I am not comfortable about what they might do.

CHAIR NOLAN:

If there is a proposed amendment, it makes sense to do it with the Assembly resolution and amend all the Senator's names onto the resolution.

ASSEMBLYMAN ATKINSON:

I did receive six or seven Senator's names to amend into the bill. Amending names onto the bill and amending some language to make it stronger is perfectly fine with us.

GARY PECK (American Civil Liberties Union of Nevada):

The distinction between S.J.R. 5 and A.J.R. 6 is rather important to civil liberties advocates who care about privacy issues. However, we would support either of these resolutions. The driving force behind the opposition to the REAL ID Act is the administrative nightmare and cost factor associated with implementation, but it is important to understand that there are also profoundly important privacy interests in play. The rules being promulgated do not adequately address privacy concerns.

Whenever a massive centralized data bank like the one being proposed is created, there is enormous potential for identity theft and tampering. It is the belief of many involved in this process that the REAL ID Act and this first step toward a national identification card is not going to enhance public safety in a meaningful way. We would prefer the Senate's version of the resolution to try to fix whatever problems exist with the tried and true methods and come up with a system that will not be a threat to privacy. However, we will support either bill, simply because we think the REAL ID Act is a major problem.

JANINE HANSEN (Nevada Eagle Forum):

We support both resolutions and we are pleased you have brought these forward. When we testified in the Assembly Committee on Transportation, we did bring forth some of the privacy concerns that have not been mentioned in

these resolutions. However, the fact that so many states have come forward to oppose the REAL ID Act is significant.

Missouri State Representative James Guest, Republican, formed a coalition of lawmakers. He said, "This is almost a frontal assault on the freedoms of America when they require us to carry a national ID to monitor where we are." This is a critical issue that has not been addressed in the resolutions, and I wanted to bring it to your attention. Essentially, people who do not have REAL ID will become non-citizens, for all intents and purposes. They will not be able to board a plane, enter a federal building, collect social security or hold a job.

An editorial in *The Tennessean* newspaper said REAL ID threatens everyone's privacy. The law mandates a central, interlinked database containing a wealth of personal information and, over time, will inevitably become the repository for more and more personal data and will be used for ever-wider purposes.

I have provided you with a packet ([Exhibit Y](#)) and in it is a copy of A.J.R. No. 9 of the 71st Session, which we supported. It recognizes privacy as an important issue and that the collection of personal information is increasing and violates the fundamental right of law-abiding citizens to be free from unreasonable government intrusion, surveillance and monitoring.

We support these resolutions, but feel an important issue, that of privacy, has been left out.

CHAIR NOLAN:

We may want to amend the "whereas" sentence beginning on line 20 of S.J.R. 5, which talks about the inconvenience to Nevadans, who will be subjected to an unnecessary inconvenience, into A.J.R. 6. It puts a personal stamp on it. Otherwise, A.J.R. 6 is well-drafted and is acceptable as it is.

SENATOR CARLTON MOVED TO AMEND AND DO PASS A.J.R. 6 AS AMENDED.

SENATOR LEE SECONDED THE MOTION.

SENATOR LEE:

I would like my name to be in the list on the resolution.

THE MOTION CARRIED. (SENATOR AMODEI WAS ABSENT FOR THE VOTE.)

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CHAIR NOLAN:

We will close the hearing on S.J.R. 5 and A.J.R. 6.

If anyone came to testify on behalf of S.B. 434 and has some written testimony or your perspective has not been presented by somebody else, please provide it to us and we will use it in the work session when we consider that bill ([Exhibit Z](#), original is on file in the Research Library).

There being no further business, the meeting of the Senate Committee on Transportation and Homeland Security is adjourned at 5:48 p.m.

RESPECTFULLY SUBMITTED:

Carolyn Allfree,
Committee Secretary

APPROVED BY:

Senator Dennis Nolan, Chair

DATE: _____