

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

**Seventy-Fifth Session  
May 12, 2009**

The Committee on Transportation was called to order by Chairman Kelvin Atkinson at 1:44 p.m. on Tuesday, May 12, 2009, in Room 3143 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4406 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at [www.leg.state.nv.us/75th2009/committees/](http://www.leg.state.nv.us/75th2009/committees/). In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (email: [publications@lcb.state.nv.us](mailto:publications@lcb.state.nv.us); telephone: 775-684-6835).

**COMMITTEE MEMBERS PRESENT:**

Assemblyman Kelvin Atkinson, Chairman  
Assemblyman Mark A. Manendo, Vice Chair  
Assemblyman Chad Christensen  
Assemblyman Jerry D. Claborn  
Assemblywoman Marilyn Dondero Loop  
Assemblyman Pete Goicoechea  
Assemblyman Joseph M. Hogan  
Assemblyman Ruben J. Kihuen  
Assemblywoman Ellen B. Spiegel  
Assemblywoman Melissa Woodbury

**COMMITTEE MEMBERS ABSENT:**

Assemblyman John C. Carpenter (excused)

**GUEST LEGISLATORS PRESENT:**

Senator Mark E. Amodei, Capital Senatorial District  
Senator Michael (Mike) A. Schneider, Clark County Senatorial District  
No. 11  
Senator Dennis Nolan, Clark County Senatorial District No. 9

**STAFF MEMBERS PRESENT:**

Marjorie Paslov Thomas, Committee Policy Analyst  
Russell Guindon, Fiscal Analyst  
Darcy Johnson, Committee Counsel  
Marlen Schultz, Committee Secretary  
Steven Sisneros, Committee Assistant

**OTHERS PRESENT:**

Derek W. Morse, P.E., Interim Executive Director, Regional Transportation  
Commission of Washoe County, Reno, Nevada  
John O. Swendseid, Attorney, Swendseid and Stern, Reno, Nevada  
Geno R. Martini, Mayor, City of Sparks, Nevada  
Norman Dianda, President and Chief Executive Officer, Q and D  
Construction, Incorporated, Sparks, Nevada  
Richard "Skip" Daly, Business Manager, Laborers International Union of  
North America Local 169, Reno, Nevada  
Tray Abney, Director of Government Relations, Reno Sparks Chamber of  
Commerce, Reno, Nevada  
Megan Jackson, Government Affairs Liaison, Associated Builders and  
Contractors, Sierra Nevada Chapter, Reno, Nevada  
Peter D. Krueger, representing the Nevada Petroleum Marketers and  
Convenience Store Association, Reno, Nevada  
Rhonda Bavaro, Administrator, Motor Carrier Division, Department of  
Motor Vehicles  
Constance J. Brooks, Senior Management Analyst, Office of the County  
Manager, Clark County, Las Vegas, Nevada  
Patrick T. Sanderson, representing Laborers' International Union Local  
872, Las Vegas, Nevada  
Richard J. Nelson, P.E., Assistant Director, Operations, Department of  
Transportation  
Rob Potter, Steward, American Federation of State, County and Municipal  
Employees, AFL-CIO, Carson City, Nevada  
Javier Trujillo, Intergovernmental Relations Specialist, City Manager's  
Office, City of Henderson, Nevada  
Mark Schaible, Traffic Officer, City of Henderson, Nevada  
Paul Enos, Chief Executive Officer, Nevada Motor Transport Association,  
Reno, Nevada  
Chuck Callaway, representing the Las Vegas Metropolitan Police  
Department, Las Vegas, Nevada  
Bill Bainter, Lieutenant, Nevada Highway Patrol, Department of  
Public Safety

Frank Adams, Executive Director, Nevada Sheriffs' and Chiefs' Association, Mesquite, Nevada

William E. Bensmiller, Division Administrator, Federal Motor Carrier Safety Administration, United States Department of Transportation, Nevada Division, Carson City, Nevada

Randy Thelander, Equipment Coordinator, Granite Construction Company, Incorporated, Lockwood, Nevada

Mike Rich, Trucking Supervisor, Q and D Construction, Incorporated, Sparks, Nevada

Derek Dunstone, General Manager, Bragg Crane Service, Sparks, Nevada

Sean Gamble, Special Projects Nevada, representing Frias Holding Company, Reno, Nevada

Cheryl Blomstrom, representing the Nevada Nurses Association, Reno, Nevada, and the Nevada Motor Transport Association, Carson City, Nevada

Michael Geeser, Media/Government Relations, California State Automobile Association, AAA Nevada, Las Vegas, Nevada

Tom Roberts, Lieutenant, Las Vegas Metropolitan Police Department, Las Vegas, Nevada

**Chairman Atkinson:**

(Roll taken.) We would like to welcome our audience attending in both Carson City and Las Vegas. We have six bills before us today, and I wanted everyone to understand that we need to keep the presentations succinct and our comments relevant so we can expedite this meeting as much as possible. It is our intent to allow everyone an opportunity to speak, but I urge you not to repeat the same information that was presented earlier by someone else. We are going to take our bills out of order and start with Senate Bill 201, and we will invite the individuals to the table who are prepared to testify on this proposal.

**Senate Bill 201: Authorizes certain counties to impose additional taxes on fuels for motor vehicles. (BDR 32-233)**

**Senator Mark E. Amodei, Capital Senatorial District:**

In keeping with your admonition and in view of the fact that I would like to leave as quick or quicker than any of you, I will be brief and attempt to be crisp, Mr. Chairman. Senate Bill 201 is an example of locals taking care of local business in a transparent manner. As you are aware, there was a question on the ballot in the Truckee Meadows which was passed. I will allow the representative from the Regional Transportation Commission (RTC) and some of the local government spokespeople to expound more on the specifics of that ballot question. However, it is an example of recognizing certain infrastructure

improvements could only be accomplished by increasing taxes, and having the community favorably support the decision by voting for a tax initiative. Also, the community understood the implementation of this project would create local jobs by utilizing local money at a time when it is particularly important for that to happen. This concludes my brief introduction, and I would like Mr. Morse and his team to provide detailed explanations, and field any questions that you or your Committee may have regarding this endeavor.

**Chairman Atkinson:**

Thank you, Senator Amodei. I would like to know who will explain the nuances of this proposed legislation.

**Senator Amodei:**

That would be Mr. Morse from the RTC.

**Derek W. Morse, P.E., Interim Executive Director, Regional Transportation Commission of Washoe County, Reno, Nevada:**

I have attorney John Swendseid with me, and he is the individual who helped us draft this proposal and worked closely with the Legislative Counsel Bureau staff in this regard. I would like to give you some background information on why we are here and how we arrived at this juncture ([Exhibit C](#)). As part of our ongoing transportation planning effort in Washoe County, in 2007 we projected a \$4.8 billion shortfall over the next 30 years for street and highway work within the Truckee Meadows. To address this particular issue, the Regional Transportation Commission Board created a blue ribbon committee comprised of more than 30 community leaders and asked them to check the numbers we developed in our analysis. This blue ribbon committee worked intensively from February through May in 2008, and they were impressed by several facts. First of all, they were convinced that the shortfall amount was as previously portrayed. Secondly, the numbers are large. Third, they were swayed by the fact that the failure to address these shortfalls would have substantial negative impacts on the community's quality of life. It would mean more congestion, poorer air quality, and place an added burden on businesses' ability to be competitive and create jobs. The fourth fact they concurred with was that 60 percent of this shortfall was due to the loss of purchasing power from existing revenue streams caused by inflation in road construction costs. This problem will only get worse as time goes on and will become increasingly more difficult to solve the longer we wait.

Based upon these discussions, the blue ribbon committee recommended the Board annually adjust fuel tax rates using an approved indexing methodology designed to recover the lost purchasing power. It was proposed to use the

Producer Price Index (PPI) for Street and Highway Construction to make the adjustments.

The RTC Board accepted the recommendations from the blue ribbon committee and asked the Washoe County Commission to place a question on the November 2008 ballot. This question subsequently was called RTC-5.

We organized an extensive education outreach effort where we informed the voters of the costs based upon the numbers we had developed. The indexing would increase the price of a gallon of gas an estimated \$.02 in the first year, which would cost the average driver about \$1.10 more per month. It would add approximately 2.4 cents to the price of a gallon of diesel fuel in the first year, and we would make annual adjustments after that sufficient to recover the loss of purchasing power caused by inflation. The voters were also informed about the potential benefits. We could recover an estimated \$2.6 billion in lost purchasing power over the next 30 years. This money would be invested in vital congestion-relief projects and system preservation. The voters were also told that it was the intent of the RTC Board to bond \$250 million in additional road work over the first three years using these new revenue projections.

In November 2008, the voters in Washoe County approved RTC-5 by a margin of 55 percent. This margin of approval was surprising in light of the troubled financial market. Four weeks before the voters went to the polls, the financial markets plummeted, causing uncertainty, anxiety, and panic.

RTC-5 was an advisory question, and we are now seeking passage of S.B. 201, which is enabling legislation. This bill would authorize the Washoe County Commission to enact indexing to recover the lost purchasing power on all taxes paid on motor fuels, including gas and special fuels, such as diesel. The new indexed fuel taxes would be local fuel taxes collected only in Washoe County and spent in Washoe County.

In concluding my testimony, I would like to thank the sponsors and Senator Amodei for supporting this legislation which we feel is critical to the long-term future of Washoe County and our hopes of near-term economic recovery.

**Chairman Atkinson:**

Are there any questions from the Committee members?

**Assemblywoman Spiegel:**

Could you please tell me why the decision was made to base the increases on the PPI versus using the Consumer Price Index (CPI), and how they vary in terms of inflationary rates?

**Derek Morse:**

The decision to use the PPI is based upon our experience with indexing adjustments to the local fuel taxes which started in 2003 as the result of a ballot question we had in the November 2002 election. At that time, we used the CPI. We found that the CPI is not a good measure of the inflation we are experiencing as an agency that builds roads and bridges. We fell behind on the purchasing power of our local fuel taxes because the index was not appropriate. We examined more than a dozen different indices, both regional and national, that might provide a more accurate reflection of the true rate of inflation being experienced within our economy for street and highway construction. The one which best tracked our historical record was the federal index called the PPI for Street and Highway Construction which is developed by the Bureau of Labor Statistics. The data sheets look similar to those used on the CPI, but are based specifically on this sector of the economy.

**John O. Swendseid, Attorney, Swendseid and Stern, Reno, Nevada:**

I am prepared to go through the bill on a section-by-section basis, if you would like. However, unless you have questions, I do not need to testify. If you prefer, I could run through the proposed legislation using a briefer format ([Exhibit D](#)). Section 3 contains the major provisions of the proposal, and it allows Washoe County to impose the increase in tax allowed by the voters which is on detailed pages 3 to 9 of the bill. Those increases would be related to the 10-year rolling average increase in the street and highway construction inflation index. One of the important points is the new tax will not go into effect prior to January 1, 2010.

Section 4 deals with the distribution method of the tax increases created by this section. These taxes would be levied by Washoe County, and the existing process in the *Nevada Revised Statutes* (NRS) for motor vehicle fuel tax and special taxes would be followed to avoid the development of a new administrative system. The rest of the bill conforms to these sections. There is a 1 percent collection fee that goes to the State, which is mentioned in section 10 on page 16. The County is required to coordinate the projects it constructs using this tax revenue with the Nevada Department of Transportation (NDOT) to ensure there is a uniform system of highway construction. There is also a special provision for bonds issued by the RTC under the Motor Vehicle Fuel Tax law. This change would allow the RTC to issue bonds if necessary.

The residents could participate in the bond sales and invest in the bonds more than currently allowed under the existing provisions.

**Chairman Atkinson:**

Are there any questions from the Committee members? Seeing none, we would like to thank you for your testimony. There are a few more people on our list who we will hear before we allow others to present their information.

**Geno R. Martini, Mayor, City of Sparks, Nevada:**

We are in favor of this bill because our citizens voted in support of a fuel tax increase. It is a matter of alleviating the second worst traffic problem in Sparks, which is located in the Wingfield Springs area. It is an upscale neighborhood and there is a two-lane road that connects this district to Interstate 80. There are approximately three or four miles that need to be widened. We consider this project shovel-ready, the rights-of-way are available, and it is one of the highest priorities.

The City of Reno has an interchange at Meadowood Mall that is also scheduled for completion using these anticipated revenues. Mayor Cashell of Reno asked me to speak on his behalf for this project. It is also a major traffic bottleneck in northern Nevada.

**Norman Dianda, President and Chief Executive Officer, Q and D Construction, Incorporated, Sparks, Nevada:**

I am here representing my own company as well as on behalf of the Associated General Contractors. I want to speak of the importance of this bill and what it will accomplish in northern Nevada. It will provide an additional 3,000 jobs a year in the construction industry which will include engineering, testing, construction workers, and all related parties. The most significant point is this proposal will not only provide jobs, but it will provide value for the dollars invested. The work will prove invaluable for the future of northern Nevada. We have gone from 1,152 employees in 2006 down to 460 people employed today.

**Richard "Skip" Daly, Business Manager, Laborers' International Union of North America Local 169, Reno, Nevada:**

I would like to elaborate on this issue. I was part of the blue ribbon committee that spent approximately 10 months working on the calculations and later on the campaign to gain the public's approval. The County Commission needs to vote to implement the new tax, which is yet another step in the process. Primarily, this is a quality-of-life issue. We are going to improve the transportation system in northern Nevada and Washoe County, and we wanted to be ahead of the curve. Ancillary, although essential, are the jobs which will be created by this project. We hope this Body agrees and will move this

measure forward for the Governor's signature so we can put some people to work this construction season.

**Tray Abney, Director of Government Relations, Reno Sparks Chamber of Commerce, Reno, Nevada:**

I represent the 1,500 member-businesses of the Reno Sparks Chamber of Commerce. We are strongly supportive of S.B. 201, just as we were staunch supporters of the ballot question that met voter approval last November. All of you have already heard that 55 percent of the voters approved this initiative. It will allow the RTC to bond \$250 million in road work over three years, and if passed, it will create 3,000 well-paying jobs in Washoe County. However, it is relevant to note that it will not only be those engineers and construction workers that benefit from this bill, it will be all of the member organizations that sell goods and services to those 3,000 workers who will have money to spend in our region and in our economy. The proposed infrastructure will benefit the entire community when they travel to work, take their children to school, and travel back to their homes quickly and safely. Every moment spent in traffic is a moment stolen away from operating a business or raising a family. The Chamber also believes this is an economic development tool. While companies looking to move and expand here are drawn to our tax structure and care about our education systems, they also want to be able to move their goods and employees around our region. Our transportation system is a quality-of-life issue and it is a big one. In closing, I want to urge this Committee to support S.B. 201 which is a real stimulus package for Washoe County.

**Assemblyman Manendo:**

Did the Chamber support this measure while it was on the ballot or did you support it afterwards?

**Tray Abney:**

We supported this proposition when it was on the ballot. Our political action committee gave money to the campaign to help pass it, and we encouraged all of our members to vote in favor of the measure.

**Chairman Atkinson:**

Are there any other questions from the Committee? Is there anyone else in Carson City who wants to testify in favor of this bill?

**Megan Jackson, Government Affairs Liaison, Associated Builders and Contractors, Sierra Nevada Chapter, Reno, Nevada:**

I would just like to echo the comments of the previous speakers that we are supporting this bill.



**Chairman Atkinson:**

Are there any questions? Is there anyone who wants to go on the record in opposition to this proposal? Is there anyone who would like to provide neutral testimony?

**Peter D. Krueger, representing the Nevada Petroleum Marketers and Convenience Store Association, Reno, Nevada:**

Our Association is neutral on this bill, and I would like to take a moment to include a few points on the record. All the "best guess" estimates provided by RTC and those supporting the bill are as accurate as can be expected at this time. However, I believe the public really needs to know that this proposal is similar to the initiative several years ago that was based on the Consumer Price Index that increased gasoline by half-a-cent per year which remained in effect for five years.

This will have dramatic increases in gasoline taxes that the citizens of Washoe County pay, but more significantly from our memberships' position on diesel, this is the first time that a special fuel will be added to the indexing of fuel. I believe it is relevant to note that the increase will impact the cost of diesel by approximately 10 cents within two years, and could be as high as 17 cents over the next ten-year period. Therefore, this proposal is not without economic risk. Others have indicated that the truckers will continue to travel the same amount and purchase their fuel locally even though there is a higher tax involved. If these taxes are increased as proposed, this will present a significant increase, and a half-penny makes a huge difference in a trucker's profitability. I do believe that truckers will drive to another county to purchase their fuel. In our opinion the businesses that sell fuel in the Washoe County area will be adversely impacted by this decision.

One last thing I need to get on the record is that as taxes go up, the bonding written into the state law will affect the amount that our members have to pay. We have an understanding that by regulation the Department of Motor Vehicles (DMV) will address our bonding problem, because this will be a significant increase in the amount of bonds. As the tax rate goes up, the amount we have to set aside to satisfy current law will be increased.

**Chairman Atkinson:**

I have a couple questions I would like to ask you. First of all, were your concerns voiced when you presented your testimony to the Senate? Did you get involved with this issue when it was submitted as a ballot question and inform the voters about your concerns?

**Peter Krueger:**

The answer to your first question is yes. Relative to the second issue, I have never been invited to participate on the blue ribbon panels over the past 10 or 15 years. However, we did inform our wholesale and retail members what the proposed measure meant, and encouraged them to work with their employees. We did not have an organized campaign to vote "no" on the question.

**Chairman Atkinson:**

The only reason I asked the question is because it has been implied that the voters did not comprehend the actual intent underlying the measure they were being asked to support. If there were valid concerns, they should have been brought forward during the process when the community was considering how to vote for this measure.

**Rhonda Bavaro, Administrator, Motor Carrier Division, Department of Motor Vehicles:**

The Department is neutral on this bill. We worked with representatives from the RTC to address our previous concerns with the bill.

**Chairman Atkinson:**

Are there any questions from the members of the Committee? Is there any additional testimony on S.B. 201? Then, we will close the hearing on Senate Bill 201. Based on several conversations with the Speaker of the Assembly, she has expressed concerns with us hearing this bill; and even though we typically do not take votes immediately following a public hearing, we will do so today. Most of the misgivings were due to the voters not knowing what they were voting on and that they did not comprehend what effect the measure would have on their fuel taxes, but those issues could be endlessly debated. I do not believe it is our prerogative to decide what the voters wanted. We rarely have the opportunity to vote for an issue where our constituents have already weighed in on the proposal, so I will close the hearing on S.B. 201 and entertain a motion from the Committee.

ASSEMBLYWOMAN SPIEGEL MOVED TO DO PASS  
SENATE BILL 201.

ASSEMBLYWOMAN WOODBURY SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMEN CARPENTER,  
GOICOECHEA, AND HOGAN WERE ABSENT FOR THE VOTE.)

**Chairman Atkinson:**

We will now open the hearing on Senate Bill 134 (1st Reprint). We need to come back to order so that the first witness can proceed with his testimony.

**Senate Bill 134 (1st Reprint):** Revises provisions concerning the increased penalty imposed for certain traffic violations occurring in work zones. (BDR 43-180)

**Richard "Skip" Daly, Business Manager, Laborers' International Union of North America Local 169, Reno, Nevada:**

This is a bill that was sponsored by Senator Coffin, and he was generous enough to use this proposal to improve the existing work zone provisions for roadway construction, maintenance, and similar types of work. There is a repetitive phrase used throughout the bill, which indicates this provision is not only for roadway construction or maintenance work, but also other work that is being performed within a temporary traffic control zone. An example of this would include activities performed when Southwest Gas or the power company are handling work within a roadway right of way. We worked in cooperation with a variety of different businesses and organizations to develop a satisfactory solution.

There are two exceptions in subsection 5. The first one is in case of emergency the double penalty and work zone signage would not be required. The second exception would be those cases where the work is of short duration.

In subsection 6, it discusses if an injury is caused or there is damage to property in an amount of at least \$1,000, then the double penalty would apply regardless of whether the signage had been posted or not. This measure strengthens provisions implemented several years ago, and we felt these penalties and additions would help improve conditions for workers who must complete a job within a work zone by emphasizing the need to slow down.

**Chairman Atkinson:**

Are there any questions from members?

**Assemblywoman Spiegel:**

I have a question on the portion of this bill that indicates the work zone does not need to be posted. How would a driver know it is a work zone if it is not posted?

**Richard Daly:**

That section refers to the double penalties. The signage telling the driver this is a work zone is still in place, but they are not required to post the double penalty

provisions for failing to slow down in work areas of short duration where the speed limit is 25 miles per hour (mph) or less. The workers still must comply with all the rules and laws under the American Traffic Safety Services Association (ATSSA) regulations, which have been adopted by the State and are in force.

**Assemblyman Manendo:**

If the speed limit is under 25 mph or less, then these protections would not apply?

**Richard Daly:**

When a work zone is being set up on a roadway, the company must obtain a work zone permit authorization from the proper authority. During our conversations with representatives of the power company, we consistently heard about the jobs that were done in an area that ran the length of their truck and required about an hour to complete. Under these conditions, we did not see an imminent necessity to post the double penalty signage in work zones.

**Assemblyman Manendo:**

Currently, if it is 25 mph or under and it is a work zone, there are no enhancements. Is that right?

**Richard Daly:**

They are still required to obtain a permit to set up the work zone. There are occasions when this is not done; however, and they put up their cones, complete the small job, and leave. In those situations, we still expect them to get the permit, but there is no requirement and there is no enforcement mechanism.

**Assemblyman Manendo:**

I understand that they do not have to put up the signs, but is the penalty still there?

**Richard Daly:**

All of the traffic laws are still in place, so if someone is speeding or breaks a traffic law, they will receive a ticket. Under normal circumstances, they will not be subject to a double penalty unless the signs are posted. If the signs are required, but they do not put them up, that is where the public notice provision comes into play. If the driver causes an injury or property damage over \$1,000, then he would receive the double penalty.

**Assemblyman Manendo:**

A few years ago, one of my constituents was in a work zone and was killed. She left behind a young son and I am a firm believer in enacting stronger provisions. However, I wanted to make sure these provisions were adequate since we are revisiting the legislation.

**Assemblyman Claborn:**

It is my understanding if there is work that needs to be performed on a street or road, the company or individual must go to the proper authority and submit a diagram showing the worksite. Then the authorities return the diagram indicating where the cones and signs need to be placed. Would this proposal interfere with that procedure?

**Richard Daly:**

No, it would not interfere with that process. Whenever a public entity designates or establishes a work zone, they are required to provide a traffic diagram, but the utilities are not always following that procedure.

**Chairman Atkinson:**

Are there any questions from Committee members? Is there anyone else in the audience who wishes to testify in favor of S.B. 134 (R1) in Las Vegas?

**Constance J. Brooks, Senior Management Analyst, Office of the County Manager, Clark County, Las Vegas, Nevada:**

I am here representing Clark County, and we support S.B. 134 (R1). We view this measure as a means to provide extra safety for our workers. We are grateful for the opportunity to work with Senator Coffin and Mr. Daly of the Labor Union to amend the language to include any work zones or any work conducted therein, not limited to highway maintenance. As you know, with the County there are several types of jobs which can be performed outside of road repair, and as a result, we view this as a measure to provide extra safety.

**Patrick T. Sanderson, representing Laborers' International Union Local 872, Las Vegas, Nevada:**

I would like to thank the sponsor of this legislation, and reiterate that we agree with all the reasons mentioned for introducing this measure. I understand how busy you are, so that concludes my testimony.

**Chairman Atkinson:**

Is there anyone else in the audience who would like to go on the record in favor of S.B. 134 (R1)? Is there any opposition to this proposal? We will close the hearing on Senate Bill 134 (1st Reprint), and we will entertain a motion.

ASSEMBLYMAN CLABORN MOVED TO DO PASS  
SENATE BILL 134 (1st Reprint).

ASSEMBLYMAN MANENDO SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMEN CARPENTER,  
GOICOECHEA, AND HOGAN WERE ABSENT FOR THE VOTE.)

**Chairman Atkinson:**

We will open the hearing on Senate Bill 377 (1st Reprint). Mr. Daly is prepared to present an overview on the proposed legislation.

Senate Bill 377 (1st Reprint): Revises provisions relating to certain public works. (BDR 35-729)

**Richard "Skip" Daly, Business Manager, Laborers' International Union of North America Local 169, Reno, Nevada:**

We had a measure that was meant to limit the Nevada Department of Transportation (NDOT) and the municipalities from self-performing construction work that should have been advertised for bid. In that process, we came to an alternative resolution with NDOT, the school districts, and others to address these issues. Part of our dialogue with NDOT caused us to delete many of the sections and create a new section which will allow a streamlined process in *Nevada Revised Statutes* (NRS) Chapter 408. It will allow them to bid smaller projects. It is not required to advertise these projects in newspapers, but NDOT is required to solicit bids from at least one licensed contractor for projects that are \$50,000 and under. For projects that are \$250,000 and under, NDOT must solicit bids from at least three qualified contractors. It is our belief that this new process will help NDOT issue more bids, which is an essential part of our goal. It parallels language that currently exists in NRS 338.1444. The thresholds are somewhat different, but the process is similar.

**Chairman Atkinson:**

I would like to clarify a statement you made. You indicated that NDOT had issues with the proposal initially, but you have worked together to resolve these points. Is that correct?

**Richard Daly:**

Yes, we had discussions with NDOT over the original bill which would have limited their ability to self-perform work and would have required them to bid that work. An agreement was reached where we developed an alternative solution that includes reviewing their process, sending out more work for bid, and streamlining the practice to enable them to bid smaller pieces of work.

**Assemblyman Claborn:**

This proposal is a good idea, and I would like to thank Mr. Daly for bringing this legislation forward.

**Chairman Atkinson:**

Are there any further questions from the Committee for Mr. Daly? Is there anyone else who wants to speak in favor of S.B. 377 (R1)?

**Richard J. Nelson, P.E., Assistant Director, Operations, Department of Transportation:**

We did invest many hours working with those who had concerns about how our maintenance work was contracted. We are extremely pleased with the results of this proposed legislation.

**Rob Potter, Steward, American Federation of State, County and Municipal Employees, AFL-CIO, Carson City, Nevada:**

We also contributed to the negotiations on the original proposal and we are totally in favor of this bill as amended. We do believe this will streamline the entire process.

**Patrick T. Sanderson, representing Laborers' International Union Local 872, Las Vegas, Nevada:**

It worked last time, so we support this bill, too.

**Chairman Atkinson:**

Are there any questions? Is there anyone in opposition or neutral? We will close the hearing on Senate Bill 377 (1st Reprint) and the Chairman will entertain a motion.

ASSEMBLYMAN CLABORN MOVED TO DO PASS  
SENATE BILL 377 (1st REPRINT).

ASSEMBLYMAN MANENDO SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMEN CARPENTER,  
GOICOECHEA, AND HOGAN WERE ABSENT FOR THE VOTE.)

**Chairman Atkinson:**

We apologize for the absence of several of our members during these votes; however, we have no choice because there is only one meeting remaining before the Assembly finishes all scheduled sessions.

We will return to our agenda and open the hearing on Senate Bill 243 (1st Reprint).

Senate Bill 243 (1st Reprint): Requires local law enforcement agencies to enforce certain state laws. (BDR 43-719)

**Javier Trujillo, Intergovernmental Relations Specialist, City Manager's Office, City of Henderson, Nevada:**

We are here to talk about S.B. 243 (R1) regarding the statute that provides the enforcement authority for certain state laws, specifically those laws pertaining to excessive weight or unlawful loads. Currently, that statute only gives authority to the Nevada Highway Patrol (NHP). We are able to weigh and measure those vehicles in our jurisdiction, but we do not have the authority to issue a citation. This imposes an inconvenience on the officers and on the police department, because it is necessary to contact NHP and they must send a trooper who is in close proximity to respond. This process removes officers from their other duties and pulls an NHP trooper from his routine area to issue the citation.

**Chairman Atkinson:**

Are there any questions from the Committee members?

**Assemblywoman Spiegel:**

Is it true that Henderson already has scales available to fulfill this condition, but they cannot be used at this point?

**Javier Trujillo:**

That is correct, Assemblywoman. The Henderson Police Department, as well as other local law enforcement agencies in southern Nevada, has been trained by NHP. We do have equipment, and we can weigh and measure those vehicles. We can do everything required, except enforce or cite the trucker.

**Mark Schaible, Traffic Officer, City of Henderson, Nevada:**

I am here to support S.B. 243 (R1). As a traffic officer, I have been trained as a commercial vehicle inspector. Henderson is the second largest city in the State of Nevada and within our borders we have 43 miles of interstate highways, many state routes, major Nevada Department of Transportation (NDOT) arterials, and thousands of miles of city streets. We have seen unprecedented growth of both residential and commercial neighborhoods within Henderson. As a result, the City of Henderson was required by necessity to enter into the enforcement of commercial vehicle laws.



The majority of commercial vehicles traveling on our streets are not contacted by the Department of Public Safety commercial enforcement troopers. The city has acquired certified portable scales and officers have been trained in size, weight, and enforcement procedures, but without the authority to enforce *Nevada Revised Statutes* (NRS) 484.744 to NRS 484.757 inclusive, Henderson commercial enforcement officers must rely upon a phone call to NHP commercial troopers. We have to ask three things: Is there an available commercial enforcement officer, are they in a close geographic proximity, and do they have portable scales? It is unfortunate and counterproductive that officers must depend upon the availability of NHP when we are capable of performing commercial enforcement activities.

Within the past month, I have requested the assistance of the NHP at least four times, but I have only received one available response and that trooper was responding from a distance of 10 miles. Compliance is being left up to the commercial drivers and the trucking companies. Unfortunately, we are seeing an increase in overweight construction-industry-related loads along with reduced vehicle maintenance during these current economic times. Operators appear to be cutting the cost of the job by hauling excessive loads. The Henderson Police Traffic Bureau is dealing with the effects of these excess loads, such as collisions, spilled loads of cement and gravel, roadway damage within the city, traffic congestion due to disabled trucks, and citizen complaints regarding damaged vehicles. I have provided three photos of common commercial vehicle infractions ([Exhibit E](#)). The first picture shows a tractor-trailer snapped in half because of its load and weight that tied up our streets for over five hours. The second one shows a red, five-axle dump truck, which is an 80,000-pound-rated vehicle, carrying an excessive load of sand. The third shows a cargo-carrying truck and the cargo exceeded the transport space. The load extended about 12 inches beyond the door frame and was secured with ropes to prevent the stacked bottles from spilling out.

The Henderson Police Traffic Bureau is unable to effectively deal with the safety violations and has no control over the oversize and overweight commercial vehicles within our jurisdictions under the current language contained in NRS 484.755. I respectfully request your consideration in passing S.B. 243 (R1).

**Chairman Atkinson:**

When would you be able to cite these violations shown in the pictures? Would you cite them after they break down or when you first observe them driving down the street?

**Mark Schaible:**

We would be able to stop them upon recognition that the loads were inappropriate. We would weigh the vehicle prior to the incident occurring. Currently, we have no ability to weigh or cite the vehicle.

**Chairman Atkinson:**

I have two questions, but before I continue, Senator Schneider has just stepped in and may want to make a brief presentation, since this is one of his bills.

**Senator Michael (Mike) A. Schneider, Clark County Senatorial District No. 11:**

The initial complaint that was brought to my attention was the amount of traffic and the extra weight caused by trucks traveling on our local roads, especially in Henderson.

In my district, these commercial vehicles are rolling up and down Spring Mountain Road, Flamingo Avenue, and Tropicana Avenue and the streets are getting pounded. The average person can tell the vehicles are overweight and dropping rock and gravel. They are supposed to use a canvas cover, and they are supposed to be washed clean before they come out of the gravel pit. I did work with the City of Henderson on this because they have a considerable amount of new construction in that area. So, I agreed to sponsor this bill to address their needs and positively deal with the problem.

**Assemblyman Claborn:**

Years ago, we did have weights and measures and it was all handled at the ports of entry. We no longer have these for the simple fact when this country went through a previous recession the personnel who worked for the ports of entry were inducted into the Nevada Highway Patrol. There should be stored equipment from these former ports of entry because no one is using them. This is a good idea, if you can find enough money or resources to put this program together. However, we need it to be on a statewide basis, not just in the Henderson area.

**Chairman Atkinson:**

I had a follow-up question to my last question. Back to the pictures that Officer Schaible discussed earlier, since the truck did break down, would the person be ticketed, or could he be ticketed, and who could do it now?

**Mark Schaible:**

We are requesting the opportunity to do this, Mr. Chairman. The NHP can ticket the offenders currently.

**Chairman Atkinson:**

I have some concerns about allowing another enforcement agency to handle a technical job that the NHP has been handling proficiently for quite some time. Please tell me, how is this weighed? Do you require the commercial vehicle to drive to a location equipped to perform this task?

**Mark Schaible:**

We carry portable scales in our commercial enforcement vehicles. These are the same scales the NHP currently uses. They are certified scales and we weigh the vehicle on the roadway. We stop the vehicle and find a nearby location suitable to accommodate the commercial truck, and take an accurate weight on the vehicle. This ties in with a question asked by the Senator—the NHP does have commercial enforcement troopers out there now and they carry the property scales. We would like to have the opportunity to issue citations for these violations just like the NHP.

**Chairman Atkinson:**

If we pass this provision, then any officer would be able to enforce these infractions. Is that correct?

**Mark Schaible:**

Any officer could stop the vehicle; however, what normally occurs is the officers with specific training would handle the enforcement of this nature. If it was an obvious violation, then a patrol officer would contact us if we were not aware of it.

**Assemblyman Manendo:**

Are we going to arbitrarily pull over every truck and weigh them just to make sure they are carrying a legal weighted load?

**Mark Schaible:**

The picture of the commercial truck with the pallets of bottles was included because the cargo area was so overloaded it was impossible to close the doors.

**Assemblyman Manendo:**

If the door was closed, how would you know the vehicle was overloaded?

**Mark Schaible:**

We would not be able to readily tell if there was a problem. The only person who may stop or contact this vehicle would be a commercial enforcement officer, and that would be for a safety inspection.

**Assemblyman Claborn:**

This proposal would apply to Henderson only, or are you talking about the entire state? Does North Las Vegas have any appetite for this legislation? I hope you are talking about all of the agencies throughout the state, because Henderson alone will not be able to make any significant impact on these types of violations.

**Mark Schaible:**

You are correct, sir. All jurisdictions have commercial enforcement officers. All jurisdictions have officers who are federally trained and trained by NHP in weight enforcement.

**Assemblyman Claborn:**

We do not have an adequate number of officers available to handle this job.

**Chairman Atkinson:**

Is there anyone else who wants to testify in favor?

**Paul Enos, Chief Executive Officer, Nevada Motor Transport Association, Reno, Nevada:**

We are here in support of S.B. 243 (R1). Last fall, we had two meetings with the NHP, the Federal Motor Carrier Safety Administration, and other local entities to discuss how the trucking industry and the local authorities can work together to make our roads safer. We have had issues with local enforcement agencies implementing truck laws. Since we opened these discussions, we have made a great deal of progress and have been able to reconcile a few of the problems. We believe that passage of this bill would help protect our infrastructure. If there are fewer overweight trucks, then there will be less need for construction or maintenance. We also appreciate the training provision written into this bill. It is a requirement that the NHP train the officers and agencies to enforce this law. If a driver is pulled over by a local officer and they have to wait for the NHP to arrive, then the driver and the officer are both inconvenienced until the trooper can respond. There are only 60 officers statewide that are enforcing commercial trucking laws.

**Chuck Callaway, representing the Las Vegas Metropolitan Police Department, Las Vegas, Nevada:**

Initially I did not sign in to testify on this bill, but after listening to some of the concerns from the Committee about whether there are other jurisdictions supporting this effort, I felt it was important to speak up and state that the Las Vegas Metropolitan Police Department supports this legislation. We share jurisdiction on Interstate 215 and Interstate 15 with the NHP, and it would be a benefit for us to have this ability to enforce commercial truck violations.

**Assemblywoman Woodbury:**

Do you already have the portable scales in your agency?

**Chuck Callaway:**

We do have some officers who have gone through the training. However, I am not aware if we have the required scales, but I can check with our traffic division and let you know.

**Assemblywoman Woodbury:**

Do you have any idea how much it will cost to purchase those scales?

**Chuck Callaway:**

I do not know the cost of the scales. My colleague from NHP may have a better idea.

**Chairman Atkinson:**

We will have an answer for Ms. Woodbury in just a moment, but I wanted to make sure the secretary marks Assemblyman Goicoechea and Assemblyman Hogan present since they just returned from their other committee obligations.

**Bill Bainter, Lieutenant, Nevada Highway Patrol, Department of Public Safety:**

Portable scales are used in this type of enforcement and they cost approximately \$4,500 per scale. To outfit an officer with the equipment necessary to weigh a truck, it would take a minimum of four scales.

**Assemblywoman Woodbury:**

Four scales for the entire department?

**Bill Bainter:**

It would require four scales to weigh one truck, depending upon the number of people assigned to enforce this activity. For example, Washoe County has three officers who are trained, so they would need at least 12 scales.

**Assemblyman Manendo:**

I had no idea how much those scales cost. Where is the money going to come from to pay for this equipment?

**Bill Bainter:**

If an officer is certified and trained by the NHP, and they are not equipped with scales, an option is to escort the vehicle, if it is within a five-mile radius to a fixed scale. Most truck stops have certified CAT Scale Company (CAT) scales that can be utilized by officers to weigh trucks.

**Assemblyman Manendo:**

How many fixed scales do we have in southern Nevada? If they are going to be escorted, what if the distance is greater than five miles?

**Bill Bainter:**

The maximum distance is no more than five miles. The intent is to ensure we are not causing an additional inconvenience to the commercial truck by delaying him longer just to verify the weight.

**Assemblyman Manendo:**

If we are going to wait for an officer who is carrying the proper equipment, does that imply the NHP is slower than any of the other jurisdictions?

**Bill Bainter:**

Our officers are equipped with scales. I believe in some cases it could require waiting for a trooper. However, I believe it is at the discretion of the stopping officer whether it is appropriate to wait for a trooper to respond. If the NHP unit is 20 miles away, it would not be reasonable and would not be within a 60-minute time frame for an officer to answer this call.

**Assemblyman Goicoechea:**

The bottom line is these are good officers and they know where the nearest scales are located. My biggest concern is not in the Las Vegas Metropolitan Police jurisdiction where they have adequate staffing, but it is in the rural sheriffs' districts like Austin and Eureka. I would like to make sure all of those officers are sufficiently trained and that they have the proper scales.

**Assemblyman Claborn:**

In defense of the officers, they do not have enough police to maintain them. I am sure those old scales are still available, but they may be outdated. I think it is a good bill and it saves our highways.

**Assemblyman Goicoechea:**

Most of the trucking industry would rather travel five miles and be weighed on a regular platform scale than crawl onto a set of portable scales.

**Assemblyman Hogan:**

Fines will be collected, so in the course of developing this proposal has anyone done an informal calculation of what the net cost or profit may be? Is it relevant, and has it ever been estimated as to the net financial effect?

**Bill Bainter:**

I do not know if the other agencies have done any net cost-benefit analysis or cost realization on the weight enforcement program. However, currently we are responsible for the state's size and weight plan and, annually, we do approximately 19,800 weigh-in-motions on the interstate highway system. We commit 8,400 man-hours on secondary roads. Upon examining the actual citation activity, roughly 80 percent of the violations occurred on the secondary roads. The reason is we have been coined as a "bridge state" where we have ports of entry in Utah, Arizona, and California and the trucks that come into our state on interstate systems are usually compliant. That does not mean that some of them are overweight, but the revenues from the citations issued are coming from enforcement on secondary roads. Local jurisdictions engaged in weight enforcement activities will be handling the secondary and surface streets which is where the majority of violations are occurring.

**Chairman Atkinson:**

Are there any other questions from the Committee members? Is there anyone else wishing to go on the record in favor of S.B. 243 (R1)?

**Frank Adams, Executive Director, Nevada Sheriffs' and Chiefs' Association, Mesquite, Nevada:**

There are a number of other jurisdictions concerned about this particular issue. There are many commercial vehicles that never get on a state highway and never cross a state line. The majority of these roads are being abused by commercial trucks, particularly those in the construction industry, which equates to additional maintenance to the cities. When a truck has an overloaded cargo on a city street, it takes a big toll on the pavement. I believe with the additional enforcement support by local police, we can prevent some of the damage.

I wanted to comment briefly on the funding source. I am aware that the National Highway Traffic Safety Administration (NHTSA) and the Federal Highway Administration (FHWA) are interested in overloaded traveling off the main roads, and we are seeing some federal monies distributed on a local level to help support these programs.

**Assemblyman Goicoechea:**

I assume when they talk about the training involved that the local officers who complete the training will be able to look for other violations as well.

**Frank Adams:**

It is my understanding that this will be the same training that the NHP receives. The NHP watches the state highway system. However, when the bridge opens

over the dam at Boulder City, there will be at least 2,000 commercial trucks traveling through the city on municipal roadways each day. This is a big problem and we need local enforcement trained to handle the situation.

**William E. Bensmiller, Division Administrator, Federal Motor Carrier Safety Administration, United States Department of Transportation, Nevada Division, Carson City, Nevada:**

We currently have active grants for commercial enforcement with the NHP and the City of Henderson's Police Department, which may answer some of your questions about why those two entities were the main ones to testify. We have received grant requests from the Cities of Sparks and Reno. We also have requests from Washoe County and Douglas County. We usually have some type of program interaction with Las Vegas Metro, but we only have two commercial grants issued at this time. We are providing funding through the grants, and for NHP it totals approximately \$1.6 million. Henderson has approximately \$150,000 in federal grant monies.

**Chairman Atkinson:**

Are there any questions? Is there any testimony in opposition to this proposal?

**Randy Thelander, Equipment Coordinator, Granite Construction Company, Incorporated, Lockwood, Nevada:**

I have been in the construction industry for 31 years, and 15 years of that time were spent driving a truck hauling materials. I would like to share a few reasons why I feel this bill is not formulated in our best interest. [Read from prepared testimony ([Exhibit F](#)).]

I would like to deviate briefly from my testimony to comment on the pictures shown earlier by the Henderson police officer. As a former truck driver, the first vehicle does not necessarily look overloaded to me. I believe this is a failure of the trailer and a condition of the vehicle. It should have been inspected, not only by the driver but by the company that owns it, and would most certainly be caught in an inspection by an officer, especially at a scale or weight site. This can happen to anybody if they do not properly maintain their vehicles. At Granite Construction, our vehicles are examined on a regular schedule and we meet with the NHP troopers and do joint inspections and training. I believe many of the other companies in our area follow the same procedures.

The second photo showed a commercial truck that was reportedly 5,000 pounds overweight. However, I do not see any visible bulging of the tires on either of the vehicles, which is indicative of an overloaded truck.



The final picture with the cargo tied with rope is also not necessarily overweight. It is overloaded on the back end, which is not a safe operating condition.

The cost of trucking is high, as is the cost of registration. Now, when the economy is already suffering, we are faced with inexperienced personnel trying to identify overweight vehicles and the time involved to accomplish these inspections. Many of our competitors have gone out of business because of the economic hardships. I do not believe this is the proper time to start inspecting trucks at the local enforcement level. I feel this needs to be done at permanent scales where it is more efficient, safer for the officers and the traveling public, and it is more productive for our companies.

**Assemblyman Hogan:**

You have made an interesting case for preferring the permanent weighing facilities over the portable scales. I wonder if we could achieve some of the advantages you described for permanent scales by lifting the five-mile-radius limitation. The truck could then be escorted to a good permanent scale and the danger to the officer could be avoided. Would that be a reasonable solution?

**Randy Thelander:**

I am not sure that it would be in the best interest of all of the commercial vehicles because it takes them out of their normal route, and the additional time may affect the load from excessive hardening or cooling off.

One thing I failed to mention pertains to the comment made by the Senator regarding rocks falling off of loaded trucks. There are laws that already cover this type of problem and violators are cited for these violations all the time.

**Chairman Atkinson:**

Actually you touched on a topic that I was going to ask Mr. Enos about. How much education goes into making sure the drivers know these weight limits? What is the training required of the truck driver and how long does this take? Also, if the officer is wrong, how much time has the driver lost in carrying his cargo to his point of drop-off?

**Paul Enos:**

The time lost by a driver would depend on the circumstances and would be reported on a case-by-case basis. I have heard of instances where drivers have been detained for over an hour. There was a recent incident in Storey County where a driver was pulled over and had to wait 1 hour and 45 minutes for a trooper to arrive and issue the citation for an overweight violation.

Your question on driver's education—it is incumbent upon every professional truck driver to know the laws and there are no excuses to be operating an illegal vehicle.

**Chairman Atkinson:**

It does not address my concern about how much time is spent along the side of the road. I understand that this proposal may help expedite the stop. However, my concern about the officer incorrectly pulling over a vehicle and delaying the driver without cause is still troubling me. However, I will review the information provided during this hearing to determine whether this issue has been addressed by the proposed bill.

**Assemblyman Manendo:**

In the example you gave, was the truck overweight?

**Paul Enos:**

In that case, the truck was overloaded and was issued a citation. This incident was one of the reasons the Nevada Motor Transport Association decided to bring all of the jurisdictions together with the industry for a Commercial Vehicle Safety Summit. We will be hosting the same event this year to ensure everyone is working from the same information. We believe it is better to have a dialogue in a neutral environment rather than at the side of the road where the driver is under threat of being issued a citation. We wanted to give our membership an opportunity to ask the people enforcing the laws questions before they are pulled over.

**Assemblyman Manendo:**

I think the key is education, so I am glad to learn that you are initiating this kind of program. How often are the truckers actually ticketed when they are pulled over for being overweight? Is this out of control?

**Paul Enos:**

There have been instances involving one particular officer in a jurisdiction in southern Nevada where there were multiple complaints submitted by the drivers. We invited this individual to attend the Commercial Vehicle Safety Summit and through the help of the NHP and the Federal Motor Carrier Safety Administration, the problem was discussed and everyone is now on the same page. I do think it is incumbent upon the industry to reach out to our law enforcement partners to figure out where we can do better, and to give them suggestions about what we feel would improve the process on their end.

**Randy Thelander:**

I wanted to add that Granite Construction is completely in support of vehicles that are safe and legally maintained. We have four pits in northern Nevada and all of them are strictly regulated not to allow any trucks to run overloaded. We do support the need to handle this situation, but we want it handled safely.

**Mike Rich, Trucking Supervisor, Q and D Construction, Incorporated, Sparks, Nevada:**

I agree with Mr. Enos, and I do not want to see anybody driving a truck that is illegal on our roadways. There are scales at every pit we exit and they do not allow us to haul overloaded. My biggest concern is when traveling from Verdi to Wadsworth, we encounter six different entities and can be pulled over six times during one trip that should take only 45 minutes and could easily require hours just waiting to be checked. I also agree with Mr. Thelander's statement that five hours is not enough training.

**Derek Dunstone, General Manager, Bragg Crane Service, Sparks, Nevada:**

One of the concerns we have with this bill is we have been stopped on the side of the road and many of our loads require four people to support one crane. Four people are tied up for an hour and a half if the officer does a good job and we are moving again within that time, but we cannot use portable scales. The NHP discovered when they visited our yard that it required 12 portable scales to weigh one crane, because many of our cranes have 12 axles. They are too wide to run over CAT scales. If we are stopped for an inspection, the only way to conduct a proper weight assessment is through the NHP unless the local officers have 12 portable scales. Even when the NHP visited our yard to weigh one of our cranes for our NDOT permits, they had to arrive in three separate vehicles to carry enough scales to perform the job. Cranes are a huge target going down the road. They are big and heavy, and they get a great deal of attention because of the crane's appearance. As a result, officers like to pull them over because it looks like a ticket violation in the making. We get pulled over on a regular basis, and to the officer's credit I was overweight on one of the 12 axles of the crane. The way it works in determining an overweight crane, is it goes by bridging, axle weight, tire width, and finally whether the entire vehicle is overweight. There is another crane company in Las Vegas that also gets pulled over all of the time. Five hours of training is not enough for them to understand how to weigh a vehicle with 12 axles. I believe the emphasis during the training is on trucks which are common, but our company is going to get caught in the middle if this legislation passes.

**Chairman Atkinson:**

Are there any questions from the Committee members? Is there anyone else ready to speak in opposition to S.B. 243 (R1)? Is there any neutral testimony?

Seeing none, we will close the hearing on S.B. 243 (R1) and we will revisit this issue during our last meeting, scheduled for this Thursday. A few members still have questions and we are missing four members from the Committee. I am also undecided on a few points, so I want to make sure everything is answered before we entertain a motion. We will open the hearing on Senate Bill 249.

**Senate Bill 249:** Revises provisions relating to the medical professionals who may issue a health certificate to a person applying for employment as a taxicab driver. (BDR 58-120)

**Senator Dennis Nolan, Clark County Senatorial District No. 9:**

I am presenting Senate Bill 249 which is a measure we were asked to introduce in the interim on behalf of the taxicab industry. Cab drivers are required to take a physical every year, and in order to do so many have to schedule the exam after work. Drivers who work the late shift must go to a 24-hour clinic that provides this service. Quite often, a physician is not present on the premises and either a nurse practitioner or a physician's assistant is conducting the physical exam. As a result of that, the statute now requires a physician to sign off on these procedures. Senate Bill 249 would allow the physician's assistant (PA) or the nurse practitioner, who are acting on behalf of the physician, to sign the exam sheet. Currently, the exam is performed and they have to wait for the physician to sign off on the paperwork, but it requires the driver to come back causing an additional inconvenience for them.

**Chairman Atkinson:**

Are we concerned this may spill over into other businesses?

**Senator Nolan:**

I do not have the answer to that question, Mr. Chairman. I suppose there are a number of different professions that require physicians to examine them. Even high school students who want to play sports are required to obtain physical exams before they can participate, but many of these examinations are governed by the school districts and allow certified athletic trainers to perform these procedures. There are different areas requiring these exams that currently allow nurse practitioners or PAs to perform the procedure.

**Assemblyman Goicoechea:**

I am concerned because I have a Commercial Driver's License (CDL) medical in my wallet that is signed by a PA, and CDLs are nationwide. I do not understand what problem needs to be resolved.

**Senator Nolan:**

I am under the impression that because the CDL is part of the federal law and they permitted this alternative procedure some time ago, that it is one area where it is allowed. The CDL is more extensive than the perfunctory physical license that a taxicab driver is required to go through.

**Chairman Atkinson:**

Are there any questions from the members? Is there anyone else who wants to testify in favor of S.B. 249?

**Sean Gamble, Special Projects Nevada, representing Frias Holding Company, Reno, Nevada:**

We are here to add our support to this bill.

**Cheryl Blomstrom, representing the Nevada Nurses Association, Reno, Nevada:**

We echo the last witness and join in support of this bill.

**Chairman Atkinson:**

Is there anyone else in the audience who wants to go on record in support of this legislation? Is there any opposition to this bill? Is there any neutral testimony? We are missing so many Committee members and I want to give them the opportunity to review the bill before we entertain any motions. We plan on bringing this bill back on Thursday. We will close the hearing on S.B. 249 and open the hearing for Senate Bill 251 (2nd Reprint).

**Senate Bill 251 (2nd Reprint): Revises certain provisions governing vehicles. (BDR 43-1115)**

**Michael Geeser, Media/Government Relations, California State Automobile Association, AAA Nevada, Las Vegas, Nevada:**

This is important to the California State Automobile Association and AAA Nevada, and a bill that we have been lobbying across the country for what is commonly referred to as the "move over" law. Briefly, this bill helps protect the lives of tow truck drivers on the roads of Nevada. The legislation says that when a tow truck has its amber lights on and is at the scene, a motorist should do four things when approaching the tow truck. Those four provisions are enumerated on page 3, line 5, of the bill. The first instruction is to decrease the speed, the second is to proceed with caution, the third is be prepared to stop, and the fourth is where the term "move over" comes from, which is, if possible, drive in a lane that is not adjacent to the lane in which the emergency vehicle or tow car is stopped.

The reason for the bill is it will give tow truck drivers and roadside assistance personnel the space and room needed to operate on the side of the road without having to worry about close calls and cars speeding by them. We had a tow truck driver with AAA in southern Nevada hit by a car and the car was traveling at a high rate of speed. We are fortunate that the tow car operator lived, but he suffered severe injuries. In our state, tow trucks are not considered emergency vehicles. In 14 states this condition exists, but in 29 states the "move over" law encompasses tow trucks. This legislation is pending in Rhode Island, and last year Colorado, New Hampshire, and Oklahoma passed this very same legislation.

With the Chairman's permission, I would like to introduce two short amendments to this proposed bill ([Exhibit G](#)). The first amendment is found in section 1.5 on line 3. Originally this bill had language that said when a tow truck has its amber lights on traffic must yield, and that is not purpose of the "move over" law. We want the traffic to move into the next lane when a tow truck is at the scene of an accident. The bill as originally drafted read "when stopped upon or adjacent," and the reason this language will not work is because when the tow truck pulls up to the scene of an accident and physically stops, if the tow operator must get to the front of the car needing towing, then the operator must move the truck to accommodate that purpose. Our suggestion is to delete "stopped upon or adjacent to the highway," and it would read, "when at the scene of a traffic hazard."

The second amendment was an oversight and we did not find the error when it was initially drafted. In section 4 it mentions what a tow car driver must do when he gets to the scene of an accident in placing flares, lanterns, or reflectors on the ground to warn motorists that there is a traffic hazard on the road. We would like to add "when it is safe to do so." This language is essential in the event some flammable liquid or material is on the road, because we would not want the tow car operator, or anyone for that matter, to ignite anything in that vicinity.

**Chairman Atkinson:**

Are there any questions? Is there anyone else who wants to be on the record in favor of S.B. 251 (R2)?

**Tom Roberts, Lieutenant, Las Vegas Metropolitan Police Department,  
Las Vegas, Nevada:**

We are in favor and support this legislation. Last year in our jurisdiction, we had approximately 28,000 traffic accidents and almost all of those required a tow truck driver to respond to the scene to help clean up the accident scene.

The safer they can accomplish this activity, the more expeditiously they can clear the scene and it reduces the incidences of secondary accidents.

**Cheryl Blomstrom, representing the Nevada Motor Transport Association,  
Carson City, Nevada:**

We are also in support of this bill. A professional driver would take the actions recommended in this bill anyway to clear the lane for a tow truck driver, and we would be happy to endorse this legislation.

**Chairman Atkinson:**

Is there anyone else who wants to testify? We will not take action on this bill today, but will bring it back at the next meeting. I am going to close the hearing on Senate Bill 251 (2nd Reprint), and this will conclude our hearings for bills. Is there any public comment? This meeting is adjourned [at 3:56 p.m.].

RESPECTFULLY SUBMITTED:

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Marlen Schultz  
Committee Secretary

APPROVED BY:

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Assemblyman Kelvin Atkinson, Chairman

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

**EXHIBITS**

**Committee Name:** Committee on Transportation

**Date:** May 12, 2009

**Time of Meeting:** 1:44 p.m.

<b>Bill</b>	<b>Exhibit</b>	<b>Witness / Agency</b>	<b>Description</b>
	A		Agenda
	B		Attendance Roster
S.B. 201	C	Derek W. Morse	Folder containing Washoe County Ballot Question RTC-5 and S.B. 201, news editorials, and two pamphlets.
S.B. 201	D	John O. Swenseid	Memorandum on Proposed Legislation.
S.B. 243 (R1)	E	Mark Schaible	Prepared Testimony and Pictures.
S.B. 243 (R1)	F	Randy Thelander	Prepared Testimony.
S.B. 251 (R2)	G	Michael Geeser	Letter containing two proposed amendments.