

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

**Seventy-Fifth Session
May 19, 2009**

The Committee on Transportation was called to order by Chairman Kelvin Atkinson at 8:36 a.m. on Tuesday, May 19, 2009, in Room 3143 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at www.leg.state.nv.us/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; telephone: 775-684-6835).

COMMITTEE MEMBERS PRESENT:

Assemblyman Kelvin Atkinson, Chairman
Assemblyman Mark A. Manendo, Vice Chair
Assemblyman John C. Carpenter
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:

None

GUEST LEGISLATORS PRESENT:

Senator Dean A. Rhoads, Rural Nevada Senatorial District

STAFF MEMBERS PRESENT:

Marjorie Paslov Thomas, Committee Policy Analyst

Darcy Johnson, Committee Counsel

Sharon McCallen, Committee Secretary

Sherwood Howard, Committee Assistant

OTHERS PRESENT:

Jeremy Drew, Reno, Nevada, Co-Coordinator, Off-Highway Vehicle Working Group; Member, Coalition for Nevada's Wildlife

Leah Bradle, Reno, Nevada, Co-Coordinator, Off-Highway Vehicle Working Group; Executive Director, Nevada Powersport Dealers Association

Neena Laxalt, Elko, Nevada, representing the Nevada Cattlemen's Association

Kyle Davis, Policy Director, Nevada Conservation League, Las Vegas, Nevada

Chris MacKenzie, Carson City, Nevada, Member, Off-Highway Vehicle Working Group

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

Doug Busselman, Sparks, Nevada, Executive Vice President, Nevada Farm Bureau Federation

Wes Henderson, Carson City, Nevada, Government Affairs Coordinator, Nevada Association of Counties

Wayne Fisher, Private Citizen, Incline Village, Nevada

Josh Wilson, Private Citizen, Reno, Nevada

Farrokh Hormazdi, Deputy Director, Department of Motor Vehicles

Dennis Colling, Chief of Administration, Administrative Services Division, Department of Motor Vehicles

Daryl Capurro, Private Citizen, Reno, Nevada

Robert D. Chisel, Assistant Director, Administration, Department of Transportation

Megan Jackson, Reno, Nevada, representing Associated Builders and Contractors, Inc., Sierra Nevada Chapter

Chairman Atkinson:

[Roll taken.] Please mark members present as they arrive. We have two bills in front of us this morning.

[Senate Bill 394 \(1st Reprint\)](#): Makes various changes to provisions relating to off-highway vehicles. (BDR 43-501)

Senator Dean A. Rhoads, Rural Nevada Senatorial District:

The Legislative Committee on Public Lands has monitored the off-highway vehicles (OHVs) used on public lands for many years. The record shows that the monitoring began eight years ago, and the topic has been on the agenda 17 times. A working group has labored tirelessly to put this bill in front of you today.

The number of OHVs operating on public lands in Nevada has increased dramatically in recent years. It is estimated that Nevadans own over 425,000 OHVs, including dirt bikes and snowmobiles. The increased popularity of OHVs as a form of recreation poses significant land management challenges. It should be noted that virtually all Western states have some form of OHV registration and regulation at the state level. Former deliberations of OHV matters were held at seven of the Committee's nine in-state meetings last year. As Chairman, I was very diligent in offering opportunities for all interested parties to discuss the issue of OHV regulation in Nevada. The members of the Committee were extremely impressed with the desire of many interested parties to collaborate and work closely on this legislation. Through the efforts of a working group, consensus was reached on many important components of OHV registration and regulation. The Committee was pleased to, once again, support this OHV legislation.

The working group is represented by Leah Bradle and Jeremy Drew, and they will walk you through the bill.

Chairman Atkinson:

This bill sounded familiar. I was on the Assembly Committee on Natural Resources, Agriculture and Mining the past few sessions, and that is where I heard it.

Jeremy Drew, Reno, Nevada, Co-Coordinator, Off-Highway Vehicle Working Group; Member, Coalition for Nevada's Wildlife:

[Read from prepared text ([Exhibit C](#)).]

Leah Bradle, Reno, Nevada, Co-Coordinator, Off-Highway Vehicle Working Group; Executive Director, Nevada Powersport Dealers Association:

[Read from prepared text ([Exhibit D](#)).]

The reason for the requirement, in 2.1A(c) under the OHV Registration portion of my handout, is the loophole that is currently in the tax system for out-of-state purchases. You should have a list of numbers provided by the Department of Taxation ([Exhibit E](#)) for Nevada residents who go out of state to purchase their vehicle. They do not pay sales tax in that state. When they return to Nevada, they are supposed to pay the Nevada sales and use tax, but

because there is no enforcement and no registration as there is with vehicles, many people are evading this tax or just do not know about it.

The Department of Taxation recently audited three OHV dealerships in the State of Utah. The total vehicle sales to Nevadans from just these three dealerships was over \$16.4 million. To Nevada, the lost sales tax from those sales was \$1.2 million. That is just from the three dealerships and does not include sales from the rest of our surrounding states.

[Continued reading from prepared text ([Exhibit D](#)).]

We also have letters of support from three of the people who have been working on this who were unable to be here today ([Exhibit F](#)), ([Exhibit G](#)), and ([Exhibit H](#)), as well as a brochure ([Exhibit I](#)) outlining the provisions of the Working Group and a letter ([Exhibit J](#)) from the two Working Group Coordinators regarding the titling and registration of off-highway vehicles.

Assemblyman Christensen:

Under Rule 23, I need to disclose that I am a staunch OHV individual. Yesterday I mentioned some concerns that I have for the bill. I do not like the idea of charging a fee every year to these kids who just want to ride their little mini-bikes. Unfortunately, I do not have a lot of confidence that government is going to do a really good job of designating places where kids can ride. I want to make sure we do not go in the direction that California has. From what I understand, they started out about where we are today, and now there are only a few little football-size fields where you can ride. That is discouraging.

What I want to focus on is what you mentioned regarding Nevadans who buy in other states. I want to make sure that the retailers in our state are not losing out because possibly we are not taking command of an issue. I see that as being a bigger issue than charging kids \$20 to \$30 for their mini-bikes.

If I buy a motorcycle in Utah, am I paying sales tax in Utah?

Leah Bradle:

Regarding your previous statement, that is certainly not the intent of the bill. We are trying to create a sustainable system to ensure riding opportunities in the state through the program. As far as the out-of-state-sales issue, some out-of-state dealerships are using the fact that customers do not have to pay sales tax as a sort of sales incentive. It is a lower out-the-door price when they do not collect sales tax. When residents bring the vehicles back to Nevada, under the sales and use tax law of 1955, they are supposed to send in that money. Many of them do not. The Department of Taxation has been sending

out thousands of collection notices trying to collect this money and to let the people know there are penalties now, but they can only do so much.

Assemblyman Christensen:

If I go to St. George, Utah, to buy a motorcycle, is the St. George dealership not going to charge sales tax if I am a Nevadan? Are they giving me the motorcycle at their dealership or are they taking it to the state line to give it to me?

Leah Bradle:

We have information that both cases occur. Many people are purchasing them at the dealership, buying a trailer and a couple of vehicles at a time, and bringing them back. There are some cases where we have heard of dealerships actually shipping truckloads of them over to Nevada.

Assemblyman Carpenter:

I want to call your attention to parts of this bill. On page 6, line 4, where it says "except as otherwise provided in subsection 3," which subsection 3 are you referring to?

Chairman Atkinson:

Page 6, lines 39 to 45? Is that where you are Mr. Carpenter?

Assemblyman Carpenter:

If it applies to all of that subsection. Everything that is in subsection 3, down to subsection 4; is that what it means?

Leah Bradle:

I believe, if I am looking at the correct section, it lists the exemptions under the registration. You would not have to register any vehicles if they were:

- Owned and operated by a federal agency or an agency of the state, including counties, cities, or towns.
- Part of the inventory of a dealer registered in another state.
- Solely used for husbandry on private or public lands and then used for utility work.
- Older vehicles.

Assemblyman Carpenter:

I thought so, but I wanted to make sure. As I understand this, if you go through the Department of Motor Vehicles (DMV), it has to be strictly through the mail, and you cannot go into a DMV office to do anything. I do not understand how you are going to get it registered if you do not have the title.

Leah Bradle:

There are a couple of options. You do not have to go into a DMV; you could go to your local dealership where all of the applications and inspections are done. Then DMV mails you your title and registration which can also be done online for renewals. If you do not have a title, if it is an older vehicle or you do not have your paperwork, you would simply sign an affidavit stating that you are the rightful owner.

Assemblyman Carpenter:

I do not know if I really understand that. On page 7, where you talk about husbandry, we do not lease the land from the government; we have a permit. I think you need to change that part to conform to what it actually is. On that same page, it says the Department may collect a fee. Do you know what that fee is, if you are going to get a title to this pursuant to *Nevada Revised Statutes* (NRS) 482.429?

Leah Bradle:

That is consistent with DMV's current titling fees. It is \$28.25.

Assemblyman Carpenter:

I have a question on the membership of the Commission on Off-Highway Vehicles. It seems to me regarding the representative of the Nevada Association of Counties that the counties should appoint a sitting county commissioner rather than just someone out there—that way if people have a problem they could reach that commissioner more easily because they know who he is.

Assemblywoman Spiegel:

With the temporary account that is set up to accept gifts and grants for start-up, what happens to that money if the trigger amount is not reached?

Jeremy Drew:

We would have to arrange an agreement with whoever is gifting or granting that money as to what we would do with the funds in that case. At this point, the Working Group has approached several different entities about providing start-up funds. We have not gotten into the depth of detail because obviously we need the bill enacted before we can deposit into that account. When those people indicate that they want to give us grant funds, we would have to come up with an agreement in the event that the money did not trigger.

Assemblyman Claborn:

This bill really involves our public lands and environment. It is really four or five bills wrapped up into one. In one section there is concern for not paying sales taxes in Nevada, then there are three or four other areas involved, but

what it all comes down to is it is really tearing up our public lands and environment. We could not catch these people due to the fact they had no license and were not registered. If you reported violations to the game wardens or to the park rangers, they would say, "Well, who was doing that?" There is no way to identify the perpetrators who are tearing up our environment. It is causing all of the hunting trails to be shut down and all kinds of havoc with the park rangers.

I have been against this bill for the past four or five sessions, but if these things remain uncontrolled, it will tear our environment to pieces. They have even shown photographs of these trails from satellites. It is unbelievable. With this OHV registration, the money will come to support making trails and shutting off some of them so they cannot tear up our environment and scare our wildlife. The other stuff is irrelevant to me, but what this bill will do if passed is catch those people who are tearing up our environment. It needs to be done, and if I get a chance to vote for this today, I will support it.

Chairman Atkinson:

If this is passed, will we ever move to the point of having some nice parks to ride in like California does? Will this bill help with that?

Assemblyman Christensen:

I am curious to know what was said that changed Mr. Claborn's mind.

Assemblyman Claborn:

What was said was, it was tearing up the environment and there was no way to catch these people. If you register these vehicles, there will be some kind of sticker or tag on them so you can identify the vehicle to report. Before, we had no way to identify them—they would just wave at you and speed off.

In regard to your comments, Mr. Christensen, with sales tax, that is another problem. We should have handled that in the Assembly Committee on Taxation.

Neena Laxalt, Elko, Nevada, representing the Nevada Cattlemen's Association:

I want to start with Mr. Claborn's comments because that is exactly where the Nevada Cattlemen's Association is coming from.

Mr. Christensen, with all due respect, not everyone is a responsible off-highway vehicle rider like you and if that were true, we would not be sitting here. There are problems out there. From the Nevada Cattlemen's Association perspective, we are supportive of this bill for the same reason Mr. Claborn has just stated regarding the environmental issues. For some of the ranches, the cattlemen have problems with their fences being ripped apart, which are costly to

reconstruct, and of course, there is damage to ditches and waterways, erosion, and things like that.

From a personal point of view, our family has property in the Sierras and there are many areas that do not allow vehicles unless they have permits. Often we see OHVs up there and there is no way for the authorities to catch them. It would be nice to be able to notify them and identify exactly what we saw.

Kyle Davis, Policy Director, Nevada Conservation League, Las Vegas, Nevada:

I am also here today on behalf of the Conservation Priorities for Sustainable Nevada, which is a group of 17 conservation/environmental organizations from throughout the state. This bill is one of four priorities for us this legislative session. We think it is a very important bill that will advance the conservation of Nevada's precious natural resources and protection of Nevada's environment.

Assemblyman Claborn outlined a lot of the main reasons why we think this bill is so very important. Unfortunately, we do have a problem with a few irresponsible riders who are causing damage to our environment, tearing up our public lands, and causing problems with our wildlife habitat. We feel this problem can be dealt with in a big way if we were able to have a system of registration with visible tags so we could report the irresponsible users.

The other advantage of this bill is that it gives us a funding source so we can build places where responsible riders can ride without causing problems. It also gives us some funding sources to be able to repair some of the problems that have been caused from irresponsible use in the past. All around, this bill can bring everyone together to support and protect our natural environment. It will provide resources so that responsible OHVs can continue to ride in our state.

Assemblyman Hogan:

I agree very strongly that this is an excellent bill. It is also a remarkable bill in the sense that so many very interested parties, with very diverse points of view and concerns in this area, were able to come together and find common ground on all of the points. It is a remarkable example.

Mr. Claborn has helped us all focus on the environmental issues here. The question I want to clarify regards the ability to identify those who are not operating their vehicles by the standards that Mr. Christensen has exemplified. It is necessary to conduct proper law enforcement techniques to get this under control and use those events to educate youngsters and not-so-youngsters. How quickly will we achieve a level of titling and licensing that will get us to a point where most of the folks are actually licensed and able to be identified?

If I understand correctly, we started out by requiring the licensing only for people buying a new vehicle and those buying a resale through a dealer. That is probably a good start. It is probably not a good idea to round up all the people who have been enjoying the sport for 20 years or irritate that many people all at once.

I just want to get a summary of how we build to a point where we can identify most of the folks who are out there.

Chris MacKenzie, Carson City, Nevada, Member, Off-Highway Vehicle Working Group:

There is a distinction created in the bill between titling and registration. Only new vehicles or used vehicles purchased through a dealer will be required to be titled. All will be required to register. There are two separate components to this. The registration will come along quickly. One thing that is anticipated, in talking with law enforcement, and I will not speak for them, but typically, with a newer program, there will be a lot of warnings. On the front end, it will be by education. A lot of this money goes to educating the people about this program so they will not become entrapped. Over time, it will become more of an enforcement program.

Chairman Atkinson:

Did you want to give testimony now?

Chris MacKenzie:

Yes, please. As you know, this has been a long process and from past failures we learned we had to get the users at the table. They were at the table and I commend them. Again, it is not your independent riders; it is the people who are members of these groups which represent thousands of riders supporting this bill. They recognize that there are some problems out there and that if the state does not do something, there is a great potential for the federal government to take that over for us. Our state is 85 percent federally owned, and OHV groups have serious concerns about that and have talked about starting their own organization, so we are getting out in front now. That is smart at this point in time for our state.

One thing that went into this is the formation of a commission. It raises a concern of more bureaucracy and red tape, but that was basically something that was done at the request of the riders with some input from many interested parties. However, the users are given the majority on that commission. They are not being divested of anything; they have total input, and the majority of the funds they are paying are going back into their interests. I want to make that clear for the record.

Assemblyman Carpenter:

On page 7, subsection 6, it says that this does not apply to the owner of an off-highway vehicle that is registered in a state that has similar requirements. That really bothers me because we already have all kinds of problems with trucks and cars coming into this state that are registered in places other than Nevada and they are being used solely in Nevada. There is going to be a lot of evasion if they can register somewhere else and we cannot do anything about it. I think that ought to be taken out because there is another section in here about registering it somewhere else and only using it for 60 days. You need to take that out. There is no need to start out on the wrong foot with this bill.

Chris MacKenzie:

We came into it from a different angle on why we provided for the reciprocity. Nevada is basically an island. Every state around us provides for registration of some sort and a lot of OHV riders go to other states and have to buy permits to use or register their vehicles. This would provide that if you are registered in Nevada, you can go to another state that recognizes the reciprocity and not have to register. Likewise if other people come to Nevada, they will not have to do a registration here. It is more of a free-flow, freedom type of thought as opposed to someone using that to register out-of-state and then coming here and not reregistering. At least if they are registered in another state it does provide identification to allow us to go to another state and identify them.

Assemblyman Carpenter:

We already have a big-time problem with trucks and other vehicles. I can understand that someone just riding through Nevada should not be stuck with it, but for one of our residents to register somewhere else because it is cheaper is not right. It needs to be tightened up or eliminated. You already have the other part of it.

Assemblywoman Spiegel:

This is a follow-up to Mr. Carpenter's point. I do not see where Nevada citizens who purchase the vehicles have the registration requirement. That is a really big sticking point that will partially address the issue that Mr. Carpenter is bringing up. Am I missing that somewhere?

Leah Bradle:

The bill does not specify Nevada residents. They do have to show that they have paid sales tax in Nevada or do an affidavit to show that has been done upon registration of the vehicle. The bill allows residents of other states to come in and do a full registration in Nevada if they wish.

Assemblywoman Spiegel:

To follow up on Mr. Carpenter's suggestion, if it were less expensive for someone to buy their OHV in a state that had a lower sales tax rate than Nevada, and they were to register their vehicle in that state, even if they were a Nevada resident, they would still be able to use their OHV here in Nevada 60 days a year?

Leah Bradle:

That is correct. When residents move to Nevada with their regular vehicle, they have 60 days to register it, so we included the stipulation that if you were operating the OHV in Nevada for more than 60 days, you would have to do the full registration.

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

I would like to disclose that I am an owner and rider of an OHV. We are in support of the bill and have worked with the coalition over the past year to get this bill at a workable level. As Mr. Claborn said, we are very concerned with the damages being done in the backcountry of Nevada. The problem we are having is in identifying these individuals. The search and rescue issues and enforcement issues come back to local law enforcement and specifically to the sheriffs.

Last summer, I had the opportunity to appear before the United States Senate's Committee on Energy and Natural Resources and talk about this issue specifically—being able to identify the people who do the damage in the backcountry.

We believe that just the fact a person knows he can be identified—the lack of anonymity by registering and putting a plate on that vehicle—is going to eliminate a tremendous amount of the damage. The other benefit we see is recovering stolen vehicles. Currently there is no titling and no registration and our hands are tied in trying to recover them.

There is a funding mechanism in the bill for law enforcement and we support that to help get the resources we need to enforce the law.

Doug Busselman, Sparks, Nevada, Executive Vice President, Nevada Farm Bureau Federation:

All of the good ideas of why we are in support of this bill have already been shared with this Committee, so we would like to say the Farm Bureau is also in support. We would encourage you to pass this bill into law.

Wes Henderson, Carson City, Nevada, Government Affairs Coordinator, Nevada Association of Counties:

We too are in support of Senate Bill 394 (R1). I have provided the Committee with a copy of the resolution ([Exhibit K](#)) that was passed by our Board of Directors in November 2007, which addresses this topic in addition to all of the other benefits that have been talked about today. Our counties do receive an economic benefit from responsible OHV use.

I would like to address Mr. Carpenter's comment regarding the Nevada Association of Counties' (NACO) representative on the Commission. It is my understanding that it would be a member of our Board of Directors who is a county commissioner.

Assemblyman Carpenter:

If the bill read that the representative would be from NACO it would fine, but it says somebody that they nominate and not that it has to be a county commissioner or a member of their Board of Directors.

Chairman Atkinson:

Can one of the county commissioners be nominated?

Wes Henderson:

Yes.

Chairman Atkinson:

Even if it does not specifically say that, they can be nominated, correct? Okay.

Wayne Fisher, Private Citizen, Incline Village, Nevada:

I have been an avid snowmobiler for ten years and past president of the California Snowmobile Association for eight years, and the snowmobile community supports this bill because it is the right thing to do. Again, with law enforcement, trail maintenance, and just being proactive, we want to do the right thing as far as getting people to think environmentally, and educating the public on the right way to snowmobile and the right areas to use.

Chairman Atkinson:

Perhaps the two sponsors that Senator Rhoads picked to present this bill could come to the table to quickly answer a question. Some are wondering why this bill is no longer in the Assembly Committee on Natural Resources, Agriculture, and Mining or under the Department of Wildlife, as that is where they have been proposing to put it for the past few years. Now it has come to the Assembly Committee on Transportation and will be a part of what the Department of Motor Vehicles does. Can you explain why that has changed?

Jeremy Drew:

The Working Group had that debate early in the process. Everyone felt that the Department of Motor Vehicles was the appropriate place to put that bill given their record in titling and registering motor vehicles. Despite concerns we had, we did talk to the Department of Wildlife, which had some concerns because they do not have the infrastructure to handle that. They do boat registrations, but that is, in part, due to a mandate by the federal government. They receive Coast Guard funding, so they have to handle registration of boats. That was the line of thought of the Working Group—going with the Department of Motor Vehicles.

Assemblyman Manendo:

I saw that it went to the Senate Finance Committee but they took no action on the bill. Did they not provide the funding? Maybe you could answer why they did not.

Leah Bradle:

Senate Finance actually held a meeting to amend and do pass this bill last Saturday behind the bar on the Senate floor, and it was passed out at that time. We had done an amendment to neutralize the fiscal note with the trigger account. They approved to do the second reprint.

Chairman Atkinson:

Is there anyone in the audience who wants to go on record in opposition to S.B. 394 (R1)?

Josh Wilson, Private Citizen, Reno, Nevada:

I am not necessarily here to speak in opposition to the bill...

Chairman Atkinson:

I asked for opposition. Is there any opposition to S.B. 394 (R1) as it is written? We will take those who are neutral at this time.

Farrokh Hormazdi, Deputy Director, Department of Motor Vehicles:

We are addressing the latest proposed amendment, the third version. It is not the first reprint.

[Read from prepared text ([Exhibit L](#)).]

The effective date should be "one year after the Governor's proclamation."

Chairman Atkinson:

You mentioned an amendment?

Farrokh Hormazdi:

Yes, we were given this proposed amendment for S.B. 394 (R1). No one here mentioned it, so I was concerned because our write-up was based on this.

Chairman Atkinson:

We do not have it.

Farrokh Hormazdi:

It has already been adopted and it is in the bill.

Chairman Atkinson:

So it was an amendment that was on the other side that has already been put in the bill. Okay, it is in the version of the bill we have in front of us.

**Dennis Colling, Chief of Administration, Administrative Services Division,
Department of Motor Vehicles:**

One of my specific concerns is in section 19. It states that "The Revolving Account for the Administration of Off-Highway Vehicle Titling and Registration is hereby created as a special account in the Motor Vehicle Fund." I would point out that the Motor Vehicle Fund is a pass-through account and is not set up for this type of fund at all. This should more appropriately be in the State General Fund. That is set up to handle this kind of thing. It does not matter as far as the administration of it where it is, but the Motor Vehicle Fund is a specific fund that is cleaned out at the end of each year. I have spoken to the Controller's Office concerning this and they indicated that they can "ignore what the law says and do things right." That may be why this was not changed. We have asked for this and submitted an amendment prior to it being on the other side and going forward. This is a fiscal issue.

Chairman Atkinson:

How do we rectify it?

Dennis Colling:

Either we change it to "General Fund" and amend that line, or we ignore it and come back to clean it up in a couple of years.

Chairman Atkinson:

If we put it in the General Fund, then it is not going to go to the intended purpose because it will then be 22 percent retained, with the rest going to the Highway Fund and then we are defeating the purpose.

Dennis Colling:

We can discuss that in detail, but the location of the fund does not matter for the administration of it. Whether it is the Highway Fund or the General Fund, it

is not going to be part of that fund. It is just going to be sitting there. My concern with putting it in the Motor Vehicle Fund is that at the end of the year we zero that fund out, which is not what will happen here. The money that is contained within this revolving account is exactly that—it will be carried forward into the subsequent year. Fiscal is aware of that issue.

Chairman Atkinson:

My question is, if it remains the way it is and it goes into the General Fund as you are suggesting, there is really no way to delineate that the funds are actually going to this cause. Is that correct? There is a lot of money that goes to the General Fund; are there funds that are allocated for specific programs?

Dennis Colling:

That is not my understanding. There are a number of revolving accounts within the General Fund that are treated exactly like this. There are ones you are familiar with—some of the motor vehicle funds for the motor pool for example—those are revolving accounts.

Chairman Atkinson:

If you look at page 13, section 19, starting with line 12, "Any money remaining in the account at the end of the fiscal year does not revert to the State General Fund, and the balance in the account must be carried forward to the next fiscal year." That sounds like this issue has been addressed.

Dennis Colling:

I would agree with you that if this were in the General Fund, it is very specific that it does not revert to the General Fund and it is carried forward, but when I read the first part of section 19, it specifically states "...a special account in the Motor Vehicle Fund." Technically speaking that should be the General Fund, and then the section that you...

Chairman Atkinson:

Are you suggesting there is conflicting language, because number 4 is not in concert with what you are talking about? I assume you are talking about the first part of section 19.

Dennis Colling:

That is correct. No, I do not believe that the language is conflicting. I believe that as the language is currently written, there will be a revolving account created in the Motor Vehicle Fund and any funds that are left over in that account will not revert to the General Fund. That is clear as written.

Chairman Atkinson:

None of us see the problem, but we do understand your concern.

Daryl Capurro, Private Citizen, Reno, Nevada:

I am neutral with respect to the intent of the bill. My concern, as an all-terrain vehicle (ATV) owner, is that I am not sure we are working with the first reprint of the bill or whether there has been something since then.

Chairman Atkinson:

We have cleared that up.

Daryl Cappuro:

For the record I would like to know for sure that this bill is prospective. Here is what happens: When you buy an ATV, because Nevada currently does not require registration and titling, you are issued what is called a manufacturer's certificate or a manufacturer's statement of origin (MSO). Because that document is not needed for anything, many people throw it away or forget where they put it. It becomes even more acute when the vehicle is to be sold in the private market, as that is usually done with a bill of sale. What that means is, unless the bill is prospective, meaning that it relates to purchases of new vehicles from this point forward, it means that there will be a lot of people out there who have nothing but a bill of sale, which anyone can put together on a vehicle. It would prevent honest people who go four-wheeling from actually being able to register or title their vehicles because the proper documentation is not there. I realize that on relatively new vehicles you could probably go back to the manufacturer and get an MSO reissued, but for vehicles that are more than a few years old, that is not possible.

If I heard Mr. Hogan correctly, it is a prospective situation and applies only to vehicle sales from the point of the passage of this bill forward. Essentially, you would be grandfathering in everything else until it is sold. Then I will have no problem with the bill. If it is not, then it does create problems for those who are trying to do the right thing but do not have the proper documentation for transfer.

Assemblyman Carpenter:

These vehicles do not have a vehicle identification number (VIN) or serial number on them?

Daryl Cappuro:

Yes, sir, they do. The problem is that the normal, required documentation for the registration and titling of a vehicle is a dealer report of sale. A person who has had his ATV stolen, if he did not have his VIN, has nothing to show—no title, no registration. Whoever stole it can simply sell it to someone else, work up a bill of sale, and walk into DMV showing the bill of sale and say he bought that vehicle. The VIN is only going to make a difference if you pass this law for prospective sales forward.

Assemblyman Carpenter:

There is no question that it says after 2011. As I read it, if you want, you can get a title; but if you do not want to get a title, and it is an older machine, after June 30, 2011, then you have to register. In order to register you have to use the VIN or serial number.

Daryl Cappuro:

You also have to look at section 51 in relation to this. In section 51, it basically says that if it is a used off-highway vehicle that is not sold by a dealer but as private property, that within ten days, a properly endorsed certificate must be submitted to the Department of Motor Vehicles. If it is a title from another state, that title must be submitted to DMV as well. You also have to issue a statement if the description of the off-road vehicle is not included in the endorsed certificate.

Actually, the intent is great, because we will now be able to track the ATVs that are sold, but I think you are putting an unfair burden on those people who had purchased an ATV before the requirement that it be titled and before the requirement that it be registered. Again, the VIN does no good if there is no record of what that VIN is.

Assemblyman Carpenter:

There will probably be crooks out there. We cannot cover every situation, but I think a person like you or I would go down to register and it has a VIN number on it and we say we own it; they have to take our word for it. There will always be people out there trying to beat the system if we do not try to get this going. If it is just going to be from 2010 on, you will never get enough money to enable DMV to do all of these things.

Daryl Cappuro:

If it is a car that is stolen, you have a VIN trail, as it had to be titled and it had to be registered. If it is an off-road vehicle where there is no reason to write it down or assign it someplace in the past, the VIN is useless in trying to track who owned that vehicle. There is no record as there is on a car or truck.

Assemblywoman Spiegel:

Did you say when someone purchases an OHV there is paperwork that goes back to the manufacturer? You said that the original purchaser could get that information?

Daryl Cappuro:

With a new vehicle, the manufacturer sends the paperwork to the dealership. When the dealer sells the vehicle he gives to the purchaser what is called the manufacturer's statement of origin or manufacturer's certificate of origin. That

is the birth certificate of the vehicle. It does not go back to the manufacturer; it simply goes into a drawer until you pass this bill because you have no reason to need it, as you are not registering or titling the OHV. If the certificate is lost, you have nothing to show you have ownership.

Assemblywoman Spiegel:

Would that number be used for a warranty, and the dealer or the manufacturer have it get sent back?

Daryl Cappuro:

I have no idea.

Josh Wilson:

I am neutral on this bill. I have been here in past years every time it comes up and this is probably the best attempt we have made. What happened in the 2005 Session, when the DMV figured out that they were not supposed to be titling these vehicles, they no longer issued titles. All vehicles I have prior to 2005 have titles on them. It is just this window of time where they have not been titled. There needs to be a security instrument for the lending institutions. I fully support the titling of OHVs and their registration to a certain extent. My fear is that the funds will be utilized, not for the benefit of the OHV community, but for other motives such as those taking place by our neighbor to the west. I wanted to put it on the record that I hope if we do go down this road that there are benefits to the OHV community.

Chairman Atkinson:

We will close the hearing on Senate Bill 394 (R1) and entertain a motion today.

ASSEMBLYMAN CLABORN MOVED TO DO PASS
SENATE BILL 394 (1st REPRINT).

Assemblyman Carpenter:

I really have a problem with page 7, subsection 6, with regard to registering in another state and riding it here. I think that is going to cause lots of problems.

Chairman Atkinson:

What are you proposing we do with subsection 6, Mr. Carpenter?

Assemblyman Carpenter:

I think there has to be some wording change to make sure that a resident has to register and title it in Nevada, or else eliminate that section because there is another section where they have 60 days that they can ride it here. To allow them to register OHVs in another state is going to cause problems.

Assemblyman Goicoechea:

Above that same section on page 7, it says you have to register it in Nevada if it is here for over 60 days. Is that not correct?

Chairman Atkinson:

That is exactly what it says in subsection 3, paragraph (c).

Assemblyman Goicoechea:

As I look at this, if I can address some of my colleague's concerns, what this really says is if you are registered in Idaho and you come down to play for a weekend in the State of Nevada, you can do that without reregistering.

Chairman Atkinson:

Exactly.

Assemblyman Goicoechea:

I do not see a concern with that, although I do agree that we need to do a little more vetting with the bill and maybe we can do that in the Assembly Committee on Ways and Means.

Chairman Atkinson:

I see it the same way you do. I think the language is intended for individuals who are coming here for a weekend, a couple of days, or for the summer, so they would be able to enjoy their vehicles without having to register them here. I do not have a problem with that and I know it is pretty consistent with other states. When I go to California with friends to do off-road riding, we are allowed that same privilege and enjoyment of the parks without having to reregister.

Assemblyman Goicoechea:

It is my understanding that if you do go to California and you are going to ride, you have to have the green sticker.

Chairman Atkinson:

Actually, no. Only in some places.

ASSEMBLYMAN HOGAN SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMEN CHRISTENSEN AND WOODBURY VOTED NO.)

We will open the hearing on Senate Bill 409.

Senate Bill 409: Authorizes on-line bidding on contracts for the construction, improvement and maintenance of highways. (BDR 35-1179)

Robert D. Chisel, Assistant Director, Administration, Department of Transportation:

Currently, *Nevada Revised Statutes* (NRS) requires highway construction bids to be submitted manually. This bill is in conjunction with a budget request for an electronic bidding system. We believe the ability to accept electronic bids will improve the process and save the state money. One of the problems we have been having is the number of rejected low bids due to math errors and contractor errors in submitting documentation. Over 40 states currently have electronic bidding systems in place. We project to have an implementation date of 2011.

Chairman Atkinson:

It is pretty simple. I see there are just a few modifications to the bill. Most of the changes are on lines 11 through 18 on page 3.

Assemblyman Claborn:

This is supposed to be a sealed bid. How in the world do you get a sealed bid if you put in online? A sealed bid means no one opens it until they are all opened to see who the low or high bidders are. How would you do that if somebody got into your computer? There is a lot of room for error here.

Robert Chisel:

The two systems that are predominantly used in other states create an electronic vault that is accessible only by the contractor, and the vault is then sealed electronically at the time the bids are supposed to be posted. In Utah, the contractor is the only one who has access to change and adjust it, and then it is sealed electronically. After that point the Department of Transportation will open them up for public access.

Assemblyman Claborn:

You are telling me that a hacker could not get into this?

Robert Chisel:

I am not guaranteeing anything. A hacker could probably get into anything if he really wanted to.

Assemblyman Claborn:

If it was a sealed bid and in your safe, it would have to be an inside job, right?

Chairman Atkinson:

Just to clarify, I understand where you are going with this, but that is possible with anything. I personally do online banking; someone could get in there if they wanted to. It does not preclude that, but I understand that there will be mechanisms in place to make sure they are secure, and that is the only thing you can ask for, because anything we do online can be hacked into.

Assemblywoman Dondero Loop:

Do you use your own online program or do you use something like DemandStar?

Robert Chisel:

We have not yet selected the vendor from whom we would procure the system. In just referring to the two predominant vendors out there, they are their own separate systems that have been developed by those vendors for use by departments of transportation and public works agencies.

Assemblywoman Dondero Loop:

Many entities from counties, to cities, to states, to school districts, use online programs to put out their bids and secure their bids.

Assemblyman Claborn:

Are they called "sealed bids?"

Assemblywoman Dondero Loop:

Each entity has its own system, but I can speak to the Clark County School District system. They put that bid out and put all the information in it. You do send in a hard copy paper bid as well as a compact disc (CD) of that bid, so it is not actually online, but there other entities and other programs that do it online.

Assemblyman Claborn:

My question is this. When it says "sealed bids," that is what it means. It means you lick it and seal it and nobody opens it until the day it is supposed to be opened.

Assemblywoman Dondero Loop:

I understand that because we were born before 1960, but we have all changed.

Assemblyman Christensen:

Did this come forth because we are stepping up with technology and it makes sense, or have there been issues with bids being submitted via Federal Express or by certified mail? Is sending a hard copy the only method of getting a bid to the right person?

Robert Chisel:

There are a couple of reasons for this. One is to try to keep up with technology, as it is a more efficient process to do it electronically as opposed to paper, not only for the Department, but for the contractors with manually entered documents for each bid item who must extend the dollar amounts. What we have found is that we have had to reject lower bidders because they have made mathematical errors in their bid, or that there were human errors in the writing of the bid and in completing the bid proposal, missing documents, or again, the extension of errors. We are hoping to prevent that and it could save us a lot of money because then we could consistently select the lowest bidder.

Megan Jackson, Reno, Nevada, representing Associated Builders and Contractors, Inc., Sierra Nevada Chapter:

We are in favor of this—creating efficiency through the use of technology.

Chairman Atkinson:

We will close the hearing on Senate Bill 409 and entertain a motion.

ASSEMBLYMAN CHRISTENSEN MOVED TO DO PASS
SENATE BILL 409.

ASSEMBLYWOMAN WOODBURY SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMAN CLABORN VOTED NO.)

Meeting adjourned [at 10:08 a.m.].

RESPECTFULLY SUBMITTED:

Sharon McCallen
Committee Secretary

APPROVED BY:

Assemblyman Kelvin Atkinson, Chairman

DATE: _____

EXHIBITS

Committee Name: Committee on Transportation

Date: May 19, 2009

Time of Meeting: 8:36 a.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
S.B. 394 (R1)	C	Jeremy Drew	Prepared testimony.
S.B. 394 (R1)	D	Leah Bradle	Prepared testimony.
S.B. 394 (R1)	E	Leah Bradle	List of numbers provided by the Department of Taxation from Utah.
S.B. 394 (R1)	F	Leah Bradle	Letter of support from Gene Kolkman.
S.B. 394 (R1)	G	Leah Bradle	Letter of support from Mike Payne.
S.B. 394 (R1)	H	Leah Bradle	Letter of support from Charles Cox.
S.B. 394 (R1)	I	Leah Bradle	Brochure outlining provisions of the Working Group relating to off-highway vehicles.
S.B. 394 (R1)	J	Leah Bradle	Letter from two Working Group Coordinators outlining the provisions of the Working group.
S.B. 394 (R1)	K	Wes Henderson	Copy of Resolution passed by Board of Directors in November 2007
S.B. 394 (R1)	L	Farrokh Hormazdi	Prepared text.