

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

**Seventy-Fifth Session
April 14, 2009**

The Committee on Transportation was called to order by Chairman Kelvin Atkinson at 2:40 p.m. on Tuesday, April 14, 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/. 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 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 Chad Christensen (Excused)

GUEST LEGISLATORS PRESENT:

Senator Michael (Mike) A. Schneider, Clark County Senatorial District No. 11
Senator Joyce Woodhouse, Clark County Senatorial District No. 5
Senator Dennis Nolan, Clark County Senatorial District No. 9

STAFF MEMBERS PRESENT:

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

OTHERS PRESENT:

Traci Pearl, Division Administrator, Office of Traffic Safety,
Department of Public Safety
David L. Washington, Private Citizen, Las Vegas, Nevada
Oscar Chavez, Sergeant, Las Vegas Metropolitan Police Department,
Las Vegas, Nevada
Kelly Thomas Boyers, representing the Adam Thomas Foundation,
Las Vegas, Nevada
Kevin Honea, Trooper, Nevada Highway Patrol, Department of
Public Safety
Paul Enos, Executive Director, Nevada Motor Transport Association,
Reno, Nevada
Rusty McAllister, President, Professional Firefighters of Nevada,
Las Vegas, Nevada
Kevin Barker, Director of Marketing, Las Vegas Police Protective
Association, Las Vegas, Nevada
Charles Abbott, Colonel, United States Army, Retired,
Carson City, Nevada
Michael Geeser, Media/Government Relations, California State Automobile
Association, AAA Nevada, Las Vegas, Nevada
Frederick M. Dries, P.E., Chief Safety/Traffic Engineer, Department of
Transportation
Michael J. Casey, M.D., Trauma Surgeon, University Medical Center,
Las Vegas, Nevada
Peter Ybarra, Hispanic Outreach Coordinator, Clark County Safe Kids
Coalition, Las Vegas, Nevada
Juan C. Zapata, Provider Relations, Primex Clinical Laboratories, Inc.,
Las Vegas, Nevada
Arcadio Bolanos, Partner, Academy of Human Development, Las Vegas,
Nevada
Lynn Chapman, Sparks, Nevada, Vice President, Nevada Families and
Nevada Eagle Forum, Sparks, Nevada
John Wagner, State Vice Chairman, Independent American Party,
Elko, Nevada

David Schumann, representing the Nevada Committee for Full Statehood,
Minden, Nevada

Janine Hansen, President, Nevada Eagle Forum, Elko, Nevada

Orrin J. H. Johnson, Washoe County Public Defender's Office, Reno,
Nevada

Judy C. Cox, representing the American Civil Liberties Union of Nevada,
Las Vegas, Nevada

Chairman Atkinson:

[Roll taken.] Today, we only have one matter in front of us, which is Senate Bill 116. In order to give all sides an equal opportunity, we will reserve 45 minutes for those wishing to speak in favor of this bill and 45 minutes for those opposed. Any remaining time will be for neutral testimony and public comments.

Senator Nolan has given us a list of proposed speakers, and we will follow his recommendations for the order of presentations. Therefore, we will have the first three speakers approach the witness table.

Senate Bill 116: Makes failure to wear a safety belt in a motor vehicle a primary offense. (BDR 43-20)

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

Thank you for scheduling this bill. The foremost reason in bringing this proposal forward in these difficult economic times is because it is fiscally responsible. During this hearing there will be testimony from members of the medical community in Las Vegas informing you of the expense the state incurs when people are not buckled up. The total costs are staggering when someone is in a severe collision and not wearing a safety belt. Our medical care has advanced to such heights that even the most traumatized victim can be saved, but to save this life it requires hundreds of thousands of dollars. The average motorist exceeds his insurance coverage within a matter of days or weeks and then becomes a ward of the state. In some instances a catastrophic injury that incapacitates the breadwinner often has an unforeseen consequence on the rest of the family who may end up being the responsibility of the state for food stamps and welfare, among other things.

An unbuckled family of five involved in a major rollover accident will bankrupt a small county. Many of the dollars used to operate a rural county like Elko are derived from Washoe and Clark Counties. Basically, the larger populated counties subsidize the rural areas. Therefore, an accident of the magnitude I just described will not only be paid for by the rural community where the crash

occurred but others outside of that county will also bear the cost for this family's irresponsible decision not to wear seatbelts.

Chairman Atkinson:

Are there any questions from the Committee members for Senator Schneider?

Assemblyman Goicoechea:

I seem to remember in a special session where we swept approximately \$25 million out of the Indigent Accident Fund provided by the counties to fund the state.

Senator Schneider:

Assemblyman Goicoechea stated we swept the money out of the counties, but which counties contributed the greatest percentage? I believe the two major counties had the largest amount taken from them. Once again, we are seeking to take more money from these two counties to help the rural areas.

Chairman Atkinson:

I do have a question I would like to ask you. The arguments used for passage of this bill have changed over time from being enforcement issues to being financial burdens on the state. I am confused about what you intend to emphasize. Are you talking about uninsured people who are not buckled up? Then, the insurance should be responsible. Why is it a burden on the state?

Senator Schneider:

There are uninsured people, and the percentage is extremely high, literally off the chart. A substantial number of uninsured are not using seatbelts, and they are costing us a significant amount of money. The other significant percentage is the insured people, and some of these motor vehicle accidents cause horrendous disabling injuries which can easily cost up to a million dollars. Unfortunately, the average insurance policy does not cover that amount.

Senator Joyce Woodhouse, Clark County Senatorial District No. 5:

[The Senator spoke from prepared testimony regarding her personal story and the value of wearing a seatbelt ([Exhibit C](#)).]

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

[Senator spoke from prepared testimony, ([Exhibit D](#)).]

I have not served in the capacity of Coroner's Investigator for three years, other than in a reserve capacity. However, the last time I pronounced a person dead occurred about six months ago.

I was coming off Interstate 215 at Flamingo Avenue and Las Vegas Boulevard, turned left onto Fort Apache at around 10:00 p.m., and could see smoke clearing, parts of vehicles strewn across the roadway, and glass still flying around. A disabled car with headlights out jumped the curb and approached me head-on. The car veered off and crashed into the side of a building. I looked up the road and could see the front end of an SUV that was completely crushed and the windshield was pushed inside the motorist's compartment. I pulled over and called 9-1-1. I proceeded over to a late-model Chevy which had taken the entire impact on the door area on the driver's side. The driver was a male, and his injuries were not survivable. I checked his pulse, but he was already dead. I initially did not see anyone else in the car, but as I looked down on the floor board of the front seat passenger area I could see the back of a person stuffed beneath the dashboard. I was able to open the passenger door and manipulate the woman into a position where I could take her pulse. She was also lifeless, and being a coroner, I pronounced those two people dead on the scene. Based on my experience, if the woman passenger had been wearing a seatbelt she would not have suffered those tragic injuries and may have survived the accident instead of being forced into a two-foot by two-foot space.

I left those two to see if I could help the people in the other car. They were both wearing seatbelts, and the air bags in the vehicle had deployed. Both of them walked away from the accident, but had they not been wearing seatbelts and the air bags had failed to open, then they could have just as easily been killed.

Chairman Atkinson:

Are there any questions?

Assemblyman Manendo:

I appreciate your testimony, Senator Nolan, I know you are very passionate about this and have worked hard over the years on this issue. I wanted to take a few minutes of the Committee's time and tell a story of my own.

While driving to Pahrump to visit members of my family who were vacationing, I came upon a crash and pulled over. I could ascertain from the skid marks that a vehicle had gone over the embankment. The car was upside down, and paramedics were already on the scene. A male had been pulled out of the vehicle, and they were trying to lift the car off of a woman. They had enough people to lift the car up, but they could not get her out from under the vehicle, which was ready to explode. So, I ran down the hill and managed to pull her out to a safe location. They began working on her, and we carried the male occupant to the ambulance. The paramedics came over and started attending to his medical needs. They asked me to stay with him and help him remain

calm because he was starting to go into shock. Before the paramedics left to go administer to the man's elderly wife, they admonished me to make sure I did not let her husband get up and check on her because she was in very bad shape. The injured man told me their tire had blown, and that he had been wearing his safety belt, but she had not. I found out later that the older female did not survive. After witnessing this devastation firsthand, it increases my appreciation for the services performed by our emergency personnel, and I am grateful this legislation has been introduced.

Assemblyman Carpenter:

What is the percentage of our seatbelt usage?

Senator Nolan:

The National Highway Traffic Safety Administration (NHTSA) reported our safety belt use at 92 percent. This figure is based upon counts done in Washoe and Clark Counties during daylight hours. They are taken at the busiest street corner locations in those two areas. Traci Pearl is here to provide additional statistical information and the specifics on how these usage surveys are performed.

Chairman Atkinson:

The representative from the NHTSA could not be here today. So if there are no further questions, we will ask Ms. Pearl to come forward, and I will turn the meeting over to the Vice Chair while I attend to another matter.

Traci Pearl, Division Administrator, Office of Traffic Safety, Department of Public Safety:

I was asked to be here and present factual information on traffic safety issues in Nevada pertaining to this bill. In front of you, there is a handout with three slides per page, ([Exhibit E](#)). This is an NHTSA presentation from the U. S. Department of Transportation (USDOT). Our office funnels the federal highway safety money intended to affect behavioral changes, such as campaigns to deter drinking and driving, programs designed to encourage people to wear seatbelts, consistent helmet use for bicyclists and motorcyclists, as well as traffic enforcement initiatives targeting violators of these provisions.

I would like to clarify the terminology used on the second slide on the first page. The abbreviation, MVC, stands for motor vehicle crash. These crashes were responsible for 324 deaths in Nevada last year, which include pedestrians, motorcyclists, bicyclists, and motor vehicle-related fatalities. There were 198 motor vehicle occupant deaths in 2008, and 107 were unbelted. Since the end of the 2007 Legislative Session, 197 people who were unbelted lost their lives in car crashes on our roadways. It has been estimated that approximately

half of these people would have survived if they had been using their safety restraints. The next slide breaks down the 197 fatalities into different time intervals showing what year they were involved in a crash and comparing the unbuckled people to 162 victims of traffic fatalities who were using seatbelts.

Extensive research has shown if a state moves from secondary to primary enforcement, within the first year of passage, seatbelt usage rates experience an increase averaging between 8 to 12 percent. This increased usage is also reflected in the number of people killed in auto accidents while wearing their safety restraints. As we know, there are some crashes which are not survivable whether the person is properly restrained or not. The way this proposal is written it removes the secondary enforcement component. Once residents understand it is a primary law, we can expect better compliance.

The observed seatbelt usage rate for 2008 in Nevada was recorded as 90 percent. The methodologies used for these surveys are the same for every state, as indicated by Senator Nolan during his testimony. It is standard NHTSA procedure to require daytime observations only and exclusive observation of front seat occupants. It is a well-known fact that backseat usage is significantly lower than front seat usage rates, but we do not have those statistics for Nevada because it is not part of our approved methodology. However, the fatality seatbelt usage provides a more accurate picture. Only 46 percent of the people who died on our roadways in cars were buckled up. So there is a significant discrepancy between the observed usage rates with the survey limitations imposed and the actual usage seen in our fatal crashes.

Vice Chair Manendo:

I am going to ask you to stop briefly and provide some clarification. You said these surveys are completed using the NHTSA standards. It seems it would be more beneficial to the whole country if they changed the hours of study. Has there been any discussion about having them look at other time periods and observing usage for the entire vehicle rather than limiting it to front seat occupants?

Traci Pearl:

The survey includes the driver as well as front seat occupants. In the last four to five years there has been some experimentation on nighttime seatbelt enforcement and observation. Later on in this presentation you will see we did conduct a nighttime observation survey this year. I would like to note they changed our methodology for 2007-2008, where initially we were conducting surveys in every county. However, since Washoe and Clark Counties have at least 85 percent of the state's population, it is now only required to conduct surveys in these two counties. Therefore, we have lost the ability to monitor

actual usage in the rural communities. If you examine the data, the people who are generally failing to wear seatbelts are young males, impaired drivers, and nighttime drivers.

The next printed box shows a map of the United States with different colors to delineate primary versus secondary law states. There are 27 states plus the District of Columbia (D.C.) and the territories with primary seatbelt laws. States that recently enhanced their secondary provisions to primary laws within the past three years include Arkansas, Maine, Alaska, Kentucky, and Mississippi. There are currently eight states including Nevada pursuing primary legislation.

The following bar chart depicts the belt usage rates for fatalities and points out the discrepancy between the mandated daytime survey and the actual rates recorded from crash data. This information was taken from the 12 highest use states with primary safety restraint laws. They all have observed seatbelt utilization rates during daytime hours exceeding 90 percent. Of these, there are six states with over 93 percent usage rates, indicating a fatality belt use rate of between 52 and 58 percent.

We commissioned the University of Nevada, Las Vegas (UNLV) Transportation Research Center to conduct a smaller scale study in Clark County at night between the hours of 6:00 p.m. and 6:00 a.m. Front seat occupants only were surveyed, because it is impossible to see whether the backseat occupants have restraints on, and the survey recorded 75 percent observed seatbelt usage. This percentage changed dramatically depending upon the hour of the night. For example, the rate was as low as 26 percent between 3:00 a.m. and 4:00 a.m. The majority of the fatalities are occurring at night as well. Sixty-three percent of Nevada's nighttime fatalities were unrestrained last year compared to 41 percent of the daytime fatalities.

If S.B. 116 passes, we can expect to see an increase of between 2 and 3 percent in observed daytime usage. When the state is already over 93 percent observed compliance, it is difficult to see major improvements. More importantly, the usage rate in our fatal crashes will rise between 7 and 9 percent. This means an 8 percent increase in usage would result in saving ten lives and avoiding 140 serious injuries totaling \$38 million in cost savings during the first year of implementation. A letter submitted by Dave McCurdy, President and Chief Executive Officer of the Alliance of Automobile Manufacturers, supports this data indicating Nevada could expect to save 11 lives and prevent 143 serious injuries annually if this bill is passed ([Exhibit F](#)).

There is a bar chart showing the percent of restrained occupants in Nevada for 2008. This is based on trauma data at the University Medical Center (UMC) of southern Nevada in Las Vegas, Nevada, and our daytime survey.

Chairman Atkinson:

[The Chairman returned at 3:25 p.m. and resumed control of the meeting.] Ms. Pearl, since we have hard copies of the slides, we do not expect you to go through each one. We believe it will suffice if you cover the high points for our edification in order to provide time for others to present relevant testimony.

Traci Pearl:

The chart we are looking at shows a difference in percent belted. The daytime survey recorded 90 percent, and the nighttime survey recorded a 75 percent usage rate. However, UMC trauma patients from 2005 to 2007 self-reported 63 percent usage rate, and the fatality information from last year showed only 46 percent were wearing seatbelts. These percentages clearly indicate a significant disparity in usage as the behavior patterns assume a higher level of risk during different times and circumstances.

A Nevada opinion survey was conducted by the University of Nevada, Reno (UNR) asking whether the participants would support a primary seatbelt law. The results taken from a random sampling of registered voters showed 85 percent favoring a primary seat belt law, with 69 percent reporting they were "strongly in favor" of this type of measure.

A serious issue when we are talking about savings has been trauma crash costs. We obtained some trauma billing data from 2005 to 2007, and the average cost for a belted person involved in a crash is \$67,000. The average cost for an unbelted person was \$110,000. Using those monetary differences and projecting the passage of this bill, the savings would total approximately \$5.6 million. These are considered unrecoverable costs, because they exceed what the insurance company normally pays, the injured person is unable to pay the balance, or the individual did not have any insurance at the time of the crash. These are the amounts the county and the state would typically be required to pay.

There are also congestion costs related to crashes. A fatal crash incurs additional expenses for emergency responders to remain on duty, calling in a fatal investigation team, a traffic engineer, the coroner, and/or the mortuary. Also, two to eight extra law enforcement officers are required to direct or divert traffic around the accident. This equates to an average road closure of four to six hours because of a fatality.

In past sessions, the question has come up about insurance rates. Will our insurance rates decrease if we pass this bill? Unfortunately, this question cannot be answered easily, because forecasting the potential reduction does not always equate to actual conditions necessitating changes in the premium.

The next graphic is a chart depicting 13 states that changed from secondary to primary safety restraint laws. They had conducted a study of their insurance rates four years before passage and four years after passage. Ten of the 13 states did experience a reduction in the growth rate of their insurance premiums. New Jersey and Michigan experienced a far-reaching increase in costs for medical services at the same time they passed the primary seatbelt provision, and this detrimentally impacted the survey information. They also are the only two states with contributory negligence in their laws.

We looked at the ethnicity of our observed usage rates in order to address the racial profiling issues. African-Americans and Latino populations have a lower seatbelt use than Caucasians and Asian races. They are also overrepresented in deaths and serious injuries from traffic crashes.

The Attorney General's office provided a report in 2003 discussing whether law enforcement practices racial profiling in Nevada. Basically, the report found there is no racial profiling evident when initiating traffic stops. If racial profiling occurs, it happens after the stop has been made.

The final two slides indicate national organizations which support primary seatbelt laws. This support is based on the fact these populations are overrepresented in deaths and serious injuries, and they want to proactively address this problem through primary restraint laws.

The proposed bill is not a bill about racial profiling. It is a bill to increase seatbelt usage among all Nevada citizens including the lower use groups, like Hispanics and African-Americans.

Assemblywoman Spiegel:

I have a couple of questions. Could you explain your statement about the observed data recently collected being better than the NHTSA data? I am asking because the NHTSA data was included in the Nevada Academy of Health scorecard, and it is what the state uses as our official data.

Traci Pearl:

The observed data and the NHTSA data are one and the same.

Assemblywoman Spiegel:

The data shown on this chart is the same information included in the Nevada Academy of Health scorecard. On the scorecard, it listed Nevada as being the third best in the country with a 94.8 percent seatbelt use rate. The best state was Hawaii with approximately 0.5 percent usage better than ours. Therefore, I am a little confused why our official data lists us at a mere half-percent variance from the highest use, yet you keep referring to 3 to 5 percent increases anticipated with the passage of this proposal.

Traci Pearl:

The 94.8 percent was our official usage rate in 2005 based on the survey methodology prescribed by NHTSA. Since then, it has declined to 90.2 percent in 2008.

Assemblywoman Spiegel:

Are you saying the data which was published by the state in February is wrong?

Traci Pearl:

I am not familiar with the Nevada Academy of Health information, but both reports are referring to the same official observed seatbelt usage surveys conducted in the state. Some states may be uncertain this survey information is an accurate portrayal of what actually transpires in their state. The restriction on the method of collection like daytime use, major intersections, or front seat occupants does not provide an accurate picture. However, it is the approved standard set by NHTSA, and as a result, this is the information available.

Assemblywoman Spiegel:

My other question goes back to your cost-benefit analysis and the data you were using. I did not see any information on the costs to the state when the person dies in a traffic accident. I am aware there are insurance industry statistics indicating deaths are always less expensive than serious injury-related accidents. The fiscal impact associated with being unrestrained, and the possibility that we will see increased serious trauma injuries if more people use restraints, can you provide us with any data showing this information?

Traci Pearl:

I do not have the data readily available, but I can attempt to obtain the information through our federal partners. Your comments about serious injuries are accurate. The cost of a serious injury is more expensive than a fatality because it is a longer duration for treatment and recovery or rehabilitation. However the contention is, if these people are belted, they are probably not going to die and their injuries will not be as severe.

Chairman Atkinson:

Are there any other questions from the Committee members? Please clarify your statement about racial profiling not existing on the initial traffic stop but being evident after the stop. Is that what you meant to say?

Traci Pearl:

This was information I cited from the executive summary of the Attorney General's 2003 report on Assembly Bill No. 500 of the 71st Session. Basically the data showed the existence of racial profiling, but it did not occur until after the traffic stop was made and the officer approached the occupant of the vehicle. If it occurred after the stop, more minorities were handcuffed and/or there were more search and seizures.

Racial profiling is not acceptable, no matter when it occurs. The only reason we are discussing this issue is to address those concerns about using a primary seatbelt law as a method of profiling certain races. The data we have gathered clearly shows the opposite. The traffic stop is made first, and then it may occur after the stop has already been made.

Chairman Atkinson:

I have one more comment and this is regarding tinted windshields. You mentioned observational data being gathered during the daytime because it is more difficult to see into the vehicle at night. I do believe the statistics are different at night because it is harder to see, and in Las Vegas where we are allowed to tint our windows, it presents a greater challenge to law enforcement to identify who is wearing a seatbelt.

Assemblyman Kihuen:

I am looking at your list of minority support organizations, and most of them are national establishments. Are there any local or Nevada groups supporting this bill?

Traci Pearl:

Initially, we wanted to know what national organizations supported this provision. Unfortunately, there are not many of these groups with a Nevada-based chapter. However, we do have a significant number of traffic safety partners from Hispanic Services, Incorporated, the Latino Chamber of Commerce, Telemundo, and many nonprofit organizations, especially in Clark County. These organizations have representatives who are members of various safety groups, and we invite them to participate when we decide to implement a public education campaign. All of these agencies are extremely aware of the higher risk exhibited by their members in motor vehicle accidents. Two years ago, I discovered there is no Spanish speaking country in the world

with a safety restraint law. It becomes a cultural issue, and we have worked closely with the local chapters of organizations to help educate this segment of the population.

Assemblyman Carpenter:

On page 3, there is a copy of a slide showing projected seat belt usage in Nevada if this proposal passes. The bullet point indicates the rate will increase from 91 percent to 94 percent, but the fatality usage rate is projected to increase by 7 to 9 percent. I personally do not believe this will happen. What is your rationale for assuming people who do not currently use safety belts will decide to buckle up because they believe they will be in a crash?

Traci Pearl:

This is derived from historical data from all of the other states that increased their law from a secondary provision to a primary law. Part of this could be attributed to people who believe it is a new law which will be strictly enforced. It has been consistently shown the upgrade to a primary law will increase usage and save lives.

Assemblyman Carpenter:

I think the majority of those people were residing in states where the usage was in the 80-percent range. If we passed this law and your figures are right, then we would become the top ranked state in the nation for seatbelt use.

Traci Pearl:

As mentioned earlier, we do have issues with the observed usage survey, but the usage rate in fatality-related accidents will increase. However, everyone must realize not all crashes are survivable.

Chairman Atkinson:

I share the concerns voiced by Assemblyman Carpenter. At some point we need to have answered whether the passage of this bill will increase our statewide usage by 8 percent. We will never achieve 100 percent seatbelt use. How do we obtain the last 8 percent? Today, the enforcement is a secondary provision. Tomorrow it could be a primary enforcement, but how many of our constituents understand the difference?

I have asked many people whether they know what the difference is between secondary and primary, and they have no clue. They do, however, know it is a law and they should be wearing their safety restraints. Yet, some people still choose not to comply. I have a niece who was recently released from the hospital after being involved in a traffic accident six weeks ago where her vehicle was hit by another car and t-boned. There is a rod in her leg, a broken

wrist on her right arm, stitches under her chin, and she suffered head injuries. This 20-year-old mother of a 7-month-old son is still not completely healthy, because now she has to go for rehabilitation. Between her insurance and the insurance of the person who caused the accident, she is being yanked back and forth. However, she mentioned how glad she was that I insisted she wear her seatbelt because she was using it when she was in the car accident.

I believe education is more effective than passing a stricter version of the same law, and I do not believe anyone can state with certainty that someone would have lived or died because of their seatbelt. The day I know we are going to reach the 8 percent is the day I will vote for this proposal. However, until I am convinced, I am probably not going to support this initiative.

Traci Pearl:

I only wanted to clarify the 8 percent forecasted increase would be in the usage rate recorded from our fatality information and not in the observed rate. We do not foresee going from 90 percent to 100 percent.

Assemblyman Claborn:

We need to make sure there is a safety belt mechanism where the automobile will not start unless the passengers buckle up. Therefore, we should submit this proposal to the federal government instead of dealing with this issue at the state level.

Assemblywoman Spiegel:

In the other states reviewed where they had a secondary provision and enacted a primary law, was there an educational or marketing component to raise awareness and inform the population of the changes? Also, can you tell us what the average expense was for these campaigns and what was the cost to achieve the reported results? I noticed this bill does not have a fiscal component to it and there is not a segment for advising the populace of the new enforcement provisions should this proposal pass.

Traci Pearl:

Some states indicated if they change the law to primary enforcement there would be six months of educational awareness without any enforcement being conducted. Other states simply implement the new provision without conducting an awareness effort and begin immediate enforcement on the effective date. I cannot tell you how much they spent because of the length of time it would take to collect this information from each state that actually conducted an educational element.

Also, the reason there is no fiscal impact on this bill is because it would be paid for with federal highway safety funds earmarked for this purpose.

Assemblyman Hogan:

I am absolutely convinced we would have a substantial decline in fatalities and serious injury-producing accidents if we had a mandatory primary seatbelt law. I do not see any downside, and it is a minor inconvenience for those who are not yet consistent safety belt users. It saves lives, and it saves a great deal of money for the state. Most of the questions I have been hearing are nit-picking over the percentage of use. If 10 percent of our driving population is driving without safety restraints, then we have a problem. We see the effects of that problem in the morning newspapers almost every day. I think we should move ahead with it and join the rest of the states by implementing a tougher enforcement provision.

Chairman Atkinson:

Are there any other questions? Seeing none, we will focus our attention in Las Vegas, and using the list of presenters Senator Nolan has given us, we have the former Las Vegas Fire Chief, Dave Washington, Erin Breen, and Mr. Chavez prepared to testify.

David L. Washington, Private Citizen, Las Vegas, Nevada:

I am the former Chief of the Las Vegas Fire and Rescue Department, and my testimony centers around the issue of racial profiling. There have been many occasions where I have been stopped by the police, including when I was the fire chief driving an unmarked vehicle. I do know from the statistics presented this afternoon, seatbelts will save lives. To discount the lives which will be saved in order to prevent an overzealous police officer from stopping me as an African-American does not make a lot of sense. Does it perturb me when I find myself in a position of being stopped and inconvenienced? Absolutely it does. It is frustrating to think I can be stopped solely because of my race in this day and age, but it will happen. I believe approximately 90 to 95 percent of the police officers are good people who will not do that, but there is a small percentage of law enforcement officials who will stop an individual because of his color. Aside from that, I am willing to say we should pass a law making seatbelt enforcement primary because it will save the lives of many people, and I am a firm believer in that. In terms of statistics, I sat on a committee years ago for the Clark County School District where we talked about not expecting 100 percent of our students to graduate. At the time, all four of my children were attending school. After considerable debating back and forth, I asked the committee, which one of you is suggesting I give up on one of my children? I am pleased, as a parent, to say they all graduated from high school. Statistics

have their place, but certainly the lives of people are more important than occasionally being singled out because of my race.

Oscar Chavez, Sergeant, Las Vegas Metropolitan Police Department, Las Vegas, Nevada:

I am assigned to the Traffic Bureau's Accident Investigation Section. I testified on February 19, 2009, regarding Senate Bill 116. Sadly, two and a half weeks later I was called to an accident at 9:05 a.m. at the intersection of Boulder Highway and Russell Road. I responded with my team members from the fatal unit, and there we found an off-duty Las Vegas Metropolitan Police Department (Metro) employee and his wife involved in a collision while they were stopped at a red light. Their vehicle was violently impacted from the rear by another vehicle travelling approximately 50 miles per hour (mph). As a result of that collision, the vehicle was thrust forward onto its right side but continued to roll until it uprighted itself. The off-duty officer was seat belted and received moderate injuries. Unfortunately, his wife had not buckled up and received critical injuries. Medical personnel worked feverishly to save her life. Unfortunately, she ultimately succumbed to her injuries at the hospital. This is an example of how one accident touched our extended family at Metro. When I was here in February, I related another story that had personally touched my family but one with a better outcome, because my daughter's best friend was wearing her seatbelt and she survived an accident.

I am here to testify today in favor of the passage of this bill, not only as a father and a police officer but also as a citizen of Las Vegas. I have citation facts generated by a crime analyst within our department. In 2007, total citations written by Metro were 12,199 for not being buckled up. There were approximately 2,114 accidents where people were unrestrained. Of those, there were 33 fatalities. In 2008, there were 11,241 citations issued. Of those, there were approximately 2,359 accidents involving unrestrained occupants resulting in 24 fatalities. During the entire year of 2007, we responded to scenes of 133 fatalities where the occupants were unrestrained. There were 113 fatalities in 2008. The Traffic Bureau statistics for 2007 and 2008 reflect that the lack of seatbelt use is widespread, and it occurs within all ethnic groups and both genders, with white males being cited 47 percent of the time.

Metro experiences a considerable drain on its budget responding to critical injury-producing accidents. It takes an average of four hours to investigate, depending on the crash scene. The time begins when the first officer arrives on the scene and continues until the roadway is completely cleared. This also includes medical response, the coroner, the mortuary, the tow companies, and clean up. The cost per fatality incurred by Metro is approximately \$2,600 for

the fatal team alone. The total cost experienced by Metro for both critical injuries and fatalities for 2007 was \$625,800. For 2008, the total was \$587,600.

Earlier, we spoke about the statistics for safety restraint use. Now I would like to briefly address the safety features in a properly equipped vehicle. Structurally, the vehicles are made better today than they were several years ago. As a result, the vehicles are inherently safer for the consumer today. Even though they are more dependable, the safety features built into the vehicle are designed to work with each other from the seatbelts to the air bags. The safety restraints are designed to keep the occupants securely fastened and in-place in case of a vehicle collision. Air bags are designed to work with seatbelts. They deploy whether or not the seatbelt is used, based on the speed of impact during a frontal collision. Occupants who choose to drive or ride in the vehicle without the use of safety belts are increasing their chances of being injured in a vehicle collision, and, based on the severity of the collision they risk serious injury and/or death due to failure to buckle up. Air bags alone will not prevent an occupant from being injured or being ejected from a vehicle. Air bags are supplemental restraint systems and merely aid in reducing injury when used in conjunction with a safety belt.

As a law enforcement officer for over 20 years, I have responded to hundreds, if not thousands, of vehicle collisions. I have witnessed serious injury and death due to the lack of seatbelt use. Passenger compartments are built better and protect the passengers to a greater extent than they did in the past. More often than not, the serious injuries I have witnessed were caused by the unrestrained driver being tossed around inside the vehicle or the occupants being ejected from the vehicle. The vehicle's passenger compartment remained intact with very little or no intrusion. The use of a seatbelt cannot guarantee the prevention of death or injury in every circumstance. Unfortunately, the severity of the collision, even if the occupants were restrained, could result in death. Seatbelts are intended to reduce the chances of either death or serious injury, but we are not seeing significant reductions because people are still not using this simple safety device.

There are many excuses for not using seatbelts, such as we are only driving a short distance. However, 85 percent of the collisions occur within close proximity to home. Others will say they do not want to be trapped in case of a fire or if the vehicle is submerged under water. Nationally, it has been documented that less than 1/10 of 1 percent of accidents result in fire or submersion.

I have had people tell me it is uncomfortable. A watch or piece of jewelry we put on for the first time may also be considered uncomfortable until we get used to wearing it. There is a persistent myth that it is safer to be thrown from the vehicle, however, this is precisely when the serious injury or death is likely to occur due to impacting a fixed object or being run over by another vehicle. Finally, there is the small faction who understand law enforcement cannot stop the vehicle because occupants are not buckled. Although this is true, there are quite a few violations that law enforcement has at their disposal if they want to pull your vehicle over. I am here to say that changing the secondary law into a primary enforcement provision is a tool to help save lives and reduce the fatalities occurring on our streets. Our goal is a constant decrease in our fatalities, and this is one way we can reach our target. We want to continue the downward trend because each fatality avoided is a neighbor, or friend, or loved one who is alive.

Kelly Thomas Boyers, representing the Adam Thomas Foundation, Las Vegas, Nevada:

I have been a resident of Nevada for 19 years, and I live in Clark County. First, I want to thank Chair Atkinson and the Committee members for taking the time to hear S.B. 116, the primary safety belt law. I hope upon reflection you will see this as a prudent way to pass lifesaving and cost-saving legislation at a time when many Nevadans are in distress. I urge you to hear the bill again, and vote it out to the full Assembly. I believe that Assembly leaders, such as Assemblyman John Ocegüera and Assemblywoman Heidi Gansert, will help follow your lead and support your decision. I am sure this important policy will have backing from both sides of the aisle.

The hearing of this bill is especially timely since last week Assembly Bill 404 was given an extension and remains alive. The bill reinstates the Accident Indigent Fund for hospitals in the amount of \$25 million. Many rural hospitals and counties may face bankruptcy if this fund is not reinstated. The University Medical Center (UMC) in southern Nevada has cut programs in lieu of this funding and may have to cut further. We are already plagued with health care access issues and cannot afford to go in this direction. Therefore, S.B. 116 should go hand-in-hand with A.B. 404. It could demonstrate to taxpayers that you have accompanied funding with measures that would lower our risks and liabilities. How can you ask for more tax dollars when you have not strengthened policies that lower our exposure to the high cost of trauma care?

Our most vulnerable citizens are the uninsured, the underinsured, and the children who are least able to spend time away from school or work and cannot afford to pay the cost of health care. It is a time for us to expect accountability, not only from Wall Street and our government, but from all who

reside in our state. Personal responsibility should not be transferred to the state and the taxpayer. The mentality should not be "if I am in a crash, the state will pick up the bill." The UMC data clearly demonstrates unrestrained and uninsured patients' costs are higher by at least 20 to 25 percent. Their length of stay in a medical facility is longer, and those costs are escalating as well, mirroring the costs of health care in our country. We do protect the rights of those who live in this state by providing indigent care. By passing S.B. 116, you will protect the rights of taxpayers who fund the programs that care for this vulnerable population. Passage of this small but lifesaving step will clearly communicate that seatbelts are a primary way to protect the health and well-being of human life and will reach out across cultural boundaries to define the expectation of personal accountability for occupant safety. However, it will take some sacrifice and compromise by many Nevadans.

Our population holds personal accountability and freedom of choice in the highest regard. It is a mindset to truly respect, but in these days we are all sacrificing. We all must compromise. Either we will need to compromise our philosophies or our pocketbooks. We need to be ready to take the steps to ensure our current and future fiscal and social responsibilities. We are not here to debate whether wearing a seatbelt should be a law. It is a law, but it is not being enforced, and it is costing us in human life and health care service programs. This may be one of the least taxing alternatives facing you as a legislator. We must come together and start somewhere.

In discussion with various lawmakers, the issue of profiling and mistrust of law enforcement has been given as reasons not to support this bill. A law enforcement officer's misuse of power in his profession is a different issue and should be addressed with the utmost importance. Trust in law enforcement is a cornerstone of our communities. If an officer violates that trust it should be handled with priority and rigor to insure the unprofessional actions of one does not reflect upon the whole. I believe that our faith must be restored and people held accountable for their actions.

In the 25 states that have passed a primary seatbelt law—such as New Jersey, Texas, and Michigan—studies have concluded that profiling or the misuse of police power has not risen from the ability to enforce a seatbelt law. The conduct of law enforcement is a sole and separate issue and one with its own merits. An officer puts himself at risk during every traffic stop he makes. That is a requirement of his or her occupation. It is impressive that these officers still support this bill even though it adds to their risk. Quite frankly, sometimes the reputation of their profession has been called into question without justification. They have stood stoically behind the essence of this bill, which is saving lives. Our firefighters have also stood behind this principal and the proposal contained

in S.B. 116. Their selfless dedication deserves our admiration. These are the professionals that are the backbone of our community, and we should trust their support of this bill.

We talked about government as a partner to health care, but we have others. The labor unions and the gaming industry provide much of the health care in our state. Several years ago, our state passed a provision which concerned employees being involved in work-related accidents and not wearing their seatbelts. The employee that was found negligent faced an automatic deduction of 25 percent in their workman's compensation benefits. Unions work hard to educate their employees to the financial risks they take when going unbuckled. In addition, many of the larger employer groups in the state are self-insured. If the insurance fund takes a hit from costs associated with a catastrophic incident such as trauma care, the impact runs into the millions of dollars. The cost of long-term care associated with severe injury accidents also impacts these funds in ways which cannot be recouped. It affects the state's ability to provide health benefits to these groups. The State of Nevada is self-insured, and many of you may be members of that health system. The passage of S.B. 116 will, in time, help lower the risk exposure of your fund.

The meter is running, and, as legislators, you hold the ability to ratchet down the rate of expense of indigent trauma care to taxpayers and to health plans. You can be the hero in your community and take a stand for safety and bring this lone secondary traffic law into primary enforcement. This should be a moment of pride for all of us to combat the number one cause of death of teenagers. The passage of S.B. 116 will mark the adoption of the most lifesaving policy in Nevada's history as well as benefit our state's financial condition. All we can ask of you as legislators is that you adopt the best policy to insure occupant safety. From there, it is up to each of us. Those who choose not to wear a safety belt, if they do get a citation, their \$25 will go towards a portion of their health care costs if they are ever in a car collision. With all the decisions that lie ahead, trust you are moving Nevada in the right direction, know that you have done the best that you can do, be proud to be accountable to us.

Kevin Honea, Trooper, Nevada Highway Patrol, Department of Public Safety:

I want to address the percentage of nonusers in the observational surveys. The 8 percent figure is comprised of the "at risk" driver. In our citation data, 68 percent of the people are under 25 years of age. The driver was speeding at least 20 miles over the posted limit or had committed another hazardous moving violation. It is the person who has had three drinks of alcohol and does not want to be pulled over and be subjected to a driving under the influence (DUI)

test and/or arrest. The goal with the passage of this proposed legislation is to make these people buckle up.

I make educational presentations to between 500 to 1,000 people on a weekly basis, and they do know it is the law. The overwhelming majority of those people also know I cannot pull them over specifically for failure to buckle up. Therefore, I tell them what can constitute a traffic stop. I can pull you over for a cracked tail light or cracked windshield, for failure to use your signal when making a lane change, for a dark window tint, for not having a front license plate, and for anything hanging from your rearview mirror. I have done research back to 1997, and I have yet to find any motorist in the State of Nevada that died because they had a Green Bay Packers vanity plate on the front of their car. However, I can pull them over for that reason, too.

Despite all the education we provide within the community, the tens of thousands of seatbelt tickets we write, and the fact we are doing more public presentations, the unrestrained fatality number continues to increase. We had 107 people die in motor vehicle accidents last year who were not wearing their safety belts. This needs to stop. Seatbelts save lives, and we continue to offer our outreach message on seatbelt safety to every group we talk to in this state.

Before concluding my remarks, I would like to mention an issue which has been brought up a few times concerning speeders and DUI. We need to go after the real killers on the freeways. We tend to focus on the fatal crashes because these are the most notorious, and speeders and DUIs are where we see the biggest impact in serious injury and substantial bodily harm accidents. We do go after speeders and with great fervor enforce DUI laws in our state. We attempt to identify these offenders before they cause a crash that kills themselves or somebody else. The reality is this: in 2007 speed was a contributing factor in 35 percent of motor vehicle deaths; driving under the influence was a contributing factor in 41 percent of our traffic fatalities; but during this same period, unrestrained occupants of motor vehicles accounted for 54 percent of our fatalities. I will submit to you that seatbelts are the answer.

Chairman Atkinson:

Are there any questions for Trooper Honea from the Committee members? You mentioned that someone suggested you focus your efforts on speeders and DUI. Could you state where this suggestion originated?

Kevin Honea:

One of my recent responsibilities has included responding to various questions addressed in "Letters to the Editor." Also, Senator Nolan alluded to law enforcement focusing more on these issues.

Chairman Atkinson:

The only reason I asked the question was to dispel any thought that this comment was made by me. I do not think anyone suggested that police officers do not diligently pursue these offenders. It would be ludicrous to believe they do not rigorously enforce these violations. Personally, I felt the example was used to make a point that speeding and DUI are both primary enforcement provisions, but we still have motorists committing these offenses, so it would be foolish to expect 100 percent compliance if we passed a primary seatbelt law.

We are going to move back to Carson City, since we have exhausted the list Senator Nolan provided to us. Is there anyone else in the audience who wants to speak in favor of this proposal?

Paul Enos, Executive Director, Nevada Motor Transport Association, Reno, Nevada:

We are here in support of this measure. Truck drivers are currently required to wear their seatbelts under *Code of Federal Regulations*, Title 49, Chapter 3, Part 392.16. However, even though that law is on the books, we do have one of the lowest compliance rates with 48 percent. This data is from the Federal Motor Carrier Safety Administration 2003 study. Sixty percent of all truck occupant fatalities are caused by rollovers, and it has been proven that there is an 80 percent reduction in these fatalities when they wear their safety restraints.

Chairman Atkinson:

What is the fatality rate of truck drivers not buckled up?

Paul Enos:

The rollover accident is where you are going to see more of the fatalities from the drivers not using a safety restraint. This is the only information I have on the subject, and it came from the National Highway Safety Traffic Administration 2005 study.

Chairman Atkinson:

What is the rate?

Paul Enos:

I do not have this information, but I can get it and will provide it to you.

Assemblyman Claborn:

How many of the truck drivers' buddies get killed sleeping in the camper? I am sure his partner is not buckled up back there. Are you taking him into consideration as well?

Paul Enos:

The information quoted consists of all truck occupant fatalities. Therefore, it would include the driver and any passenger. I do not have any specific data on what happens to an individual in the sleeper cab when there is a rollover.

Assemblyman Claborn:

Would that exaggerate the data when it does not separate the passenger rolling around like a bean in a tin can from the driver who has his belt on during a crash? It seems to me it would increase the number of fatalities.

Paul Enos:

The compliance rate is 48 percent for drivers only.

Assemblyman Claborn:

Do you have any data on the one who is occupying the sleeper?

Paul Enos:

I do not have the information Assemblyman Claborn is seeking.

Chairman Atkinson:

He does raise a good question. Will this affect those individuals who are in the sleeper? Obviously, they are at greater risk than anyone because they have no warning. If this provision was passed, would they be restricted from sleeping during a trip?

Paul Enos

Sleeper cab usage is not as widespread a practice as it once was. Many of the drivers who use the sleepers are using them at the truck stops.

Chairman Atkinson:

I am going to disagree with your statement. I know plenty of truck drivers, and an ample number of them sleep while the other partner is driving.

Paul Enos:

It does happen, but it is difficult to summarize the different instances when it may occur.

Chairman Atkinson:

My question is will this affect them? Are they required to wear a seatbelt if their partner is driving while they are sleeping? Is he required to have it on while he sleeps?

Paul Enos:

This bill will not affect them because they are already required to wear seatbelts.

Assemblyman Carpenter:

I wonder if the Nevada Highway Patrol (NHP) could enforce this federal law. I drive these highways frequently, and I seldom see the NHP stopping a truck because the driver is not buckled up. Maybe we should start enforcing this law first, before we try to pass a mandatory law for all drivers.

Chairman Atkinson:

Thank you, Mr. Carpenter. Are there any other questions from the members?

Rusty McAllister, President, Professional Firefighters of Nevada, Las Vegas, Nevada:

I am here speaking from two different positions today. First of all, as the president of the Professional Firefighters of Nevada, I spent 25 years at the fire department, with over 8 of those years as a paramedic. The most severely injured, and the vast majority of fatalities that I have encountered from auto accidents, were because the person was ejected from the vehicle. If this bill is passed, will the new conditions change that? I cannot say, only time will tell. Will it make more people put on their safety belts? It might.

Now, I would like to speak to you as a private citizen. On December 2, 1985, I received a phone call around 7:00 a.m. from my mom informing me there had been a terrible accident in Salt Lake City. My ex-wife was driving seven children to school, a dump truck plowed into her car, and one person was ejected from the vehicle. The person lived for five years, paralyzed from the neck down and ventilator-dependent. The costs for extended care were excessive. He passed away at the age of 10. The young person who died was my son. If this law had been in effect in Utah, would it have prevented my son's horrific injuries, suffering, or death? The statistics being bantered around really do not hold any significance for me, but let me give you

a number: one person. If you pass this legislation and it saves one person, then you have done a great thing.

Kevin Barker, Director of Marketing, Las Vegas Police Protective Association, Las Vegas, Nevada:

On behalf of our association, I want to express our appreciation to Senator Nolan for bringing this issue forward as well as the efforts of this Committee. Prior to this assignment, I had the opportunity to work for the Las Vegas Metropolitan Police Department in the Traffic Division. I spent approximately two years performing duties as a motorcycle officer and have a bit of experience in seeing and responding to traffic accidents. The positive effects of seatbelts and their role in injury prevention are strong reasons for supporting mandatory use. We believe this legislation is important, and speaking for our members, we are in support of this proposal.

Charles Abbott, Colonel, United States Army, Retired, Carson City, Nevada:

For seven years I was the Division Chief for the Office of Traffic Safety (OTS) until I retired this last October. I heard some confusion with the observed seatbelt rates, but the real number to be concerned about is the number of people who were killed in traffic fatalities and who were not using their safety restraints. In my tenure with OTS, I saw the usage rate go from 70 percent to 94 percent, but the reported fatalities did not really change. There is a tool being considered by this Committee called the primary seatbelt law, and it has worked in 24 states. It has lowered the number of unbelted fatalities. However, if nothing is done, we will continue to see the same number of lives sacrificed year after year. If you want to change the status quo, then S.B. 116 is a way to make a positive difference.

Assemblyman Claborn:

There are some issues called constitutional rights, and when I was elected I swore to protect all the rights of the *Nevada Constitution* and the constitutional rights of the United States of America. This type of proposal is referred to as "probable cause." It is against these constitutional rights, and I cannot support it. You have no probable cause to stop the automobile.

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

We absolutely support S.B. 116. I have submitted a letter stating our endorsement ([Exhibit G](#)). I did want to offer one comment concerning a question of who would be able to educate the public in our communities if this provision passed. The first organization that would help conduct appropriate educational outreach is the American Automobile Association (AAA). We hold media campaigns throughout the year, and I can commit to you that we would

conduct these educational campaigns at our cost, not yours. I also serve as the president of the Nevada Insurance Council, which is not a lobbying arm of the insurance industry but rather an educational arm made up of insurance companies operating within the state. I can also commit to you that they would help with the education.

Chairman Atkinson:

Was it Ms. Spiegel who wanted to know about educating the public? Did this answer your concerns?

Assemblywoman Spiegel:

This information touches on the surface of my question, but it will suffice for now.

Assemblyman Claborn:

You do not have to pass this law to do the things you just stated. If the AAA Nevada wants to put a program together, then do it. We would love to see a concentrated effort like you described.

Chairman Atkinson:

Mr. Claborn's comments were right on target with my thoughts on this matter. Even without the passage of this law, is the AAA Nevada willing to help answer the misperceptions in our state with an educational campaign?

Michael Geeser:

Yes we would, because we already perform these efforts. We hold campaigns throughout the year on a number of subjects involving traffic safety from child car seats to distracted driving.

Assemblyman Hogan:

I think the exchange we just had indicates that people who, for whatever reason, do not favor the mandatory safety restraint law will go off on a tangent suggesting more publicity to make the problem go away. There is no agency more aggressive in publicizing these issues than AAA Nevada, but there are state and local agencies that provide additional information as well. Yet we have this horrendous number of people killed and permanently injured every year. So, I believe we have tried appealing to reason and sensibility. However, the two arguments I find troubling are fixing the problem through more publicity and trying to force compliance when it is against our constitutional rights. Anything these individuals find distasteful is unconstitutional, and they will take a stand on that basis. The law school I graduated from 45 years ago would have frowned on someone attempting to paint everything as being unconstitutional if you found it inconvenient. Unfortunately, I do see this

happening quite often. If 24 states have enacted this provision, and none have ruled this provision unconstitutional, then I believe this is a good indication it probably is all right.

Chairman Atkinson:

I do not think anyone suggested educational methods were the only means we should use in dealing with failure to buckle up. The suggestion was, if this bill did not pass, would they be willing to help us out and conduct additional information campaigns.

Frederick M. Drees, P.E., Chief Safety/Traffic Engineer, Department of Transportation:

I am here to advise you our Department supports this proposal, because it meets the goals of the Strategic Highway Safety Plan.

Chairman Atkinson:

Is there anyone else in the audience who wishes to testify in favor of S.B. 116?

Michael J. Casey, M.D., Trauma Surgeon, University Medical Center, Las Vegas, Nevada:

I am speaking today in support of S.B. 116. We know that over time the patients we see at the trauma unit are from auto accidents where the occupants became projectiles, and they sustained life-threatening or life-altering injuries. The Chairman stated earlier that his niece was injured, but she had been restrained. People who are unrestrained, however, move very similar to lawn darts when ejected: they go head first through the windshield and receive massive injuries. Although these types of collisions often result in fatalities, there are many more that cause life-altering changes. In the 241 fatal accidents that occurred in the two-year time period studied, over 3,000 people had injuries from non-seatbelt use which transformed their daily existence. The financial ramifications alone are adequate to support this bill.

Chairman Atkinson:

Are there any questions from the Committee? I appreciate you picking up on my niece's story, but the point you gave was considerably different from what I intended to convey. My point was that we have been educating her and reminding her to use her seatbelt for years. This is the primary reason she was buckled up when the accident occurred. I guess I was taking some of the credit for her wearing it, but you took that away from me.

Michael Casey:

I agree the credit should be yours for reinforcing a safety habit and helping to educate people about using their safety restraints.

**Peter Ybarra, Hispanic Outreach Coordinator, Clark County Safe Kids Coalition,
Las Vegas, Nevada:**

I have a joint statement I would like to read on behalf of myself and Jeanne Cosgrove, the Director, who had a family emergency and is unable to be here. We also thank Senator Nolan for presenting this proposal. We have been working diligently in this community as a grassroots effort to do things, and this is a nonprofit organization. Clark County Safe Kids Coalition is part of a worldwide campaign dedicated solely to the prevention of accidental injuries and deaths of children and young people. Founded in Clark County in 1993, our hub, the Sunrise Children's Hospital, has been our lead organization. We have been working hard to decrease injuries and deaths to children in our state through education and public service campaigns and to make injury prevention a public policy and priority. Over the years, we have seen quite a few legislative changes. We stand behind this measure because we know that seatbelts save lives. More kids die every year from preventable injuries than all childhood diseases combined. Fifty percent will die from an injury suffered in a vehicle accident. This cannot be fixed by a vaccine, because it is not an illness. Our vaccine is restraining the children properly so they do not fly free. When people ask me why they have to put their child in a car seat, I tell them, as an emergency medical service professional, this child may be your angel but he only flies once.

**Juan C. Zapata, Provider Relations, Primex Clinical Laboratories, Inc.,
Las Vegas, Nevada:**

I am present today as a concerned father, a Nevada resident, and a taxpayer. I also serve as president of LUCES Coalition, an acronym that stands for Latinos United Celebrating Health and Education. It has been a coalition for the last eight years, and we have approximately 140 members. All of our members possess health care backgrounds or belong to other nonprofit or for-profit organizations. LUCES would definitely cooperate with the AAA Nevada and any other organizations interested in educating the Latino population on the use of seatbelts. I would like to mention a report from the *Clark County Child Death Review*, which was an annual report dated 2007 and published June 30, 2008. Specifically, I am referring to pages 33 through 38. There were some alarming statistics dealing with childhood deaths. According to the information, 50 percent of vehicle accident fatalities were children. As a father of three children, one who is currently driving and another who is ready to start driving, I want to promote sound and healthy habits. However, most of our children will not listen. This law will help us convey this important safety message to keep our children alive.

I have lived in three other states where this law has been passed, and I have never had a profiling incident. So I believe that is a separate issue and should

be treated as such. The primary seatbelt proposal will save the state money and lives. I believe a life is priceless, and an ounce of prevention is worth more than a pound of cure.

Assemblyman Claborn:

Were the children killed in these accidents driving the automobile? Of course not, I am being facetious. Where were the parents when this happened? Is it the parents' responsibility to buckle up the children? You ought to find those people who are not taking the time to buckle up their own children. It is not up to us to take care of these children, it is the family's responsibility.

Arcadio Bolanos, Partner, Academy of Human Development, Las Vegas, Nevada:

I am a proud citizen of the United States, and my country of origin is Costa Rica. Sadly enough, I am coming from one of the countries where seatbelts are not a law. In my 40-plus years I have seen many car accidents and fatalities which I believe could have been prevented if the law enforcement agencies would have had the power to pull people over for nonuse and had the laws on their side to provide this type of security.

As a concerned member of my community, I have a long history of personal involvement in public services. I am a bilingual volunteer mediator for the Clark County Neighborhood Justice Center, as is Mr. Sherman. Lately, I was the regional representative for Congressman Jon Porter in Senate District No. 3. I am pleased to be here today to defend my constitutional rights in expressing my opinion and to ask you very humbly to demonstrate meaningful consideration of this lifesaving measure and pass S.B. 116 into law.

Chairman Atkinson:

Thank you very much for your testimony, but the time allotment for the proponents of this proposal is over. If there are others who still want to express their support of this bill, we will take them last to give the opposition a chance to voice their opinions. We will ask those in Carson City to move towards the table at this time.

Lynn Chapman, Sparks, Nevada, Vice President, Nevada Families and Nevada Eagle Forum, Sparks Nevada:

We are opposed to this bill. I wanted to let you know that I use my seatbelt all the time. I taught my daughter to buckle up when she was learning how to drive. It has saved me a number of times when I have had to slam on my brakes to avoid all the reckless people out there. Also, my brother died almost five-and-a-half years ago even though he wore his seatbelt. I have a friend who told me about her sister-in-law who was killed because of the safety restraint

she was wearing. The shoulder harness broke the breast-bone, which went into her heart, and she ended up dying.

Laws should not protect careless people from themselves. The laws should protect the peaceful from the dangerous. There are too many reckless people driving on our roads, and we need to be protected from their foolhardiness.

For decades, mandates have forced automakers to take up the cause for seatbelts. At one point, interlocks actually prevented drivers from starting their cars if their seatbelts were not connected. Public outrage spurred Congress to outlaw such mandates, but the crusades continued and they came up with a bill for an entertainment interlock where drivers could listen to the stereo only if they buckled up. However, that proposal has not made it through the system. This information was in an article entitled, *Strapped*, written in 2004 by Ted Bollicker.

About 80 percent of Americans use seatbelts, a decision based less on government nagging than on simple understanding of the safety benefits. We all know that seatbelts save lives. Automakers created a lobby group called Traffic Safety Now. They began spending millions of dollars to pass seatbelt laws. Then the federal government got involved and started giving grants to states for achieving a certain percentage of safety restraint use as well as to pay police to enforce the seatbelt laws.

Missouri's State Legislature sent their gas-tax money to Washington, and they were promised \$17 million for road improvements only if they passed a primary seatbelt law. I called Allstate, State Farm, and Farmer's Insurance and asked, if I am in an accident and not wearing my seatbelt, do my premiums go up? They said this would not happen. Then I asked them what about if I am involved in an accident and I am wearing my seatbelt, do I get rewarded somehow? They were emphatic that I would not. Therefore, the insurance companies will not offer a premium break due to the passage of this proposal.

I did submit copies of a summary page from a report by NHTSA's National Center for Statistics and Analysis ([Exhibit H](#)). A chart inserted at the bottom of this page shows data collected from 2002 to 2006 on fatalities in motor vehicle crashes for people 16 years of age and older. This information has been sorted to provide the percent and number of people restrained compared to those who were not restrained. The people who were restrained increased from 41 percent in 2002 to 45 percent in 2006. The percentage of unrestrained occupants who died actually decreased from 59 percent in 2002 to 55 percent in 2006.

I personally believe the passage of a primary seatbelt law is not a good measure to adopt. We have such a small number of people we are trying to influence, and forcing people to buckle up is not the answer.

John Wagner, State Vice Chairman, Independent American Party, Elko, Nevada:
We heard 45 minutes of testimony why you should wear safety restraints, and I totally agree with the reasons offered. In fact, I put them in my car before it was ever proposed as a law. The car does not move until everyone is buckled up. However, I oppose this bill on constitutional grounds, and I believe the American Civil Liberties Union (ACLU) has submitted a brief to you on this issue. I would concur with whatever information they provided, because I did so the last time when I testified during the Senate hearing of this bill.

There is one issue that no one has addressed yet. My scenario involves a police officer following me down the street, and he passes my car but does not see a safety restraint in use. So, the officer pulls me over and gets out of his vehicle. However, by the time he comes over I have fastened my seatbelt. That is one scenario. Now moving on to another situation, the officer pulls me over, and this time I do not buckle up. Instead, I get my wallet out and have it in my hand. The police officer informs me that I am not wearing my seatbelt. I agree but state that I removed it so that I could get my driver's license out. When I show up in court, it becomes an issue of the officer's word against mine.

Assemblyman Claborn:

I agree with you, and I also wear my safety restraints. My wife, my children, and our grandchildren all wear their seatbelts. They do save lives, and I wish everyone wore them. However, this proposal is an issue of probable cause which violates the constitution.

Chairman Atkinson:

Did anyone else want to speak in opposition to this proposal?

David Schumann, representing the Nevada Committee for Full Statehood, Minden, Nevada:

I would like to begin by pointing out that in 1954, when I first obtained my license, there were no safety restraint laws. I grew up in Pennsylvania, and to this day, it is still not a primary law. However, when I reached the age of 25, a new piece of equipment called a seatbelt was introduced, and I purchased a set because the physics involved are truly impressive. Any adult knows, if you are travelling 40 miles per hour and you run into a fixed object, your body will continue moving forward into the windshield unless you are restrained. So, this proposal is a case for the "nanny" state, but I do not need you to look after me. It is idiotic for a person not to wear a seatbelt.

One of the questions posed by someone today was how much more it costs when an uninsured motorist is involved. I have insurance, and if I get injured, my insurance will pay for my medical treatment, which is why I have a policy. Initially, I wondered why an uninsured motorist did not have his license revoked when he was caught driving without insurance. My understanding of the law is I must have proof of insurance in the car with me at all times. Therefore, I think you should make the penalties more severe for uninsured motorists and suspend their license for a full year.

When it comes to children, I am sympathetic for the need to buckle them up. So, there should be a penalty for parents who fail to fasten their children in seatbelts or car seats, because I do not expect a young child to understand the forces involved in a collision or the need to buckle up. Maybe we need to amend this proposed law to say it applies to children in the car and the parents who do not buckle them up.

Janine Hansen, President, Nevada Eagle Forum, Elko, Nevada:

There was something said earlier that bothered me. It was that those of us who opposed this bill were here to serve our own needs and not those of the masses. I drive 320 miles twice every week travelling back and forth from Elko. I have been a volunteer citizen lobbyist since 1971. I represent people whose voices are not heard if I am not here.

Every time I drive and bring my 93-year-old mother, we always wear our seatbelts. My brother, Dan, was killed in 2002 in an auto accident where he was not wearing his seatbelt. He would have opposed this bill, and I am here representing him.

We heard impressive statistics that showed almost 95 percent of people in Nevada use safety restraints. However, we also heard someone from Las Vegas tell us that 90 to 95 percent of the police officers are good people. Can we have 100 percent good law enforcement and can we have 100 percent seatbelt use? We have a variety of laws that are mandatory, but there are always a number of people who will not obey them. There is not any way to avoid people who want to be foolish and ignore the laws the rest of us follow.

One of the reasons this law bothers me is because it will create a situation where the police can stop me on any grounds at any time. Sometimes there are people who are enforcing the law, and they may have prejudices which could cause problems. I had a son who was stopped every other month when he was a young driver, even though he never received a ticket for any violation. In fact, when he was driving with me in the car, he still got pulled over. I do not

understand what the profiling issue was, but perhaps it was because he was under the age of 25 years.

I believe when they passed a seatbelt law in North Carolina, they had a roadblock where they stopped people to see if they were buckled up. However, while the people were stopped they ran their licenses through and discovered open warrants and other types of violations. I have a serious dilemma with police using this excuse to stop an individual for any reason at any time. For me, this is an issue of liberty. I will close my presentation with a quote from Benjamin Franklin: "Those who would give up essential liberty to purchase a little temporary safety deserve neither liberty nor safety."

Assemblyman Manendo:

There are so many different things a person can do wrong resulting in an officer pulling him over. Since driving is a privilege and not a right, are you against those types of laws because it may be taking away your liberty?

Janine Hansen:

First of all, I do not believe that travel is a privilege. Under the *Constitution* we have the right to travel. I have never opposed those provisions, but I feel this proposal is blatantly over the top. I have an old 1995 car with 155,000 miles on it, and there are probably many things they could find wrong to stop me for if they wanted to.

Assemblyman Manendo:

Do you feel the secondary enforcement of seatbelts is proper, or are you against that as well?

Janine Hansen:

No, I have never opposed the secondary provision. I have always worn my seatbelt. My brother chose not to wear his as a personal objection to the government forcing him to do it, but I wear my seatbelt.

Assemblyman Manendo:

I appreciate the answer, and I am sorry for your loss.

Chairman Atkinson:

Are there any other questions from the Committee members? There are none, so we will allow the next person to testify.

Orrin J. H. Johnson, Washoe County Public Defender's Office, Reno, Nevada:

This bill is not about the efficacy of safety restraints. This is an issue about the balance between liberty and safety. As a public defender attorney, the first interaction most of the clients I deal with have with law enforcement is when they get pulled over. It is easy to see things like cracked taillights on the outside of a car or failure to maintain a lane. However, it is far more difficult to see inside a car and observe what is going on in there. The result of that is we will see increased litigation and increased costs to the government because most criminal cases are defended by public defenders and trials cost more than guilty pleas. We are also concerned about negative interaction with law enforcement, which becomes more negative if the police officer makes a mistake and there is no shoulder harness due to the age of the vehicle. Racial profiling is another concern of ours. These issues are nebulous and sometimes hard to define, hard to prove, and hard to establish, but they do happen.

This bill is supposed to be a cost-saving measure. Some of the statistics presented about the potential cost-savings based upon extrapolating information from the other states is dubious. The question is, can you take a different entering set of data and derive a different exiting set of data? We believe the resultant information is unreliable. When you consider the cost-benefit analysis of this measure, freedom and liberty have their own worth, and it is not simply a monetary issue. We, as a society, spend money to protect liberty, and it is not just a matter of dollars and cents. We do not allow bad food to be served or other dangerous activities that have a potential to cost taxpayers who would have to bear the expense of the medical costs involved. We ask that you draw the line between security, safety, and liberty by maintaining the secondary offense provision instead of increasing it to a primary law.

Chairman Atkinson:

Is there anyone else who wants to testify in opposition to this proposal in Carson City? Is there anyone in Las Vegas who is opposed to this legislation?

Judy C. Cox, representing the American Civil Liberties Union of Nevada, Las Vegas, Nevada:

Our major issues with the bill concern the increased risk of racial profiling and government intrusion into the privacy of Nevada drivers [written testimony provided in ([Exhibit I](#))]. The 2003 year-long study by the Attorney General's office showed that Nevada already has a higher rate of stops for Latino and African-American drivers. Stops for African-American drivers accounted for 12 percent of all vehicle pull-over incidents, even though they comprise only 6 percent of the population. Basically, by enhancing the seatbelt provision to a primary offense, you are giving police officers freedom to stop any vehicle, for any reason, at any time. With 92 percent of Nevada drivers wearing their

seatbelts, we believe this factor will result in many unnecessary stops. We have heard testimony stating this proposal is not about racial profiling, but if you can see the absence of a safety harness across the occupant of a vehicle, then you can also see the race of that occupant.

I would also like to point out that there is nothing in this bill that would prompt a study, like A.B. No. 500 did, to track the racial data on traffic stops. No one has mentioned the successful *Click it or Ticket* program which is being used in Nevada. The National Highway Safety Traffic Administration has credited this program with the 92-percent usage rate.

Chairman Atkinson:

Are there any questions from the Committee members for Ms. Cox? Is there anyone else in Las Vegas wishing to testify in opposition to Senate Bill 116? Is there anyone who would like to present a neutral position on this legislation? Are there any other individuals who did not have an opportunity to speak in favor of this measure during the time allotment? Senator Nolan, we will allow you to make any final statements regarding this proposal.

Senator Nolan:

I appreciate that you honored your promise and your commitment to hear this proposal. Also, I would like to mention that I cannot take sole credit for this bill, although it has been attributed to me, but the other legislators who were here took an active part in this issue. I know all of you have sat here for a long time, but this is a significant and weighty issue because we are talking about human lives. All of us will have to decide whether the cost benefit is worth the lives saved. The only question was: who is wearing their safety belts and who is not? We have 1.7 million licensed drivers in this state, and we have achieved 92-percent seatbelt usage. The remaining 8 percent who are unbuckled represent 140,000 people. In my opinion, when we talk about this as an issue, it is a matter of saving lives.

I could not disagree more with Assemblyman Claborn's comment about probable cause. Do we discount the lives of those people who do not wear their safety restraints? When they are ejected from their vehicles, do we say it was your fault and that is too bad? We do not care that your teenagers who just finished a driver's education class were told this is a secondary law. That does not matter because they should have been wearing their seatbelts. We are devaluing your life and what it means to our society. Or are we going to save lives by passing a primary law? Every state that has passed this legislation has seen a reduction in deaths, and, accordingly, they have seen a reduction in the costs associated with those deaths. It is already a law. It is a \$25 nonmoving violation, and it will remain this way.

Chairman Atkinson:

Thank you, Senator Nolan. I will mention I do not believe it is a fair assessment to say we are devaluing life. I believe in personal accountability as well. How can I value your life if you are not valuing your own by putting on your seatbelt? So, I think your all-encompassing remark is wrong, and I could not let you leave without addressing it.

Assemblyman Claborn:

The Senator and I are good friends, and we have disagreed many times over various bills we have heard over the past six sessions. However, it still boils down to the fact that you cannot guarantee they will wear their seatbelts. You cannot convince me that everyone will buckle up because we passed a law. When you can convince me of that, then that is the day you will have my vote.

Chairman Atkinson:

We will not be voting on this measure today, so we will give you some time to persuade him. Are there any other questions from the Committee members? We do have some members that may have additional questions for you, and I am asking you to follow up with them, Senator Nolan. We will probably bring this back next week during a work session. We are adjourned [at 5:27 p.m.].

RESPECTFULLY SUBMITTED:

Marlen Schultz
Committee Secretary

APPROVED BY:

Assemblyman Kelvin Atkinson, Chairman

DATE: _____

EXHIBITS

Committee Name: Committee on Transportation

Date: April 14, 2009

Time of Meeting: 2:40 p.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
S.B. 116	C	Senator Joyce Woodhouse	Prepared Testimony
S.B. 116	D	Senator Dennis Nolan	Prepared Testimony
S.B. 116	E	Traci Pearl	Statistical Data from a PowerPoint Presentation.
S.B. 116	F	Dave McCurdy	Letter supporting the bill and offering statistical information.
S.B. 116	G	Michael Geeser	Letter of support for passage of bill.
S.B. 116	H	Lynn Chapman	Page from NHTSA, "Characteristics of Unrestrained Passenger Vehicle Occupant Fatalities 16 and Older in Motor Vehicle Traffic Crashes by Time of Day."
S.B. 116	I	Judy C. Cox	Memo in Opposition to bill.