

**MINUTES OF THE
SENATE COMMITTEE ON ENERGY, INFRASTRUCTURE AND
TRANSPORTATION**

**Seventy-fifth Session
February 19, 2009**

The Senate Committee on Energy, Infrastructure and Transportation was called to order by Chair Michael A. Schneider at 8:07 a.m. on Thursday, February 19, 2009, in Room 2135 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to the Grant Sawyer State Office Building, Room 4412E, 555 East Washington Avenue, Las Vegas, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Michael A. Schneider, Chair
Senator Maggie Carlton, Vice Chair
Senator Shirley A. Breeden
Senator Randolph Townsend
Senator Barbara K. Cegavske
Senator Dennis Nolan

COMMITTEE MEMBERS ABSENT:

Senator John J. Lee (Excused)

GUEST LEGISLATORS PRESENT:

Senator Maurice E. Washington, Washoe County Senatorial District No. 2
Senator Joyce Woodhouse, Clark County Senatorial District No. 5

STAFF MEMBERS PRESENT:

Matt Nichols, Committee Counsel
Scott Young, Committee Policy Analyst
Patricia Devereux, Committee Secretary

OTHERS PRESENT:

Traci Pearl, CPM, Division Administrator, Office of Public Safety, Department of Public Safety

Dr. Michael Casey, Trauma Surgeon, University Medical Center

Alma Angeles, R.N., Pediatric Trauma Program Manager, University Medical Center

Jeannie Cosgrove, Director, Clark County Safe Kids Initiative; Injury-Prevention Coordinator, Sunrise Hospital Trauma Services

Oscar Chavez, Sergeant, Traffic Bureau, Las Vegas Metropolitan Police Department

Susan Martinovich, P.E., Director, Nevada Department of Transportation

Kelly Thomas Boyers, Director, Adam Thomas Health and Safety Foundation

Alec Thomas, Adam Thomas Health and Safety Foundation

Lindsey Briare, Adam Thomas Health and Safety Foundation

Rusty McAllister, Professional Firefighters of Nevada

David Kallas, Detective, Director of Governmental Affairs, Las Vegas Police Protective Association Metro, Inc.; Southern Nevada Conference of Police and Sheriffs

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

Chris Perry, Colonel, Chief, Nevada Highway Patrol, Department of Public Safety

Ron Dreher, Peace Officers Research Association of Nevada

Michael Geeser, Media/Public Relations, California State Automobile Association, AAA Nevada

Melissa Krall, LSW, Director of Community Outreach; Coordinator, Safe Kids Washoe County

Paul Enos, Chief Executive Officer, Nevada Motor Transport Association

Shelly Cochran, Special Needs Child Passenger Safety Coordinator, Safe Kids Clark County; Chair, Child Passenger Safety Task Force, Office of Traffic Safety, Department of Public Safety

Diane Vogelzang

Chuck Abbott

Laurel Stadler, State Director, Mothers Against Drunk Driving

Lynn Chapman, State Vice President, Nevada Families; Nevada Eagle Forum

Janine Hansen, Independent American Party

Chad Dornsife, National Motorists Association; Executive Director, Best Highway Safety Practices Institute

Jason Frierson, Chief Deputy Public Defender, Clark County Office of the Public Defender

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

Richard Perkins, former Assemblyman

Judy C. Cox, Legal Fellow, American Civil Liberties Union of Nevada

Mitch Brown

Derek Morse, P.E., Interim Executive Director, Regional Transportation Commission of Washoe County

David Bowers, P.E., P.T.O.E., Assistant City Engineer, Public Works Department, Engineering Design, City of Las Vegas

Brian O'Callaghan, Detective, Office of Intergovernmental Services, Las Vegas Metropolitan Police Department; Nevada Sheriffs' and Chiefs' Association

Cameron McCrae, Transportation Director, Nye County School District; Chair, Regional Transportation Commission of Nye County

Nicole Rourke, Director, Intergovernmental and Community Relations, Government Affairs, Clark County School District

CHAIR SCHNEIDER:

I will open the hearing on Senate Bill (S.B.) 116.

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

SENATOR DENNIS NOLAN (Clark County Senatorial District No. 9):

Senate Bill 116 is the same bill passed by the Senate in the 74th Legislative Session. It would have changed not wearing a seat belt from a secondary offense to a primary offense. It was eventually voted out of Committee. The bill passed from the Senate with bipartisan support. It had a similar hearing in the Assembly, but the Assembly Committee on Transportation was not allowed to vote on it, and members did not debate the Senate's decision.

We have requested statistical data from law enforcement on fatalities of unrestrained people since the 74th Session. The data to be presented today are regrettably predictable, and were forecast by traffic safety experts two years ago. It was predicted that, based upon uniform reduction in deaths in states that have changed their seat belt law from secondary to primary offense, there would be a 10- to 15-percent reduction in deaths. Data gathered by Nevada law enforcement indicated that nearly 50 percent of those killed would have

survived had they worn a seat belt. From 30 to 100 people would be alive today had this bill passed 2 years ago.

Those opposed to this bill will discuss our constitutional right to choose and question whether we need the change since we have more than 90-percent compliance with the seat belt law. Opponents claim the bill enables racial profiling.

Some would have us believe that individual choice is not the responsibility of government. The Preamble of the U.S. Constitution specifically states one of the primary responsibilities of government is to provide for the general welfare of its people. Article 4 of the Nevada Constitution requires state government to provide for the safety of its citizens. Safety, the preservation of life, the prevention of unnecessary suffering and death, and enactment of safety legislation are fundamental responsibilities of government.

Automobiles have dozens of federally mandated safety features, including the most important one: seat belts. Despite a steady rise in belt usage, the number of unbelted deaths continues to climb. This means the 90-plus-percent compliance rate is inaccurate. The statistic only includes front-seat passengers.

The racial-profiling issue has long been dispelled by prominent national minority organizations, which endorse primary seat belt laws because of the disproportionate number of minority lives lost due to being unrestrained. Racism does exist within law enforcement and every part of our society. The value of the lives saved due to primary seat belt laws in relation to the cost of the ticket is priceless.

What was not discussed two years ago is how much Nevada taxpayers pay for deaths of unrestrained accident victims and the cost of traffic congestion during cleanup and responses to those wrecks. Eighty-five percent of Nevadans believe we already have a primary seat belt law or support establishing one. Many fear interaction with law enforcement and believe government exists only to serve their needs and not those of the masses. If this bill passes the Committee, potentially four lives will be saved annually.

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

I strongly support passage of S.B. 116. I will share my personal story regarding the value of wearing a seat belt ([Exhibit C](#)). I was rear-ended by a driver going

more than 60 miles per hour (mph). My airbag deployed, and my seat belt held me tightly. I suffered minor cuts, major bruises and damage to my left leg. My husband and I missed valuable volunteer work time during my convalescence.

The Nevada Highway Patrol (NHP) officer investigating the crash scene told me, "You are one lucky lady. Your car did everything it was supposed to do, however, if you had not been wearing your seat belt, you would have sailed through the windshield and not be with us today."

TRACI PEARL (Division Administrator, Office of Traffic Safety, Department of Public Safety):

You have handouts ([Exhibit D](#), original is on file in the Research Library; and [Exhibit E](#)) of the slides and facts I will review. While highway fatalities in Nevada have increased since 2007, seat belt use in fatal crashes has not. It is estimated that at least half of the victims would still be alive if they had been belted.

The methodology of observing seat belt use is inaccurate. Only Washoe and Clark counties observe usage, and this is a significant problem because rural areas are not surveyed. It is only a daytime survey of front-seat occupants. In 2008, surveys showed just 45 percent of fatalities were buckled, so there is a major disparity between the real numbers and our daytime observations.

Young male, impaired and nighttime drivers are least likely to be buckled. At least 75 percent of Nevada's fatalities occurred between 6 p.m. and 6 a.m., compared to 41 percent during the day.

If S.B. 116 passes, it is predicted that in the first year, observed daytime belt usage will go up 2 to 3 percent and fatality usage will increase 7 to 9 percent. If it goes up 8 percent, 10 lives will be saved, 140 serious injuries avoided and \$38 million saved. In 2008, the nighttime survey found 75 percent belt usage. University Medical Center (UMC) crash victims used belts 63 percent of the time.

A public opinion survey on primary seat belt laws indicated almost 85 percent of Nevadans favor the idea.

A survey of insured or uninsured belted trauma-crash victims found twice the number of belted than unbelted people. However, the average treatment cost

for belted victims is \$40,000 less than for unbelted. Unrecoverable medical costs covered by the State or counties are \$70 million for belted victims versus \$90 million for unbelted. If we converted those 150 deaths and serious injuries into minor injuries, the State would have saved \$5.6 million in unrecoverable charges in the last 3 years.

If we pass this bill, the State would receive \$1.2 million in federal funds from the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users.

Will our insurance rates decline if we pass this bill? Insurance companies say there are too many variables, including seat belt use, involved in determining premiums. In states that passed a primary belt law, rate-increase growth slowed considerably.

Ethnicity is included in daytime belt-usage surveys. Hispanics and African Americans have the lowest rates, and Asians the highest. We have support letters for the bill from many national minority organizations.

DR. MICHAEL CASEY (Trauma Surgeon, University Medical Center):

This bill is important because seat belts save lives. The implication of an enforced seat belt law is a public safety issue; people need encouragement to do the right thing.

At the University Medical Center (UMC) Trauma Center, 75 to 80 percent of patients are victims of blunt trauma, many from crashes. There were 45 to 50 percent unbelted and ejected or thrown about inside the vehicle. Their injuries often involve severe brain and spine trauma. Patients have an increased length of hospital stay, morbidity and rehabilitation time. We see a great number of absolutely preventable injuries, had the victims worn seat belts. Air bags alone are inadequate to save lives.

ALMA ANGELES, R.N. (Pediatric Trauma Program Manager, University Medical Center):

Seventy percent of adult Nevadans believe we have a primary seat belt law. There are 90 to 95 percent of teenage and young adult drivers who know we have a secondary law. Teens say they cannot get pulled over if they are doing nothing wrong; therefore, they only buckle up if they are doing something illegal.

The lost lives of unbelted youths are more valuable than the costs already discussed. The productivity we lose annually from those killed is immeasurable; their potential is never met. The loss to grieving families of loved ones killed simply because they were not wearing seat belts means more. Young drivers put mistaken faith in air bags to keep them safe. If teens are aware there is a primary seat belt law, they will buckle up to avoid a ticket and insurance points.

One of the most difficult parts of my job is to hear a physician tell parents their child's life would have been saved if he had just worn a seat belt. The grief our citizens experience because their unbelted loved ones died is more costly than any money.

JEANNIE COSGROVE (Director, Clark County Safe Kids Initiative; Injury-Prevention Coordinator, Sunrise Hospital Trauma Services):

Since 2007, we have had seat belt checkpoints at high schools and middle schools. In higher-risk areas, only 76 to 78 percent of teen drivers or children being driven by parents are buckled en route to school. Children say they were unbuckled because they were only going a short distance, but most crashes happen within a three-mile radius of home. I urge you to pass this bill.

OSCAR CHAVEZ (Sergeant, Traffic Bureau, Las Vegas Metropolitan Police Department):

I oversee the fatal-investigation detail of the Las Vegas Metropolitan Police Department (Metro) Traffic Bureau. I urge approval of S.B. 116. My daughter's best friend and her pregnant sister-in-law survived a rollover because they were wearing seat belts. In Metro in 2008, there were 11,241 seat belt citations and 2,359 accidents involving unbelted vehicle occupants. There were 24 fatalities of unrestrained people. Metro's 2007-2008 Bureau of Traffic citations statistics reflect widespread lack of seat belt use.

The average time for an on-scene investigation of a critical-injury or fatal accident is four hours. Costs incurred by the fatal-crash investigators are \$2,600. In 2008, response to traffic critical injuries and fatalities cost taxpayers \$580,600. Seat belts and air bags in concert protect vehicle occupants, with the belt the primary restraint system.

In my 20-year career, I have responded to hundreds of serious-injury or fatal accidents with unbuckled occupants. Serious injury or death will still occur if seat belts are used, but chances of either will be reduced. Excuses to not wear

a belt include the driver is only going a short distance, fear of being trapped under water or in a fire, feeling belts are uncomfortable, thinking it is safer to be ejected and believing officers cannot stop a person for not wearing a belt. If injuries can be reduced and lives saved, is it not worth approving this bill?

SUSAN MARTINOVICH, P.E. (Director, Nevada Department of Transportation):
We support this bill. We have worked collaboratively with other State agencies, law enforcement and jurisdictions to develop our Statewide Strategic Highway Plan. This effort is the next step in that plan. Since the Plan's implementation in 2006, there has been an annual decrease in highway fatalities.

The cost of cleaning up accidents is 2.5 times the cost of traffic congestion. More than 40 to 50 percent of highway congestion is from nonrecurring incidents. Severe crashes or fatalities take longer to clean up and get passing traffic moving. If you choose to not wear a seat belt, you affect other people.

The Nevada Department of Transportation (NDOT) spends millions of dollars on traffic safety improvements. If we could put that much money into congestion relief just by implementing something that is already standard on vehicles, we would make a lot more progress.

KELLY THOMAS BOYERS (Director, Adam Thomas Health and Safety Foundation):
This group of students and I are members of the Adam Thomas Health and Safety Foundation. I have given you information on our concerns ([Exhibit F](#) and [Exhibit G](#), originals are on file in the Research Library).

ALEC THOMAS (Adam Thomas Health and Safety Foundation):
Nearly two years ago, my brother Adam Thomas was ejected and killed in a single-car accident. His belted passenger walked away with minor injuries. Not wearing a seat belt during his accident was not a deliberate act; rather, he forgot to buckle up. If the primary seat belt law was in place before his accident, the probability of Adam forgetting his belt would have been greatly diminished.

I am delivering the message that lives are being lost and families negatively impacted without this law. Great sums of unnecessary money are being spent on unrestrained accident victims. University Medical Center Trauma Center data on crash victims indicate the average Medicaid cost to treat an unrestrained person is \$214,000, compared to \$98,000 for restrained people. We cannot

afford to waste almost \$116,000 per each unrestrained victim. There must be a penalty for those who risk their own and passengers' lives. Revenue saved by the State is staggering. In the first year of the law's implementation, Nevada could save almost \$20 million. How much more evidence does there need to be that this is better for Nevada?

Car fatalities are the No. 1 cause of death for Nevada teens. Of the 37 State teens who died in crashes in 2007, 24 were unbelted. I am a teen, as are my ten friends here, and I have hundreds of signatures from students from my high school and other Clark County high schools who agreed with a letter of support for this bill. The teens of Nevada request that you pass this bill so more of our friends do not die because they were not wearing a safety belt.

LINDSEY BRIARE (Adam Thomas Health and Safety Foundation):

I support S.B. 116. In 1968, federal law decreed that all vehicles except buses must have seat belts for each passenger. In 1987, Nevada adopted the secondary-offense seat belt law. This bill is better for Nevadans because of the taxpayer money it will save. We cannot afford to spend more money on fatalities or severe injuries of unbuckled people. With a primary law, Nevadans will save millions of dollars in health-care costs.

My age group is engaging in the riskiest behavior. We are society's future leaders. By protecting ourselves, we can safely get from points A to B without serious injuries or death because we are unbelted.

MS. BOYERS:

I speak for the many parents who lost unbelted children in vehicle accidents, and I speak in memory of my son, who was an intern for Senator Schneider in the 74th Session. Fifty percent of child fatalities in Clark County were Latino. We need to reach across cultural barriers to educate people about seat belt usage.

RUSTY McALLISTER (Professional Firefighters of Nevada):

We are the ones who clean up the result of accidents involving unbelted victims. In 25 years as a firefighter and paramedic, the most severely injured people I have treated were ejected from their vehicles. My 5-year-old son became a quadriplegic after being ejected during a car crash, and eventually died after 5 years on a ventilator. If you pass a bill that could stop that from

happening to just one person, it is worth it to help just one parent to avoid my experience.

DAVID KALLAS (Detective, Director of Governmental Affairs, Las Vegas Police Protective Association Metro, Inc.; Southern Nevada Conference of Police and Sheriffs):

We need to pass a primary belt law if we can save just one life. It is worth it if we can do anything to avoid the human debris discussed today.

FRANK ADAMS (Executive Director, Nevada Sheriffs' and Chiefs' Association):

We have championed this bill many times. In my 39 years of Nevada law enforcement, I have learned one thing: enforcement saves lives.

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

As a 27-year veteran of the Department of Public Safety and former traffic reconstructionist, I support S.B. 116, as do the NHP and the Department of Public Safety.

RON DREHER (Peace Officers Research Association of Nevada):

We support this bill.

MICHAEL GEESER (Media/Public Relations, California State Automobile Association; AAA Nevada):

I am speaking on behalf of AAA Nevada and my insurance colleagues. We urge your support of this bill; you have a letter detailing our reasons and those of organizations aligned with AAA on this issue ([Exhibit H](#)).

MELISSA KRALL, LSW (Director of Community Outreach; Coordinator, Safe Kids Washoe County):

We support S.B. 116. My organization's mission is to prevent accidental injuries to children, the leading cause of death for those under age 14, as outlined in my handout ([Exhibit I](#)). The unintentional-injury rate for U.S. children has declined by 45 percent since 1987 through proactive safety measures like those in this bill.

A national Safe Kids study ([Exhibit J](#)) found child-restraint use increased from 45 to 82 percent in the 2 years after 1 state passed a primary enforcement law for adult seat belts. A National Transportation Safety Board study found when

adults wore belts, 87 percent of children were also restrained. When adults did not wear belts, only 58 percent of children were restrained. Senate Bill 116 affects all State residents, especially children over age six to whom the car seat law does not apply.

PAUL ENOS (Chief Executive Officer, Nevada Motor Transport Association):
Promotion of highway safety is one of our missions. Truck drivers may have less seat belt compliance than the general public. Seat belts offer the best chance to maintain control for both car and truck drivers in an emergency. A Federal Motor Carrier Safety Administration study has found 60 percent of truck-occupant fatalities are caused by rollovers. Truck drivers who wear their seat belts are 80 percent less likely to die in a rollover.

SHELLY COCHRAN (Special Needs Child Passenger Safety Coordinator, Safe Kids Clark County; Chair, Child Passenger Safety Task Force, Office of Traffic Safety, Department of Public Safety):

As a former emergency medical technician in southern Nevada, I have much anecdotal evidence about why seat belt use is imperative. In this Session, it is important that seat belts save money. If that is the argument that will get this bill passed, that is what you need to hear.

DIANE VOGELZANG:

My 18-year-old daughter died after being ejected in a rollover because she was unbelted. Since then, I have had repeated conversations with teens and adults who do not understand that even if your windows are up, you can become a projectile in a rollover. Even if you are driving carefully at night, other drivers may endanger you. Teens and adults have a hard time telling passengers to buckle up; if it is a primary law, this is easier. This law will help all ages protect each other.

CHUCK ABBOTT:

Many polls show Nevada at the very bottom of some national lists: teen pregnancies, high school dropouts, suicides, high smoking rates and unrelated medical costs, high traffic fatality rate, high driving under the influence (DUI) rate. Many of these issues can be resolved by legislation and enforcement. That takes money, but this law could save us a lot of dollars and bring a million federal dollars into the State. Twenty-seven other states have shown this law works, and none have tried to repeal it.

LAUREL STADLER (State Director, Mothers Against Drunk Driving):

Mothers Against Drunk Driving has always advocated using seat belts as the best defense against a drunken driver. Our priority is to have the primary seat belt law passed in every state.

LYNN CHAPMAN (State Vice President, Nevada Families; Nevada Eagle Forum):

We oppose this bill. My brother was killed in a crash, even though he was wearing his seat belt. A friend's relative sustained fatal injuries because she was wearing her seat belt.

Op Ed News said a federal study found a 10-percent decrease in traffic deaths among those not wearing belts, whereas the death rate has risen among those who were belted.

An article, "Strapped, Unbuckling Seat Belt Laws," says laws should not protect the careless from themselves; rather, they should protect the peaceful from the dangerous. If an adult does something risky, he alone is responsible for the consequences.

We should not make a law for something for which we already have a secondary law. This has a lot to do with money. The federal government gives grants to states for achieving a certain percentage of seat belt use. That rate is 92.2 percent in Nevada. The other 8 percent may be in cars with blackened windows into which officers cannot see to ascertain if the occupants are belted. If we want more money, we should worry about reckless drivers and cars without license plates instead of who is wearing a seat belt.

CHAIR SCHNEIDER:

Do you wear a seat belt?

MS. CHAPMAN:

Yes.

CHAIR SCHNEIDER:

Why do you wear it?

MS. CHAPMAN:

Because I am smart enough to know I should.

CHAIR SCHNEIDER:

This is about money, especially in tight budget times. As Assemblyman David Goldwater said, "It is our God-given right to be stupid," but if you want to kill yourself, get the job done without being a burden on taxpayers by lingering for years. That is what happens.

Senator Cegavske and I are on the board of Opportunity Village in Las Vegas, and I have seen the results of severe trauma from crashes. It is an extreme burden on taxpayers and costs many millions of dollars. Today we only talked about the price of the Trauma Center or cleaning up fatal accidents, but that price goes on for years for the survivors and their families. Families are on public assistance because the wage earner was incapacitated. People cannot choose to say, "I will not wear my seat belt because it only affects me." It affects all taxpayers, and I would rather spend my tax dollars at UMC on someone with breast cancer.

JANINE HANSEN (Independent American Party):

My brother was killed in an accident. He had chosen not to wear his seat belt as his private opposition to the demand of government that he do so. He promoted a culture of liberty in which people are responsible for themselves. Even if you pass the primary belt law, irresponsible people will not wear their belts. I always wear my seat belt and believe in safety, but not that everyone is responsible, whether or not you pass this law. My concern is this could be used as a violation of our liberty because it will allow police to stop anyone at any time for any reason. In some seat belt stops, officers ask people if they have a gun in the vehicle. I have a concealed-weapons permit and carry a gun in my car. I am concerned about abuses by government and overbearing law enforcement individuals.

The Nevada Constitution says in Article 1, section 1, "All men are by Nature free and equal and have certain inalienable rights among which are those of enjoying and defending life and liberty." Liberty brings certain costs which may be jeopardized by the ability of the police to stop us for any reason.

CHAD DORNSIFE (National Motorists Association; Executive Director, Best Highway Safety Practices Institute):

The National Motorists Association opposes this bill. This bill is about the money. When Congress was processing the primary seat belt law, research showed spending money on public education and public service announcements

was working well. When that money was allocated, law enforcement did not think it was getting a fair share, even though the education effort was performing better than enforcement. The \$1.5 million Congress allocated was for enforcement, not public announcements. It was a diversion of funds for special interest away from what was working best.

We live in a schizophrenic world in which we are not trying to solve the problem, but are passing a law to benefit a few at the expense of everyone else. If we are already one of the top belt-compliance states, we will only see a small, incremental increase in belt use because some people will always refuse to wear one.

Children ride school buses without seat belts until they are teenagers. We are telling them belts are only needed in certain conditions; thus, as teens, their expectations of riding in a vehicle do not include wearing a belt. We should not spend the millions of dollars on enforcement, but on seat belts for school buses and other public transit. This would reinforce the culture of belting up every time a child gets into a vehicle.

People are killed during police traffic stops, but agencies are underreporting it. During a traffic stop 2 feet from traffic going 70 mph, people stopped for a potential infraction are put at real risk. You will see more injuries and deaths in direct proportion to the greater number of tickets dispensed that close to a highway.

The lighting of NHP vehicles is an example of the "moth effect." If someone is impaired or has a sleep deficit or medical problem, he is dazzled by the approaching cruiser's lights so steers toward them. As he passes the patrol car, he crashes into the car in front. These are unintended consequences of limiting liberty.

After North Carolina adopted a primary law, belt-check roadblocks morphed into identity checks of all vehicle occupants. In low-income neighborhoods, roadblocks may find a high percentage of warrants. In Los Angeles, seat belt checks have become papers checks, particularly of vehicle registration and insurance in Hispanic neighborhoods. In addition to imposing fines, police impound vehicles. The state tows the car and the county gets a percentage of the towing fees. The state puts the car in impound, the tow company sells the

car, and anything in excess of the sale goes to the state. Once threshold justifications for traffic stops are allowed, unintended consequences proliferate.

JASON FRIERSON (Chief Deputy Public Defender, Clark County Office of the Public Defender):

We are opposed to S.B. 116 because we fear how it may be implemented. A study verified the existence of racial profiling in Nevada. When I was in law school, I had an old car that lacked shoulder belts. On the way to a friend's job interview, she made eye contact with a traffic officer, and we were then pulled over. I was questioned for a half hour then let go. This happens to other people of color daily—any increase in contact with law enforcement increases the chance for negative interaction.

Some states have restrictions on the application of their primary seat belt laws: no further searches are allowed after a belt stop; preclusion from using the belt stop as probable cause for another violation; once state seat belt usage achieves 80 percent, it reverts to a secondary offense; and requirement of annual reports on racial profiling. The latter needs to be contained in the proposed legislation. The issue is not intended abuse of the law; we are all guilty of unintentional profiling. We need laws that address actual profiling problems, not those which we may have in the future.

ORRIN J. H. JOHNSON (Deputy Public Defender, Washoe County Public Defender's Office):

No one disputes that seat belts save lives. This law calls into question the constitutional balance between liberty and safety. The governmental safety obligation is to protect us from other people.

It is very tough, especially at night, to see if people are wearing seat belts. Police may pull people over if they have a reasonable belief—even if it turns out to be false—there is a factual basis for the stop. Drivers pulled over for doing nothing wrong have now had a negative experience with police. The more negative interactions we have with law enforcement, the lower public safety becomes in the long run.

When an officer pulls someone over for a suspected seat belt violation, that diverts resources away from pursuing DUIs, responding to real crimes and going after more-substantial safety violations. Resources will also be sapped from the courts and attorneys. This is not a cost-neutral or cost-saving equation. Are we

incentivizing law enforcement to make stops when they might not otherwise do so? We have an expectation of privacy in our cars.

We do not expect children to have the same capacity as adults for logical thought. Children are more likely to die if unrestrained. There is a vast difference between an adult driving alone who decides not to buckle up and a 16-year-old exercising that liberty. We should narrow this bill to attain a more appropriate balance between liberty and safety.

The statistics are potentially problematic. We do not have a primary seat belt law, yet we have above-average usage. You can extrapolate this to mean the lack of a primary law leads to increased usage. The projected cost savings of adopting a primary law are merely estimates based on states that did not initially have as high usage as Nevada. Since our usage is already so high, it is probably less likely we will see those cost savings. There is absolutely no guaranteed amount of savings.

CHAIR SCHNEIDER:

Mr. Perkins, Mr. Johnson criticizes law enforcement for using this law for racial profiling and unwarranted traffic stops. Could you elaborate on that?

RICHARD PERKINS (former Assemblyman):

I am only representing myself on this bill. So much of the testimony about police work is anecdotal; it bothers me that we make policy decisions without strong evidence. We hire police officers from the human race, and they are not perfect. I suspect there is bias in police work, but no department or agency heads would condone that. There is no perfect driver, but we discouraged officers from following someone just to find something for which to pull him over.

As a fatal-accident investigator, I saw extraordinarily devastating things. As a person, I support this bill. We are an independent, freedom-loving people, but when risky driving behavior rises to a level that costs us a lot of money, it does affect taxpayers. It is ironic that those who argue against higher taxes and less government spending do not support this kind of bill. You cannot have it both ways.

It is not that difficult for officers to see if someone is wearing a seat belt; this will just become one of their many duties. Officers are trained to prioritize

responsibilities, including belt checks. Law enforcement policymakers and agency heads determine how officers' time will be spent, not someone in this audience.

This hearing alone will save lives because media coverage of the meeting will convince some people to wear their seat belts.

JUDY C. COX (Legal Fellow, American Civil Liberties Union of Nevada):
We oppose S.B. 116. We all support the goal of increasing seat belt usage, but we disagree how to accomplish that. This bill is unnecessary and potentially dangerous, as outlined in the written statement I gave you ([Exhibit K](#)).

The State has achieved 92 percent seat belt usage in part because of the federal "Click it or Ticket" campaign, according to the Office of Traffic Safety. Ours is the country's most-ever successful seat belt program. There is no evidence a primary enforcement law will raise usage. "Click it or Ticket" has already proven to be successful, and increasing that program and other public education is the best means to further raise usage.

Senate Bill 116 has the potential to increase racial profiling and invade the privacy of all Nevadans on the road. In 2002, the Nevada Office of the Attorney General conducted a yearlong study of traffic stops that found lingering discriminatory treatment of black drivers. Blacks were twice as likely as whites to be pulled over, more likely to be removed from their vehicle and handcuffed, searches of blacks' vehicles took twice as long and blacks were twice as likely to be arrested.

It is nearly impossible to see if a back-seat passenger is buckled, and window tinting makes it hard to see if front-seat occupants are buckled. This bill makes everyone on the road a suspect and gives officers a blank check to pull over anyone on suspicion of non-belt use. Given our high compliance rate, the majority of people will be stopped for no reason. The American Civil Liberties Union does not endorse a bill that requires Nevadans to give up privacy rights and risk racial profiling for a cause this bill may not succeed in making possible.

CHAIR SCHNEIDER:
I will close the hearing on S.B. 116.

SENATOR CEGAVSKE:

I would like to propose that the Committee make the graduated driver's license program mandatory for teens under age 18. We need to make sure new drivers are aware of seat belt laws. I support adding a mandatory seat belt regulation to enhance the graduated driver's license bill.

SENATOR NOLAN:

I do not know how you put a value on a human life between two brothers in a car aged 17 and 19. If the 17-year-old is belted and the 19-year-old is not, what is the difference in value? What is the value of an unrestrained mother driving with a child in a safety seat who could become motherless in an accident? We value all human lives, regardless of age. While I understand the value of forming positive behavior in youths, it does not have the same effect as requiring all drivers to buckle up. We are sending a message we value some lives more than others. I oppose Senator Cegavske's proposed amendment.

I chose not to ask questions of the opposition, but cannot see how they can ignore factual data on lives saved, cost of unbelted accidents and wasted police resources. Unwarranted or racially motivated traffic stops are a waste of police resources, but time spent on fatal accidents of ejected, unbelted occupants is the real waste of manpower and money. Our traffic department has a \$4 billion unfunded liability. We cannot afford to put down asphalt, but with this bill we can help relieve congestion costs caused by accidents involving the unbelted.

SENATOR CARLTON:

This is a complicated issue, yet I still cannot support this motion.

SENATOR TOWNSEND MOVED TO DO PASS S.B. 116.

SENATOR CARE SECONDED THE MOTION.

THE MOTION CARRIED. (SENATORS CARLTON AND CEGAVSKE VOTED NO. SENATOR LEE WAS ABSENT FOR THE VOTE).

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CHAIR SCHNEIDER:

I will open the hearing on S.B. 18.

SENATE BILL 18: Revises provisions governing speed limits in school zones and school crossing zones. (BDR 43-384)

SENATOR MAURICE E. WASHINGTON (Washoe County Senatorial District No. 2):
Senate Bill 18 seeks to provide school speed-zone limits based on students' grade levels and to direct local authorities, school superintendents and state agencies to establish statutory school-zone speeds.

It defines the term "when children are present" and when posted speed limits are enforced. It provides for the continuity of traffic flow and safety of children.

SENATOR CEGAVSKE:

An announcer on this morning's television asked if this bill would affect elementary, middle or high schools. The station thinks it is just for middle and high schools, and they are concerned about elementary children chasing balls into the street. Is this for all grade levels and for the entire State?

SENATOR WASHINGTON:

This applies throughout the whole State and to all grade levels.

MITCH BROWN:

I am a senior civil engineering student at the University of Nevada, Reno. You have a copy of my written testimony ([Exhibit L](#)) and my arguments in favor of this legislation ([Exhibit M](#)). My educational emphasis is on transportation engineering. I have examined the issue of school speed zones as a child pedestrian, motorist and person interested in transportation issues and philosophy.

As a new driver, I watched my teenage peers walk thoughtlessly into traffic or actually taunt motorists, and I became concerned for their safety. I wondered if the 15-mph limit provided a perceived safety level that enabled pedestrians' antics. I wondered if a higher speed limit would make more sense for an older student body.

Senate Bill 18 seeks to improve child pedestrian safety by addressing both sides of the pedestrian/motorist equation. Enacting tiered speed limits based on children's age and maturity focuses on behavior, while placing limits on enforcement times and reduced speeds focuses on motorists.

Children should be protected, but it is more important that they be taught life's risks and understand the consequences of their actions. Increasing personal responsibility teaches children to become competent adults. It is intuitive that slower speeds result in shorter stopping distances and times and decrease injuries to struck pedestrians. Having the same 15-mph limit for all grade levels is a simplistic, reactionary approach. We need to instead be proactive and focus on children's mentality, not vehicle velocity.

Dangerous pedestrian behavior by an elementary student is often the result of a lack of understanding of the inherent risks. This is why S.B 18 does not propose a change in the speed limit for elementary schools. Once a child is in middle or high school, dangerous behavior is a result of poor pedestrian education and habits.

Studies in other states of child pedestrians indicate that 85 to 90 percent of vehicle incidents were outside school zones. The studies called for teaching more-responsible pedestrian behavior. Slow speed limits for older children enforce risky habits and promote apathy for their own safety. Higher speed limits for older grades will teach that ultimate responsibility for safety is up to individuals; pedestrian safety will then increase in all areas.

Motorists are more likely to abide by reasonable traffic laws. Drivers understand the need for slower speeds around young children, but believe high school students can behave safely around traffic. Associating high school-zone speeds with older children is a compromise: motorists who are unlikely to increase their speed at all are more likely to do so when there are acceptable limits.

When school zones are in effect only when children are present, drivers will react accordingly. Arizona recommends against school zones for high schools because students who resent being treated below their maturity level act foolishly as pedestrians. Billings, Montana, eliminated school zones for middle and high schools because it believes those students can behave safely around traffic. Many states enforce school speed limits only when child pedestrian traffic is heavy, but in Nevada, the 15-mph limit is in effect the entire school day.

SENATOR NOLAN:

Have any other states adopted your proposal, based on your level of research?

MR. BROWN:

I examined all states' statutes on this issue. There is a low level of conformity among those laws. Some states leave school zones up to local jurisdictions; others dictate speed limits will be 10 mph less than the road's prevailing limit. Others specify traffic engineers may establish any speed limit, but not lower than 15 mph or 20 mph. The most common school-zone speed is 20 mph. Senate Bill 18 is unique and an innovative approach.

MR. DORNSIFE:

In the legal case of *Nevada v. Skinner*, the State posted a 70-mph speed-limit sign in defiance of the 55-mph federal limit. The Federal Highway Administration (FHA) stripped its funding from the State. The FHA does not enforce its own rules. Even though the national 55-mph limit was eventually repealed, federal supremacy over traffic control was not.

The 1988 Federal Highway Safety Act was amended to require all traffic control be fact-based. The number on a speed sign must have a factual basis; otherwise, it violates equal process or protection. The law says if a school zone is established, it must be done after a study by a traffic engineer, there must be an access-management plan, cross traffic and chaos must be minimized, students must be separated from traffic by a fence and the speed limits must only be enforced when children are going to and from school.

The traffic engineer looks at the adjoining roads, school and traffic-flow plan then presents the options to city authorities or principals. The engineer makes a variety of recommendations from which the politicians who enact the laws may choose. This produces fact-based—not arbitrary and capricious—laws. Senate Bill 18 has an invented value, threshold and enforcement. It will not stand in any higher court.

Nevada's existing school-zone laws do not comply with federal standards or the Interstate Commerce Cause. This bill would bring existing statute into compliance with the law.

DEREK MORSE, P.E. (Interim Executive Director, Regional Transportation Commission of Washoe County):

You have our suggested amendments to the existing law ([Exhibit N](#)). The Regional Transportation Commission regularly hosts a roundtable of the traffic engineers in our jurisdiction and of the Washoe County School District. That

group supports the concept of S.B. 18. We should ensure the safety of our children while avoiding unintended consequences that impede traffic flow.

Changes the group recommends include the abolition of high school speed zones, retaining speed zones for elementary and middle schools, application of the lower speed limit to collocated campuses, speed limits should be applicable only when children are actually in school and making the proposed fine structure less cumbersome by simply doubling fines in school zones.

DAVID BOWERS, P.E., P.T.O.E. (Assistant City Engineer, Public Works Department, Engineering Design, City of Las Vegas):

We have the same type of group and concerns described by Mr. Morse. You have our proposed amendments to S.B. 18 ([Exhibit O](#)). We do not support variable speeds for grade levels because it will be too cumbersome and costly to enforce. An important factor is uniformity of enforcement. Lower speeds for lower grades will result in increased driver reaction time and accident survivability. Most juvenile traffic fatalities involve middle school students. The definition of "when children are present" is vague and difficult for officers to enforce. In S.B. 18, section 3, we would change the effective date of sign modification from July 1, 2009 to October 1, 2009.

BRIAN O'CALLAGHAN (Detective, Office of Intergovernmental Services, Las Vegas Metropolitan Police Department; Nevada Sheriffs' and Chiefs' Association):

We support this bill with the proposed amendment. Law enforcement is never in favor of increasing speeds. Doubling fines in school zones is not a State ordinance, but we agree with it. This bill covers more engineering than safety aspects of school zones.

CAMERON MCCRAE (Transportation Director, Nye County School District; Chair, Regional Transportation Commission of Nye County):

We have questions about how this bill would provide a safe environment for schoolchildren and about the potential cost for our small district. We question the definition in NRS 484.149 as amended, section 1 of S.B. 18 of school access as it relates to fencing. In metropolitan areas, a large separation between traffic flow and students is necessary. Does the school fence need a pedestrian gate? Many rural schools lack curbed sidewalks and gutters so children walking or riding bicycles to school are very close to traffic. The differences between metropolitan and rural speeds and access are a concern.

In S.B. 18, section 2, flashing, designated lights are mentioned. In our district, we spent thousands of dollars on a single, amber flashing light for a school zone. If that must be changed to a dual-light system, it would cost a lot. In section 2, subsections 5-8, we want the definition of "Department of Transportation" to include provisions other than State highway agencies; i.e. "Public Works" or "Road Department."

The eight-hour definition of a school day is too narrow. Our students are coming to and from school a half-hour in advance of actual instruction, plus after-school activities. We have a school with kindergarten through eighth grade. The bill's provisions should therefore be construed as applicable to the lowest grades.

CHAIR SCHNEIDER:

It is hard to include the whole State in these definitions because we have such rural and urban areas.

SENATOR WASHINGTON:

Senate Bill 18, section 2, subsection 7, indicates school district superintendents or local governing bodies may determine school zones and change speeds within them.

MR. MCCRAE:

If that is so, we support the change.

CHAIR SCHNEIDER:

I would like to refer this to a subcommittee because we have one proposed amendment. Senator Nolan will be the subcommittee chair, in conjunction with Senator Washington.

MR. GEESER:

We have concerns with S.B. 18. We would like to see the lower speed limits, but only when school is in session. I would like to be part of the subcommittee advisors to help resolve those issues.

NICOLE ROURKE (Director, Intergovernmental and Community Relations, Government Affairs, Clark County School District):

Lower speed limits are preferred by our district because student safety is our No. 1 concern. We would like to be part of the subcommittee advisors because

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we like the proposal by the City of Las Vegas to further refine the definition of "when children are present."

CHAIR SCHNEIDER:

There are streets in Las Vegas where the 15-mph limit for school zones is only in effect when children are present.

If there is no other business to come before the Senate Committee on Energy, Infrastructure and Transportation, I adjourn this meeting at 11:06 a.m.

RESPECTFULLY SUBMITTED:

Patricia Devereux,
Committee Secretary

APPROVED BY:

Senator Michael A. Schneider, Chair

DATE: _____