

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

**Seventy-fifth Session
February 24, 2009**

The Senate Committee on Energy, Infrastructure and Transportation was called to order by Chair Michael A. Schneider at 8:07 a.m. on Tuesday, February 24, 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 John J. Lee
Senator Shirley A. Breeden
Senator Randolph Townsend
Senator Barbara K. Cegavske
Senator Dennis Nolan

STAFF MEMBERS PRESENT:

Matt Nichols, Committee Counsel
Scott Young, Committee Policy Analyst
Josh Martinmaas, Committee Secretary

OTHERS PRESENT:

Kyle Davis, Policy Director, Nevada Conservation League
Monica Brett, Nevada Program Associate, Southwest Energy Efficiency Project
Leo Drozdoff, P.E., Administrator, Division of Environmental Protection, State Department of Conservation and Natural Resources
Colleen Cripps, Ph.D., Deputy Administrator, Air and Waste Programs, Division of Environmental Protection, State Department of Conservation and Natural Resources
Andy MacKay, Chairman, Nevada Transportation Authority, Department of Business and Industry

CHAIR SCHNEIDER:

We have a pair of interesting news articles. The first is from *Fortune*, from the Website < <http://www.cnnmoney.com> > and is titled, "Coal-fired utility signs big solar deal" ([Exhibit C](#)). It states, "NRG Energy, one of the United States' most coal-dependent utilities, on Monday signed a deal with California startup eSolar to develop solar power plants." It shows everybody is going to solar. The next one is from *The Energy Daily* and is titled, "FERC Shifts Grid Policy To Boost Green Power Lines" ([Exhibit D](#)). Jon Wellinghoff has taken the Federal Energy Regulatory Commission (FERC) in a new direction where 50 percent of the power lines' capacity, in this case from TransCanada Corporation, will go towards wind and renewables. The FERC is being aggressive and progressive.

We will open the hearing on Senate Bill (S.B.) 9.

SENATE BILL 9: Extends the maximum period that a hybrid electric vehicle may be used as a taxicab. (BDR 58-165)

SENATOR CARLTON:

This is a simple bill. To incentivize businesses to go green, we need to allow them to recoup the costs of going green. It is possible taxicabs will be using hybrid technology in the future as it grows and becomes more reliable. As the cab is initially more expensive, this will allow the taxicab companies to keep a hybrid cab on the road for an additional 24 months, thereby recouping the initial costs of the cab.

KYLE DAVIS (Policy Director, Nevada Conservation League):

We support the bill. This will lead to more hybrids being in taxicab fleets.

MONICA BRETT (Nevada Program Associate, Southwest Energy Efficiency Project):

The Southwest Energy Efficiency Project supports this bill.

SENATOR TOWNSEND:

Did the sponsor or other entities that might take advantage of this talk to you about compressed natural gas (CNG) or all-electric vehicles? Does this need to be more inclusive?

SENATOR CARLTON:

A couple of fleets use CNG. As the technology of hybrids moves forward and gets better, as they convert, they may start looking at that. They really like CNG fleets because they are reliable.

SENATOR TOWNSEND:

They are already using CNG; does the bill not need to be broadened?

SENATOR CARLTON:

Correct, they are already using CNG. Hybrids are not good in summertime with the heat. It takes a lot of energy to get the air-conditioning to the passengers in the back seat when it is 115 degrees Fahrenheit. The rest of year, they are efficient. There are also some troubles with the batteries. They are not as reliable as they would like. Once the batteries and technology gets better, this bill will be there for the taxicab companies.

SENATOR TOWNSEND:

One of the problems with the cabs, which they buy relative to hybrids, is some of them are four-cylinder vehicles so the gas is always straining under the heat. They also try to keep as much cubic space available for luggage, but the batteries take up space. Looking at the hybrids on the market today, you will see the cubic feet available for either passengers or storage is substantially reduced. It is a trade-off.

SENATOR CARLTON:

You would never know my friend's Toyota Highlander is a hybrid until she pulls up and you do not hear the engine running. We have packed the car full and it does great. It has not gotten to the point of fleet status though. This bill will be available when the cab companies are ready.

CHAIR SCHNEIDER:

My niece has a Toyota Prius and says it works great. They take it to Mammoth Mountain, the beach and all over, and it gets 50 miles per gallon. They said there was only one mountain grade where they lost a little power. I do not know how they work as cabs, but my niece and her husband love the car.

SENATOR TOWNSEND:

The more of these vehicles people are exposed to, maybe by riding in a cab, the more they will see it is no different from current cars other than they are substantially more efficient. For those of us who drive short distances, most of the time is spent on the electric motor. Your mileage is substantially increased. Compared to a gasoline engine, it is also so quiet and calming. There is a culture shift coming, and when the economy turns around you will see a lot of them sold. The companies that make a lot of hybrid vehicles will be successful. The companies that lack hybrids will probably not make it.

SENATOR CEGAVSKE:

What about the 30,000 miles stipulation on used cars?

SENATOR CARLTON:

I am not sure how they came up with that number, but it is existing language. A couple of sessions ago in the Senate Committee on Transportation, there was a discussion about new vehicles versus used vehicles. If they buy a used vehicle, it has to have less than 30,000 miles to get the time allotment on how long they can keep it on the road.

CHAIR SCHNEIDER:

They are probably concerned about the conditions of the cabs. They do not want old dilapidated cabs on the streets.

SENATOR NOLAN:

Why do we not include government fleets, like school buses and the Regional Transportation Commissions which run CNG vehicles and buses? I agree with this bill considering the number of cabs we have in our city, but what about the other fleets?

SENATOR CARLTON:

I do not know their rules and regulations, especially the school buses.

CHAIR SCHNEIDER:

In Bill Draft Request (BDR) R-1065 we are urging Congress to allow for more use of hybrid electrics in government fleets. There is a cap, so we are sending a letter.

BILL DRAFT REQUEST R-1065: Urges Congress to revise certain provisions of federal law relating to hybrid vehicles. (Later introduced as [Senate Joint Resolution 9](#).)

SENATOR NOLAN:

Will it include some language to provide this incentive?

CHAIR SCHNEIDER:

Most likely.

SENATOR TOWNSEND MOVED TO DO PASS S.B. 9.

SENATOR CEGAVSKE SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

We will open the work session with a discussion on a proposed amendment to *Nevada Revised Statutes* (NRS) chapter 486A ([Exhibit E](#)), which addresses alternative-fuel vehicles. We will be putting this in BDR 43-1147.

BILL DRAFT REQUEST 43-1147: Revises provisions governing use of alternative fuels by fleet vehicles. (Later introduced as [Senate Bill 332](#).)

LEO DROZDOFF, P.E. (Administrator, Division of Environmental Protection, State Department of Conservation and Natural Resources):

We have previously given detailed testimony to this Committee. Based on that meeting, we received directions to work with fleets. Testimony demonstrated the program was worthwhile, but needed some reworking. We worked with those fleets and other stakeholders to develop a draft of what a revised statute would look like. With that draft, we came before a subcommittee of Chair Schneider, Senator Breeden and Senator Townsend. We were about 95-percent complete; we just needed a little more time to work with the stakeholders.

Before you today is the final version, [Exhibit E](#), for a BDR. There are four changes between this draft and the one presented previously. Three of the changes are small. Under NRS 486A.010, in the second line, we used the term

"lower emissions" as opposed to lower emitting; this is an industry term of art. The second change is on page 3 under NRS 486A.080. We decided to change the number to 50 as previously presented, but then we added the words, "within an affected county." This makes it clear if you have a state fleet with an office in Reno and an office in Las Vegas, we will deal with them county by county. We then used a term prevalent in our air pollution control program to qualify a fleet. This was the phrase, "that are under common control or ownership."

SENATOR CEGAVSKE:

Why did you not take it as whole? Why did you decide to do it county by county?

COLLEEN CRIPPS, PH.D. (Deputy Administrator, Air and Waste Programs, Division of Environmental Protection, State Department of Conservation and Natural Resources):

It is not only counting the cars but also how they are managed. In many cases, they have different fleet managers or operations in the north and south. Different requirements apply to some State fleets in Clark County because of the Environmental Policy Act of 1992 (EPAAct).

SENATOR CEGAVSKE:

Is that because of the climate? Why is there a difference?

MRS. CRIPPS:

Population size determines the way EPAAct is applied. It is only applied in Clark County and not the rest of the State.

MR. DROZDOFF:

It is a federal program across the Country based on population. The cities in the north do not meet that population threshold.

The third change is on page 4 under NRS 486A.110. Under motor vehicle defined, we added the term, "up to the manufacturer's gross vehicle"; in the past we just had weight. Again, this is an industry term. Finally, the fourth change is under NRS 486A.140. In a previous draft, we added a section about removing or exempting emergency vehicles. The subcommittee wanted to know if that was necessary. When we talked to the fleets, they agreed it was not necessary. It makes the most sense to provide certain protections for

emergency vehicles in regulation form and not in statutes. We can then make use of technological advances when they occur. This section essentially stays as it currently exists.

As far as process, if these recommendations are put in a bill and passed, our intention is to develop the regulations. The regulations would need to be adopted by the State Environmental Commission and then come back to the Legislative Committee for final approval.

CHAIR SCHNEIDER:

This information will be put in BDR 43-1147. Keith Wells has provided recommendations in a memorandum with the subject, "Fleet Recommendations/State Vehicle Inventory" ([Exhibit F](#)). He has also provided a spreadsheet with a complete list of all the State vehicles. It is about 250 pages and will be available on your computer if you want to look at it. The spreadsheet shows 6,240 State vehicles. There are 75 percent, or 4,644 vehicles, under fleet management. The remaining 25 percent, or 1,597 vehicles, are not under fleet management. All of these ideas will be incorporated into the bill.

SENATOR CEGAVSKE:

Is this to get the language in our NRS up to a certain standard or national level?

CHAIR SCHNEIDER:

This is to improve our State program.

SENATOR CEGAVSKE:

It is to improve our State program, but you kept using terminology that this is universal. Is this cleanup language to get us compliant with federal language?

MRS. CRIPPS:

We are addressing implementation problems we have seen for years with this program. It is not effective at dealing with new technology as it becomes available. We have also had problems regulating the fleets. The definition of fleet makes it difficult for our agency to implement the statute. A lot of this is cleanup language. We are also trying to make this language consistent with language we use in other parts of our air pollution control program. That is the function of the language we prepared and provided. Mr. Wells has provided a different issue that primarily deals with the way the current State fleets are

being managed and how vehicles are acquired. It is different than managing the alternative-fuel portion of the fleets.

MR. DROZDOFF:

Mr. Wells is not presenting language for compliance with a federal program. I am reading it for the first time, but he is highlighting things that make sense. They are not geared to anything at the federal level.

SENATOR TOWNSEND:

We cannot confuse the Division of Environmental Protection's (DEP) role to protect the environment, and the State Motor Pool's role to manage the acquisition and maintenance of the State's assets. Mr. Wells has provided us his position on how to best manage the automotive assets of the State in terms of acquisition, procurement, management and the policies and procedures necessary for that. They are two separate issues. Mr. Wells' federal requirement is not as large as DEP's. His focus is asset procurement, not necessarily meeting some federal guidelines.

MRS. CRIPPS:

That is right.

CHAIR SCHNEIDER:

Mr. Wells was trying to get the other 25 percent organized and managed.

We will now move to S.B. 27. We had a short hearing on this bill and there are no amendments. Presidential Limousine has submitted a letter of support ([Exhibit G](#)), along with Belltrans Limousines, Sedans and Buses ([Exhibit H](#)).

SENATE BILL 27: Revises provisions relating to motor carriers. (BDR 58-436)

ANDY MACKAY (Chairman, Nevada Transportation Authority, Department of Business and Industry):

This bill makes four specific changes. The first is related to the State's permissive authority to issue certificates of public convenience and necessity (CPCN) to intrastate charter bus operators. Currently, the plain language of the statute indicates the State is to issue a CPCN to fully regulated carriers and operators of a tow car. Intrastate charter bus operators are not fully regulated carriers. They are partially deregulated pursuant to Title 49 of the United States Code, section 14501. This limits the State's regulatory authority to issues

concerning safety and insurance. It is the practice of the Authority to issue certificates to intrastate charter bus operators when they go through a limited application process. This is authorized in NRS 706.463 and then it is further explained by regulation where the term, "certificate of public convenience and necessity," is used in Nevada Administrative Code 706.1377.

The bill will clarify statutes for the Nevada Transportation Authority's (NTA) regulatory authority over intrastate charter bus operators. It does not intend to broaden the NTA's regulatory scope or authority, as it is partially deregulated pursuant to federal law. Contained therein is modification to NRS 706.391, which the Legislative Counsel Bureau put in to clearly delineate the term, "non-fully regulated carrier," as it relates to charter bus operators.

Additional change in the bill concerns NRS 706.431. This is the application process relating to contract carrier authority. Currently NRS 706.391, which is the statute governing fully regulated carriers, has a provision that if no protests or petitions to intervene are filed, the Authority may forgo a hearing. However, that provision is absent for contract carriers. The NTA wants to create consistency between the two statutes so the application process is the same for common motor carriers and contract carriers. For instance, if a current contract carrier has two contracts and wants to add another one, they have to go through a full application hearing. At that point they have to contract with a court reporter, take time out of their schedule and procure witnesses in support of the application. If the application is straightforward, with no protests or petitions to intervene filed, the applicant should be able to forgo the extra expense and time associated with dispensing of the application.

The last change makes a modification to clarify statutorily NRS 706.476, the impound statute. It currently reads an applicant shall appear at a hearing and post a \$20,000 bond to secure his appearance. If the applicant appears at an impound hearing, and proves he is the registered owner of the vehicle, it negates the necessity to post the bond. This modification clearly delineates that there is an option thereof. We often have respondents, because they are not represented by legal counsel, assume they need to post a bond as well as show up. This clarifies the statute.

SENATOR CEGAVSKE:

In the packet handed out for this bill, titled, "Nevada Against Regulating The Charter Bus Industry" ([Exhibit I](#), original is on file in the Research Library), on

page 34 is a letter from Senator Raggio. Could we have the committee counsel give us an explanation of the letter?

MATT NICHOLS (Committee Counsel):

Thank you, Mr. Chairman. The letter referenced in Senator Raggio's letter was given to the Senator before the law was changed to the state that it is currently in now. The law was changed in 2005 to bring the State into compliance with the federal law that the witness just referred to in his testimony. So, I do not want to say the letter is out of date, but the law has changed since Senator Raggio's letter was issued.

SENATOR TOWNSEND:

What is the problem your agency faces? How do you want to address it on behalf of the public?

MR. MACKAY:

There is no problem the NTA is running into. The plain language in NRS 706.386 indicates fully regulated carriers or operators of a tow car are required to obtain a CPCN; the Authority issues CPCNs in accordance with regulation. This is to clarify a disconnect. Several attorneys have complained to either fix the disconnect or call it something other than a CPCN.

SENATOR TOWNSEND:

We periodically hear about charter bus tragedies in our State. Upon further investigation of the incident, it is usually the result of safety issues. Since charter buses cross the state lines though, it becomes an interstate issue. Does this help the ability of the NTA to deal with safety issues for those who cross the state line?

MR. MACKAY:

Since the charter buses cross state lines, it does not affect them whatsoever. The State is preempted from regulating interstate commerce.

SENATOR CARLTON:

Does this bill not give you the authority to regulate anyone that you do not currently regulate?

MR. MACKAY:
Correct.

SENATOR CARLTON:
Does the confusion boil down to the terms of art you use for CPCNs?

MR. MACKAY:
Yes.

SENATOR CARLTON:
If that got changed to a notice of operation rather than a certificate, a lot of this confusion would disappear. When people hear the certificate language, they think of the medallions on the limousines and cabs, but that is not what you are after here.

MR. MACKAY:
Correct, the term CPCN is a term of art. It is specifically what the Legislature has come up with. As it relates to identification, it is not going to change anything in terms of the practice. All vehicles will be marked in accordance with regulation with the term "CPCN," which truncates certificate of public convenience and necessity. This is strictly to fix the disconnect. If it is not approved by the Committee, it does not change the regulatory practice of the NTA.

CHAIR SCHNEIDER:
I saw a story this weekend by Darcy Spears in Las Vegas about tow trucks. Some homeowner associations (HOA) are painting their curbs red, and suddenly, the tow trucks come in at unusual hours and tow people's vehicles away. The fines are around \$350 to \$400 to get the vehicle back. The tow trucks are being called into HOAs and the story indicated there may be kickbacks going to the HOAs. Why would tow trucks be in a neighborhood at weird hours towing vehicles? It seems excessive.

MR. MACKAY:
The law is very specific as it relates to nonconsensual tows. Tow car operators are also preempted much like charter bus operators, except we can regulate the provisions related to rates. In order to tow a vehicle without the prior consent of an owner, a tow operator needs a signed, specific request to tow that vehicle from either the property owner or an authorized representative. There is always

concern that a tow car operator drove down a street, hooked up a vehicle, and went off with it. They cannot do that. It is not permitted under State law.

CHAIR SCHNEIDER:

So this is against the law? People cannot even park in front of their houses because the HOAs have come through and painted the curbs red. The story indicates people parked in the same place for several years and then suddenly the curb is painted red. Some people would not even notice the curb is painted now.

MR. MACKAY:

As one of the three commissioners with the Authority, I cannot be intimately involved with the current investigation because it may result in disciplinary measures against a tow car operator. In order to not taint the integrity of the process, as the NTA is aware of it currently, these vehicles were towed in accordance with laws. Vehicles covered by signed specific requests were towed by the entity that manages the property or an authorized representative thereof.

CHAIR SCHNEIDER:

When the case moves on, it would be helpful if you would give us a report as to what happened; if the HOAs are using that as a revenue generator, and if there are kickbacks going on.

MR. MACKAY:

If there are kickbacks on nonconsensual tows, the laws are very specific. As it relates to the tow itself, the tow operator has to report down to the penny what their approved tariff rate is for a nonconsensual tow. It cannot be a penny more or a penny less. Once the enforcement staff sorts through the case, we will let you know.

SENATOR NOLAN:

This was a prefiled bill originally submitted by the Transportation Committee. It was requested last Session but came in too late to get into a bill. This has been an issue the NTA wanted to address, but we spent more time last Session trying to create the NTA from the U.S. Transportation Security Administration. When the bill draft first came out, we had people from the industry with concerns, but after our initial hearing, my concerns with the bill were alleviated. The intent of the bill is to make things easier for the carriers. It does not expand the NTA's supervision role. I will support the bill.

SENATOR CARLTON:

I have dealt with this bill before, and with the direct answers from Mr. MacKay, I support the bill. It is early enough in the process, that if we pass it and somebody is not happy with it, they will contact us.

SENATOR CARLTON MOVED TO DO PASS S.B. 27.

SENATOR TOWNSEND SECONDED THE MOTION.

THE MOTION PASSED. (SENATOR LEE VOTED NO.)

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CHAIR SCHNEIDER:

We will now move to S.B. 52. We had an extensive hearing on this bill. There is a memo from staff, Exhibit E, dated February 17, 2009, containing information from the Department of Motor Vehicles (DMV) for the Committee's reference. Part of the issue is by the first of the year you cannot get on an aircraft in this State unless you have the Real ID or a passport.

SENATE BILL 52: Revises provisions relating to drivers' licenses and identification cards to facilitate implementation of the federal Real ID Act of 2005. (BDR 43-391)

SENATOR CEGAVSKE:

Nothing we pass here is perfect. People have been working on this bill for several years, and I have heard a lot about it. I have gotten a lot of e-mails opposed to the bill, like you all have, but many people were not here for the testimony. There were things that alleviated my concerns on this bill and they are on the record. We have to have something. The DMV has done a good job in researching the best and most effective ways to do it. I will be supporting this bill.

SENATOR NOLAN:

There was an intense amount of scrutiny by this Committee to the DMV during the hearing on this bill. There is a lot of misinformation in the public right now that is from individual sources that oppose this legislation and see it as big brother trying to get into the personal data and information of our constituents. We had emphatic testimony this is absolutely not the intended purpose and not

possible based upon the merits of the bill. It is not even possible to do that where we are going with this bill. This is one more step in our national efforts to do a better job of securing our borders and to identify those people who are in this Country lawfully and those who are not. There is no action associated with this bill to go after those people who are here illegally, which again does not include migrant workers and those here on valid green cards or other such programs. I agree with Senator Cegavske, in order to be in line with the rest of the nation, I am going to support the bill.

SENATOR CARLTON:

I still have concerns. The Real ID has come up while I served on the Transportation Committee and every other year we have opposed it. I understand we need to do something, but I have a philosophical problem that my driver's license is a validation of who I am. My driver's license certifies I can operate a vehicle. That is all it does and was ever meant to do. It is not meant to be a de facto, national identification card in some way; that is what my passport is for. I have advocated for undocumented people in the United States in the past and will continue to because the system, as far as immigration, is broken. I also have concerns about where the Real ID is actually going to end up. I will not be able to support this. I am not comfortable that my driver's license has become such an integral part of my life; that when I travel, I have to pull it out every time to prove who I am. The bill has gone great strides in eliminating issues. This is nowhere near what it used to be, and it is getting better, but it is not good enough for me to vote affirmatively for it.

SENATOR NOLAN MOVED TO DO PASS S.B. 52.

SENATOR TOWNSEND SECONDED THE MOTION.

THE MOTION CARRIED. (SENATORS CARLTON AND LEE VOTED NO.)

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CHAIR SCHNEIDER:

With there being no more bills before the Committee, I will adjourn the Senate Committee on Energy, Infrastructure and Transportation at 9:13 a.m.

RESPECTFULLY SUBMITTED:

Josh Martinmaas,
Committee Secretary

APPROVED BY:

Senator Michael A. Schneider, Chair

DATE: _____