

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

**Seventy-fifth Session
February 25, 2009**

The Senate Committee on Energy, Infrastructure and Transportation was called to order by Chair Michael A. Schneider at 8:08 a.m. on Wednesday, February 25, 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

GUEST LEGISLATORS PRESENT:

Senator Mark E. Amodei, Capital Senatorial District

STAFF MEMBERS PRESENT:

Matt Nichols, Committee Counsel
Scott Young, Committee Policy Analyst
Sandra Hudgens, Committee Secretary

OTHERS PRESENT:

C.A. (Cathie) Olendorff, Assistant General Manager, Corporate Counsel; Nevada Yellow Cab Corporation; Nevada Checker Cab Corporation; Nevada Star Cab Corporation
Rusty McAllister, Professional Firefighters of Nevada

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Ben C. Hoge, Las Vegas Fire Department Bomb Squad
Geoff Archer, Las Vegas Fire Department Bomb Squad
Brett Primas, Captain, Las Vegas Metropolitan Police Department
Tom Roberts, Director, Office of Intergovernmental Services, Las Vegas
Metropolitan Police Department; Nevada Sheriffs' & Chiefs' Association
John R. Johansen, Highway Safety Representative, Office of Traffic Safety,
Department of Public Safety
Michael Geeser, Media/Government Relations, California State Automobile
Association; AAA Nevada
Frank Adams, Executive Director, Nevada Sheriffs' & Chiefs' Association
Tim Kuzanek, Lieutenant, Washoe County Sheriff's Office
Gene Porter, Frias Holding Company; Frias Transportation
Orrin H. Johnson, Deputy Public Defender, Washoe County Public Defender

CHAIR SCHNEIDER:
Senate Bill (S.B.) 51 should be moved to the floor for rereferral to the Senate
Committee on Judiciary.

SENATE BILL 51: Revises provisions governing the subpoenaing of public utility
records by a law enforcement agency.

SENATOR CARLTON MOVED TO REREFER S.B. 51.

SENATOR LEE SECONDED THE MOTION.

THE MOTION CARRIED. (SENATORS CEGAVSKE, NOLAN AND
TOWNSEND WERE ABSENT FOR THE VOTE.)

CHAIR SCHNEIDER:
This meeting will recess to the architectural event in Room 3100 for the display
about the "New Nevada" until 8:30 a.m.

CHAIR SCHNEIDER:
Everything this Committee is doing is on display upstairs titled Blueprint for the
Future for Nevada. An article from Reuters ([Exhibit C](#)) says, "California's Pacific
Gas and Electric Company said on Tuesday it would develop up to
500 megawatts (MW) of photovoltaic solar power projects over the next

five years, up to half of which the utility will own." The program will add 32 cents a month to the average residential utility bill. In an article ([Exhibit D](#)), First Solar Inc. of Tempe, Arizona announced it reduced its manufacturing cost for solar modules from \$3 per watt to 98 cents per watt, breaking the \$1 per watt price barrier. In another article ([Exhibit E](#)), Ormat Technologies, Inc., a Reno geothermal company, announced a record fourth-quarter 2008 year-end revenue profit increase. Profits are projected to continue. This technology is where we should be. We will open the hearing on S.B. 138.

SENATE BILL 138: Establishes the means by which a self-insurer of motor vehicles may provide proof of the ability to pay judgments obtained against him. (BDR 43-224)

SENATOR NOLAN:

This bill was requested by a constituent to address self-insurance for fleets and taxicabs.

C.A. (CATHIE) OLENDORFF (Assistant General Manager, Corporate Counsel; Nevada Yellow Cab Corporation; Nevada Checker Cab Corporation; Nevada Star Cab Corporation):

This is not the language we wanted on this bill. We want an alternative, not a mandate, to the Department of Motor Vehicles' (DMV's) 91-percent current ratio requirements for a certificate of self-insurance. We put segregated funds into certificates of deposit. We do not want funds in one place. Never put a million dollars into one bank. I would like to work on this bill with staff in a workshop.

SENATOR CARLTON:

We deal with self-insured groups in a lot of areas. I do not know how an insurance issue got assigned to the Senate Committee on Energy, Infrastructure and Transportation Committee. Tell us what you meant to say and not what the bill says.

MS. OLENDORFF:

We have a proposal to amend Nevada Revised Statute (NRS) 485.380, subsection 2, paragraph (a). Currently the DMV may issue a certificate of self-insurance when, "It is satisfied that he possesses and will continue to possess the ability to pay judgments obtained against him;" We propose to add, "... of which presumptive proof of the ability to pay such judgments shall

be satisfied by the company or person providing proof of segregated reserves of one million dollars for the purpose of satisfying accident claims." As written, that could be interpreted to be a mandate, meaning a 91-percent current ratio and \$1 million in segregated reserves. We do not want that either. We need to work with the language to create an alternative, not a mandate.

SENATOR NOLAN:

We have not had a chance to speak to the witness on S.B. 138. We will get together to discuss this and come back before the Committee.

SENATOR CARLTON:

Investigate other options for self-insured groups. See if those options will fit your needs. One accident can involve \$1 million.

MS. OLENDORFF:

We have been self-insured for years. The DMV instituted requirements last year mandating possession of the 91-percent current ratio. It is possible to determine a company is financially viable to pay its judgments without the requirement of a fixed current ratio. My company has had a policy of maintaining excess insurance. Viability could be determined by net worth, how many years in business, how many years of self-insurance and the continuity of the business. We tried to find an alternative to the 91-percent ratio for the years we may not need it. None of the factors I gave you were considered by the DMV if you did not have a 91-percent ratio. We are trying to find alternative means. We can show you we have the reserves.

SENATOR CARLTON:

I will help Senator Nolan. Go ahead and start working on it.

SENATOR NOLAN:

I will meet with them outside and be back to hear the other bills.

CHAIR SCHNEIDER:

We will set this aside until later. We will close the hearing on S.B. 138 and open the hearing on S.B. 144.

SENATE BILL 144: Enacts provisions governing public safety bomb squads.
(BDR 42-909)

SENATOR MARK E. AMODEI (Capital Senatorial District):

Rusty McAllister requested S.B. 144 because of confusion regarding responsibility, jurisdiction and training with bomb squads, primarily in Clark County. This bill amends chapter 476 of NRS which does not cover much pertaining to bomb squads. The first eight sections deal with controversial topics such as national guidelines for bomb technicians, Federal Bureau of Investigation (FBI) guidelines for bomb technicians, FBI certification, training and responsibilities for operations. Since the terrorist attack of September 11, 2001, and in the budget situation we are in, efforts should be coordinated with operations and fiscal resources by the State. Public safety needs attention. You may hear everything is fine from later testimony; however, this Committee is able to make value judgments for what the operational policy should be in this area. The NRS 476 lacks a responsible policy statement for the concerns of one of the largest and visible tourism destinations in the world and the largest metropolitan area in the State. In our proposed amendment ([Exhibit F](#)), section 9 of S.B. 144 states each public safety bomb squad, "... having jurisdiction to engage in activity as a public safety bomb squad for all actual or suspected improvised explosive devices within the city or county ..." with exclusive jurisdiction. It is appropriate to figure out who should have the lead in this area and what the training and certification should be. Is there something better than FBI certification in this area? It is appropriate for this Committee to look at it and take action instead of inactivity.

RUSTY McALLISTER (Professional Firefighters of Nevada):

There are four FBI-accredited bomb units in the State. Elko has a police-operated bomb unit, Stateline has a jointly operated unit with the Douglas County Fire Department and the Douglas County Sheriff's Department, Reno has the Washoe County Sheriff's Department Bomb Squad and in southern Nevada the responsibility is with the Las Vegas Fire Department Bomb Squad (LVFDBS) which has been in existence for over 35 years. The LVFDBS has 13 trained bomb technicians that have been to bomb school in Redstone, Alabama. They are amongst the top five bomb squads in the United States. Everything runs smoothly in northern Nevada. Southern Nevada has an issue on responsibilities and capabilities with their bomb squad resulting in S.B. 144.

BEN C. HOGE (Las Vegas Fire Department Bomb Squad):

Senate Bill 144 is about protecting and codifying the duties of bomb technicians within the State. It specifically states who is in charge of bomb calls, who has the authority, who has the accreditation and who has the certification to make

decisions from beginning to end. This is a public safety issue. Certified bomb technicians are being hindered, controlled and prevented from doing their public safety duty to respond to improvised explosive devices (IEDs) and suspect packages. The primary purpose of the national guidelines is to provide maximum safety for both the general public and the bomb technician response team. The Hazardous Devices School and the Bomb Data Center for the FBI are congressionally mandated to provide the finest bomb technician training with safety for the public and for the individual as the primary objective. The national guidelines outline the fundamental operational doctrine of the bomb squad profession to include basic safety principals. Everything that we are taught and learn through the years is about safety for us and for the public.

Sections 2 through 7 of S.B. 144 define an accredited bomb squad, a certified bomb technician, a bomb squad commander and how it is defined nationally. Active members of the bomb squad and the national guidelines are discussed in the bill. The national guidelines were developed by the National Bomb Squad Commanders Advisory Board (NBSCAB), elected by bomb squad commanders throughout the United States. To identify concepts, precepts and guidelines affecting the civilian bomb squads throughout the nation is the role of NBSCAB. This bill encompasses that role and why we are trying to codify it in Nevada. Section 8 enumerates the mission statement, roles and responsibilities of the bomb squads. Section 9 describes the jurisdiction, [Exhibit F](#), of accredited bomb squads in the State. The certified bomb technicians, who are federally trained, have sole decision-making ability on how to handle IEDs or suspect-package calls. Section 10 requires anyone with knowledge of an incident involving explosives or IEDs must notify the bomb squad immediately. This is an issue. Section 11 concerns the duties of the bomb squad commander.

SENATOR CARLTON:

To whom are you referring when someone becomes aware of an IED? Are you referring to a constituent? If I came across a package, I would call 911.

MR. HOGE:

Correct.

SENATOR CARLTON:

Is that who the other person is? Or is there another person? I am not sure who is in that category. Is that law enforcement?

MR. HOGE:
We are talking about public safety officials.

SENATOR CARLTON:
Are you talking about calling 911?

MR. HOGE:
Correct.

SENATOR CARLTON:
I just wanted to make sure you were not referring to the constituents.

MR. HOGE:
As a bomb squad commander, I am responsible for the activities of the public safety bomb squad I operate in responses to actual or suspected IEDs within my jurisdiction. Commanders are responsible for the activities of the public safety bomb squad we operate. We are responsible for establishing policies and tactical plans consistent with national guidelines. We retain final authority for the remediation of incidents involving explosives occurring within our jurisdiction. Section 12 of the bill deals with a misdemeanor for anyone who may with intent prevent or obstruct the public safety bomb squad from committing the performance of their duty. Section 13 deals with the definition of explosives. Section 14 reads, "If the provisions of chapter 40 of Title 18 of the United States Code do not apply to an activity, substance or item pursuant to 18 U.S.C. section 845 (a), the provisions of NRS 476.005 to 476.100, inclusive, do not apply to the activity, substance or item." It does not contradict Title 18.

CHAIR SCHNEIDER:
Would that apply to another police officer?

MR. HOGE:
It could.

GEOFF ARCHER (Las Vegas Fire Department Bomb Squad):
I support S.B. 144 because it is an urgent public safety issue. Since the terrorist attack of September 11, 2001, homeland security and disarming bombs has become a growth industry. There are a variety of public and private entities and agencies becoming involved in some capacity or level of response to these

incidents. Additional layers of protection may seem to be beneficial, but when it comes to dealing with a suspect IED or bomb, it becomes a bomb squad bureaucracy. Additional layers delay the notification to the trained people. Before September 11, 2001, Las Vegas Bomb Squad had been handling these calls for over 25 years without any issues or problems. Delaying the response of FBI-certified bomb technicians to incidents involving explosive devices, whether real or suspect, is not in the best interest of public safety.

I am the one who puts on the "green suit" and walks down over these things when we do not have a robot or some other access. Hazard increases with delay and poses more danger to me. In the state of Washington a couple of people were killed by an explosive device. This is not something to be ignored, minimized or trivialized. This is a serious issue. These extra layers are often duplications of services that are already being provided by public safety bomb squads throughout the state. During this era of economic crisis, redundancy and duplications of services are a primary focus for administrators as they search for cost savings and reduction of expenditures.

Senate Bill 144 is a request to codify in state statute the responsibility of public safety bomb squads under the FBI's national guidelines for bomb technicians and the NBSCAB national strategic plan for United States bomb squads. These documents are promulgated out of the U.S. Department of Justice in conjunction with the FBI and the NBSCAB under a congressional mandate. These documents set the national industry standard and core doctrine for bomb squads and bomb technicians and their responses. They are not federal law at this time, they are national guidelines accepted as an industry standard throughout the country.

Senate Bill 144 does not preclude any other or additional public safety agency from obtaining an FBI-accredited bomb squad. By codifying this bill in statute, it will provide the roadmap for all interested agencies or parties to form and obtain an accredited bomb squad as defined in the FBI's national guidelines for bomb technicians. The process has been in place for three decades. Nothing in this bill will preclude any other agency from pursuing their accredited bomb squad. If there was a bomb in your home or office, why would you not want the most highly trained, capable and quick folks responding to that problem? I strongly encourage the Committee to approve S.B. 144 as submitted.

SENATOR CEGAVSKE:

How long has each of the bomb squad entities been in existence? Are you trying to compress each bomb squad group into one major one? No? Do you want everyone to be up to a particular standard?

MR. MCALLISTER:

The intent of S.B. 144 is not to create one large bomb squad. All four bomb squads in Nevada operate independently in their areas of jurisdiction.

SENATOR CEGAVSKE:

Can you tell me which ones they are?

MR. MCALLISTER:

There is one in Elko, one in Stateline in Douglas County, the Washoe County combination with the Reno Police Department and one in southern Nevada with the Las Vegas Fire and Rescue Department.

SENATOR CEGAVSKE:

Will you explain more?

MR. MCALLISTER:

The intent is to clarify the jurisdictional responsibilities for each of the bomb squads already there. We would like to clarify how the accredited bomb squad is notified when requested to respond to a call, eliminating confusion.

SENATOR CEGAVSKE:

Do you believe S.B. 144 clarifies each person's responsibilities? The amendment might clarify it and give more information.

MR. MCALLISTER:

There are national guidelines for a bomb squad's responsibility. All four bomb squads in Nevada support this legislation. We have letters from two of the four bomb squads not present. There are more people in opposition than anticipated.

SENATOR CEGAVSKE:

Are they opposed to the amendment?

MR. MCALLISTER:

I do not think they have seen the amendment. Detective Kallas from the Las Vegas Police Protective Association expressed concerns with the language regarding investigative responsibilities. It is not the intent of the bomb squads to take away the investigative responsibilities for a crime scene from the police departments. That is their jurisdiction. The bomb squads do have a responsibility to gather evidence for the national crime labs and to the FBI bomb academies to further the education of all bomb squads in the nation. We will work with Detective Kallas on the language for investigative responsibilities. The representative from the Las Vegas Metropolitan Police Department (Metro) will testify about his concerns this morning from Las Vegas. We would like to address their concerns as well as ours. They did not articulate their concern or how they would like to fix it.

SENATOR CEGAVSKE:

Did something happen in Las Vegas or Clark County prompting this? Is there some case that occurred that would help enlighten us?

MR. MCALLISTER:

The bomb squad is part of a team called All-hazards Regional Multi-agency Operations and Response (ARMOR). They are under the authority of people who are not trained bomb technicians. People who are not trained bomb technicians are making decisions about when to call the trained bomb technicians. This causes a delay. There was an unattended-package call in southern Nevada at Calico Basin found by park rangers. Because of the way the policy is currently written with the ARMOR team, the bomb squad commander was notified by the officer from the ARMOR team. The bomb squad commander notified his bomb squad technicians. The ARMOR team did an investigation before calling the bomb squad out. The bomb squad officer was reprimanded for showing up too soon and was told he was to arrive only when directed by ARMOR.

SENATOR CEGAVSKE:

Is that the protocol?

MR. MCALLISTER:

That is how the ARMOR team is set up. It delays the response of qualified people getting to the scene. We would like to remove the layers of delay. We have tried to negotiate to resolve things with that group. I do not know if the disconnect is an ego issue concerning who gets to be in charge. I do not care

how it happens as long as the qualified people get there quickly. We are willing to work with the parties to address that. We have a problem with the way the amendment, given by the Clark County's McCarran International Airport and the Reno-Tahoe International Airport, is written. Under section 8 of the bill, we would be working under their authority with regard to tactical guidelines. We would not want airport authorities, who are untrained bomb technicians, telling us how to handle a call. They have concerns with the notification process.

CHAIR SCHNEIDER:

Fighting over who responds for public safety makes me nervous. Everyone should work together.

SENATOR BREEDEN:

I would like to make a disclosure that my son is a firefighter with the Las Vegas City Fire Department. Are the ARMOR group technicians accredited by the FBI?

MR. HOGE:

The Las Vegas Metropolitan Police Department has one detective currently certified as a bomb technician.

SENATOR BREEDEN:

How many individuals are on that bomb squad?

MR. HOGE:

They do not have a bomb squad. The Las Vegas Fire and Rescue is the sole bomb squad in southern Nevada. The whole idea of ARMOR was to combine resources from police and fire as a task force. Las Vegas Fire and Rescue has 13 certified technicians. The one person from Metro would make 14 technicians. The initial concept of ARMOR was to respond together and solve public safety issues. There is too much control and hindrance concerning what we are allowed to do.

SENATOR BREEDEN:

If I see a package and call 911, would they not call out the bomb squad?

MR. HOGE:

The 911 calls in southern Nevada go to Metro communications center. There are several layers of communication before the bomb squad gets notified.

SENATOR BREEDEN:

Is there a reversal role; should 911 call the bomb squad first, and then contact ARMOR?

MR. HOGE:

That is not happening. It did happen that way for 30 years until the creation of ARMOR, then it changed. It needs to be looked at.

SENATOR BREEDEN:

And who created ARMOR?

MR. HOGE:

It was created by the sheriff at the time and the two fire chiefs in the valley.

SENATOR LEE:

My daughter is also a member of the Las Vegas Fire Department, as a disclosure.

SENATOR CARLTON:

How many calls do you get?

MR. HOGE:

It depends on the year.

SENATOR CARLTON:

Give the number of calls you received pre-ARMOR, then the number of calls you received post-ARMOR. What year was ARMOR established?

MR. HOGE:

It was established in 2005. Before 2005, we had 150 to 180 calls per year; not all were explosive devices. The actual IEDs average one-third of the calls. Because of mining in this State, one-third of the IEDs are explosive disposal, both in the south and the north and northeastern part of the State. The other one-third of the calls concern suspect items. The call volume dropped down to 119 in 2005, 98 in 2006, 138 in 2007 and 130 in 2008. During 2008, our call volume was averaging 15 to 18 calls a month until July and dropped precipitously. We now average six calls a month.

CHAIR SCHNEIDER:

You said you were a paramedic. Were your duties with the bomb squad as a paramedic?

MR. ARCHER:

I was assigned as a firefighter paramedic for the first 13 years of my career. I spent three and a half years as a fire training officer at rookie schools. The last four years I have been assigned to the bureau of fire investigations as a fire-investigator bomb technician.

CHAIR SCHNEIDER:

Are the bomb squad's 13 people paramedics, or are they just waiting for the bombs?

MR. HOGE:

Yes, the arson bomb squad in Las Vegas fire investigation consists of 13 members including myself. All the members in my unit are certified peace officers. Fire investigators are on full-time duty as arson and bomb investigators. We are not traditional firefighters. It is a law-enforcement mission within the fire service.

CHAIR SCHNEIDER:

You are ready to respond 24 hours a day, 7 days a week.

MR. McALLISTER:

The sheriff in Clark County has assured me he does not intend to have a bomb squad. We would like to clarify why all of a sudden the calls have dropped off. We are willing to work with the groups in opposition.

CHAIR SCHNEIDER:

Is the sheriff in Las Vegas willing to sit down and work this out?

MR. McALLISTER:

That is my understanding.

CHAIR SCHNEIDER:

The sheriff would not like to have a bomb squad and would like to work this out with the fire investigation unit.

BRETT PRIMAS (Captain, Las Vegas Metropolitan Police Department):

Correct, the sheriff and our agency have no desire to start a bomb squad. I agree with all the comments this morning in regard to public safety. My current assignment is with the Homeland Security Bureau of Metro. Part of my responsibility is at the Southern Nevada Counter-Terrorism Center which is at the Southern Nevada Fusion Center. I am responsible for the ARMOR section. The current task force is comprised of members of four different agencies consisting of Metro, the Department of Public Safety, the North Las Vegas Police Department and the Henderson Police Department on a full-time basis, 40 hours a week. Would this bill enhance public safety and make our community safer? We answered, no. Would this bill have a significant impact on current operational effectiveness in southern Nevada and other entities within the State using a task force approach? It would have significant impact and would decrease our current operational effectiveness. Would our current mission be altered concerning capabilities for public safety? Public safety risks would increase.

We look at foreign and domestic terrorism every day, especially in Clark and Washoe counties. We need to be prepared for an incident, prevention of an incident, response to an incident, mitigation of an incident and the recovery phase. Explosive components are a small part that concerns us. There is more to this bill than bomb squads and explosives. Our enemies have expanded their abilities to carry out different types of attacks. We must be ready to respond to all threats efficiently and effectively, utilizing all resources regardless of the agency. We must respond as one and not separately. The ARMOR team was created to focus on a regional approach to chemical, biological, radiological, nuclear and explosive (CBRNE) related incidents. The ARMOR was originated to handle all of those components. The 3 people who organized ARMOR 3 1/2 years ago were the Sheriff and the Fire Chief of Clark County and the Fire Chief of Las Vegas. They were looking for a regional approach for effective and efficient means to handle public safety in a cost-effective manner after the terrorist attack of September 11, 2001. The ARMOR task force has been recognized nationally and applauded by the U.S. Department of Homeland Security and the Nevada Commission on Homeland Security as a model for other organizations to follow. If enacted, this law would limit ARMOR's all-hazards approach and authorize the public safety bomb squad as the sole entity to handle all situations that may be more than an explosive device.

The Las Vegas city ordinance designates Las Vegas Fire and Rescue Arson Bomb Squad employees as arson investigators. This ordinance is certified by NRS 266.310 and designates them as peace officers. The NRS 289.470 appoints them as a category two peace officer. Per Nevada Peace Officer Standards and Training, arson investigators created by the fire department and certified by the State as arson investigators are category two peace officers, regardless of what academy they went through. They are category two within statutory regulations. Arson investigators are bound geographically by their jurisdictional authority and have no jurisdiction outside the scope of their duties as related to fire investigation and fire-related crimes. According to NRS 171.1223, peace officers with limited jurisdiction must notify the primary law enforcement agency of commission of certain felonies, or transfer the investigation to that primary law enforcement agency. The Las Vegas bomb squad's responsibilities are regulated to investigating arson-related crimes in the geographic location of the City of Las Vegas only. The passage of this law would have Las Vegas Fire and Rescue possibly working outside the scope of their authority unless the law changes.

The ARMOR task force brings a variety of capabilities to the scene. Three areas working in conjunction with each other are the suspected device, actual bombing and active shooter scenario. There are different types of terrorist attacks. First, we have an intelligence-gathering component. We have 13 different local state and federal partners out of the local fusion center of ARMOR who can access information on site, on scene and access numerous databases. Second, a crime analyst position is staffed 24 hours a day, 7 days a week and an intelligence analyst from our department and from the FBI can bring information to the scene prior to an incident happening. Third, the ARMOR task force from the four different agencies and everyone else who responds are enabled by their parent organization to pull resources together in addition to calling our counterterrorism detectives and the joint-terrorism task force of the FBI to respond. The ARMOR concept brings with it the ability to use resources effectively within their own disciplines. The ARMOR team does not want to be a bomb squad. Eventually, the vision would have us all working together to increase capabilities. It brings a coordinated approach to using an all-hazard situation. We have to be concerned with all that CBRNE encompasses in our community, not just explosives. When ARMOR responds to a suspicious-package call, the following are notified: Las Vegas Bomb Squad, Alcohol, Tobacco and Firearms (ATF), FBI, Joint Terrorism Task Force and CBRNE 8 Unit who bring their advanced lifesaving equipment with them. You

get resources with their own discipline helping mitigate, investigate and analyze the situation, making the best possible decision on how to proceed.

The 911 calls go to dispatch at Metro for Clark County. The 911 calls per day exceed 3,000. The dispatcher sends a page to the lieutenant of ARMOR and the bomb squad commander at the same time. Assessment is done to determine the circumstances around the event. Every day we must be cognizant about the pre-operational activities of terrorists and of someone with a criminal mind. Is someone putting a package there to see how we respond in order to plan a bigger attack? Have we been visited by pre-operational people in the past? Even a suspicious-package call is critical. A document-threat assessment should be accomplished by the on-scene public service agency. In 2008, ARMOR was notified, through the 911 dispatcher, 136 times referencing unattended packages. No response was necessary 96 times simply by doing an assessment over the phone with a patrol officer. By knowing what the package looks like, the circumstances surrounding the package, who the person reporting it is and where it is located can determine its significance. The ARMOR unit responded 31 times and 11 packages were disrupted by the bomb squad. It would not be prudent for ARMOR to respond to every one of those calls. How do we know rendering a suspected device safe will not harm the public if the package contains any chemicals, biological material, radiological material or nuclear materials, for example, a "dirty bomb," without using our capabilities of criminal investigation, analytical components and intelligence gathering? Those are real threats we need to be concerned about in our community.

The ARMOR task force has a statutory directive granted by Metro, FBI and ATF to investigate bombings. Presidential Decision Directive 39 states "... no single agency at the local, state, federal or private level possesses the authority in expertise to act unilaterally on many difficult issues that may arise in response to threats of active terrorisms particularly if they are related to CBRNE-related incidents." We must use all of our disciplines and all of our expertise. The bomb squad cannot do it all. The ARMOR unit has been successful impacting public safety and fiscal economy in numerous departments. In 2003, before ARMOR was created, it took local and federal public safety officials three days to mitigate a ricin event. Last year during another ricin event, it took ARMOR 15 hours to mitigate that event with 12 different crime scenes. This was a result of the "all-hazards" approach. We cannot be complacent, feeling we are safe or let our capabilities be diminished. This bill will not be beneficial to the community nor enhance public safety.

SENATOR NOLAN:

As a disclosure, I trained a couple of the men here as emergency medical technicians and I am a member of State Emergency Response Commission and I am on the Nevada Commission on Homeland Security. The sophisticated robotic equipment Metro currently has was purchased through Emergency Response Commission grants for the Clark County Fire Department and some equipment was turned over to Metro. We want to see the most effective and efficient response by emergency agencies using the best training and utilization of all of the equipment. This is a southern Nevada issue. There is a component in all of the incidents for the bomb squad and law enforcement. We expect law enforcement to cordon off an area, not fire trucks, while they dispose of the bomb. We expect the police department to participate in the investigation. If there is ever a detonation of a device, we expect the police department, bomb squad and federal agencies to work together to determine, "who did it?" I am not sure how this bill will affect these agencies working together or how an amendment will affect it. It makes sense that each agency work together competently. There is a part for both the fire department and law enforcement in this process. We need a bill that will delineate that. I would like to see them work together.

SENATOR BREEDEN:

Is the equipment ARMOR has the same as the fire department is using?

MR. PRIMAS:

I think there is redundant equipment. We need to increase our capabilities and respond to multiple events at the same time. I am not sure of the extent of the duplication of equipment.

SENATOR BREEDEN:

What is an IED?

MR. PRIMAS:

Improvised explosive device.

MR. HOGE:

Metro is in possession of bomb squad equipment; some items are redundant to what we have and some of the equipment we should have.

SENATOR BREEDEN:

Testimony stated that the bomb squad should respond only to the City of Las Vegas. What if the incident occurs in Clark County, would you not be called out? Would only the ARMOR unit be called out?

MR. HOGE:

We would respond. We are the accredited bomb squad for southern Nevada, Clark County, Lincoln and Nye Counties and White Pine County, up to Ely, if needed. Our jurisdiction has arson investigators. We are not saying we want to enforce the laws of explosives. We are saying we have a need to investigate the remains of IEDs. The passage of this bill will not hurt our ability nor will it usurp Metro or ARMOR as an investigative agency.

SENATOR CARLTON:

We have a team working together for public safety. Whenever you get a group of well-intentioned guys together who want to do the same job, there is the "glitch." The bomb squad should be right there with ARMOR every step of the way. It seems that people are going out on these calls without them. They do not come out on a call unless someone with Metro asks them to show up. I do not see how that serves public safety.

MR. PRIMAS:

That does not serve public safety. Those are inaccurate statements. We have been working together very diligently.

SENATOR CARLTON:

If I was wrong, please correct me. That was the impression I had.

MR. PRIMAS:

The earlier testimony about ARMOR being there first and the late notification of the bomb squad was inaccurate. We have an interlocal agreement memorandum of understanding (MOU) with the City of Las Vegas referring to the roles and responsibilities. We have been in meetings and mediations with the bomb squad revising the MOU. We have not received a response. We want to work together. It is not a territorial issue nor who is better at this. It is about working together. There is documentation that our ARMOR commander and bomb squad get notified at the same time. Response times can be different depending from where they are coming. The ARMOR unit is not a bomb squad, but we do have a bomb technician in order to integrate personnel and utilize all our resources.

We are opposed to the bill because we can work together. It does not require a bill for this to happen. What is in the best interest of public safety?

CHAIR SCHNEIDER:

I agree, it does not require legislation to come to an agreement in Clark County. I do not think the police department or the fire department will like the decision of this Committee. If you will get together and work over the next five business days and come back with a positive report, it will be better for everyone. I would like a response from Metro and the fire department that you will work together and report back to us.

MR. McALLISTER:

We will try to work out an agreement on these issues between Commander Hoge and the officer from ARMOR in Las Vegas for a solution we can bring back to you to address these concerns to your satisfaction.

TOM ROBERTS (Director, Office of Intergovernmental Services, Las Vegas Metropolitan Police Department; Nevada Sheriffs' & Chiefs' Association):
The leaders involved will sit at the table to firm up the MOU and the commitment to working together to enhance public safety. The sheriff and fire chiefs can come up with a solution like we had with the current MOU.

CHAIR SCHNEIDER:

It is suggested the bomb squad should be at Nellis Air Force Base. We just want public safety and we do not see this. Report back in five business days. I will close the hearing on S.B. 144 and reopen the hearing on S.B. 138.

MS. OLENDORFF:

We met with Senator Nolan, Bill Bradley and representatives from DMV. We are going to work together to come up with a statute for the DMV with appropriate excess insurance, net worth, number of years and history as a self-insurer, probable continuity of operations and a myriad of factors, not one more important than the other. We will bring this back next week.

CHAIR SCHNEIDER:

Will you have a meeting of the minds to draft an amendment to bring back next week?

MS. OLENDORFF:

That is the plan. We might be able to do it without having a statute like the group before you.

CHAIR SCHNEIDER:

I will close the hearing on S.B. 138 and open the hearing on S.B. 145 which makes sure children between the ages of 6 and 18 are buckled in safety belts (seat belts) in taxicabs. A person violating it will be fined not more than \$25 for the first offense and not more than \$50 for the subsequent offenses. In sections 1 and 2, the ages of the child are 6 years and older and must weigh 60 pounds or more. I understand there are some amendments coming in from taxicab companies.

[SENATE BILL 145](#): Makes various changes relating to motor vehicle and traffic safety. (BDR 43-63)

SENATOR CARLTON:

Who writes the ticket? Does the Taxicab Authority (TA) or a Metro officer write the ticket?

CHAIR SCHNEIDER:

Both could write the ticket.

SENATOR CARLTON:

Would the TA have the authority?

CHAIR SCHNEIDER:

Yes.

JOHN R. JOHANSEN (Highway Safety Representative, Office of Traffic Safety, Department of Public Safety):

The Department of Public Safety works on all behavioral issues related to traffic injuries and fatalities on Nevada's roadways. I have a brief PowerPoint presentation ([Exhibit G](#), original is on file in the Research Library). This is a primary seat belt bill (PBL), with emphasis on the taxicab. All information I am presenting can be found in the handout provided, [Exhibit G](#). Seat-belt usage in Nevada is good. In 2008, the observed daytime seat-belt usage rate was 91 percent. More fatalities occur at night. Most of the folks are not wearing their seat belts. The chart shows the 12 states which exceed 90 percent

observed daytime seat-belt usage. Those same states do not get 60 percent in seat-belt usage in fatal crashes. Nevada's usage rate is 45 percent in fatal crashes.

Three quarters of Nevada's fatalities occur between 6 p.m. and 6 a.m. The daytime group of 91 percent does not translate well to an overall rate in fatalities of 45 percent. We commissioned a seat-belt study to see the usage rate with drivers during evening hours. We observed 75 percent were wearing their seat belts. The difference between states having secondary seat belt laws and PBLs is substantial. Passing a PBL would increase the observed daytime rate 2 to 3 percent. The usage rate for fatalities should be increased between 7 and 8 percent, making it over half of the daytime usage. With this increase, 8 percent would save 10 lives per year and 140 serious injuries avoided. In 2008, 90.2 percent of drivers were wearing their seat belts in the daytime, 75.4 percent of drivers were wearing their seat belts at night, 63.4 percent of trauma patients were wearing their seat belts and 45.9 percent of fatalities were wearing their seat belts. The PBL and red-light running were two major issues last year.

The University of Nevada, Reno (UNR) did a study last year asking the question: Do you support a primary seat belt law? The results showed 84.6 percent favored a PBL with 69.2 percent strongly in favor of the PBL, 5.32 percent were somewhat opposed and 9.3 percent strongly opposed. The next chart shows the opinion survey by political party. Democrats favored the PBL by 87.8 percent, Republicans by 85.9 percent and other parties by 77.8 percent. There were 1,234 trauma patients who were belted and insured, 1,044 patients belted and uninsured, 454 patients not belted and insured and 816 patients not belted and uninsured as reported from the University Medical Center (UMC) in Las Vegas from 2005 until 2007.

CHAIR SCHNEIDER:

Are the 816 patients who were not belted and not insured twice the number of patients not belted and insured?

MR. JOHANSEN:

Correct. There is a significant number that are uninsured.

CHAIR SCHNEIDER:

That is a huge cost to the taxpayers.

MR. JOHANSEN:

Correct. The average trauma charge for a belted victim during the 3-year period was \$67,543. The average trauma charge for an unbelted victim was \$110,306. The amount charged to the State or county for nonpayment for uninsured belted trauma patients was \$70,514,750. The amount charged to the State or county for unbelted, uninsured trauma patients was \$90,009,862. These figures are from UMC from 2005 until 2007. The 2,200 belted trauma patients were billed \$153 million, UMC collected \$83 million and \$70 million was billed back to the State. The one-third of the trauma patients not belted cost the State and county more than the two-thirds that were belted. The UMC only collected \$50 million and \$90 million was paid by the State. There is a chance we could get additional federal traffic-safety funding, depending on the PBL. June 30, 2009, is the cutoff date to receive zero to \$1 million, depending on all of the states in the country that have a PBL.

Insurance rates are shown in the chart, in several states, before and after the PBL. The only state that increased insurance rates after enacting the PBL was Indiana. The other states showed a decline in the rate of increase or a decline in the insurance cost after the PBL.

Seat-belt usage is depicted by ethnicity in 2008 during daytime observance showing Caucasian usage at 91.6 percent, African American at 88.5 percent, Hispanic at 88.6 percent and other at 95.1 percent. Hawaii and other Asian communities show a high usage. There are minority organizations supporting the PBL including ASPIRA, composed of Puerto Rican and Latino; Centro San Bonifacio, an Hispanic group from Chicago; Hispanic American Police Command Officers Association; La Casa de Esperanza; Meharry Medical College; National Association of Hispanic Nurses; National Conference of Black Mayors; National Council of Negro Women; NDA, National Hispanic Council on Aging; National Medical Association; National Hispanic Medical Association and the National Organization of Black Law Enforcement.

SENATOR CARLTON:

On the states where insurance rates went down, do they have a provision to not pay a claim when not wearing a seat belt?

MR. JOHANSEN:

I do not know, but I can find out.

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SENATOR CARLTON:
I was just curious.

MR. JOHANSEN:
I do not know. I do not know how common a shared-responsibility law is in the PBL. I can find out.

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

I will try to assist in getting the information on the shared-responsibility law. We support S.B. 145. I also represent several colleagues who support this bill and we all support the amendment. If a reasonable effort is made to get everyone belted, that should suffice for a cab driver. It is unconscionable for an adult to let a child sit in a vehicle unbelted and not be cited. Seat belts save lives. Nevadans need to be serious about passing this type of bill.

FRANK ADAMS (Executive Director, Nevada Sheriffs' & Chiefs' Association):
We support S.B. 145. We can save lives.

TIM KUZANEK (Lieutenant, Washoe County Sheriff's Office):
We support S.B. 145. We support anything that will help save lives.

SENATOR LEE:
Explain the rationale for police cars not using seat belts in the rear seats.

MR. ADAMS:
That is where we put the bad guys. We try to make sure they are secure. Sometimes it does not happen when someone does not want to be cooperative. We have cages and cannot always belt them without injury.

SENATOR LEE:
If there are seven children in a vehicle and nobody is belted, do you just give one citation?

MR. KUZANEK:
In the past, we have cited one person, the driver or the passenger if he is an adult.

SENATOR LEE:

Do you still cite one adult, even if seven children are not belted.

MR. KUZANEK:

Yes.

SENATOR BREEDEN:

This bill does not address children in car seats.

CHAIR SCHNEIDER:

No. Any child under sixty pounds must be in the car seat.

SENATOR BREEDEN:

Would they be cited if there was a child not in a car seat? Are cabs required to carry car seats for children? We are required to have car seats for children and grandchildren.

MR. ADAMS:

Commercial vehicles are treated differently. Children need to be buckled in any vehicle because they become a missile once the vehicle is impacted.

SENATOR CARLTON:

Does the cab driver get the citation? If the parent does not put the seat belt on the child, after being told to do so, why are we citing the driver?

MR. ADAMS:

That should be covered in the proposed amendment ([Exhibit H](#)).

SENATOR CARLTON:

Who gets the ticket? The proposed amendment, [Exhibit H](#), says, "... shall not be liable civilly or criminally under the provisions of this act for injuries sustained by a passenger not wearing a safety belt" That statement just deals with the injuries. We are still giving the ticket to the driver and not the parent. Was that the intent? Is it because they are operating the vehicle? Is that the only person allowed to be cited?

CHAIR SCHNEIDER:

Let us allow the cab companies to come forward and explain.

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SENATOR CARLTON:

I do not want to see the cab drivers getting \$50 tickets every time they carry a family of three or four. They could refuse to take them and take another fare.

MR. ADAMS:

We can cite the passenger for failure to wear a seat belt.

SENATOR CARLTON:

You can?

MR. ADAMS:

Yes. The adult responsible for the children will receive the citation.

SENATOR CARLTON:

The adult responsible is the one we want to give the incentive to clip that belt around that child.

CHAIR SCHNEIDER:

This amendment was put together properly consisting of an intent, who is putting it forth and the date.

GENE PORTER (Frias Holding Company; Frias Transportation):

I want to publicly thank your secretary for putting that amendment together. Frias Holding Company and Frias Transportation Company support the policies behind S.B. 145. We believe seat belts save lives and I hope that our passengers use them. Our drivers are not police officers and do not have the power to compel. We encourage passengers to put seat belts on, but if they do not, there is not a lot we can do. My understanding of the proposed legislation is exactly what Senator Carlton indicated to the Committee. Page 4, lines 15 and 16 of S.B. 145 indicate the persons being punished are the drivers of our vehicles. The proposed amendment, [Exhibit H](#), states if we have done everything we can do by encouraging our passengers to buckle up and have informed them about the law, we should not be liable if they refuse to conform.

SENATOR NOLAN:

If the driver of a cab is pulled over and explains he told the passengers to put their seat belts on and they refuse, what happens if the passengers say they were not told? Are cameras still installed in the cabs and can they be used as a documentary?

MR. PORTER:

Not all people transported are lucid, or understand the English language. I do not know how to fix that. We are obliged to advise people it is the law in the State to wear a safety belt. The police officer can write a citation if he sees the occupants not wearing a seat belt, as indicated on line 6 of page 4.

SENATOR NOLAN:

There are 28 states having PBLs and are international destinations. I do not know if those laws apply to taxicabs. Maybe staff can look at it. They must have a way to communicate the PBL to their passengers. It is a complicated issue. If this bill passes, can the video in the cabs be memorialized?

SENATOR LEE:

How would this law apply to limousines?

MR. PORTER:

I do not understand the question.

SENATOR LEE:

Are you going to require seat belts for passengers in a limousine with signs requiring seat-belt usage as in taxicabs? Do you see that as part of the interpretation of this bill?

MR. PORTER:

This is out of my realm. I do not know the answer. I understand limousines are treated differently.

SENATOR LEE:

I forgot about limousines and I was hoping you would know. We will work that out.

CHAIR SCHNEIDER:

Senator Townsend said the cab driver could add \$25 to the meter if the passengers do not comply. The proposed amendment states, "The driver of a taxicab or taxicab company shall not be liable civilly or criminally under the provisions of this act for injuries sustained by a passenger not wearing a safety belt, if the company maintains ..." a sign. If your driver is speeding and is a reckless driver, does this exempt your company and driver from any liability if there is a wreck and injuries?

MR. PORTER:

When the vehicle is involved in an accident, whether or not our driver is at fault, we will end up in litigation because the passenger is "fault-free." On page 4, lines 24 and 25 of the existing legislation, it was determined not wearing a seat belt was not admissible in a court proceeding on the issue of causation. My amendment will probably change the issue of causation, because restrained passengers will suffer injuries less severe than those passengers not restrained is the intent of the amendment. The focus of the amendment is, "If you had had your seat belt on at the time, your injuries would have been a lot less than they are now." When we go into litigation, we want to be able to say, "You can't tag us for the injuries that you caused to yourself." This amendment changes lines 24 and 25 in the existing law.

CHAIR SCHNEIDER:

I am not familiar with the "legalese." I will defer to counsel.

MATT NICHOLS (Committee Counsel):

The following testimony is for the record.

Thank you, Mr. Chairman. The proposed amendment, I think, might be read to change the liability law as it currently is and so it's something we need to take a look at. But I think that Mr. Porter is probably correct on that point.

SENATOR CARLTON:

If someone is wearing a seat belt and there is an accident, how is that handled? I want to get an idea about the changes you implied. You have insurance for passengers in the back seat. If they break an arm, do you take care of it?

MR. PORTER:

Yes, or we get sued.

MR. NICHOLS:

The following testimony is for the record.

Thank you Mr. Chairman, if I may. The issue of whether liability would be expanded by the amendment really would depend on the pleasure of the Chairman of the Committee as to how a proposed amendment to the bill would be drafted. We could go in any number of directions with it and if you had a specific interest in expanding liability or restricting it, we work at your pleasure. So,

I think that is up to the Committee in terms of whether a proposed amendment would address expanding the liability in this instance.

CHAIR SCHNEIDER:

I do not usually go for expanding liability. That is not the direction I would like to go. We need to review the amendment with legal counsel so as not to expand or eliminate liability.

SENATOR CEGAVSKE:

What was the rationale for increasing the fine?

CHAIR SCHNEIDER:

The rationale was to increase the fine for a multiple offender. It serves to encourage the driver to ensure his passengers use seat belts.

SENATOR CEGAVSKE:

Is this strictly for cabs?

CHAIR SCHNEIDER:

Yes.

SENATOR NOLAN:

Like S.B. 116 that recently passed on the Senate Floor, I do not think we should change the contributory negligence statutes as they currently stand.

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

ORRIN H. JOHNSON (Deputy Public Defender, Washoe County Public Defender):

Our concern regarding seat belts remain the same. The focus on children is admirable and we do not take any position on it. We remain opposed to the PBL for the reasons given before.

CHAIR SCHNEIDER:

We need to work with the Legal Division and some of the cab people on the amendment for S.B. 145 to not reduce or expand the liability. We will keep Mr. Porter current on what we are doing and he can add to the bill or speak with the Legal Division.

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MR. PORTER:

We will work with staff and the Legal Division.

CHAIR SCHNEIDER:

I will close the hearing on S.B. 145. There being no further business, the meeting is adjourned at 10:54 a.m.

RESPECTFULLY SUBMITTED:

Sandra Hudgens,
Committee Secretary

APPROVED BY:

Senator Michael A. Schneider, Chair

DATE: _____