

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

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

The Senate Committee on Energy, Infrastructure and Transportation was called to order by Chair Michael A. Schneider at 8:17 a.m. on Wednesday, March 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  
Patricia Devereux, Committee Secretary

**OTHERS PRESENT:**

Douglas C. Gillespie, Sheriff, Clark County; Las Vegas Metropolitan Police  
Department  
Greg Gammon, Chief, Las Vegas Fire and Rescue Department  
Steve Smith, Fire Chief, Clark County Fire Department  
Mike Haley, Sheriff, Washoe County

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Erin Breen, Director, University of Nevada, Las Vegas, Safe Community Partnership  
Zane Marshall  
Heather Fisher, Scenic Southern Nevada  
Kyle Davis, Nevada Conservation League  
Minta Albietz  
Denise M. Inda, P.E., P.T.O.E., Assistant Chief Operations Engineer, CO50 Maintenance and Operations Division, Nevada Department of Transportation  
Michael W. Lawson, Traffic Information Division Chief, Nevada Department of Transportation

CHAIR SCHNEIDER:

We will open the hearing on Senate Bill (S.B.) 144.

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

As he was requested, Sheriff Douglas Gillespie will give us an update on the bomb-squad portion of the memorandum of understanding (MOU) concerning S.B. 144.

DOUGLAS C. GILLESPIE (Sheriff, Clark County; Las Vegas Metropolitan Police Department):

City of Las Vegas Fire Department Chief Greg Gammon, Clark County Fire Department Chief Steve Smith and I have developed a MOU ([Exhibit C](#)) that encompasses the spirit of this bill and expands it to cover hazardous materials (hazmat)—chemical, biological, radiological, nuclear and explosives (CBRNE). This MOU unites three large public safety agencies and combines their personnel, equipment and facilities. We agree to the MOU's language, which is based on a MOU originally formulated in 2003 as a way to handle difficult issues with a cross-agency, cross-discipline approach.

This Committee has heard testimony calling for the separation of certain disciplines for management purposes. I am not looking to expand my department, rather to consolidate personnel and resources. I do not see the need for legislation on this issue; the operational concept will not be helped by it. Please allow us the flexibility to deal with our operational issues, as required

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by our constantly changing environment, after the tragedy of September 11, 2001 (9/11).

CHAIR SCHNEIDER:

The MOU says it will also be signed by Las Vegas Mayor Oscar B. Goodman and City Manager Betsy Fretwell.

SHERIFF GILLESPIE:

Yes, these MOUs will be signed by me, my two counterparts and other members of our respective governmental entities.

CHAIR SCHNEIDER:

Clark County Board of Commissioners Chair Rory Reid and County Manager Virginia Valentine will also sign the MOU.

GREG GAMMON (Chief, Las Vegas Fire and Rescue Department):

I recognize the difference between S.B. 144 and our MOU, and I believe both are important. We agree with the bill's bomb-squad language as it applies to the MOU. The MOU must be reviewed by the Las Vegas City Manager, City Attorney and Mayor; not all signatories have seen it. They are waiting to hear that we are all in agreement with the language outlined in the All Regional Multiagency Operations and Response (ARMOR) MOU ([Exhibit C](#)).

We have agreed to the bomb-squad portion, but have some ongoing work to do on the hazmat and CBRNE-incidents portion.

SENATOR LEE:

You are agreeing to something with which you do not yet agree, and at any point may "terminate this agreement for convenience upon 90-day notice." What is your intent in signing this agreement?

SHERIFF GILLESPIE:

We still need to work on that. We were not able to finish working on all three sections of the MOU by our deadline. We agree to the MOU's first phase, as directed. There is a clause that says any of the parties can drop out of the MOU for whatever reasons. But we will make sure that does not happen.

SENATOR LEE:

That does not make this Committee comfortable. Maybe the bill is a better form to adopt than the MOU. Safety is the most important issue, and if you change your minds again in 91 days, what have we accomplished?

SHERIFF GILLESPIE:

One of the advantages of the MOU process is its flexibility. Police and fire tactics during incidents have changed significantly since the November 2008 terrorism attacks in Mumbai, India. The advantage of a MOU over legislation is it gives the overseers of public safety entities the flexibility to modify interlocal agreements in order to deal with all incidents.

In my experience, all MOUs have a 30-, 60- or 90-day termination clause. Because a cross section of entities are pooling resources and personnel and working together, agencies do not back out of MOUs. They have the ability to modify MOUs based on specific needs.

STEVE SMITH (Fire Chief, Clark County Fire Department):

We have all been diligently working on the bomb-technician language of the MOU, but the environment has evolved since the original MOU was put in place in March 2005. The current MOU says "no Party will act unilaterally," and things will be mutually agreed upon. We look at that as far as the definition of the hazmat and CBRNE technicians. The response protocol will be mutually agreed upon amongst the agency executive boards and management teams.

SENATOR BREEDEN:

Do you have an MOU in place?

SHERIFF GILLESPIE:

That is true.

SENATOR BREEDEN:

Has it not been working?

SHERIFF GILLESPIE:

That is a matter of interpretation. From my standpoint, it has been working, but it needs modifications and more involvement by me and the fire chiefs.

SENATOR BREEDEN:

If you have one MOU that is not working then create another, the conflicts that still exist could bring us all back here again. Where are we if we just have an MOU when this Session ends?

SHERIFF GILLESPIE:

I believe the current MOU is working. If you compare the 2001 level of public safety responses to CBRNE events in Las Vegas Valley to that of 2009, there has been considerable growth, thought and vision in regard to the pooling of resources and equipment and effective use of Homeland Security funds. That is directly attributable to agency heads' development of a concept that grew into a MOU that provided a foundation for that to occur.

As we continue to grow, that MOU needs to be modified. We will never eliminate certain personality conflicts, organizational issues and problems, but we can modify MOUs accordingly. The MOU is a working document even after it is signed. The role of local public safety personnel in responding to and mitigating hazmat and CBRNE incidents has taken on a whole new life since 9/11. How we looked at responding to incidents three years ago or even prior to the November 2008 Mumbai attacks has changed. I need the flexibility of a MOU to provide an appropriate level of safety.

CHIEF GAMMON:

Since this MOU was signed, we have grown into three large agencies. It is easy for the department heads to agree upon the direction where we want the MOU to take us. Senate Bill 144 was formulated because of issues now taking place on the streets; it is difficult for department heads to control everything that happens on the day-to-day calls.

CHIEF SMITH:

The new MOU more thoroughly defines the management of day-to-day operations, ensures cross-training among the agencies and addresses equipping and funding the response teams. The goal is to reduce redundancies among services provided by each agency. Now, with this MOU, we have to respond together in the most efficient and effective manner.

SENATOR CARLTON:

You have given us no good place to stand. It bothers me that MOUs are fluid; people change, and I do not know who will be in your positions in ten years. My

responsibility is to ensure the safety of the entire State, even in the absence of a MOU. If something falls apart, we must have some type of guidelines. When Senator Mark Amodei sponsored the bill, I thought it was a perfect way to handle this. If there is a problem, the Committee will have fulfilled its responsibility. The bill is a very good compromise.

SHERIFF GILLESPIE:

From a philosophical standpoint, I would agree to disagree with you. The MOU is the appropriate way.

SENATOR CARLTON:

Do you not think we should put something in place?

SHERIFF GILLESPIE:

There is something already in place. Whoever runs for the office of Sheriff of Clark County has the responsibility to uphold public safety, regardless of how many tentacles are attached. I am confident whoever is Sheriff or Fire Chief will make the appropriate decisions. We all respect what each of us does for a living, and the infighting that sometimes goes on in task force operations does not jeopardize public safety. We rely on people charged with overseeing and ensuring the best possible service is provided.

SENATOR CARLTON:

I was saying that in the absence of the MOU—with which I agree—the Legislature has a place at the table to make sure if it does not work, there is a later stopgap.

SHERIFF GILLESPIE:

Are you talking about a default-type mechanism back to statute?

SENATOR CARLTON:

Yes, sir. That was discussed at the last two meetings, as proposed by Senator Amodei. I thought that was an option at which we were looking.

SHERIFF GILLESPIE:

I was mistaken in not knowing that. We have been focused on the MOU.

SENATOR LEE:

I recall a bill in which there was discussion of an extraction operation by the Sheriff's Department of climbers stuck at Red Rock Canyon National Conservation Area. The Las Vegas Fire and Rescue Department also prepared for an extraction, but your officers told them to stand down, or you would arrest them for doing your job. A turf war sets up this issue. Now, the ARMOR MOU seems to be infringing upon things that have been happening for years. This is too important for the Committee to allow an MOU to be the sole document. This will come back and grow and grow, and situations like the extraction operation problem need to be codified. Was the extractions issue solved?

SHERIFF GILLESPIE:

Yes, search-and-rescue operations were codified statewide from a legislative standpoint. We are not just dealing with a southern Nevada issue. This statute would affect all State bomb technicians and how situations are handled, which varies. This further proves why the MOU is the best way to go. It affords flexibility to each jurisdiction responsible for dealing with these situations.

There have been disagreements among bomb unit and CBRNE-response leaders, but they are going to work well together, whether they like it or not. If those supervisors cannot work together, the department heads will get people in who can. The three of us agree on how we will respond to incidents; we do not have turf issues.

SENATOR NOLAN:

There is a misperception by some Committee members as to exactly what ARMOR is. It is not a police department-derived organization; it is a collaborative organization of all of the entities to formulate policies and procedures in response plans for all events. It is inaccurate to identify ARMOR solely with the Las Vegas Metropolitan Police Department.

I agree that developing a working MOU is the best way to go. It must stay flexible to change on a case-by-case basis as leadership and technologies change. The proposed fallback statute is designed to keep department heads cooperating. In lieu of a working MOU, a statute applies—it will be the law of the land. The problem is it creates a lever for an entity to not work collaboratively. If one organization decides it likes the statute better than the

MOU, it may decide not to work with the others. If so, we can default to the statute.

There does need to be some statutory structure but not one that would interfere with the MOU. It should provide for the basic command structure; after that, everything else can be worked out. A key factor is who is responsible for the investigation. In the Session interim, if there is a need for a referee, we need to appoint a mediation body. The Nevada Commission on Homeland Security—which has equal representation from law enforcement, firefighters, the Federal Bureau of Investigation (FBI) and the Bureau of Alcohol, Tobacco and Firearms—has the existing structure to interpret the MOU. The Nevada Office of Homeland Security also has a “hammer” because it oversees the funding for a lot of this area. That would be better than falling back onto statute because it would be a dynamic body listening to the at-hand issues and mediating problems.

SENATOR MARK E. AMODEI (Capital Senatorial District):

I know nothing about the MOU process by the sheriffs and fire chiefs because I should not. Our job here is policy, not operations. The question before the Committee is ultimately one of policy. In the absence of a MOU, let the operators and their supervisors have first crack at how they want to proceed. My intent in the proposed legislation was not to have the Legislature tell the sheriffs or fire chiefs of any county how to handle incidents. This discussion has evolved into, “In the absence of you folks agreeing, here is the fallback.”

If there was not an issue here that needs policy attention when the bill was introduced and heard, everyone would have approved it. That has not happened. Senator Nolan is correct: the fallback will provide a lever that ultimately will be whether the parties go to the Office of Homeland Security or statute to determine who has jurisdiction for investigation and the operational lead.

The sheriffs and chiefs have their arms around the issue and will fix whatever they determine needs to be fixed from an operational standpoint. However, we should set a policy that says, “In default of front-line responders’ supervisors not having a MOU, here are the rules.” The original, eight-page MOU did not mention jurisdictional or investigational control, so it is appropriate for the Legislature to set some policy. To do otherwise is to ignore some of the realities we have heard today. The act of saying the absence of the MOU gives the primary and secondary strikes to local operators is appropriate. To have the



opportunity to establish policy so they have a complete guideline is a mistake. It is wrong to leave an identified void.

CHAIR SCHNEIDER:  
Have you proposed an amendment?

SENATOR AMODEI:  
Yes; it is before you ([Exhibit D](#)). The concept of giving local responders and their supervisors primacy through the MOU process is appropriate, and my amendment does that. Then it establishes policy for the absence of a MOU. I am unsure if Sheriff Gillespie understands I am proposing that MOUs should take precedence and be encouraged, and we should defer to their drafters; however, if an MOU breaks down or one of the agencies refuses to honor it, we must not have a legal void. The issue before the Committee is, in the absence of a formal agreement—the MOU—among local operators, there is a policy.

SENATOR LEE:  
Who is responsible as a fallback in this amendment?

CHAIR SCHNEIDER:  
I ask Committee Counsel Matt Nichols to explain this amendment he drafted.

MATT NICHOLS (Committee Counsel):  
Thank you, Mr. Chairman. I think maybe what Senator Lee is looking for is in section 7.5, which is on page 2 of the proposed amendment; that's the green, underlined language. And this was submitted by—well, not by Senator Amodei, but on his behalf—language to clarify that in the absence of a memorandum of understanding, in each county in the State, these will be the default rules for how bomb squads', uh, responsibilities and authorities are set out.

SENATOR LEE:  
In Clark County, according to section 7.5, what are the basic tenets of that rule?

MR. NICHOLS:

Senator Lee, are you asking if there were no memorandum of understanding in Clark County, what would, what would be the rule? You can look at ... Section 9 of the bill says that "each public [sic], public safety bomb squad: Is the sole entity 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 in which the bomb squad is located." Requires that "to the extent practical [sic], practicable in conducting its activities, provide maximum safety for members of the general public and any other public safety bomb squad in accordance with the *National Guidelines for Bomb Technicians*," which is developed by the *National Strategic Plan for U.S. Bomb Squads*. And the bomb squad is required to carry out its primary responsibilities in the city or county in which it is located and for any other jurisdiction calling upon the bomb squad to carry out those responsibilities.

There's a portion of the proposed amendment that creates an exception for airports because airports have emergency-response plans and emergency-management plans that are approved by the FAA [Federal Aviation Administration] or the Transportation Safety Administration. And this exception would require the bomb squad to work within the confines of those federally approved emergency plans.

SENATOR LEE:

If that is the case, in Las Vegas right now, is the bomb squad generally recognized as the Fire Department?

MR. NICHOLS:

"That's my understanding, Senator, that the—I'm sorry, Senator."

SENATOR AMODEI:

Above the default provisions on page 2, lines 8 to 10, the amendment defines "public safety bomb squad" as members who are bomb technicians accredited by the FBI. Federal Bureau of Investigation accreditation is a fairly important notion there. Page 3, section 9 says "each public safety bomb squad: (a) Is the sole entity having jurisdiction to engage in activity," etc. The fallback under this

amendment says squads must be FBI-certified, have certified bomb technicians and be the sole entity with jurisdiction over those things.

SENATOR LEE:

If so, can the North Las Vegas bomb squad get FBI certification?

SENATOR AMODEI:

There is nothing in here that says it cannot.

SENATOR LEE:

It could also be a fallback.

SENATOR AMODEI:

It could be.

SHERIFF GILLESPIE:

There is a process the FBI requires to certify bomb teams. Entities lack the ability to send technicians to the FBI bomb school. There is a preapproval process for attendees because the FBI is under considerable pressure to train enough technicians and place them throughout the country in specific areas. The Las Vegas Fire and Rescue Department's bomb squad unit is the regional FBI-certified and accredited team.

SENATOR LEE:

Will it not be long before you will be accredited?

CHIEF GILLESPIE:

We are not creating another bomb unit.

SENATOR AMODEI:

Certification by the FBI is not an easy process. It is tough to get into the FBI bomb school, and it is expensive. If certification is not pursued in the State's metropolitan areas, it is unlikely to be pursued outside of them. This is why FBI certification was chosen as the fallback for the lead entity in the absence of an MOU.

MIKE HALEY (Sheriff, Washoe County):

I am growing concerned that a local issue is resulting in a change in statute that will compound and exacerbate that local issue, which already exists in a MOU,

throughout northern Nevada. The northern bomb squad has operated for many years under a MOU under the control of the Washoe County Sheriff. We collaborate with federal, State and local governments, fire departments and airport authorities with regard to bomb issues.

We have a MOU and a governance committee that operates and manages our Regional Public Safety Training Center, which includes fire agencies. The Northern Nevada Counter-Terrorism Center has a MOU and governance committee. The north is also involved in the High Intensity Drug Trafficking Area program, of which I am State vice chairman.

Law enforcement and fire agencies have a long record statewide of working out bomb issues in a collaborative manner. This local issue can be worked out locally without causing concerns for other agencies in the State that already operate under effective MOUs. A fallback is just an excuse; if it exists, we will fall back. If there is not a fallback, we are saying agencies must resolve their issues locally.

SENATOR AMODEI:

On page 2, section 7.5, line 17 states, the provisions of this act "apply in each county in this State in the absence of a memorandum of understanding." If it would help Sheriff Haley if this said "in the region," if those MOUs crossed county lines, that is fine with me. Again, it is our intent to give existing or future MOUs primary jurisdiction in this area. I am not sure there is a disagreement. If the Sheriff of Washoe County has a MOU under which he prefers to operate, this allows him to do so.

SHERIFF HALEY:

The MOU I mentioned not only deals with Washoe County, our county bomb squad is the bomb squad for northern Nevada. We interact with all other northern counties in our response to bomb calls. This bill could require us to deal with each county in a different way if they choose to pull back from our current procedures.

SENATOR AMODEI:

Rather than doing nothing, if the Sheriff wants to change the language on page 2, line 20, that says "in the county" to "in the county or region of the State," I do not object. I am guessing there are not many FBI-certified bomb

squads in the State. My intent is to provide a statewide policy so if there is confusion or operational disagreement, we have a fallback.

SENATOR NOLAN:

There are nine signing parties for the ARMOR MOU, including the heads of the three safety entities. It says any party may terminate the MOU upon a 90-day notice. If the other parties are left sitting at the table, then we would fall back to statute. If a party preferred the statute, could he not use termination as a lever to force the others to use that fallback?

We need some sort of statutory structure because we do not know who will be in charge in the future. What bothers me about the proposed amendment is it says in section 11, subsection 1: "Each bomb squad commander: Is responsible for the activities of the public safety bomb squad concerning responses" to explosive devices. In this case, the Las Vegas bomb squad commander would determine the entire public safety response. I do not think we should remove everyone else from the picture. Section 11, subsection 3, of the proposed amendment says that commander "shall work cooperatively with the appropriate law enforcement agencies to remediate any incident."

I assume "remediate" means the Las Vegas bomb squad will be the first responders, but who is responsible for the investigation into who planted the bomb? If it detonates, who follows up on that? Section 12 says anyone who interferes with the bomb squad is committing at least a misdemeanor offense. What is the purpose of this language unless there have been many instances of interference with squads? This looks like another leverage directed at the other entities involved in the response.

SENATOR AMODEI:

The question ignores what goes into FBI bomb certification. Agencies do not get certified if they lack the personnel, equipment or training to respond. The fallback would be anyone in the region who is certified. If the misdemeanor part is in the bill to arrest other agencies' personnel, take it out.

Recognizing that officers and firefighters work 24 hours a day, 7 days a week, 356 days a year, if the Committee is going to enact statute, do it quickly. If it takes six months to enact the law, in the absence of a MOU, the responders should not have confusion about who does what. If the Committee does not

want to retain the FBI-certification requirement, make sure the responders can act quickly on that.

CHAIR SCHNEIDER:

Senator Amodei, I request that you add a good-faith requirement to the amendment and consider taking out "counties under 400,000" people if they are operating properly. I would like you to meet with the staff of the sheriffs and fire chiefs to resolve these issues.

SENATOR AMODEI:

I have another proposal: Since I have made it clear that I prefer the MOU and that our intent is not to affect existing MOUs, I would like to leave it to the agency heads to take the first crack at this amendment. Then I will meet with them. I do not care what policy they formulate as long as it is not nothing because that is what we have now.

SHERIFF HALEY:

When do you need this back to the Committee? The three entities in this MOU are down in southern Nevada. We need the participation of Captain Primus and Chief Fuller from the Las Vegas Fire and Rescue Department, since we will be in a default position. We need to also include Rusty McAllister of the Professional Firefighters of Nevada.

CHAIR SCHNEIDER:

We can hook up with them via a conference call and speaker phone.

SHERIFF GILLESPIE:

Is this something that must be done today?

CHAIR SCHNEIDER:

We are running out of time. This bill must be out of this Committee by April 10.

SENATOR AMODEI:

If the Sheriff needs more time, I do not object. Could you provide specific direction on new language you want to consider? The two issues are that we do not agree that the MOU should be the primary policy driver, and if someone terminates the MOU, what is the fallback? Questions exist about FBI certification in the jurisdiction and whether this should get a quick hearing by

the Commission on Homeland Security. We may need to add language to make sure Sheriff Haley's regional issues are addressed.

CHAIR SCHNEIDER:

I like your suggestions on how to proceed. What time frame do you need?

SENATOR AMODEI:

If the public safety people could submit proposed language in those two areas to me, I could have the rewrite to you tomorrow.

SENATOR TOWNSEND:

There are a lot of interagency and intergovernmental debates, but they are not State policy issues. As the bill's sponsor has acknowledged, there is not a problem outside of Clark County. I would be reluctant to ask Sheriff Haley to negotiate against himself. He has a properly functioning MOU. The issue then falls on Clark County to resolve. The parties worked hard on the MOU, but they are now put in a position of negotiating against themselves.

Everything in these Committees is a car deal. Mr. Chairman, if you have the votes to move this bill, let us do so. However, that is up to the southern Nevada parties. Giving them more time could be a waste of time. If they do not want further negotiations, move this bill to a vote.

SENATOR AMODEI:

I am not asking anyone to negotiate against himself. That ignores my belief that the MOU should be the primary driver; this is not a bad policy. Sheriff Haley's concerns are valid, and public safety is not a car deal. This is not an attempt to discourage the Las Vegas department heads from formalizing and updating their MOU. This bill and amendment caused some of that updating.

This is not a State-versus-local issue because in many resource and operational areas, we cross county lines all the time. It is false to categorize this as a local issue and to assume that because this came up in Clark County, we do not have to worry about it in the other 16 counties. This an important public policy issue—especially in the post-9/11 world, when we need more surety about explosives procedures.

SENATOR CEGAVSKE:

Sheriff Gillespie, how many years has there been a MOU in Clark County or the State?

SHERIFF GILLESPIE:

The first MOU was enacted in about 2005, concerning what we are talking about per se. The concept was first discussed in 2003, but no MOU was actually crafted. Research was done on it in the 1970s when the Las Vegas Fire and Rescue Department took over the bomb aspects, but no one was able to craft an MOU to define individuals' roles.

SENATOR CEGAVSKE:

Did it start because of an initial concern? This is a very serious and frightening issue. I do not want to jeopardize any of the entities, but sometimes we do not know the unintended consequences of policies we set until later. When I look at this legislation as a fallback, lever, statewide policy or general rule, I would hope we have the blessing of the public safety agencies, north and south—I did not get the feeling today that this is what they want.

I do not have enough information on the amendment and would have to vote no today if the agencies say they do not need it. However, if there is truly a need, it must be more defined and simplified. Every time this comes up, this Committee has more questions.

CHAIR SCHNEIDER:

Senator Amodei, I will follow your suggestion and allow work on this through tomorrow. We will vote on it Friday morning.

I will open the hearing on S.B. 240.

**SENATE BILL 240**: Limits the maximum speed on certain portions of State Route 159. (BDR 43-1072)

SENATOR SHIRLEY A. BREEDEN (Clark County Senatorial District No. 5):

I bring S.B. 240 before you at the request of a constituent, the bicycling community, the residents along State Route 159 and those who commute on it. Red Rock Canyon National Conservation Area is the most-visited attraction managed by the federal Bureau of Land Management (BLM). State Route 159, also known as the Red Rock Loop, is a National Scenic Byway. Nearly 1 million



people visit Red Rock Canyon annually: hikers, rock climbers, bicyclists, runners, birders and photographers. The Canyon is only five miles southwest of the Highway 215/Beltway junction and Charleston Boulevard.

Community members are asking that the speed limit on State Route 159 be addressed, even though road improvements have been made by the Nevada Department of Transportation (NDOT). The curves on Red Rock Loop, the high number of visitors and the increased accident rate demand attention.

SENATOR CARLTON:  
What is the current speed limit?

SENATOR BREEDEN:  
It is 60 miles per hour (mph).

ERIN BREEN (Director, University of Nevada, Las Vegas, Safe Community Partnership):

The faster a vehicle is travelling, the more likely a crash will result in a fatality or critical injury. State Route 159 has changed from a leisurely "Sunday drive" destination to a major thoroughfare. Road speeds should not be determined by vehicle counts, and this bill highlights a problem that unites safety advocates with hikers, walkers, bicyclists, nature lovers and others.

A speed limit of 60 mph on a mixed-use road is simply too high. Pedestrians and bicyclists are prohibited on freeways, partly because their speed is unsafe when interacting with faster vehicles. Yet we add hills, curves and turns to this highway, post a freeway speed, call it a Scenic Byway and then say it is safe for all road users.

This issue has been argued since before the speed limit was raised to 60 mph. The debate includes State Route 160—Blue Diamond Road—for many of the same reasons. The limit on 160 was dropped to 45 mph on the heavily traveled stretch from Interstate 15 (I-15) to State Route 159. Dropping the speed, adding enforcement dollars and having an education campaign directed by a Blue Diamond Road resident, including 26 crosses memorializing those people killed in a 28-month period, went into effect simultaneously. The result was dramatic: there were no more fatalities for more than 13 months.

State Route 159 has more curves than 160, plus tourists are using it as a Scenic Byway. Making improvements to 159 needs to be an ongoing process with all voices acknowledged. Senate Bill 240 should never have had to be introduced. A lot of time and money have been expended by NDOT, but because voices on the speed limit were continually ignored, the bill was requested.

This is one of the few scenic places in our backyard to which we should be able to take visitors with pride. Racing through it to keep up with traffic is such a sad commentary. During the Seventy-fourth Session, a law was passed prohibiting trucks from cutting through the area. It is my hope every effort will be made to keep other cut-through traffic from using this road at a high speed and ruining Red Rock Canyon's beauty.

ZANE MARSHALL:

You have my written testimony ([Exhibit E](#)). My family and I recreate in the Red Rock area, and I bicycle on State Route 159. On every ride, I and my fellow cyclists encounter drivers traveling at or above the speed limit. Congress, the Nevada Legislature and NDOT have recognized the unique character of the area by enacting legislation to designate it as a Scenic Byway.

Cycling, jogging and hiking are community-healthy activities we should promote and make safer. The speed limit on State Route 159 is 40 mph faster than that of the average cyclist and 53 miles faster than the average jogger's speed. The disparity in user-group speeds is frightening and life-threatening. National Highway Traffic Safety Administration studies found the fatality rate for pedestrians struck by vehicles going 50 mph or greater is 100 percent. That rate will be reduced to 80 percent if the speed limit is reduced by 10 mph. Reducing the speed to 45 mph will greatly increase safety for pedestrians, cyclists and other users.

Over the past several years, pedestrian and cycling safety has been elevated in planning and development activities, but current conditions along State Route 159 continue to be dangerous. This bill will help make the highway safe and enjoyable for all user groups.

HEATHER FISHER (Scenic Southern Nevada):

You have a copy of my testimony ([Exhibit F](#)). I live in Blue Diamond and have been working for many years to try to make this road safer. The NDOT has

responded with many good public safety measures and charettes, but the speed limit still needs to be addressed. The federal government has designed separate bike paths, the State government got the trucks off the road and the BLM has helped out. In 2008, BLM rangers issued more than 290 speeding tickets, with many vehicles going more than 30 mph over the limit through a recreation area.

The multistep process NDOT presented included traffic-calming devices, raised pavement markers, reflective striping, contrasting pavement colors and bike lanes. This is good, but we would also like an appropriate speed limit for Red Rock Canyon's primary use. We understand we cannot discourage any user group. With a lower speed limit, we can encourage high-speed commuters going to Pahrump from Las Vegas to keep going straight to Interstate-215 (I-215) or to I-15 as they approach the choice to turn left and go an extra 15 miles through Red Rock. They can use the new connector at Fort Apache, Rainbow and Buffalo roads to access I-15 and I-215.

When my group discussed safety measures, the most popular was a lower speed limit, whether it is 45 mph, 50 mph or advisory speed limits posted at sensitive areas. Yesterday, NDOT and I identified sensitive areas, as enumerated on page 2 of my handout. At the minimum, we would like advisory signs on the "S" curves, at the entrance and exit to the scenic overlook and at "Dead Man's Curve," between Blue Diamond Road and Arroyo Street. I have letters from bill supporters ([Exhibit G](#)) and letters from other organizations that support this bill: Outside Las Vegas Foundation, Sierra Club, Scenic Nevada, Scenic Southern Nevada, Red Rock Citizens Advisory Council, Green Valley Cyclists Club, Spring Mountain Cycling Club and the Clark County School District Traffic Safety Committee.

KYLE DAVIS (Nevada Conservation League):  
We support the bill.

MINTA ALBIETZ:

I am the widow of Don Albietz, the off-duty Las Vegas Metropolitan Police Department officer killed while riding his bicycle in July 2005 on State Route 159 in Red Rock Canyon. He was hit by a driver traveling at greater than 60 mph. As a registered intensive-care unit nurse, I know that injuries increase with the greater velocity of the vehicle. Red Rock is very far away from any emergency medical resources, rendering the "golden hour" of survival nil.

Red Rock Canyon is a conservation area, a beautiful Nevada treasure that should be preserved and protected. Visitors need to also be protected from speeders on 159. We have already heard about the hikers, runners and cyclists who use Red Rock; they do not realize it is unsafe. The parking lots are full, including the dirt ones at trailheads, which look like Wal-Mart parking lots. People stop in the middle of the highway to feed burros, take photos or make cell phone calls. The more congested it gets, the less safe it becomes. The busier it gets, the faster motorists want to go.

Simply by reducing the speed limit, State Route 159 will be safer. After Don's death, many actions were taken to increase the safety: shoulder widening, sign postings, reduction of truck traffic. Unfortunately, people are still being killed. This bill costs almost nothing—a few new signs and increased patrolling by NDOT. Drivers who want to travel at a high rate of speed have alternatives. Reducing the speed to 45 mph will almost immediately make 159 safer.

The function of our government is to try to protect our resources and citizens. Red Rock was designed for recreation, and other families should not have to experience what mine did. My two children and I live in Blue Diamond, and I travel State Route 159. We do not like taking it to the Mount Charleston Road entrance because the beauty is marred by the crosses memorializing the fatalities, including one for my husband. My fatherless children and I beseech you to support this bill.

CHAIR SCHNEIDER:

My Senatorial District includes part of Red Rock Canyon. Access routes to State Route 159 have been fully improved so commuters from Pahrump no longer need to go through the Blue Diamond loop and can cut over on Durango or Buffalo roads.

DENISE M. INDA, P.E., P.T.O.E. (Assistant Chief Operations Engineer, CO50 Maintenance and Operations Division, Nevada Department of Transportation):

The Department is opposed to this bill; however, we are willing to work to address the concerns of interested citizens who ride and drive this route. We have a plan to improve signage of 159, including the posting of signs at appropriate locations with advisory speed limits.

Chapter 484 of the *Nevada Revised Statutes* (NRS) gives statutory authority to NDOT to establish speed limits on all State-maintained roads. This bill sets a maximum speed for portions of State Route 159, which contradicts NRS Chapter 484. The Department is very concerned about the effect of establishing a speed limit that does not comply with the prescribed process for doing so. We are very concerned about the reduction in safety that would occur if the speed limit were reduced.

The Department has adopted the *Manual on Uniform Traffic Control Devices* in accordance with NRS 484.781. The Manual establishes the process for setting speed limits, which is not arbitrary or inappropriate. The process is based on well-researched and nationally accepted standards that maximize the safety of roads and their users while maintaining State and national consistency.

It has been NDOT's practice to establish speed-limit postings based on the results of engineering and traffic investigations and in accordance with the Manual. These studies include speed measurement, which enables NDOT to determine the prevailing speed. Some other factors included in the evaluation are the characteristics and use of the road, roadside development, environment, parking facilities, pedestrian and biking activity, and historical crash data. Engineering judgment takes all of these factors plus numerical data into account to establish limits to provide the appropriate combination of safety and mobility.

The Department conducted complete engineering studies of State Route 159 in 2005 and 2008. We have made recommendations of the appropriate speed limit. The January 2008 study recommends leaving the posted limit of 60 mph. If we posted a lower limit, there would be repercussions on the roadway, including reducing the safety of those on and adjacent to it.

Reduced speed would cause several issues. The limit would have to be heavily enforced, putting an increased burden on law enforcement. This issue could be overcome with the support of those agencies and the park rangers but would need to be addressed prior to changing the limit. People would still feel comfortable driving at the former speed limit because only the signs would have changed.

Enforcement would be needed to convince drivers to maintain the lower limit; more people would get speeding tickets, and there would be complaints about the roadway becoming a speed trap. If the speed limit were 45 mph,

compliance would be inconsistent without heavy enforcement. When enforcement was unavailable, some drivers would speed. This phenomenon is called "speed differential," and numerous studies indicate when there is a high speed differential, the road is less safe and prone to more severe accidents.

CHAIR SCHNEIDER:

The Committee understands these issues. Does NDOT have any plans to alter that road to slow traffic with medians, turning circles or better bike lanes? This is a Scenic Area on the edge of a city with 2 million people. We have limited growth before you get to Red Rock, but Las Vegas will grow in the next 15 years to 3 million people with a resultant increase in traffic.

MS. INDA:

We do not have specific plans to slow traffic. We can post advisory speed limits on the curves where drivers would normally slow down.

CHAIR SCHNEIDER:

The point of the bill is we need to do something to slow the traffic.

SENATOR LEE:

Enthusiasts are speaking. I understand NDOT represents all of the State, but the enthusiasts of southern Nevada are speaking. When the Las Vegas Valley bowl is filled, there will be 3 million people. Outdoor activity for the age 50-plus group is increasing all the time. I see this issue like the boat wake zone at Lake Mead: You can only go so fast at a certain time, and then you can take off. We need a wake zone to slow traffic so people can ride their bikes in safety.

When I ride Mount Charleston Road to Lee Canyon and the Valley of Fire Roads, the speed limit is 45 mph. We have to have areas to which we can send enthusiasts safely, away from traffic. I will wholeheartedly support this bill for the residents of southern Nevada and for tourists who rent bikes. We do not need more laws; we need areas for these things to happen. We will not prevent cycling in other areas of the Valley until we give them a place to ride safely.

SENATOR CARLTON:

I appreciate from where NDOT is coming, but there are times when rulebooks, policies and procedures do not apply to something as special as Red Rock Canyon. It has become a magnet for people who need to get away. I listen to your testimony, Ms. Inda, then to that of the woman whose husband was killed,

and I wonder how to solve this. This does not fit the mold, and that is why citizens can come to this Committee because we do not have to fit the mold—we get to make the rules. Lower speed limit on this road has created a tussle over the last four or five years.

MS. INDA:

The speed limit was 45 mph plus varied speeds in some sections. In the late 1990s, we began evaluating the situation at the request of park rangers. We found the majority of the traffic was actually traveling at a much higher speed. We did a traffic study that determined the appropriate speed was 60 mph.

SENATOR CARLTON:

I understand traffic studies, documents and statistics, but there have been too many people hurt since we changed the limit. With all of those white crosses and people who want to use this as a recreation area, changes since the late 1990s indicate the 60 mph speed limit is dangerous. When the burros are in the middle of the road, they have a better chance of surviving with a 45 mph limit. Slower is safer—this highway needs to be dealt with.

MICHAEL W. LAWSON (Traffic Information Division Chief, Nevada Department of Transportation):

Senator Carlton, it is not about following the rulebook; it is about making the road safe for everyone. There are studies that suggest we do not have an unsafe speed limit. What we have are unsafe conditions exacerbated by high speeds. Changing the speed limit will not fix that problem—it will not change driver behavior if you do not have continual enforcement. We do care about the people of this State, the motorists, pedestrians and bicycle riders. Our chief concern is always safety with a secondary concern about public mobility. Decreasing the speed limit will not change the speed unless there is a police officer sitting right on top of every driver.

How do you then change motorists' speeds? Traffic-calming strategies can be implemented at Red Rock. I would suggest that instead of just moving this bill out, the Committee have a workshop to discuss alternatives to this bill. Several things about it concern NDOT. We feel bad for the people who have lost loved ones, but we do not want other people to lose loved ones because we made a decision about what we think is the right thing to do when decades of science and statistics tell us differently. Allow us to present that evidence and discuss alternatives to this draconian measure of setting a speed limit that could cost

lives based on good intentions. This bill would set a very dangerous precedent in State law.

SENATOR TOWNSEND:

The Committee wants to do something about this problem. This bill addresses that challenge in a single way; there may be other ways that could enhance it. Perhaps the solution is we look at this highway in its totality, not just as a means of moving people. Let us look at the route not just as asphalt but as part of the beauty and history of the desert Southwest. There may be an opportunity to meld the two.

You have given us a map on proposed advisory-sign locations ([Exhibit H](#)). When you say "proposed," as per your budget, has that been voted on to go forward? Are you doing so? How does that relate to the speed reduction this bill proposes? Can you think through the possibility of a greater designation for this Loop so there are ways to change behavior that are not just limits? Maybe you could post a sign like, "You are now entering a very special place. Following the speed limit is important." Or you could place an automatic speed-limit indicator at the entrance to the Loop. Another thing that gets to drivers is fines. Because it is a protected Loop, the fine for exceeding the speed could be five or ten times normal.

You have made a good-faith effort on the proposed sign postings. The bill's sponsor has made a good-faith effort to put it forth. Let us meld all of these things plus the fact that we take our beauty for granted. View this as not just asphalt but as a cultural resource.

SENATOR NOLAN:

I represent the District in which Red Rock Canyon lies. A close friend of mine was killed on the Loop on a bike. The Las Vegas Metropolitan Police Department and the Nevada Highway Patrol are the primary responders to accidents there. Do you look at the accidents on a case-by-case basis to see where you have vehicular, animal-strikes or bicyclist accidents and then use that information in your analyses? If there are accident-cluster areas, can we create specific zones warning of hazards?

MR. LAWSON:

We do look at the type of accidents, contributing factors and what might be done to mitigate them. That is what we are talking about with traffic-calming



strategies—specific responses, rather than just lowering the speed limit, which will not solve anyone’s problem.

SENATOR NOLAN:

This would be a great place for automated speed enforcement. The presence of law enforcement is the one thing that has some actual effect on driver behavior, but we cannot put cops out there 24 hours a day, 7 days a week. This route is a time-saving one for travelers from one end of the Valley to the other to access both ends of I-215. I favor giving the matter more study and incorporating a lesser speed.

MS. INDA:

The measures the Committee members suggested are exactly the opportunity for which we are looking. We can move forward with the advisory signs quickly. We would also like to look into the changeable speed-limit radar signs. That would require extra time and some safety funding.

CHAIR SCHNEIDER:

I suggest you meet with Senator Breeden and review all of that. Perhaps NDOT could present an informational hearing on how to redesign the road to make it a true Scenic Byway.

SENATOR BREEDEN:

Ms. Fisher and a colleague went out with NDOT and identified the sensitive areas, and they and Scott Rollins wanted to create a MOU. I am not sure how a MOU will work, but I will try to create a resolution with them right away.

SENATOR TOWNSEND:

It is not my intention to put this into a MOU. This road deserves substantially more recognition, and I would put anything this Committee decides into a new bill acknowledging that. Do not solve this from a regulatory standpoint; do it statutorily.

CHAIR SCHNEIDER:

We will close the hearing on S.B. 240. We will open the work session on S.B. 243.

**SENATE BILL 243**: Requires local law enforcement agencies to enforce certain state laws. (BDR 43-719)

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SENATOR MICHAEL A. SCHNEIDER (Clark County Senatorial District No. 11):  
I brought this bill forward for Renny Ashleman and the City of Henderson. This bill has to do with the definition of "peace officer" with respect to the Nevada Department of Motor Vehicles, public safety and pulling over large trucks. Mr. Ashleman has submitted an amendment on S.B. 243 ([Exhibit I](#)).

SENATOR TOWNSEND MOVED TO AMEND AND DO PASS AS AMENDED S.B. 243.

SENATOR CARLTON SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

\* \* \* \* \*

Seeing no more business to come before the Senate Committee on Energy, Infrastructure and Transportation, the meeting is adjourned at 10:55 a.m.

RESPECTFULLY SUBMITTED:

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Patricia Devereux,  
Committee Secretary

APPROVED BY:

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Senator Michael A. Schneider, Chair

DATE: \_\_\_\_\_