

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

**Seventy-fifth Session  
March 27, 2009**

The Senate Committee on Energy, Infrastructure and Transportation was called to order by Chair Michael A. Schneider at 8:13 a.m. on Friday, March 27, 2009, in Room 2135 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to the Grant Sawyer State Office Building, Room 4412, 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  
Senator Dean A. Rhoads, Rural Nevada Senatorial District

**STAFF MEMBERS PRESENT:**

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

**OTHERS PRESENT:**

Jeremy Drew, Coalition for Nevada's Wildlife; Co-coordinator of the OHV Working Group  
Leah Bradle, Executive Director, Nevada Powersport Dealers Association  
Michon R. Eben, Cultural Resource Manager, Reno-Sparks Indian Colony

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Ernie Adler, Reno-Sparks Indian Colony  
John Koehm, Backcountry Hunters & Anglers  
Doug Busselman, Executive Vice President, Nevada Farm Bureau Federation  
Bjorn (BJ) Selinder, Public Policy Innovations, Limited Liability Company  
Frank Adams, Executive Director, Nevada Sheriffs' and Chiefs' Association  
Karen Boeger, Backcountry Hunters & Anglers  
K. Neena Laxalt, Government Relations Consultant, Nevada Cattlemen's Association  
Chris MacKenzie, Attorney, Rural Nevada Alliance  
Joe Johnson, Government Affairs Consultant; Coalition for a Sustainable Nevada; Sierra Club  
Randy McNatt, Backcountry Hunters & Anglers  
Michael Payne, Motorcycle Racing Association of Nevada  
Wes Henderson, Government Affairs Coordinator, Nevada Association of Counties  
Farrokh Hormazdi, Deputy Director, Department of Motor Vehicles  
Allen Biaggi, Director, State Department of Conservation and Natural Resources  
Wayne Fischer, President, North Tahoe Snow Travelers  
Dan Heinz, Backcountry Hunters & Anglers  
Rob Buonamici, Chief Game Warden, Department of Wildlife  
Jacob Snow, Regional Transportation Commission of Southern Nevada  
Sabra Smith-Newby, Clark County  
David N. Bowers, P.E., P.T.O.E., Assistant City Engineer, Engineering Design, Las Vegas Public Works Department  
Bob Gastonguay, Executive Director, Nevada State Cable Telecommunications Association

CHAIR SCHNEIDER:

We will open the work session for Senate Bill (S.B.) 144.

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

SENATOR MARK E. AMODEI (Capital Senatorial District):

All the principal people involved in S.B. 144 retired after the meeting last week to discuss regional language and "backstop language" and decided these were the appropriate areas to generate a language. It will be ready on Monday and will be ready to present to this Committee on Tuesday or Wednesday.

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SENATOR CARLTON:  
Will this happen this time?

SENATOR AMODEI:  
Yes.

CHAIR SCHNEIDER:  
I will close the hearing on S.B. 144 and open the hearing on S.B. 394.

**SENATE BILL 394**: Makes various changes to provisions relating to off-highway vehicles. (BDR 43-501)

SENATOR DEAN A. RHOADS (Rural Nevada Senatorial District):  
This bill is a measure requested by the Legislative Committee on Public Lands (LCPL) to enhance legislation approved in the 2005 Legislative Session concerning off-highway vehicle (OHV) registration, titling and management. The LCPL has monitored OHV use on public lands for many years. The number of OHVs operated on public lands in Nevada has increased in recent years. It is estimated Nevadans own over 425,000 OHVs, including dirt bikes and snowmobiles. The increased popularity of OHVs as a form of recreation poses land-management challenges. All western states have some form of OHV registration and regulation at the state level, except Nevada. Formal deliberations of OHV matters were held at seven of the LCPL's nine in-state meetings and as chairman of LCPL, I was diligent offering opportunities for all interested parties to discuss the issue of OHV regulation in Nevada. The members of the LCPL were impressed with the desire of interested parties to collaborate and work on this legislation. Through the efforts of a working group, consensus was reached on many components of OHV registration and regulations. The LCPL is pleased to support S.B. 394 because it is an important measure. It is an accumulation of two years of hard work and cooperation. The bill addresses OHV regulations and is a positive step for Nevada for OHV users, the environmental community and OHV dealers. This is the fourth time this issue has been before the Nevada Legislature. Everyone is working together and it looks positive.

CHAIR SCHNEIDER:  
It looks better this year.

JEREMY DREW (Coalition for Nevada's Wildlife):

I helped coordinate the OHV Working Group and I support S.B. 394. My testimony has been given to the Committee ([Exhibit C](#)). The OHV Working Group members, outlined in the handout, consulted with members and individuals in co-groups outside the working LCPL to bring input back to the LCPL.

LEAH BRADLE (Executive Director, Nevada Powersport Dealers Association):

I am a co-coordinator of the OHV Working Group and I am executive director of Nevada Powersport Dealers Association, a nonprofit organization, founded in 2006 to represent dealers in Nevada. I would like to cover sections of S.B. 394. The OHV titling would be mandatory for all new OHVs and resales through authorized dealers, as indicated in sections 5 and 7 of the bill, but it would be voluntary for existing OHVs. The Department of Motor Vehicles (DMV) would be responsible for creating these titles and the fees would be consistent with current vehicle-titling fees and monies would be retained by the DMV.

The OHV registration is referenced in sections 5, 6, 7 and 15 of the bill. All OHVs will be registered annually, with certain exemptions listed in the bill. Annual registration fees are not to exceed \$20. Initial registration would require a copy of the title for a new OHV or vehicle identification inspection and a signature of affidavit of ownership and proof of sales tax paid or a waiver of sales tax signed by the Nevada Department of Taxation. When purchasing a vehicle outside the State, you either pay the sales tax in that state or you pay it upon registering the vehicle in Nevada. Because there is no registration requirement for OHVs in Nevada, people are buying these vehicles out of state, not paying the sales tax because they are a Nevada resident, and evading paying it in Nevada. The Department of Taxation has provided a list of numbers from three audited Utah dealerships showing vehicles purchased by Nevadans with a total value of more than \$16.4 million ([Exhibit D](#)). The total lost revenue is over \$1.2 million.

The OHVs will be assigned a unique number to be displayed on an identification tag consistent with street-legal motorcycle plates. Reciprocity will be given to riders of vehicles registered in other states with similar laws. Those OHVs coming from states without registration requirements will be issued a temporary permit to purchase. Authorized dealers will be able to do inspections and assist DMV with registrations. The first year, 75 percent of the collected fees will be allocated to DMV to cover the start-up cost, and 10 percent will be given to

DMV for the administrative costs. The DMV provided a fiscal note last Session for registration of over 200,000 OHVs; however, we estimate the number now to be over 400,000. The DMV should receive \$3 million in 2010, enough to cover their predicted biennium cost. Revenue each subsequent year should be around \$400,000. This estimate does not include money received from titling.

The next section includes the OHV fund and project grants referenced in sections 8 and 10 of the bill. All money not used to cover the administrative costs will be deposited into a newly created revolving OHV fund. Distribution of the OHV funds will be done through a grant process determined by the newly created OHV Commission. Fund distribution will be set up after DMV's reimbursement portion is taken out. The first year, monies will go to the administration fund and education to the public.

After the first year, 60 percent of the annual fund distribution will go for OHV trails and facilities, mapping, signage, maintenance, construction and restoration of damaged areas. Twenty percent must be used for OHV program enforcement and a grant process. Fifteen percent will be used for OHV education and safety training and five percent may be used for the administrative cost of the fund for the Commission.

The OHV Commission will report to the Legislative Counsel Bureau (LCB) or the appropriate legislative committees every two years to report unfunded expenditures and recommended changes. The purpose of the OHV Commission is to administer the OHV fund and the grant process to promote responsible and sustained OHV recreation and opportunities. The 11 members of the Commission will be comprised of those listed in section 9, subsection 2 and section 10, subsection 1, with an advisory committee listed in paragraph (d), subsection 1, section 10. Officers of the Commission are listed in section 10, subsection 1, paragraph (a). The OHV enforcement is referenced in section 11.

MR. DREW:

The proposed amendment listing changes is in the handout the Committee was given ([Exhibit E](#)). The justification in removing the \$25 administrative fine is for the people who may not operate their OHV in a given year. Section 5 is changed for out-of-state OHV users not paying more than a resident for a permit, because of reciprocity with that state. Section 8 is changed to ensure there are sufficient funds for law enforcement. Section 9 changes vehicles to

motorcycles because they are the majority of sanctioned racing events. Section 10 is a clarification between State and federal agency concerns.

SENATOR LEE:

Are you the author of this bill or is the LCPL?

MS. BRADLE:

Yes. The bill was drafted from our OHV Working Group recommendations provided to the LCPL.

SENATOR LEE:

I like this bill and hope we do something with it. I have a problem with some groups not being represented in the 11-member Commission. There are people in archeology, ecology, backcountry horse associations, backcountry hunters associations, anglers' associations, Audubon Society, mountain bikers and hikers out there using all-terrain vehicles (ATVs) to get to their site or their recreation who are not represented. They are not using ATVs for trail use. I would like to add a new paragraph to subsection 2 of section 9 that reads, "One member appointed by the Governor who is representative of an organization that represents persons who use off-highway vehicles, to participate in recreational activities." My goal is to see that other people besides the four rock crawlers are represented. I will offer that amendment to involve more people to work on this bill.

CHAIR SCHNEIDER:

Will you give that proposed amendment to Mr. Nichols?

SENATOR LEE:

Yes, I will.

SENATOR CARLTON:

I have a problem with one of the indicated associations being able to approve a name being forwarded. There are a lot of people passionate about this issue who may not be a member of an association. I would not like to see them not have access to this OHV Commission because they are not paying membership dues.

MR. DREW:

When the OHV Commission was organized, we did feel someone not involved in a group should be able to sit on the OHV Commission. It is not a requirement that you have to be a part of an OHV group, only that you have a letter of recommendation. Anyone can approach a recognized group to apply for a letter of support. Several positions are available. This will be an open and transparent process for public input. As a sportsman, I am not an OHV enthusiast.

SENATOR CARLTON:

I will disagree about having to have a letter from someone in order to submit your name. If it is a process open to the public, you should not have to ask someone else for permission. It is hard enough to find volunteers without having them go through that process.

This organization should not decide where the registration and titling fees should go. The DMV should use the monies in their operating funds. To take a portion of the monies and designate it to this fund can be problematic. Delineating the money by percentages can cause barriers in the future. If a problem or issue should arise that may not fit one of the categories, statutorily you would not be allowed to address it. When you get specific about legislation, you limit what you can do.

The Division of Forestry, and the Division of State Parks of the State Department of Conservation and Natural Resources, the U.S. Bureau of Land Management and other entities know the highest and best needs for their particular agencies and what is best for the State. Projects should go through these agencies before they go through the OHV Commission. These agencies would know how this money could be used to leverage other federal and state dollars. You have the process reversed. How did you come up with this way, and would you consider reversing the process?

MR. DREW:

This was a collaborative process with an array of interest from conservation people, environmental folks and OHV enthusiasts. The percentages were developed as a check and balance. These projects would be happening on public lands. When an agency or individual applies for a grant, the application would go through the pertinent agencies that would know of issues in terms of threatening an endangered species, ecological or cultural sites. The OHV Commission would know whether or not there were any issues associated with

that project. They would not allocate money to a project that might encounter a hitch. We are looking for inputs to minimize any problems down the road and make more economical use of our money from the fund.

MS. BRADLE:

Those state and local agencies would be able to apply for a grant through the process for important issues.

SENATOR CARLTON:

This has been a contentious issue. The Division of State Parks has an issue that needs to be addressed at Lake Tahoe. There is an important water-quality project that could be done. Would they be in competition with the private folks for these monies? You would have to decide on competing projects. One project might be a private issue for one person and another project would be an issue for public use. How would these decisions be made?

MR. DREW:

If State Parks had a water-quality project, they would know who to contact and would file a grant application under a restoration or rehabilitation project. They would know if the project could be completed or if there were any hitches. They would submit the grant application to the OHV Commission. The advisory committee would also be able to provide input from a technical standpoint and the OHV Commission would determine if that project would get funded. It would be a competitive-grant process versus a private individual who may be applying for that same money.

SENATOR CARLTON:

There may be some very important projects that could have long-term effects on the State. The private citizen or group should work with that agency to make sure that whatever project they ask for, it was not going to be in contradiction to what the State was trying to accomplish. It is a competitive process and I would hate to see one project do damage to another. That would be my only concern. I think one of the federal, state or municipal entities should have some type of input to determine if this would be a bad idea.

MR. DREW:

This is also the concern we have. The information in *italics* is what we would amend section 10, subsection 2 as shown on page 2 of [Exhibit E](#).

By following the procedure illustrated in [Exhibit E](#), we are encouraging up-front collaboration in addressing any of those issues and the OHV Commission can make a more informed decision.

SENATOR CARLTON:

The only concern I have is the consulting part and not the collaboration. I can consult with anyone and still go off and do whatever I want. I would hate to see these projects get tied up and become contentious. We want to make it clear and straightforward to allow these projects to be completed.

MR. DREW:

We have two written testimonies from OHV Working Group members who could not be here today ([Exhibit F](#) and [Exhibit G](#)).

CHAIR SCHNEIDER:

They are submitted for the record.

MICHON R. EBEN (Cultural Resource Manager, Reno-Sparks Indian Colony):

The reasons the Reno-Sparks Indian Colony supports S.B. 394 are found in my handout ([Exhibit H](#)).

ERNIE ADLER (Reno-Sparks Indian Colony):

After consulting with Indian colonies throughout Nevada, it was determined that off-road drivers are causing dust problems on the reservations. They sometimes drive off U.S. Bureau of Land Management (BLM) land onto the reservations. A person last Session made a 1-mile race track 30-feet wide with a bulldozer, scarring the desert next to Hungry Valley. This is what we are trying to avoid. The federal government prosecuted that individual.

JOHN KOEHM (Back Country Hunters & Anglers):

When I go hunting and fishing, I backpack in on horses several miles from the road. I have been displaced from my usual hunting areas by other's irresponsible use of OHVs. I do not use an OHV, but I have no problem with the responsible use of one. Most OHV operators are law-abiding and responsible. There are a few OHV drivers who are destroying habitat and displacing hunters. We need identification on OHVs to identify offenders and enforce regulations. I hope some of the funds will be used for restoration of damaged areas and to renew habitat for wildlife.

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CHAIR SCHNEIDER:

Are you speaking for the Backcountry Hunters and Anglers?

MR. KOEHM:

Yes, I am a member.

CHAIR SCHNEIDER:

Are you speaking for all of the other members?

MR. KOEHM:

No, I am speaking for myself. I just happen to be a member.

DOUG BUSSELMAN (Executive Vice President, Nevada Farm Bureau Federation):

We are here today to speak in support of S.B. 394. The OHV Working Group has incorporated history and ideas into making a workable solution. We urge you to pass S.B. 394.

BJORN (BJ) SELINDER (Public Policy Innovations, Limited Liability Company):

I am representing Churchill, Eureka and Elko Counties and I would like to express our support for S.B. 394. This project has been going on for a long time. We are pleased to see there is a resolution to this issue.

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

We were approached early in the process by this coalition asking for our input. I have been working with them. Our concern is the anonymity associated with not requiring license plates for those individuals operating OHVs. The majority of the folks ride conscientiously. We do have problems with some folks. I spoke on this issue in Washington, D.C., last summer to the U.S. Senate Committee on Energy and Natural Resources about trying to identify OHV riders who are causing problems. There is no standard way to identify OHVs for recovery and theft issues and for identifying people doing things inappropriately. There is a difference on how laws are applied for National Monuments, National Parks, Forest Service and BLM and for state lands. Law enforcement feel tagging is important and we would like to go on record supporting S.B. 394.

SENATOR CARLTON:

Will the plates for these vehicles go through the same process, with the approval of the Nevada Highway Patrol (NHP), as other license plates?

MR. ADAMS:

We are concerned that it is the same size as a motorcycle plate so we can read it. Wyoming has a similar motorcycle-sized plate. The DMV and NHP should approve those plates.

SENATOR CARLTON:

We need to see that this bill includes that component. We want law enforcement to be able to read the plate.

KAREN BOEGER (Backcountry Hunters & Anglers):

To be effective, this bill needs a few changes and additions as outlined in my handout ([Exhibit I](#)). The Nevada Sheriffs' and Chiefs' Association (NSCA), NHP or an entity used to dealing with enforcement and safety issues should approve the location, size and plates for OHVs, not the OHV Commission. The New Mexico state senate commissioned a report addressing OHV recreation in their state and recommendations to improve management in their programs. They recommended their motorcycle-size plate have the identification letters larger and bolder as shown on Ohio's motorcycle plate, page 4 of [Exhibit I](#). With this type of plate, people should behave more responsibly through peer enforcement and citizen reports. This is a key component that needs to be specified in this bill.

Many of our members are ATV owners who use OHVs, not as a focus of their recreation, but to access the areas they recreate. They feel they represent the majority of ATV owners. It would be interesting to find out from dealers what percentage of riders use them for access or as a recreation vehicle. The people who use them for access are the people who will be contributing the most money to the OHV fund, yet the bill, as it is written, does not represent them or their interests on where those funds will be distributed. The five off-road vehicle representatives are to be from organized recreation groups, or recommended by them. That OHV Commission will decide how those funds will be distributed within certain percentage parameters. The type of ATV owner such as our members are not interested in funding special trails and areas, but are interested in funding management to help the public lands agency with their travel-management plans and to get routes designated for use, to get those plans facilitated, to do restoration of authorized routes and to effectively enforce the regulations. These are valid concerns and our remedies are simple, if you will address them.

SENATOR NOLAN:

Have you tried to get together with this Committee and, if you have not, why have you not?

MS. BOEGER:

Yes, we have been in contact with them and spoke our concerns. We were told they did the best they could and could not help us. None of our people were a part of that group, nor were we invited.

SENATOR NOLAN:

There were many people involved in that group with different perspectives. If they said it was the best they could do, it might be true. If we can get this bill through, we can address your concerns later in an open and public forum. I am not willing to do something that might jeopardize this bill.

SENATOR CARLTON:

Are you opposed to this bill, or do you just have some concerns?

MS. BOEGER:

I am not opposed to this bill. I want this bill to happen.

K. NEENA LAXALT (Government Relations Consultant, Nevada Cattlemen's Association):

The Nevada Cattlemen's Association supports S.B. 394 as outlined in my handout ([Exhibit J](#)).

CHRIS MACKENZIE (Attorney, Rural Nevada Alliance):

I am here on behalf of the Rural Nevada Alliance and have participated in the OHV Working Group. This bill does not express any one person's individual concerns. It is important that all users are kept on the table and kept involved. It is possible to have a private contractor handle the fees if it would alleviate the fiscal impact on DMV.

JOE JOHNSON (Government Affairs Consultant; Coalition for a Sustainable Nevada; Sierra Club):

I am here to represent the Coalition for a Sustainable Nevada and the Sierra Club, which is a member of the Coalition. The Coalition participated in the OHV Working Group. This is a compromise bill with stakeholders and interested

parties. It is not perfect for any one interest, but it is best for Nevada, citizens' recreational pursuits and resources. We support S.B. 394.

RANDY McNATT (Backcountry Hunters & Anglers):  
I support S.B. 394 and my testimony has been handed out with my concerns ([Exhibit K](#)).

SENATOR CEGAVSKE:  
Do you have any suggestions for the funding and membership? Have you thought about that?

MR. McNATT:  
Not extensively. Will it be made up of 11 persons?

SENATOR CEGAVSKE:  
Correct.

MR. McNATT:  
I have not seen the list of agencies comprising this. If State and federal land management services, such as the BLM and the Division of Forestry are on the list, it is okay. The advisors should be selected by those government agencies, not by the OHV Commission.

SENATOR CARLTON:  
We have listed: a member, who is a sportsman, appointed by the Governor from a list submitted to him by the director of the Department of Wildlife; a rancher appointed in the same manner by the director of the State Department of Agriculture; someone is submitted by the State Department of Conservation and Natural Resources and others are submitted by other agencies. Will that address your concerns?

MR. McNATT:  
Yes.

SENATOR CARLTON:  
Would you like more everyday people like you on it?

MR. McNATT:  
That would be a good idea.

SENATOR CEGAVSKE:

Do you think it would be all right having those people from State agencies facilitating the monies?

MR. McNATT:

Yes.

SENATOR LEE:

I am concerned about the part that replaces trails. There are trails around Lake Tahoe that could use environmental assessment and environmental-impact assessment. There are other trails on private property, having been used for a hundred years, called prescriptive rights trails that should not be replaced for obvious reasons. People who have purchased these properties understand those trails would remain for public use.

MICHAEL PAYNE (Motorcycle Racing Association of Nevada):

I am a member of the OHV Working Group and I represent the Motorcycle Racing Association of Nevada (MRAN) North and MRAN South. We support S.B. 394. It is not tailored for us, but I feel it is fair and accurate.

WES HENDERSON (Government Affairs Coordinator, Nevada Association of Counties):

I would like my written testimony made part of the record ([Exhibit L](#)). A copy of the resolution Nevada Association of Counties adopted in 2007 in support of responsible use of OHV is also submitted ([Exhibit M](#)). We support S.B. 394.

SENATOR CEGAVSKE:

Do off-road vehicles have to be transported?

SENATOR CARLTON:

We passed a bill two or three sessions ago that allows OHVs to access a public highway for a short period of time to allow them to cross the roads, go around the corner, to get gas, to get to the campground and to do other things. They are not supposed to abuse the privilege and they will get a citation if they are caught going too far.

FARROKH HORMAZDI (Deputy Director, Department of Motor Vehicles):

My written testimony has been handed to the Committee ([Exhibit N](#)).

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SENATOR CARLTON:

Do you have a list of concerns we can work on in the interim?

MR. HORMAZDI:

I have the rest of the speech in my handout ([Exhibit O](#)). On page 2 of [Exhibit O](#), I would like to emphasize the OHV dealers are to be regulated like the automobile dealers to protect the consumer. I did not find this in any part of the bill and it should be included.

ALLEN BIAGGI (Director, State Department of Conservation and Natural Resources):

We support S.B. 394 and are a part of the advisory part of the committee.

WAYNE FISCHER (President, North Tahoe Snow Travelers):

I am a member of California/Nevada Snowmobile Association and president of our snowmobile club in North Lake Tahoe. I support S.B. 394. We could use more signage defining the boundaries for snowmobiling areas, more law enforcement, more trail maps and public education.

DAN HENZ (Backcountry Hunters & Anglers):

I am retired from the U.S. Forest Service where I managed intensively used off-road areas. I am here as a member of the Backcountry Hunters & Anglers. There are some missed opportunities with federal funding through the federal Recreation Trails Program covering what S.B. 394 is supposed to cover under section 8, subsection 3, paragraph (b), subparagraph (1), sub-subparagraphs (II), (III), (IV) and (V) of the bill, including mapping, acquisition of land, maintenance and construction of trails. The Division of State Parks has \$500,000 ready for applications.

The New Mexico state senate has a report on off-road vehicle management, [Exhibit I](#). They researched all states to get information available on OHVs. No amount of education or management has had any record of success with these programs without vigorous enforcement. I see an opportunity to reduce those four items I mentioned previously in the bill and let the federal funds take care of that. The federal funds are restricted for what is appropriated and none of the federal monies can be used for law enforcement. It is an opportunity to divert more funds to law enforcement.

Proposals need to go through the advisory committee before it goes to the citizen's OHV Commission. The problem occurred in the Recreation Trails Program when an applicant went to the Commission before getting approval from the U.S. Environmental Protection Agency. We were in contact with the OHV Working Committee after commitments were made. We never had the opportunity to participate in the compromise process. The chair of that committee told me the nonmotorized users did not have representation in that collaborative group. Many in the group shared our viewpoints but nobody defended our viewpoint.

ROB BUONAMICI (Chief Game Warden, Department of Wildlife):

We are in support of S.B. 394. We have a statewide boat education program and can offer our services for any education necessary. Many of the sportsmen we contact use ATVs. Our concern is fiduciary. We have 34 game wardens throughout the State. Additional bodies without additional money will be a challenge.

SENATOR NOLAN:

Do you see a large demand for additional services from the Department of Wildlife?

MR. BUONAMICI:

Yes. Our officers are in the areas where OHVs are used. There will be a public expectation for our agency, to which we are committed, to take enforcement action when someone reports a violation through the identification of the vehicle's license plate. We will not be in a position to say we do not have time.

SENATOR NOLAN:

We should be looking at additional federal funding as previously suggested.

VICE CHAIR CARLTON:

On page 7 of the bill, line 15, "... (2) Twenty percent of the money may be used for law enforcement, as recommended by the Office of Criminal Justice Assistance of the Department of Public Safety, or its successor." They are allowed to share these monies with law enforcement all over the State if they are involved with doing this type of work. Are you aware of this office and have you worked with this office before?

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MR. BUONAMICI:

We are aware of that office, but have not worked with them.

VICE CHAIR CARLTON:

This may be a way for your men to pick up overtime money. I wanted to make sure this money can be used for federal, state and municipal law enforcement concerns.

I will close the hearing on S.B. 394 and open the hearing on S.B. 359. Chair Schneider is absent and excused from participating in this bill.

**SENATE BILL 359**: Requires certain governmental entities to work cooperatively to establish the Henderson to North Las Vegas Fixed Guideway Corridor. (BDR S-1238)

JACOB SNOW (Regional Transportation Commission of Southern Nevada):

I testified earlier on this bill at the joint meeting of the Senate Committee on Energy, Infrastructure and Transportation and the Assembly Committee on Transportation on March 10, 2009. With the Chair's permission, I will transfer my testimony, Exhibit F from that meeting, to today's meeting ([Exhibit P](#)).

SABRA SMITH-NEWBY (Clark County):

Clark County is generally supportive of mass transit and moving people faster and more effectively. However, we have a concern with the possible cost of acquiring the rights-of-way. I realize the bill does not mandate that, but it is a concern, particularly in these economic times.

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

We echo Clark County's comments. We are a strong proponent of this issue; it is going to increase our connectivity with different areas in the region and reduce congestion. However, there is the concern in these tough economic times about how this right-of-way is going to be acquired and exactly what this cooperative effort means. Further testimony would help us determine which direction we should move with this bill.

SENATOR LEE:

This is a great bill for our community.

SENATOR TOWNSEND:

The following items need to be addressed in S.B. 359. We need a certain date when this collaborative effort is finished, to which entity it will be reported, the history of the meetings, who was involved, the conclusions, why they think that is the best way and all the sources of funding in order to finalize this work.

SENATOR CEGAVSKE:

Before I make a decision on how I vote on this bill, I would like to know the fiscal impact. Can the local entities get back to me on that? Is the money from the State a part of the plan? Is the issue because of State dollars? Is there federal money available? Is the intent for job creation as well as better traffic flow?

VICE CHAIR CARLTON:

We would like someone to address these concerns. We will close the hearing on S.B. 359.

CHAIR SCHNEIDER:

We will open the work session and open the hearing on S.B. 258.

**SENATE BILL 258**: Requires owners of industrial or commercial buildings to make certain disclosures. (BDR 58-790)

SCOTT YOUNG (Committee Policy Analyst):

The amendment in your packet is proposed amendment 3525 to S. B. 258 ([Exhibit Q](#)).

SENATOR CEGAVSKE:

I believe all issues have been addressed with all the entities.

BOB GASTONGUAY (Executive Director, Nevada State Cable Telecommunications Association):

I support S.B. 258.

SENATOR LEE:

Does this cover the whole property? Yes, it covers the whole property.

SENATOR LEE MOVED TO AMEND AND DO PASS S.B. 258.

SENATOR CARLTON SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR TOWNSEND WAS ABSENT FOR THE VOTE.)

\* \* \* \* \*

CHAIR SCHNEIDER:

We will open the hearing on S.B. 251. The Committee Policy Analyst will be speaking for the record. Senator Copening's concerns are in mock-up amendment No. 3548 dated March 24, 2009 ([Exhibit R](#)).

SENATE BILL 251: Revises certain provisions governing tow cars. (BDR 43-1115)

MR. YOUNG:

In your binder we have put out the, as we usually do, all the prior amendments. There was one from Michael Geeser of AAA and you have that, excuse me, you do not have that, but I just wanted to note that, that had been presented at the hearing and then Senator Copening had presented an amendment. However, Senator Nolan has worked with Mr. Geeser and Senator Copening and Senator Nolan is now offering the color mock-up amendment that you have in your packet, it's number 3548 dated March 24 which incorporates Senator Copening's concerns and I believe also, Mr. Geeser's. And therefore, we only put Senator Nolan's amendment into your binder and that's the one that's immediately behind the little introductory piece about the bill itself.

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

Senator Copening's amendment is self-explanatory. In section 2.5, we deleted section 2, which was Mr. Geeser's amendment. Law enforcement had a concern with flashing lights from anywhere other than the immediate proximity of a traffic accident or a traffic hazard. They were concerned that some of these drivers would be running a longer distance with flashing lights, requiring people to yield.

SENATOR CARLTON:

I do not see my concern about the misdemeanor addressed.

SENATOR NOLAN:

The misdemeanor law was already in place. In 2006, it was made a misdemeanor. There were a rash of accidents involving emergency personnel on the scene or in the process of pulling people over. That language mirrored language that was already in another part of the statutes that protected all emergency people who were on the scene of an accident or assisting with roadside hazards. Law enforcement says they rarely cite people who do not get out of the way. If someone crashes into a scene of an accident or threatens the workers by driving recklessly, there are a lot of other violations they can be cited for. That is why we did not do anything with that.

SENATOR CARLTON:

I have concerns about the misdemeanor resulting in 6 months in jail or a \$1,000 fine for not changing lanes because the AAA person is changing a tire. This is a stiff penalty for a nonemergency situation.

SENATOR NOLAN:

This issue was debated in both houses in 2006 because of a rash of accidents. I do not remember how either of us voted.

SENATOR CARLTON:

That was in an emergency situation. Now it involves a nonemergency situation in this penalty structure.

SENATOR NOLAN:

I think that was an existing one, but I defer to the Committee Counsel.

SENATOR CARLTON:

We are adding tow truck drivers for protection in a nonemergency situation.

SENATOR NOLAN:

I think it was there before. If not, we will remove it because it was not our intention to add something new.

MATT NICHOLS (Committee Counsel):

The penalty for violating section 3 of the bill is a misdemeanor. That was the original language of that provision when it was enacted. I'm not trying to argue with Senator Nolan, I think it was actually 2003. So it's been on the books even longer. We could

certainly, if you wanted to discuss bifurcating the penalties, based upon whether it's a tow truck on the side of the road or an emergency vehicle. That is something we could draft.

SENATOR CARLTON:

Tow truck drivers and nonemergency situations were not included in the original legislation.

MR. NICHOLS:

"No ma'am, that's correct. We're adding tow truck drivers in this bill. Well, it's in the original bill, it's not an amendment to this bill."

SENATOR NOLAN:

Is that language not already in statute? Does that not already apply to tow truck drivers in statutes?

MR. NICHOLS:

"No, that's not my interpretation of it."

SENATOR NOLAN:

That was not my intention with this bill. You may offer an amendment to remove that provision. The life of a tow truck operator and emergency-vehicle operator is just as relevant as a police officer and fire fighter. In the interest of moving the bill, I will accept an amendment.

SENATOR CARLTON:

There already is a law in the statutes requiring you to move over if there is someone on the side of the road. It is a moving violation, it would be points on your driver's license. That addresses the problem without coming to the level of an emergency situation. Those two situations need to be classified independently.

SENATOR LEE:

Does that bill encompass a school bus broken down? It says a tow car; what about tow truck? Does it cover everything?

MR. NICHOLS:

Senator Lee, I think that is correct. If you could give me just a minute, I'll pull the definition up for you. My understanding is that

tow car is the term for all vehicles that do towing operations, but, if you give me just a second, I'll read it off to you.

SENATOR NOLAN:

Would it be your intention to delete lines 28 and 29 of page 3 of the bill, "A person who violates subsection 1 is guilty of a misdemeanor"?

SENATOR CARLTON:

If Mr. Nichols thinks that is the best way to address it, or we can bifurcate it. I do not want to slow down the bill. We could offer a Floor amendment to keep this bill moving. Whatever works best for the Legislative Counsel Bureau.

MR. NICHOLS:

Senator Carlton, I can't speak for Legal Division across the board, but I know that, but I know that making a change to this bill or this proposed amendment wouldn't be onerous on the drafting staff. I just need clarity on exactly what penalty you want to apply if a person violates the section with regard to an emergency vehicle and if there's a, if you want a separate penalty for violation with regard to a tow car. What penalty you want, so it's just a matter of the specificity of the amendment request.

SENATOR CARLTON:

It is the existing penalty.

MR. NICHOLS:

"Just the generalized violation of NRS chapter 484?"

SENATOR CARLTON:

I believe so. I do not want to touch the emergency situations.

MR. NICHOLS:

I think it would just require some massaging of the language in the bill to set out that violation with regard to a tow car as a moving violation and a violation with regard to emergency vehicles as a misdemeanor. So the bill might actually, the section would look a little different than it does now, but, if that's the intent, that's easy enough to capture.

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SENATOR CARLTON:

With the sponsor's permission, go ahead and do that, then we will take a look at it.

SENATOR CARLTON MOVED TO AMEND AND DO PASS S.B. 251.

SENATOR CEGAVSKE SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR TOWNSEND WAS ABSENT FOR THE VOTE.)

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CHAIR SCHNEIDER:

We will address S.B. 217 in our next work session.

**SENATE BILL 217**: Enacts provisions relating to the Department of Motor Vehicles and registration under the federal Military Selective Service Act. (BDR 43-119)

CHAIR SCHNEIDER:

We will now be hearing S.B. 136.

**SENATE BILL 136**: Prohibits certain persons from using a telephonic device to write, send or read a text-based communication while operating a motor vehicle. (BDR 43-776)

MR. YOUNG:

You have all the proposed amendments that were received. The first proposed amendment was from Frank Adams on behalf of NSCA ([Exhibit S](#)). Another proposed amendment was from Mr. Geeser on behalf of AAA ([Exhibit T](#)). Senator Townsend has a color mock-up amendment dated March 9, 2009, number 3427 ([Exhibit U](#)) and Senator Breeden has a proposed amendment number 3423 dated March 11, 2009 ([Exhibit V](#)).

SENATOR LEE:

I am not in favor of Frank Adams proposed amendment [Exhibit S](#). Senator Breeden's proposed amendment is the best proposed amendment and I would like to make a motion on that amendment [Exhibit V](#).

CHAIR SCHNEIDER:

Are you only proposing Senator Breeden's amendment?

SENATOR LEE:

I looked at Senator Townsend's proposed amendment [Exhibit U](#), but I do not agree with the 21-year age limit, I think it should apply to all drivers. The "full time and attention" did not make sense to me because of the perspective of what is happening at that time and could be broadly interpreted.

SENATOR BREEDEN:

I have worked with all the parties that had concerns. We addressed the handheld device excluding cell phones. This is only related to text messaging, not dialing a telephone number. We addressed the definition of operating a motor vehicle in subsection 1 of section 1, to include being stopped at an intersection, because it is a traffic control signal and a stop sign, as defined in NRS. We decided no one should be exempt, including law enforcement, fire fighters and emergency personnel. We included all age limits. We added the \$100 fine. On page 2, section 2, subsection 2, we added a definition of telephonic device. This applies to handheld devices only for making text messages.

SENATOR CEGAVSKE:

Is the amendment regarding roadside-assistance personnel not needed?

SENATOR BREEDEN:

Their concern was not being able to use their equipment, but because of the definition of a handheld telephonic device, they no longer have concerns.

SENATOR CARLTON:

I am concerned when emergency personnel are eliminated from the texting provision, because they text now rather than using the phone or by using their laptops.

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SENATOR BREEDEN:

It originally said they could use their handheld telephonic device. They cannot text on their cell phone while driving, but they can use their computer.

SENATOR CARLTON:

I am supporting this bill to get it out of Committee. I may not be affirmative while it is on the Floor.

SENATOR LEE MOVED TO AMEND AND DO PASS S.B. 136.

SENATOR BREEDEN SECONDED THE MOTION.

THE MOTION CARRIED (SENATOR TOWNSEND WAS ABSENT FOR THE VOTE.)

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CHAIR SCHNEIDER:

There being no further business, the Senate Committee on Energy, Infrastructure and Transportation is adjourned at 10:50 a.m.

RESPECTFULLY SUBMITTED:

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Sandra Hudgens,  
Committee Secretary

APPROVED BY:

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Senator Michael A. Schneider, Chair

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