

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

**Seventy-fifth Session  
April 2, 2009**

The Senate Committee on Energy, Infrastructure and Transportation was called to order by Chair Michael A. Schneider at 8:28 a.m. on Thursday, April 2, 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  
Senator Dean A. Rhoads, Rural Nevada Senatorial District

**STAFF MEMBERS PRESENT:**

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

**OTHERS PRESENT:**

Mary Conelly, State Director, U.S. Senator Harry Reid  
Jonathan R. Peters, Ph.D., Associate Professor of Finance, City University of New York; Research Fellow, The University Transportation Research Center—Region II

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Erin Russell Hayes, Boyd Gaming Corporation  
Major General Billy McCoy, USAF, Retired, Nevada State Director, Selective Service System  
Rusty McAllister, Professional Firefighters of Nevada  
Tom Roberts, Lieutenant, Las Vegas Metropolitan Police Department  
Tim Kuzanek, Lieutenant, Washoe County Sheriff's Office  
Greg Gammon, Chief, Las Vegas Fire and Rescue  
Dennis Colling, Chief, Administrative Services Division, Department of Motor Vehicles  
Farrokh Hormazdi, Deputy Director, Department of Motor Vehicles

CHAIR SCHNEIDER:  
We have a couple of presentations today. The first is from Mary Conelly.

MARY CONELLY (State Director, U.S. Senator Harry Reid):  
When we previously spoke before a joint committee, we had very little specific information about the stimulus package. We, like the state agencies and Legislature, are still trying to find out all the details so we can access as much stimulus money as possible for the State. We have now produced a guide to the stimulus money ([Exhibit C](#)). The purpose of the guide is to break down all the sections of the stimulus package and show where the money is going and who is administering it at the federal level. We may be making changes to this guide as the federal agencies figure out what they are doing.

CHAIR SCHNEIDER:  
The section here is just energy, [Exhibit C](#). Transportation and other sections would be in a different portion. Our next presentation about toll roads is from Jonathan Peters.

JONATHAN R. PETERS, PH.D. (Associate Professor of Finance, City University of New York; Research Fellow, The University Transportation Research Center—Region II):  
I will talk about the issue of how to use alternative forms of road funding: toll roads, user fees, road taxes, etc. I have spent the last ten years of my career studying toll roads and toll-road operations. The presentation I will be showing you today ([Exhibit D](#), original is on file in the Research Library) is a composite of my work over the last ten years.

The major funder for roads and transportation infrastructure is fuel taxes. The federal government and state governments collect roughly \$90 billion a year in fuel taxes. Tolls are an ancillary form of funding. Roughly 7 percent of the funding source for roads comes from tolls, while the other 93 percent is from fuel taxes and other taxes on vehicles. Nevada collects about \$206 million in fuel taxes at the federal level, with about \$438 million in local and state gas taxes and about \$619,000 in tolls.

Valley of Fire State Park—as reported by the federal government, so I accept it at face value—is the only place that collects a toll at this time in Nevada. Unfortunately, I am from an area where there are heavy toll burdens; 25 percent of the tolls in the nation are collected in or around New York City. In my particular area, roughly \$2.5 billion to \$3 billion a year in tolls are collected. Personally, I pay about \$1,200 a year in tolls. I have firsthand experience using toll facilities as well as a research interest in understanding how they function. Early in the history of Nevada, there were a number of toll roads. Like most of the country though, Nevada moved away from that as most tolling was replaced in the United States with fuel taxation.

Fuel taxation is a very efficient tax. It is collected high in the system. It is usually collected from the refinery or the distributor. If you look at the federal government's tax collections on fuel, only about 1,800 different entities pay the tax. The list contains names like Sunoco Incorporated and Exxon Mobil Corporation. There are few checks and they are very large. The tax is collected at the rack. When they distribute fuel, they use a weighting process. They put the fuel in the tanker truck and then weight it to bill somebody. At that point, the federal, and, in most cases, the state gas tax is paid.

When looking at forms of taxation, you want to think about the cost of collecting. The collection costs for a fuel tax, the actual cost of raising the money and who pays the tax burden, is generally very efficient. Most of the fuel taxes in the United States are collected for between 1 and 3 percent of the tax.

The cost of collection is split into three different areas. The first is administrative costs. This is the cost of running the collection process from the agency perspective. For instance, the Internal Revenue Service (IRS) collects the national fuel tax. In doing so, they have costs involved with sending out bills, collecting funds and checking information. The second area is compliance cost. Since we are getting close to April 15, everyone knows you spend a lot of time

filing taxes; that is your cost. It is not a cost the government holds, but it is a cost that goes to the user of the tax system. This includes things like time wasted in the process of filling out forms and such. It is not just governmental cost, but costs to local residents and taxpayers. The last is the social cost, which is the cost that goes beyond the actual taxpayer; costs carried over to people outside the user or agency.

The benchmark for an efficient revenue collecting system is about 3 percent. Anything costing more than 3 percent is probably an expensive way. That is based against the federal income tax which is collected with about a 1-percent collection cost and about a 2- to 3-percent compliance cost. The fuel tax on a national level is less than 3 percent. Most of the states collect their gas tax with less than 3 percent costs. We have looked at this across a number of different toll-collecting agencies as well as different forms of taxation systems.

In table 5, [Exhibit D](#), along the top are the three different gas taxes. This is 1999 and 2000, but the data has not changed much. The federal income tax is a very efficient tax. The IRS is good at what it does. It collects the federal income tax, about \$2 trillion, with a 0.41 percent collection cost. Again, there are relatively fewer collections and higher dollar amounts. You and I waste about 3.2 percent of that amount filling out all the IRS forms. On the state level and national level, the IRS collects the national gas tax at about a 0.26-percent cost. They collect about \$19 billion with about a \$51-million cost.

The state gas tax is interesting. I believe Nevada allows the people who collect the gasoline tax to retain a certain percentage of the money. The administrative cost in most states is about 1 percent. The hold-backs, or the compliance cost, is about 2 percent. In most cases, of the distributors I have talked to, the distributors like this system. They like the 2 percent they get to keep. They collect the money for the state and keep 2 percent for their administrative efforts. If you ask them to give it up, they usually say no, which is a good indication it cost them less than 2 percent to collect the money.

On the bottom of table 5, [Exhibit D](#), are a number of different toll agencies. In most cases, they collect relatively smaller amounts of revenue with an approximate administrative cost of collection of between 12 and 18 percent. This is because each toll collection is small and there are a large number of them. That creates a lot of effort into the actual collection. In addition, things like violations become very important because people will choose not to pay. If

they evade for any reason, you need a collection process and a management process.

In a paper we published in 2003, we estimated the social cost, which is the cost of time wasted in the process. We found about an extra 17-percent cost through the process of delays caused by the tolling system. The Garden State Parkway is one of the few tolls for which we have a good measure of the social costs. About 35 percent of the dollars collected on the Garden State Parkway are utilized, or wasted if you will, in administrative compliance and social costs. That is a pretty high cost for collecting revenue. If your primary goal is to gather revenue, it is an expensive system.

We also want to take a look at the comparative performance. The question is, relative to the IRS, what about tolling? Tolls are very old forms of taxes. Many of the roads in the United States prior to 1910 were built with a toll system, but then federal and local fuel taxes took over as a major source of funding. Tolls account for about 5 percent of funds. When you talk to the federal Department of Transportation about how they fund roads, they talk about bonding. From my perspective, bonding is not a revenue source, but a financing mechanism. Sometimes people use the term user fee; I am going to talk about tolls as a tax, because the question is where does the money go once you collect it?

If you want to rank the states, unfortunately for me, I come from "toll land." New York is first on the list at about \$1.9 billion, [Exhibit D](#). That will probably be about \$2.4 billion this year as they just increased tolls. In the area I live in, there are bridges with a \$6.50 one-way toll. It is a significant burden in the area. New Jersey is number two, Pennsylvania is fourth. The top 3 states account for about 50 percent of the nation's tolls. The burdens are rather heavy and tolls have other impacts because they are a significant cost for businesses and households in the region. Nevada is about number 37 on the list, with 17 states collecting no tolls. The map titled, "2000 Toll Collection State Ranking Based on Data from the Federal Highway Administration," [Exhibit D](#), shows the burden across the country. Most of the western states have low toll burdens. If you add Florida, New York, New Jersey, Pennsylvania and Illinois you have the major toll states. These numbers on the map are in thousands of dollars a year, so Nevada is between \$0 and \$800,000 a year in tolling. It is unevenly distributed. From a competitive perspective, it is difficult for certain businesses to locate to New York. If it is a trucking firm or logistics firm, the cost of doing business is radically different in different parts of the state,

depending on whether or not you have free routes. If you are deciding about where to locate a new manufacturing plant, you will think about the cost to bring goods into your factory and then take stuff away.

David J. Forkenbrock, an economist at the University of Iowa, laid out a set of standards on toll collection and on revenue generation systems in general. His standards are a good set of rules. His rules are as follows, [Exhibit D](#):

(a) is capable of ensuring a stable stream of revenue to provide adequate funding for the U.S. road and highway system and (b) has a series of other desirable qualities. These other qualities include a low evasion rate, efficiency in relation to the cost of collection for the agency and the user, convenience and ease of use, and, above all assurance that the privacy of road users will be protected.

I would also add social justice and equity. There should be consideration about who will be hit with this cost and how fair it will be. This is a good standard to measure any system of revenue collection.

You also must ask what your goals are when thinking about different types of revenue-collection systems. There are different types of tolling systems and they do different things. There are systems with time-of-day pricing or value pricing. Usually that has a flow-management perspective or a flow-management goal. Cordon pricing, most famous in London and talked about in New York City, where you charge a fee to go into congested urban areas, has a goal of managing congestion. Revenue generation is always a big concern; are you trying to support existing facility maintenance and expansion? Revenue generation can also be used for other facilities such as mass transit, airports, port facilities and economic development. In New York City, the two main toll collectors spend about 50 percent of their dollars on non-road infrastructure; either in transit or investments in airports. For those two agencies, about 50 percent of the toll dollars are net profit, above and beyond the cost of providing the services for the user. In other cases, states use tolls to generate money for their general fund.

General tolls are the standard flat-rate tolls. It usually has a volume discount if you use the road frequently. It usually has a geographic discount for residents in a certain area. It may have an electronic toll discount. The key is to look at collecting revenue. The metrics of performance would be like the tax literature.

In the presentation, [Exhibit D](#), is the iconic picture people think of when you talk about tolls. This is a queue—a delay—and this is a typical barrier-type tolling cash system. This creates significant cost other than the cost of collection from an administrative standpoint. I took this picture after waiting about 35 minutes in a toll line in the state of New Hampshire to pay a \$1 toll. This was the middle of summer and all those vehicles were idling. From an air-quality perspective, it is not a particularly good solution.

The other popular type of toll is time-of-day pricing, or peak-period pricing. The idea is to use the fees to manage demand. One objective is to get the demand under control. You give space on the road to the person with the greatest ability to pay. This idea comes back to the idea of equity. Is the person with the highest ability to pay actually the person who is the most valid user of the road? Do you want the road allocated to a nurse going to a hospital during a peak period because it is a shift change and she has to go, versus a high-income individual? You could argue, from a societal perspective, that the user who has the highest reason to use the facility may not be the one who has the highest ability to pay. The benchmarks here are how well you manage the flow and the impacts on social equity.

There are many different forms of time-of-day pricing. Some use a fixed schedule that is established; peak period and off-peak period. Sometimes agencies apply this policy and at the same time raise the fees so it looks like time-of-day pricing but it is actually is a toll increase. You should take a careful look at that. California runs State Route (SR) 91 which is historically based. They look at the traffic flow over a period of time. Then they set the schedule for a period of time and people run against that schedule with a fee structure set by hour. There is also dynamic-variable pricing where you update the flow number continuously and charge higher prices when demand is higher.

The handout contains the SR 91 Toll Schedule, [Exhibit D](#). It has 24 different fees every day. In addition, they have holiday schedules which are radically different. The tolls are all based upon the traffic-flow data. The tolls vary between \$1.25 and \$9.55. This particular segment is a high-occupancy lane, so it is a variable-price lane.

Congestion pricing is popular. It is also called cordon pricing. The idea is you have very congested areas and want to discourage private automobile use in those areas. The key is to manage the congestion in the region. London,

Singapore and Stockholm have all tried congestion pricing. New York City proposed one, but it failed to pass at the state legislature for a number of reasons. In Stockholm and Singapore, you pay a fee each time you enter the city core. In London, Mayor Ken Livingston instituted the plan to manage traffic flow. A map titled, "Central London Congestion Charging zone," is in the handout, [Exhibit D](#). Across the middle of the zone is a non-toll transit road where you can go across the city. Otherwise, anytime you cross the line on the exterior you need to pay a 12-pound fee. If you do not pay the fee—it was very difficult at first to pay the fee because you had to go online—there was a \$150 fine. If you went into London to shop downtown, and had to pay the fine, you are probably going to think a lot about going in again.

In London, you have an indication on the road network stating you are entering the congestion zone. It operates from 7 a.m. to 6 p.m. The ending time was controversial because the theater district did not want it to go later. Some people wanted the time to extend later, but it did not because people could not have gotten into the city, parked and then gotten to the theater. There was a big fear it would impact the theater district in London. The system is enforced by license-plate recognition and it operates on weekdays. About half the money collected with the system is spent on collection and enforcement. As a revenue generator, it has high costs. In terms of traffic-flow management, it has benefits.

There is also vehicle-miles traveled (VMT), where you have an onboard meter. In most cases, this involves a mileage tracker that will then charge a fee. It may have fees differentiated between peak and off-peak periods. It may also have a location dimension where, if you go into certain areas, you get charged a higher fee. Oregon has looked into this. In addition, Colorado just tabled a discussion about VMT.

It is important to understand what went on in Oregon. First, it was a very small experiment funded under the value-pricing program. They had two gas stations equipped in the state and an onboard mileage system. They charged you based on when and where you traveled. The test was conducted in 2006 and there were 260 vehicles equipped. The New York Department of Transportation was interested in this when I was testifying before them. I had to explain it was a very small test and they did not solve a lot of the problems yet. It was a voluntary enrollment process; it is very different when somebody volunteers to get involved and when you are putting a tax in place because then you have the



question of evasion. They had a non-rush-hour versus a rush-hour price. The road fee was collected at the gas station. They deducted your fuel tax and added your road charge.

Appendix F, [Exhibit D](#), is a diagram from the Oregon report on the VMT charge. In Oregon there are 150 fuel distributors paying their state gas tax. They would be moving to 1,800 gas stations and then need to equip 3 million vehicles. You would stop collecting revenue from 150 entities and start collecting revenue from 3 million entities. Additionally, you would have to audit this and it would only collect from in-state vehicles. This system does not collect any money from out-of-state vehicles. If you have a significant population that travels through the state, that is an important consideration.

Oregon assumed in their study that the vehicles deployed would come equipped with the ability to track mileage and then report it. The assumption was they would have to wait until the vehicle fleet turned over and had that ability. They assumed no cost for that because the vehicles would come equipped from the manufacturer for free. They estimated it was going to cost them \$32.8 million to start it up with 1,800 gas stations. The ongoing operating cost would be \$1.6 million. Technology in tolling is much the same as in computers, it may be functioning after five years, but in most cases you probably want to retire the technology because technology changes, innovations occur and eventually you cannot maintain it.

The Oregon study may not have taken into account the full costs. My estimates can be seen in the handout, [Exhibit D](#). First, they have to deploy transponders. You should not assume the vehicles will come equipped. Even if they are \$25 apiece—and that is not a low price for a transponder, the Oregon numbers are more like \$200 a transponder—it would be \$105 million in transponders. They have a 6-year life, so that adds up to an annual cost of \$17.5 million. The plan would have about a \$4.5 million annual cost for station equipment. Operation costs would be \$1.6 million annually. A better estimate to deploy this system is in excess of \$23 million to \$24 million.

The other question is who is going to pay these costs. Are they going to require the station owners to pay the costs of installing all the meters and such? Another issue is users will be carrying the transponders with all their information about their road usage. I have a friend who told me if it has a computer chip, it can be hacked. Someone could come up with a device to change the

information. I can just image people asking, "How many trips do you want to lose?" You will have to make these transponders tamperproof. In the test, they did not because everyone was a volunteer, but you will need a tamperproof device.

Even after 20 years, the Oregon Department of Transportation is only expecting to get about 20 percent of their fees through this system because the vehicles will roll out over time. Their current gas tax is about \$12 million. This will be at least twice as costly and still not get out-of-state users.

There is discussion about tolls on existing highways. The Federal Highway Administration is encouraging toll use. Again, the question is what are the goals and objectives. I have talked to the Federal Highway Administration and the optimal strategy, if you are looking to raise revenue, may be to put a toll on a very short segment. That undermines interconnectivity from a national perspective though.

Implementing new tolls using Public Private Partnerships (PPPs) is a big discussion point. You have to understand PPPs will only be viable on high-volume roads. Deploying the technology to collect the revenue will have significant costs. They will only want higher-volume roads. They will not do a low-volume rural road given the current technology unless they come up with a less costly way. The cost of collection could easily consume the revenue. This would lead to cherry-picking the projects.

We have taken a considerable look at the cost of collection. You have to worry about violations. In a system where the road user has to pay repeatedly, there is an incentive to not pay. Some of it comes from errors in the system; the equipment might not function correctly. The users may also have an incentive to avoid these costs so therefore choose not to pay. Most systems operate with a 2- to 3-percent violation rate. Once there is a violation, it is expensive to collect. In general, you need to send bills and have collection agencies. It is an important consideration. Some of the high-occupancy vehicle lanes on toll roads can have violation rates in the 30- to 40-percent range. Most entities that operate these facilities do not want to report that. I have heard in Minnesota and Texas their numbers are in the high 40s. If you are just trying to manage flow it is not bad, but if you are trying to raise revenue, it is a significant problem. In addition, in Minnesota I hear the lane does not even pay its full costs, it just about breaks even. There is also the question of who will pay and

where the money goes once it is inside the particular corridor. Does it stay within that or does it move around to fund other facilities in the region?

You should think about social equity. Who is actually impacted and ends up paying? You do not want to overburden the poor or the disadvantaged classes. Regional equity is also important, and tolls can impact your economic competitiveness.

Environmental justice is a standard way to talk about fairness and equity. My fellow researchers and I have been actively engaged in quantitative analysis of social equity. In particular, we have looked at New Jersey. Some of this analysis can be seen in the maps titled, "GSP & NJ Turnpike Tolls Toll Burden Per Capita 2007 E-Z Pass Data Only—By Zip Code," and "Income Per Capita 1999 From U.S. 2000 Census Grouped by Zip Code," [Exhibit D](#). This is the burden of tolling on the two major toll roads in New Jersey, the Garden State Parkway and the New Jersey Turnpike. The toll burden is not across the state. Dark areas are high toll burden areas. This is between \$200 and \$400 per capita. In the dark green areas the burden is around \$75 to \$125 per person. The light yellow is between \$0 and \$25. The northern section of the state is a very low burden area, probably \$20 a person. The dark green area down south is probably a \$150 to \$200 burden area. The second map shows the income distribution in New Jersey. There is a strong break between incomes. New Jersey was proposing to sell these roads and put in place an 800-percent toll increase to pay off the state debt. People in the yellow regions of the state thought this was a wonderful idea. The green regions were not going to be so happy.

There is not a strong correlation between income and burden. People who live near the toll roads are the ones with the highest burden. In the southwestern part of New Jersey there are a couple of spots. The New Jersey Turnpike runs through the area, but it is paralleled by a free route of Interstate 295. The local users know that and do not use that facility. If you have a parallel free corridor, it changes the burden dramatically. Who should be paying is a good question. Who is protected under this—minority populations and low-income populations. The state planning organizations need to analyze their needs to make sure they are not burdened with costs and to make sure they are well served.

In the fall of 2004, one of my coauthors found a survey in a New York City garbage can where the Metropolitan Transportation Authority (MTA) Bridges and Tunnels had conducted a survey of 61,201 private vehicles. This study

represents about 14 percent of the nation's tolls. We looked at the data and combined it with census and financial data to give an idea of where the burden falls. You can see this in the map titled, "TBTA Tolls Per Capita Burden and Adjusted Census Per Capita Income," [Exhibit D](#). This map shows where the burden is falling in New York City; who is paying the roughly \$1 billion in tolls to the MTA. Again, 50 percent of every dollar you see here is being used to cross-subsidize mass transit. The red areas are very rich areas, places of earnings between \$76,000 and \$112,000 per capita; so a household income of \$350,000 or \$400,000. The grey areas are people earning on a per capita basis between \$8,000 and \$25,000, so we are talking about households in the \$25,000 to \$100,000 range. The people in the upper east side of Manhattan have good transit and even though they are extremely high income, they pay relatively little tolls. They have similar toll-paying pattern as the low-income areas in the southeast corner of Brooklyn. The burden is not related to income, it is mostly related to geography and alternative forms of travel, either transit or free routes. It is important to think about who is going to get hit with this. My school is located on Staten Island where the average person pays between \$141 and \$322 annually per person. The household bill there looks very similar to mine; my bill is not an anomaly if you live or work on Staten Island. That one community pays in excess of \$65 million a year in tolls.

People are asking about privatization. What it will look like, how well it will perform and if it could do better than the current agency structure. When you are looking at leasing a facility, the value of the lease is based on the present value of the stream of income that will be realized from the project. The leasers capitalize the lease and then depreciate it. That is a key part. Most of the leasers want to get a 75-year contract so they can depreciate the lease and then use that as a tax benefit.

The rules in Spain are radically different. The Spaniards use almost exclusively lease-type contracts for their tolling systems. Their rule is 20 years for existing systems; if you have a road already in place, they give a 20-year maximum lease. If you build a new facility, it is a maximum of a 40-year lease. The Spaniards want to renegotiate on a regular basis. They do not have all the information and want the people to know they have an opportunity to renegotiate the lease on a regular basis. They do not allow long leases in Spain.

Macquarie is one of the major leasers in toll roads in the United States. If you look at their performance and toll-road concessions, they have multiple

corporate entities. This is important because if you try to manage them based on rate of return or reasonable profit, there are a lot of different corporate entities. I have looked at one of their corporate entities called Macquarie Infrastructure Group (MIG). Macquarie's different corporate entities I found can be seen on the "Corporate Entities" page, [Exhibit D](#). At the bottom are two consulting firms that are wholly owned subsidiaries of Macquarie Bank of Australia.

When you look at the ownership of a road, there are going to be multiple owners in most cases, if you do not dictate differently. The Dulles Greenway is 50-percent owned by Macquarie Infrastructure Trust (II), 25 percent is owned by the Macquarie Infrastructure Group International Ltd. and 25 percent by Macquarie Infrastructure Trust (I). You will deal with many different agencies. In addition, the Macquarie firm's corporate objectives are to, "Offer potential for increasing value through active management of operations and capital structure." They are not just looking at revenue coming into the firm, they look at managing how it is funded, financed and refinanced to extract profits out of the system.

If you get involved in these contracts, these are very complex negotiations. The people usually negotiating are the department of transportation staffers and their engineers. These people are very knowledgeable in their field, but the buyers are very savvy. They have done this before. If they come into the deal, they come in with a lot of expectations and have very skilled analysis teams. If you negotiate a long-term contract, you will not be doing this frequently, so you need an expert negotiator for the state. It is hard to find a good expert because, in many cases, the experts work on both sides of the trade. They will consult some states in selling their assets and they will be on the buying side in other states. The investment firm UBS is the sell-side consultant in New Jersey, and they also operate a large fund-buying assets. Many experts are giving up the sell side. They do not want to consult with states because it is a conflict of interest, it makes it hard for them to get contracts and the money is on the buy side. Therefore, they do not want to consult with states. It will be hard to get a good consultant; you have to be very diligent.

In addition, when writing the contract, they will look at the toll road in terms of all the assets; all the value pieces such as advertising revenue and operations. Another one of my coauthors studied the Sydney Airport which is privatized under Macquarie. The government did not specify the rate for baggage carts in

the contract. Since it was not specified, they charge you \$6 for a baggage cart. They charge a premium for parking in the shade because it was not specified differently in the contract. These are the things you have to think about. Obviously, it is an intangible asset, they have a finite life and they amortize the value of the asset. They are good at this and have done it many times. They know how to manage these concessions for their benefit.

I could go through all the details of the concessions, but it is more important to show you the financial structure of them. They have interlocking directorates in most of their toll deals. They generally have control held by the corporation, such as Macquarie Bank, through subsidiaries and they pay large fees. The toll road itself might not be profitable, but MIG generates \$210 million in tolls. They paid a subsidiary of Macquarie Bank \$65 million as a management fee. Technically, that is nonprofit, it does not fall into excessive profit, and it is a fee which they can choose to pay since they control the firm.

You will have to think about where to measure performance. Most contracts have multiple corporate entities, some may be profitable and some may not. This is called structure finance. There will be money going between each of these entities. Some of them will be revenue positive and some revenue negative. You have to ask if these are fair-value transactions and is it done to manage taxation; take your cost in high-tax areas and your profits in low-tax areas.

In the handout is the structure of who owns the Indiana Toll Road, [Exhibit D](#). There are three corporate entities above the toll road itself. The Indiana Toll Road (ITR) Concession Company LLC holds the actual road, but then there is the ITR Concession Company Holdings LLC Company and the Statewide Mobility Partners LLC. These are 100-percent owned entities; it is not a joint venture. I have not figured why there are these extra entities, but transfer pricing between them will be an important part of the discussion. Then above the Statewide Mobility Partners LLC are the two Macquarie partners, MIG and Macquarie Infrastructure Partners, and also Cintra of Spain.

The Dulles Greenway is another interesting example. When they bought the Dulles Greenway, they paid \$533 million. They bought another piece from KBR Inc. for \$84 million, so they have a total cost invested of \$617.5 million. They have done some work on it and now the current debt level is \$790 million. Dulles Greenway is a rate-regulated utility, so they go before the state utility

commission to get an increase in tolls. The debt amount is one thing they use to justify higher tolls. It is hard to identify where the proper points are to actually map value of these firms and make sure they are doing things with arms-length transactions and such. You should consider management fees, interlocking control of the corporations and debt levels. These businesses generally look profitable; a good business to be in. You should talk about collection costs and how you manage the cost of collection.

The Dulles Greenway financial structure can be seen on the page titled, "Dulles Greenway Ownership," [Exhibit D](#). What is fascinating is the Shenandoah Greenway Corporation which is labeled as a general partner with a 0.1 percent stake in the actual concern. This chart comes from the Macquarie Infrastructure financial reports.

You want to avoid traffic-flow disruption, and that should be specified in any document. I strongly suggest you include it because we do not have it in New York City or in the New York metropolitan area and it is nothing but an aggravation. Unless the toll agency has an incentive to manage traffic flow, they may not.

We spend a lot of time working on traffic flow because it is a major concern in New York City. We have done a lot of simulations using traffic-modeling software. Two pictures of our simulating software are in the handout, [Exhibit D](#). Changing the setup of the toll plaza and operations impacts the traffic flow. In the first case, the traffic flow is set up correctly because they are operating the toll with the right amount of booths. A toll-collection system has to function well; congestion is something none of your constituents or agencies would like.

The last picture in the handout, [Exhibit D](#), shows manual toll-collection booths on the right side of the road where they collect tolls using cash or some form of manual toll collection. On the left is a high-speed throughput lane. The throughput lanes have plenty of capacity in this picture. It is important that the tolls do not back up. We call it queue blocking if they do. A toll road is not like a fuel tax. With a fuel tax, if it is a holiday weekend, everybody gets fuel early. So then, on a day of high traffic flow, we are not all trying to pay our taxes. A toll system has to function well especially during periods of high demand such as on a holiday.

The second snapshot of our simulating software illustrates a holiday weekend when there is only one booth operating and we have a queue buildup. Traffic starts to build quickly in this situation. In this simulation, the cars are either yellow or green. Green means they are trying to move right, yellow means they are trying to move left. While regular users will set themselves up for the toll, people sometimes get in the wrong spot. When a holiday weekend comes, you will have a lot of people who have never seen the facility. They may make mistakes and are probably not equipped with electronic tolling. If they do, it causes major mayhem. The toll authority may also choose to staff the facility weaker on a holiday weekend unless you specify that they cannot.

What is happening in the picture is a combination of things. The first thing is there is always someone in the wrong lane. The person does not know where they are going, why they are there and have never seen a toll before. Now there is zero flow going through the high-speed lanes. These models are based on microscopic simulation. I use this facility in question all the time and the simulation is very realistic. You have to be specific, because otherwise you might get this. Since the manual toll plaza is set up incorrectly, it is causing major impacts on the high-speed toll system and the throughput is down dramatically.

The last photograph in the handout, [Exhibit D](#), was taken on Christmas Eve. I was in the high-speed lane on the left-hand side of the road. The high-speed lane on the left is free of traffic and congestion, whereas the toll facility is causing a backup and delay. This was roughly a 14-mile delay caused by the system. If you make a mistake in the setup and design, you will have problems. This photograph is of the Port Authority of New York and New Jersey. When they were asked why they do not have more toll takers on Christmas Eve, they said to the local elected officials that people do not like to work on Christmas Eve. This is a problem because these cars are sitting there idling and polluting the atmosphere, and the New York metropolitan area is a noncompliant area in terms of the federal Clean Air Act. In this picture they only had two cash lanes open so the traffic backed up extensively. You need to specify in your contract that this kind of delay cannot happen. This is a problem that can be processed, but it is a question of how the toll authority sets up the system.

There are a lot of issues here. More talk is needed about standardizing the practice. There are also a lot of issues associated with social justice and equity. The question is whether you can use something else other than a toll. You can



use a fuel tax; it is a very efficient tax. You can tax energy use; these taxes have the potential to provide revenue for a considerable period of time. The gas tax has 20 to 30 years left in it, and that is 3 or 4 cycles in toll technology.

If you do apply tolling, the Federal Highway Administration does not generally want to support the cost of operation and maintenance. When they were talking about putting tolls on the Pennsylvania Turnpike, I asked them if they will pay to maintain the road, and the answer was very uncertain. The users will also be triple taxed because they pay their tolls, gas tax and income tax to pay their tolls.

SENATOR LEE:

If they want to do a toll road in Nevada, they could do one on The Strip. That is about the only place we should have one.

SENATOR CARLTON:

I have been to the cordon area in London and while the people there do not like it, they say it has helped congestion. Although from what I saw there was still a lot of congestion.

DR. PETERS:

There are different goals and objectives to these systems. London's system is not about raising revenue, it is about managing flow. It may be effective as a flow-management technique, but it is an expensive way to raise revenue. For London, it may be the right solution. Tolling and road pricing can be used in a lot of different formats; it is just a question of what you are trying to get out of it. When London rolled out the congestion price, they also rolled extensive enhancements in bus service so people could shift between transportation modes. You do not want people to stop their trips; you want them to flow to their destinations—maybe on alternative routes.

If you use the facilities you have, in most cases the road easements are unique easements. You have to think about your long-term goals. Do you want to use an easement in the center of a highway for light rail? If you lease it out, you might not have the option anymore. You want to use your pricing and system to shift people between modes. If it is very congested, maybe a light-rail system is the way to go. You build the system which gives people the incentive to shift to that system. You do not want to destroy trips. In the example of London, you

do not want people to say, "I am not going downtown to shop. I do not want to get involved in the costs and maybe getting hit with a large fine."

The other question with cordon-type pricing is the border conditions. When you get to the edge, a lot of people will try to park on the edge because they want to avoid it. They will find the places closest to the cordon, and then, you will have a parking and traffic management problem around the zone. It takes a lot of thought and effort.

SENATOR CARLTON:

I have never heard the terms social equity, regional equity and environmental justice associated with toll roads before.

DR. PETERS:

From my experience, the consumer price index (CPI) does not include tolling costs. We will be approaching the U.S. Bureau of Labor Statistics to talk about improving the CPI because these things have largely been ignored. A part of that is the data is generally lacking. I generally work with the toll agencies in my region through the Freedom of Information Act. I will not get information volunteered freely. There is not a lot of transparency, and transparency is important because you want to see who is impacted by these fees. If you use the money for transit, you want to give it to the people impacted so you have a fair and reasonable outcome. In a lot of cases it is hard to get information. There should be better tracking and analysis of these impacts.

SENATOR NOLAN:

There is diminishing tax revenue on the gas tax. You can continue to raise the gas tax but it is a hopeless cause because it will continue to diminish as more fuel-efficient vehicles enter the road. Short of VMT or more PPP toll projects, what other funding sources are states looking at?

DR. PETERS:

There are some high-density roads in Nevada that would be attractive for PPP. However, there is a large part of the State's network that would not be attractive. The question is how you fund your rural and low-volume roads. States run into this question all the time. You need a very broad-based tax to fund it. If you do cost analyses on these roads, they would not work from a cost perspective because they do not get enough traffic to generate enough revenue to self-sustain.

As far as a VMT charge, heavily used roads in places like New York City would have no problem. There is plenty of traffic and volume, so you would collect a lot of revenue. But what about the areas not tolled? You either need two systems, where some parts are funded through a user charge, and others through some kind of general tax levy, or you go back to the general tax levy. The income tax is an efficient tax to collect and is broad-based. You do not want a fee generation system that alters the economic competitiveness of the region. The tolling in New York City is so high, if you are a manufacturer or warehousing company, you cannot locate within the City's borders. You bring what you have to into the City, and you locate in Pennsylvania because you avoid a lot of toll costs. Tolls prohibit you from doing certain things. You do not want a tax that will dislocate and create uneven economic opportunities. You want a broad-based tax because it is a funding mechanism that will support that rural road network. It cannot be a user-based system.

You may think about two parallel systems, but I would want something efficient, so I fall back to fuel taxation, energy taxation and the general tax levy. Those taxes are good. Over the long term, VMT could be solved technology-wise, but it is a ways off. That should not be counted on as a short-term solution. It is more than ten years away from being an effective system. The system also has a high cost of deployment, and you still have the out-of-state user problem. If that is your decision, will it be interoperable with states around you? If VMT takes hold, it makes sense to have a national system with a national standard. In New Jersey there are six toll authorities, and luckily they all use one technology. If I go to Florida though, my electronic toll tag stays in my car because it does not interoperate in Florida. It is not the best solution because it does not allow me to use Florida's facilities effectively.

SENATOR NOLAN:

You have a good picture of Nevada's dilemma. Our highway funding problem is like a lot of other states. For the next 2 decades, while we should have enough funding right now, we are about \$4 billion upside down for our highway funding. When we plan, and we are planning for additional lane capacity, it is a ten-year time frame through the typical Nevada Department of Transportation (NDOT) process. With a PPP, is it your experience that they take half the time to get asphalt down compared to NDOT?

DR. PETERS:

The private sector is already used by the departments of transportation in most cases. Most construction is not done in-house, it is contracted out. You would be shifting private entities from the construction aspects to the operation and planning aspects. The private operator has incentive to move quickly because they have capital on the line. They have a concession if they can get the facility up; they get more years of toll collection. From a private-operator perspective, a road is a series of payments. It is a series of outflows of capital and it is a series of inflows of revenue. Their goals and incentives are to maximize the value of that stream. What the Legislature has to be careful about is striking a balance. What balance gets the assets deployed? Are there ways it could be more effective in-house or privatized? You do not want the private concessionaire to have too much. You want to make sure it is an interesting project but not give them too much leeway because their incentive is to maximize the value of the asset.

For example, if an existing facility has congestion, that is a benefit to them because it makes the high-occupancy-vehicle or high-occupancy toll lanes more attractive. You want to be careful if you give them any rights of exclusivity. Do you give them a non-compete clause? That is dangerous because you are then precluded from doing other investments that may have value to the people of the state. In Indiana, they negotiated a non-compete clause which was extremely beneficial to the toll operator but was questionable.

You also have to address escalation concerns. How are they going to raise tolls? In Chicago, they have a choice of three ways. They can choose 2 percent a year, where no matter what happens, they get 2 percent a year. They can get the CPI, which is usually around 3 percent. Or, you can choose the gross domestic product per capita, which grows around 4.5 to 5 percent and includes inflation. Now, every year in that deal, the toll operator gets the choice of picking one of the three. If you give away too much to the toll operators, they have a very profitable business. You want to use the best aspects of the private sector with proper and reasonable control, considering that in most cases you are granting a monopoly or quasi-monopoly contract.

SENATOR NOLAN:

We have had a lot of discussion over the last two sessions about PPPs. Legislation coming before us tomorrow is most closely modeled after Oregon, in terms of safeguards to guarantee the protection of public assets. Oregon stands

out as a progressive state with PPPs. Do you agree with that? Is that a good way to go?

DR. PETERS:

I have not read a lot on Oregon. It is important to balance these issues in legislation. In some cases, the Spaniards have revenue sharing in their contracts. If the toll road exceeds its revenue expectations, then there is a share that goes back to the state. It is a good idea to talk about not having unlimited upside.

VICE CHAIR CARLTON:

We will now start the work session with Senate Bill (S.B.) 246.

SENATE BILL 246: Revises provisions governing the sale of vehicles. (BDR 43-989)

SCOTT YOUNG (Committee Policy Analyst):

This is Senator Townsend's bill. John Sande III had presented an amendment which has been drafted by our Legal Division ([Exhibit E](#), original is on file in the Research Library), and I was told by him it is acceptable. Alfredo Alonso is also okay with it.

SENATOR TOWNSEND:

This amendment is a reasonable compromise from the work done between the Nevada Franchised Auto Dealers and the manufacturers' association, given the current conditions of the automotive industry. I endorse it.

SENATOR TOWNSEND MOVED TO AMEND AND DO PASS AS AMENDED S.B. 246 WITH PROPOSED AMENDMENT 3512.

SENATOR CEGAVSKE SECONDED THE MOTION.

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

\* \* \* \* \*

SENATOR CARLTON:

We will move to S.B. 217.

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

MR. YOUNG:

Senate Bill 217 was Senator Coffin's bill. This bill originally would have required the Department of Motor Vehicles (DMV) to notify the Selective Service System (SSS) when eligible people were registering. Erin Russell Hayes has a two-page color amendment in the work session documents behind the page with the description of the bill, [Exhibit E](#).

ERIN RUSSELL HAYES (Boyd Gaming Corporation):

We crafted the amendment for S.B. 217 so the language makes it optional for applicants to submit a response. Under section 3, subsection 2, the applicant would check a box if they would like to register for the SSS. Normally, when it comes to optional legislation, there is a box that says "yes" or "no" for the applicant. They either check yes, they want to register for selective service, or no.

In section 3, subsection 3, I want to clarify that it says, "If an applicant indicates on his application that he wishes the Department to forward the necessary personal information ... ." Our intent is to only have those applicants who submit yes to have their information forwarded on to register them for the SSS.

SENATOR CARLTON:

What would happen if they check the "no" box?

MRS. RUSSELL HAYES:

If they checked the "no" box, the way the legislation is crafted, the information would not proceed forward.

SENATOR CARLTON:

In previous testimony I heard there is a coercive disclaimer associated with this that effectively says if you do not do this, you could be guilty of different things and lose certain things. There was a whole long disclaimer after the boxes. Will that be associated with this? My impression was if you put in the optional boxes, the federal government requires the disclaimer as well.

MRS. RUSSELL HAYES:

The way this is drafted, on the application is an explanation stating if they submit to registering they are in compliance with federal law. I forwarded the explanation to the SSS and they verified the legislation was okay as drafted.

SENATOR CARLTON:

I was under the distinct impression when an optional box is used in a state, a disclaimer almost one paragraph long has to be included. That is a concern. The disclaimer pushes them to say yes, because if they say no, it tells them all the bad things that will happen such as ending up in jail.

MAJOR GENERAL BILLY MCCOY, USAF, RETIRED (Nevada State Director, Selective Service System):

The earlier testimony was referencing a law passed in Idaho. In their bill, they have a disclaimer stating if you check no, you would be in violation of a law. You could pay \$250,000 and spend 5 years in prison. Our bill, as proposed, does not have that language. Ours is much less harsh, if you do not check yes, the information will not be submitted to the SSS.

SENATOR BREEDEN:

I want to make sure the disclaimer is not on there when they check the box.

MRS. RUSSELL HAYES:

They will have the yes or no as I had discussed with the SSS; that is the way their other optional language is in other states. They will have a disclaimer on the form stating what is on the amendment here; regarding federal law and the application of federal grants. That disclaimer will be on the form.

SENATOR BREEDEN:

Yes, but not the disclaimer that Senator Carlton was speaking about.

MRS. RUSSELL HAYES:

Correct. The way the bill is drafted, it will not have the statement about a \$250,000 fine or up to 5 years in prison. We went with less harsh language for this bill.

SENATOR LEE:

I come from a military family that believes in public service, but we have laws on the books now. When I got my letter in the mail, I did not want to open it up

for a day or two. When I got the determination to open it up, I had time to think about whether I really wanted to go to war. I went through all the vacillations a young man goes through. Will he protect his country? Where is his heart, and what are his fears? When you finally make that decision, it is your decision. You then go down and sign your name. You are part of a team; if something happens, you are going.

This takes away the opportunity to think about what is important to you and what this country means to you. If we wanted to make this easy, we could go to video arcades, rodeos, Adventuredome Theme Park or wherever kids hang out to get them to check the box. The DMV just happens to be the place. The way the government does it now, it gives a person time to reflect and value what they believe in. I will be voting no on this bill. A young man needs to have a little time to think about this stuff and not be talked into something he may regret later. I want the young man to say, "I am going in the Army because I love this Country and I have had time to reflect about this." It should not be a reactive decision because he may want to work at the post office one day. Young men will check the box because they think they might be losing an opportunity because there is a coercive list in front of them. I like the current law and the way the system is now.

SENATOR NOLAN:

I agree with what Senator Lee said regarding the SSS process and the need for our young people to take time to consider active participation in the military, should they be called up. I read the bill differently though. The SSS process is already in place through federal law. The effort is to streamline the process. These young people could lose important opportunities and benefits. We want to make it easier for those young men and families to receive notification in case they throw away what comes in the mail. The government only has so many ways to contact these young people. They send out a letter, the letter comes in a government form that says, "Very important, open immediately," and it looks like a piece of junk mail. There are probably a lot of families and kids who throw it out right away. This bill gives young people a more informed opportunity to sign up so they do not accidentally miss signing up for the SSS and critical benefits. I support the bill.

SENATOR CARLTON:

I do not support the bill. I am concerned about people, at the age of 15 or 16, getting their driver's license and being asked to make a decision to check that



box. As soon as they do, the phone calls are going to start. They do not just aim the calls at the young men and women anymore. They aim the calls at the parents now, too. So, from the time they are 16, for the next 2 to 3 years, the phone will ring once or twice a week; sometimes every other week. It gets to a point where you recognize their voice when you pick up the phone; they become that habitual. They are very good and convincing; I have had a number of conversations with them when they have called. When those phone calls start, it adds a new kink to the family dynamic. You are trying to raise teenagers and then you have this. When the letter comes in the mail, that is when the family needs to sit down and deal with it.

SENATOR CEGAVSKE:

The SSS does not make the phone calls. When the kids are in school, the schools give out the information.

VICE CHAIR CARLTON:

Once you register with the SSS, they forward the names and personal information to the U.S. Department of Defense, which then shares it with all branches of the service. That is where the phone calls come from. You can still get them from the schools in some cases as well. Additionally, this bill does not address that, even if they are 16, they will not hold the information in abeyance until they turn 18. The calls can start as soon as they get their driver's license.

SENATOR BREEDEN:

Why do we not address that in the bill? The bill also addresses a male applicant only. What about female applicants?

MAJOR GENERAL MCCOY:

Women are not currently required to register with the SSS.

SENATOR BREEDEN:

I understand that. We have women serving now who are voluntary, but are we making our young men register?

MAJOR GENERAL MCCOY:

Currently, as it has been for some time, we are an all-volunteer force. The only reason we would ever have a national mobilization is if there were very destabilizing circumstances in the world that would challenge our national interest and basic freedoms. If that were the case and we had to respond in

some way, although very remote, we would have to rely on a draft. If that draft were to take place today, only 84 percent of those who have registered in our State would be part of that pool. That would be a very unfair and inequitable way to decide who would participate. In the case of a draft, it would require an act of the President of the United States and Congress to enact it. Currently, volunteers are sufficient to maintain the levels we need.

SENATOR TOWNSEND MOVED TO AMEND AND DO PASS S.B. 217.

SENATOR CEGAVSKE SECONDED THE MOTION.

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

\* \* \* \* \*

CHAIR SCHNEIDER:  
We will open the hearing on S.B. 144.

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

MR. YOUNG:  
Rusty McAllister of the Professional Firefighters of Nevada has informed us proposed amendment 3540 was prepared for Senator Amodei by the Legal Division ([Exhibit F](#)). All parties have seen the amendment and are in agreement with it.

CHAIR SCHNEIDER:  
I understand there is finally an agreement?

SENATOR MARK E. AMODEI (Capital Senatorial District):  
Yes.

RUSTY McALLISTER (Professional Firefighters of Nevada):  
We met last Monday with representatives from the law enforcement agencies representing All-hazard Regional Multi-agency Operational Response (ARMOR) in southern Nevada and the Washoe County Sheriff's Department. We went through the bill section by section, agreed to language and made proposed

amendment 3540. This amendment addresses concerns we have while also addressing concerns that they brought forth.

SENATOR CARLTON:

Is this legislation in absence of a memorandum of understanding (MOU), or is this the guide of what will be going forward?

MR. MCALLISTER:

This language would be in lieu of a MOU. Under section 7.5 of proposed amendment 3540, [Exhibit F](#), section 2 through 11 inclusive, would apply in the absence of a MOU. For those counties that do not have a public safety bomb squad, the sheriff of that county would be responsible and have the duties of figuring out what to do.

SENATOR CARLTON:

The language in proposed amendment 3540, where previous language was very definitive with words such as "shall," now it is filled with "assist," "cooperate" and others. Then in section 8, subsection 5 it states, "Upon request, provide technical support for any law enforcement agency ... ." What are you getting at here by softening up the language?

MR. MCALLISTER:

Under section 8, subsection 3, there was some change in investigation language. The lead law enforcement agency has primary investigative responsibilities for all crime scenes. Any type of situation where there is an explosive device, or package that has to be rendered safe, is a crime scene. Therefore the lead law enforcement agency has the investigative responsibilities. The bomb squads have investigative responsibilities limited to gathering information, assisting the lead law enforcement agency in bomb-scene reconstruction, gathering data to submit back to the Federal Bureau of Investigation and things like that. That is why we would work with them, under their direction.

Under section 8, subsection 5, where it talks about dignitary protection, again the lead law enforcement agency has primary responsibility. Our bomb-squad members would coordinate with the lead law enforcement agency to do things such as bomb sweeps and taking care of anything that they did find. We would work with them under their jurisdiction because that law enforcement agency has ultimate responsibility for those responsibilities.

SENATOR LEE:

One issue was Washoe County does things differently than Clark County. Did that affect anything?

TOM ROBERTS (Lieutenant, Las Vegas Metropolitan Police Department):

Section 7.5 would delineate those sheriffs, in counties that do not have a bomb squad, would have the ability to summon one from an adjacent county. It does not hinder the regional approach to bomb squads we still use in the south. Nye County uses the Las Vegas Fire Rescue Bomb Squad on occasion; this would allow them to continue. It is a good backstop in the absence of a MOU and it addresses our regional concerns.

SENATOR AMODEI:

Senator Lee's question is specifically addressed for Sheriff Mike Haley of Washoe County. Page 2, line 21, [Exhibit F](#), is the language put in to give Sheriff Haley comfort regarding his regional issues. To answer Senator Carlton's question, page 2, line 19 is key. It states, "In the absence of a memorandum of understanding setting forth the responsibilities ... ." Clearly the legislation is intended to give primacy and priority to a MOU. If that exists, then that is the rule. When we left before there were two issues, regional and giving deference to MOU first. This language accomplishes that.

SENATOR TOWNSEND:

What is statutorily different between this and the MOU that was before us during the last hearing?

MR. MCALLISTER:

The previous MOU says that the Las Vegas Fire Rescue Bomb Squad is the authority having jurisdiction for rendering safe procedures. There are also other things within that which talk about notification processes and the ARMOR protocols; how they operate and how they respond to those devices. It is more specific for Clark County. This statute means if a MOU does not exist, this would be the fall-back position. It still outlines the specifics of the bomb-squad operations. Also, the MOU you looked at the other day included other things such as hazardous materials responses: chemical, biological, radiological and nuclear calls. There were other things within that MOU besides the bomb-squad stuff. This proposed legislation only talks about bomb squads.

SENATOR TOWNSEND:

How long does it go? What are the rights of the individuals who are signatories?

MR. MCALLISTER:

All parties will be involved once the MOU is signed. There was a provision in that MOU that said any party could withdraw from the MOU with 90 days' written notice.

SENATOR AMODEI:

With this amendment, making the MOU the primary choice recognizes that the business of operations is not the first pick of policy in State statutes. That is why the MOU is given primacy in this proposed legislation. Because we have experienced a situation where there was confusion in a jurisdiction regarding some of those things, it will be helpful that if confusion arises again, to say, "Well, if you like this better, here is the deal." It is my intent to provide a policy, not an operational directive, as a backstop when various public-safety entities have confusion over who does what. This is not an effort to legislate operational requirements down to the squad or station level. We are purposefully taking a high-altitude look and then providing a fallback. In the actual operational minutia, the local folks on the ground are much better for that. A MOU is much better suited for this than a chapter in the *Nevada Revised Statutes*.

SENATOR TOWNSEND:

The memorandum is going to be, or is, signed and will be the policy of those entities in southern Nevada affected by it?

LT. ROBERTS:

On Las Vegas Metropolitan Police Department's behalf, yes. The same would probably go for the Clark County Fire Department and Las Vegas Fire and Rescue that will be entering into the memorandum.

SENATOR TOWNSEND:

That will then be the policy in southern Nevada? If someone pulls out and there is not a follow-up memorandum, does this then become the requirement you must operate under?

LT. ROBERTS:

Correct.

SENATOR TOWNSEND:

If I get a call from the Washoe County Sheriff's Department saying this is a problem, it will then become a problem for you guys. I have not heard from anybody in Washoe County. I do not want to get involved in Clark County politics, but I also do not want Washoe County to be a second-class citizen.

TIM KUZANEK (Lieutenant, Washoe County Sheriff's Office):

Changes like this, that affect one problem in one area and then affect operations in another, have been the concern throughout this process. We worked cooperatively with the other agencies to put this amendment together. We are comfortable with how the amendment has come together and are in support of the amendment at this time.

SENATOR TOWNSEND:

You do not look comfortable. You look like you got hammered into this deal.

LT. KUZANEK:

No, I did okay.

SENATOR TOWNSEND:

If you are okay, then that helps me. This has not been a problem outside of Clark County and I do not want it to be one. Intercounty municipal dogfights in one county do not belong in the State Legislature. I am still not comfortable with this bill or why it is here.

LT. KUZANEK:

The way S.B. 144 stands now, it will not affect bomb-squad operations in Washoe County.

SENATOR CEGAVSKE:

Are the Clark County Sheriff or Fire Chiefs here today? This is something that is serious and I do not take lightly. I want a certain level of comfort. Getting this amendment just now does not help matters either. Would Sheriff Doug Gillespie approve of this?

LT. ROBERTS:

I work directly for the Sheriff. He gave me clear direction to address those two issues. We worked with others and worked this all out. The Sheriff is fine with it. He wanted me to proceed forward and support the amendment.

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GREG GAMMON (Chief, Las Vegas Fire and Rescue):  
On behalf of Las Vegas Fire and Rescue and the City of Las Vegas, I support this amended bill.

SENATOR LEE MOVED TO AMEND AND DO PASS S.B. 144.

SENATOR BREEDEN SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

\* \* \* \* \*

SENATOR SCHNEIDER:

We will open the hearing on S.B. 394 which makes various changes to off-highway vehicles.

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

MR. YOUNG:

This bill has a number of amendments. In your work session documents, there is an amendment presented by Jeremiah L. Drew and Leah Bradle behind tab A under the S.B. 394 section, [Exhibit E](#). There is also a proposed amendment when we heard the bill by Karen Boeger, which is behind tab B. A third amendment is behind tab C from Randy McNatt. Another amendment, not in the work session documents, is from Leah Bradle ([Exhibit G](#)). The final amendment is from Senator Lee and is proposed amendment 3856 ([Exhibit H](#)). Senator Lee's amendment only addresses section 9 of the bill.

DENNIS COLLING (Chief of Administration, Administrative Services Division, Department of Motor Vehicles):

Before you is a fiscal note on S.B. 394 ([Exhibit I](#), original is on file in the Research Library). We have made 22 separate assumptions in order to arrive at this fiscal note. The number of vehicles is speculative. We have had comments that as few as 90,000 off-highway vehicles are in the State, all the way to 500,000. Utah has a similar program and they had about 215,000 vehicles in fiscal year (FY) 2008. We have used that as a base number to arrive at our fiscal note. These amendments may have a significant impact on the bill.

CHAIR SCHNEIDER:

So, would the fiscal note be \$328,256 for this biennium?

MR. COLLING:

For FY 2010, that is correct.

CHAIR SCHNEIDER:

Then for FY 2010 and 2011 it is \$2,546,210?

MR. COLLING:

Correct.

CHAIR SCHNEIDER:

Then the fiscal note going forward for the future biennia is \$3,611,854?

MR. COLLING:

Correct.

SENATOR NOLAN:

This is an extensive fiscal note. I know the intention was the revenue generated from the registrations was going to offset the costs. Going forward, will we ever offset the costs on the program's implementation?

MR. COLLING:

As the bill is presently constituted, we will never even be in a revenue-neutral position. If some of the amendments are incorporated into the bill, there may be a significant reduction in the fiscal impact. We have made some assumptions as to how many people are going to come in, title their vehicle and register their vehicles. These are all assumptions; we are speaking about what might happen in the future.

SENATOR NOLAN:

We have worked on this issue for six or eight years, and we are finally at a point where we can actually do something to address this situation. Had this come forward four years ago, we probably could have moved this bill out. Personally, I do not think we can get anything out of this bill with this kind of fiscal note. Unless there is an amendment, or a way to make this fee-neutral, a large number of Legislators will have a hard time supporting anything that



generates an additional fiscal note when we are looking at a \$3-billion General Fund deficit.

CHAIR SCHNEIDER:

Senator Nolan is correct; everybody is in agreement. We barely have enough money to keep DMV offices open. When we get a fiscal note of this magnitude, the brakes are on the bill. Instead of running through this, the DMV should get together with Leah Bradle and the people who have the amendments and see if the fiscal note can be reduced. A negative note like this kills any legislation. It is the Committee's desire to process this bill; it has been eight years of hard work.

SENATOR CARLTON:

Under the column for FY 2010 and 2011 on the first page, [Exhibit I](#), you have all the expenses listed and then the revenue coming in. The number at the bottom, in parenthesis and in bold, is the hole?

MR. COLLING:

Correct.

SENATOR CARLTON:

The expenses going to the Commission on Off-Highway Vehicles is \$2,864,259, and the hole is \$2,546,210. If we adjusted the amount of money going to the Commission, we could eliminate that hole.

MR. COLLING:

Correct.

SENATOR CARLTON:

Then, the total at the end going to the Commission is \$9,305,172. The hole is only \$3,611,854. That is a hole we could fill as well.

MR. COLLING:

Correct.

SENATOR CARLTON:

This problem could be fixed with a rearrangement of funds. There is a possibility of this succeeding.

MR. COLLING:

That is a possibility. This is not our bill; we just put the fiscal note together based upon what the bill says. If the bill is changed, we will change whatever we need to.

SENATOR LEE:

This is the most bloated piece of information I have ever received in my life. Looking on page 10, [Exhibit I](#), the Department of Motor Vehicles Research Development Division needs \$3,138 in executive furniture, a \$600 executive chair, secretary furniture at \$1,800 and then a secretary chair at \$240. This is the most ridiculous thing in the world. You guys have really tried to kill this bill. You can say what you want, but if it meant you were not going to take a 6-percent cut in wages, this thing would be zero. There is an effect that takes place with some stickers and stuff like that, but if I have ever seen a bill want to be killed, this is it. I will continue to work hard with this Committee to see this thing get through. We should disregard this; it is a pro forma with no value.

CHAIR SCHNEIDER:

I agree this is a tough note. We cannot put a bill out of this Committee with this fiscal note. It is my desire that the DMV work with Mrs. Bradle and her group to review the amendments and come back with a new fiscal note to reduce the amount.

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

We have started the process of working with Mrs. Bradle. The amendments could change the note significantly; we just need to see the language. We put this note out based on the original bill as required by law. It is not an attempt to kill the bill per se. We hope we can create a reasonable fiscal note, but one concern is the DMV might need some amount of start-up money. We will not be able to front any money because we have such a lean budget right now. Also, we have the issue of highway funding versus non-highway funding, and it is an issue that will not go away. Even if we work a lot of it out, the extent of that amount is unknown at this time.

SENATOR NOLAN:

A lot more information went into this than is here. You felt you needed to hire additional people. When you hire additional people, you need places to put them. When you need places to put them, you need to provide people with a lot of other supplies. When you bring a fiscal note like this to us, a little more

background information would help us justify the costs. Then, when we see \$20,000 in new uniforms and electric staplers, we will understand where the numbers came from.

SENATOR DEAN A. RHOADS (Rural Nevada Senatorial District):

Last year Idaho had a net profit of \$7 million which went back to their general fund.

SENATOR SCHNEIDER:

With there being no more business before this Committee, I adjourn the Senate Committee on Energy, Infrastructure and Transportation at 10:46 a.m.

RESPECTFULLY SUBMITTED:

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Josh Martinmaas,  
Committee Secretary

APPROVED BY:

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Senator Michael A. Schneider, Chair

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