

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

**Seventy-fifth Session
April 8, 2009**

The Senate Committee on Energy, Infrastructure and Transportation was called to order by Chair Michael A. Schneider at 8:17 a.m. on Wednesday, April 8, 2009, in Room 2135 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to the Grant Sawyer State Office Building, Room 5100, 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 Steven A. Horsford, Clark County Senatorial District No. 4

STAFF MEMBERS PRESENT:

Matt Nichols, Committee Counsel
Scott Young, Committee Policy Analyst
Patricia Devereux, Committee Secretary

OTHERS PRESENT:

George Caan, Executive Director, Colorado River Commission of Nevada
Greg Pecoraro, Vice President, Airports and State Advocacy, Aircraft Owners
and Pilots Association
Jim Braswell, MBA, CAE, JB Consulting, Airport Management
Les Lee Shell, Clark County

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David Lerner, President, Clark County Aviation Association

Dave Edwards, Vice President-elect, Clark County Aviation Association

Major General Billy McCoy, USAF, Retired

Greg B. Arehart, Ph.D., Professor of Geology and Geochemistry; Director, Nevada Stable Isotope Laboratory, Department of Geological Sciences & Engineering, Mackay School of Earth Sciences and Engineering, College of Science, University of Nevada, Reno

Mark Froese, CPM, Administrator, Research and Development Division, Department of Motor Vehicles

Brian O'Callaghan, Detective, Office of Intergovernmental Services, Las Vegas Metropolitan Police Department

Judy Stokey, Director, Governmental Affairs, NV Energy, Inc.

CHAIR SCHNEIDER:

Committee Policy Analyst Scott Young has given us several articles that are relevant to this Session's energy bills ([Exhibit C](#)). The first is "Chicago Unveils First Networked Solar Plug-In Station for Electric Vehicles"; we have been dealing with charging stations in Nevada. The system will be used to fuel the City of Chicago's fleet vehicles. Solar-collector batteries were put underground or used as shade canopies.

In the article "Northeast Utilities Initiates Electric Vehicle Charging Infrastructure," a utility announced it is developing a network of 575 charging stations in homes, workplaces and publicly accessible sites over the next two years. James B. Robb, Northeast Utilities senior vice president of enterprise planning and development, is quoted: "As the next generation of vehicles gets introduced, likely late in 2010, we want to be sure New England is among the first markets. The development of a charging infrastructure is important, both to support the adoption of these exciting new vehicles and to allow us to assess the impact on our electric-distribution system." That is exactly what we have been talking about for Nevada.

Connecticut State Representative Vickie Nardello says, "For sustainable technologies such as alternative-fuel vehicles to really take hold and deliver significant benefits, a collaborative effort between policy makers, business and other stakeholders is required." According to Michael Stoddard, deputy director of Environment Northeast, "This initiative, potential tax incentives and other favorable state and local policies are important factors in speeding the arrival of electric vehicles onto the streets of New England." Nevada is right up there with

them, and is one of the renewable-energy leaders in the nation with Senate Bill (S.B.) 327, which we moved on April 7, 2009.

SENATE BILL 327: Provides incentives for certain electrification projects. (BDR-377)

"Drawing Power From the Mississippi" says Hydro Green Energy has installed a barge-mounted, hydrokinetic turbine on the Mississippi River just below a dam operated by the City of Hastings, Minnesota. It is the first Federal Energy Regulatory Commission-permitted project of its kind in the nation. We are looking to support a similar installation at Hoover Dam with S.B. 339, which we will consider today.

"Carson City Halts Windmill Law" talks about an ordinance rejected by Carson City that would have made installation of small wind turbines cheaper and easier. The City requires a \$2,200 permit fee, which adds about 20 percent to 25 percent to the cost of the system. The thing that frightens me is several residents of the Lakeview subdivision denounced the proposed law, one saying, "Another person's rights stop at my face or property line." This means, "If I can see it, you cannot do it, because it is my right not to see whatever you are doing." Supporters of the ordinance maintain the current City policy violates Nevada Revised Statute (NRS) 278.0208, which states, "A governing body shall not adopt an ordinance, regulation or plan or take any other action that prohibits or unreasonably restricts the owner of real property from using a system for obtaining solar or wind energy on his property." Supporters feel the permit fee is unreasonable and restricts the public's ability to install small wind systems. This is the reason we passed S.B. 114 to make it State policy to support, not thwart, renewable energy.

SENATE BILL 114: Makes various changes relating to systems for obtaining and using solar energy and other renewable energy resources. (BDR 58-380)

We will open the hearing on S.B. 339.

SENATE BILL 339: Requires the Colorado River Commission of Nevada to conduct a study of the feasibility of the generation of electricity from hydrokinetic electric power below Hoover Dam. (BDR 58-1150)

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SCOTT YOUNG, Committee Policy Analyst:

George Caan, of the Colorado River Commission of Nevada, has submitted a proposed amendment to S.B. 339 ([Exhibit D](#)) that indicates the Commission is willing to conduct an appropriate study of the project, and if it is viable, contact other agencies involved with the River to see if it is feasible to proceed. We need to add something directing to whom the study would be delivered at the Legislature, to a commission or the committees on energy. There is no opposition to the bill.

SENATOR TOWNSEND MOVED TO AMEND AND DO PASS AS AMENDED S.B. 339.

SENATOR LEE SECONDED THE MOTION.

SENATOR CEGAVSKE:

Will the amendment create a fiscal note?

GEORGE CAAN (Executive Director, Colorado River Commission of Nevada):

The amendment would eliminate a fiscal note because the assessment we would do, involving contacting the U.S. Bureau of Reclamation and others involved with the River, is part of our normal work. If we do find some feasible ability to provide hydrokinetic energy, we would go back to those agencies for funding and resources.

SENATOR TOWNSEND:

The latest edition of *Forbes* magazine has a significant article on this issue. Hydrokinetic systems worldwide provide 750 megawatts (MW). Is the energy produced from such a project broken out from energy already produced? If a Nevada company could form a public-private partnership, could we narrow the power distribution to just Nevada consumers?

MR. CAAN:

The way energy generated from the River is divided is subject to a variety of regulations and legislation. In 1987, we invested in up-ratings of generators at Hoover Dam. The investment was made by California, Arizona and Nevada collectively. Nevada received an allocation of power based on our share of the investment.

If we were to suggest a new power source on the River, it would go through the federal process, and distribution of power would depend on the investor. If the federal government wanted to build the project, it would distribute the energy as it saw fit. If the states invested in it, there would be a quid pro quo and it would be subject to discussions. Energy distribution among the players is not predetermined.

SENATOR NOLAN:

The interest in this is to reutilize the water for more power generation. We are hoping with this bill that the studies would indicate the facility could be built on the Nevada side of the River to generate power for our State. We could possibly build a privately funded facility to generate power for the entire Southwest. This would be a wonderful philanthropic thing for Nevada to do for its neighbors, but maybe the bill's language is too broadly worded. If we are going to put the effort forward, we must make sure Nevada receives the benefits.

MR. CAAN:

The Colorado River is owned and managed by the federal government, and the resources from it are provided to the states by that government. It is conceivable that if Nevada found potential energy on the River and was the only partner willing to invest in it, we would have the right to that power. But that is highly unlikely. Generation, operation, maintenance and repair activities are very expensive, so we seek partnerships with the federal government and other states—with the return that we get to share the resource.

Hoover Dam has generators in Nevada and Arizona; however, the project is integrated, and we receive power regardless of which turbines generated it. Typically, we will find a fair and equitable way to share the resource and investment. The real issue for Nevada in this study is whether the flows produced after the application of the turbines are sufficient to power any generator.

SENATOR NOLAN:

Theoretically, this bill urges that study, and Nevada could apply for and receive funding, possibly finding potential to generate more energy. That power would go onto the grid, benefiting Las Vegas and southern Nevada.

MR. CAAN:

Typically, if Nevada has made an investment, regardless of where on the River, we would get back a resource related to that.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR SCHNEIDER:

We will open the hearing on Senate Joint Resolution (S.J.R.) 3.

SENATE JOINT RESOLUTION 3: Urges Congress to authorize the Clark County Department of Aviation to ban flights of experimental homebuilt aircraft to and from the North Las Vegas Airport. (BDR R-803)

SENATOR STEVEN A. HORSFORD (Clark County Senatorial District No. 4):

This is a very important bill for people who live near the North Las Vegas Airport. The proposed amendment to the bill ([Exhibit E](#)) has been worked out with the stakeholders. There have been wide media reports on the number of air crashes and airplane-related fatalities at or around the North Las Vegas Airport, which is within my district and that of Assemblywoman Marilyn Kirkpatrick. We have attended neighborhood meetings and met with representatives of Clark County, the Clark County Department of Aviation and the Aircraft Owners and Pilots Association (AOPA) over the last year to improve safety at the airport.

A 2008 accident involved an experimental aircraft that had had only five hours of flight-time experience. That incident resulted in this bill designed to maintain public safety. Increased development around the airport has contributed to the problem. Tract homes and business are now very close to the facility.

The amendment would put on record that the Legislature has serious concerns regarding the flight-safety practices at the North Las Vegas Airport. The Clark County Department of Aviation has no direct control over the airport, which is under the jurisdiction of the Federal Aviation Administration (FAA). The bill also urges the FAA to work closely with the Department of Aviation and the aviation community to convene by June 1, 2009, a stakeholders group. It would consist of representatives from the FAA, the Department of Aviation, the

Clark County Aviation Association, the City of North Las Vegas, AOPA and neighbors and tenants of the airport.

The bill would require the group to conduct preliminary analyses of flight-safety concerns and recommend ways to improve safety standards by November 1, 2009. The timeline is direct for a purpose: we do not know when the next accident may occur. The airport is already conducting improved safety and awareness training, but we believe the bill is a good compromise.

CHAIR SCHNEIDER:

Is this no longer going to Congress as a resolution? Have we decided to work strictly with the stakeholders?

SENATOR HORSFORD:

It would not go to Congress as far as telling it to ban experimental aircraft, which is how the resolution started. The bill puts on record the Legislature's concern about the safety issues and asks the FAA, through the Nevada Congressional Delegation, to join the stakeholders' group in finding solutions.

SENATOR NOLAN:

There have been several airports nationwide that have had similar incidents with experimental aircraft. Officials with the National Transportation Safety Board (NTSB) looked at the first version of this bill and determined it could have been problematic. The NTSB has offered an outreach program on aviation safety for stakeholders to use.

SENATOR HORSFORD:

The language on page 2 of the bill does allow without limitation for the inclusion of other stakeholders. For the record, John LaRue, our leadership attaché, worked with the stakeholders to reach consensus.

SENATOR CARLTON:

The amendment says there have been nine experimental-aircraft accidents within the Clark County airport system, including three at the North Las Vegas Airport. If we are talking about safety, what were the other two airports?

SENATOR NOLAN:

There have been two accidents around the Black Mountain Airfield in Henderson and one accident in Boulder City over 15 years.

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SENATOR CARLTON:
Is this since 2003?

SENATOR NOLAN:
Some accidents would have predated the list in the bill.

SENATOR CARLTON:
If we are going to single out an airport, I think it is fair for people to know what accidents are happening at the others. Page 2 of the amendment lists "Residents of neighborhoods surrounding" the airport as part of the stakeholders' group. Is this limited to a certain number of participants? I do not want to subject the people doing this as part of their job to a roomful of angry residents.

SENATOR HORSFORD:
The Northwest Area Residents Association represents many of the rural parts of the area, and there is another group of airport neighbors who discuss safety issues.

CHAIR SCHNEIDER:
For the record, I have a neighbor with three airplanes at the airport, one of which is an experimental aircraft.

GREG PECORARO (Vice President, Airports and State Advocacy, Aircraft Owners and Pilots Association):
I will read from my prepared testimony ([Exhibit F](#)) and have given you "2008 Nall Report, Accident Trends and Factors for 2007" ([Exhibit G](#), original on file in the Research Library), prepared for AOPA. There are 4,500 members of AOPA in Nevada. We have worked with Senator Horsford, Assemblywoman Kirkpatrick and others to develop alternative language to that proposed in the original S.J.R. 3. We urge you to adopt the amendment.

Since the 2008 experimental-aircraft accident at the North Las Vegas Airport, we have educated local pilots through our Air Safety Foundation to improve aviation safety. We conducted a safety seminar in Las Vegas for more than 400 pilots and have worked with the Clark County Aviation Association to help local officials and airport neighbors better understand the safety activities at their community airport. We have also worked with Clark County officials, Board of Commissioners members and the Department of Aviation. We have

also worked with the FAA Flight Standards District Office's manager, who expressed a willingness to help the Clark County Department of Aviation to resolve airport safety concerns.

JIM BRASWELL, MBA, CAE (JB Consulting, Airport Management):

We strongly support a stakeholders group and the amendment. The Nevada Airports Association presents an annual conference and sponsors safety events through AOPA and other State aviation organizations. While accidents are unfortunate, we can learn from them ways to improve safety. It is very important that the public and aviation groups collaborate to encourage the FAA to work with the stakeholders group.

LES LEE SHELL (Clark County):

We support this bill, and are trying to get the information for Senator Carlton on where those other six accidents occurred.

DAVID LERNER (President, Clark County Aviation Association):

We are delighted that a compromise was reached to address a very serious problem.

DAVE EDWARDS (Vice President-elect, Clark County Aviation Association):

I was the chair of the committee on this safety issue. This bill would be a definite advantage for the entire North Las Vegas and Clark County aviation community.

MAJOR GENERAL BILLY MCCOY (USAF, Retired):

I totally support Senator Horsford's proposal. Maybe it could provide the leadership base for other communities with airport-encroachment issues to follow our lead. As the Commander of Nellis Air Force Base for three years, I know such issues continue to be a major problem, and perhaps in time similar issues will occur around all of the Clark County airports. It is incumbent upon all who fly or operate aircraft and those who live under flight patterns to work together. This is the right and smart way to proceed.

GREG B. AREHART, Ph.D. (Professor of Geology and Geochemistry; Director, Nevada Stable Isotope Laboratory, Department of Geological Sciences & Engineering, Mackay School of Earth Sciences and Engineering, College of Science, University of Nevada, Reno):

I own two airplanes: a standard Cessna model and an experimental craft I built myself. I am here on behalf of the Reno-Stead Chapter of the Experimental Aircraft Association. We endorse the new language in S.J.R. 3; however, I hope Senator Horsford and this Committee do not single out experimental aircraft, but look at aviation as a whole. Experimental aircraft do not have a significantly higher accident rate than standard planes.

SENATOR TOWNSEND MOVED TO AMEND AND DO PASS AS AMENDED S.J.R. 3.

SENATOR NOLAN SECONDED THE MOTION.

SENATOR LEE:

This is an issue of some concern to the area, but the entire City of North Las Vegas would like to see this resolved. We want to make sure we have the safest-possible community.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR SCHNEIDER:

We will close the hearing on S.J.R. 3. We will open the hearing on S.B. 309.

[SENATE BILL 309](#): Makes various changes to provisions governing mopeds.
(BDR 43-533)

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

We had S.B. 309 on our last work session docket, but Senator Carlton had some concerns so I am introducing an amendment ([Exhibit H](#)) with another from the Department of Motor Vehicles (DMV) ([Exhibit I](#)). The bill deals with requiring what are really motorcycles hidden under the frame of a moped and classified as motorcycles to be registered and subject to all other requirements for

motorcycles. Missing in the original bill was the \$6 registration fee for motorcycles, which goes to safety training.

MARK FROESE, CPM (Administrator, Research and Development Division, Department of Motor Vehicles):

The amendment we are requesting, [Exhibit I](#), delays the bill's implementation date from October 1, 2009, to April 1, 2010, for DMV and makes it mandatory for the public on July 1, 2010.

SENATOR LEE:

In the original bill, I remember a miles per hour (mph) value; if a motorcycle went less than 20 mph, it was classified as a moped. Where is that? The limit is 30 mph.

SENATOR CARLTON:

The classification now is by the cubic centimeters (cc) of the engine. The problem is aftermarket modifications to make the moped go faster. Does this amendment classify basic-stock mopeds as motorcycles, or is it only with the aftermarket products installed?

SENATOR NOLAN:

The intention is to identify any vehicle that complies with the statute definition of a motorcycle. It would not apply to a moped that does not meet the speed or engine-size criteria, but if the moped is then souped-up or receives a new engine, it would apply.

SENATOR CARLTON:

We need to know to what this would apply.

MATT NICHOLS (Committee Counsel):

The amendment as drafted would apply to the sale of what is essentially a motorcycle under a moped exterior, but I don't think the amendment as drafted accounts for aftermarket installation or after-sale installation of additional equipment that would convert what is a moped into a motorcycle. We would need to refine the amendment to account for that. And while I'm thinking about it, if someone purchases that equipment from out of state or on their own and installs it on their own, it's going to be very difficult to get at every instance of that.

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SENATOR CARLTON:

Are we basically reclassifying mopeds into motorcycles?

SENATOR NOLAN:

No, we are taking motorcycles disguised as mopeds and classifying them as motorcycles. Electric and gas-powered scooters that do not travel more than 30 mph, have less than a 50-cc engine and do not "produce more than 3 gross brake horsepower of not more than 50 cubic centimeters" are unaffected.

SENATOR CARLTON:

Will engines below 50 cc—the current standard on a moped—have to be registered or comply with this bill?

MR. FROESE:

Yes. The bill would require that mopeds, as defined in NRS 486.038, would have to be registered, titled and insured.

SENATOR NOLAN:

Is that the current statute for mopeds used on the street?

MR. FROESE:

No, currently they do not need to be registered, titled or insured. However, if moped operators are pulled over for exceeding 30 mph or other offenses, DMV issues a form to the operator to sign stating their vehicle exceeds the definition of a moped, and it would then be treated as a motorcycle.

CHAIR SCHNEIDER:

Would it then, by definition, be a motorcycle?

MR. FROESE:

Yes, after the operator has signed the DMV form.

SENATOR CARLTON:

This amendment would scoop all vehicles into that net, not just speeders who have installed aftermarket products. In essence, would this require all mopeds to be registered and insured?

MR. FROESE:

Correct.

SENATOR CARLTON:

If the engine is below 50 cc, we need to have some vehicle that does not need a title and insurance. Every time we turn around, people have to pay more insurance.

MR. NICHOLS:

Thank you, Mr. Chairman, and thank you for clarifying it will be an intent or an attempt to ... I think we're talking about three different vehicles ... motorcycles, that no one would doubt are motorcycles—a Harley—we're talking about mopeds, which are below 50 cc, essentially a bicycle with an electric motor on it or some small, gas-powered motor on it; and then we are talking about what are under the definitions in NRS motorcycles but look like a Vespa scooter or look not like we would traditionally think of as a motorcycle. Those are in fact motorcycles and should be registered as motorcycles.

My understanding is that they frequently are not. So the bill, as amended, would require true mopeds to be registered as motor vehicles. Motorcycles that look like mopeds would be registered as motorcycles. So, yes, even your small, less-than-50-cc moped would have to be registered, the driver would have to be licensed, it would be treated essentially like a car for registration purposes.

SENATOR CARLTON:

The difficulty I run into is changing the criteria. I understand the motorcycles you are trying to get at, but it is a little too much to require mopeds to be registered and insured.

SENATOR LEE:

Mr. Nichols, I purchased a bicycle for my wife that has a small, battery-operated motor so she can keep up with me on hills at 15 mph. Is there a provision that stops that bicycle from being included in this bill?

MR. NICHOLS:

I would prefer to defer to the DMV experts on how they would treat it. But without knowing more about it, it sounds like that might fall under the definition of a moped, which would have to be registered. You raised a question for we may have to put a bottom

limit on the definition of moped, if you want to restrict mopeds to vehicles other than what you just described.

SENATOR NOLAN:

The Las Vegas Metropolitan Police Department (Metro) requested this bill. It was Metro's intention to identify vehicles on the street that can exceed 30 mph—essentially hopped-up scooters—that are not registered. The amendment does not intend to scoop the smallest scooters into the bill. We need to hear from Metro representatives because I am not sure the amendment is getting at what they want.

BRIAN O'CALLAGHAN (Detective, Office of Intergovernmental Services, Las Vegas Metropolitan Police Department):

There is confusion over this. We are not trying to get at the aftermarket vehicles, but even with engines of 25 cc and below, they can still go more than 30 mph. I sent out an e-mail to try to clarify some of that. Right now, it is a guessing game: if an officer uses radar to catch a moped traveling 35 to 40 mph—not an aftermarket bike, just a standard issue—the driver is cited for lack of registration, title and insurance.

We follow a letter of compromise we signed with the Attorney General and DMV. It was an agreement that if a driver exceeds the speed and has no registration, title or insurance, he would be cited as operating a motorcycle. During accidents, if the vehicle looks like a moped with a motor under 50 cc, but the bike is 3.5 horsepower, the driver will also be cited for lacking a helmet, registration, title and insurance. There is a bill introduced by Assemblyman James Ohrenschall that redefines "moped" as excluding electric bicycles.

MR. NICHOLS:

I would never question how the law is being enforced by the people who are charged with enforcing it, but it sounds like the procedure they're following is correct. The definition for "moped" includes several components, and if any one of those components is not met by the vehicle, which would otherwise look like a moped, it's not a moped. It would become a motorcycle. As the witness just said, if it exceeds the size of the engine, which I think is 2.5 horsepower, or exceeds the 30 miles per hour, you have a vehicle that falls outside of the definition of a moped. So what

we're really getting at here sounds to me like a motorcycle, regardless of what it looks like. But definitionally, it's a motorcycle.

SENATOR NOLAN:

Perhaps we can come up with an easy amendment. I understand Senator Carlton's concerns that she does not want to impact all the little bikes teens are driving and people are using on the street. However, we are trying to address the vehicles that are in traffic. I am fine with holding this bill for another amendment if those concerns are not met.

SENATOR CARLTON:

It sounds as though people are selling these things and falsely representing them as mopeds, so I understand you are trying to get dealers to inform buyers the vehicles must be registered. It is also up to the consumers to know what they are supposed to do. I would hate to see the lower-cc bikes scooped up into this net.

CHAIR SCHNEIDER:

Senator Nolan, I have a problem with unregistered, low-power mopeds going up Spring Mountain Road west of Decatur Boulevard. They have a hard time ascending the hill at 15 mph on a 45-mph street, and the drivers are not wearing helmets. I have had constituents complain about these mopeds causing a serious traffic problem. Can we fix that?

SENATOR CARLTON:

I would not want someone to sell a motorcycle under the guise of a moped. If Senator Nolan would like to rewrite section 1 of the amendment in order to take care of those disclosure issues, we could process it out of the Committee. I am unsure if the Assembly bill would give Metro the authority to force dealers to tell consumers that mopeds must be registered. That would take our constituents out of the guessing game.

SENATOR NOLAN:

I will take Senator Carlton's suggestion and meet with Metro to solve all of these issues quickly.

CHAIR SCHNEIDER:

We will close the hearing on S.B. 309. We will open the hearing on S.B. 358.

[SENATE BILL 358](#): Revises provisions related to energy. (BDR 58-1146)

MR. YOUNG:

Proposed Amendment 4008 ([Exhibit J](#), original on file in the Research Library), requested by Senator Schneider, makes certain changes in section 11 to address concerns from the Division of Welfare and Supportive Services about the carryforward of the universal energy charge (UEC). It also incorporates some changes suggested to section 12, subsection 12, by Southwest Gas Corporation that relate to the ability of a public utilities commission to delay implementation of certain rate increases and to establish a separate rate paid by low-income households. In section 19, the amendment addresses concerns raised by the administrator of the Buildings and Grounds Division about flexibility in dealing with landlords of buildings leased by the State. Judy Stokey, Director of Governmental Affairs for NV Energy, Inc., has submitted an amendment ([Exhibit K](#)), as has Chad Dickason ([Exhibit L](#)).

CHAIR SCHNEIDER:

There will be a very large amendment of [S.B. 358](#) coming from a working group that includes Senators Townsend and Horsford and stakeholders in the renewable-energy industry. I have requested a waiver on this bill from Senator Horsford; in the meantime, I would like you to familiarize yourselves with these amendments.

SENATOR CEGAVSKE:

With all of the things this Committee is doing on renewable energy, how many of the costs will be passed on to ratepayers? Is anyone tallying how many bills we have sent out for things the cost of which utilities say they will pass on to customers? Almost every one of these "green" and renewables bills includes costs passed on to ratepayers. Utilities have said they will give low-income customers and seniors a break, but what about average, middle-class people who have lost their jobs? I see [S.B. 385](#) as another form of negatively affecting the ratepayers. Have we heard anything from the shareholders? Do they like this, and are they with us?

CHAIR SCHNEIDER:

We do not have an exact fiscal-note total on all of the bills we have processed. Some of those bills authorized studies so have not gone through the process of fiscal analysis.

Many of the past renewables directives have cost mere pennies when spread to all of the ratepayers. The total does not compare to the costly fossil-fuel facilities that must be constructed if we do not move to renewables. We are transitioning from fossil fuels to renewable energy, as per a federal mandate. After the up-front costs of building renewables plants, the energy produced is basically free, without a carbon footprint.

Change is hard for everyone. The utilities are engaged in this effort, and ultimately, no one is going to be 100-percent happy. If you polled the shareholders, their first choice would be to go green, regardless of the cost. Builders are offering rooftop solar packs so homeowners can generate their own electricity. People will opt for that sort of thing once they know they can reduce the system costs by folding them into their mortgages, because power bills will be less.

SENATOR CEGAVSKE:

I do not know how many pennies are going to add up from all of these bills. I would like to see if we can get a tally of the costs passed on to consumers. It is our obligation to know exactly what we are sending to our constituents.

CHAIR SCHNEIDER:

We are trying to look at this holistically. In June and July 2008, Las Vegas had "noncontainment" air quality due to carbon dioxide emissions. Unless we work our own way out of this, the federal government will start telling us when we can and cannot drive. Maybe they will just shut down our fossil-fuel power plants. The coal-burning plant in Laughlin was closed because it was polluting the Grand Canyon's air. All of these little steps help us to avoid federal intervention. They will add pennies or small dollar amounts to our power bills.

SENATOR LEE:

If someone finances a home renewable-energy system, he needs to get portfolio energy credits (PECs) and value for it. I also think the provider of the power has some value to the utility if it is giving rebates to him. My goal is that individual power providers do get a value for their efforts. Could Ms. Stokey explain how NV Energy supports PECs through its ratepayers, and how it utilizes the PECs?

SENATOR TOWNSEND:

Senate Bill 358 is an attempt by Nevada to inch the ball down the field, relative to becoming energy independent. The Chair is to be applauded because if there

was ever an opportunity for us, it is in the transportation component of this bill. With regard to the bill's add-ons, under our prudence standard, if the utility has a cost imposed by us, that automatically becomes prudent and is spread throughout the rate base. This includes any of these energy programs.

The bigger picture is that we need federal help to finance the transmission grid. On the East Coast, the transmission grid is undercapacity, overused and in dire need of rebuilding. In the West, where we need more transmission, we need additional investment. Hopefully, the Obama administration is listening to Federal Energy Regulatory Commission Acting Chair Jon Wellinghoff's request for this. One of our biggest problems is figuring out how we can implement a north-south intertie to send northern Nevada's geothermal capacity to the south as base load for that region's growth. The second that project is begun, we will see a massive amount of investment in the north's geothermal industry. This is a fact of economic life.

With regard to Senator Caggs's concern, someone cannot get a benefit over here—because it is a zero-sum gain—without someone giving up something over there. We are debating the nature of the level of incremental costs. As you look at net-metering and distributive-generation issues, they are entirely different from industrial-size solar facilities. They are two different technologies. The problem we face is what happens to the system if a group of ratepayers makes an investment so those who chose to enter into a distributive-generation program get a benefit?

My colleagues are asking legitimate questions, the most legitimate of which is reliability. If ratepayers pay for a group to get a distributive-generation benefit, and they put a strain on the system, causing the subsidizing group to have a brownout because of a transmission problem, those who just underscored their own problem are going to be mighty upset.

The flip side of that is ratepayers' ability to shave their own peak-usage times. In southern Nevada, there is a point at which we will have to deal with real-time pricing and behavioral-change efforts. This comes back to the Chair's advocacy of electric vehicles: We would all like to have a nonpolluting vehicle. Nevada needs to lead in transportation, but we also need to focus on what the grid and customers can handle. We have been spoiled in this country by our ability to waste energy and drive big, macho cars—but those days are over. Let us embrace it together and find the best path. We will send a message to

Washington, D.C., and the world that Nevada will continue to stay ahead of the curve. We will work with the emerging industries and large and small consumers. When our working group brings back the amendment to this bill, you will see some very advanced thinking. The problem with distributive generation is you have to invest a large amount of up-front money to get a small return over a very long period, but you have eliminated the fuel component. The deferred-energy account adjustment element—the fuel and purchase-power return a utility makes—is also eliminated

CHAIR SCHNEIDER:

Ms. Stokey, how much is NV Energy adding to its current rate case to cover fossil-fuel versus renewables plants? What is the value of the PECs?

JUDY STOKEY (Director, Governmental Affairs, NV Energy, Inc.):

We will get that information to you. The rate case being conducted in southern Nevada includes \$1.5 billion in plant-construction funding, the majority of which is for gas plants and transmission upgrades. We have not yet seen in our rates some of the large renewables contracts into which we have entered.

Our amendment to S.B. 385 includes two issues relating to PECs. I cannot give you a dollar amount on what PECs are worth as of today. A customer who wants to install a home renewables system may take a rebate through rates all customers pay. The rebate typically pays for almost one-third of the system. It shows up on all customers' bills as the renewable-energy program line item. If a customer takes the rebate, by law, NV Energy owns the PECs because there is a cost associated with the rebates, for which all customers are paying.

If the customer does not take the rebate, he keeps the PECs and can sell them. It is important to keep the PECs if you take a rebate because if we end up having to purchase PECs to adhere to Nevada's renewable-portfolio standard, we may try to buy the PEC from the customer. That person has already gotten a rebate from the other ratepayers and foregone many of the costs associated with net-metered power: transmission lines, the UEC or fixed costs. People who cannot participate in the program because of its high costs, including seniors and low-income ratepayers, end up having to pay twice, for the rebate and if we have to buy back the PECs.

This is in line with the net-metering increase. Legally, up to 1 percent of NV Energy's load can be net-metered customers, which equates statewide to

76 MW. We currently have 0.03 MW allocated, so there is a lot of potential growth. It is not the appropriate time to increase that figure. Net-metered customers cannot go over 1 MW within their system; 99 percent are under that MW so there is no reason to increase that, either.

Another part of our amendment allows local governments to use bonding to help finance residential renewables systems. We are neutral on this issue. We would love to have more residential systems—just not on the backs of all of the other ratepayers. This is a great way for installers to get low-interest financing. However, as addressed in the amendment, we do not agree with local governments building solar systems then selling that power to others. There are many fixed costs NV Energy and ratepayers have already paid for, and we want to keep that fair.

SENATOR CEGAVSKE:

What we have passed out of this Committee so far will create a cost to NV Energy that will have to be passed on to ratepayers. Is that correct?

MS. STOKEY:

Yes.

SENATOR CEGAVSKE:

Do you know how many bills have been sent out and the total cost, or is it too soon to tell?

MS. STOKEY:

We have done some calculations on some drafted bills, but do not have a set amount for each of them. We do want to incentivize people to participate in demonstration programs and move the renewables industry forward, but we must have a balance of how much the other customers pay for it.

SENATOR CEGAVSKE:

I do not disagree with that. In our economic times, I am concerned about increasing the burden on constituents. I would like NV Energy to work with the Legislative Counsel Bureau staff to give us information on bills passed out, those upcoming and where we are with the effect on constituents.

CHAIR SCHNEIDER:

Ms. Stokey said the current rate case has \$1.5 billion for transmission lines and gas-fired plants. That amount is on ratepayers' backs. We are trying to move to renewables with no carbon footprint, and would \$1.5 billion cover that? Would that be a good cost to ratepayers, versus \$1.5 billion for fossil fuel? Those are some of the questions we must ask.

SENATOR CARLTON:

The current rate case proposes about a 16-percent increase. The difference between fossil-fuel plants and renewables and the way subsidies work out on the latter is that units will be on people's homes. When all ratepayers finance those plants, everyone will get the benefit. Individual units will give a benefit to just one person, as subsidized by all ratepayers. Working folks cannot afford renewables systems, even if the federal government gave them one-third of the cost. Yet that will end up on everyone's bills, who will not receive any direct benefits, except we have decreased the load and do not have to worry about brownouts. The more people who are off the grid, the better. The policy portion is good, but how much do we expect the whole to pay for the benefit of the few? How do we balance that?

SENATOR TOWNSEND:

The working group hopes to bring a new amendment for S.B. 358 by April 10 so we do not have to get a waiver. Section 19 of the amendment applies specifically to the chief of Buildings and Grounds Division's control over buildings leased by the State. The chief may determine that it is impractical for the building's owner to comply with the program. Would that also include the State agency in the building? Because if it is not practical for the agency to stay there another 10 years, that is a problem. Now is the time to take advantage of the market capacity, but we do not want an agency stuck with it. Does it mean to just say "impracticable for the owner" and/or the agency?

MR. NICHOLS:

I can try and address the question if you would like. I believe, Senator Townsend, the original concern as expressed by [Buildings and Grounds Division Administrator] Cindy Edwards was that in some instances, the State is one of multiple tenants in a building, and there is no way for a landlord to effectively measure the amount of electricity used in the portion of the building inhabited by the State. And so the intent, I believe, of the language that you

just pointed to is to give the chief the flexibility to say that if the owner can't comply by, for instance, having individual meters or in other ways be able to track the electricity use, then the chief would then have the flexibility to say, "All right, we can continue to rent from you even though you are technically not in compliance with the program." And I believe that was because Miss Edwards indicated in some locations of the State, the real estate market is such that State agencies don't have a real choice. And Miss Edwards was concerned that the State would be disadvantaged if it really was forced to either move out or have to accept maybe a much higher rent. So this was designed to give the chief the flexibility to excuse an owner and then allow the State to continue to remain in a building.

SENATOR TOWNSEND:

Concerns have been raised by Ms. Stokey regarding PECs and net metering, which she addresses in her amendment ([Exhibit K](#)). Knowing what we are trying to deal with in the bigger amendment and looking at all the other things she has tried to clean up in section 14, "The Director shall"; section 15, "A governing body may establish a district to finance ... "; and section 12, "the Commission may authorize an electric utility to provide reduced rates ... upon a hearing and after due investigation"—the normal process you would do to make that determination—I recommend we adopt the language in the amendment.

Ms. Stokey made her case in regard to the amount of increase in section 13, "doubling the net metering." We are nowhere close to the first percent, so it is unnecessary. Senator Carlton's well-grounded statement about the average constituent concerns me so I would not change the language and accept the amendment as drafted. That protects the average customer who is not likely to put a renewables system on his home. We do not want to get into class warfare, but if people can afford to install a system, the ratepayers should not have to subsidize that.

My recommendation is to accept Ms. Stokey's amendment and amend the bill as such so staff can actually incorporate her suggestions into the other amendment while waiting for the working group's larger amendment.

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VICE CHAIR CARLTON:

We would meld Ms. Stokey's amendment into the main one. This is for amendment purposes only, not actual voting. My only concern is on page 2 of [Exhibit K](#), where it says, "the Commission may authorize an electric utility ..."

SENATOR CARLTON MOVED TO AMEND PROPOSED AMENDMENT 4008 TO S.B. 358 WITH THE AMENDMENT FROM MS. STOKEY.

SENATOR CEGAVSKE SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

* * * * *

VICE CHAIR CARLTON:

Will we take up Chad Dickason's amendment ([Exhibit L](#)) at another time? We will close the hearing on S.B. 358.

We will open the hearing on S.B. 356.

SENATE BILL 356: Provides for the imposition of an additional administrative assessment against motorists who commit certain traffic offenses. (BDR 43-363)

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

This bill is the only proposal the interim Subcommittee on Transportation Issues unanimously agreed to advance. The courts opposed the section creating an administrative assessment. The intention was to create a disincentive tied to a public safety campaign for reckless or speeding drivers who cause deaths or serious bodily injuries. Southern Nevada has had a proliferation of vehicle accidents; we have one of the nation's highest per-capita vehicle injury-accident rates.

There is not an amendment. However, I did assure the courts we would remove the legislative assessment clause, and we discussed alternatives to it. If the Committee was to pursue this, we could create an additional fee or fine, or say if a driver pleads guilty to one of these offenses, the fine is doubled. A judge would have the ability to reduce that fine.

VICE CHAIR CARLTON:

By adding the guilty plea, it basically incentivizes people to go before the court instead. A guilty plea is an automatic \$100 in fines, and I am not sure what kind of impact this would have on court overcrowding. Courts pray for a certain percentage of people who will just mail in their ticket money, avoiding the expense of court procedures. The guilty-plea language will not help the cause.

SENATOR NOLAN:

Drivers who cause injury or death with an aggravating circumstance will go to court with legal counsel. The extra fine may not play a lot into the driver's position with regard to how he pleads. We hope it will act as a disincentive on the front end, along with public safety campaigns about the double fines.

VICE CHAIR CARLTON:

I am going through the list of things this bill would impact, including damage to property. Is this a list of one of these offenses?

SENATOR NOLAN:

If we devalued the property-damage aspect and left in the death or injury part, I would accept that. If we combine the higher fine with a public safety campaign, we can put a hammer behind law enforcement to make reckless drivers think twice.

SENATOR LEE:

If we are going to fund roads, we need to raise fuel taxes for the State Highway Fund. To me, this is the "people do not kill people, roads kill people" bill. Roads are safe; we can tax our way into prosperity in our road situation—we do not need to pile more fees upon reckless drivers. They are already paying \$3,000 to \$4,000; if you add \$500 or \$1,000 more, they still cannot afford it. Hopefully, after the first fine, they will shape up and it will not recur. You could say an offender had to give up his first child, and it would not make a difference in many of these cases. This will not generate much money for the Highway Fund. We are doing enough to dissuade reckless driving, and the offenders are already paying a heavy penalty.

SENATOR NOLAN:

The average motorist who drives safely does not mind having us tag aggressive, reckless, unlicensed and under-the-influence drivers committing felony moving violations. No one minds slapping the bad guys who are taxing our emergency

medical facilities and causing traffic congestion through accidents. The rest of us pay the costs of bad guys' offenses. The first proposal was a \$100 administrative assessment fee, but I have had e-mails asking that it be \$1,000. The real effort is not to fund highways; it is creating additional penalties to reduce accidents. Fewer accidents mean we will not have to find funds to build additional open lanes.

VICE CHAIR CARLTON:

Section 1, subsection 1, of the bill says "A moving traffic violation that is a felony ..." That is anyone who makes a felony-level mistake on the road so you are not just smacking the bad guys: you are smacking anyone who might make a mistake. Usually in an accident, at least one, if not two, tickets are issued so both drivers are cited for a felonious offense and dinged. There are times when an accident is simply an accident.

SENATOR NOLAN:

I would like to ask Mr. Nichols to define felonies for us. Felonies are imprisonable offenses that are the most serious traffic violations. If a person pleads guilty to a felony, the plea arrangement is masking a worse offense.

VICE CHAIR CARLTON:

This bill says, "A moving traffic violation that is a felony." There is nothing about guilt or innocence. It just says "a person pleads or is found guilty of ... a felony."

SENATOR NOLAN:

The first sentence of section 1 applies a \$100 administrative assessment fee to a person who pleads guilty to any one of three classes of felony offenses.

MR. NICHOLS:

I'm not going to be able to provide at this time a list of all of the felonies that you commit while operating a motor vehicle. It's an exhaustible list, I'm sure. But a felony is punishable by time in prison ... The maximum punishment for a misdemeanor, which is the lowest category below—the category below felonies is one year in county jail. And so it's a pretty severe punishment to be convicted of a felony. It can range all the way up to the death penalty so I think it's unlikely ...

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VICE CHAIR CARLTON:

We were trying to figure out which traffic offenses are felonies.

MR. NICHOLS:

If I may, Madam Chairman, many of those are already listed, not an exclusive list, but in paragraph (a) of subsection 1. And those are driving under a foreign license when a Nevada license is suspended, driving on a suspended Nevada license, operating a commercial vehicle with a suspended commercial driver's license, aggressive driving, reckless driving to certain degrees, DUIs [driving under the influence], vehicular homicide, DUI under a commercial driver's license—so that would be the bulk of them.

VICE CHAIR CARLTON:

We will discontinue this discussion and wait for the Chair's return to resume it. This has gotten deeper than anticipated.

SENATOR NOLAN:

I am fine with that.

VICE CHAIR CARLTON:

We will close the work session on S.B. 356. We are waiting for more information on the possible fiscal impact of S.B. 359 so we will hold it.

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

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VICE CHAIR CARLTON:

If there is no more business to come before the Senate Committee on Energy Infrastructure and Transportation, we will close the hearing at 10:28 a.m.

RESPECTFULLY SUBMITTED:

Patricia Devereux,
Committee Secretary

APPROVED BY:

Senator Michael A. Schneider, Chair

DATE: _____