

**MINUTES OF THE
SENATE COMMITTEE ON NATURAL RESOURCES**

**Seventy-sixth Session
April 15, 2011**

The Senate Committee on Natural Resources was called to order by Chair Mark A. Manendo at 3:20 p.m. on Friday, April 15, 2011, in Room 2144 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 Mark A. Manendo, Chair
Senator David R. Parks, Vice Chair
Senator John J. Lee
Senator Dean A. Rhoads
Senator Michael Roberson

GUEST LEGISLATORS PRESENT:

Senator Mo Denis, Clark County Senatorial District No. 2
Senator Don Gustavson, Washoe County Senatorial District No. 2

STAFF MEMBERS PRESENT:

Michelle Van Geel, Policy Analyst
Charity Fowler, Counsel
Sandra Hudgens, Committee Secretary

OTHERS PRESENT:

Burel Schulz, Administrator, Division of Compliance Enforcement, Department of
Motor Vehicles
Connie Simkins
Robert Tekniepe, Ph.D., Clark County Air Quality and Environmental
Management

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CHAIR MANENDO:

We will open the work session with Senate Bill (S.B.) 158.

[SENATE BILL 158](#): Revises provisions governing the frequency of required inspections of the emissions of certain motor vehicles. (BDR 40-310)

MICHELLE VAN GEEL (Policy Analyst):

Senate Bill 158 was heard in Committee on April 6. I will read the explanation ([Exhibit C](#)). You have a copy of proposed amendment 6218 ([Exhibit C](#)).

SENATOR LEE:

I did not realize cars of model years prior to 1968 were excluded from emissions testing. As time goes by, they will end up in the junkyard. This bill is a boon to small businesses with service trucks that pass the emissions test every year because they are maintained properly. Those businesses should not have to pay every year. If, in the future, we should find those cars are failing, I would change the law back to what it is now. It will be a help to small businesses; therefore, I will support this bill.

SENATOR PARKS:

Did the Department of Motor Vehicles (DMV) put a fiscal note on this bill?

CHAIR MANENDO:

Yes, they did, but I do not know what it is.

SENATOR DON GUSTAVSON (Washoe County Senatorial District No. 2):

There was a fiscal note on the bill; however, the proposed amendment took care of it. Currently there is a \$6 annual fee for emissions checks. If vehicles only get emissions checks every other year, the DMV would be losing half of that money; therefore, the proposed amendment calls for a \$12 certificate for two years.

CHAIR MANENDO:

Was that \$9 million in lost revenue?

SENATOR GUSTAVSON:

I do not remember the figure.

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CHAIR MANENDO:

Because of the fee increase, it would need a two-thirds majority vote on the Senate Floor.

SENATOR GUSTAVSON:

I was not aware of that. In reality, it is not a fee increase, because it is going from \$6 for a one-year certificate to \$12 for a two-year certificate.

CHAIR MANENDO:

I do not know. We will check with the legal staff.

SENATOR ROBERSON:

That would be a concern of mine.

CHAIR MANENDO:

We should know before it goes to the Senate Floor. We will move on to S.B. 287.

[SENATE BILL 287](#): Expresses opposition to the location of a proposed wind power project on Mount Wilson and Table Mountain. (BDR S-216)

MS. VAN GEEL:

I will read the explanation of S.B. 287 ([Exhibit D](#)). Numerous proposed amendments were offered for this bill. You will find a mock-up incorporating all of the proposed amendments ([Exhibit D](#)). I will go over the proposed amendments, [Exhibit D](#).

SENATOR RHOADS MOVED TO AMEND AND DO PASS AS AMENDED
S.B. 287.

SENATOR ROBERSON SECONDED THE MOTION.

SENATOR LEE:

As Chair of the Senate Committee on Government Affairs, I opted to support the local government of Lincoln County. This is the right region of the State for a wind power project. I have not traveled to the mountains in question. I do not know about the leks the sage grouse use, but Lincoln County needs to be able to start producing some support for themselves and for the State. Wind power is the asset they have. I support Tim Carlson of Nevada Wind, LLC in his efforts

to bring this project to this location. The county commissioners asked me to try to give it a little more time so they could work with Mr. Carlson to see if they could locate another mountain site. I do not know if it is possible, but I will be supporting this. I do want Lincoln County to know this is an avenue for them to make their county more self-sufficient. This is a great project. I want to give them a chance to talk more about this. If not, then I think Mr. Carlson's project is going to go forth, regardless of this piece of paper. I just want to allow a last opportunity for them to get with the people who are interested in that area.

SENATOR PARKS:

I am surprised this is not a resolution. This bill is asking us to take a position, but it is not mandating another place for the windmills. By adopting this motion, would we be recommending an alternate location, or would we be saying, "Go find some other alternate location"?

SENATOR RHOADS:

It came up at the hearing that Mr. Carlson had chosen a few other locations at a lower level. Since then, they indicated two or three other areas would be suitable. The county should get behind that and support them.

SENATOR PARKS:

If the project is to be relocated, would they have to reinitiate the environmental impact statement (EIS) process for approval from the United States Environmental Protection Agency?

SENATOR RHOADS:

I am sure they would have to start all over again.

CHAIR MANENDO:

Some of us thought it would be better for this to be a resolution rather than a bill. We will look into doing that next week.

SENATOR LEE:

If you are going to make this a resolution, I can support that issue.

CHAIR MANENDO:

We cannot make this bill into a resolution. We have to move the bill or not move the bill. We could do a separate resolution.

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SENATOR LEE:

Would we bring the resolution back to this Committee?

CHAIR MANENDO:

It would probably go to Senator Parks' Senate Committee on Legislative Operations and Elections.

THE MOTION CARRIED. (SENATOR PARKS VOTED NO.)

SENATOR PARKS:

My problem with the bill is restarting the EIS process. The project is in its final stages on Mount Wilson. That is my justification for not supporting the bill.

CHAIR MANENDO:

Is there anybody here from the DMV? We just received an e-mail about S.B. 158 an hour before Committee started. Is that why you are here? We are going to go back to S.B. 158. Could you folks come up to the table? I do not even know who you are. Maybe you can explain the e-mail you just sent because I have not read it. I do not know if it has anything in it to do with this bill.

BUREL SCHULZ (Administrator, Division of Compliance Enforcement, Department of Motor Vehicles):

We have some concerns about the bill. We believe it contains good language, but we are concerned about exempting the older vehicles. We have provided some statistics for the Senate Committee on Natural Resources to examine ([Exhibit E](#)). We do not want vehicles going every other year for emissions testing. We catch polluters every year. It keeps our air clean.

CHAIR MANENDO:

Can you address the fiscal note?

MR. SCHULZ:

The fiscal note has been addressed by adding the \$12 fee for two years.

CHAIR MANENDO:

I wanted to address that. But, I will tell you, it is not appropriate to send e-mails to this Committee an hour before a committee starts. ... there's been ... it seems like it gets worse and worse, every session, and this is my ninth session. ... Agencies, lobbyists, ... people aren't lobbying their bills, they're not talking to chairs, chairs of committees, they're not talking to committee members. It's getting to the point that I wonder why people are even here. I mean, we're doing all this work, and ... we just had a ... committee before this and ... somebody handed me a piece of paper as I was walking in the door, trying to talk to me about a bill. It just blows my mind. I don't know what people are doing, but they wanted to disseminate ... information, and give us information, and ... you can do it in a timely fashion ... Senator Lee has mentioned that in his Committee, it was mentioned again in another committee today, it's now being mentioned in this Committee and I think it's been talked about in [the Senate Committee on] Transportation, too.

SENATOR LEE:

I support what you have just said, Senator Manendo. I question the DMV's desire to clean the air. I know what your responsibilities are at the DMV. You bring up a good question. Why were the air quality people from Washoe County and Clark County not here? If it is true about the pollution, why is the Nevada Conservation League not here? Why are you the only one here saying this? I question your ability to decide the air quality of each county. I am looking for evidence.

CHAIR MANENDO:

There were folks who testified at the hearing about their concerns with this bill. Kyle Davis with the Nevada Conservation League testified against the bill. People with the industry testified against the bill.

SENATOR ROBERSON MOVED TO AMEND AND DO PASS AS AMENDED
S.B. 158.

SENATOR RHOADS SECONDED THE MOTION.

SENATOR ROBERSON:

I support this bill, but I am concerned about a fiscal note that would require a two-thirds majority vote on the Senate Floor for passage. If there is a two-thirds majority vote requirement, I reserve the right to change my vote on the Senate Floor.

CHAIR MANENDO:

We will have an answer on the two-thirds majority vote requirement by the time the bill goes to the Senate Floor.

SENATOR LEE:

I am going to support this bill, but this is the last chance for anybody who is for air quality to come see me before I vote on the Senate Floor. If I find out there would be a dramatic decrease in air quality because of this bill, I will vote no on the Senate Floor.

CHAIR MANENDO:

There are two members reserving their right to change their vote on the Senate Floor, and anyone can do that. I have concerns that people will lose their jobs in our community and State. I am concerned about our air quality, as well. I talked with a constituent who owns an emissions-testing shop. He will have to let his only employee go if this bill passes.

THE MOTION CARRIED. (SENATOR MANENDO VOTED NO.
SENATOR PARKS WAS ABSENT FOR THE VOTE.)

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CHAIR MANENDO:

We will resume with S.B. 226.

[SENATE BILL 226](#): Makes it unlawful for a person to trap a fur-bearing mammal within a certain distance of an occupied dwelling under certain circumstances. (BDR 45-975)

MS. VAN GEEL:

I will read the work session document explanation of S.B. 226 ([Exhibit F](#)).

And just for the Committee's information, the two [proposed] amendments are stand-alone. You'll notice that they are on separate pages behind the work session page ([Exhibit F](#)). You could adopt one, you could adopt one or the other, you could adopt none of them or you could adopt both of them. If the Committee wanted to provide a little guidance on regulations, if that was the way the Committee wanted to go, so the combination of things, that can be discussed.

SENATOR LEE:

Has the sponsor of the bill been notified of these proposed amendments?

CHAIR MANENDO:

Senator Sheila Leslie has been notified of the proposed amendments.

SENATOR LEE:

Did Senator Leslie like the second proposed amendment 6322 pages 4-6, [Exhibit F](#), by the Nevada Conservation League about mandating a meeting to take place December 31, 2012, to adopt regulations governing the trapping of fur-bearing animals?

CHAIR MANENDO:

She likes proposed amendment from TrailSafe, page 2, [Exhibit F](#) better than proposed amendment 6322.

SENATOR ROBERSON:

How can we be consistent and adopt both of these proposed amendments when the second proposed amendment deletes the bill as a whole?

CHARITY FOWLER (Counsel):

If you adopted both [proposed] amendments, then we wouldn't delete the bill as a whole. We would just bring that section in and amend [*Nevada Revised Statute*] section [sic] 501.181 as it is amended in the mock-up, and add that to the bill. That would be the way that you could choose to amend that, if you wanted to adopt both of them.

SENATOR ROBERSON:

I do not understand. If we adopt the second proposed amendment, it deletes the bill as a whole. The first proposed amendment keeps the bill; it just amends provisions of the bill which would not exist under the second proposed amendment, which would not apply to certain people with a permit.

MS. FOWLER:

But, if you chose to adopt both, you could say that you were not deleting the bill as a whole, but taking the provisions in the second [proposed] amendment and adding them to the bill. That could be your choice.

SENATOR ROBERSON:

There would be no reason for the second proposed amendment.

MS. FOWLER:

The first [proposed] amendment doesn't mandate the regulations. ... It still prohibits the trapping and sets forth in statute what you can and can't do with trapping, and it would just fall under the regular regulatory authority of the Board. The second [proposed] amendment mandates specific regulations to be adopted in these counties, which are Washoe and Clark, at this time. And, so it sort of mandates that the Board of Wildlife Commissioners take action, is what the second [proposed] amendment does. So, they can work together. ... If the second [proposed] amendment If both [proposed] amendments were adopted, the second [proposed] amendment would still mandate that they take regulatory action to basically enforce the provisions of the first [proposed] amendment.

SENATOR LEE:

If we take the Nevada Conservation League's proposed amendment, we make it the bill. Senator Parks, this is your proposed amendment. Maybe, this would be what you would want to have discussed before December 31, 2012; not just this, but quite a few other things like this. Is that correct? I am sorry, Senator Parks, it is not your proposed amendment. The proposed amendment from TrailSafe Nevada page 3, [Exhibit F](#), would be things to be contemplated for this bill. If you would accept a motion to take Kyle Davis's proposed amendment 6322, pages 4-6, [Exhibit F](#), as amend and do pass, with a letter that says these are things we want to make sure are discussed in that meeting,

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I would make that motion. Is that possible Ms. Fowler, to say it without putting it into the bill, but just to attach a letter? If not, then I will just make the motion for mock-up proposed amendment 6322 to be put into S.B. 226.

CHAIR MANENDO:

We can do a letter to whomever we want.

SENATOR LEE MOVED TO AMEND AND DO PASS AS AMENDED S.B. 226 WITH PROPOSED AMENDMENT 6322 AND A LETTER REQUIRING DISCUSSIONS FROM TRAILS SAFE NEVADA'S PROPOSED AMENDMENT.

THE MOTION FAILED FOR LACK OF A SECOND.

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SENATOR PARKS:

I was inclined to follow legal counsel's suggestion that we consider both proposed amendments. It appears that nothing in the first amendment precludes us from including the wording on page 3 from the mock-up page 6, [Exhibit F](#).

SENATOR PARKS MOVED TO AMEND AND DO PASS AS AMENDED S.B. 226 WITH PROPOSED AMENDMENT 6322 AND THE PROPOSED AMENDMENT FROM TRAILS SAFE NEVADA.

THE MOTION FAILED FOR LACK OF A SECOND.

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SENATOR LEE MOVED TO AMEND AND DO PASS AS AMENDED S.B. 226 WITH PROPOSED AMENDMENT 6322.

SENATOR LEE:

A stern notification will be issued to the wildlife commissioners to take this issue seriously and to work with people. If this Committee determines that it did not happen, I will follow along with whatever support needed to make sure this happens.

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CHAIR MANENDO:

That could be in the form of a letter.

SENATOR LEE:

I do not want people to be discouraged or have their rights abused. People want to have dialogue.

SENATOR ROBERSON SECONDED THE MOTION.

CHAIR MANENDO:

A constituent of mine who is a trapper said there is no need to trap in a residential neighborhood. If a dog or cat gets trapped, it is not going to get away.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR MANENDO:

We will now go to S.B. 299.

[SENATE BILL 299](#): Revises provisions relating to the care of animals. (BDR 50-388)

MS. VAN GEEL:

I will read you the information on S.B. 299 ([Exhibit G](#)). Behind the work session page is a mock-up prepared by the Legal Division ([Exhibit G](#)). I will go through the various [proposed] amendments in the mock-up.

In addition, after we had put together the work session documents, a last-minute amendment had come in from Beverlee McGrath in relation to exempting the animal shelters. So, on page 5 of the mock-up, line 33, in subsection 2 of section 13, where it says, "The provisions of paragraph (b) of subsection 1, do not apply to an animal shelter." ... She's asked me that we'd insert an "a" so that it would exempt animal shelters from the provisions of ... paragraph (a) and (b) of subsection 1, ... and subsection (a) is there language as far as a solid floor on the enclosures.

SENATOR PARKS:

I see a reference to animal shelters. Is there a definition of animal shelter?

MS. FOWLER:

It is not defined in the bill, it is defined in chapter [sic] 574.240 of the *Nevada Revised Statutes*. Animal shelter means a facility for receiving and holding animals designated by a local government for receiving and holding animals, or a facility operated by a society for the prevention of cruelty to animals which is in compliance with the provisions of this section inclusive for receiving and holding animals.

SENATOR PARKS MOVED TO AMEND AND DO PASS AS AMENDED
S.B. 299.

SENATOR ROBERSON SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR RHOADS VOTED NO.)

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MS. VAN GEEL:

I will read the information on S.B. 364 ([Exhibit H](#)).

SENATE BILL 364: Prohibits a person from engaging in horse tripping or organizing a horse tripping event under certain circumstances. (BDR 50-357)

SENATOR MARK A. MANENDO (Clark County Senatorial District No. 7):

I asked to have this bill brought up again. In the past, ... the Professional Rodeo Cowboys Association has gone on record in the past supporting the elimination of horse tripping. We had, ... testimony from folks ... involved in rodeos that have stated in ... I held up a couple of different pictures where they are actually tripping the horse, and the horses fall on their face, and the folks indicated that that is not what they do. ... If they don't do that then, that's good. And if they don't do that, then this bill will have absolutely no impact on what they do, at all. If they do this, then absolutely the bill will have an impact. So, I just question the fear

that we have to ban this practice in the State of Nevada. We have counties that have such a ban on their books. If it's good enough for some local jurisdictions, it's good enough for the State of Nevada. This is an absolutely uncalled for practice in my opinion. There is absolutely no need. If you want to lasso a horse and the legs, and then let go, I don't have a problem with that. If you lasso and pull and they go crashing down on their face, I want somebody to come up here, if there is anybody in the audience to tell my why that is needed. I would love to hear it. ... I have not been able to get an answer and I would love to see somebody come up and tell me why this is needed in the State of Nevada, and how that brings economic development to our State. I don't think it does. I don't think it has any purpose in the State of Nevada. It doesn't bring jobs. It doesn't bring revenue. There are, and I understand the whole part of the rodeos. I support the rodeos. I appreciate what they do. We exempted out livestock with folks that [sic] need to do that, and there are ... , and I did that for branding, ... and if it's branding of a horse. ... I know [Senator] Dean Rhoads is [sic] probably branded enough to brand us all. I don't think Senator Rhoads has ever done this. I can't imagine. I think this is a reasonable piece of legislation. ... I thought it had enough merit to bring back to this Committee for a second thought.

SENATOR PARKS MOVED TO DO PASS S.B. 364.

SENATOR LEE:

I have been looking for a reason to vote for the bill or to vote against the bill. I am not going to support this bill, but if I hear of any instance in the next two years that horse tripping has happened, I will bring the bill back myself. The counties need to get on top of this issue if they hear this is happening.

SENATOR ROBERSON:

I would like to echo Senator Lee's remarks. I am not convinced horse tripping is happening anywhere in this State any longer. I am concerned for the rodeo folks and the ranchers. I do not want this to be a stepping stone to restrictions on sanctioned rodeos in this State because rodeos are very important to Nevada and very important to our economy. If we have evidence of horse tripping going on anywhere in this State, I will support legislation similar to this next Session, and that is a commitment.

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CHAIR MANENDO:

Your argument is valid. If horse tripping is not going on, nobody should fear this legislation.

SENATOR LEE:

I do not think Senator Roberson and I want to see this bill die today. We want to send out a warning. As the chair of the Senate Committee on Government Affairs, I will write the county commissions and tell them we think this is something they should be discussing. If we find out horse tripping is happening, we will make it a law next Session. I would rather the counties take care of it. I do not want to vote against this bill, I would rather it just go away until we see what is going on in the next two years.

MOTION FAILED FOR LACK OF A SECOND.

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MS. VAN GEEL:

I will read the work session document information on Senate Joint Resolution (S.J.R.) 12 ([Exhibit I](#)).

SENATE JOINT RESOLUTION 12: Expresses opposition to the designation of certain public lands as Wild Lands and urges the Secretary of the Interior to rescind the order requiring that designation. (BDR R-1113)

SENATOR RHOADS:

This resolution came from the Legislative Committee on Public Lands. We have wilderness areas and wilderness study areas. This restricts what can happen on those lands because they are not available for multiple use. The U.S. Secretary of the Interior, without going through Congress, created a wild lands area which is also restrictive. Most of the western states have a lot of public lands, and they are also sending in resolutions or letters to the U.S. Secretary of the Interior asking him to rescind the order. We already have a lot of land in the wilderness and wilderness study areas.

SENATOR PARKS:

Is this just another layer on top of layers, called wild lands?

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SENATOR RHOADS:
Yes, that is correct.

CHAIR MANENDO:

This resolution urges the U.S. Secretary of the Interior to rescind Secretarial Order No. (Order) 3310. The Order restores balance to the management of our public lands by instructing the Bureau of Land Management (BLM) U.S. Department of the Interior staff to follow the provisions of the Federal Land Policy and Management Act of 1976, and inventory lands with the wilderness characteristics. The Order allows for public input at every step. It is important to implement the concept of multiple use. If we rescind that policy, we will lose public input. I have concerns with that.

SENATOR RHOADS MOVED TO DO PASS S.J.R. 12.

SENATOR ROBERSON SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR MANENDO VOTED NO.)

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CONNIE SIMKINS:

I want to thank you for moving S.B. 287 along and providing some additional information. When I checked on the EIS with the BLM in Ely, that process had not been started. Tim Carlson has not had a public meeting in five years in Lincoln County about his wind project. The scoping meeting has not been started. The notice to proceed has not been issued by the BLM, so there would be no starting over if they moved the project from the top of Wilson Creek and Table Mountain.

ROBERT TEKNIEPE, Ph.D. (Clark County Air Quality and Environmental Management):

My testimony is in regard to S.B. 158. Last week on April 6, we testified. Not only did we testify, but representatives of the Washoe County Health District testified in opposition to S.B. 158 in three areas. One of them was the fiscal impact, which appears to have been resolved by the proposed amendment brought forward by Senator Gustavson. However, we still oppose S. B. 158 on two other accounts, one being the emissions impact and the other from the regulatory standpoint. There is an increase in emissions with the proposed

amendment and the biannual vehicle emissions inspection. We provided some data with which Senator Lee and possibly Senators Roberson and Rhoads had issues or concerns last week. I am not sure if you received that handout. We also provided testimony on the regulatory impact of biannual inspections and the State implementation plans. The State inspection and maintenance program and Clark County's carbon monoxide and ozone plan are both federally enforceable and federally approved. There are still issues. We would be more than happy to work through the proper channels to provide the Senators of the Committee with further data to substantiate the emissions increase from the amendment that was proposed.

SENATOR LEE:

I was not here during the meeting on S.B. 158. I did not get the same information as everyone else. You need to know that when Senators are missing, you still need to contact them and give them pertinent information. I would like to see some data from you and talk to you on the phone.

DR. TEKNIEPE:

Michael Murphy is our lobbyist, and he could not be here today. He did not testify on April 6 because of the complexity of the issues about the regulations in the emissions impacts. We can talk to you personally or provide the information you need through Mr. Murphy. Did the Committee get the four-page fact sheet last week?

CHAIR MANENDO:

I do not recall. You can give the fact sheet to the Legislative Counsel Bureau in Las Vegas and have it faxed to my attention. I will see that all the Senators receive a copy.

DR. TEKNIEPE:

I have the authority to speak for Washoe County on this issue.

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CHAIR MANENDO:

There being no further business, the Senate Committee on Natural Resources is adjourned at 4:46 p.m.

RESPECTFULLY SUBMITTED:

Sandra Hudgens,
Committee Secretary

APPROVED BY:

Senator Mark A. Manendo, Chair

DATE: _____

<u>EXHIBITS</u>			
Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
S.B. 158	C	Michelle Van Geel	Work Session Document
S.B. 287	D	Michelle Van Geel	Work Session Document
S.B. 158	E	Burel Schulz	Written Proposals from the DMV
S.B. 226	F	Michelle Van Geel	Work Session Document
S.B. 299	G	Michelle Van Geel	Work Session Document
S.B. 364	H	Michelle Van Geel	Work Session Document
S.J.R. 12	I	Michelle Van Geel	Work Session Document