

**MINUTES OF THE  
SENATE COMMITTEE ON TRANSPORTATION**

**Seventy-sixth Session  
February 22, 2011**

The Senate Committee on Transportation was called to order by Chair Shirley A. Breeden at 3:30 p.m. on Tuesday, February 22, 2011, in Room 2135 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to the Grant Sawyer State Office Building, Room 4412, 555 East Washington Avenue, Las Vegas, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

**COMMITTEE MEMBERS PRESENT:**

Senator Shirley A. Breeden, Chair  
Senator Michael A. Schneider, Vice Chair  
Senator John J. Lee  
Senator Mark A. Manendo  
Senator Dean A. Rhoads  
Senator Mike McGinness  
Senator Elizabeth Halseth

**STAFF MEMBERS PRESENT:**

Kelly Gregory, Policy Analyst  
Bruce Daines, Counsel  
Patricia Devereux, Committee Secretary

**OTHERS PRESENT:**

Randy Lavigne, Executive Director, American Institute of Architects Nevada  
J. Windom Kimsey, Tate Snyder Kimsey Architects  
Jacob Snow, General Manager, Regional Transportation Commission of  
Southern Nevada  
David Goldwater, Google, Inc.  
Orrin J. H. Johnson, Deputy Public Defender, Washoe County Public Defender  
Paul J. Enos, Chief Executive Officer, Nevada Motor Transport Association  
Michael Geeser, California State Automobile Association, AAA Nevada  
Robert L. Compan, Government and Industry Affairs, Farmers Insurance Group;  
Zurich Insurance Company

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Lisa Foster, American Family Insurance Company; Allstate Insurance Corporation  
Lawrence F. Matheis, Executive Director, Nevada State Medical Association  
Chuck Callaway, Metro Sergeant, Director of Intergovernmental Services, Traffic Bureau, Las Vegas Metropolitan Police Department  
John Wagner, State Chairman, Independent American Party  
Bill Shranko, Chief Operations Officer, Yellow-Checker-Star Taxi Corporations  
Sandy Watkins  
Capri Barnes, Friends That Click Together Stick Together  
Brian LaVoie, The Hillary LaVoie Effort  
Homer Wood  
Don Carlson, Nevada Section Emergency Coordinator, Amateur Radio Emergency Services  
Traci Pearl, CPM, Division Administrator, Office of Traffic Safety, Department of Public Safety  
Kathleen Young  
Charlene Gumber, Look Out Kids About—A Safety Coalition  
Frank Adams, Executive Director, Nevada Sheriffs' and Chiefs' Association  
John R. Johansen, Highway Safety Representative, Office of Traffic Safety, Department of Public Safety  
Tierra D. Jones, Office of the Public Defender, Clark County  
Col. Tony Almaraz, Chief, Highway Patrol Division, Department of Public Safety

CHAIR BREEDEN:

Our first presenter will be Randy Lavigne on "Envisioning Nevada's Future: Exploring Ways to Diversify Nevada's Economy" ([Exhibit C](#)).

RANDY LAVIGNE (Executive Director, American Institute of Architects Nevada):

We will present information to help the Committee consider transportation issues, resolve the State's financial crisis and structure a successful future for Nevadans. The American Institute of Architects Nevada (AIAN) is dedicated to creating strong, livable communities. While it is vital to get the design and construction industries back to work, we cannot begin to build strong communities until we have a stable and strong economy and an educated workforce. This Legislature faces the challenge of balancing the State budget while beginning the essential work of structuring Nevada's future so this crisis does not recur.

Using information from the Nevada Vision Stakeholder Group and the "Envisioning Nevada's Future" report, AIAN has researched and expanded four areas in which a more diversified economy is needed. We will examine the study's transportation portion.

J. WINDOM KIMSEY (Tate Snyder Kimsey Architects):

I am a member of the AIAN Legislative Affairs Committee. My group looked at multimodal transportation issues in the State. Nevada has a strong roadway and bridge infrastructure, which needs to be maintained and expanded. The diversified-estates transportation network would encourage sustainability. Alternatives to private vehicles must be found for commuters. Nevada's connection to other Intermountain West communities must be strengthened. University of Nevada, Las Vegas, researchers have found a great connectivity exists in the West upon which we can now capitalize.

We hope Nevada will not repeat Florida's mistake of returning high-speed rail funds provided by the federal government. The Western High Speed Rail Alliance envisions a network from Denver to Los Angeles with regional hubs in Las Vegas, Salt Lake City and Phoenix. The proposal supported by U.S. Senator Harry S. Reid is the Desert Xpress, which is part of that potential network.

High-speed rail can move many people at a low cost. Installation costs may be initially higher, but high-speed rail is more environmentally friendly. In a comparison among rail, automobile and air transport, rail is the most environmentally sustainable. Nevada could be an important component of the federal proposal for a high-speed rail network across the United States.

Cargo-freight transporters are the third-largest motorist group using state highways, after commuters and tourists. We need to make sure cargo transporters have sufficient intermodal accessibility and mobility in Nevada. Connectivity is vital. The growth expectation for in- and outbound freight tonnage in Nevada is 2.5 percent. There is an opportunity to capitalize on that. Most of the freight and passenger traffic is moved through, not to and from, Nevada. The transport of goods and people from or to Nevada benefits significantly from the economies of scale and frequency of service enabled by high-volume through traffic.

The AIAN study examined the possibility of linking Nevada internationally. As defined by Congress in the National Highway System Designation Act, the proposed CANAMEX Trade Corridor has high priority. The intent is a full linkage from Mexico City to Fairbanks, Alaska, through Las Vegas. In his speech before Legislators today, U.S. Senator Reid talked about Nevada's need to link to the global economy, and CANAMEX would be an important part of that. With Nevada's plan to build U.S. Interstate Highway 11 (I-11) and link it to U.S. Interstate Highway 15 (I-15), Las Vegas is in a fortuitous location. A federal highway between Phoenix and Las Vegas is proposed.

Nevada has four urbanized transit systems in Carson City, Las Vegas, Reno and Lake Tahoe and eight rural transit systems. The majority of Nevada commuters drive in single vehicles. Humboldt County has the highest percentage of travelers on public transit, and Esmeralda County has the highest percentage of walkers. More than 1 million annual rides are given on vehicles provided through the Nevada Department of Transportation (NDOT) with Federal Transit Administration funding. Public transportation is critical in Nevada to move tourists and our workforce. This is particularly important in urban areas, but has also become increasingly critical in rural areas.

We must respond to the increasing demand for public transportation. The Regional Transportation Commission of Southern Nevada (RTC SN) is developing a bus rapid-transit system for the busiest roads in Las Vegas Valley (the Valley). The RTC SN is looking at connecting express-bus route projects to develop transit hubs in strategic positions. The way this ties into development of infrastructure and jobs is transit hubs are where development occurs. If we develop transit hubs, other businesses will follow. Infrastructure creates jobs, which our state desperately needs.

Funding for the Valley rapid-transit system is provided solely by the sales tax. The gas tax could be a potential revenue source. We need to look at an employee tax, which promotes employers' use of rapid transit. We need to look at creative ways to fund a more viable and usable transportation system. National examples of successful rapid-transit systems include the Valley Metro in Phoenix and regional light-rail systems in Denver and Salt Lake City. Other western cities have developed multimodal public transportation to enhance their economic viability. We have that opportunity in Nevada.

SENATOR SCHNEIDER:

Las Vegas was the fastest-growing U.S. city in the 1900s, but became seriously behind in its transportation system. Other western cities have installed light-rail systems. Are you saying Las Vegas must do so to be competitive in the twenty-first century?

MR. KIMSEY:

Light rail is a vital component. When we produced a document eyeing livability in Nevada, connectivity was one of the most vital elements. We must get people out of private vehicles. China has a huge emphasis on public transportation, partly due to vehicle-exhaust pollution. China's growth is similar to Nevada in its rapidity. China built transit hubs in places before development happened. We should look at installing light rail in existing rail corridors with established rights-of-way.

SENATOR SCHNEIDER:

We will have a bill to address that in this Session.

JACOB SNOW (General Manager, Regional Transportation Commission of Southern Nevada):

I will outline the relationship between the RTCSN and NDOT. The first slide in my presentation ([Exhibit D](#)) shows the RTCSN's Freeway and Arterial System of Transportation division. The on-ramp for I-15 at Russell Road is one of many with ramp meters. The RTCSN has been involved in the timing and coordination of traffic signals for more than ten years. Our transportation system is dynamic. Because we must sometimes close freeways then direct traffic to arterial surface streets, we wanted to try a unique experiment. We established a sole traffic-management center. Instead of having NDOT manage freeway problems that necessitate dumping traffic onto arterials, we would have one entity coordinate that effort. Employees of RTCSN—not NDOT—facilitate ramp meters, dynamic message signs, closed-circuit television cameras and radar detectors. Efforts, employees and equipment are not duplicated. It is an efficient and cost-efficient way of doing things. We have an exceptional relationship with NDOT. In essence, RTCSN operates the freeway system while NDOT procures equipment, which we help install. The majority of U.S. local and state transportation authorities fight like cats and dogs, but not here.

Most of RTCSN's traffic cameras, radar and dynamic message signs are in the I-15 corridor, but we are expanding that to the U.S. Highway 395 (U.S. 395)

and the Interstate 215 (I-215) Bruce Woodbury (Las Vegas) Beltway corridors. A project NDOT has just completed widened I-15 through the resort corridor from four to five lanes each direction.

Our traffic engineers have pinpointed the precise benefits of adding those lanes. This chart shows before-and-after daily delays-per-vehicle on I-15 over 24 hours. The red line indicates that before the express lanes were added, there was a sharp increase in delays of 3.5 minutes between 6 a.m. and 8 a.m., and an even-sharper increase in delays of 4.5 minutes in the afternoon. The green line indicates the reduction in delays after the express lanes were added. This video shows the difference in I-15 traffic congestion and speed at 3:40 p.m. before and after the express lanes were added.

I want to discuss RTCSN's role as a transit-service provider. The Federal Transit Administration annually measures what is involved with metrics indicating systems' efficiency and how transit is provided in certain U.S. cities. Las Vegas was deemed the most efficient transit provider. All of our transit services are contracted out to the private sector. We periodically put out tenders upon which the private sector can bid. The mechanics, drivers and much of the administration of our system are not provided by government workers being paid government wages and getting Public Employees Retirement System benefits. These services are provided by private-sector employees, making Las Vegas the most cost-efficient transit provider. We are now procuring transit services for a contract we expect to award in March 2011. The competitive-bid process keeps our costs low.

The RTCSN has increasingly moved its transit services to express-bus lines. The vehicle in this slide is not your grandfather's bus. The station and platform were designed by Tate Snyder Kimsey Architects. This route goes through downtown Las Vegas and The Strip, carrying 15,000 people daily. This route generates a revenue surplus that supports the rest of the system. We spent about \$60 million for this line. Seattle recently opened a light-rail line from the Sea-Tac Airport to downtown at a cost of multiple-billion dollars that carries the same passenger volume as our bus line. The other line in the corridor is our double-decker "Deuce on The Strip" buses, which carry 25,000 people daily. It also generates a revenue surplus. If we did not have a revenue surplus along The Strip, we would have to cancel many of our bus routes in the rest of the community.

We achieve efficiency by focusing on the ridership and where it wants to go. That is the concept behind our express services. We can get people out of individual vehicles and onto transit by keeping that lesson in mind. This slide shows our focus on siting express services in the Valley's areas of greatest population density. We connect people from where they live to where they work. The highest concentration of employment is along The Strip and in downtown Las Vegas.

This map, [Exhibit D](#), shows our existing or under-construction express-service lines. We had the choice of funding construction of part of one light-rail line to serve part of the resort corridor or a system of routes serving it. The former is the most effective choice for maximum community benefit, based on our limited financial resources.

We need to report what we have done with the American Recovery and Reinvestment Act (the federal stimulus bill) money we received. We received \$33.6 million for transit projects. This slide shows the projects we funded: the Bonneville Transit Center in downtown Las Vegas, the Centennial Hills Transit Center and Park & Ride in northwest Las Vegas and the Westcliff Transit Center and Park & Ride, which is the origin point for the Westcliff Airport Express service. These projects generated 2,074 direct, indirect or induced construction jobs.

Completion of the Boulder Highway Express project is ahead of schedule. This is a map of its route. The line will be completed in April or May 2011. We did not budget the operating costs of the system until its anticipated completion date in the second part of 2011 or first part of fiscal year (FY) 2012. Consequently, the line will not run until August or September 2011. This slide, [Exhibit D](#), shows a platform and station designed by Tate Snyder Kimsey for the Boulder Highway Express. The project generated 2,398 direct, indirect or induced jobs.

We successfully competed for a new round of federal funding called Transportation Investment Generating (TIGER) grants to fund the Sahara Express Bus Rapid Transit Improvement Project, shown in this slide. There are terminuses at the west end of Sahara Avenue at Hualapi Way and the east end at Boulder Highway. The next two slides are projected before-and-after views of Sahara Avenue. The project is transformational. When completed, there will be two dedicated lanes for double-decker buses and sidewalks widened to 10 feet.

Acacias will be planted on the street sides and chaste and blue paloverde trees will be planted in the raised medium filled with decomposed granite.

We need to consider our streets not just for cars. We should recognize that they are the most ubiquitous public space we have and treat them like the amenity they could be by focusing on multimodal transportation: walking, public transit and vehicles. We received \$34.4 million in TIGER grants and \$6 million from S.B. No. 5 of the 26th Special Session. There have been 55 jobs created, with 473 direct, indirect and induced construction-related jobs upon completion. The project must be completed by February 2012. It is a design-build project, which helped us accelerate delivery.

SENATOR SCHNEIDER:

The houses on the north side between Valley View Boulevard and Arville Street have an easement. Is that where the landscaping will be?

MR. SNOW:

Yes. We are utilizing exclusive public right-of-way. We are not acquiring any land.

SENATOR SCHNEIDER:

Is that also true for the south side of the same area? There were strip malls along there. Are you widening the sidewalk on that side, too? Will it have full landscaping?

MR. SNOW:

Yes. We will have 10-foot-wide sidewalks on both sides. They will have the landscaping seen in the slide, [Exhibit D](#).

SENATOR SCHNEIDER:

That will be a great improvement to a tired neighborhood.

MR. SNOW:

I agree. Sahara Avenue is an NDOT right-of-way with the City of Las Vegas on the north and Clark County on the south. The three entities are our project partners.



SENATOR MANENDO:

Do the slides of the I-15 express lanes take ramp metering into account? Were the images taken before and after meters were installed? One slide showed a lot of vehicles entering I-15, but the other did not.

MR. SNOW:

The videos focused generically on the express lanes. We can have our traffic analysts quantify the effects of each ramp meter to improve freeway performance. We have not added ramp meters.

In the 1980s, the federal government passed a law stating that urban areas with more than 50,000 people must do transportation planning. In order to receive federal dollars, cities must create a metropolitan planning organization (MPO). In Nevada, the Governor designated the RTCSN and the Regional Transportation Commission of Washoe County (RTC Washoe) as the state MPOs. If NDOT wants to spend money anywhere in the State, it has to go through those agencies. The MPOs received \$39 million for roadway projects. The RTCSN's MPO funds generated more than 20 pavement-preservation and repaving projects, creating 1,600 construction-related jobs.

In the 26th Special Session, S.B. No. 5 allowed us to un-sunset a 0.8-cent sales tax the RTCSN had coming to it. The tax was scheduled to sunset in about 2028. By removing the sunset provision, we were able to immediately bond \$169 million worth of projects that will create 2,000 construction-related jobs. That program of 38 projects is under way.

This map shows the 38 projects. The red dots indicate freeway-interchange projects. The large dot on the right is the reconstruction of a Mesquite interchange that is under-capacity and has safety problems. That design-build project will begin soon. The large center dot is the North Fifth Street/Las Vegas Beltway interchange project. That is a design project for U.S. Highway 95 (U.S. 95) interchange with the Las Vegas Beltway. Red squares indicate projects for maintaining roads and adding capacity to interchanges. We are repaving and redoing asphalt and concrete at interchanges throughout the Valley. Henderson's Anthem neighborhood has a new ingress and egress beside Eastern Avenue.

A new bridge over I-15 connecting both parts of North Fifth Street has been funded. Completed repaving projects in Boulder City are Georgia Avenue,

Adams Boulevard and Veterans Memorial Drive. Galleria Road is being constructed in Henderson. These photos show the construction of the North Fifth Street interchange with the Las Vegas Beltway.

Maintenance and reconstruction projects are under way throughout the Valley. The red symbols on the next map are unfunded high-priority projects. The map includes NDOT's high-priority unfunded projects. The two agencies need a combined total of \$10 billion for the projects. They would create 93,600 construction-related jobs. If this Committee will grant us the resources, we can put people to work. We knew that there would need to be accountability for the S.B. No. 5 of the 26th Special Session funding. All of the projects are awarded, some are complete and several are generating jobs now.

I will outline some of the biggest, long-term issues we envision. This slide shows traffic backed up after crossing the new Mike O'Callaghan-Pat Tillman Memorial Bridge from Arizona to Nevada. This traffic jam occurs regularly, especially on weekends and holidays. The next slide shows the interchange where the traffic creeps up the hill from Boulder City. The roadway on the right leads down to Hoover Dam, and many people use it to look at the bridge. Large trucks have been prohibited from using this corridor to cross the dam since the tragedy of September 11, 2001 (9/11). When the bridge opened, trucks were allowed on it, which has contributed to congestion. Once drivers pass this interchange, a good portion of the road leading to Boulder City narrows down to one lane each direction, creating serious congestion.

The solution is not to ban trucks from the bridge, but build a portion of I-11—a roadway around Boulder City built to freeway standards, as shown in this slide, [Exhibit D](#). The next slide shows our work aligning this project through the partnership we have had with the Maricopa Association of Governments in Phoenix for several years. The NDOT has also worked assiduously on the project, completing the environmental impact statement (EIS) and more than 30 percent of the design for the first phase of I-11, the Boulder City Bypass.

This map shows the freeway alignment we worked out with the Arizona Department of Transportation to connect Phoenix and Las Vegas. The only proximate U.S. cities with more than 1 million people not directly connected to an interstate highway are Phoenix and Las Vegas. The time has come for us to be the squeaky wheel. We have worked with the Nevada Congressional Delegation, and U.S. Senator Reid is setting up a meeting with the Arizona

delegation. We want I-11 to be greater than just connecting Phoenix to Las Vegas.

This map of western interstates shows there are many more east-west interstates than north-south ones. Nevada has no north-south interstate. According to our planning with NDOT and RTC Washoe, I-11 would extend through Reno into Oregon and Washington to Seattle. Nevada would have an interstate connection between Mexico and Canada. We need to be on the map because the benefits to our economy would be huge. The first step must be the designation by Congress of I-11 as an interstate. We are working toward this as part of the transportation bill that comes up every six years and is being debated in this Congress. Once we get that interstate designation, federal funding opportunities will greatly increase.

Through the Western High Speed Rail Alliance, Las Vegas has a partnership with the cities on this slide: Reno, Salt Lake City, Denver, Phoenix and Los Angeles. We received our first grant from the Federal Railroad Administration (FRA) to study high-speed rail in the cities' corridors. This slide shows what California has done with its high-speed rail planning. The California High Speed Rail, shown by the blue line, will have trains going 225 miles per hour (mph) connecting San Diego to Sacramento and San Francisco. It runs through the Imperial Valley via Palmdale and Los Angeles. California passed an initiative to raise \$10 billion to build the system without federal funds. The federal high-speed rail funding Florida and Wisconsin just relinquished will probably go toward the California system. It has already received \$5 billion in federal funds.

The black line on this map shows the proposed route of the Desert Xpress from Las Vegas to Victorville, California. There has been healthy skepticism regarding the utility of that route, as the train really needs to go all the way to Los Angeles. The \$1 million federal grant that the RTCSN received was to close that gap. The next map shows the Desert Xpress as a green line and the California High Speed Rail as a blue line. The RTCSN will study how to close the gap between the two systems with a spur from Victorville to Palmdale. That would link Las Vegas to Los Angeles and all of California. We will also study a high-speed rail route from Las Vegas to Phoenix.

All of this was made possible by our participation in the Western High Speed Rail Alliance, of which I was chair. Greater regional cooperation on these issues

will put Las Vegas on the map for transportation. We refer to the U.S. high-speed rail system as "Interstate 2." We need to be a bigger part of that by building I-11. High-speed rail will be the way much of the community—and the world—gets around in the future. There are Third World countries investing billions of dollars in high-speed rail and putting us to shame. We need to get on track, literally. We need Las Vegas and Reno on the high-speed rail map so we do not have to beg for crumbs from the rest of the country and world. We need to make it easy to get to Nevada, which we are facilitating with short- and long-term job creation and economic diversity.

SENATOR MANENDO:

Do you have any suggestions as to how we can get Nevada on the high-speed map? Do we need a ballot initiative or gas-tax increase for funding?

MR. SNOW:

The Desert Xpress organization has its own financing plan that does not involve state or local taxes. It has developed a revolving-loan program set up by the FRA. It is finishing an EIS to obtain a record of decision within the next few months. Then it can apply for the revolving loan.

SENATOR MANENDO:

How will we procure the \$10 billion in immediate roadway funding that you said we need for southern Nevada?

MR. SNOW:

There are many ways to do that. Nevada has not increased its gas tax since the early 1990s. Unlike the sales tax, it is not indexed to inflation. When the price of goods goes up, the tax is increased incrementally on a percentage basis. Nevada's gas tax is flat, about 25 cents per gallon. In the 1990s, 25 cents bought a lot more in terms of construction projects we could fund. Today, the value of the gas tax has been reduced to 13 cents, based on 1992 dollars. To keep up with inflation, we should periodically increase that tax, or we cannot build needed state or local road projects.

In the 75th Session, Legislators passed a bill that indexed the gas tax to inflation, but just for Washoe County. The county is in the enviable position of being much better able to compete for federal transportation dollars because it has matching funds. This will soon become an issue for NDOT, RTC SN and RTC Washoe. Unless we have new funding sources, we cannot provide local

matches for many potential federal dollars. If this Congress reauthorizes the federal transportation bill, we cannot afford to miss out on funding infrastructure and creating jobs because we lack matching funds.

Toll financing has also been discussed by the Legislature. The NDOT is studying moving away from the gas tax toward a vehicles-miles-traveled tax. This is a direct-user fee, in which people pay a certain fee per miles driven. The technology to do that has not been developed.

SENATOR SCHNEIDER:

Since we last increased the gas tax in 1991, vehicles are getting twice as many miles per gallon. Hybrid cars are getting four-to-five times that gas mileage, and super-hybrid and plug-in electric vehicles get even more. If we do not adjust how we obtain roadway revenue, we will not get any revenue in another decade. Will the I-11 project use the current route of U.S. 95?

MR. SNOW:

The Arizona portion and area around Boulder City of I-11 will use I-93. Then it will directly connect to Interstate 515 (I-515) through the Spaghetti Bowl to U.S. 95. Then I-11 would go through Reno and the rest of northern Nevada into Oregon, which is the current U.S. 95 corridor.

SENATOR SCHNEIDER:

The U.S. 95 goes through Luning, Hawthorne and other small towns. Will I-11 bypass those towns so motorists would not have to slow down?

MR. SNOW:

To build I-11 to interstate standards, we could not have breaks in the freeway with stop signs and traffic lights. We would have to bypass small towns, which entails a lot of time-consuming issues about which NDOT and property owners have legitimate concerns.

SENATOR SCHNEIDER:

There is a lot of open rangeland along U.S. 95. Will you fence off I-11?

MR. SNOW:

There are fences along I-15 to deal with its open-range issues. We would have to fence I-11.

SENATOR SCHNEIDER:

Will the Desert Xpress be a 250-mph train?

MR. SNOW:

The Desert Xpress will go 150 mph because it will likely be the first U.S. high-speed train. The FRA's safety standards only go up to 150 mph. The United States has not had the technology transfer from countries whose trains have run faster than that for decades. We are scrambling to get to that speed, but it is currently limited to 150 mph. Trains that can go 225 mph or 250 mph are being planned in anticipation that regulatory bodies will allow it. The technology transfer from other countries would be great for our economy, given the skills and resources we have.

SENATOR SCHNEIDER:

Why do regulators not observe the 250-mph trains in Japan and China then lift the speed regulations here?

MR. SNOW:

Japan, China, France, Italy, Spain, the United Kingdom and Brazil have trains that exceed 150 mph. A few decades ago, China and Brazil were Third World countries. American bureaucracy is hindering high-speed rail service.

CHAIR BREEDEN:

How many miles will the Boulder City Bypass be?

MR. SNOW:

I do not know. It is 6 miles from the bridge up to the current Boulder City road, so I would guess the bypass would have to be 12 or 18 miles.

The way I-11 is conceptualized, the route would go through Reno and Winnemucca. The U.S. 95 corridor goes east of Reno now, but I-11 would be a direct connection to Reno then proceed to Winnemucca.

VICE CHAIR SCHNEIDER:

We will open the hearing on S.B. 140.

**SENATE BILL 140**: Prohibits the use of a cellular telephone or other handheld wireless communications device while operating a motor vehicle in certain circumstances. (BDR 43-45)

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

I want to share staggering statistics concerning vehicle crashes and cellular (cell)-phone use and texting ([Exhibit E](#)). Every 26 seconds in the United States, a crash is caused by a driver using a cell phone or texting. Sixteen U.S. citizens are killed daily due to distracted driving. These statistics are from the National Highway Traffic Safety Administration.

The NDOT and the Fatal Accident Reporting System stated that in 2009, almost 5,500 people were killed, and almost 500,000 people were injured in crashes involving distracted driving. Of the 5,500 fatalities, 995, or 18 percent, involved reports of a cell phone as the distraction.

In 2009, a survey of drivers conducted by the AAA Foundation for Traffic Safety found 52 percent of them said they feel less safe on the roadways than in 2004. That was a 17 percent increase over 2008's results. Forty percent cited cell phones, texting and distracted drivers as the main reasons they felt more unsafe. There were 95 percent who believed texting while driving was unacceptable—but 18 percent admitted to reading or sending a text or e-mail message while driving in the last month. The Insurance Institute of Highway Safety reported that drivers using handheld communications devices are four times more likely to have an injury crash.

Senate Bill 140 would prohibit the use of cell phone or other handheld wireless communications devices while operating a motor vehicle. This includes texting and "surfing" the Internet. The bill would also prohibit a person from using a cell phone or other handheld wireless communications device for voice communication unless the device is rendered hands-free.

Bluetooth and other wireless earpieces for cell phones are readily available and inexpensive. Here is a \$10 jack purchased at a grocery store that can be plugged into a cell phone so the sound is transmitted through the car radio. This cell phone that I recently purchased came with a free hands-free earpiece. Cell phones with Bluetooth devices are more expensive.

To alleviate concerns that S.B. 140 could inadvertently hinder responses by law-enforcement or emergency personnel, certain exemptions are included. Paid or volunteer firefighters, law-enforcement officers, emergency medical technicians, ambulance attendants and certain other emergency medical personnel are excluded. Persons reporting a medical emergency, traffic safety

hazard or criminal activity are excluded. Also excluded are persons responding to certain emergency situations that require immediate action to protect the health, welfare or safety of a person when stopping the vehicle would be inadvisable, impractical or dangerous.

Violations of the provisions in S.B. 140 are a misdemeanor punishable by a first-offense fine of \$250, second offense of \$500 and third offense of \$1,000 plus immediate suspension of drivers' licenses for at least 6 months. Thirty states have banned the use of handheld cell phones while driving. Fifteen of those states also ban drivers aged 18 or under from using those devices. Thirty-eight states ban texting while driving, and Nevada must be added to that list. It is the responsibility of legislators to protect our citizens. We have all been part of a crash near-miss caused by a phone-using or texting driver.

DAVID GOLDWATER (Google, Inc.):

I am representing a special project for Google, Inc. that is developing a self-driving automobile. We support S.B. 140 because we support all efforts to make driving safer and lower rates of injury crashes and deaths. The Google, Inc. special project does exactly that. The company has 15 of the best engineers in robotics working on technology to allow cars to drive themselves through the use of the satellite Global Positioning System (GPS), radar, lasers and cameras. The car will have the self-driving technology necessary to interpret almost all road variables.

With drivers to control anything that went awry and technician passengers to monitor the navigation system, 7 test cars have driven 1,000 miles without human intervention and more than 140,000 miles with only occasional human control. A driverless car drove itself down San Francisco's Lombard Street, one of the steepest and curviest streets in the nation. Engineers report the only accident for driverless cars was when one was rear-ended at a traffic light. The technology will be available soon.

Robotic cars are safer because the human-error factor is removed from driving. Humans take risks and have issues; computers do not. On dark, dangerous roads, it is tough for humans to react. Self-driving cars will interpret that road as sunny-day conditions. Distractions like crying babies or blind spots are tough for humans to react to, but robotic cars are unfazed.



Technology is way ahead of the law. In this Session, Google, Inc. will ask this Committee to create a place in statute for robotic cars. The Office of the Governor and the director of the Nevada Department of Motor Vehicles (DMV) have lent their support to allowing this technology in Nevada. We are working with the Assembly Committee on Transportation on a bill draft request to create an operating class of driver's licenses for robotic cars. This technology presents many potential economic-development opportunities for the State.

We have a proposed amendment for S.B. 140 ([Exhibit F](#)) to recognize technology that makes driving safer. In addition to the exemption for the use of hands-free devices, we would like robotic-car technology to be exempted. My handout has language for two proposed amendments to S.B. 140. The first assumes the request to create a robotic-car license is successful. We would like to insert into section 1, subsection 2, paragraph "(d) A person who is operating a motor vehicle that is licensed by the Department of Motor Vehicles pursuant to ... ." The second proposed amendment to section 2 would recognize self-driving technology as exempt, just as hands-free technology is recognized.

SENATOR LEE:

Will the specific use of the drone car be FedEx Express or United Parcel Service, Inc. (UPS) trucks?

MR. GOLDWATER:

Google, Inc's ultimate goal is to create safe, efficient transportation using available technology. This is where society will end up.

SENATOR LEE:

I see the economical viability of moving material and product without human intervention. Is that the direction we are moving toward?

MR. GOLDWATER:

That is correct.

VICE CHAIR SCHNEIDER:

I have seen television commercials for Mercedes or Volvo vehicles that have similar technology that stops the car or realigns it if the driver is drifting. That technology is creeping in. Are you describing a vehicle in which you type in your destination and the car takes you there?

MR. GOLDWATER:

That is exactly the technology I am describing. Our statutes need to recognize that such technology exists, and the State needs to encourage its development and the economic opportunities it affords.

CHAIR BREEDEN:

What is the time frame for robotic cars to be available?

MR. GOLDWATER:

There is no set time frame, but the technology is improving on a daily basis. Our brilliant engineers are pushing their knowledge and experience to develop commercial applications. Before self-driving UPS trucks are seen, we may see vehicles that alert drivers about changing lanes or dropping them off while the cars look for a parking place. That would create a need for less parking and limit environmental damage. The project has repeatedly shown that driving safety is improved.

ORRIN J. H. JOHNSON (Deputy Public Defender, Washoe County Public Defender):  
The primary basis of our opposition to S.B. 140 is that without a bright-line reason, it becomes easy for law enforcement to pull drivers over without cause. If people are driving erratically, crossing the line or their licenses are expired, the cause is evident. A cell phone sitting in a driver's lap is difficult for officers to see and determine the driver is doing something illegal. The determination of a stop's validity becomes difficult when I review police reports. We are concerned this bill would lead to more unwarranted investigative and protectoral stops in certain circumstances and neighborhoods. While most officers do not engage in such practices, there are always a few who do. It is too difficult to determine cell-phone use.

Current statute provides a means to tackle distracted driving. If an officer sees a driver with a Big Mac in one hand and a cell phone in the other and putting on makeup with a third hand, the person can be pulled over for distracted, reckless or careless driving. It is likely the driver is speeding, crossing over the line or committing another traffic violation for which he can be pulled over. It is too easy for an officer to merely speculate that a driver is using a cell phone because the officer glanced at the person's lap and pulled him over. Then we would have citizens being intruded upon by their government and law enforcement, and that is what we seek to avoid.

VICE CHAIR SCHNEIDER:

Do you have evidence of people being pulled over without cause in California, which has a drivers' cell-phone ban?

MR. JOHNSON:

No. It is hard to prove an officer is definitely pulling drivers over because they are African Americans. No one writes in a police report, "I pulled over the guy because I thought he was on a cell phone, but really I just did not like the looks of him." It is difficult to gather that type of specific data. In every state, people are frequently pulled over without adequate cause, and public defenders have to litigate those cases.

VICE CHAIR SCHNEIDER:

Is this already happening?

MR. JOHNSON:

Many studies have confirmed unwarranted stops. Beyond racial profiling, well-intentioned but aggressive officers unduly intrude into private lives without adequate cause. That poisons the relationship between citizens and their government and between communities and law enforcement. That concerns us.

PAUL J. ENOS (Chief Executive Officer, Nevada Motor Transport Association):

We support S.B. 140. We agree that full attention is necessary for driving, especially regarding texting. The Federal Motor Carrier Safety Administration (FMCSA) has adopted a rule prohibiting truck drivers from texting in a truck cab. We want drivers' full attention focused on the road, especially when they are carrying 80,000 pounds.

The FMCSA did a study, "Distraction in Commercial Trucks and Buses: Assessing the Prevalence of Risk in Conjunction With Crashes and Near-Crashes." Texting, e-mailing and accessing the Internet are the likeliest causes of crashes. My organization also represents the Nevada Tow Car Council so we appreciate the exemption in the bill's section 1, subsection 2, paragraph (c) for "A person who is responding to a situation requiring immediate action to protect the health, welfare or safety of the driver ... ." We believe that applies to tow cars, especially those responding to an accident or disabled vehicle.

We have a proposed amendment ([Exhibit G](#)) for section 1, subsection 2 to exempt citizens band (CB) radio operators. That communications means is still widely used in the trucking industry. Unlike a cell phone for which you punch in a number, CB operators press a button to talk. The message is broadcast to any CB radio receiver within range. Drivers use CB radio to talk to dispatchers and alert other drivers to weather or road hazards. We seek an explicit exemption so there are no conversations about whether a truck driver was using a CB radio.

VICE CHAIR SCHNEIDER:

Truckers use CB radio to warn of Nevada Highway Patrol (NHP) officers ahead so their truckers will slow their rigs down from 85 mph.

MR. ENOS:

I will not tell you that does not happen. But there are legitimate uses of CB radios for commercial drivers and those in other industries.

MICHAEL GEESER (California State Automobile Association, AAA Nevada):

California State Automobile Association, AAA Nevada (AAA) supports S.B. 140. Chair Breeden cited a statistic from a study done by AAA that found 95 percent of respondents said texting was dangerous, yet one in seven people said they had done so. This has become an epidemic about which we must do something.

I agree with Mr. Enos when he said there are other types of distractions; however, texting merits its own statute because of its visual distraction. The time it takes for you to look down then up is all it takes to cause an accident. We support a texting ban for drivers of all ages. We do not support an all-out ban on cell-phone use because the data seem unclear on exactly what constitutes the distraction. Is it holding the phone or the intellectual distraction of holding a conversation?

I agree with Mr. Enos that tow trucks are covered in section 1's exemption because that industry responds to safety and hazard situations. An amendment is not needed because the bill drafters' intent is to exempt safety personnel and emergency responders.

ROBERT L. COMPAN (Government and Industry Affairs, Farmers Insurance Group; Zurich Insurance Company):

As Nevada's largest automobile insurance company, Farmers knows what happens when inattentive drivers cause accidents. When texting drivers fail to

see the car in front of them, accidents can be more catastrophic than if a driver dropped a Coke in his lap. I support everything Mr. Geeser said.

SENATOR LEE:

The proposed first-offense fine is \$250. If within 7 years I get a second or third fine, how will insurers treat this, in terms of violation points? Will drivers be disciplined with higher premiums?

MR. COMPAN:

Insurance points depend on whether offenses are moving violations. I do not know if texting or cell-phone use is defined as a moving violation under statute. If it is, the violation would qualify for the insurers' point system, based on DMV records. It would be a cause for action against a violator's policy.

VICE CHAIR SCHNEIDER:

Is that how you see it, Mr. Geeser?

MR. GEESER:

I agree. A moving violation engenders points DMV allows insurance companies to review. Nonmoving violations like parking tickets are something we could never access. We would need the Legislative Counsel Bureau to determine if texting or cell-phone use creates points.

SENATOR LEE:

I am trying to determine insurance customers' liability.

LISA FOSTER (American Family Insurance Company; Allstate Insurance Corporation):

We support the comments of the previous insurance representatives. We agree that insurers are only interested in moving violations.

LAWRENCE F. MATHEIS (Executive Director, Nevada State Medical Association):

We support S.B. 140. Public health and emergency physicians have been the longest-standing lone voices in the wilderness on the increasing problems related to preventable accidents caused by our fascination with using technology in the wrong time and place. This issue was mostly about teenage drivers after studies showed the equivalence of cell-phone use to a couple of alcoholic drinks. Cell-phone use and text-messaging have grown for drivers of all ages.

For clarification, I would like to state our interpretation of the bill's intent. There are subjects that have come up during this legislation's past incarnations. If a driver operating a motor vehicle on a highway wants to use a phone or text, that behavior would be protected if the driver pulls over to the roadside and stops, unless a sign prohibits that action. Is that a fair assumption of the bill's intent?

CHAIR BREEDEN:

Last Session, the bill's intent was that drivers could not just pull over to the roadside to call or text. That would depend on whether they were on freeways like I-95 where the side lane is solely for emergencies. Drivers would need to pull onto local streets or into parking lots.

MR. MATHEIS:

I share that understanding. Drivers must go to designated areas where it is legal to pull off.

CHUCK CALLAWAY (Metro Sergeant, Director of Intergovernmental Services, Traffic Bureau, Las Vegas Metropolitan Police Department):

That is correct. If a driver is on the freeway, the shoulder is for emergencies only. It is not for pulling over and talking on cell phones, which would cause congestion and hazards. Our suggestion would be to exit the freeway and pull into a parking lot or off to the side of a residential road. Life-threatening emergencies are covered under the proposed bill.

MR. MATHEIS:

Our other question involves section 1, subsection 2, paragraph (a): " ... other person trained to provide emergency medical services ... ," which is virtually any licensed health professional. These are persons covered in *Nevada Revised Statutes* (NRS) 450B. With those questions answered, we support the bill.

SGT. CALLAWAY:

The Las Vegas Metropolitan Police Department (Metro) supports S.B. 140. We had 81 fatal accidents in 2010. I do not have data to show if they were related to cell phones or texting. However, based on the statistics and percentages presented by Chair Breedon, my estimate is a portion of fatal accidents were related to distracted driving due to cell-phone use or texting. Metro responds to more than 25,000 accidents annually, and cell-phone use and texting are contributing factors in some of them.

SENATOR MCGINNESS:

Do you have evidence showing any of those accidents were caused by cell-phone use or texting? Do you have eyewitnesses to that effect?

SGT. CALLAWAY:

I do not have that information today. When Metro officers write accident reports, we look at the totality of the circumstances. If we determined that cell-phone use was a contributing factor, that would be in the report. It is difficult to determine if the driver was talking on a phone when an accident occurred, especially in fatal accidents in which vehicles suffer major damage. If someone ran a stoplight and caused a fatal accident, the driver may have been on a cell phone but the report would typically not state that. It would merely state the driver ran the light and caused the accident.

JOHN WAGNER (State Chairman, Independent American Party):

I support this bill for the most part. I have a lot of respect for law-enforcement officers. I am sure if one found a cell phone in a driver's lap and the person did not have a Bluetooth-type device, the officer would have good suspicion the phone was being used illegally. Cell phones should not be used by drivers. My phone stays off when I drive. I support cell-phone use for emergencies.

I am concerned about the bill's exemption for police officers. Recently in Washoe County on State Highway 445, an officer racing to a traffic accident killed a bicycle rider. I believe the officer was distracted by reaching over to answer a computer message. Maybe officers responding to high-speed situations should be banned from using computers.

BILL SHRANKO (Chief Operations Officer, Yellow-Checker-Star Taxi Corporations):

We are neutral on this bill, although there are exceptional reasons to enact it. Texting or reading incoming texts while driving are the most unsafe activities in the history of automobiles. Safety is so important for our corporations, we make a determination offense if a driver is texting while involved in an accident.

We are concerned about the bill's language in section 1, subsection 1, paragraph (b): " ... other handheld wireless communications device to engage in voice communications with [the] another person ... ." That would put every cab in the State out of business because NRS 706 states every cab must be equipped with a radio and handheld microphone. About 85 percent of Nevada cab companies use dispatch by voice. We need some modification in that area.

The Yellow-Checker-Star Elite Fleet has handheld keypads requiring two button presses to turn them on and off. The Elite Fleet is a rapid-response system in which drivers are only allowed to dispatch from their vehicles for two hours. Those cab drivers have lower accident rates than others because they are so prepared and well-trained. We are concerned we would have to remove those keypads.

If cell-phone use is necessary, we encourage our drivers to use Bluetooth devices or pull off into a shopping center whenever a call or text is sent. We all know the practice will never be wiped out, but if we do not have legislation like the aforementioned states, Nevada will be far behind.

SANDY WATKINS:

My daughter-in-law Jennifer Watkins and I are here to support S.B. 140. Here is the YouTube video ([Exhibit H](#), original is on file in the Research Library) about Jennifer's injury-accident caused by a teenage driver talking on a cell phone. She was traveling at 75 mph and did not apply her brakes.

CAPRI BARNES (Friends That Click Together Stick Together):  
We support S.B. 140 and S.B. 145.

**SENATE BILL 145**: Prohibits a minor from using a cellular telephone or other handheld wireless communications device while operating a motor vehicle, except in certain emergency situations. (BDR 43-385)

I am 19 and learned to drive less than 3 years ago. My parents were apprehensive about letting me obtain my driver's license at such a young age. My father told me that when he obtained his license, "Luckily enough for me, my only distraction was myself. I loved looking at myself in the mirror. Cell phones did not exist when I was 16. Your biggest distraction is now yourself, 34 years later."

While driving, I will hear my phone "bing" to remind me about an appointment. The phone rings when a friend invites me to a party. It chimes when I have a voice mail from a missed call. Temptation is always there to respond. As an attentive teenager, I do not respond but all of my peers and friends do. I have friends who drive with cell phones on top of the steering wheel to simultaneously see the road and their text messages. They believe this is a safe bet.



I have lost all hope for my generation. There is no amount of "I told you so's" and "I wish you did nots" after one of our lives is taken. Too often children are gone before someone realizes it is not a good idea to text while driving. California's "three-strikes" sentencing law has nothing to do with texting and driving. It has everything to do with people who target previously convicted offenders who are proven to be unable to change their criminal behavior. When the three-strikes law was enacted, the public noticed the difference in criminal behavior when offenders had used up two strikes. Parents tell teenagers, "One—do not let me get to three strikes."

In S.B. 140, the "third strike" of losing your license, a \$1,000 fine and higher insurance premiums, are the only gravest incentives that would inspire my generation to buckle up and fly right. Unfortunately, I have been to too many memorial services for my teenage best and casual friends who have lost their lives to distracted driving as either drivers or victims. I would hate it if my "third strike" were someone else's last chance. My support for this bill does not come from lack of experience; it comes from personal trials and tribulations. At age 19, I am telling you this bill is one of the best ideas I have ever heard, especially for my generation.

BRIAN LAVOIE (The Hillary LaVoie Effort):

My daughter, Hillary LaVoie, was killed as a passenger in a single-car crash on September 26, 2010, 18 days after her 18th birthday. No drugs or alcohol were involved in the crash. The three young women in the car were recent honors graduates and were attending college. Hillary was a four-year member and captain of her cheerleading squad, high school homecoming queen, Millennium Scholarship recipient and a four-year high school student government member.

These were good girls, but the driver had a momentary lapse in judgment. This could have been prevented by the passage of S.B. 140 and S.B. 145. An eyewitness said the driver was holding a cell phone moments before the crash. I am not naïve. I understand that a seat belt may have saved Hillary's life, and I will be back to speak to the Committee when that bill comes up this Session. I know that the distraction of a cell phone caused the crash that killed my daughter. I ask you please to pass these bills, save lives and prevent others from joining the grieving-parents club to which I now belong. The price is too high.

HOMER WOOD:

Mr. Geeser was exactly right when he said drivers' cell-phone use and texting is epidemic in our communities. I live in Summerlin, and during my drive down Summerlin Expressway to this hearing room today I counted eight drivers texting or talking on phones. People are concerned about their rights to do everything. The bottom line is they do not have the right to kill, maim and act irresponsibly. That is what drivers do when they operate cell phones and text. I want a police officer to unduly intrude into someone's private life and stop cell-phone use. Bills like S.B. 140 and S.B. 145 are way overdue. Laws are needed to protect responsible citizens from those who act irresponsibly. The Legislature needs to protect all of us.

DON CARLSON (Nevada Section Emergency Coordinator, Amateur Radio Emergency Services):

Amateur Radio Emergency Services (ARES) has concerns about S.B. 140, as outlined in my handout ([Exhibit I](#)). I am the Nevada Section emergency coordinator of ARES, which is a field organization of the American Radio Relay League. On March 20, 2007, the Department of Public Safety (DPS) appointed me as the State civil amateur radio service (RACES) officer to oversee amateur radio's role in backup emergency communications during declared disasters.

I am responsible for the coordination and training of hundreds of amateur radio operators who serve the State and local communities in coordination with many emergency-operations centers. We also serve the Department of Health and Human Services, Emergency Management Division of DPS, the Nevada Hospital Association, the American Red Cross, the Salvation Army and other agencies. We have been endorsed by the Nevada Communications Interoperability Plan Steering Committee, which recognizes the importance and value of how we provide capabilities beyond the scope of normal communications channels.

The mission and goal of amateur radio emergency services is to provide communication on behalf of our served agencies if conventional means of communication are overwhelmed or fail. We are mandated to do so by Federal Communications Commission (FCC) Rules and Regulations part 97, subpart A, 97.1 "Basis and purpose":

The rules and regulations in this part are designed to provide an amateur radio service having a fundamental purpose as expressed in the following principles:

- (a) Recognition and enhancement of the value of the amateur service to the public as a voluntary noncommercial communication service, particularly with respect to providing emergency communications.

Volunteer amateur radio operators have provided these services free of charge for more than 75 years. During 9/11, the only functional communications system was amateur radio. Since then, the Federal Emergency Management Agency (FEMA) has emphasized incorporating and utilizing amateur radio as an auxiliary source of emergency radio communications by ARES and RACES. We have memorandums of understanding with the U.S Department of Homeland Security, FEMA, the American Red Cross and other agencies that recognize the importance of our service to the nation.

In December 2010, amateur radio operators assisted with an emergency evacuation at Mount Charleston and flooding in and around Mesquite. We assisted Lyon and Douglas counties when their 911 call centers were unable to receive or send traffic through conventional and cellular means due to severed lines.

Nevada has 12 trained cadres of ARES and RACES teams who rely on their ability to provide reports as mobile amateur radio operators. They are additional eyes and ears for emergency managers and agencies at no cost to Nevada taxpayers. These include various emergency operations centers throughout the State. Many operators are trained as weather monitors under the National Weather Service's Skywarn Program to provide real-time information during severe weather.

Without a specific exemption, the language of S.B. 140 is overbroad and vague with respect to the operation of press-to-talk radios such as amateur radio transceivers in vehicles. An unintended consequence could be amateur radio operators cited for violating the proposed statute and receiving unfair and unwarranted penalties merely for operating radios. There are no exemptions for taxicab drivers or businesses with General Mobile Radio Service-type radios in vehicles.

If the Committee believes commercial entities with services regulated by parts 90, 95 and 97 of the FCC Rules and Regulations should be exempted, amateur radio operators should, too. The operation of mobile amateur radio transceivers

does not differ from that of commercial radio stations, except the service is free. The DMV recognizes the value of amateur radio operators by issuing license plates bearing applicants' FCC-issued call sign and words "radio amateur." The license plate fee is reduced if applicants agree to use their equipment to assist in emergencies. California, Connecticut, Delaware, Maryland, New Jersey, New York, Oregon, Washington, the District of Columbia (D.C.) and the U.S. Virgin Islands have enacted laws that exempt amateur radio operators from legislation similar to S.B. 140.

It is far better to include an exemption in the bill before it is passed than to amend the statute afterwards, especially if the Nevada Supreme Court finds the law is too vague and overbroad to enforce. Officers who will be charged with enforcing the bill's provisions are probably unaware of the nuances of difference between cell phones and amateur radio transceivers. An amateur radio operator was stopped by an NHP officer for a "rolling stop." The vehicle had the plates described above, yet the officer asked him, "What kind of license plates are those?" How can we thus expect officers to understand how amateur radios differ from cell phones?

*Nevada Revised Statute* 484B.603 allows officers to issue a citation if a driver "... fails to use due care" or, under other provisions, for following too closely and reckless driving. If S.B. 140's intent is to ban cell-phone use and texting, there should be a specific, unambiguous exemption for push-to-talk, two-way radio devices authorized by the FCC similar to devices used by police, fire and emergency personnel. Otherwise, device users will be unfairly penalized for problems generated by the offenders targeted by this bill.

The media do not report accidents caused by the operation of amateur radios. Most amateur radios are programmed in advance of vehicle operation for channels used in their locales. Changing channels is much less distracting than punching in a phone number, responding to a call or text or reading a text message. It is no more distracting to use mobile amateur radios than to change a built-in car radio's channel. No device is held up to one's ear, and all transceivers have built-in speakers. The only time operators hold something is when they are speaking into a microphone. Mobile amateur radio transmissions are usually brief due to timeout devices on most frequencies.

We see several uncertainties in the language of S.B. 140. In section 1, subsection 8 and section 3, subsection 2, there is no mention of two-way

mobile radio devices, only handheld devices. Section 1, subsection 8 states, "... without limitation, ... ," which could be construed as any device without cellular or texting capabilities. When read together, these two provisions are confusing and contradictory.

VICE CHAIR SCHNEIDER:

I would like the parties seeking specific exemptions to work up an amendment. I will appoint a subcommittee to work on it.

TRACI PEARL (CPM, Division Administrator, Office of Traffic Safety, Department of Public Safety):

My PowerPoint printout ([Exhibit J](#)) states 6 percent of American adults owned cell phones in 2004; in 2009, that figure had jumped to 82 percent. Seventy-five percent of American teens own a cell phone. Of cell-phone owners, 58 percent of adults and 66 percent of teens send or receive text messages. Wireless-phone subscriptions increased 47 percent from 2005 to 2009, and text messaging increased 60 percent in just one year, from 2008 to 2009.

Distracted driving is an equal-opportunity problem that involves both sexes, all ages and all vehicle types. The Pew Research Center's Pew Internet & American Life Project conducted a 2010 survey asking adults how often they used cell phones or texted. The chart on page 4 indicates 75 percent talked on a phone and 33 percent sent or read a text message while driving. About 50 percent of respondents have been in a vehicle when the driver used a cell phone or other passengers distracted the driver while they used a cell phone.

The Office of Traffic Safety conducted an attitudinal survey of Nevadans in 2010. We asked respondents what behaviors they indulged in while driving. The top 4 responses were talking on a cell phone, 51.4 percent; eating or drinking, 50.7 percent; adjusting vehicle controls or operating a GPS, 30.7 percent; and texting or e-mailing, 11.9 percent. The three types of distracted driving are visual, taking your eyes off the road; mechanical, taking your hands off the wheel; and cognitive, taking your mind off of driving. Texting combines all of these distractions simultaneously.

The 2008 study, "Effects of Simulator Practice and Real-World Experience on Cell-Phone-Related Driver Distraction," featured driving scenarios of using cell phones on highways and city streets. Of 60 participants, half indicated they

used a cell phone less than 5 percent of their driving time, and the other half, 41 percent of the time. The study's objective was to determine if after three and a half hours of driving over four days there was an improvement in driving ability while using a cell phone—in other words, if they practice, can they get it? The results indicated practice does not make perfect. You cannot practice enough to drive safely while operating a cell phone.

The 2006 study, "Comparison of Cell Phone Driver and The Drunk Driver," had 40 participants, 78 percent of whom owned a cell phone and 87 percent of whom had used the phone while driving. Each drove under four scenarios: undistracted, using a handheld phone, using a hands-free phone and intoxicated at a 0.08 blood alcohol content (BAC). The study found phone conversations themselves are the cognitive distraction, whether using a handheld or hands-free device. While driver errors differ, the impairment of using a cell phone can be as profound as those associated with drunken driving. Cell-phone users had slower reaction times than drivers with 0.08 BAC levels and slower reactions to vehicles braking in front of them.

Many studies have determined that cell-phone using-drivers are four times more likely to cause a crash than other drivers. Texting drivers are 23 times more likely to cause a crash than other drivers. More than 800,000 U.S. passenger vehicle drivers were talking on handheld phones while stopped at intersections at any given daylight moment in 2008.

National estimates from 2009 statistics indicate more than 500,000 injury crashes in 2008 involved a distracted driver. In 2008, 6,000 people died because of distracted driving, and 16 percent of fatal crashes, and 21 percent of injury accidents involved distracted driving. The highest proportion of cell-phone users were ages 30 to 39. These crash numbers are rising.

Pages 14, 15 and 16 charts and maps summarize state laws regarding driver cell-phone use and texting. Eight states, D.C. and the U.S. Virgin Islands prohibit handheld-phone use. Twenty-eight states and D.C. ban cell-phone use by drivers under age 18. Eighteen states and D.C. prohibit school bus drivers from using cell phones. Thirty states, D.C. and Guam prohibit texting by all drivers, eight states prohibit texting by novice drivers and two states prohibit texting by school bus drivers.

Page 17 lists distracted-driving crashes in Nevada from 2005 to 2009. As a percent of total crashes each year, up to five causes were listed. If distraction was the primary cause, it was involved in 6.5 percent of injury crashes and 4.2 percent of fatal crashes. If distracted driving was seen as any of the five causative factors, 28 percent of fatal crashes involved distraction.

KATHLEEN YOUNG:

I am representing myself and the family of my son, James Montez. We support this bill, but would like to see laptop computer usage added to the prohibitions. My son was killed September 17, 2010, by a distracted driver on U.S. 395 between Clearview Drive and the Fandango Casino in Carson City. The driver, age 18, drifted into oncoming traffic, hit a vehicle then hit my son, who was on a motorcycle. The impact was so great the vehicle driver's pelvis was broken. Without braking, the distracted driver hit my son so hard James and his motorcycle flew into the Wendy's Restaurant driveway.

This has to stop; it has gone too far. This bill will not affect the trial of the driver who killed my son. However, I would like to give other families the satisfaction of knowing that distracted driving causing a fatality may become a felony offense.

VICE CHAIR SCHNEIDER:

We have heard many proposed amendments to S.B. 140. I ask the professional lobbyists from the cell-phone industry to work with Senator Breeden. I am forming a subcommittee of one—the bill's sponsor—to work with those who proposed amendments. I will close the hearing on S.B. 140 and refer it to Senator Breeden's subcommittee. This Committee will then take action on it.

CHAIR BREEDEN:

I will open the hearing on S.B. 145.

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

This is the third time this type of legislation has come forward. Consequently, I do not have hardcore data showing we have saved lives by its passage. The Assembly did not even allow it to be voted upon for two sessions. Common sense should tell us that using a handheld device to text, play Game Boy, check Facebook postings and text while driving is a distraction. As I am speaking, a text message is arriving on the cell phone in front of me. Just looking down to ascertain the sender was a minor distraction compared to opening up and

reading the message then punching buttons to respond. It is ridiculous to think I would be able to do this at my age—let alone if I were a novice driver—while operating a 2,000-pound vehicle properly and safely.

People think they can multitask. One of my constituents would swear her teen daughter can do everything simultaneously: shower, eat, walk and play outdoor sports, with her cell phone. But the distracted girl walks into furniture and walls of a house she has lived in her entire life. It frightens me to think that people think they can multitask behind the wheel and not kill, murder and leave people like Jennifer Watkins disabled for life. This has to stop.

Teenagers comprise the vast majority of new drivers. Vehicle crashes are the leading cause of death for juveniles. Teen drivers are involved in 14.5 percent of crashes, but only comprise 6.4 percent of the driving population, according to the National Transportation Safety Board. Teen drivers are three times more likely to have a fatal crash. “Texting Teens: A Driving Distraction Related to Cell-Phone Use” was an August 2006 survey conducted by the Liberty Mutual Research Institute for Safety on behalf of Students Against Destructive Decisions. The study found teens considered sending texts their number one driving distraction. Thirty-seven percent said texting was extremely or very distracting.

Drivers traveling 45 mph cover the length of a football field in 3.5 seconds. When inexperienced drivers reach down to grab ringing cell phones, it takes one to two seconds. That is almost half a football field, just like that. On an expressway going 80 mph, the distance covered is farther. In 10 to 12 seconds, a vehicle goes 500 yards. Think about how many vehicles are around you in a 500-yard—let alone 100-yard—radius.

Many of the statistics heard for S.B. 140 are relevant to S.B. 145. My goal in sponsoring this bill is to address people who lack behind-the-wheel experience. Only 55 percent to 60 percent of people pass the written driving test in Washoe and Clark counties. Are they practicing driving with a cell phone? Put the darn thing down and learn to drive properly so you do not kill yourself or someone who matters to you. We all share that responsibility. If this Legislature does not pass a bill like S.B. 140 or S.B. 145, shame on us. In two years, this Committee could talk about lives it saved and the wonderful good it did.



SENATOR LEE:

Senate Bill 140 encompasses all drivers, and its penalty phase is different than that of S.B. 145. Is that the main difference?

SENATOR MANENDO:

There are two main differences, including the penalty phase, which this Committee can debate. My bill targets drivers under age 18. I do not exempt CB radio operators. Prohibiting laptop use would be a great amendment. The bill's goal is to tell drivers under age 18 that they can do nothing but drive.

There is huge peer pressure for teens to respond immediately to friends' text messages. To fail to do so is called "dissing." Teens are trained not to do that. My constituent's daughter will actually stop her shower to answer a text message. That is how serious this is, and without statute, teens will continue to do so. The law would be a great tool for parents to discuss with teens. There are currently no penalties for calling or texting while driving. A statute can be used as a tool by parents, law-enforcement officers, drivers' education teachers and DMV instructors.

SENATOR LEE:

I agree. Do you think drivers over age 18 should also not text or call?

SENATOR MANENDO:

I am a cosponsor of Senator Breeden's bill. We do not know what will happen in the Assembly, which is advancing similar proposed legislation.

CHARLENE GUMBER (Look Out Kids About-A Safety Coalition):

Look Out Kids About-A Safety Coalition believes that our society can only curb cell-phone usage and texting while driving with education and legislation. Senate Bill 145 would be a first and vital step to teach youth that driving is a privilege. It is their responsibility to act in a safe manner toward other drivers and know driving should be given all due care without distractions. The act of driving is so taken for granted by adults that we forget it is a learned skill. It does not come naturally and should be undertaken with cautious awareness. We need to remember that we are driving a potentially dangerous weapon. We also support S.B. 140.

MRS. WATKINS:

I support S. B. 145, but all ages must be included in the ban. Distracted drivers weave all over the road then kill and injure people and change lives forever.

SGT. CALLAWAY:

We also support S.B. 145.

MR. GEESER:

We also support S.B. 145. It targets the driving segment that is least experienced, yet the one most represented in accidents. To answer Senator Lee's question, punishment in this bill constitutes a nonmoving violation. Senate Bill 140 is a nonmoving violation only on the first offense.

MR. COMPAN:

In the past, the Legislature examined establishment of graduated driver's licensing for teens. At the time, texting and cell-phone usage was not an issue. Lawmakers increased the amount of behind-the-wheel training and other requirements for teens.

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

We support S.B. 145. The Committee has heard about the carnage caused by distracted drivers, and we are the ones who deal with that daily. We also support S.B. 140 and have worked toward it for several years. You have my proposed amendment ([Exhibit K](#)) to that bill.

If S.B. 145 is the only bill that passes, our officers will make mistakes when they pull people over based on subjective opinions of the drivers' ages. If we pull over a cell-phone user who is over age 18, that is a mistake, and we will have some upset citizens. I hate for our officers to be painted in the light of Mr. Johnson's depiction of law-enforcers' behavior. We will enforce the law to the best of our ability.

MS. FOSTER:

We support S.B. 145.

JOHN R. JOHANSEN (Highway Safety Representative, Office of Traffic Safety, Department of Public Safety):

You have a printout of my PowerPoint presentation ([Exhibit L](#)). It is the same as that of Ms. Pearl until page 13. The question is what is "distracted" driving?

Every once in a while, almost all of us chat with someone in the passenger seat. I can almost guarantee that we have all driven past an exit or missed a turn. That is the cognitive problem; you are not thinking about driving.

Nevada is behind the technology curve. When the graduated-licensing bill passed in the 73rd Legislative Session, cell-phone use was limited. Now, 75 percent to 80 percent of Americans own them, depending on age. We treat our cars as if we were at home. We do not understand that we are driving a 3,000- to 4,000-pound vehicle on a public roadway, not in our homes. If we do not pay attention, we endanger many innocent people.

There is no such thing as multitasking; you are merely switching tasks. You drive for a while and then turn off driving and turn on texting. You text for a while and then turn on driving. No one can do two things simultaneously. That is why these distractions are so deadly. Page 13 of my handout states the majority of teens view texting while driving as less risky than driving while drunk. In reality, it is almost four times as dangerous.

We have decreased overall crash fatalities in Nevada. Young-driver fatalities are stable, although we have reduced impaired driving in that demographic. Distractions are taking up the slack. We need to tackle the distractions that will be the next great cause of crashes.

MR. LAVOIE:

I would like my testimony on S.B. 140 to be entered in support of S.B. 145.

TIERRA D. JONES (Office of the Public Defender, Clark County):

Our concerns about S.B. 140 are the same as those of Mr. Johnson. I agree with Mr. Adams that officers may make mistakes based on the way the bills could be implemented. Those are the mistakes we are trying to avoid, creating unhappy citizens who have lost faith in law enforcement.

COL. TONY ALMARAZ (Chief, Highway Patrol Division, Department of Public Safety):

The NHP supports S.B. 145. Determining offenders' ages creates a burden on officers. It would be more advantageous if the prohibitions covered all drivers, not just those under age 18. We should also consider whether we want to enhance sanctions imposed on juveniles. If young drivers commit certain violations, they receive harsher penalties than do adults. Within six months of

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receiving your license, if you are caught with passengers, sanctions may be imposed on your license.

CHAIR BREEDEN:

I will close the hearing on S.B. 145. Seeing no more business before the Senate Committee on Transportation, I adjourn this meeting at 6:33 p.m.

RESPECTFULLY SUBMITTED:

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Patricia Devereux,  
Committee Secretary

APPROVED BY:

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Senator Shirley A. Breeden, Chair

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

## EXHIBITS

**Committee Name:** Committee on Transportation

**Date:** February 22, 2011

**Time of Meeting:** 3:30 p.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
S.B. 140	C	Randy Lavigne	"Envisioning Nevada's Future"
S.B. 140	D	Jacob Snow	"Transportation in Southern Nevada"
S.B. 140	E	Chair Breedon	"Automobile Crashes Overview and Statistics"
S.B. 140	F	David Goldwater	Testimony and Proposed Amendment
S.B. 140	G	Paul Enos	Proposed Amendment
S.B. 140	H	Sandy Watkins	YouTube video
S.B. 140	I	Don Carlson	Testimony
S.B. 140	J	Traci Pearl	PowerPoint Testimony
S.B. 140	K	Frank Adams	Proposed Amendment
S.B. 145	L	John R. Johansen	PowerPoint Testimony