MINUTES OF THE
SENATE COMMITTEE ON TRANSPORTATION

Seventy-sixth Session
March 1, 2011

The Senate Committee on Transportation was called to order by Chair Shirley A. Breeden at 3:30 p.m. on Tuesday, March 1, 2011, in Room 2135 of the Legislative Building, Carson City, 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:

Paul J. Enos, Chief Executive Officer, Nevada Motor Transport Association
Mark Froese, CPM, Administrator, Management Services and Programs Division, Department of Motor Vehicles
Lieutenant Bill Bainter, Statewide Commercial Enforcement Coordinator, Nevada Highway Patrol, Department of Public Safety
P. Michael Murphy, Clark County

CHAIR BREEDEN:
Paul Enos will give a presentation on trucking in Nevada.

PAUL J. ENOS (Chief Executive Officer, Nevada Motor Transport Association):
My PowerPoint presentation (Exhibit C) is a general overview of trucking in Nevada, including its economic impact. These statistics are provided by the American Transportation Research Institute (ATRI) in Arlington, Virginia. In 2008, the trucking industry provided 62,098 jobs in the State, including drivers, dispatchers and mechanics. There were $2.6 billion in wages paid, with an average annual salary of $42,368. These are fairly high-paying jobs, a little above Nevada's average annual salary.

There were 3,415 trucking businesses in Nevada in 2008. This figure was compiled after diesel fuel rose to $5 per gallon. There are fewer businesses when fuel prices are high. Businesses learned their lesson last time that happened and are very lean and efficient now. These are mostly small, locally owned businesses.

Trucks move 92.2 percent of the total manufactured tonnage in the State. That equals 133,565 tons per day. Nationwide, 68 percent of all freight is moved by trucks, but the Nevada figure is much higher because we do not have waterways or much rail service. More than 80 percent of State communities depend entirely on trucks to move their goods.

The ATRI placed monitors on 1,000 trucks on a Sunday evening in Las Vegas. The results indicate that trucks touch every sector of our economy: mining, health care, gaming, education, retail and manufacturing. Over seven days, most of the monitored trucks traveled the "aorta" from Las Vegas, the Interstate 15 stretch to Los Angeles. That is where a tremendous amount of our commerce occurs.

Trucking is probably among the top-five most-regulated U.S. industries. Nevada has many entities that regulate the industry. The Department of Motor Vehicles (DMV) issues overweight, oversize and single-trip permits, although the permits themselves are generated by the Nevada Department of Transportation (NDOT). The DMV also conducts some environmental-compliance tests, such as emissions opacity. That is a measure of how dark smoke is as it leaves truck stacks.

Officials from several agencies can pull over a truck: local law enforcers, DMV, the Nevada Highway Patrol (NHP), NDOT or the Nevada Transportation Authority. The latter also regulates household-goods movers, buses and tow

trucks. Many federal industries also regulate trucking. The California Air Resources Board also regulates Nevada's trucks. A regulation in the *Nevada Administrative Code* refers to that Board in relation to opacity tests. Across the country, Nevada trucks must obey a patchwork of regulations issued by states.

The debate over limiting truck weights may come up again this Session. The damage caused to roads by overweight trucks is a continuing issue. It is important to understand how much a truck weighs and how that weight is distributed. It depends on the number of axles. Federal law states that 20,000 pounds is the limit for a single-axle truck and 34,000 pounds for a two-axle truck. This is analogous to a 100-pound woman stepping on your toe with a high-heeled shoe. It will be a lot more painful and damaging than if a 200-pound man stepped on your toe with a flat-soled shoe. It is all about how the weight is distributed, and it is the same with truck axles. When weight is distributed over more axles, the truck can be heavier yet cause less road damage.

Longer-combination vehicles (LCVs) are double- and triple-trailer trucks over 70 feet. These are some of the safest vehicles on the road. You may doubt that triple-trailers are safer than regular trucks, but only the best drivers qualify to drive triples. Longer-combination vehicles allow us to remove other trucks. Freight can be moved more efficiently, less pollution is issued and traffic congestion is reduced. People say we can never build our way out of the congestion problem, especially in large urban areas. Heavier, multi-axle trucks allow us to move goods more efficiently.

This chart shows the types of LCVs and their lengths. Nevada does not have an overall-length limit; we limit cargo length. Trucking companies used to have to buy cab-over rigs, which had cabs over the engine. This was uncomfortable for drivers, but companies had to do it to stay under the length limit. In response, Nevada abolished its length limit. Only the cargo bodies are measured, and can be a maximum of 95 feet with 3 trailers. A truck with 2 trailers can be 98 feet. This is a "straight truck," versus a semitruck, which is a tractor with a trailer. Semis can run by themselves with a tractor, which is the truck itself, not the trailer.

Safety is one of my association's biggest issues and policy areas. We want our drivers to go home safely, and our drivers want everyone else on the road to go

home safely. We are committed to safety and have reduced the number of fatal truck accidents by 64 percent since we began compiling data in 1975.

Usually when people talk about trucks, they say it is frightening to drive around them, trucks are gross polluters or they are reminded of horror movies in which angry truck drivers chase down vehicles because of something said on a citizens-band radio. When you look at the safety record achieved by the industry over the last 30-plus years, it is an amazing story that needs to be told. We have achieved this record through working with agency partners like NHP and the Federal Motor Carrier Safety Administration.

Modern trucks have many safety devices. The image of the old hunk of junk rattling down the road is obsolete. Getting into today's trucks is like entering an airplane cockpit. They have lane-departure systems that alert drivers or their employers if a lane-change signal is not used. Rollover and stability systems have hydraulics that correct the balance if a driver takes a turn too quickly. Trucks have collision-warning systems and adaptive cruise controls that activate the brakes if another vehicle gets too close. The Global Positioning System lets companies and fleets know exactly where their rigs are.

We are going through a truck-safety sea change called the Comprehensive Safety Analysis (CSA) 2010. The nationwide program will radically change how trucking companies are rated for safety. It is a way to assess problem carriers and a tool for law enforcement to pursue unsafe operators. Instead of conducting compliance reviews during which regulators would study office files for two weeks, CSA 2010 staff use road data collected by local entities to identify problems. These include fatigued drivers who violate their service limits or improperly maintain vehicles. The CSA 2010 program can target specific companies in specific areas before there are crashes or fatalities. Regional violators will be identified, and they will then have a hard time finding work. In the past, carriers received sanctions, but CSA 2010 looks at individual drivers. The industry's safety record will get even better as we will have some of the best drivers on the road. The 5 percent who are not up to par will be out of work.

The trucking industry has a driver shortage. In a state with more than 14 percent unemployment, talking about that sounds absurd. The industry is "graying." Many drivers began work right out of high school, and it was their entire career. There are few people in my generation who choose truck driving

as a profession. Nationally, the projection is a shortage of 200,000 drivers by the end of this year. Freight tonnage is expected to rise by 20 percent by 2015, at which time the driver shortage is projected to be 400,000.

Drivers must have periodic medical examinations, keep a medical card and be in a drug-testing consortium. Who drug-tests an owner-operator who has just one truck? The Federal Motor Carrier Safety Administration requires those individuals to be part of a pool. They can be pulled off the road randomly and have their urine or blood tested for illegal drugs.

Drivers are also required to perform daily pre- and post-trip vehicle inspections. This is similar to an airplane pilot examining his craft with a checklist on a clipboard. Very few safety issues occur with the vehicles; those issues are more about the driver.

Some states have exemptions from federal hours-of-service restrictions. Nevada has an hours-of-service exemption for concrete-pumping truck drivers, who can drive up to 14 hours. Other drivers are allowed to drive 11 hours with 14 total hours on duty. Every driver must keep a logbook in his cab. Using ink, they must record their on- and off-duty hours and when they are sleeping or driving. Every driver of a commercial motor vehicle is required to keep a logbook, which can be inspected by highway patrol officers and compliance-reviewers to make sure drivers are not cheating on their hours. The books' main purpose is to ensure drivers are fresh, alert and not tired. Some companies keep electronic onboard recorders that record drivers' hours based on when the engine is running.

The heavy-vehicle use tax is a federal tax on every truck weighing more than 55,000 pounds. Truck owners must provide proof of payment of the tax before they can register the vehicle or obtain license plates or renewal stickers. The Nevada trucking industry pays a lot to maintain our roads. It pays 36 percent of the State Highway Fund, although it only drives 9 percent of the total miles traveled in the State. Between state and federal taxes, each truck pays an average of $17,339 in taxes annually. That adds up to a substantial amount compared to what passenger vehicle owners pay for registration and taxes.

When drivers register vehicles or get gas, the state where the vehicle is registered or fills up gets the fuel-tax revenue. If my personal vehicle is registered in Nevada, but 90 percent of my miles are driven in California,

Nevada gets all of the tax revenue. If I fill up in Nevada, but only drive here 10 percent of the time, California will not get the revenue on the other 90 percent of miles driven. The International Fuel Tax Agreement ((IFTA) and the International Registration Plan (IRP) were developed to ensure that motor carriers paid their fair share of taxes if they have an out-of-state license plate or fill up in other states. I can get 28 gallons of gas in my personal vehicle; trucks can hold up to 300 gallons of diesel. Truckers can go halfway across the United States without having to fill up, at an average of 5 or 6 gallons per mile. That sounds like a lot less than cars, but it makes sense if you are hauling 80,000 pounds, as opposed to 4,000 to 8,000 pounds in a car's weight.

The IFTA is a base-state concept. Truck drivers pay taxes to the state in which they are based. That state will audit the driver and collect revenue on behalf of other IFTA-member states, which are the 48 contiguous U.S. states and all Canadian provinces. The system gets complicated because states and provinces have different tax rates.

Here is a cartoon video showing how the IFTA works. Taxes are not remitted to states based on point of fuel purchase, but on where trucks actually drive. In the example shown, a truck fills up in California before traveling across Nevada to Utah. It travels 10 percent of its miles in California then 80 percent in Nevada and then continues on for 10 percent to Utah, where it unloads its cargo. This slide shows hypothetical fuel-tax rates by state: 15 cents per gallon in California, 10 cents in Nevada and 5 cents in Utah. When the truck refuels in Utah, the taxes are less than in Nevada. When the truck fills up in California and Utah, those states must remit that tax revenue to Nevada. This is calculated on a fleet's average miles driven. Five cents per gallon are returned to the California-based company. In Utah, the company would be required to pay more taxes while sending more money to Nevada, where 80 percent of the miles were driven. Often that balances out, with credits applied through the IFTA to ensure each carrier is paying its fair share of taxes. Every interstate truck must display the IFTA sticker—indicating the year and where it is based—shown here.

The IRP works the same, apportioned way. Taxes are not based on where the vehicle is registered. If a company has a terminal or employees and a facility in a certain state where DMV can examine tax records, the company can designate that state as its base. When companies register their fleets at DMV, they base it on a fleet average and where the trucks traveled in the previous year. The state in which the company is based will distribute revenue at its own

tax rate to other states, based on the percentage of miles driven. If 10 percent of a California-registered company's miles are driven there, $250 of the $2,500 registration fee will go to California. If the company pays $2,000 in registration to Nevada—where it drives 80 percent of its miles—$1,800 will go to Nevada.

Environmental impact is another major issue for the trucking industry. Since 1999, we have reduced emissions particulate matter by 98 percent and sulfur emissions by 97 percent. Many of the industry's environmental advancements require immense capital expenditures, whether it is a new engine or a new particulate filter on a truck. We are endeavoring to become more "green" and efficient. We try to mitigate environmental issues by using less fuel and single-wide tires, maintaining bearings and designing trucks to be more aerodynamic.

SENATOR MANENDO:
You said triple-axles are the safest trucks because they have the best drivers. Are they compensated differently than other drivers?

MR. ENOS:
They usually do make more money. As per federal law, triple-axle drivers must have higher credentials, obtain a special endorsement on their licenses and be at least age 25. Companies must pay a lot more for LCVs beyond having special registration.

SENATOR MANENDO:
You said the industry will be lacking 200,000 drivers by 2012. That is amazing. Are you partners with the College of Southern Nevada's truck-driving program? We really need to get rolling on training drivers because the State is desperate for jobs. Could we increase high school-recruitment efforts for these well-paying jobs? It is inbred in youths that they must earn a four-year degree to be successful. High school truck-driving training programs could prevent students from dropping out, which causes social problems.

MR. ENOS:
One of the problems with high school recruitment is most insurance companies will not cover truckers under age 21. That lag time puts us behind the curve. To be able to move freight efficiently, we must do something about driver

recruitment. The alternative is heavier trucks or even five or six trucks driven by one driver via a radio transponder.

SENATOR LEE:
Is the heavy-highway tax also apportioned?

MR. ENOS:
That tax goes to the Federal Highway Trust Fund then is reapportioned to states when Congress passes highway-reauthorization bills. The tax is not necessarily based directly on where trucks travel.

SENATOR LEE:
How is the U.S. Department of Homeland Security (Homeland Security) related to the trucking industry?

MR. ENOS:
Trucks are obvious targets for people with sinister motives to use to kill others. A truck was used in the 1995 bombing of the Alfred P. Murrah Federal Building in Oklahoma City. Trucks must have a security plan administered by Homeland Security. Agents ensure trucks are secure from tampering and theft. Homeland Security and the Transportation Security Administration issue transportation worker identification cards for all employees entering ports. Drivers must have criminal-background checks and be fingerprinted before they can drive into and out of ports.

SENATOR LEE:
Did Homeland Security want truckers to be lookouts or vanguards for criminal activities?

MR. ENOS:
Homeland Security had a plan called Highway Watch, which is now called First Observer, in which truck drivers look for out-of-the-ordinary things like shipments with nonsensical destinations. Last week, Con-way Freight flagged the shipment of a suspicious chemical headed for an alleged terrorist in Texas who intended to blow up former President George W. Bush's home and other targets. The man was stopped by the FBI and Con-way Freight. This incident proved the First Observer program to be worth its weight in gold.

SENATOR RHOADS:
You said that 92.2 percent of all freight is hauled by Nevada's trucks. That leaves only 7 percent hauled by rail.

MR. ENOS:
Many trains are intermodal, which means train containers can also be moved by trucks. Many trains pass through Nevada but do not stop to move freight into the State. Unless there is a rail spur, freight must be moved onto trucks. Trains move bulky, non-time-sensitive commodities like oil, coal or wheat. The trucking industry is one of the railroad industry's best customers because we both do intermodal transport. Containers are moved from trains or ships to trucks.

CHAIR BREEDEN:
You said the average trucking industry salary is $42,368. Is that the starting salary for drivers?

MR. ENOS:
That depends on how much a person drives. If you want to drive a lot, you will make more money. You cannot violate the time-of-service rules to drive more. There are drivers working for big companies that make $100,000 a year. Drivers are usually paid per mile.

CHAIR BREEDEN:
Do drivers receive benefits?

MR. ENOS:
Most companies pay benefits. We have union and nonunion carriers, most of which offer benefits and 401(k) retirement plans. Owner-operators establish their own compensation packages. A "fleet" can be just one truck operated by an owner operator.

CHAIR BREEDEN:
I am surprised that truck drivers' salaries are higher than the starting salaries of Nevada teachers. What is an owner-operator?

MR. ENOS:
Owner-operators own their own trucks and have their own business licenses. They are sometimes employed by companies to pick up extra freight to avoid the capital expenditure of added vehicles or employees. Owner-operators are

usually one or two people who have their own U.S. Department of Transportation driving numbers and keep their own files. Owner-operators usually work for companies on contract, not full time, or they can buy a company's route. Many owner-operators are home-based, family enterprises for which spouses keep the books.

CHAIR BREEDEN:
We will open the hearing on Senate Bill (S.B.) 51.

.

SENATE BILL 51: Revises provisions relating to the reporting of and imposition of penalties for certain convictions for the violation of certain traffic laws. (BDR 43-492)

MARK FROESE (CPM, Administrator, Management Services and Programs Division, Department of Motor Vehicles):
This bill is about Nevada's commercial drivers. Federal regulations are the basic foundation for states' commercial driver's license programs. During a 2009 audit, DMV was told that it no longer met federal regulations governing out-of-service-violation requirements for commercial drivers. We also did not meet the new, shorter turnaround time for conviction data to be sent to DMV so we could notify other states about Nevada drivers' offenses.

The DMV would like to update the *Nevada Revised Statutes* (NRS) to match newer federal regulations. The DMV has submitted two proposed amendments. The first amendment (Exhibit D) proposes adding a new section to NRS 483 that would be consistent with NRS 483.450. The addition would be subsection 2 of the first section of the proposed bill.

Our second proposed amendment (Exhibit E) contains language crafted by DMV and the Department of Public Safety to make employers' responsibilities and penalties in NRS 483.450.1 consistent with federal regulations. The proposed amendment would also change a "may" to "shall," after the Legislative Counsel Bureau Research Division found it was incorrect in the language of the original bill draft request.

LIEUTENANT BILL BAINTER (Statewide Commercial Enforcement Coordinator, Nevada Highway Patrol, Department of Public Safety):
The NHP supports S.B. 51. Suspending the commercial drivers' licenses of operators who violate the out-of-service order will improve compliance. In 2010,

NHP inspected 31,063 commercial vehicles on Nevada roadways. The NHP took 2,664 of them out of service for serious mechanical deficiencies, and 2,495 drivers were placed out of service for logbook violations. The drivers had exceeded the number of hours they were allowed to drive under federal law or had fatigue issues or improper licenses for commercial operations.

The NHP has adopted the federal mechanical regulations, of which only a small number carry the out-of-service penalty if violated. These would include improperly adjusted brakes, steering component problems, air leaks, defective tires and other problems that make vehicles unsafe. A vehicle that has a serious safety risk is placed out of service. A truck driver's commercial license is his livelihood, so this bill would increase compliance.

SENATOR MCGINNESS:
In the DMV's handout "Federal Motor Carrier Safety Administration Legal References" (Exhibit F), Title 49 of the Code of Federal Regulations (CFR) 383.37 states "No employer may knowingly allow, require, permit, or authorize a driver to operate a [commercial motor vehicle] in the United States: ... . " Further, 49 CFR 383.53 continues, " ... An employer who is convicted of a violation [of 387.37c] ... shall be subject to a civil penalty of not less than $2,750 nor more than $11,000." Why is it the employers' responsibility to ascertain whether an employee's license is current?

MR. FROESE:
The bill would apply when a review auditor looks at a company's record to ascertain inspection violations. The auditor would verify through the paperwork companies must maintain that the violations were fixed before the vehicle was dispatched again. If the vehicle was dispatched with undone repairs, the company would be subject to the fines in the proposed amendment.

MR. ENOS:
We support S.B. 51 because a truck driver and his company are responsible for utilizing safe equipment. If an out-of-service violation has been imposed but not mitigated, the truck should be grounded. This bill would help make our roads safer and ensure drivers are acting professionally.

P. MICHAEL MURPHY (Clark County):
We are neutral on S.B. 51.

CHAIR BREEDEN:
We will close the hearing on S.B. 51. We will open the hearing on Assembly Bill (A.B.) 28.

ASSEMBLY BILL 28: Makes Nevada's definition of "low-speed vehicle" consistent with the federal definition. (BDR 43-491)

MR. FROESE:
Nevada's definition of low-speed vehicles (LSVs) is inconsistent with the definition in the Federal Motor Vehicle Safety Standards and Regulations, Title 49, Code of Federal Regulations 571.3. Nevada's definition was identical to the federal one until 2006, when the federal language was changed. Making the two definitions consistent again will minimize confusion among DMV, law enforcement, businesses and the public. Assembly Bill 28 will help ensure that vehicles are properly registered in their respective categories.

You have my handout (Exhibit G) describing three examples of LSVs. The Global Electric Motorcars (GEM) car is 100 percent electric and meets all federal requirements as an LSV. A DMV employee purchased a GEM a few years ago. It is a two-passenger vehicle with a small bed. It may be registered, titled and driven on Carson City roads with a posted speed limit of 35 mph. That limit is a requirement in the definition of LSVs.

The Miles Electric Vehicle is manufactured by China's Tianjin Qinyuan Electric Vehicle Company, Ltd. It is 100 percent electric, is labeled as meeting all U.S. LSV standards and has a conforming vehicle identification number. Although it is designed to hold six passengers, the car must not exceed the gross vehicle weight rating of 3,000 pounds.

The ZENN car is manufactured in Canada. Those sold in the United States meet the federal LSV requirements and may be registered and titled as such. The ZENN is 100 percent electric and small.

CHAIR BREEDEN:
Nothing indicates that LSVs must drive on the right side of the road in slow lanes. We will close the hearing on A.B. 28. Seeing no other business before the Senate Committee on Transportation, I adjourn this meeting at 4:32 p.m.

RESPECTFULLY SUBMITTED:

Patricia Devereux,
Committee Secretary

APPROVED BY:

Senator Shirley A. Breeden, Chair

DATE:

EXHIBITS			
Bill	**Exhibit**	**Witness / Agency**	**Description**
	A		Agenda
	B		Attendance Roster
	C	Paul J. Enos	"Trucking in Nevada"
S.B. 51	D	Mark Froese	Proposed Amendment
S.B. 51	E	Mark Froese	Proposed Amendment
S.B. 51	F	Mark Froese	"Federal Motor Carrier Safety Administration Legal References"
A.B. 28	G	Mark Froese	Examples of low-speed vehicles