

**MINUTES OF THE  
SENATE COMMITTEE ON TRANSPORTATION**

**Seventy-sixth Session  
April 14, 2011**

The Senate Committee on Transportation was called to order by Chair Shirley A. Breeden at 4:11 p.m. on Thursday, April 14, 2011, in Room 2135 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to the Grant Sawyer State Office Building, Room 4412E, 555 East Washington Avenue, Las Vegas, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

**COMMITTEE MEMBERS PRESENT:**

Senator 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

**GUEST LEGISLATORS PRESENT:**

Senator Joseph (Joe) P. Hardy, Clark County Senatorial District No. 12

**STAFF MEMBERS PRESENT:**

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

**OTHERS PRESENT:**

Troy L. Dillard, Deputy Director, Department of Motor Vehicles  
Andrew J. MacKay, Chair, Nevada Transportation Authority  
Trevor Hayes, Livery Operators Association of Las Vegas  
Scott Rawlins, P.E., C.P.M., Deputy Director, Chief Engineer, Nevada  
Department of Transportation  
Alisa Nave-Worth, The Capitol Company

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Richard Perkins, R&S Investments

CHAIR BREEDEN:

We will start with a proposed amendment change ([Exhibit C](#)) for Senate Bill (S.B.) 51, upon which we have already acted.

**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)

KELLY GREGORY (Policy Analyst):

The proposed amendment was presented today by the Department of Motor Vehicles (DMV). On March 8, the Committee adopted two amendments to this bill. Before that, DMV indicated it had wanted to change one of the amendments.

TROY L. DILLARD (Deputy Director, Department of Motor Vehicles):

The first proposed amendment was simply a single-word change: "may" to "shall." It would require the courts to send DMV within 20 days records of convictions and notify us if violators' driver's licenses had been confiscated then sent to DMV. The Legislative Counsel Bureau (LCB) had changed existing *Nevada Revised Statutes* (NRS) to remove wording relating to conviction records in NRS 483.450, subsection 1.

The bill would have changed the wording in section 2, subsection 1 to require courts only to send us driver's licenses if they had been confiscated. The DMV does not need the licenses; we need the records of conviction. The DMV deputy attorney general and LCB bill drafters agreed that eliminating subsection 1 would solve the problem, because the record of conviction is required in section 2, subsection 4.

SENATOR MCGINNESS:

What would the one-word change accomplish?

MR. DILLARD:

The last line of the proposed amendment says, " ... the court shall, within 20 days after the conviction, forward these licenses to the Department." The original language was "may," not "shall." The LCB removed the rest of the wording in NRS 483.450, subsection 1 requiring the records of conviction to be

submitted to DMV. The intent was the courts shall submit the record within 20 days. The LCB concluded that section 2, subsection 4 would require convictions to be submitted by 5 days, in line with the federal requirement for relinquishment of commercial driver's licenses.

SENATOR MANENDO MOVED TO RECONSIDER THE ACTION WHEREBY S.B. 51 WAS AMENDED AND DO PASSED.

SENATOR MCGINNESS SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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SENATOR MANENDO MOVED TO DO PASS AS AMENDED S.B. 51.

SENATOR MCGINNESS SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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Ms. GREGORY:

The first bill on our work session is S.B. 154.

**SENATE BILL 154**: Provides for the issuance of special license plates for family members of persons who died as a result of injuries sustained while on active duty in the Armed Forces of the United States. (BDR 43-700)

There were no proposed amendments. You have the work session document ([Exhibit D](#)) and the fiscal note ([Exhibit E](#)) before you.

SENATOR MCGINNESS MOVED TO DO PASS S.B. 154.

SENATOR MANENDO SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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MS. GREGORY:

Senate Bill 177, summarized in the work session document ([Exhibit F](#)), was heard in Committee on March 10.

**SENATE BILL 177**: Revises provisions governing the wearing of protective headgear when operating motorcycles. (BDR 43-571)

It eliminates the requirement that a motorcycle driver age 21 and over wear protective headgear as long as the driver has held a motorcycle license for at least a year and completed an approved motorcycle-safety course. It also removes the requirement that motorcycle passengers age 21 or older must wear protective headgear. The requirements are eliminated for drivers and passengers of trimobiles and mopeds.

At the hearing, the bill's sponsor, Senator Donald G. Gustavson, presented a proposed amendment ([Exhibit G](#)).

SENATOR SCHNEIDER:

I cannot accept the bill or the amendment. For years, the automobile industry has been trying to improve vehicle safety with devices such as seat belts, padded dashboards, front and side airbags, and roll bars. Motorcycles are entirely unsafe, especially if helmets are not used.

I am on the board of directors of Opportunity Village. Young adults with traumatic brain injuries are strapped into sloping wheelchairs. It costs society so much to care for them. The cheap way out is when people hit their heads, die and then morgue attendants take them away. Bills run into the millions to care for motorcycle-accident survivors. Senator Halseth attended an Opportunity Village function where there was a young traumatic-brain-injury patient strapped into a sloped wheelchair. His family has gone bankrupt trying to pay for his care. He made the choice not to wear his helmet, but that choice will now cost society millions of dollars. This bill does not benefit the State in any way. It is a financial bottomless pit I cannot support.

SENATOR HALSETH:

The University of Nevada, Las Vegas, Medical Center (UMC) sent the Committee some statistics on motorcycle-crash injuries. In 2009, UMC treated 256 helmeted motorcycle- and dirt-bike rider patients. It treated 30 non-helmeted trauma patients, of whom only 10 were head-trauma patients.

The cost to treat the 256 helmeted riders was more than \$21 million, with a per-case average of \$84,000. The average cost for treating non-helmeted patients was only \$46,000. This proves that head injuries to non-helmeted riders are minimal. This bill would create jobs, enhance business, create revenue, increase citizens' liberty and improve public safety.

SENATOR SCHNEIDER:

Yes, this a great job-creation bill for the medical community. What happens after brain-trauma patients roll out of the hospital in their wheelchairs? They are on assisted living for the rest of their lives, which creates the really huge expense. I dispute Senator Halseth's statistics.

SENATOR LEE:

Amen to everything Senator Schneider said. Every rider of motorcycles, dirt bikes and bicycles should wear head protection. Very rarely do motorcycles cause crashes without motorists' involvement. If we had better motorists, we would have fewer motorcycle injuries. The small helmet I wear while cycling is not enough protection; it is like wearing an eggshell on my head. Until the Nevada Department of Transportation (NDOT) makes people wear helmets that really make a difference, I would support that. However, I see this bill as a personal right not to wear a helmet, so I will vote yes.

CHAIR BREEDEN:

I understand about riding a motorcycle in 110-degree temperatures. You become faint from wearing your helmet. But I would never ride without my helmet. I have friends who have had motorcycle accidents, and had they not been wearing helmets, they would not be here today. We had a good hearing on S.B. 177, and it was vetted. As Chair, I need to bring it forward for a vote, but I will vote no.

SENATOR HALSETH MOVED TO AMEND AND DO PASS AS AMENDED  
S.B. 177.

SENATOR LEE SECONDED THE MOTION.

SENATOR SCHNEIDER:

I had a good friend who was riding a motorcycle wearing his leathers and the best helmet money can buy. The day after he bought it, his bike went down on washboarded asphalt by Lake Mead. He was in the hospital for a long time, had

several operations and then used a wheelchair. The motorcycle shop where he had bought the helmet traded it with him for a new one and put the scratched helmet on display to let riders know that the helmet had saved my friend's life.

SENATOR MANENDO:

Years ago, my brother-in-law was in a motorcycle crash after a car cut him off. His years of riding experience, plus his helmet, saved his life. He told me repeatedly, "If I had been age 18 to age 22 and lacked experience and the knowledge of how to avoid the situation, I would be dead." The crash was the fault of an inattentive driver, not my brother-in-law. I think age 21 is too young to allow non-helmeted riders. Maybe the age should be 25 with 5 years' riding experience. This gives me pause in supporting this bill.

THE MOTION CARRIED. (SENATORS BREEDEN, SCHNEIDER AND MANENDO VOTED NO.)

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CHAIR BREEDEN:

We will open the work session on S.B. 235, summarized in the work session document ([Exhibit H](#)).

SENATE BILL 235: Makes failure to wear a safety belt in a motor vehicle a primary offense. (BDR 43-38)

We also vetted this very important bill, so I brought it forward for a vote. I received many e-mails from constituents asking us to vote on the bill. I know what the vote's outcome will be, but I brought it forward so constituents know we are listening to them.

MS. GREGORY:

Senate Bill 235 was heard on March 22 and March 24. It allows issuance of a citation for failure to wear a seat belt, absent any other traffic violation. There were no amendments.

SENATOR HALSETH:

As we heard in testimony, Nevada has a higher seat belt-usage rate with a secondary-offense law than do some neighboring states with primary-offense

laws. This confirms that Nevadans know the seat-belt law is mandatory and take it seriously. I will vote no on this bill.

SENATOR SCHNEIDER:

The testimony after that cited by Senator Halseth indicated Nevadans' belt usage was as low as 30 percent at night. Belt-usage surveys are not taken at night, because if the State scores too low on belt usage, we will not get federal highway funding. Scoring is being manipulated. Nevada's seat-belt use is not 93 percent. The other testimony was nonsense. We need to look at the real numbers and not just take Internet information at face value. The bottom line: State belt usage is 30 percent.

This idea of, "Let me be independent and make my own personal decisions about how I want to live" costs me. Your personal decisions come back to harm you, and taxpayers have to pay for them. I am tired of seeing my tax dollars used to pay for your irresponsibility.

SENATOR SCHNEIDER MOVED TO DO PASS S.B. 235.

SENATOR MANENDO SECONDED THE MOTION.

THE MOTION FAILED. (SENATORS MCGINNESS, RHOADS, LEE AND HALSETH VOTED NO.)

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SENATOR SCHNEIDER:

I just received a text from Kimberly Maxson-Rushton, past president of the Opportunity Village Board. She wrote that her brother, Dr. R. Todd Maxson, trauma medical director at Arkansas Children's Hospital and the Arkansas Health Department's trauma consultant, said 80 percent of organ donations come from motorcycle accidents. Arkansas may be one of the states we now are trying to emulate.

CHAIR BREEDEN:

We will open the work session on S.B. 320, summarized in the work session document ([Exhibit I](#)).

**SENATE BILL 320**: Revises provisions governing certain motor carriers.  
(BDR 58-1051)

MS. GREGORY:

Senate Bill 320 was heard by the Committee on April 12. It involves regulations, including background checks, for obtaining a driving permit from the Nevada Transportation Authority (NTA). The Livery Operators Association of Las Vegas submitted a proposed amendment ([Exhibit J](#)), and Ms. Maxson-Rushton submitted an overview and explanation ([Exhibit K](#)) of the proposed amendment.

During testimony, NTA representatives said they would put together some fiscal note figures, but since it was such a short time frame, we have not received an official fiscal note.

SENATOR LEE:

What has transpired to prompt this bill? Why have shock waves gone through limousine (limo) chauffeurs?

ANDREW J. MACKAY (Chairman, Nevada Transportation Authority):

I cannot answer that question on behalf of the charter limo industry. The NTA is neutral on this issue. Based on Ms. Maxson-Rushton's testimony, the bill mirrors the regulatory construct as it relates to NTA drivers. The NTA lacks statutory authority to regulate drivers of carriers employed by certificated carriers or chauffeurs for hire.

As the bill relates to the charter limo industry, more accountability is needed from drivers. Drivers terminated from certificated carriers just go to work for other ones, in a quasi-revolving-door situation. Due to labor laws, subsequent certificated carriers cannot ask why drivers were terminated. The NTA adopted regulations approved by the Legislative Commission on December, 16, 2010. One stated that if carriers fail to appear at hearings involving citations or do not pay administrative fines three times, the NTA will maintain a list of those operations. Carriers are then obligated to contact NTA to make sure they are on the "do not hire" list.

SENATOR LEE:

In the construction industry, a business may have a core of ten really good employees, ten average workers and ten whom you just need, so they are hired.



Let us call the last group the “duds,” who do not stay with a company long enough because they are not worth a darn, but companies need them for a specific job. As a business owner, I get rid of my duds and then hire someone else’s duds; we just trade duds.

In the limo business, kingdom-building seems to be happening. Carriers say, “I control the location where people work. I control the limousines. Now I want to control the employees. I need control.” We do not regulate construction workers, milk-truck drivers or potato-chip carriers like this. Why do we have to regulate a driver who has spent his entire career driving down three miles of The Strip? Very few people go anywhere in a limo besides from McCarran International Airport to The Strip or to a wedding chapel. It is ridiculous that we have to worry about regulating limo drivers. Company owners will figure out who are the duds, and they will not hire them. The Committee does not need to regulate these people. I will not support this bill.

TREVOR HAYES (Livery Operators Association of Las Vegas):

I understand Senator Lee’s concerns. The difference between limo drivers and other industries he mentioned is that Las Vegas is built on 35 million to 40 million tourists per year. We have similar regulations for hiring taxicab drivers. The safety of the driving public must be foremost. We must be sure people driving tourists who are supporting our community do not pose dangers or are felons. Construction people are not responsible for the safety of our traveling public.

SENATOR LEE:

Employers hiring limo drivers do background checks. Obviously, those who earn commercial driver’s licenses are good enough to drive limos. Limo company owners always take prospective employees on drives to make sure they understand how to drive stretch, 6-pack or 12-pack vehicles. You cannot validate this bill, except that you just want to control more drivers.

Employers do not release \$70,000 to \$150,000 limos to people who do not have the aptitude to drive them. It is inaccurate to say employers just throw any driver into a limo. Every industry has employees who are weeded out eventually. I do not know how many limo drivers have committed a felony against their patrons. Do you have statistics that support a problem so large that this Committee has to control it?

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MR. HAYES:

I do not have any such statistics.

SENATOR HALSETH:

Is there a fiscal note? Must we refer the bill to the Senate Committee on Finance?

MS. GREGORY:

We do not have a fiscal note yet. The NTA is completing that note.

SENATOR MANENDO:

If the bill moves forward, by the time it is adopted on the Senate Floor, it will have a fiscal note. Then the bill will go to the Senate Committee on Finance for review. The proposed amendment required a couple of weeks to craft a fiscal note.

SENATOR MCGINNESS MOVED TO REREFER TO THE SENATE COMMITTEE ON FINANCE WITHOUT RECOMMENDATION S.B. 320.

SENATOR HALSETH SECONDED THE MOTION.

THE MOTION CARRIED. (SENATORS BREEDEN, SCHNEIDER AND LEE VOTED NO.)

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MS. GREGORY:

Senate Bill 214, summarized in the work session document ([Exhibit L](#)), was first heard on March 31 and also discussed on April 12.

**SENATE BILL 214**: Requires the Department of Transportation to establish a demonstration project for a toll road in connection with the Boulder City Bypass Project. (BDR S-842)

The bill requires NDOT to enter into contracts to create public-private partnerships (P-3) to construct a toll road in connection with the Boulder City Bypass (the Bypass). The tolls and penalties will be established by the Nevada Transportation Board. Senator Joseph Hardy presented the mock-up proposed

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amendment 6212 ([Exhibit M](#)), which includes a proposed amendment from April 12.

SENATOR LEE:

The Bypass project has been a long time coming. I will vote yes.

SENATOR LEE MOVED TO AMEND AND DO PASS AS AMENDED  
S.B. 214.

SENATOR JOSEPH (JOE) P. HARDY (Clark County Senatorial District No. 12):

My handout ([Exhibit N](#)) describes the NDOT project-development process. The Nevada Transportation Board would oversee the project. The board includes most of the State's Constitutional Officers and three Governor's appointees representing the three jurisdictions into which NDOT has divided the State. It would behoove the Legislature to ask for a project progress report during meetings of the Legislative Commission or Interim Finance Committee during the 2011-2012 Interim Session.

I have conferred with project stakeholders. Section 15, subsection 4 of the mock-up, [Exhibit M](#), clearly states that the existing route through Boulder City—U.S. Highway 93—remains and will continue to remain under the direction of the State and always be available to drivers who do not wish to pay tolls. If nothing else, this will clarify the legislative intent. Now is the time to increase safety in Boulder City and prepare our portion of U.S. Interstate Highway 11 for current and future traffic.

SENATOR MCGINNESS SECONDED THE MOTION.

SENATOR SCHNEIDER:

I really hate toll roads. The State is fiscally irresponsible. We did not know the Mike O'Callaghan-Pat Tillman Memorial Bridge was being built, so we did not set aside money for it. Now, we are stuck with 18-wheelers crawling through Boulder City and tourists "looky-looing" who further slow traffic. Our response is to jump up and say, "Oh, my God—we need to call Goldman Sachs and get a greedy private partner to build our road." We do not plan and so find ourselves \$6 billion to \$9 billion short in the State Highway Fund. This is a wake-up call. Do you have the phone number of the Office of the Governor? You may want to let him know about this shortfall.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR BREEDEN:

We will open the work session on S.B. 302, summarized in the work session document ([Exhibit O](#)).

SENATE BILL 302: Prohibits the sale of black powder and smokeless gunpowder to certain persons. (BDR 42-981)

MS. GREGORY:

The Committee heard S.B. 302 on April 11. The bill would make it illegal to sell black powder or smokeless gunpowder to anyone under age 21 and provides a misdemeanor penalty and fine. Senator Hardy submitted the conceptual amendment ([Exhibit P](#)).

SENATOR RHOADS MOVED TO AMEND AND DO PASS AS AMENDED  
S.B. 302.

SENATOR HALSETH:

Will there be a fiscal note?

MS. GREGORY:

The bill states it would have no fiscal effect. No fiscal note has been submitted.

SENATOR MANENDO SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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MS. GREGORY:

Senate Bill 321, summarized in the work session document ([Exhibit Q](#)), requires the Taxicab Authority to establish an electronic system of tracking cabs to monitor, audit and enforce allocations.

SENATE BILL 321: Revises provisions governing taxicabs. (BDR 58-997)

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It also revises provisions related to meters and requires the Taxicab Authority to establish electronic trip sheets. It was heard in Committee on April 12, when Senator Manendo submitted the mock-up proposed amendment ([Exhibit R](#)).

SENATOR MCGINNESS:

Mr. MacKay said compliance with the bill is voluntary. I want to ensure that taxis in Eureka are not required to install Global Positioning System units.

SENATOR LEE MOVED TO AMEND AND DO PASS AS AMENDED  
S.B. 321.

SENATOR RHOADS SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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MS. GREGORY:

Senate Bill 387, summarized in the work session document ([Exhibit S](#)), was heard on April 5.

**SENATE BILL 387**: Revises certain provisions governing off-highway vehicles.  
(BDR 43-211)

The bill originated in the Legislative Committee on Public Lands. It authorizes DMV to issue vehicle identification numbers to off-highway vehicles and charge a fee for that service. Senator Rhoads presented the proposed conceptual amendment ([Exhibit T](#)), which would bring the intended implementation date in line with S. B.130, and the Committee passed it.

**SENATE BILL 130**: Revises certain provisions governing the titling and registration of off-highway vehicles. (BDR S-210)

You have two letters of support for the bill and its fiscal note ([Exhibit U](#)).

SENATOR RHOADS MOVED TO AMEND AND DO PASS AS AMENDED  
S.B. 387.

SENATOR MANENDO SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR HALSETH VOTED NO.)

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CHAIR BREEDEN:

We will open the work session on S.B. 83, summarized in the work session document ([Exhibit V](#)).

[SENATE BILL 83](#): Revises provisions relating to transportation. (BDR 35-484)

MS. GREGORY:

Senate Bill 83 was heard on March 8. It allows NDOT to enter into a P-3 to plan, design, construct, improve, finance, operate and maintain certain roadways. The Board of Directors, NDOT, would establish fees, fines and penalties for the facility. The bill would subject contractors to several requirements, including that all money be deposited in the State Highway Fund and used only for that facility. Prevailing wage would be required to be paid for facilities' construction. The bill requires reporting to the Legislature, authorizes NDOT to adopt regulations, and modifies NRS to allow construction of toll roads. Senate Bill 83 also modifies existing laws about design-build projects and regarding subcontractors from such projects, removes monetary thresholds and certain information requirements.

The first proposed amendment ([Exhibit W](#)) was submitted by Leslie Pittman and outlines requirements related to rental cars. This amendment was incorporated into S.B. 214. The NDOT submitted two proposed amendments ([Exhibit X](#) and [Exhibit Y](#)). The first was included in the original hearing and states:

... user fees cannot be imposed on any capacity that exists as of the date of the act, except that user fees may be imposed on new or additional capacity so long as the number of lanes which are not subject to user fees remain the same after construction of the new or additional capacity.

The second of the two proposed amendments submitted by NDOT ([Exhibit Y](#)) states that in order to have a tolled route, there must be an alternative, free route. The next proposed amendment ([Exhibit Z](#)) was submitted by Rebecca Gasca of the American Civil Liberties Union of Nevada, and concerns keeping private certain identifying information of toll-road users. The NDOT's

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final proposed amendment ([Exhibit AA](#)) concerns tolling on U.S. Interstate Highway 15 (I-15). Mr. Rollins will explain it to us.

SCOTT RAWLINS, P.E., C.P.M. (Deputy Director, Chief Engineer, Nevada Department of Transportation):

The additional language in this proposed amendment ([Exhibit AA](#)) states that P-3 tolling projects would not be viable on I-15.

CHAIR BREEDEN:

Does that mean tolls cannot be imposed on existing or new lanes of I-15?

MR. RAWLINS:

Correct.

SENATOR MANENDO:

Could tolling be imposed on any other existing State highways?

MR. RAWLINS:

No, that would not be permissible on any additional lanes built on any existing route. That is addressed in the other proposed NDOT amendment ([Exhibit X](#)), as read by Ms. Gregory.

SENATOR SCHNEIDER:

Does this proposed amendment ([Exhibit X](#)) specifically refer to I-15 or to the Bypass?

MR. RAWLINS:

The proposed amendment has a broad scope. The proposed amendment from which I quoted ([Exhibit AA](#)) specifically takes I-15 out of the equation.

SENATOR SCHNEIDER:

Is this amendment, [Exhibit AA](#), necessary?

MR. RAWLINS:

Yes, because we do not want to impose tolls on lanes on existing roads. If NDOT wants to add capacity to existing roadways, with the help of a P-3, those new lanes could have tolls.

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SENATOR SCHNEIDER:

Would this bill allow you to build new tolling lanes on roadways besides I-15?

MR. RAWLINS:

Correct.

SENATOR MANENDO:

There are some State highways with pavement not designated as lanes that could perhaps become lanes. Some sections of U.S. Highway 95 (U.S. 95) have enough space—not currently used for travel—to build another lane. Could that pavement become a toll lane?

MR. RAWLINS:

You are describing shoulders that are used if broken-down vehicles need to pull over. The NDOT has standards for road widths. If we built new pavement, and the lanes shifted over to the right so the toll road was in the center, the new paved road could be tolled. But we would still maintain shoulders for safety reasons.

SENATOR MANENDO:

Some shoulders are so wide NDOT could install a lane and still have a shoulder. I am not seeing consistent planning on roadways.

CHAIR BREEDEN:

In the 75th Session, the Senate Committee on Energy, Infrastructure and Transportation heard S.B. No. 206 of the 75th Session about tolling on U.S. 95. That bill did not leave the Committee. If we approve this proposed amendment, could there be new, tolled lanes on U.S. 95?

MR. RAWLINS:

Yes, if we built additional pavement.

CHAIR BREEDEN:

Would S.B. 83 allow new tolling lanes on existing roadways in the entire State?

MR. RAWLINS:

Correct.



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CHAIR BREEDEN:

The Committee will only consider S.B. 83 if the NDOT proposed amendment printed on its letterhead ([Exhibit X](#)) is excluded.

SENATOR SCHNEIDER MOVED TO AMEND AND DO PASS AS AMENDED S.B. 83.

SENATOR MANENDO SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR HALSETH VOTED NO.)

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CHAIR BREEDEN:

We will open the work session on S.B. 248, summarized in a work document ([Exhibit BB](#)). There was no opposition to the bill.

SENATE BILL 248: Revises provisions governing traffic laws relating to overtaking and passing bicycles and electric bicycles. (BDR 43-794)

MS. GREGORY:

Senate Bill 248 was heard on April 11. It requires drivers to overtake and pass bicycles or electric bicycles by moving into the immediate left lane if there is more than one lane traveling in the same direction, or by passing at a distance of at least three feet.

SENATOR LEE MOVED TO DO PASS S.B. 248.

SENATOR RHOADS SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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MS. GREGORY:

Senate Bill 323, summarized in a work document ([Exhibit CC](#)), was heard on April 11.

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[SENATE BILL 323](#): Revises provisions relating to motor vehicle registration.  
(BDR 43-421)

Senate Bill 323 reduces from 60 to 30 the number of days new Nevada residents have to register their vehicles with DMV and requires nonresidents operating vehicles for more than 30 days in the State to register those vehicles. Residents or nonresidents who engage in trades, professions or occupations; are employed in the State; or who enroll their children in school must register their vehicles within 10 days. Residents operating vehicles owned by nonresidents must register those vehicles within 30 days, with certain exemptions.

The proposed amendment ([Exhibit DD](#)) was presented by DMV. It increases penalties for allowing vehicle insurance to lapse.

SENATOR MANENDO MOVED TO AMEND AND DO PASS AS AMENDED  
S.B. 323.

SENATOR SCHNEIDER SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR BREEDEN:

Our last work session bill is S.B. 407, summarized in a work document ([Exhibit EE](#)).

[SENATE BILL 407](#): Revises provisions relating to tow cars. (BDR 58-1031)

Ms. GREGORY:

Senate Bill 407 was heard on April 7. It authorizes insurance companies to designate certain vehicle storage lots as those to which vehicles insured by the companies must be towed under certain circumstances.

There are three proposed amendments. One is The Capitol Company's amendment ([Exhibit FF](#)). The second amendment is from former Assemblyman Richard Perkins on behalf of R&S Investments ([Exhibit GG](#)).

ALISA NAVE-WORTH (The Capitol Company):

We are withdrawing the proposed The Capitol Company amendment. [Exhibit FF](#).

MS. GREGORY:

That leaves us with the proposed amendments from Mr. Perkins, [Exhibit GG](#), and the third one, which was submitted by Samuel McMullen ([Exhibit HH](#)) on behalf of the Nevada Tow Car Council (NTCC) and other towing entities. The amendments contradict each other, so we cannot adopt both.

RICHARD PERKINS (R&S Investments):

Our proposed amendment, [Exhibit GG](#), made a number of compromises. The amendment's section 1, subsection 2 refers to the role of law enforcement in advising insurers: "A law enforcement officer shall, when readily available and unless exigent circumstances exist, advise an operator of a tow car of the identity of an insurance company that provides coverage for a vehicle ... ."

If the insurance information is not readily available, and if there are "exigent circumstances"—like the car has rolled over 15 times and its contents are disheveled, it is in a ditch and the tower cannot get to it or the responding deputy is called off to another investigation—deputies are excused from the responsibility of ascertaining the insurer.

In section 1, subsection 2, paragraph (b), subparagraph (3) of the proposed amendment, changes in the State's population would make the bill applicable only to Clark County. Concerns were raised about circumstances in that County. The Committee heard from tow operators from Washoe County, where the situation is different. There are many duty-tow operators and existing competition in northern Nevada, so we exempted every place but Clark County.

The bill's section 1, subsection 4, paragraphs (a) and (b) had several requirements, including that storage lots must be at least ten acres and capable of storing no fewer than ten vehicles. Last week's testimony indicated that posed a significant hardship for many tow operators to remain competitive. We do not want to create barriers to businesses. We propose to replace the language in paragraph (a) with, "Be physically separated and not commingled with other business activities." The purpose of the change is that it is important to provide security for towed vehicles so personal effects are not stolen and cars are not damaged due to other business activities in the lot. If operators also

have auction or repair businesses, they would have to segregate the towed vehicles for security reasons.

We propose to retain part of section 1, subsection 4, paragraph (a), but eliminate paragraph (b), requiring separation by a wall of concrete blocks or similar building material at least six feet in height constructed around the perimeter of the vehicle storage lot. You heard testimony about how expensive it is to build that kind of security barrier.

Regarding the bill's section 1, subsection 4, paragraph (c), subparagraphs (1) and (3), some businesses were concerned they would have to be tow companies to operate storage lots. That was not our intention, so we struck subparagraphs (1) and (3) entirely, leaving the "Storage of privately owned vehicles ... ." People thought they would have to buy tow trucks to compete for storage lot business. Towing costs will be lower for consumers with more competitors in the business.

We changed the requirement in section 1, subsection 1, paragraph (a), subparagraph (5) that lots must "Be equipped with 24-hour video monitoring ... ." Lot owners told me they instead have 24-hour live security, which seems reasonable. We removed additional requirements in section 1, subsection 5, paragraph (b), subparagraphs (1) and (2) that lots must have enclosed buildings and room to store at least 10 vehicles. The necessary capital expenditure would be a barrier to enter the business.

Another concern was raised that S.B. 407 would affect auto-auction businesses. If the bill were enacted, if you have an accident, your insurance company would choose a designated storage lot for your wrecked vehicle. If the vehicle is "totaled" and eligible for auction, it would be towed to an auctioneer's lot. That lot is not defined as a "storage lot" under this bill. I talked to Counsel Bruce Daines, who agrees with our reading of the bill. In order to gain the support of auctioneers, we could add a line to our proposed amendment stating that the bill's provisions do not affect them.

There was discussion in the hearing about the misdemeanor penalty in section 1, subsection 3. This bill is not about deputies enforcing the bill's requirements; it is about giving the NTA a new, if seldom used, tool. Mr. MacKay has said he appreciates this.

If our proposed amendment is adopted, towers will have fewer requirements, and monopolies would be avoided. The bill is not about towing; it is about allowing anyone to compete more easily, even existing operators in southern Nevada who do all police tows. This bill is about choice and lowering tow costs for your constituents. It is a private-sector solution instead of more government regulation.

SENATOR LEE:

I want to discuss NTCC's proposed amendment, [Exhibit HH](#), because I think it issues an industry wake-up call. This bill was insurance-driven in response to heavy-handed companies that have been towing and cheating consumers. The insurance industry is sick and tired of that, and Mr. Perkins' amendment is a means to stop it.

The Las Vegas Metropolitan Police Department (Metro) towing-firm contract process has always been unfair. For a long time, NTA has had responsibility for this problem, but when this many people are upset, what is going on, Mr. MacKay? You might say that since no one has testified against these practices, there is no problem. We need to stop this abuse suffered by insurers and the general public.

MR. MACKAY:

I have read all of the proposed amendments to S.B. 407. The provisions to legalize any tow done by a certificated operator are numerous in statute and regulation. About a year ago, NTA was contacted by Farmers Insurance Group, AAA Northern California and State Farm Insurance, all of which had many questions about tows pursuant to the Metro tow rotation. There are only two operators in that rotation. The contract is now out to bid, and five tow operators have responded. Given the qualifications required of a tower, five operators will soon be in the Metro rotation.

The insurers questioned the cost of reimbursing hundreds of tows, all of which were investigated by NTA. The cases were adjudicated and voted upon by the full NTA Board of Directors, and numerous violations were found. Some were minimal, such as not justifying tow charges. The offending operators are on notice that they need to shape up or the hammer will drop. Insurers have told us some suspect billing practices have been corrected, so complaints by that industry have plummeted.

Based on concerns and criticisms from insurers and the public, new regulations were approved by NTA, presented to the Legislative Commission and adopted on December 16, 2010. Chapter 706 of the *Nevada Administrative Code* added a new section 1, a provision to require NTA to adopt a model tariff. That is necessary for several reasons, including that any time a carrier files a tariff-rate modification pursuant to regulation, the rates must be compensable and within a generally accepted range. This is to prevent companies "low-balling" and stealing business from each other. A model tariff would create consistency among towers with respect to definitions of specific services and specify when miscellaneous charges will begin. A model tariff will also create more transparency for consumers. Once this Session is adjourned, NTA intends to move forward on the model tariff.

We go above and beyond NRS 233B with respect to promulgation of regulations and the requisite number of informational workshops. The more input we receive from the regulated community, the public and the insurance industry, the better. The NTA had four workshops on regulations and an adoption hearing. We will send notices to all parties to seek their involvement in crafting the model tariff. Historically, tow charges were simply processed and paid by insurers, and no issues about them were raised to NTA. When they finally began examining the tow bills, insurers forced towers to clean up their practices.

SENATOR LEE:

Mr. MacKay, we would not be here today if you had been doing your job. I do not like being put in this position, because this Committee can regulate limo drivers but cannot work with the tow or insurance industries. It is ridiculous that this bill has come before us. The issue brought forth by Mr. Perkins should have been addressed a long time ago. I want to give NTA a chance to fix this problem and solve these issues. I am unhappy with having to make a decision for you.

SENATOR SCHNEIDER MOVED TO AMEND AND DO PASS WITH MR. PERKINS' AMENDMENT S.B. 407.

SENATOR MANENDO SECONDED THE MOTION.

SENATOR MCGINNESS:

Something needs to be done, but I prefer the proposed amendment, [Exhibit HH](#), from NTCC that sets up a study of tow tariffs and schedules that Mr. MacKay said has already begun. I will oppose the motion.

SENATOR SCHNEIDER:

Should I amend my motion to recast the proposed Perkins' amendment into a Committee letter to send to NTA ordering it to do the study?

CHAIR BREEDEN:

I agree. The study would be valuable, and Mr. MacKay has agreed to pursue it.

SENATOR MCGINNESS:

Mr. Perkins is on the right track, but the study would be more beneficial. We should vote on the proposed NTCC amendment then look at its effect during the 2013 Session.

SENATOR SCHNEIDER:

There is a problem that needs to be addressed. There is a towing oligopoly in southern Nevada, and I would like to see more competition immediately. The Perkins' amendment gets at the heart of the issue. If competition improved, Mr. Perkins' client and anyone else could take on the oligopoly immediately. The Committee should draft a letter to the NTA mandating it to do the study and then report back to the Legislature in the 2013 Session. In the meantime, competition will probably have opened up. My motion stands.

THE MOTION FAILED. (SENATORS MCGINNESS, RHOADS, LEE AND HALSETH VOTED NO.)

\* \* \* \* \*

SENATOR MCGINNESS:

We should move to send a letter, based on the NTCC's proposed amendment, asking NTA to conduct a study of towing tariffs and practices.

CHAIR BREEDEN:

I agree. Staff, could you draft a Committee letter asking that NTA conduct that study?

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SENATOR SCHNEIDER:

Why do we not add such a letter to S.B. 407 and then pass it?

MS. GREGORY:

We can do that as a concept.

SENATOR SCHNEIDER:

I propose an amendment that we amend S.B. 407 with the letter ordering NTA to conduct the study and then report back to this Committee in February 2013.

SENATOR LEE:

I do not see the word "study" in this bill. This is an action plan of things the Committee can demand to happen at NTA. I am not satisfied with ordering NTA to do a study. Am I missing something in the proposed amendment?

SENATOR SCHNEIDER:

The Perkins' amendment failed. Let us add to the bill that the NTA must conduct the study and then report back to the Legislative Commission or this Committee in 2013. On October 1, 2012, NTA should report to the Legislative Commission and to the Committee in February 2013. That would give the Legislature two "bites" at NTA.

SENATOR LEE:

I disagree. We already know what the "bite" is: there is a lack of tow-industry leadership. We should put the NTCC amendment into the bill and demand that NTA begin implementing changes, rather than just talking about a study.

SENATOR SCHNEIDER MOVED TO AMEND AND DO PASS S.B. 407 WITH THE PROPOSED AMENDMENT FROM THE NEVADA TOW CAR COUNCIL.

SENATOR LEE SECONDED THE MOTION.

CHAIR BREEDEN:

Senator Lee, you are seeking immediate action, but this motion simply asks for a study. I would like clarification.



SENATOR LEE:

Mr. MacKay, can you respond, based on the dates mentioned by Senator Schneider? Can we put into bill form the requirement that you would report on your progress?

MR. MACKAY:

Yes, the proposed reporting dates are acceptable. We have already received authorization to establish a model tariff, but I will commit to beating the deadline of October 1, 2012. The NTA has heard the concerns of Mr. Perkins' client and the Committee. We will jump right on this.

SENATOR MCGINNESS:

I am concerned that if we add the amendment to the bill, insurance companies can still set up their own tow-storage yards. We are moving too quickly in that direction.

SENATOR SCHNEIDER:

I withdraw my motion.

SENATOR LEE:

I withdraw my second. I will move to delete the bill's original language and then insert the NTCC amendment as the body of the bill. This would constitute a public admission to Mr. Perkins' client that this should have happened a long time ago, and that the Committee is committed to cleaning up the tow industry.

SENATOR LEE MOVED TO REPLACE THE ORIGINAL LANGUAGE OF S.B. 407 WITH THE NEVADA TOW CAR COUNCIL AMENDMENT AND THEN AMEND AND DO PASS AS AMENDED S.B. 407.

SENATOR SCHNEIDER SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR BREEDEN:

Seeing no more business before the Senate Committee on Transportation,  
I adjourn this meeting at 6:47 p.m.

RESPECTFULLY SUBMITTED:

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Patricia Devereux,  
Committee Secretary

APPROVED BY:

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Senator Shirley A. Breeden, Chair

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

<b><u>EXHIBITS</u></b>			
<b>Bill</b>	<b>Exhibit</b>	<b>Witness / Agency</b>	<b>Description</b>
	A		Agenda
	B		Attendance roster
S.B. 51	C	Troy Dillard	Proposed amendment
S.B. 154	D	Kelly Gregory	Work session document
S.B. 154	E	Kelly Gregory	Fiscal note
S.B. 177	F	Kelly Gregory	Work session document
S.B. 177	G	Senator Donald Gustavson	Conceptual amendment
S.B. 235	H	Kelly Gregory	Work session document
S.B. 320	I	Kelly Gregory	Work session document
S.B. 320	J	Kelly Gregory	Proposed amendment
S.B. 320	K	Kelly Gregory	Proposed amendment
S.B. 214	L	Kelly Gregory	Work session document
S.B. 214	M	Senator Joseph (Joe) P. Hardy	Mock-up of amendment
S.B. 214	N	Senator Joseph (Joe) P. Hardy	NDOT "Project Development Process" chart
S.B. 302	O	Kelly Gregory	Work session document
S.B. 302	P	Kelly Gregory	Conceptual amendment
S.B. 321	Q	Kelly Gregory	Work session document
S.B. 321	R	Kelly Gregory	Mock-up of proposed amendment

S.B. 387	S	Kelly Gregory	Work session document
S.B. 387	T	Kelly Gregory	Conceptual amendment by Senator Dean A. Rhoads
S.B. 387	U	Kelly Gregory	Letters of support
S.B. 83	V	Kelly Gregory	Work session document
S.B. 83	W	Kelly Gregory	Proposed amendment
S.B. 83	X	Kelly Gregory	Proposed amendment from NDOT
S.B. 83	Y	Kelly Gregory	Proposed amendment
S.B. 83	Z	Kelly Gregory	Proposed amendment
S.B. 83	AA	Kelly Gregory	Conceptual amendment
S.B. 248	BB	Kelly Gregory	Work session document
S.B. 323	CC	Kelly Gregory	Work session document
S.B. 323	DD	Kelly Gregory	Proposed amendment from DMV
S.B. 407	EE	Kelly Gregory	Work session document
S.B. 407	FF	Kelly Gregory	Proposed amendment from the Capital Company
S.B. 407	GG	Richard Perkins	Proposed amendment
S.B. 407	HH	Kelly Gregory	Proposed amendment from the Capital Company