

**MINUTES OF THE MEETING  
OF THE  
ASSEMBLY COMMITTEE ON TRANSPORTATION**

**Seventy-Seventh Session  
April 9, 2013**

The Committee on Transportation was called to order by Chairman Richard Carrillo at 2:39 p.m. on Tuesday, April 9, 2013, in Room 3143 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4406 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at [nelis.leg.state.nv.us/77th2013](http://nelis.leg.state.nv.us/77th2013). In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (email: [publications@lcb.state.nv.us](mailto:publications@lcb.state.nv.us); telephone: 775-684-6835).

**COMMITTEE MEMBERS PRESENT:**

Assemblyman Richard Carrillo, Chairman  
Assemblyman Joseph M. Hogan, Vice Chairman  
Assemblyman Paul Anderson  
Assemblyman David P. Bobzien  
Assemblywoman Maggie Carlton  
Assemblywoman Lucy Flores  
Assemblyman John Hambrick  
Assemblyman Crescent Hardy  
Assemblyman James W. Healey  
Assemblywoman Ellen B. Spiegel  
Assemblyman Michael Sprinkle  
Assemblywoman Heidi Swank  
Assemblyman Jim Wheeler  
Assemblywoman Melissa Woodbury

**COMMITTEE MEMBERS ABSENT:**

None



**GUEST LEGISLATORS PRESENT:**

Assemblyman Ira Hansen, Assembly District No. 32

**STAFF MEMBERS PRESENT:**

Scott McKenna, Committee Counsel  
Vance Hughey, Committee Policy Analyst  
Sean McCoy, Committee Policy Analyst  
James Fonda, Committee Secretary  
Olivia Lloyd, Committee Assistant

**OTHERS PRESENT:**

Paul Jackson, Chairman, Commission on Off-Highway Vehicles  
Gary Lambert, Vice Chairman, Commission on Off-Highway Vehicles  
Peter D. Krueger, representing Nevada Trail Stewards  
Robert Roshak, representing Nevada Sheriffs' and Chiefs' Association  
Brian Hawthorne, Public Lands Policy Director, Blue Ribbon Coalition,  
Pocatello, Idaho  
Brian O'Callaghan, representing Las Vegas Metropolitan Police  
Department  
Jeremy Drew, Vice Chair, Board of Wildlife Commissioners,  
Department of Wildlife  
Mike Draper, representing VINtek  
Sarah Hunsicker, Manager, State Government Affairs, VINtek,  
Philadelphia, Pennsylvania  
Troy L. Dillard, Interim Director, Department of Motor Vehicles  
Joshua Hicks, representing Dealertrack Technologies  
Beverly DeVine, Director, Business Development, Processing Solutions,  
Dealertrack Technologies  
Rhonda Bavaro, Deputy Director, Department of Motor Vehicles  
Rudy Malfabon, P.E., Director, Department of Transportation  
Anita K. Bush, P.E., C.P.M., Chief Maintenance and Asset Management  
Engineer, Maintenance and Asset Management Division,  
Department of Transportation  
Allen Byers, C.P.M., Deputy Chief, Compliance Enforcement Division,  
Department of Motor Vehicles  
John P. Sande IV, representing Nevada Franchised Auto Dealers  
Association  
John Terry, P.E., Assistant Director, Engineering, Chief Engineer,  
Department of Transportation

John Madole, representing Nevada Chapter, Associated General Contractors of America, Inc.

Paul J. Enos, representing the Nevada Trucking Association

Terri L. Carter, C.P.M., Administrator, Management Services and Programs Division, Department of Motor Vehicles

**Chairman Carrillo:**

[Roll was taken. Committee protocol and rules were explained.] We will open the hearing on Assembly Bill 293.

**Assembly Bill 293:** Revises provisions relating to off-highway vehicles.  
(BDR 43-619)

**Assemblyman Ira Hansen, Assembly District No. 32:**

I am here to present Assembly Bill 293, which revises provisions relating to off-highway vehicles (OHV) [Notes for testimony ([Exhibit C](#))]. An amendment has been submitted ([Exhibit D](#)).

Section 2, subsection 1, says, "An officer of the Department or a peace officer in this State who is authorized to enforce the provisions of this chapter may not stop an off-highway vehicle. . . ." I did not want law enforcement to do hot pursuits just to check on registration. I spoke with law enforcement officers and section 2, subsections 1 and 2, comply with what they want. They cannot enforce the law. There are no penalties attached to it. This is a brand new program and, I believe, in June 2013 this will start being enforced.

Section 3 would be eliminated by amendment. Originally, there were provisions about being pulled over by law enforcement that would allow you to register your vehicle with them. There was a pilot program in another state that did this, and it was a disaster.

Section 4, subsection 1, talks about what vehicles need to be registered. I removed reference to kid-type motorcycles or any small motorcycle. Anything with an engine size of 125 cubic centimeters (cc) or smaller would be exempt in this bill. I own four small motorcycles that my children, and now grandchildren, use, and I do not think those need to be involved in this process.

Section 5 is critically important in a broader sense. It adds language that says, "The State of Nevada does not authorize the Federal Government or any representative thereof to enforce the provisions of this chapter." This does not imply that because there are not specific exemptions, we encourage it on other laws. The federal authorities are starting to enforce Nevada state laws, and I have a real problem with that. These folks are not certified by the

Peace Officers' Standards and Training (POST) Academy. I had meetings with the Bureau of Land Management (BLM), and they gave me a copy of their law enforcement guides ([Exhibit E](#)). Prior to 1976, there was no federal land management law enforcement authority in Nevada. It has been evolving.

**Chairman Carrillo:**

I am looking for the handout on Nevada Legislative Electronic Information System (NELIS).

**Assemblyman Hansen:**

It is not on NELIS; it was a hard copy handed out to you

**Chairman Carrillo:**

I am referring to the amendment.

**Assemblyman Hansen:**

It is A.B. 293, version 3. Peter Krueger worked with me on it.

**Chairman Carrillo:**

Do all the members see that?

**Assemblyman Hansen:**

Page 2 of the BLM handout is the law enforcement portion dealing with off-road vehicles. You will notice they have adopted the *Nevada Revised Statutes* (NRS). For the purpose of this bill and to keep this hearing focused on the bill only, I want to make sure we recognize this is not something we want the federal authorities enforcing. We want enforcement to be done by the state. When you receive a federal ticket, you have to go to Las Vegas or Reno. You do not deal with your local sheriff, justice of the peace, or juries.

Section 6, subsection 3, paragraph (c), is the only part of section 6 that remains, and it speaks about vehicles that are registered in another state. For example, if you were here from Wyoming on a hunting trip, you would have a 30-day window where your vehicle would not have to be registered. If you were here for longer than 30 days, you would have to register it in Nevada. This was originally 60 days, then 15 days. We thought 30 days was a good compromise.

Section 7 deals with license plates. Regulations required that any off-highway vehicle have an identification plate about the same size as your ordinary automobile plate. There were some practical issues addressed because it did not make sense to put a license plate-sized identification on a motorcycle or off-highway vehicle. We kicked it back to the Commission on Off-Highway

Vehicles to make sure they came up with some reasonable sizing and locations of the identification plate for off-highway vehicles. We want the plates to be smaller and more reasonable.

Section 8, subsection 2, is set up so that once a year you pay \$20 to get it registered. A conceptual amendment would be a 3-year \$50 option as well. There is no smog check, and the Department of Motor Vehicles (DMV) gets more money up front because they want to build trails, et cetera.

**Assemblywoman Flores:**

To be clear, you want us to follow the amended version, not the original bill?

**Assemblyman Hansen:**

Correct. The original bill is large; the amendments are small when you see it.

**Assemblywoman Flores:**

It defines off-highway vehicle and you mention we are trying not to pull in "little kids," so we have changed it from 500cc to 125cc?

**Assemblyman Hansen:**

Correct. Originally, I was recommending 500cc, but people thought that was too much. There are too many different types of off-highway vehicles with that size engine. We are trying to capture the bulk of them. By going to 125cc, you limit it to smaller motorcycles.

**Assemblywoman Flores:**

Section 5 says, "and are the only persons authorized to enforce. . . ." It also says, "The State of Nevada does not authorize the Federal Government or any representative thereof to enforce the provisions of this chapter."

**Assemblyman Hansen:**

Correct.

**Assemblywoman Flores:**

I am familiar with being out in the wilderness. My dad hunts, my brother is a hunter, and I have gone hunting with them. Oftentimes, there is not anyone else except for federal officials. How many state peace officers are we really going to have available to patrol our wild areas if we are specifically saying that only state people can patrol? I think I can see where you are going with it, but I am a little concerned that there will not be anyone around to tell people not to drive their all-terrain vehicles (ATVs) in certain areas. I know that when we are hunting we do take the ATV out, but it stays on the trail. We do not take them

into places where they should not be driven, because you want to maintain the natural wildlife. Can you also give me examples of the 125cc?

**Assemblyman Hansen:**

Picture a smaller motorcycle that kids would ride. Most of those are 125cc or smaller. If you were 14 years old, that is probably the size you would ride. In my family, I have a 50cc, which little kids ride, and I have an 80cc, which a 10- to 12-year-old would ride. I also have a 100cc that bigger kids would ride. I do not have a 125cc. I am trying to keep the ones that ordinary families with kids would have, so they do not have to be registered.

The most important part of this bill is the idea of allowing federal officers to enforce state laws. I see your point, because in the backcountry, for the most part, there are not a lot of law enforcement officers available. People go out there because they feel free and enjoy themselves. The OHV program is brand new. When I first found out about it, I wanted to eliminate it. We have gotten along fine for over 100 years without having any new government regulations and making everybody register their OHV. When I originally proposed that concept, I got a lot of dissension because I did not realize there were so many people setting up trails and they were planning to fund this. Law enforcement was concerned because they had issues of theft over the years on those bigger four-wheelers. As far as people enforcing in the backcountry, you have immense wide-open spaces in Nevada and somebody could watch you from 30 miles away. If somebody wants to enforce this and they see people on four-wheelers, they can go after them.

These folks are not POST-certified and there are other aspects that the sheriff, in particular, is concerned about. This is just a tiny window of that usurpation that is slowly occurring. These land management agencies have slowly evolved into law enforcement agencies. I met with them two weeks ago; they have adopted certain state laws and put them into their realm of enforcement. Even though it has nothing to do with federal law, they are going to begin enforcing it without going through local law enforcement.

While I share your concern about not having law enforcement enforcing this, I think there is adequate enforcement there. A lot of this is going to be enforced around towns like Las Vegas where people ride motorcycles in those areas. Game wardens might occasionally run into people in the hills or isolated areas, but overall it would be a poor type of enforcement with the amount of time and effort versus the number of people you contact.

**Assemblyman Hambrick:**

I learned a hard lesson a few weeks ago. I had a bill come forward that was "expand the peace officer area to the U.S. Marshals." To say it was slammed would be putting it gently. At the time, I was informed that the Federal Bureau of Investigation (FBI), Drug Enforcement Agency (DEA), and the Secret Service are the only federal agencies that have peace officer status in Nevada. The federal authority may be listing state regulations they are enforcing, but it does not mean they have the authority to do so. If they are not peace officers, they will need to say whether the federal authorities, because they are listed, have the authority to enforce state law. I agree with you, Assemblyman Hansen, that federal authorities do not need to enforce Nevada laws unless they have made a case for it independent of anything else. I do not think, in this case, they have made a case to do so. They may be doing it inappropriately. Because it is in writing does not make it so.

**Assemblyman Hansen:**

I am not sure if there was a question in that, but I completely share your concerns. As somebody who you asked to sign on as a cosponsor to your bill, I respectfully declined, and now you know why.

**Assemblyman Bobzien:**

I think the short answer to that, and I would appeal to committee counsel to look into this, is this comes up a lot. The Federal Land Policy and Management Act of 1976 (FLPMA) talks about all of the different aspects of land management that can come from federal agencies. There is reference to "authority and the secretary to cooperate with state and local governments in the enforcement of state and local laws on natural resources lands." I think that is the framework we are talking about. It is different when you are talking about peace officer status in a traditional local law enforcement setting. These are federally managed lands.

The concern I have with section 5, similar to what Assemblywoman Flores said, is when you are in the backcountry and you see a violation. There are responsible users of OHVs in Nevada, but I am talking about the bad actors. When you need to call somebody, you are not thinking that you cannot call BLM, even though you are on BLM land. I do not know if I need to call the Department of Wildlife, BLM, or whomever. In a situation where we are already resource-constrained in enforcing this OHV program, to take out wholesale one of the partners in the program and cut them off from the enforcement is what I have concerns about. Is it the expectation that if you are on federal lands, whether you are a sportsman or participating in recreation, you are supposed to know that you can only call the local sheriff's office?

**Assemblyman Hansen:**

No, that is not the intent. The intent is if they have arranged with the local law enforcement agency that they could enforce this, then they might have jurisdiction. My understanding is they have not done that. They have usurped this authority. Eighty-seven percent of Nevada is federal land. We have been fighting this issue since 1979 to protect our state sovereignty and what local law enforcement agencies are allowed to do.

This is off topic, but you go back to the common law concept. We elect our judges, district attorneys, and sheriff. There are reasons for that; it is the check and balance system to ensure we are protected. If you are in Elko County hunting or cutting wood and get a citation from the federal people, you must go to Reno or Las Vegas to contest the citation. You do not face a local magistrate or justice of the peace. You face a federal judge in a federal court. We want to make sure we protect Nevada because there is a trend of usurpation.

**Assemblyman Bobzien:**

Until the Supreme Court overturns FLPMA, we understand there needs to be a federal role on federal lands. I agree this is a different issue and maybe this bill belongs in the Committee on Natural Resources as a result. Specific to the OHV program that folks worked so many sessions on, I have a problem with taking away a major part of the enforcement mechanism for this program.

**Assemblyman Hansen:**

I do not know if, in the original bill, there was any language that gave the federal authorities the right to enforce local laws. If I have overlooked that, I would like to have legal counsel answer that. To my understanding, this was supposed to be strictly a state and local enforcement issue.

**Assemblywoman Carlton:**

To that particular point, Assemblyman Hansen, it was a registration bill. I believe anyone can enforce registration. I did not support the bill; I voted against it in the Senate. I saw this thing coming like a train wreck, and it has been one ever since. It cost Clark County \$250,000. I will say that every time I get the chance to say it, and now I have said it. However, to the bill, I have concerns about whoever stops you and you want to be able to register on the spot with them.

**Assemblyman Hansen:**

That has been deleted.



**Assemblywoman Carlton:**

You did take that out, okay. Because I was confused on that.

**Assemblyman Hansen:**

Yes, that was a major problem, so it is gone.

**Assemblywoman Carlton:**

Did you take out the portion of the bill that has the fiscal note?

**Assemblyman Hansen:**

I do not know the answer to that, but I believe so. I am not sure what would be left because now this should be a moneymaker for everybody. That is the intent of the whole thing anyway.

**Assemblywoman Carlton:**

To make more money?

**Assemblyman Hansen:**

Yes. If you have 300,000 OHVs which would be registered at \$20 each, that is \$6 million. You are not going to get that kind of compliance, but I know that there were percentages in the original bill and law enforcement got 20 percent. This should be a money-making bill. It should not cost the state anything.

**Assemblywoman Carlton:**

I am looking at the programming hours, but we will not go too far down the fiscal road. I am just confused because we are already asking them to be registered anyway. The law says they have to be registered.

**Assemblyman Hansen:**

Right. I want to make sure when this is enforced there are no severe penalties. Originally, I wanted this to be a secondary offense, but law enforcement was not happy. We wanted to exempt the smaller motorcycles. We wanted to allow a 3-year license for \$50 instead of a 1-year license for \$20. That is not in the bill; it is a conceptual one. Everybody on the Commission and everyone I have talked to thinks it is a great idea because you get more money up front. Then, you do not have to deal with the license for three years.

The other thing I wanted to address was the federal enforcement issue. That is one we are obviously here to debate a little bit. There are many people who want to testify. I am not a law enforcement expert, but there are people here who will testify and probably answer those questions more efficiently than I would.

**Assemblywoman Carlton:**

I will have a discussion with Mr. Hansen offline regarding what I see as far as the word "loss" behind each one of these titles. There are negative numbers, and we will talk about that offline.

**Assemblyman Hansen:**

Okay, thank you very much.

**Assemblyman Sprinkle:**

You answered one of my questions about law enforcement being able to take registration; I am glad that is gone. I also wanted to clarify that in the amendment it is a primary offense, not secondary.

**Assemblyman Hansen:**

Yes, it is primary now.

**Assemblyman Hardy:**

You are not trying to take away the authority of the BLM to do what they are there to do on those management issues, such as somebody driving in the wilderness on closed roads or cutting wood when they are not authorized to. This still gives them the authority to do what their business entitles them.

**Assemblyman Hansen:**

Yes, we do not do anything on their side of the law. Prior to 1976, when those issues came up, they would go to county or state officials to enforce those things. They were not a law enforcement agency. There was a window of time from the 1940s to 1970s where, if you were cutting wood illegally and a BLM person saw you doing it, they would contact the local people. That is how it should be. This bill does not address that at all. That is just a philosophical concern I have that I think we are going to have to address in the future.

**Assemblyman Hardy:**

Thank you. I just want to clarify that we are not taking away their duties. We do not want them to touch the NRS statute such as licensure.

**Assemblyman Hansen:**

No sir. The NRS statute is specific to this right now. I think we need to be very careful about anyone assuming they can play law enforcement roles that are properly within the realm of our own legally elected officials.

**Chairman Carrillo:**

Are there any questions from Committee members? [There were none.] For a long period, I had a CR125 and the physical difference was minimal compared to my brother's 250. I would tear it up just as bad as he would. When you are talking about the 50cc and the 80cc, those are the little mini-type bikes your grandchildren ride and will not hit the speeds, because their motor skills are not going to be as sophisticated as a 14-year-old's.

**Assemblyman Hansen:**

Originally, I had 500cc. I wanted to exclude all of the motorcycles. In a compromise with everybody, we got down to 125cc. That is the breaking point where you see teenagers and younger kids riding them. That is where that number came from. With the difference in sizes, the frame changes, and that is the breaking point where you go from kids to adults. That is what I was shooting for with the 125cc. As far as I know, everybody that we have talked to has been comfortable with that as a reasonable cutoff.

**Chairman Carrillo:**

When you say you have talked to the stakeholders, who are the ones that are saying that 125cc should be the cutoff versus 50cc? Growing up with a 125cc, I tore it up pretty good. I am trying to figure why the breaking point is 125cc and not 50cc.

**Assemblyman Hansen:**

The people who brought it up included Mr. Jackson and Mr. Krueger from the OHV Commission and various law enforcement people. There was not a great deal of debate on it. They thought it was a reasonable cutoff for smaller types of motorcycles.

**Chairman Carrillo:**

Okay, I am just trying to figure out who made that reasonable determination.

**Assemblyman Hansen:**

I did. It seemed reasonable to them too. That is not set in stone; there is nothing in the Honda guidebook that says if you are riding 125cc, you are a kid, and if you are riding a 150cc, you are an adult.

**Chairman Carrillo:**

Right, I get that.

**Assemblyman Bobzien:**

What is the purpose of the exemption? When you first presented this, you said that you wanted to roll back the program entirely. Then you said that you

wanted to do something that would exempt all of the motorcycles or most of the motorcycles. Now we have the 125cc. I am not hearing in this that we have determined that 125cc should not be titled or it is determined that they do far less damage than larger vehicles. It seems to be a kid thing, right? Is this just because little kids are riding this and that is the logic for having the cutoff at 125cc? It is an arbitrary number and we choose arbitrary numbers all of the time. I am just trying to figure out the rationale for why we are providing an exemption anyway.

**Assemblyman Hansen:**

You are correct; it is an arbitrary number. I know people with families who do not want to pay another \$100 to register 3 or 4 motorcycles that their little kids use once or twice a year. If I had my druthers, I would bump it up to 500cc. I am trying to get it so that the family who goes out for a little recreation is not stuck with another registration, tax, license, and fee that eats another \$50 or \$100 a year. There is nothing in this that says kids riding 50cc motorcycles do not chew up trails too. I am trying to strike a balance between the desires of law enforcement for additional revenue and to have some way to track vehicles that have been stolen, with helping the average mom and pop who want to have a little bit of recreation without the additional fee.

**Assemblyman Paul Anderson:**

As I read the bill, I am not sure if the original intent was ever to stop people from tearing it up in the desert, so to speak. Is that right? Was this not to raise funds to build trails throughout Nevada so people could utilize the trails?

**Assemblyman Hansen:**

As far as I know, yes. I think that is something Assemblywoman Carlton could answer, as somebody who has been there for a longer time. From talking to people, there were a several reasons behind the original bill. One was to raise revenues so that trails could be built in Nevada. I think you will have testimony from some trail people. Law enforcement indicated they wanted it because they have had a problem with vehicles being stolen, particularly the larger four-wheelers. This will help law enforcement identify stolen vehicles. Law enforcement also indicated there was fund-raising for them. Undoubtedly, tearing up the countryside is one of the concerns. I have spent a lot of time in the backwoods, and it is frustrating when you have hunted and hiked these areas for years and here comes somebody bouncing over the sagebrush in one of these big, heavy, four-wheel drive vehicles. On the other hand, there is nothing about registering them that is going to prevent that type of behavior. It is not illegal in most areas; you can still drive across country in these vehicles. If they are driving in a national park or somewhere where it is illegal, there will be an easier way to identify them, so law enforcement can deal with it.

Overall, Nevada is still an open country, public domain. One of the great things about Nevada is that we get to go out and recreate without having to answer to many government folks prior to being able to do it.

**Assemblyman Paul Anderson:**

I like the idea of the bill where you can extend that registration. With all seasonal recreational things, there is a time where you forget about them, and then all of a sudden, you want to go recreate. I understand the idea of reducing the costs for families going out and doing that. On the enforcement side of it, in Las Vegas there was a portion that was closed off and only one specific area that you could ride in the Las Vegas Valley. They marked ingress and egress points and that is where they enforced it. If they saw a truck with a trailer hanging out there, that is where the enforcement agency was waiting. They did an initial warning. I think there are plenty of opportunities for them to enforce where they need enforcement. I am on the bubble on the enforcement portion of it. I understand your argument for the federal folks enforcing state statutes, and I appreciate that we need help along those lines as well.

**Assemblyman Hansen:**

If that becomes a real sticking point in the bill, if Clark County wants to have federal authorities do this, they can work out a cooperative agreement. I do not have a problem with that. I definitely want to make sure we understand that local enforcement is supreme in this. If they want to cooperate with the federal people on this, then they should be the ones that make that decision. The federal government should not arbitrarily do it.

**Assemblyman Bobzien:**

I think you got part of the intent right with the idea that when you have a sportsman in the backcountry who has been working all day to get to the top of the rimrock in the wilderness study area, and here comes someone ripping up the hillside busting up my birds, it kind of ticks me off. That is not part of this. The point I want to communicate is on the legislative intent. People have gone back, looked at this, and pulled the minutes. There is a lot of intent that talks about that enforcement piece, not just about vehicles being stolen and the property issues related to that, but also being able to identify vehicles where the bad actors are doing bad things on public lands. Having the sticker and the numbers be visible is a tool for people to be able to call in if they see something bad happening. That was a concern expressed by conservation groups and the agriculture community when gates are being left open. Open gates have a huge impact on the agricultural community. Sportsmen see trespass problems on federal lands. We are not going to solve the constitutional arguments today. We are probably never going to solve those in a session; we will go around and

around. The reality is it was definitely legislative intent that part of this was being able to track bad activities on federal lands with those vehicles.

**Assemblyman Hansen:**

Nothing in this bill would change that. I would say that simply observing somebody riding a vehicle and then taking the registration number is not prima facie evidence they have committed a crime. The individual that actually owns the vehicle may not be the one riding it. It is not automatically saying I caught a person and he has XYZ on his plate, then law enforcement knocks on his door and says they saw him driving out in some spot that you were not supposed to be riding. Somebody else could obviously be using the vehicle.

**Chairman Carrillo:**

Are there any questions from Committee members? [There were none.]  
Is there anyone wishing to testify in support of A.B. 293?

**Paul Jackson, Chairman, Commission on Off-Highway Vehicles:**

We were not able to vote on this bill, as written, at our last Commission meeting. I polled the commissioners, and they are in favor of this bill. There are several aspects of the bill we like. Law enforcement's ability to use this as a primary stop is important. It helps get rid of some of the bad actors if law enforcement can step in and watch people.

You can get a 125cc two-stroke motorcycle, and they can go fast. Generally, we are talking about four-stroke engines. If you look at ATVs, go-karts, and small side by sides, anything under 200cc is meant for a child. The seats are the size that a child would use. We had to pick a number and 125 seemed right because that was the cutoff on ATVs. It was sort of the cutoff on go-karts and small motorcycles.

If the vehicle is not registered and stickered, it cannot go on public highways. Off-highway vehicles are allowed on certain roads, which are designated by the county. If the vehicle is not stickered or does not have a decal, then it generally cannot go on those roads. Therefore, it would keep many of the juveniles off public roads. Juveniles do tend to be the biggest problem and the people we get the most complaints about.

Another aspect of the bill covers the decal itself and the size, shape, color, et cetera. In the bill, it would be left up to the Commission. The Commission, at present, decides where and how the decal shall be displayed, and we do that through regulation. Everybody on the Commission understands the responsibilities that we have with the decal. People do not want to put a large decal on their vehicle, so we do not have the compliance

rate we would like. They had a similar problem in Colorado resulting in the decals being made smaller. People are buying California decals and putting them on their bikes because they have reciprocity in Nevada. They end up being bad actors because we cannot find out who they are.

I appointed a subcommittee, which included two members of the Commission and two members from the conservation area. The Conservation League recommended one of them and another one comes from the Friends of Black Rock Desert. We are putting together a mock-up of what the decal would look like. We found that if we swap some of the numbers and use letters instead, we could get it down to four characters. Those four characters, without reducing the size of the letter, could be put on a smaller, compact decal. It is more user-friendly and will help with compliance and law enforcement. If you do see somebody doing something wrong, it is much easier to remember four digits than six or seven.

In this day of technology, everybody has video or cameras on their cell phones. If somebody sees a bad actor, they can take video. On that video, they may not be able to see the decal, but they can enhance it so they can see it. They can turn that information over to the appropriate law enforcement agency. The last thing we want happening is somebody getting upset, challenging an ATV rider, and getting into a confrontation. We would much rather they take a photograph of the decal and call law enforcement later.

**Chairman Carrillo:**

Are there any questions from the Committee members? [There were none.] In the interest of time, if anyone wants to add support to the bill, please keep repetitive testimony to a minimum.

**Gary Lambert, Vice Chairman, Commission on Off-Highway Vehicles:**

I belong to the Dust Devils Motorcycle Club, and I represent all racing aspects in Nevada on the Commission. I am the founder of the Nevada Trail Stewards. Because of the need for stewardship, I have been involved with this for some time.

The first time I saw an OHV with a sticker on the trail, I stopped him and asked him if I could take a picture because I had never seen one. The man and his wife and the other two couples were probably 65 to 70 years of age. Three of them asked if I was going to make them take their sticker out of the toolbox and put it on their OHV. I asked them why I would do that, I just wanted to see the sticker. They said they were not planning to adhere the sticker because it was too big and obnoxious. Compliance has always been an issue when the sticker was about the size of a motorcycle license plate.

This is not the size of an automobile license. The letters are only 1 ¼ inches tall. One store in Reno sold \$100,000 worth of California nonresident stickers in 2006. That is a lot of money going to California. Many people come to Nevada to buy California nonresident stickers because it opens a window of opportunity because the sticker is green. It avoids their green versus red sticker air quality debate allowing them six more months of use out of that vehicle. There is a reason to prevent the bleed across state lines. There have been a lot of California stickers bought in Nevada because you can buy 20 at a time. They are in the cash register and they are up to \$10 more than a California resident pays, and people still buy them. The Nevada sticker has to be created and shipped to you.

I am going to tell you a little bit about the economy of this because OHV is a big deal in Nevada. The sticker size matters to me because it hurts compliance. One of the issues being brought up is taking a picture of someone riding and the picture being used as an enforcement issue. Perhaps that seems true on the face of it. The fact of the matter is, these people are geared up; they are wearing a full face helmet with goggles. The experience in other states is that it is simple to say that the vehicle is available to a dozen people and if you do not have my picture, you have nothing, regardless of the picture of the sticker. While that makes no sense, the Commission is sensitive to the entire state, including the people that believe enforcement is a credible activity. I believe you will find that will not be law enforcement because they are not trained to do this activity.

There is a stewardship organization in Nevada that thinks they can help by providing a good example. I founded it years ago, and now we are actually moving forward. However, we are just dealing with the law here. I am in support of the Commission being in control of the size of the sticker. They have tried it other ways in other states and the compliance was horrible. Currently, there are fewer than 7,000 stickers sold in Nevada. There are over 425,000 vehicles in Nevada. In 2003, according to a state park study, Nevada was averaging \$5.5 million dollars a day in OHV economic contribution. I suspect if you were to add racing, manufacturing, and distribution, Nevada clicks along at over \$2.5 billion a year in OHV economic contribution.

Everybody knows Burning Man does a great job, and it brings in \$30 million a year. In 2003, OHVs were \$5.5 million a day. It is very important we get this correct. The market size in Nevada has not been studied in years, and I have tried to get a new study funded. I can get the numbers freshened for \$8,000. I have not accomplished that yet. Since the 2003 numbers were published, there were 3 years of near or over 30 percent growth, and approximately an 8 percent slide since then. I hear the word motorcycle



repeatedly. Off-highway vehicles are predominantly sport utility vehicles (SUVs) that we are not involved with, and this sticker does not involve. Behind SUVs comes ATVs, which represent about a three times larger segment of OHVs than do off-road motorcycles.

**Assemblyman Bobzien:**

We hear that there are challenges with compliance because of the size of the sticker and people buying them from California and taking advantage of the reciprocity because the size is smaller. Do we have numbers as to how often that is happening? Have we made a request to the California agency asking how many Nevadans have taken advantage of this? I know DMV is concerned about how much of this is going to take place because it has not hit people yet. We are already concerned about a possible compliance issue. I am looking for some numbers to consider, although we do not have a fully implemented program.

**Gary Lambert:**

I have tried to request this data from several locations, and it is indeterminate data. Everybody in northern Nevada that crosses Peavine, where I most often recreate on an OHV, as soon as you get 12 miles away, you have to have a California nonresident sticker if you do not have a license plate. I do know of people from California coming to Nevada and buying 20 stickers at a time to use in California because there is no rule against it. Their system is easy to buy into if you are from California. Our system requires you take the vehicle and have it physically inspected by a motorcycle dealer; DMV does not do this function. People in Nevada tend to buy the California sticker because the Idaho, Utah, and Arizona stickers are not in the cash register drawer in Elko. I bet Elko has sold more California nonresident stickers than they have Nevada resident stickers. Although it is not mandatory, many people are probably buying Nevada stickers. Out of 7,000 sold, about 3,500 were sold to people who either wanted to do the right thing, or they were going into an adjoining state and did not want to give the money to another state. Nevada's sticker is \$20 instead of \$30. I understand it is going to \$40. Did that answer your question?

**Assemblyman Bobzien:**

Not really, but I have a follow-up to that. There has not been a formal vote taken by the Commission, but people have been polled as to the Commission's support. Section 7, subsection 2, deals with the size of the sticker. The current statute says, "Be approximately the size of a license plate for a motorcycle, as set forth by the Department." There is the parity with the existing size of the license plate. I have not heard anyone complain about the size of the motorcycle license plates. This changes to "Be smaller

than the size of a license plate." It would give you the flexibility to come up with the new size. You would go through the regulation process again and have the new size. How small is too small? Has there been a discussion on that? As I read this, it could be smaller than a cell phone. I would be sympathetic to revisiting the issue of the size, but under this statute, you could go as small as you want to. Is that right?

**Gary Lambert:**

Yes, we could. The only conversations I heard about reducing the size of the sticker brought it to the same-sized numerals and letters that are currently on the sticker, 1 1/4 inches in height. By going to 4 and using a numeral and letter, we were able to reduce that to 3 1/2 by 3 1/2 and still track the vehicle as necessary without affecting color or any other issue. I do not sit on the subcommittee, but I know the environmental side has good faith efforts in being able to detect this from a camera. No one on the Commission is trying to go to the size of the Idaho sticker at 1 by 2 inches. The California sticker is smaller. The problem is that, on a motorcycle, the size of a license plate is difficult to accommodate on race vehicles. It ends up being wrapped on a front fork tube and race vehicles may take their forks out of the slide every weekend. They will not tolerate that. They will be ruined instantly. The other option is to put the sticker down on the swing arm, but they will not be readily legible after one trip or a fall in the sagebrush. They are just going to go away too fast, and it is not viable.

**Assemblyman Bobzien:**

I appreciate hearing there has been discussion and some thought put into that. I am not saying I am opposed to it, and I would be willing to engage in that discussion. In the amendment, "smaller" is pretty broad, and I do not know if anyone is willing to give that kind of statutory latitude to you. It sounds like if you have something in mind, there may be a way to write that into statute to give you the flexibility to go down that route.

**Gary Lambert:**

I am in support of it becoming smaller because it is important to get in compliance. I am not driving that vote, and I see no one in this group willing to alienate another side. That is not what we are here to do. I believe that within NRS Chapter 490 and the designated routes and corridors, we can easily add 10,000 jobs and \$1 billion to the Nevada marketplace, particularly in rural Nevada. I have been saying it is doable for some time. I was not involved with wanting the original legislation. Most of my constituents did not want a sticker, but they did not understand what was possible with a sticker.

**Peter D. Krueger, representing Nevada Trail Stewards:**

I heard Assemblyman Bobzien's request. We will attempt to get some information from out of state if we can. Secondly, I heard loud and clear that we need to look at the language, and instead of a limited size, look at a more reasonable size. Otherwise, we support the bill. We think it is the next generation to advance this program and still operate off-road, or off-highway, vehicles in a responsible way.

**Chairman Carrillo:**

Are there any questions? [There were none.] So much work went into this. It seems like it is going through a long process to undo a lot of hard work to make this happen. Mr. Lambert stated there are approximately 7,000 registered OHVs. When was it enacted that they had to register their OHVs? Do you have that information?

**Peter Krueger:**

July is the deadline.

**Chairman Carrillo:**

Are you referring to July of 2012?

**Peter Krueger:**

July of 2013.

**Chairman Carrillo:**

We are trying to fix something that has not gotten off the ground yet and has not even been tested. Mr. Hansen will attest that for any work he has done in the plumbing industry, before he leaves the house, he always tests it. I am trying to understand the concept of why you are trying to change the system and it has not been tested yet.

**Peter Krueger:**

We are trying to fix something we believe needs to be enhanced. There are people who are going to wait until the last minute. We will not see you or other members of this Committee until next session. In other states, the retailer buys the sticker and is able to sell them, like a fishing license.

**Chairman Carrillo:**

When you are saying enhanced, it seems more like a gentle word for change. I am just trying to understand the whole concept of enhancing something before it has been tested.

**Gary Lambert:**

The program came into effect July 2012 and has been running until 2013, when it becomes mandatory for all vehicles. The reason there are 7,000 in place is that 4,000 of them were new vehicles with mandatory title and registration requirements. One of the problems Nevada has had in the past is it has become a dumping ground for stolen vehicles because there was no title requirement. Although it has not been mandatory for people who already had vehicles, and it will never be mandatory for people who purchased vehicles before July 1, 2012, to title them, registration becomes mandatory for all vehicles on July 1, 2013. There is a little confusion, and not everyone has these dates clear. I hope that helps you to understand that we have had a good long test. I rode last week with 25 people and not a single person had a sticker, other than me.

**Chairman Carrillo:**

This was first discussed in 2009 and passed in 2011. My concern is you have the enhancements, as Mr. Krueger put it, before it has been tested. You were saying that people are registered because they have brand new OHVs. I am not sure what strides you are taking to ensure that our members understand this is coming July 2013. You said you rode with 25 people and you were the only one following the rule. Maybe this is something you should try to take care of before July.

**Gary Lambert:**

They are following the rule. They are not mandated unless it was a new vehicle bought after July 1, 2012. They are legal in not having a sticker today. The rule is complicated and complex. I am currently producing 100,000 postcards on behalf of the Commission to send to rural Nevada. There are eight billboards in Clark County, and I believe there are three billboards in Washoe County. There is very little outreach in the middle. We are working on this, but we have been forbidden to do some things because of our administrative constraint, and we get a very small sliver of the money until after July 1, 2013. I have put information on many websites. We do outreach, and we have tried to work with county commissioners.

Travel management is coming to Nevada. They have been working on it since 1974. Some of southern Nevada has a resource management plan and a travel management plan in place. If there was any place in the world you could go across the sagebrush, Nevada was it, according to many, even in the BLM. Northern Nevada currently has a resource management plan with travel management plans following. Open, designated routes are going to be nearly nonexistent within the next ten years. They will be open to designated, closed, or open play areas. It is important that we begin to have good outreach to tell

citizens what is coming. That is probably the most important task and why I created a stewardship program. Crescent Valley has a constable, but I am betting no one has talked to him about this.

**Chairman Carrillo:**

We appreciate your additional information and testimony. Are there any questions from Committee members? [There were none.] Is there anyone else wishing to testify in support of A.B. 293?

**Robert Roshak, representing Nevada Sheriffs' and Chiefs' Association:**

We worked with Assemblyman Hansen on the amendment requesting that it be a primary offense. We worked on some of the language pertaining to it being a nonmoving violation.

**Brian Hawthorne, Public Lands Policy Director, Blue Ribbon Coalition, Pocatello, Idaho:**

The Blue Ribbon Coalition is a national off-highway vehicle advocacy group with members in 50 states. That includes 300 individual and organization members here in Nevada representing just over 5,000 individuals. We are in support of A.B. 293. We have had extensive experience with OHV programs across the United States. I have had experience in Colorado, Utah, Idaho, Arizona, Montana, and New Mexico. This is not a tax, but better described as a user-supported fee to fund managing the use. The program is designed specifically to address the various concerns that many have brought to the Committee here today. For example, enforcement concerns that livestock grazers have regarding gates being left open. This is a program where users contribute funds to the program that can be used to, for example, install cattle guards. Compliance is critical to the success of any OHV registration program, especially a new program. The shape of the registration sticker is of importance to the enthusiast. That is why we support the amendment allowing some flexibility in the size of the sticker.

We work with federal land management agencies across the West on enforcement. This size of a plate is not the critical component of enforcement or compliance with the travel management rules. When we get down to enforcing, law enforcement personnel on the ground during the popular seasons are the critical component, not the size of the sticker. In many cases, a relatively small increase in size of sticker does not increase the ability to identify a violator at any significant distance.

I am a little concerned about getting into this in Nevada, but regarding prohibiting federal law enforcement officers from enforcing state law, federal agencies have made violating a state law a federal offense. If I am operating

a motor vehicle on federal lands in Nevada without a sticker, that is now a federal offense. Federal law enforcement officers are going to be citing me for a violation of their Code of Federal Regulations (CFR) for not having a Nevada sticker. It is somewhat complicated and why some states' rights people will support the ability for federal law enforcement officers to enforce some provisions of state law. For example, if I am cited for a sticker, under federal law I have to navigate the magistrate of the federal program. If it is a state law, I get to pay my fine via the state program.

**Assemblyman Wheeler:**

I want to clarify the last statement that you made. Making it a federal offense, but they are doing it through regulation, not through federal law. Is that correct?

**Brian Hawthorne:**

I believe that is correct. It is "CFR 83."

**Assemblyman Wheeler:**

That is regulation. With federal law they would have a body like this called the United States Congress pass it.

**Brian O'Callaghan, representing Las Vegas Metropolitan Police Department:**

We are in support of this measure with the amendment. We would oppose it if it did not have this amendment.

**Assemblyman Wheeler:**

Since you are a Nevada POST-certified officer, are BLM officers Nevada POST-certified officers?

**Brian O'Callaghan:**

I am not sure if they are POST-certified.

**Assemblyman Wheeler:**

Can you find out for me?

**Brian O'Callaghan:**

Yes, I will do that.

**Chairman Carrillo:**

Is there anyone wishing to testify in opposition to A.B. 293? [Exhibits not mentioned previously include these: Letter of opposition from Tom Willis ([Exhibit F](#)), letter of opposition from Karen Boeger ([Exhibit G](#)), and Testimony from Tina Nappe ([Exhibit H](#)).]

**Jeremy Drew, Vice Chair, Board of Wildlife Commissioners,  
Department of Wildlife:**

The Commission was opposed to the bill as introduced. We have not had a chance to review the amendment, but it sounds like it took care of some of the concerns we had. I was part of the original working group that developed this last session. The original group was made up of a host of constituents: conservation sportsmen groups, off-highway vehicle users and dealers, the Farm Bureau, the Cattlemen's Association, the Nevada Association of Counties, environmental groups, and the Nevada Sheriffs' and Chiefs' Association. We deferred to the Sheriffs' and Chiefs' Association on most of our questions if it related to enforcement. The bill that came out of that group was definitely a compromise package. There were items that were debated, and the sticker size was one of them. There were people who wanted to see a full-blown vehicle license plate and advocated for it. There were also people who wanted to see a sticker as small as possible. I think it comes down to the lettering and character size. That is what we arrived at in terms of a compromise.

**Chairman Carrillo:**

I did not read minutes from the previous session when this passed. Was there any comparison from other states? I do not think we need to reinvent the wheel regarding the size every time we make policy. The size seems to be an issue that is not going away, so can you briefly go over that part?

**Jeremy Drew:**

We did look at other states in terms of provisions and the sizing. The debate on the sizing came down to personal preference of the different groups. The primary thing was enforceability and being able to see the sticker. For me, it is more important regarding the size of the letters or characters. There was not a lot of discussion in terms of whether or not people would buy the sticker if it were too big. I do not recall that being debated within the working group.

**Chairman Carrillo:**

Thank you. Are there any other questions from Committee members? [There were none.] Is there anyone wishing to testify in neutral on A.B. 293? [There was no one.] I will close the hearing on A.B. 293. I will open the hearing on Assembly Bill 309.

**Assembly Bill 309: Requires the Department of Motor Vehicles to contract for certain electronic services. (BDR 43-947)**

**Assemblywoman Lucy Flores, Clark County Assembly District No. 28:**

Mr. Draper is with me today, and he will be answering many of the technical questions you may have. Over the past week, we worked with one party who

was originally opposed to much of this bill and made many adjustments. The mock-up on the Nevada Electronic Legislative System (NELIS) is what we are now working with ([Exhibit I](#)).

This bill allows the Department of Motor Vehicles (DMV) to put out a request for proposal (RFP) to create a system that allows titles to be transferred electronically. My title is somewhere in my kitchen right now. I was happy I was able to pay off my car, but in a way I do not own it because I do not have the title. I thought it made sense that Nevada enter the twenty-first century, be able to electronically transfer titles, and remove liens once a vehicle loan is paid off.

There has been discussion about the language. There is not an issue of whether or not DMV can contract out to one or more people. It says it "shall enter into a contract pursuant to this section."

Section 0.5, subsection 5 ([Exhibit I](#)), says, "The contractor may also serve as a service provider under such terms and conditions as are established . . . ." Paragraph (a) says, "The Department may perform audits of the contractor . . . ." We have worked closely with DMV. They told us that much of the chapter we were originally working with was no longer being used and did not work for what we were intending to do. That is why many sections are being repealed and updated to what we now need.

This bill allows DMV to contract out to service providers and to people who will build the system. When people pay off their cars, they will not lose their titles.

**Assemblywoman Carlton:**

When I own my vehicle, will I still get a paper title when I request one?

**Mike Draper, representing VINtek:**

Yes, if you request a paper title, you will still get a paper title when you own your vehicle.

**Assemblywoman Carlton:**

Mr. Draper and I did speak about this bill earlier today. Have you taken into consideration the title loan companies that give you an advance on the title of your car and how they would integrate into this system?

**Mike Draper:**

With me is Sarah Hunsicker, who manages government affairs for a company called VINtek. VINtek is a lien and title management and processing company. I will defer to her to answer that question.



**Sarah Hunsicker, Manager, State Government Affairs, VINtek, Philadelphia, Pennsylvania:**

Traditionally, in states that have implemented electronic lien and title (ELT) management, title loan service companies have been part of that technology. However, this bill provides rulemaking to the Department to exempt certain types of lienholders so they would be granted an exemption if this is something that would not be palatable for them.

**Mike Draper:**

Electronic lien and title management is a program that would allow the DMV to electronically exchange lien information with lienholders rather than using a paper system. Electronic lien and title applies only to vehicles being financed and eliminates paper titles with liens. The exchange of lien information is supported by ELT service providers who provide web-enabled software to lienholders to manage and track their collective lien and title data. Nineteen states have implemented ELT. A number of states have active ELT initiatives under way.

This is about helping Nevada's DMV evolve into the twenty-first century with modern technology. Electronic titles with liens have surpassed their paper equivalents, making the issuance of paper titles with liens an obsolete, declining practice. Nevada issues approximately 275,000 paper titles with liens annually and shares a border with three ELT states: California, Arizona, and Idaho. As such, Nevada lienholders that engage in cross-border lending are already familiar with and participating in ELT programs. Electronic lien and title can easily and quickly be implemented and operated on an ongoing basis, at no cost to the state, through an agreement with a third-party supplier selected by the DMV through a competitive bid. The supplier would develop, implement, and operate the ELT process for DMV in a self-funded arrangement.

The benefits of ELT are three-fold. It is efficient for the borrower and the lienholder. The lienholder can quickly obtain lien and title information, vastly improve customer service levels with shorter turnaround times, easily identify inaccurate information, save money through eliminating storage costs required for paper titles, eliminate postage costs, and save the cost of replacing lost titles. It increases safety and reduces fraud through eliminating the manual handling of documents and reduces the risk of forged documents.

Consumers receive a clean, lien-free title in the convenience of their own home. It provides for more accurate record keeping as lien releases are reported daily through DMV. Consumers no longer need to expend their time and money tracking down old or expired liens in light of bank closures, et cetera.

Given Nevada's economic condition and DMV's several other mandates, the Department does not have the time, resources, or money to develop this program in-house. Working with Troy Dillard, it is a concept that they want. The DMV would put out an RFP that would allow anybody to respond: a software developer, an ELT provider or anybody who has a desire to develop this ELT system for DMV. The DMV would select the qualified contractor who would develop the ELT system, or a hub. They would develop the hub that all ELT providers could connect to. There might be five or six ELT providers connecting to this hub. The way this would be paid for is the ELT service provider would pay a fee to the contractor who developed the hub. With this bill, that fee cannot be more than \$4. That fee would be passed along to the lienholder, the financial institution. The financial institution would interface with the consumer. That is a simplified version of how this works.

I represent VINtek, and we worked with other leading lien and title management companies over the last week to address some of the concerns raised by this. This is a new model; there are not any states that have this model. Some states are working toward this model, but there is not another state with this model that would allow the DMV to implement this technology at no cost to the state. We think this is a very advanced, forward way of thinking and one that will improve efficiency, reduce costs, and be an all-around win for Nevada, the lienholders, and the consumer.

**Assemblyman Hambrick:**

Would this vendor be one of those that is currently offering the electronic services? When other services come in, would this vendor not have access to their privileged information? Someone talked to most of us. We had a bill in Transportation a few weeks ago called "leveling the playing field" about car auctions. Should we not have the same concern on this to make sure that one vendor would not have access to proprietary information of other vendors?

**Mike Draper:**

Yes, the contract with DMV would be open to anybody. It would probably make sense that an ELT service provider would be the most qualified to develop the ELT system for DMV. A software developer or some third-party administrator could respond to the RFP and DMV would pick the contractor that was most qualified and offered the best pricing.

Regarding the second part of your question, since this is a new model, that is certainly a concern worth considering. We think this bill goes a long way toward addressing those concerns and ensuring competitive practices. We assume the DMV contract would assure fair, competitive practices going on with all of the ELT providers. We are open to discussing how to strengthen and

ensure that further. If you read the bill, we talk about random audits from DMV of that provider, open information sharing, and ensuring everybody has the same access. We have already tried to proactively address those concerns.

**Assemblywoman Flores:**

This is about as free market as it gets. I am not interested in writing legislation that requires the DMV to contract to a certain number of people. I trust DMV is going put it out to the people who want to compete and allow those people to compete. If DMV finds it needs two people because it requires two people to do separate types of activities, then I am going to trust that DMV knows what they are doing when they put out the RFP. One of the things I liked about this bill was I saw how it personally affected me, having just had that occurrence with my own vehicle title. The other thing I emphasized was that I am not interested in creating a system that is going to favor one vendor over another. This is about allowing DMV to come into the twenty-first century, to create an RFP process, and make the appropriate decision as to which vendor or vendors they like the best.

**Assemblywoman Spiegel:**

Is it going to be one RFP with one vendor selected, or did you say that multiple vendors could be selected?

**Assemblywoman Flores:**

It is possible that you could have multiple vendors. If you look at section 0.5, subsection 5, it says the contractor "may" also serve as a service provider, so it does allow the main contractor to serve as the service provider. It is not necessary, nor do I want to make it necessary. That should be up to DMV to make the appropriate decision.

Under the language, yes, it is possible that you could have multiple vendors. Alternatively, they could go through one person. As I noted in the introduction, if you look at section 0.5, subsection 5, it says the contractor "may" also serve as a service provider. It does allow the main contractor to serve as the service provider, but it is not necessary; nor do I want to make it necessary. I think that it should be up to the DMV to make that call if it is appropriate.

**Assemblyman Paul Anderson:**

How many ELT providers are there in the nation?

**Assemblywoman Flores:**

I think there are between five and ten, if I am not mistaken.

**Assemblyman Paul Anderson:**

Therefore, it is a small market.

**Assemblywoman Flores:**

Yes, it is a small market with few providers. The reason is that this is new to many states. The surrounding states, as mentioned by Mr. Draper, are still refining their system. I looked at what was being done in Arizona versus California, and it is different. I would not say there is necessarily one model that everyone has subscribed to. It is still evolving.

**Assemblyman Paul Anderson:**

I certainly like the idea. Coming from a technology background, I understand it would be easier and more efficient to do this electronically rather than to order a title and wait for it to come in the mail, and to release liens immediately or daily. My concern is still on the competitive advantage. If I am an ELT provider and I win the bid, I inherently gain a competitive advantage over other competitors who are also trying to provide these same services. I now have an intimate knowledge of the DMV work system, I have proprietary information in development to get into those data systems, and I have fees that I am charging my competitors. Now we are going to have to start regulating and removing the free market aspect of that to get those fees out to competitors so we have a competitive ELT environment. I love the idea of no cost to Nevada, which is certainly a huge boon for us. I am wondering if a provider other than an ELT provider might be a better solution. There are many software providers that I am sure could fill that role.

**Assemblywoman Flores:**

I think I am comfortable in saying, let the RFP process go out. If the DMV finds it appropriate to have one, two, or five, then that is what works for them. In terms of how they put the RFP out, who responds, and how they do so, I think that is the free market principle in action. I hope that they are responding to the RFP in such a way that they make themselves competitive. I do not want to mandate that DMV be forced to choose a certain number of companies per statute, as opposed to letting them participate in a competitive process.

**Assemblyman Paul Anderson:**

I am comfortable in legislating less to see more. We cannot avoid the fact that if I am an ELT, I am going to have an inherent competitive option to get that bid. That will be equal across any ELT that got that bid. I have the skill sets, I know the inner works, and I have done it in other states, so that makes me the most qualified. However, again, I have an immediate competitive

advantage by gaining that across that particular sector, even though that sector is not large.

**Mike Draper:**

This is not apples to apples. That concern is one we have taken into consideration. There are several instances, through state contracts, where we put out an RFP for a contractor. That contractor then hires subcontractors through RFP or request for quote (RFQ) process, and the subcontractor might be the same company as the contractor. In this case, we have set parameters to begin that framework so there is no competitive advantage. The DMV contracting process would also work toward ensuring that as well.

**Troy L. Dillard, Interim Director, Department of Motor Vehicles:**

The Department is in support of the concept of electronic lien and title. One of the pieces this also helps facilitate is our dealer body in Nevada. They are taking cars in with paper titles and they have to process them through the lienholder on the paper title and wait for the title to come in the mail. In the meantime, they are trying to sell the car. The dealer body within Nevada would benefit from this because of the expedited process, allowing them to turn inventory over much more quickly.

We understand there are some discrepancies about the best way to go about putting a program into play. We are researching with other states on how they have done it. We do not feel we need to reinvent the wheel. There are several models, and we want to choose the best business practices and move forward with those.

**Chairman Carrillo:**

Are there any questions from Committee members? [There were none.] Is there anyone wishing to testify in opposition to A.B. 309?

**Joshua Hicks, representing Dealertrack Technologies:**

Although we are opposed to this bill, we are in support of the concept of electronic liens and titles. Dealertrack does this throughout the country and is happy to see Nevada moving that way as well. We are opposed because we have some concerns that are rooted in some of the same concerns this Committee has identified through their questions. We appreciate Assemblywoman Flores for taking many of our concerns and addressing them in the amendment language. We spent some time with VINtek and appreciate their time working on this.

We still have a few concerns and are hopeful we can work through them with the parties involved and DMV. The root of the concern is, as this Committee

has identified, the idea that under the current amendment you could have an existing service provider get this contract or develop and implement the ELT system. If that happens, that service provider becomes the interface that every other service provider has to go through. There are confidentiality issues, as have been noted, that will allow one service provider to know things like volume and market share. The service provider with the contract can set fees that everyone else has to absorb or pass on. It does not have the more open fee setting you would see if everyone were doing his or her own service providing with DMV.

We thought the better solution would be to have something along the lines of having multiple service providers who can contract directly with DMV. We are encouraged to hear Assemblywoman Flores say that is the intent. In the amendment, as it exists, everywhere you read the word "contract," it is in the singular. Section 0.5, subsection 1 says, "The Department shall enter into a contract . . . ." This is similar throughout the rest of the amendment where you see it in a singular form. We would suggest that some language be offered to clarify that "contract" would be in the plural. This would clarify that there is no question and would allow DMV the flexibility to enter into multiple contracts.

Another idea would be to do something like having a neutral third-party administrator that is not a service provider to interface with DMV. Ms. DeVine can give you a more in-depth analysis from her experience throughout the rest of the country.

**Beverly DeVine, Director, Business Development, Processing Solutions, Dealertrack Technologies:**

Dealertrack is a publically-traded company that offers a comprehensive suite of software solutions throughout the automotive financing industry. [Written notes were provided ([Exhibit J](#)).] The solutions group that I work with, Collateral Management Services, was the pioneer of electronic lien and title in 1990. We have been working with states and promoting ELT for well over 20 years. We offer ELT in all states that are currently enabled. We also provide comprehensive paper title administration in all 50 states. We have more than 3,300 lenders nationwide that we serve, including large and very small lenders. We have more than 25 million titles under management within our company. Three of the other national service providers: Assurant Specialty Property, PDP Group, and Decision Dynamics were unable to make the trip. I have gathered their input, as well as input from several of our lienholders who have expressed concern about this in similar bills being presented in other states. [Written testimony was provided ([Exhibit K](#)), ([Exhibit L](#)), and ([Exhibit M](#)).]

I had the opportunity to speak with the sponsors of the bill, Mr. Dillard, and various Assembly members. I am encouraged by your interest in ELT. We have been working diligently to amend the bill. Unfortunately, we believe the language is still geared toward a sole provider, not multiple providers.

Out of 18 states that are currently in production, 16 have developed the product. Of those 16 states, the development has been funded in a variety of ways. Some of it has come by the DMVs determining there are savings that they will make and they will offset that cost by the savings. In some cases, there have been donations from the industry or associations within the state. Georgia charges a semiannual user fee to the ELT service providers and then charges lienholders between 55 cents and 75 cents a transaction.

Two states have a slightly different model. Arizona is a sole hub provider. The difference is that hub provider is the Arizona Auto Dealers Association (AADA). They provide a great product and do a good service, but they do not compete in ELT. They are an independent third party providing the hub for Arizona. Louisiana is the other model and it uses the public tag agents to act as the hub, or the interface, for releasing electronic titles. They have between 20 and 25 ELT public tag agents. The bottom line is that all of the 18 states are in production and maintain an open and competitive market that benefits the lienholders and the consumers.

As we looked through the bill, there were two areas of concern. From the lienholder perspective, banks and credit unions, this bill is noncompetitive and, as a result, will become anticonsumer. They believe this adds another layer of fee to their processing that does not exist today. It certainly would as the ELT hub or the contractor will be providing a fee for that service, and that is a fee they do not have to pay today. Anytime there is one provider of any service, it does not serve to drive down cost. If there is just one provider acting as the hub, then it is not like ELT today where they have five national players they can elect to work with to be sure they are getting the best service at the best price. We are now going to be in a position where, on top of that service they are paying their ELT service provider, they are going to have pay a fee that they cannot control and that is not controlled by the market to a sole contractor in the State of Nevada.

They are also concerned about the privacy of their data. They have contractual agreements with their existing service providers that talk about how data can be used. Although we understand that can be handled legislatively or through regulations, they are concerned that their data about their borrowers is going to be flowing through a party they are not contracted with. Again, most of the lienholder concerns go around the added cost structure and the fact that they

are not getting a competitive product at a competitive price, as well as the issue of the confidentiality of data.

As an ELT service provider, we see this bill in its current form as creating a monopoly. As a result of that, it is going to be a noncompetitive situation in the industry and will expose our confidential business relationships. When our data in Arizona is flowing through that hub, AADA is not a competitor to us, nor are the public tag agents. They do not know who our clients are or what their volumes are or other information. Even though we can put into legislation that there could be audits, the ability to audit and watch for predatory pricing and misuse of data is going to be difficult to obtain.

Finally, for the service provider, ELT has been around since 1990. There are models that have been beneficial, and ways to offset the development costs for Nevada. This is a model that has not been developed, so Nevada is going down the road as the first to make a decision to use a sole provider.

In summary, in the current state of the bill, there is only one contractor allowed. We feel that prohibits the open and competitive market. We have made a lot of progress over the last week to amend the bill. We appreciate all of the support from the sponsor, R&R Partners, and VINtek. There is still work to do to make this bill suitable to provide the right kind of service for Nevada.

We recommend one of two alternatives. We have proposed both, but they are not on NELIS because we were discussing them right up until we came into the meeting today. One is to remove the sole source provision so that multiple providers, whether they are ELT service providers, an auto dealers association, or IBM, can compete to provide that product and have multiple people providing it so that the lienholders have a competitive market from which they can select the lowest price. The second alternative would be to have restrictions put in that the contractor who is selected is not an ELT service provider, to maintain that level playing field within the ELT industry.

**Chairman Carrillo:**

Are there any questions from Committee members? [There were none.] Do you feel this should be equal amongst providers in the sense that it should not be one provider? Alternatively, do you feel it should be opened up to others?

**Beverly DeVine:**

I feel it should be open to a competitive market. When you look at the growth of ELT, there was a point in time when my company was the only provider of ELT. I remember the days when we said competition would be good for us because it will help the market grow. I believe that it does. It is good for our



lenders, and it is good for the constituents in the states we serve. My preference would be to be able to have multiple contractors who are willing to absorb the cost of development and who will meet the development requirements of DMV. Therefore, you do not put extra costs or extra work on the DMV.

**Chairman Carrillo:**

Do any of the Committee members have any questions? [There were none.] Is there anyone else wishing to testify in opposition to A.B. 309? [There was no one.] Is there anyone wishing to testify in neutral on A.B. 309? [There was no one.] I would like to bring Mr. Dillard up to answer a question from Assemblyman Paul Anderson.

**Assemblyman Paul Anderson:**

Thank you, Mr. Chairman, and I apologize for taking things out of order. That last statement spurred the question. The fiscal note shows programming costs to be about \$215,000. Was that to contract with a third party to develop?

**Troy Dillard:**

The fiscal note was actually in the original language of the bill. The proposed amendments would eliminate the fiscal note altogether, other than the regulation costs.

**Assemblyman Paul Anderson:**

If DMV decided they wanted to develop this in-house so they own the product and could manage access, would this generally be the cost of developing that product?

**Troy Dillard:**

Yes, that is correct.

**Assemblyman Paul Anderson:**

If you had people who were willing to invest in that, such as all the ELTs that want to be a part of this and have access to the data, does the DMV work in that process where you get letters of intent that would use the product or usage fees that would pay back development costs?

**Troy Dillard:**

I cannot think of a model in the past where we have used something like that. We have found alternate funding sources where an organization would front a certain amount of money to pay for DMV resources. For example, the Regional Transportation Commission of Washoe County paid for the indexing

programming that went on overtime for our existing programmers. That was because of the technical expertise they have with the DMV systems. If you go to an outside contractor, a lot of the front time is training them on the existing system before they can become proficient at writing it. It boils down to a resource issue more than anything else. As it is, we have multiple programmer vacancies that we have not been successful in filling. This session we have more than 140,000 hours of programming contained in bills. We do not know yet what is going to pass, but we do know thousands and thousands of hours will pass. Trying to meet the existing obligations is already a challenge. We thought the concept the bill sponsor brought forward was very doable for us to have an outside party develop those links into the DMV.

**Assemblyman Paul Anderson:**

Okay, thank you for your time.

**Chairman Carrillo:**

I would like to bring Assemblywoman Flores back up for closing remarks.

**Assemblywoman Flores:**

All of the concerns stemmed from the idea that this is not going to allow for more than one contractor. They specifically referred to the language that is in the singular. I am more than happy to say, "The Department shall enter into one or more contracts" to allow DMV to contract as necessary. It is not my intention to prefer one provider to the other. If VINtek or Dealertrack wants to compete, they should. The bankers and banks are not opposed to this. I do not believe the idea that there are exorbitant fees and that this situation will be created has become a problem. Banking institutions and lenders have not expressed a concern over this bill. I hope I can add the plural language to the bill and this Committee will pass it.

**Chairman Carrillo:**

We will close the hearing on A.B. 309. We will begin our work session.

**Assembly Bill 189:** Provides for the issuance of special license plates to advance the research, early detection and treatment of neurological diseases. (BDR 43-1086)

**Vance Hughey, Committee Policy Analyst:**

Assembly Bill 189 requires the Department of Motor Vehicles (DMV), upon receipt of 1,000 applications, to issue special license plates for the purpose of advancing the research, early detection, and treatment of various neurological diseases ([Exhibit N](#)).

Two amendments have been proposed. The first proposed amendment was provided by DMV that would simply provide that the DMV would design, prepare, and issue the plates as soon as practicable after the effective date of the bill.

The second proposed amendment, which was proposed by Assemblywoman Carlton, creates a two-tier structure for submitting an application for a special license plate. A conceptual mock-up of this proposal was submitted by Mike Draper of R&R Partners and is a part of the work session document.

The amendment contemplates a 1,000-plate threshold tier that continues the current statutory requirements concerning an application for a special license plate. It also creates a new 3,000-plate threshold tier under which an applicant would be required to follow the same standards and procedures as entities applying for special license plates under the existing 1,000-plate threshold tier with the following exceptions: First, in addition to the 30-plate limit for the existing 1,000-plate threshold tier, there will be a limit of 5 separate plate designs under the new 3,000-plate threshold tier. Second, the bond for the new 3,000-plate threshold tier will be set at \$20,000 instead of \$5,000, which will remain unchanged for the existing 1,000-plate threshold tier.

If Assemblywoman Carlton's proposed amendment is adopted, this bill will no longer be entity specific and the DMV amendment would become moot.

**Assemblywoman Carlton:**

The proposal that was brought to me, which I thought about for a while, is we actually have a couple of different types of nonprofits in this state. We have some that have more resources than others do. By setting up a second tier with higher qualifications for the more sophisticated nonprofits, it would take them out of the queue of the less sophisticated ones and put them in a more rigorous queue. Keep in mind that when you have plates for causes such as the March of Dimes, autism, Susan G. Komen, United Way, et cetera, they are very sophisticated nonprofits. They are able to put something together very quickly. However, they are in the same queue with wild horses, the Thunderbirds, the Reno Air Races, and a number of them that are just barely hanging on. By setting up this second stratum of special license plates, you would allow an entity with the 3,000-plate requirement and the \$20,000 bond in queue for that level. It would get the more sophisticated nonprofits out of line so that the other ones could move faster. If you did not think you had the resources, you would not have to go there. It opens up another option to acquire that special license plate from a nonprofit that may have more resources than other nonprofits do.

At first, I was a little concerned about the richer nonprofits getting something special. However, in essence, they are not getting anything special because their standards are much higher, and we are going to hold them to a much higher level with the plate threshold. This is something they think they can do, but at times, I am not sure they are going to be able to accomplish it. That was the idea behind this, hoping that next session there will be fewer special license plate bills in this building.

**Assemblyman Healey:**

Did DMV's position on this change?

**Assemblywoman Carlton:**

I do not know. Would you like DMV to come up? I am not sure if the people that were working on this had a chance to talk with them.

**Rhonda Bavaro, Deputy Director, Department Motor Vehicles:**

We have been working with Mr. Draper on this, and we were fine with the amendment as written. I would like to say that it makes it even more important for our amendment to change it to "as soon as practical."

**Assemblywoman Carlton:**

In addition, I wholeheartedly concur, as soon as practicable.

**Chairman Carrillo:**

Where would you suggest that practicable be placed?

**Rhonda Bavaro:**

Our amendment had that in section 1. We did submit that, and I believe it is on Nevada Electronic Legislative Information System.

**Assemblywoman Carlton:**

In essence, that would become the effective date. So we would eliminate the effective date?

**Rhonda Bavaro:**

Yes. It would be as soon as practical after the effective date of the bill.

**Assemblywoman Carlton:**

We would still have the effective date as July 1, 2013, as practicable.

**Rhonda Bavaro:**

Yes.

**Vance Hughey:**

The proposed amendment was to section 1 of the bill, if I have this correct. The proposed amendment deletes section 1 of the bill, so that whole section goes away. What we would look for is some specific language that would be clear to our legal staff if they end up drafting the actual amendment so they know exactly what it is, that it is to be effective upon "practicable" versus "the effective date of the bill."

**Rhonda Bavaro:**

We would be happy to work with you to change that to another section. We can put it where the effective date is. It would still be the same language; it would just be where we put in the bill.

**Assemblyman Hambrick:**

On page 2 of the current mock-up there is a special note that the DMV amendment would become moot. Apparently that would not be applicable at this point because of the secondary change coming down the pipeline.

**Vance Hughey:**

That is my understanding, yes.

**Chairman Carrillo:**

I will entertain a motion.

ASSEMBLYMAN HAMBRICK MOVED TO AMEND AND DO PASS  
ASSEMBLY BILL 189.

ASSEMBLYMAN BOBZIEN SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

I will assign the floor statement to Assemblywoman Carlton.

**Assembly Bill 242: Authorizes the placement of a designation of veteran status on certain documents issued by the Department of Motor Vehicles. (BDR 43-145)**

**Vance Hughey, Committee Policy Analyst:**

Assembly Bill 242 authorizes placement of a designation of veteran status on a person's instruction permit, driver's license, or identification card, as appropriate, issued by the Department of Motor Vehicles (DMV) ([Exhibit O](#)).

Caleb Cage, Executive Director of the Office of Veterans' Services, has proposed amending the bill to require that the DMV compile a monthly list of persons who have, during the immediately preceding month, declared that they are veterans, and transmit that list to the Office of Veterans' Services to be used for statistical and communication purposes. The amendment would also require consent by each veteran concerning release or disclosure by the DMV of personally identifiable information included in the list. The proposed amendment is included in the work session document.

**Chairman Carrillo:**

I will entertain a motion to amend and do pass.

ASSEMBLYMAN HEALEY MOVED TO AMEND AND DO PASS  
ASSEMBLY BILL 242.

ASSEMBLYMAN WHEELER SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

I will assign the floor statement to Assemblyman Healey.

[Assembly Bill 244:](#) Revises provisions governing special license plates.  
(BDR 43-77)

**Vance Hughey, Committee Policy Analyst:**

Assembly Bill 244 was introduced on behalf of the Commission on Special License Plates ([Exhibit P](#)). It sets the minimum number of active registrations for special license plates at 1,000 for all special license plates. No amendments have been proposed for this bill.

**Chairman Carrillo:**

I will entertain a motion to do pass.

ASSEMBLYWOMAN SPIEGEL MOVED TO DO PASS  
ASSEMBLY BILL 244.

ASSEMBLYMAN WHEELER SECONDED THE MOTION

**Chairman Carrillo:**

Is there any discussion?

**Assemblyman Healey:**

I want to clarify this does not pertain to the exempt plates. I do not know exactly how those are classified as either exempt or listed under special, but some of the veteran and fallen police officer plates may not hit that 1,000, and we certainly do not want those to go away.

**Chairman Carrillo:**

Could we have Legal respond to that?

**Scott McKenna, Committee Counsel:**

The 1,000-plate threshold discussed in this bill would not, in any way, affect the special plates that relate to military personnel, fallen peace officers, and people in those types of categories. It would apply only to the plates that are listed in NRS 482.367008.

**Chairman Carrillo:**

Is there any further discussion? [There was none.]

THE MOTION PASSED UNANIMOUSLY.

I will assign the floor statement to Assemblywoman Spiegel.

**Assembly Bill 282: Revises provisions governing certain sales of motor vehicles. (BDR 43-640)**

**Sean McCoy, Committee Policy Analyst:**

Assembly Bill 282 was introduced by Assemblyman Paul Aizley, Clark County Assembly District No. 41, on April 4, 2013 ([Exhibit Q](#)). At that time, Assemblyman Aizley also had an amendment, which is attached to your work session document. Assembly Bill 282 revises provisions governing surety bonds related to motor vehicle sales. Specifically, the bill clarified that surety bond compensation is only available to a consumer injured by the action of a dealer, distributor, manufacturer, rebuilder, or the representative or salesperson. The amendments discussed on April 4 did primarily two things. The first thing the amendment did was clarify that the surety bond for the dealer was only to be used for the benefit of the consumer for any loss or damage, and identified types of damages as actual, consequential, incidental, and statutory damages, as well as those for noneconomic loss and attorney's fees and costs.

The second part of the amendment, which is actually the new section 1, applies all of those discussions, including the amendment surety bonds to vehicle brokers who are licensed pursuant to NRS 482.3333. It simply tried to include

into the list of dealer, distributor, and manufacturer, the licensed brokers as well.

**Assemblyman Hardy:**

I would like to have clarification of what a consumer is. It is any individual that purchases a vehicle? It is not just an individual; it can be a company, or anybody that purchases. Is that correct?

**Scott McKenna, Committee Counsel:**

I would like to clarify that my reading of the text of A.B. 282, would define consumer as an end user who is not intending to resell a vehicle at retail. That is what I think the term comes down to. I can provide more detail if that is desired.

**Chairman Carrillo:**

I will entertain a motion.

ASSEMBLYWOMAN CARLTON MOVED TO AMEND AND DO PASS  
ASSEMBLY BILL 282.

ASSEMBLYMAN BOBZIEN SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

I will assign the floor statement to Assemblyman Aizley.

**Assembly Bill 379: Revises provisions governing the disposal of abandoned recreational vehicles. (BDR 43-593)**

**Vance Hughey, Committee Policy Analyst:**

Assembly Bill 379 authorizes a person to apply to the Department of Motor Vehicles for a letter of abandonment for an abandoned recreational vehicle ([Exhibit R](#)). The bill also requires a municipal solid waste landfill to accept a recreational vehicle for disposal under certain circumstances. Assemblyman Ellison proposed the amendment that is included in your work session document. It simply deletes Sections 2, 3, and 4 of the bill. Testimony indicated that these sections were not relevant to the bill.

**Chairman Carrillo:**

I will entertain a motion to amend and do pass.



ASSEMBLYMAN WHEELER MOVED TO AMEND AND DO PASS  
ASSEMBLY BILL 379.

ASSEMBLYMAN HAMBRICK SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

I will assign the floor statement to Assemblyman Ellison.

**Assembly Bill 447: Revises provisions relating to roadside rest areas.  
(BDR 35-1157)**

**Vance Hughey, Committee Policy Analyst:**

Assembly Bill 447 allows the Director of Nevada's Department of Transportation (NDOT), with the approval of the NDOT Board of Directors, to authorize a private person to erect or construct, sponsor, operate, or maintain a facility or a sign at a rest area, under contract with NDOT ([Exhibit S](#)). The bill also raises the limit on a fine for violating certain provisions or regulations governing roadside parks or safety rest areas.

One amendment was proposed by NDOT and is included in your work session document. The proposed amendment expands the definition of certain facilities that provide information to highway users to include providing services or products to members of the traveling public. It also expands the authority of the Director to, by regulation, fix fees for providing certain services or products and items designed to promote tourism in Nevada, and makes conforming changes to other provisions related to the operation of facilities that provide information to highway users.

**Assemblywoman Carlton:**

I still have concerns about this bill. I asked them about one of the programs that we have that deals with concessions on state ground. I am not sure if they were going to go back and get more information. I have not heard anything since. I am a little concerned about the fines that were in there. They seem to be a little bit of a jump. Without having more information, I would be uncomfortable in moving this bill today.

**Chairman Carrillo:**

I would like to have Mr. Hughey add something that may answer part of that concern.

**Vance Hughey:**

My recollection of the concern during the hearing on this bill was that it had to do with a bill that was from last session. I believe that might have been Assembly Bill 53 of the 76th Session, regarding logo signs. I have had some communication with the people at NDOT, and they have indicated that bill has nothing to do with what is put forward today. They are here in the audience if the Chairman would like to have them comment further on that.

**Chairman Carrillo:**

Could we have the Department of Transportation come up?

**Rudy Malfabon, P.E., Director, Department of Transportation:**

With me is Anita Bush, who is the Chief Maintenance and Asset Management Engineer, Maintenance and Asset Division at NDOT.

**Anita Bush, P.E., C.P.M., Chief Maintenance and Asset Management Engineer, Maintenance and Asset Management Division, Department of Transportation:**

I believe you are asking about the fines that were proposed for putting up illegal signs. Is that where your concern is? The fines of \$1,000 and \$5,000?

**Assemblywoman Carlton:**

I have concerns about the fines. I am not sure you are going to be able to change my mind on those. My first concern is about the Blind Enterprises of Nevada (BEN) Program. Whenever you have a concession at a public building, the blind enterprise people get to have first crack at it. I brought that up and you were not aware of that. With the requirement to offer it to blind enterprise first, I am not sure how this would work with the NDOT rest area so far from the general population. Will they be able to operate it? How would this all be integrated and with the fact that we are going to be doing advertising at rest areas?

**Rudy Malfabon:**

The intent of the bill is similar to the Sponsor-a-Highway Program where they fund the maintenance of a facility or a rest area. They pick up trash or do some maintenance offsets. Right now, we are paying for the maintenance of the facility through public funds. They could put up a sign that says, "Maintenance of this rest area is sponsored by such-and-such company." We are not allowed to have someone making a profit. Typically, rest areas are on Bureau of Land Management (BLM) easements granted to the Department for transportation purposes. Even though a rest area might be built on a BLM easement, the federal government does not allow a private vendor or concessionaire to make money or set up shop.

**Anita Bush:**

The Department is fully aware of the requirement in *Nevada Revised Statutes* (NRS) 426.630 to 426.720. There are also federal regulations regarding the preference to blind vendors. There is a supplementary regulation, 23 CFR 752.5(c), which refers to the federal code that is quoted in this bill (23 U.S.C. 111), in which preference needs to be awarded to blind vendors. It allows blind vendors to place vending machines in rest areas. We do not have any vending machines in any of our rest areas. They have not taken advantage of this. We still need to comply with all federal and state regulations, even in the sponsorship program. If the Department were to put out an RFP seeking sponsors for our rest areas, if they chose to respond, they would receive preference.

**Assemblywoman Carlton:**

We hear it is just a sign thanking people for taking care of the maintenance, yet the amendment lists services and products. What are services and products? We have had time since the hearing to try to have a few of these things answered, but we have not gotten the answers. I am not sure what we are really trying to do here.

**Anita Bush:**

The language refers to being consistent with a federal regulation order. The Federal Highway Administration (FHWA) issued a policy memo clarifying the rules for rest area sponsorship [FHWA Order 5160.1]. A sponsorship agreement is defined as, "An agreement between a recipient agency and a sponsoring organization to be acknowledged for highway-related service, product, or monetary contribution provided." We want to be consistent with that memo so that is why we were using that language.

**Chairman Carrillo:**

I will entertain a motion.

ASSEMBLYMAN HARDY MOVED TO AMEND AND DO PASS  
ASSEMBLY BILL 447.

ASSEMBLYMAN WHEELER SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMEN CARLTON, FLORES,  
AND SPRINKLE VOTED NO.)

I will assign the floor statement to Assemblyman Hardy.

**Assembly Bill 455:** Revises provisions concerning special license plates.  
(BDR 43-75)

**Vance Hughey, Committee Policy Analyst:**

Assembly Bill 455 was introduced on behalf of the Commission on Special License Plates ([Exhibit T](#)). It makes various changes to requirements and processes concerning special license plates as shown in your work session document. No amendments have been proposed.

**Chairman Carrillo:**

I will entertain a motion.

ASSEMBLYWOMAN CARLTON MOVED TO DO PASS  
ASSEMBLY BILL 455.

ASSEMBLYMAN HEALEY SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

I will give the floor statement to Assemblyman Healey. That concludes our work session.

**Assembly Bill 166:** Revises requirements for the registration of a vehicle that is driven in Nevada by a nonresident who works in Nevada. (BDR 43-707)

[This bill was not heard ([Exhibit U](#)).]

**Assembly Bill 167:** Revises requirements for the registration of certain vehicles that are driven in Nevada and owned by a nonresident business.  
(BDR 43-708)

[This bill was not heard ([Exhibit V](#)).]

**Chairman Carrillo:**

We will open the hearing on Assembly Bill 454.

**Assembly Bill 454:** Requires that certain information be transmitted electronically to the Department of Motor Vehicles. (BDR 43-1161)

**Allen Byers, C.P.M., Deputy Chief, Compliance Enforcement Division,  
Department of Motor Vehicles:**

Assembly Bill 454 mandates licensed Nevada automobile dealers submit electronic notification of sales to the Department of Motor Vehicles (DMV).

This is currently a manual process, which is slow and inefficient for Nevada motorists. This bill accomplishes two things.

First, it allows Nevadans who purchase automobiles from dealers to avoid the required trip to DMV. It accomplishes this by allowing vehicle purchasers to conduct their registration transactions using the DMV website.

Second, it speeds up transactions for all customers who choose, or are otherwise required, to conduct an in-person transaction at the DMV office. This eliminates the requirement for the DMV technician to type the information contained on the dealer report of sale, because it will exist in an electronic format. This change also reduces the risk of data errors caused by the existing manual process.

The electronic process has been in a pilot phase for approximately four years and has been thoroughly tested with a sizable group of franchise dealers. There is no cost associated with this program to the dealers. They also have several options of how they choose to transmit the information to the Department. This bill has been discussed with, and is supported by, the Nevada Franchised Auto Dealers Association, which is the only known organization in Nevada of automobile dealers.

Section 6 has an effective date of July 1, 2013. The original submission of this bill had an effective date of July 1, 2014. We would request the implementation date be moved to July 1, 2014, to allow for a smoother transition for the dealers.

[Vice Chairman Hogan assumed the Chair.]

**Assemblyman Paul Anderson:**

When it says, "transmitted electronically," is there a format, or anything that the dealer needs to do? Is that just a scan and send it over to you? Can you describe that portion of it?

**Allen Byers:**

The transmission would take place electronically by using the Department's website. The Department would be the host of that website. The dealer would have a login to that system whereby they would be able to enter the necessary information for the sale of that vehicle and then transmit it electronically to us, where we would store it in our system.

**Assemblyman Paul Anderson:**

Is that system already developed?

**Allen Byers:**

I am not sure about that.

**Assemblyman Paul Anderson:**

I am seeing nods from the audience.

**Troy L. Dillard, Interim Director, Department of Motor Vehicles:**

Yes it is. It is actually live today and dealers have the ability to use it. In addition to the upload, they can also upload spreadsheets. We give them the format in which they extract that data and upload through an Excel spreadsheet or other type of spreadsheet. It will support either single or multiple transactions. It is very user-friendly.

**Assemblyman Paul Anderson:**

Are we mandating they use it, versus them voluntarily using it?

**Troy L. Dillard, Interim Director, Department of Motor Vehicles:**

That is correct.

[Chairman Carrillo reassumed the Chair.]

**Chairman Carrillo:**

Are there any other questions? [There were none.] Is there anyone wishing to testify in support of A.B. 454?

**John P. Sande, IV, representing the Nevada Franchised Auto Dealers Association:**

We are in support of A.B. 454. It brings us into the twenty-first century. Other states have implemented this, and it works fantastically.

**Chairman Carrillo:**

Is there anyone else wishing to testify in support of A.B. 454? [There was no one.] Is there anyone wishing to testify in opposition to A.B. 454? [There was no one.] Is there anyone wishing to testify in neutral on A.B. 454? [There was no one.] We will close the hearing on A.B. 454. We will open the hearing on Assembly Bill 485.

**Assembly Bill 485:** Revises provisions relating to transportation.  
(BDR 35-1158)

**Rudy Malfabon, P.E., Director, Department of Transportation:**

Today we are here to introduce Assembly Bill 485. In past legislatures, the Nevada Department of Transportation (NDOT) has introduced far more

comprehensive bills for tolling and the use of public-private partnerships (P3). This bill before you, as amended, reflects a more limited approach to tolling only High Occupancy Toll (HOT) lanes and the ability to directly solicit for P3s. I would like to introduce John Terry, Assistant Director of Engineering, who was also the project manager for the Southern Nevada High Occupancy Vehicle (HOV) Plan, to present A.B. 485. [Written testimony submitted ([Exhibit W](#)).]

**John Terry, P.E., Assistant Director, Engineering, Chief Engineer, Department of Transportation:**

This afternoon, we are presenting AB 485, which covers tolling, public-private partnerships (P3), and private activity bonds (PAB). With your indulgence, we would like introduce the original bill and the amendment at this time ([Exhibit X](#)). [Continued to read from written testimony ([Exhibit Y](#)).]

I would like to use the PowerPoint presentation to explain the concept of HOT lanes and how we propose to use them in southern Nevada ([Exhibit Z](#)).

Southern Nevada has an HOV system on U.S. Highway 95 (US 95). We also have a plan for implementing HOVs in southern Nevada on most of the freeways. The Nevada Department of Transportation (NDOT) is currently proposing to extend what we call Project Neon, which would put a direct connector between I-15 and US 95 as phase one of Project Neon. With that project, we would have a continuous HOV system from Silverado Ranch Boulevard on I-15 all the way north on US 95 to about Anne Road. With A.B. 485, the HOV system on I-15/US 95 could become a HOT lane system when it opens. With the near-term HOV system, it would be viable. As concluded in the original HOV plan, HOT lanes could be viable as the HOV system is developed.

What are HOT Lanes? We are modeling them after the Utah I-15 express lane system. Currently, in Nevada, vehicles with two or more occupants in the HOV system travel free. You are not allowed to use the HOV system in a single-occupant vehicle during peak periods of the day. Transit, motorcycles, and emergency vehicles would be free. There is a provision in *Nevada Revised Statutes* (NRS) that allows NDOT to allow high-mileage vehicles, such as hybrids and electric vehicles, to be allowed free in the HOV system, which we currently have not done. That could be done under NRS and they would be free. What we are asking is that single-occupant vehicles be allowed to utilize the excess capacity, and that they pay a toll.

There are no tollbooths. Tolls could be initiated, as was done in Utah, by just purchasing a monthly pass. If you purchase a monthly pass, you are allowed in the HOV system as a single-occupant vehicle. Eventually, transponders would

allow the vehicle to be detected with overhead sensors. If you have the transponder system, tolls could be variable, based upon the level of congestion.

The chart on page 6 ([Exhibit Z](#)) shows Area A. We believe that when our more robust HOV system opens up, there will be capacity available. An HOV lane should carry about 1,600 vehicles per hour and still operate at a high speed. Area A represents the available capacity that we would be able to sell. The bottom graph shows "as years go by." As the years go by, we may have to watch and see how many we allow in the lane. If you ever got to that point, which I believe we are a long way from, we could raise the occupancy to three-plus and toll beyond that.

What are HOV lane benefits? If you are in the HOT lane, you have reduced travel time, reduced delay, and more choices. If some single-occupant vehicles transfer from the adjacent lanes into the HOT lane, that means fewer people in the other lanes. In the case of our system, what we are talking about is one HOT lane and three or four general purpose lanes. We are talking about Interstate 15 and US 95 that have many lanes, but just one lane would be the HOT lane. Whatever available capacity is in there, people would pay to get in it.

If we went to electronic tolls, there would be a transponder in your car. You could flip it down if you had more than two people in the car so you would not be charged the toll.

Some of the bullet points from Utah's express lanes indicate people save an average of ten minutes, it reduces congestion, it is efficient, they have dynamic pricing, no monthly fee, and it benefits carpools. We would try to keep it operating at at least 55 miles per hour no matter what the speeds were on the adjacent lanes.

If you have the occupancy, then you are in free. Pricing would be for the single occupancy. Transit would always be allowed and is strongly encouraged as part of our HOV system. There would be intermittent access points where you could get in and out. The difference with our proposed HOV system is that we have direct connectors from one freeway to the next, and we are also proposing to do direct access ramps that will get you from the HOV system to the surface streets at a couple of locations, so you would not have to weave across traffic. Those would be available to all.

With dynamic pricing, they vary the pricing depending on how congested the lane gets, because you do not want to let it break down and raise the price.



Our bill says that, "working with our Transportation Board, we would work on the pricing elements moving forward."

The enforcement would be similar to our HOV system. If you are a single-occupant vehicle in the HOV lane and do not have a transponder or sticker, you are breaking a traffic control law. The Nevada Highway Patrol can pull you over and give you a ticket. The occupancy requirements remain the same; we are allowing other people to buy into the lanes.

What lessons were learned from other states? California, Utah and Washington have done this. Pricing in almost every case will not generate huge amounts of money. This is a traffic management tool. Revenue is a byproduct and we will get some revenue from it. Managed lane tolls and revenues can augment conventional sources, but they cannot pay their own way. We are not going to pay the capital cost of all these improvements from this.

Revenue is limited to available space; typically, 500 to 800 toll slots per hour per direction are available to toll. That is less than half of the total vehicles that would be in the lanes. Administration costs of an electronic tolling system can consume up to 50 percent of the gross revenue of the overall bill.

All revenue generated from the toll would be applied to maintenance, improvement, and administration of the system. Alternatively, funds would be spent on applicable projects on that same corridor, or on adjacent corridors within the same county. Free parallel lanes are always available. This is a choice. You are not being forced to pay a toll; you do not have to get in that lane. Transit use will always be allowed and encouraged if we are able to implement our I-15/US 95 HOT lane system.

In summary, this bill requests approval to solicit P3s, to use private activity bonds for financing P3s, and allow NDOT to implement HOT lanes, including tolling of single-occupant vehicles that use the HOT lanes.

**Assemblyman Hardy:**

There was a comment made about the P3. Someone could instigate that and you can review it without going through the normal process. How does that work? Explain what exactly this P3 would be doing in this instance.

**John Terry:**

We operate under NRS Chapter 408. In NRS 408.5475 it says that "a person may submit a request to the Department to develop, construct, maintain, or operate, or any combination thereof a transportation facility." It goes through a lot of detail on how we have to evaluate those. One of the options, which in

the case of Project Neon, is that we can take that proposal and say it is a good idea, and then put it out to multiple people to submit on that same idea, and it will move forward. Under NRS 408.5475, we are allowed to do that, but we are not allowed to generate the idea; we have to get an unsolicited proposal. If we develop it, a good idea, and it is approved through the Transportation Board, we can begin the process in NRS without an unsolicited proposal.

**Assemblyman Hardy:**

Does this open a can of worms now where NDOT does not have to go through the bidding process with anything that comes up down the road?

**Rudy Malfabon:**

In the past couple of years, NDOT has actually used public funds to build more of the HOV system. We built it up to Anne Road and built another project at the Summerlin interchange with US 95 for that connection bridge. The public-private partnership is not necessary to build a lot more infrastructure. We are not looking at using tolls to pay off a private partner to build more infrastructure. We are looking into a public private partnership to help us build a little bit of connection to the transit station by Sunset.

You have infrastructure that has already been built. We are already using public funds anticipated for the Project Neon construction that would build additional connections between US 95 and I-15. We do not see hiring a private company to charge tolls to use that publicly built infrastructure. As we have this system built out, we have some capacity available. Not everybody is carpooling in Las Vegas. We have that capacity available where people can opt in and have a free choice to stay in those free lanes that are paid for by their gas tax. Alternatively, they could pay an additional fee to use the capacity available in the HOV lanes that would convert to HOT lanes.

**Assemblyman Hambrick:**

You said that the HOT lanes were aimed at single-occupant vehicles, but two or more person in those vehicles would use them for free. If I pay for single occupancy on Monday and Tuesday because I am going to town, but on Wednesday, Thursday, and Friday, my wife comes with me, how does that work? Do we just pay the bill anyway?

**John Terry:**

I do not know a lot about it, but Utah has a transponder and I looked into it. You pull down a tab so when you have two people in your vehicle you will not be charged.

**Assemblyman Paul Anderson:**

How do we currently fund the HOV lanes?

**Rudy Malfabon:**

They were built using bond revenue paid back through the fuel tax revenues.

**Assemblyman Paul Anderson:**

Do we place the restrictions on those lanes, or is that part of the strings that came with the funds?

**Rudy Malfabon:**

Since we are being paid back using federal funds, that was part of the environmental approval for those projects on US 95. The Federal Highway Administration (FHWA) said, "We will allow you to widen US 95, but you have to build some carpool lanes in Las Vegas."

**Assemblyman Paul Anderson:**

They are somewhat wide open at this point. Between peak hours and Saturday or Sunday, can you use them? It is within peak hours you cannot use them. Did we negotiate that, or is it up to Nevada to determine?

**Rudy Malfabon:**

When the US 95 HOV system opened up, after the first initial construction, it was not a very lengthy system. Some members on the Transportation Board said, "Let us restrict at peak hours, during rush hour commutes, but allow people to use them when it is nonpeak hours." It was allowed by the FHWA.

**Assemblyman Paul Anderson:**

Do you know what our current usage is during those peak hours? Somebody had mentioned 1,600 vehicles per hour. Is that the capacity?

**John Terry:**

It is low. The last numbers we saw were at 500 to 600 vehicles during the peak hours. We would like to be 800 to 1,400 vehicles in the peak hours. The problem is the system is simply still too short. It has gone up dramatically since we recently opened the direct connector to Summerlin and we extended the HOV lanes farther north. I do not have current numbers since those have been open and operating now for a time. We need a longer system to get people to use it. There is not a time advantage to weave across the lanes, get in it, use it, and weave back across the lanes. Once we get it connected to I-15 we project the usage will go way up because of the time advantage.

**Assemblyman Paul Anderson:**

I understand the current usage is low. I get frustrated sometimes when there are three or four people that I can see way off in the distance using the HOV lane, while the rest of us are sitting in traffic. I have to answer to my constituent who says, "I have paid for that lane, but now I am going to be charged to use the lane I just paid for through other tax means?" Can you share an answer that I might use for those people who ask me that question?

**Rudy Malfabon:**

They definitely did pay for that lane. The lane classification as a high-occupancy vehicle lane was part of the deal in using federal funds to pay back the bonds for that project. Their money also paid for the additional lanes on US 95. As you have observed, even during the peak hours, we still get a lot of congestion on US 95 on the widened section. The idea is that their tax revenue did pay for those lanes, but there was a restriction that was part of the environmental process, and the approval for the widening of the lanes came with that deal to have the carpool lanes built in concert with the project.

**Assemblyman Paul Anderson:**

I do not get the difference between opening that lane up for free, and then opening it for a charge. If it was to be used for carpooling, and that was the environmental impact that we were trying to attack, charging single occupants to be in there does not affect the environmental impact. Right? Therefore, we are just switching the purpose of that lane.

**Rudy Malfabon:**

The idea is to recognize that there is some additional capacity there. When a driver makes a choice to pay the user fee or the toll to get in that lane as a single occupant in a vehicle, they are freeing up space and helping in the congested lanes. It comes down to the idea and that there is capacity we could have available to people who are willing to pay. As we get more and more of the infrastructure built through Project Neon, that direct connection ramp from US 95 to the express lanes on I-15 is critical to having a successful HOV system. Many people have to get off at the off-ramp at the Spaghetti Bowl interchange where they have to get from those carpool lanes all the way to the right to exit. As the system is expanded and more connections are made, it will work as it was intended. There will be available capacity initially because not everybody is carpooling in Las Vegas.

**Assemblyman Hambrick:**

If this bill passes and you sign a contract, what is the share the state will receive? Are you estimating how much money potentially will come into the state coffers by use of this?

**Rudy Malfabon:**

Nevada will receive all of the money. We are not going to have someone build much more of the system other than what the state is going to fund using public fuel tax revenue. Project Neon will be built using public funds. This is the direct connection at the Spaghetti Bowl with some drop ramps so you can have access to the Strip, where you possibly work. We are not looking at paying somebody to loan us money and then pay them back through toll revenue. The toll revenue is a way for us to manage the traffic and give people an opportunity and option to pay to use the HOT lane if they are a single-occupant vehicle. We built a lot of the system, and we are going to continue to build the system using public funds. Once we build Project Neon, we will have the direct connection we need to have a fully functional system.

**Assemblyman Hambrick:**

The money you will be receiving will pay for the contractor for the construction. If all of the money comes to the state, why is the private person building this and expanding their capital? There has to be a payback at some point.

**Rudy Malfabon:**

The idea on payback with Project Neon was using our fuel tax revenue. We looked at what our normal capital improvement program was and how much money we had available from the fuel tax revenue to pay back someone to loan us the money to build. It was never intended to be a toll revenue to pay back the loan for the capital improvement on Project Neon. That is using the fuel tax we receive from the federal government and state. The tolls for high-occupancy tolling would be used to manage the toll system for us, to hire a service that could possibly have this toll collection system.

**Assemblywoman Swank:**

Going back to the number of people in the car, there is a tab that you pull if there are two people in the car. Is that correct?

**John Terry:**

This is based on the Utah system. There are a couple of ways we can do this. We are asking for the authority to do it and work with our Transportation Board to implement the details of it. If you just put a sticker on your car, you pay a monthly fee, and you would be allowed in the HOV lane with a single-occupant vehicle. If you went to the transponders, the issue is that you pay for a transponder and if you go in the HOV lane, you get charged. If there are two people in the car, you should not get charged, so you have a tab to pull down that reveals a red strip, and the highway patrol can see it. You would not be charged because there are other people in the car and you would not be

in violation. If you were to pull the red strip down and only had one person is in the car, that would be a violation.

**Assemblywoman Swank:**

If the transponders are used in Utah, is there data on how many times people cheat the system? You have to be seen by the highway patrol.

**John Terry:**

Violations in HOV and HOT lanes are an issue. It is not our goal for this to be the Nevada Highway Patrol's highest priority, to enforce HOV lanes. It is not our goal to make their task more difficult. Before, they just had to count two people in the car. An overhead gantry will flash a light indicating you are good. The highway patrol can see that light and it hits the tab in your car. The typical way of enforcing HOV and HOT lanes is making the fine for violation high enough that people do not do it. You are not going to catch all of the violators.

**Assemblyman Hardy:**

At the time traffic becomes such that HOV lanes can no longer sustain and alleviate traffic, what happens and where do you go from there?

**John Terry:**

The original HOV study identified I-15 as having the potential to go to two lanes because it is so much higher, but that is a long way off, and when we have more lanes in general. The first option is to not allow any more toll or single-occupant vehicles in, just shut it off. In Utah the sign is occasionally on that shuts them off. They close them because there are too many vehicles in them. We do not think we will be there for a while.

The other option is to go to three-plus occupants. They are managed lanes and our intent is to manage them so they always operate at an acceptable speed, except for an occasional incident, so that you do get a time advantage. We would take advantage of those types of things to keep them operating.

**Chairman Carrillo:**

Thank you for the presentation. Is there anyone who would like to testify in support of S.B. 485?

**Craig Madole, representing the Nevada Chapter, Associated General Contractors of America, Inc.:**

We are in support of S.B. 485. We think this is an excellent way and opportunity to help manage the maintenance and impact of the number of vehicles traveling on the roads, particularly in Clark County. While this will not

generate a lot of revenue, it does help alleviate some of the much reduced gas tax that we have available in Nevada for the construction and repair of our road system. This would assist in that process for NDOT to be able to maintain those roads.

**Assemblyman Hardy:**

How do you feel about high mileage and hybrids being exempt from this?

**Craig Madole:**

I would support taxing those vehicles based on the registration instead of their fuel consumption. I know that is something that has been discussed in this building. I do understand that the weight of that vehicle is no less than a gasoline-burning vehicle. They have the same amount of destructive capability to the road. I would not support them being allowed free use of that high-occupancy lane with one occupant.

**Chairman Carrillo:**

Are there any other questions from Committee members? [There were none.] Is there anyone else wishing to testify in support of A.B. 485? [There was no one.] Is there anyone wishing to testify in opposition to A.B. 485?

**Paul J. Enos, representing the Nevada Trucking Association:**

While I do not think trucks will be allowed in these HOT lanes, we still have some concerns with the bill as far as setting precedent. The first, which has already been alluded to by many members of the Committee, is using an existing facility that has been paid for and bonded against with fuel tax revenue and putting a toll on it. If we were to build new capacity adjacent to that same piece of infrastructure, we would not have that issue. Anytime you are taking a road that has already been paid for by users through fuel tax and bonds on that fuel tax, we do have a problem.

We have seen a number of issues with public-private partnerships in other states where the state has been left less than whole. I do not see anything in this bill or amendment that addresses noncompete clauses. These companies, such as Macquarie Atlas Roads, Transurban Group, or Goldman Sachs, will come in and will negotiate with the department to build or run the facility; however, they do not want you to maintain any free route that is going to compete with the toll road. I do not know if we are necessarily going to have that issue with these HOT lanes. I do think that is a policy the Legislature should move forward with and prohibit.

Some of the other things they do to get people off the free lanes and onto the toll route are lowering the speed limit on the free lane, or timing the signals on

other free alternative routes to make it unbearable to sit in traffic, so you are now going to go on that toll facility. It frightens me when we see these contracts being negotiated with NDOT and public-private partnerships. There is nothing in the bill that would preclude or prohibit any reimbursement for a revenue loss. Sometimes that does happen on the toll facilities, where the private company loses revenue. We have seen in contracts that the state is left holding the bag, making the private partner whole.

I just saw the amendment, which I think is a lot better than the bill, and a number of concerns I had were addressed. I think before we move forward with this, we should think about some of the public policy considerations. Is there going to be a limitation on the amount of the toll that can be charged? Who is going to put that limitation on? Is it going to be the directors, or the Legislature as part of its oversight? Those are some of the policy considerations this body should evaluate before we jump into public-private partnerships.

**Assemblyman Healey:**

Regarding the roads that have already been paid for, those roads were paid for with the intent of them being HOV lanes originally. Is that correct?

**Paul J. Enos:**

I think Mr. Malfabon would say that. If you look today, we have a free road that has been paid for and has been bonded against with fuel tax revenue, whether or not that facility had the potential for an HOV lane. We have a free facility that we would be converting to a paid facility without increasing the capacity of that road. If you are going to build new capacity and toll an existing lane, we are not going to have an issue with that. We have an issue when you take a free facility, one that people are currently using, that has been bonded against fuel tax revenue, and make it a paid facility.

**Assemblyman Healey:**

Can we have NDOT come up? I have questions that they may be able to answer more directly to that point. Were those lanes originally bonded against or paid for based on the plan of being HOV? If I remember correctly, they were.

**Rudy Malfabon:**

The US 95 HOV lanes were paid for through bonds that the state sold. The I-15 express lanes, which are not currently HOV lanes, were built using Las Vegas Convention and Visitor Authority (LVCVA) bonds that were sold based on room tax revenue.

**Assemblyman Healey:**

The lanes on I-15 were not fuel tax dollars then, correct?



**Rudy Malfabon:**

No, they were LVCVA bonds that were based on room tax revenue. I want to add that we could not implement a HOT lane system, or convert the express lanes to HOV lanes, without having the FHWA approval. It is an interstate and they have to approve those types of things. We would have to do another environmental study to look at the whole concept of HOV conversion to HOT lanes. Because LVCVA paid for that, we would have to get their board to buy off on this concept as well. LVCVA is looking at improved mobility in the Las Vegas area, not only for tourists, but also for the employees in the resort corridor. That is why the idea of the drop lanes and the direct connections to the Spaghetti Bowl makes sense, so people that are commuting have that option available and can get to where they work a lot quicker.

**Assemblyman Healey:**

The option you are proposing does not take away the ability that residents currently have, which is the use of HOV lanes. If they have two or more occupants, they will still be able to utilize these lanes at no charge. Is that correct?

**Rudy Malfabon:**

Yes.

**Assemblyman Healey:**

We are allowing the ability for single-occupant vehicles to choose not to sit in traffic, waste gas, time, and hurt the environment even more. They can choose to pay to utilize these lanes, along with those that are using them as carpool lanes free, correct?

**Rudy Malfabon:**

Yes, that is correct.

**Assemblyman Paul Anderson:**

What we would be taking away is all the free time that is accessible to all the other drivers, right? Between 10 a.m. and 2 p.m. and weekends, anybody can use those lanes, they do not have to be an HOV. Is that correct?

**Rudy Malfabon:**

That would eventually occur. The idea that the free time was made available to people to use during off-peak hours came about because the system was so short it was not being used by people who carpool. As the system is built out and we build it up to Anne Road, add the connections at Summerlin, fill the connects at the Spaghetti Bowl, and have connections to I-15 and US 95, it will be used more often by people who carpool.

**Assemblyman Paul Anderson:**

As we initially expanded that road, were the carpool lanes part of that process? What was the genesis of putting in the carpool lanes?

**John Terry:**

Yes. In going back to our HOV policy, we have an HOV plan. We do not convert existing lanes to HOV lanes. When US 95 was widened, it was generally three lanes in each direction. We did many other improvements and made it five lanes in each direction in the east-to-west part. We added one HOV and one general-purpose lane. Our general policy is that HOV lanes are only for extra capacity. That same policy would carry through to HOT lanes. It was built as part of that process. We did an environmental document and did the widening based upon that.

**Assemblyman Healey:**

The private-public partnership piece of this that is in the bill, does that still exist with this program?

**Rudy Malfabon:**

It still exists because we currently have to have received an unsolicited proposal from a private partner for such a project. As I have stated, in this case of the HOT lanes, we have already built a lot of the system and we are going to build the rest of the system through Project Neon using payback out of fuel tax revenue. We are not looking at the Goldman Sachs type of private partner to come in. We already built it with public funds or the LVCVA funds. We are not looking at a private partner to build infrastructure like we were two or four years ago when the bill was initially conceived.

**Assemblyman Healey:**

One hundred percent of the revenues from the HOT lane system would come back to the state, correct?

**Rudy Malfabon:**

Yes. They would come back to the state and be used to offset any additional enforcement remedies. If we did the transponder for the HOT lanes, that would cost some money to build some of the infrastructure. We would have to be assured that the toll collection system is somehow paid for without being a burden to the taxpayers. Revenue for the tolls would pay for the enforcement through this electronic system.

**Chairman Carrillo:**

Are there any other questions from Committee members? [There were none.]  
Is there anyone wishing to testify in neutral on A.B. 485? [There was no one.]  
We will close the hearing on A.B. 485.

[Vice Chairman Hogan assumed the Chair.]

**Vice Chairman Hogan:**

We will open the hearing on Assembly Bill 405. Assemblyman Carrillo, will you proceed when you are ready.

**Assembly Bill 405:** Revises provisions concerning the identification of and registration of the motor vehicles of seasonal residents. (BDR 43-414)

**Assemblyman Richard Carrillo, Clark County Assembly District No. 18:**

Assembly Bill 405 was brought forth to address the issue of seasonal residents, or snowbirds. This problem came to my attention through constituents who were cited by a Clark County constable for having out-of-state plates on their car in front of their residence. I contacted the constable's office and they told me that because my constituents owned property, they would be considered residents of Nevada. This couple lives here part-time, they are not registered to vote in Nevada, and they do not have Nevada driver's licenses. They are seasonal residents, and even though Nevada has a seasonal resident ID card, we have nothing for their vehicles. They were parked in front of their home, which is owned by them as a second home for getting away from cold weather. This couple is from Illinois and they come to Las Vegas during the winter to enjoy the mild climate.

When they contacted me, they had tried to work with the constable's office. They did not get anywhere because the constable's office did not want to hear it and they did not want to hear it from me either. We know that some people will go out of their way to skirt the law by not registering their vehicles or going through the steps to become residents of Nevada. In this case, it was not that these people were trying to skirt the law to get around registering their vehicle; they did go to the Department of Motor Vehicles (DMV) and get a seasonal ID card. You never know when the constable is going to come by and if you were outside, you could show them your seasonal ID. At the end of the day, the couple has a vehicle that had Illinois plates on it. The result for them was registering their vehicle in Nevada, even though their primary residence is Illinois. There was no way around the constable's office.

The purpose of this bill is to protect our seasonal residents by stepping forward for them. They are not Nevadans, but they contribute to our economy through

the purchase of gasoline, groceries, property, et cetera. Even though they are not classified as Nevada residents through DMV, if they can show they are seasonal residents, they can apply for the seasonal resident ID. This couple did go through that process. This is a couple where the wife works in the computer industry and can do her job anywhere. Her husband is disabled and in a wheelchair. He does not have the same mobility she has to go back and forth for an out-of-state job. They come here for milder weather in the winter.

Sections 2 and 3 of the bill provide an avenue for seasonal residents to receive an indicia, or indicator, for their private passenger vehicles that would remain valid for a period of two years. These indicia would not be made available to vehicles being used for business purposes. The vehicle owner would have to provide proof of registration in the primary state of residence, current insurance, and emission compliance. The cost of the indicia would be \$18.

Section 5 of the bill is about obtaining a seasonal resident identification card. I want to reiterate that DMV does currently offer seasonal resident cards, but there is no way to show that the vehicle you are in is from a seasonal resident. Seasonal residents come to Nevada, and in some cases own property, pay property taxes, and go to our casinos, businesses, et cetera. I want to limit the headaches they run into. You can call on your neighbor if you see that they have out-of-state plates on their vehicle. There are good and bad actors. I do not believe snowbirds should be considered bad actors because they are living in Nevada, enjoying the benefits, and contributing to our economy.

**Assemblyman Paul Anderson:**

I like the idea of getting this sticker for snowbirds. I am curious about the fiscal note. Have you talked to DMV or whoever put the fiscal note together? It is \$1.2 million over the next biennium. I am not sure if they are trying to count registration fees they would not get from snowbirds who are not registering their vehicle anyway. Have you talked to them about how that was determined?

**Assemblyman Carrillo:**

I did not have that discussion with them. I can get an answer to you within the next 24 hours. We know that DMV has changes to be made through the process of programming. That seems to be a sticking point on any change that you make to the process; they add a fiscal note to it.

**Assemblyman Paul Anderson:**

If it were available, that would be great.

**Terri L. Carter, C.P.M., Administrator, Management Services and Programs  
Division, Department of Motor Vehicles:**

I apologize. I did not hear the specific question relevant to DMV.

**Assemblyman Paul Anderson:**

It was regarding the fiscal note. Are we assuming there would be a loss of vehicle registration fees if we have a seasonal registration?

**Terri Carter:**

Yes, that is one of the assumptions; there would be a slight loss of revenue associated with the registrations. However, there would be revenue generated from the issuance of the seasonal ID cards. Based on the way the bill is currently written, the most significant cost is programming associated with that because of the elements that we are required to capture and report regarding seasonal residents.

**Assemblyman Paul Anderson:**

You are showing a \$600,000 loss each year for registration fees. Are we assuming seasonal residents are registering their vehicles here currently?

**Terri Carter:**

The assumption is that half of them would. Our estimates are just over 6,700 seasonal resident ID card holders in our system today. The assumption is that 50 percent of them would register one vehicle. The calculations were based on that.

**Assemblyman Carrillo:**

The intent is not to prevent people from having to register their vehicles here. These are seasonal residents; their primary residence is not in Nevada. That means legally they are not required to register their vehicle. Is that correct?

**Terri Carter:**

Correct, they are not required to do that. I do have a little history regarding the Fair Share program and dealing with the constables. I was directly involved with the implementation of that project. We do know that there are some inconsistencies in statute with the passage of Senate Bill 323 of the 76th Session. We had conversations with the constables to provide them with the legislative intent behind this; that the whole premise behind the Fair Share program was never to include the seasonal resident. I believe that we can accomplish this measure, perhaps through looking at the specific language that causes that interpretation issue. We realize that through the DMV this is an issue. I have dealt with the constables myself and have researched specific

cases that have been brought to my attention, and I have been able to get them not to pursue that type of citation. It has been quite some time since I have received a complaint from either a legislator or an individual regarding that. We did have a verbal agreement with the Las Vegas Township Constable's Office that it would not issue a citation under the Fair Share program, provided the person showed proof that they were a seasonal resident.

**Assemblyman Carrillo:**

Part of the process is that you have to go to the constable's office and prove, plead, and beg to try to get them to understand this is not your primary residence, that you have a home out of state. This applies to full-time students as well. These are students that pay full out-of-state tuition and are full-time students. I am trying to give these people, who are seasonal residents, avenues to ensure they do not have to pay fines. If they do not get their car registered, the next time a constable drives by their house, are they going to ding them again? It is just a matter of time when a seasonal resident says, "You know what? I do not want to deal with this headache. What is it going to cost to register, insure, and get emission testing in Nevada, even though this is not my primary residence?"

**Assemblywoman Spiegel:**

Assemblyman Carrillo, thank you so much for bringing this bill. I know I have had issues with constituents, and I appreciate that you will extend this to full-time students because they are hassled as well.

**Assemblyman Carrillo:**

Thank you for that. Even though they are temporarily here, this would be something that would have to be amended into the bill. I appreciate you bringing that forth, because it is a commonality in our districts. I am sure there are other people in different districts who have the same issue.

**Assemblyman Wheeler:**

I think I see the intent of this bill. It looks like a good bill to me. Believe it or not, we have snowbirds that come to the snow. I do not understand the fiscal note. It seems to me you would bring a little extra money in, instead of costing \$1 million. I think you really need to look into that and explain it a little better.

We currently charge for a temporary ID card, which does not make a lot of sense to me. Obviously, the constable driving by the car does not know whether you have an ID card or not. I am wondering if you could not have one or the other.

**Assemblyman Carrillo:**

Not everybody that is living here as a seasonal resident has a vehicle. If they are a full-time student, they may not have a vehicle here. That is why we try to keep the fee low. I believe the fee for the seasonal resident ID is \$17 and this is \$18. Our regional transportation commission may have a service where bicycles are available. I will let Ms. Carter elaborate more on the part that you are questioning.

**Terri Carter:**

Assemblyman Wheeler, can you please repeat your question?

**Assemblyman Wheeler:**

My question is why can we not have one or the other, the seasonal ID or the seasonal license plates? If you do not have a car, obviously you could have the seasonal ID. If you do have a car then why do you need the seasonal ID?

**Terri Carter:**

I believe the way the bill was written was to require a person to obtain a seasonal ID and the indicia, or decal, that they could apply to their vehicle. I do not believe, and Assemblyman Carrillo can elaborate on this, that it was his intent that if you had a seasonal ID, but you did not have a vehicle you would not have to purchase one of these decals. It would only apply to those individuals that would want both.

**Assemblyman Wheeler:**

I think I missed your question. Were you talking about the fiscal note?

**Terri L. Carter:**

No.

**Assemblyman Carrillo:**

The issue is that it will prevent the seasonal residents from being dinged. Ms. Carter was saying there was roughly 6,700 seasonal IDs purchased and out of that, I would like to know the percentage of how many vehicles are owned. One of my constituents has a vehicle that is registered, insured and has been emission tested, but he lives in Florida. He comes down every so often. I do not know if they have a seasonal resident ID card, but if pulled over, they now have a problem. I am trying to give them something they can put on their car showing they are a seasonal resident.

**Assemblyman Hardy:**

Assemblyman Carrillo, you know that I support the concept of this situation. If you say you have 6,700, I must have all of them in my district. I hear rumors

that in the Mesquite area there are close to 4,000 homes that have their power shut off for a season. Does this protect against somebody in the border communities, where you have individuals that live just across the border? They may be going against your proposed bill. Do you see my confusion there? Should this have a distance requirement to qualify for it just to make sure? We are surrounded by four other states where we have these types of issues.

**Assemblyman Carrillo:**

You do make a very valid point. That was not something that was thought through in regard to the distance, because you have students that might be on the other side. They may or may not be daily commuters. I do not want to confuse the issue of that bill, because that is the commuter worker bill. These would be people that actually live here.

**Assemblyman Hardy:**

I will leave that up to you to decide, because I am not the legal counsel. It was just a question I wanted to ask, and maybe you can work with somebody on the technical aspects of it to make sure that could be done, or what cause and effect it could have.

**Assemblywoman Spiegel:**

This response is for Assemblyman Hardy. I can find it for you, but somewhere in here it said the seasonal resident could not be gainfully employed. I think that addresses what you just brought up.

**Assemblyman Carrillo:**

Thank you.

**Assemblyman Hardy:**

If it is covered, I am okay with it. I wanted to address the question. I did not see that in there.

**Vice Chairman Hogan:**

Assemblyman Carrillo, should we leave that question open for the moment and get an answer in due course?

**Assemblyman Carrillo:**

Yes, I will have to come back with that one.

**Assemblywoman Carlton:**

Looking at the fiscal note, we should decide if we think this is a good policy, and I do. I agree that it is a good policy. I do not want to see people dinged who should not be. The Committee on Ways and Means will dissect the fiscal



note, look at how it would be implemented, and if there is a cost savings involved in doing the ID card along with the sticker. It has always cost a lot to start up a new program, and then we have to look at how long it would take to recoup our monies. That is what we do in Ways and Means. We will come up with a matrix and work it out. Whatever the Committee decides to do, that is when you hand it over to us and we finish the job.

**Assemblyman Carrillo:**

Thank you.

**Vice Chairman Hogan:**

Are there any other questions from Committee members? [There were none.] Is there anyone wishing to testify in support of A.B. 405? [There was no one.] Is there anyone wishing to testify in opposition to A.B. 405? [There was no one.] Is there anyone wishing to testify in neutral to A.B. 405? [There was no one.] Would Assemblyman Carrillo like to make any closing remarks?

**Assemblyman Carrillo:**

I want to thank the Committee for their great questions. Of course, at the end of the day, it is all about good policy and the protection of our constituents, or people that may become our constituents.

**Vice Chairman Hogan:**

We will now close the hearing on A.B. 405. Is there any public testimony? [There was none.]

The meeting adjourned [at 6:44 p.m.].

RESPECTFULLY SUBMITTED:

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James Fonda  
Recording Secretary

RESPECTFULLY SUBMITTED:

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Jacque Lethbridge  
Transcribing Secretary

APPROVED BY:

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Assemblyman Richard Carrillo, Chairman

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

## EXHIBITS

**Committee Name:** Committee on Transportation

**Date:** April 9, 2013

**Time of Meeting:** 2:39 p.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
A.B. 293	C	Assemblyman Ira Hansen, Assembly District No. 32	Notes for testimony
A.B. 293	D	Assemblyman Ira Hansen, Assembly District No. 32	Proposed Amendment
A.B. 293	E	Assemblyman Ira Hansen, Assembly District No. 32	BLM Handout
A.B. 293	F	Tom Willis, Private Citizen, Fernley, Nevada	Letter of opposition
A.B. 293	G	Karen Boeger, Board member, Nevada Chapter, Backcountry Hunters and Anglers, Washoe Valley, Nevada	Letter of opposition
A.B. 293	H	Tina Nappe, Private Citizen	Letter of Opposition
A.B. 309	I	Assemblywoman Lucy Flores, Clark County Assembly District No. 28	Proposed Amendment
A.B. 309	J	Beverly DeVine, Director, Business Development, Processing Solutions, Dealertrack Technologies, Sacramento, California	Notes for Testimony
A.B. 309	K	Beverly DeVine, Director, Business Development, Processing Solutions, Dealertrack Technologies, Sacramento, California	Letter of opposition from Darrell Granger, Director, Government Relations, Assurant, Inc., Miami, Florida
A.B. 309	L	Beverly DeVine, Director, Business Development, Processing Solutions, Dealertrack Technologies, Sacramento, California	Letter of opposition from William Pitcher, President & CEO, PDP Group, Inc., Hunt Valley, Maryland

A.B. 309	M	Beverly DeVine, Director, Business Development, Processing Solutions, Dealertrack Technologies, Sacramento, California	Glenn Thames, Chief Executive Officer and President, Decision Dynamics, Inc., Lexington, South Carolina
A.B. 189	N	Vance Hughey, Senior Research Analyst, Research Division, Legal Counsel Bureau	Work session document
A.B. 242	O	Vance Hughey, Senior Research Analyst, Research Division, Legal Counsel Bureau	Work session document
A.B. 244	P	Vance Hughey, Senior Research Analyst, Research Division, Legal Counsel Bureau	Work session document
A.B. 282	Q	Vance Hughey, Senior Research Analyst, Research Division, Legal Counsel Bureau	Work session document
A.B. 379	R	Vance Hughey, Senior Research Analyst, Research Division, Legal Counsel Bureau	Work session document
A.B. 447	S	Vance Hughey, Senior Research Analyst, Research Division, Legal Counsel Bureau	Work session document
A.B. 455	T	Vance Hughey, Senior Research Analyst, Research Division, Legal Counsel Bureau	Work session document
A.B. 166	U	Vance Hughey, Senior Research Analyst, Research Division, Legal Counsel Bureau	Work session document (this bill was not heard)
A.B. 167	V	Vance Hughey, Senior Research Analyst, Research Division, Legal Counsel Bureau	Work session document (this bill was not heard)
A.B. 485	W	Rudy Malfabon, P.E., Director Department of Transportation	Written testimony
A.B. 485	X	John Terry, P.E., Assistant Director, Engineering, Chief Engineer, Department of Transportation,	Proposed amendment
A.B. 485	Y	John Terry, P.E., Assistant Director, Engineering, Chief Engineer, Department of Transportation	Written testimony

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A.B. 485	Z	John Terry, P.E., Assistant Director, Engineering, Chief Engineer, Department of Transportation	PowerPoint presentation
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