

**MINUTES OF THE
SENATE COMMITTEE ON TRANSPORTATION**

**Seventy-Eighth Session
February 12, 2015**

The Senate Committee on Transportation was called to order by Chair Scott Hammond at 8:30 a.m. on Thursday, February 12, 2015, in Room 2135 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to Room 4412E of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Scott Hammond, Chair
Senator Don Gustavson, Vice Chair
Senator Patricia Farley
Senator Mark A. Manendo
Senator Moises (Mo) Denis

STAFF MEMBERS PRESENT:

Megan Comlossy, Policy Analyst
Darcy Johnson, Counsel
Martha Barnes, Committee Secretary

OTHERS PRESENT:

Thomas Adams, Nevada Cement Company; Southern Nevada Cement Association; Sierra Nevada Concrete Association
Thomas R. Tietz, Executive Director, California Nevada Cement Association
Paul J. Enos, CEO, Nevada Trucking Association
Terri L. Albertson, Administrator, Management Services and Programs Division, Department of Motor Vehicles
John Fudenberg, Assistant Coroner, Office of the Coroner/Medical Examiner, Clark County
Liane Lee, Washoe County
Chuck Callaway, Las Vegas Metropolitan Police Department
Eric Spratley, Sheriff's Office, Washoe County
Vanessa Spinazola, ACLU of Nevada

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Julie Butler, Administrator, General Services Division, Department of Public Safety
Janine Hansen, President, Nevada Families for Freedom

Chair Hammond:

I will open the hearing with a slide presentation from the California Nevada Cement Association ([Exhibit C](#)).

Thomas Adams (Nevada Cement Company; Southern Nevada Cement Association; Sierra Nevada Concrete Association):

Our presentation will recap some of the issues and successes brought before the Senate Committee on Transportation in 2013. On slide 2, we focused on transportation infrastructure funding. Roughly 51 percent of the State-maintained urban roadways in Nevada are in poor or mediocre condition. This data came from the "Nevada Transportation by the Numbers: Meeting the State's Needs for Safe and Efficient Mobility."

There is approximately a \$2.1 billion cost to Nevada residents annually due to poor pavement conditions and traffic congestion pertaining to stalled vehicles and potholes. There are \$53 billion in goods shipped from sites in Nevada and another \$77 billion that rely on goods to be shipped into Nevada by truck. We encourage the Senate Committee on Transportation to continue funding transportation infrastructure projects. There is a dire need for these projects in the State because transportation networks are suffering. Every dollar spent has a number of impacts, not only from the first expenditure for construction but for improving the network to improve the economy.

Submitted initiatives included alternative delivery methods for projects. This Committee has supported design-build initiatives and the idea of construction manager-at-risk project delivery initiatives. These initiatives are working. We encourage the Committee to look at projects with alternate design/alternate delivery, which is a means to achieve competitive bidding on a project. Life-cycle cost analysis is a method that allows engineers to effectively spend available funds on a project by considering the lifetime of the project rather than the initial cost. All of these techniques provide more efficient design practices, more competitive bidding and allow Nevada to get more value for the money spent. Life-cycle cost analysis is a tool used by state transportation departments, municipalities and county governments to calculate the lifetime costs of a project rather than the initial bid cost of a project. Pavement is the

largest consumer of cement and concrete, so we look at construction costs, maintenance costs, rehabilitation costs and disposal costs as a means to review and award bids rather than using the initial costs only.

Chair Hammond:

Do you agree this is the most important part of your presentation because the information describes how the State should be analyzing bids for construction and maintenance of our roads?

Mr. Adams:

Yes. This is an opportunity to reduce the future costs of Nevada's transportation infrastructure. The graph on slide 6 of [Exhibit C](#) indicates design A has a lower initial cost than design B, but looking at the life-cycle cost design B is actually more cost-effective. The life-cycle costs could change but not always. This is not an argument concerning asphalt versus concrete. Tools and techniques allow us to look at the duration of a project.

Looking at alternate delivery methods and alternate funding sources can provide improved cost estimates and more bidders using life-cycle cost analyses. Every time we receive more bidders we receive better costs. There should be a reduced risk of budget overruns, and contractors would have a better understanding of projects before providing a bid. The designers use these tools to make better decisions for the life of a project versus initial costs. Improved cost estimates, reduced risk of budget overruns and better decision making lead to a better expenditure of funds.

Senator Manendo:

Could you give an analogy of two different products and the difference in cost for each product?

Mr. Adams:

A good example is the recently recommended Boulder City Bypass project where there was an option to build a project with an asphalt-concrete pavement. The Nevada Department of Transportation (NDOT) performed a life-cycle cost analysis, determined a factor that viewed the duration of the pavement's lifetime and assigned a dollar value. The difference in maintenance costs over a 35-year design life between an asphalt and a concrete roadway, the concrete costs less over time.

Senator Manendo:

What is the increase in expenditure to the taxpayers to use your product as opposed to another product?

Mr. Adams:

In the case of the Boulder City Bypass, on a job-by-job basis, the life-cycle factor determined a savings. The initial cost was more expensive, but over the duration of the project, we expect to save \$3.57 million in maintenance costs.

Senator Manendo:

If your product has a longer life span and is better, how much longer is the life span?

Mr. Adams:

We compare life-cycles for the same duration of time, and this one was managed for 35 years.

Senator Manendo:

When the State invests in a product, be it buildings or roads, we need to ensure project longevity to the best of our ability for our taxpayers.

Thomas R. Tietz (Executive Director, California Nevada Cement Association):

This part of the presentation focuses on alternate design/alternate bid and the NDOT has been progressive in implementing these policies. Alternate design/alternate bid is recommended by the Federal Highway Administration and is being used in many other states.

When two products are in competition on specific projects, the states in blue on slide 10 of [Exhibit C](#) have seen initial costs decrease. These policies have been well implemented. If a comparison was made between different pavements, the concrete pavement performed well in terms of the initial costs. The concrete pavement is not more expensive. There were two bids for concrete and two bids for asphalt on the Boulder City project. The life-cycle analysis was applied by the NDOT over a 35-year timeframe. While the NDOT looked at a 35-year life for pavements, it may last much longer than 35 years.

Looking at the example on slide 12, the Inland Empire on Interstate 10 (I-10) in California, is a stretch of highway taking 200,000 vehicles per day. The outside lanes were built in 1947, and the inside lanes were built in 1965. The highway

has never needed resurfacing, which is a remarkable accomplishment and is a result of analysis and policy implementation.

This type of application is not new. If anyone has driven on Interstate 80 (I-80) recently, there is some concrete pavement in the roadway. Locally, Center Street in Reno has been in use for 25 years and is holding up well.

Slide 14 of [Exhibit C](#) is a photo from the McCarran Airport project taken on February 3, 2015, and it indicates the capability to use concrete pavement in this State. We encourage the competition to use concrete more often.

Looking at alternate design/alternate bid, Nevada can achieve three goals of increasing competition, lowering cost estimates and making better informed decisions.

Senator Gustavson:

You used an example of pavement in California, but southern California does not have the weather changes we experience in northern Nevada. How much would weather affect the concrete compared to other products?

Mr. Tietz:

The key is to look around the Country. If you look at states where there are more severe changes in weather, there is a predominance of concrete pavement because it handles that type of environment well.

Senator Hammond:

There is a photo on slide 14 of the McCarran International Airport; can you tell me where the photo was taken? Is this a photo of the runway?

Mr. Tietz:

Yes, the photo is of the runway.

Senator Hammond:

Is the pavement thicker on the runway than what you would use normally?

Mr. Tietz:

Yes.

Mr. Adams:

We would like you to keep us in mind when reviewing funding for the NDOT because it is critical for Nevada's infrastructure. Some recent nontraditional funding schemes for infrastructure include the Reno-Sparks SouthEast Connector funded with RTC5 local fuel tax revenues that came out of S.B. No. 5 of the 26th Special Session and more recently the Clark County funding from the gas tax indexing. These projects had a tremendous impact in bringing Nevada's infrastructure up to speed. Asking if a project has been designed with life-cycle costs will get engineers motivated to look at all of the factors before making expenditures.

Senator Gustavson:

Has the design improved or is the concrete still noisier than asphalt? Have you addressed this issue?

Mr. Adams:

Concrete is noisier than asphalt and is not the right choice all of the time.

Mr. Tietz:

There is a new generation of concrete pavement systems that is much quieter. In certain cases it may be a surprise when the concrete is quieter than expected. Asphalt is very quiet when it is new, but it gets rougher and louder over time.

Senator Denis:

Some companies are using recycled rubber that can make the pavement quieter and keep it from getting harder over time. Is that true?

Mr. Tietz:

Yes, they are using rubber in asphalt.

Chair Hammond:

We will hear a presentation from the Nevada Trucking Association.

Paul J. Enos (CEO, Nevada Trucking Association):

The Nevada Trucking Association has been around since 1932 and we represent the trucking industry in Nevada. I have a slide presentation for you to follow the lifecycle of trucking ([Exhibit D](#)). We have over 550 members and trucking touches every single sector of the economy. Nationwide, 69.1 percent of all of

the freight in this Country is delivered via truck. History has changed; in 1950, half of the freight was delivered by truck. The modern trucking industry began in 1903, and it was first regulated with the Motor Carrier Act of 1935. That set up the Interstate Commerce Commission that regulated the rates, the routes and what the trucks could carry across the Country. That act was eliminated in 1980 and became the first big change in the trucking industry.

The second biggest change was brought about by President Dwight D. Eisenhower. When he was a lieutenant in the Armed Forces, he wanted to move military equipment across the Country, which took 69 days. During World War II, he saw the infrastructure in Germany. When he became President, he wanted to invest in the Country. He wanted to take the products from points in the Midwest and move them to ports on the East and West Coasts. The Federal-Aid Highway Act of 1956 formed the Interstate Highway System, which allowed trucks to move efficiently throughout the Country. This also brought about the first federal fuel tax.

The Motor Carrier Act of 1980 deregulated the industry and allowed the trucking companies to become more competitive. The companies no longer had to get permission from the Interstate Commerce Commission to carry certain goods, travel certain routes and determine what to charge. When the Motor Carrier Act was implemented, the number of trucking companies increased substantially and profit margins decreased so it became cheaper to move goods. The bill to deregulate the trucking industry was sponsored by Nevada's U.S. Senator Howard Cannon.

When transportation costs were reduced, there was a change in how companies conducted business. Stores used to have a back room full of inventory and if the item you wanted was not displayed, the salesclerk could check the inventory in the back room. Today, stores do not maintain a back room. The back room of inventory is now on a truck because of just-in-time delivery and the ability of the trucking industry to assist manufacturers and retailers by reducing up-front costs. Just-in-time delivery is reliant on a well-organized industry and how it works through the entire network.

Slide 14 of [Exhibit D](#) is a famous photo of a truck sculpture brought to the Burning Man festival each year. Some people may think the sculpture represents what it is like to run a trucking company—a little twisted and turbulent at times.

The trucking industry employs almost 50,000 people including drivers, mechanics, dispatchers, accountants, brokers and salesmen with an average salary of \$45,000 a year. In Nevada, we move 94 percent of all freight by truck. This shows how reliant we are on trucks helping to upgrade our infrastructure. We are an essential industry comprised mostly of small companies. The State has about 6,100 trucking companies and 60 percent of those companies consist of one truck. In Nevada, 85 percent of companies have fewer than 5 trucks and 95 percent of companies have less than 10 trucks. There are only 25 companies like United Parcel Service (UPS), Federal Express (FedEx), Southwest Gas, Mission Industries and Conway that have more than 100 trucks. Many of these vehicles are considered trucks because they are regulated by the Federal Motor Carrier Safety Administration (FMCSA). The number of companies with large fleets in Nevada is very small.

Where do trucks go? We took a sample of trucking activity in and out of Las Vegas and Reno. The trucking industry is dependent on local roads and connecting roads that extend outside our community, our State and our region. Beginning on slide 21 of [Exhibit D](#), we mapped travel routes for 2,000 trucks leaving the Las Vegas area after 24 hours, 48 hours, 72 hours, 5 days and 7 days. The I-15 corridor is essential to trucks entering or leaving the Las Vegas area. The map looks like our circulatory systems that provide us with oxygen; trucks function similarly moving goods around the Country. Beginning on slide 26, we mapped travel routes for 2,000 trucks leaving the Reno area after 24 hours, 48 hours, 72 hours, 5 days and 7 days.

Trucks do not drive the economy; we are dependent on how all other sectors in the economy are performing. Looking at the top five economic sectors in Washoe County, three of the top four are actually trucking. Warehousing is number one, truck transportation is number two and messengers and couriers are number four bringing in \$143 million. The messenger and couriers are the FedEx and UPS and other companies delivering packages.

Trucks are absolutely essential to every aspect of the economy. Slide 36 shows a diagram indicating what happens when trucks stop moving. If trucks stop moving, just-in-time manufacturing would cease within a few hours. Gas stations have about 1 to 2 days' time of fuel and all gas stations are supplied by truck. Perishable food in the grocery stores would be eliminated in 3 days. In 7 to 10 days, if trucks stopped moving, medicine and oxygen supplies in hospitals would be depleted.

If you look around this room, there is very little here that was not delivered by truck. Someone might ask about a glass of water that came by pipe. The chemicals to make that water drinkable were delivered by truck. There are approximately 2 to 4 weeks of those chemicals on hand at any water treatment facility.

We had an issue occur last fall when I-15 was shut down due to flooding. The roadway washed out and trucks had to use alternative routes. I contacted the American Transportation Research Institute to prepare a quick study on where the trucks were going and how it affected commerce. The I-15 corridor through Nevada is 147 miles long and the alternate route is 223 miles long.

Chair Hammond:

Is the alternate route you referenced from Las Vegas north to Cedar City, Utah?

Mr. Enos:

Yes. The alternate route includes U.S. Highway 93 north through Panaca and Nevada State Highway 319.

Normally it costs about \$168 to operate a truck on I-15 using 2.5 hours of travel time based on a cost of \$67 an hour. When I-15 was closed due to flooding, it caused congested traffic. The average travel time increased from 2.5 hours to over 5 hours and cost \$342 when trucks were forced to use an alternate route. We estimated a cost to the trucking industry of \$667,000 to \$790,000 when I-15 was closed during that flood event.

This did not include the customers waiting for their freight. The hospital in Mesquite was having trouble obtaining clean sheets and food. The NDOT worked with us and allowed the use of the road for 7 hours while they were repairing it. This use allowed the trucking industry to save money, deliver goods to our customers and save the industry \$135,000 to \$160,000 the first night between the hours of 10 p.m. and 5 a.m. The industry saved \$200,000 the second night.

You may have heard about some of the issues occurring at the West Coast ports. These intermodal containers can be transferred from ship to truck to train. The containers are usually placed on a chassis with a crane, like the one shown in the photo on slide 51 of [Exhibit D](#), and then placed on the back of a truck. If you see a trailer hauling one of these containers, it has been on a ship,

a train and then transferred onto a truck. Because of an ongoing dispute with labor contracts and because of challenges we have with the general core infrastructure, we are seeing the truck lines stalled. The ports will be shutting down on the West Coast for 4 of the next 5 days. This causes any freight waiting to be hauled out to sit longer, which impacts the trucking industry.

There is a company exporting diatomaceous earth for use in filter applications to ensure water is drinkable. It is used as an absorbent in landscaping, coatings, catalysts and insecticides. This is a product Nevada exports to China and typically, the company exports 5,000 40-foot containers of diatomaceous earth annually. The export of this product has been stopped due to the problems encountered at the port. The filled containers of diatomaceous earth are sitting at the port and getting wet. The company wonders if they can withstand the setback to sustain the 345 Nevada workers they employ, since 35 percent of their business is export. There are supply chain impacts when all of the pieces of the network do not work properly. The stockpile at the port grows by 120 tons a day.

Generally, a truck cannot carry more than 80,000 pounds when operating on the Interstate Highway System and it is the law all over the Country. There are different limits of how much weight a truck can carry depending on the number of axles. The single axle weight limit is 20,000 pounds; the tandem axle weight limit is 34,000 pounds, and the tridem axle weight limit is 42,000 pounds. This evenly distributes the weight to ensure trucks are not destroying the roadways. The single axle truck is shown on slide 59 of [Exhibit D](#), a dual axle truck is shown on slide 60 and the tridem axle truck is shown on slide 61. The photo on slide 62 is a specialized truck with 15 axles.

Trucks look vastly different in the industry as shown on slides 63 through 67. Here are some examples of longer combination vehicles you might see in the State such as Triples on slide 67, Rocky Mountain Doubles on slides 64 and 65, Turnpike Doubles, Truck-Trailer and Truck-Trailer-Trailer. Nevada does not have an overall length limit, but there is a limit on the cargo length of a truck. Moving some of these combination vehicles around the Country can be difficult because states have different laws. There is little uniformity once the truck exceeds the 80,000-pound weight limit. Nevada is a good place to have terminals where trucks can add another trailer and be more productive before going east. The good thing about the longer combination vehicles is that the safest and highest paid drivers in the industry are piloting those trucks. The drivers must go

through extensive training to ensure they know what they are doing when hauling triples or doubles.

There are bottlenecks along the Interstate System and Nevada is performing pretty well. On slide 69 of [Exhibit D](#), a bottleneck is noted in yellow around Las Vegas and another bottleneck noted in yellow around Reno. The red noted over Donner Pass is due to construction and weather issues.

The trucking industry contributes 36 percent of all the money that filters into the Highway Fund in Nevada. We are responsible for 7 percent of all of the miles traveled; so how do we pay for that? It is mainly paid through the collection of fuel taxes and registration fees. An average truck in Nevada is paying \$15,093 a year in highway taxes. The average operating cost in 2014 was \$1.68 for the driver's salary, lease on the vehicle, fuel, insurance and tires. The average hourly rate is \$67 depending on the type of truck configuration, what is being hauled, the kind of trailer and the specialization of the vehicle can determine an increase or decrease of the rate.

There is a Nevada International Fuel Tax Agreement (IFTA) sticker on the side of a truck based in Nevada and traveling through other states. Truckers do not pay taxes at the pump but pay based on their point of use. Trucks have to true up where they have traveled with the rate of fuel tax being charged in each jurisdiction. The IFTA is a compact Nevada has participated in since 1997, and there is a tremendous amount of record keeping associated to this compact.

The Department of Motor Vehicles (DMV) performs audits on all trucking companies based in Nevada. The Motor Carrier Division auditors are ensuring the trucking companies pay the State and all other member jurisdictions the proper amount of tax. The trucking industry likes fuel taxes. We are not big fans of toll roads, vehicle miles traveled (VMT) or any other schemes suggested to pay for transportation because \$.97 out of every \$1 in fuel taxes goes back to the roads. It is the most efficient form of collection available.

When highway funding is discussed, the topic of collecting revenue from fuel should be at the top of the list. Nevada trucks traveling across the Country also display an apportioned Nevada license plate and pay the registration fees based on where they travel. When we purchase license plates from the DMV for our passenger cars, we pay the State. Trucks pay registration fees and fuel tax fees to every jurisdiction based on where they travel.

Senator Gustavson:

In the trucking industry some trucks use gasoline, some use diesel, some use propane and some are even electric. Since I am not a proponent of VMT, how would you recommend these alternative fuel and electric vehicles pay their fair share of taxes?

Mr. Enos:

Some people say we cannot do anything with the fuel tax because we have electric vehicles. There are only about 1,000 electric vehicles in Nevada. We have a mechanism in place to get those different types of fuel and it is already in the *Nevada Revised Statutes*. One of the things we are doing in Nevada is to work with the DMV to create some uniformity. How do you convert liquefied natural gas (LNG) from pounds to gallons? People talk about fuel economy and think we do not have to have a fuel tax anymore. We can fix that with an index. The fuel tax point of collection is still the best and most efficient method to raise money for highways.

There has not been anything done pertaining to fuel tax at the federal level since 1993. Instead, we take other avenues like pension smoothing and tell businesses they no longer have to contribute to the pensions of their workers. Now what was a tax-deductible contribution requires additional taxes, and that revenue will be distributed into the Highway Trust Fund.

President Barack Obama is talking about corporate tax reform to pay for highways. We need to look at what makes sense. What has made sense since 1956 and what makes sense today is collecting something from the fuel tax. Toll roads have a 20 percent compliance cost associated to them. Toll roads slow down traffic. There are concerns with VMT regarding technology costs, life-cycle costs and privacy. The VMT is a much less efficient method of taxation than we have today with the existing fuel tax point of collection.

Senator Denis:

The fuel tax makes sense, but does it mean you will be charging more?

Mr. Enos:

Yes. We do need to charge more on fuel tax. Looking at a per capita basis for what a Nevadan would pay annually for fuel taxes, it is about \$79. It could easily be increased a couple of cents and it would not even be noticed. Now is

the time to increase the tax when the price of fuel is lower. We can take a look and find a real solution to pay for our roads.

Senator Denis:

There may be 1,000 electric vehicles in Nevada, but what about the hybrids which are not really electric but are gas?

Mr. Enos:

We can index for those types of vehicles or we can look at a registration fee where a driver pays a higher registration fee to pay for roads. A few years ago people said there should be a discount for driving a hybrid vehicle because the vehicle does not pollute the air and creates cleaner air for us to breathe. These are some policies that can be discussed.

Every year the trucking industry pays over \$7 billion to comply, enhance and promote safety within our industry. Nevada's large truck crash rate is lower than the national average in 35 out of 50 states. We have some great partners in safety with the Nevada Highway Patrol (NHP). The NHP does as well as almost anyone in the Country in truck enforcement. They do not concentrate on truck inspections but more on traffic enforcement, which they find is 4.5 times more likely to address the issues causing crashes.

The trucking industry is regulated by the FMCSA and regulates every interstate trucking company. There is a public system where the safety record of every trucking company can be accessed based on different categories such as unsafe driving, hours of service, driver fitness, controlled substances and vehicle maintenance. The reason trucks have their names on the side of their trucks is so these records can be accessed.

Some of the technologies being adapted by the trucking industry to address safety issues are lane departure systems, rollover stability, truck collision warning systems and vehicle location systems. Every driver is required to have a physical examination, must carry a medical card and must be enrolled in a drug-testing consortium. Even an owner-operator will be called in to take a drug test. Every driver must inspect the truck being driven just like a pilot inspects an airplane. The drivers are limited to driving 11 hours and 14 hours while on duty. The old logbooks will be eliminated within the next couple of years, every truck will be equipped with an electronic onboard recorder to record the hours of service and the records will be inspected by law enforcement.

The log sheet on slide 86 of [Exhibit D](#) was just eliminated by the FMCSA, so every list does not need to be held. The trucking industry is green, so there is a great deal of focus on ensuring the trucks are not polluting the air and are running as clean as possible with 98 percent fewer emissions in sulfur and nitrogen oxides. Slide 91 is a photograph of an older conventional truck known as a long-nosed Peterbilt truck. We have more aerodynamic trucks today, as shown on slide 92 that are all about saving fuel and causing less wind resistance. There is a trailer tail on the back of the trailer in the photograph on slide 93 along with the side fairings. These trailers are customized to ensure they are as aerodynamic as possible to eliminate drag and save fuel. The side skirts only work if the vehicle is traveling at a rate of speed of 63 miles per hour (mph) or higher.

Any truck engine built after 1992 has the ability for a speed limiter. The trucking industry limits the speed a truck can travel anywhere from 62 mph to 70 mph due to safety concerns.

Slide 95 is a photograph of a super single tire. Some companies are replacing the dual tires commonly used to reduce drag between the tires. Slide 96 provides a photo of the sticker used to certify the truck as running more cleanly. The truck displaying this sticker can cost \$20,000 to \$25,000 more, but the trucking industry is committed to doing its part by providing clean running vehicles.

Senator Gustavson:

You mentioned speed limiters contributing to the safety of truck traffic. If one truck is traveling at 62 mph and another truck is traveling at 59 mph, how long does it take for one truck to pass the other? It seems these trucks take a long time to pass one another, which causes accidents and traffic congestion. How can you say this is safe?

Mr. Enos:

When speed limiters are placed on trucks, it is more about stopping distance. When a truck is pulling 80,000 pounds or up to 120,000 pounds in Nevada, the truck needs to be able to stop as quickly as it can without jackknifing or causing accidents. Speed limiters allow the driver more reaction time and the truck can stop sooner at a lower rate of speed.

Slide 99 of [Exhibit D](#) is a photo of diesel exhaust fuel that decomposes into ammonia and mixes with the exhaust gases to ensure there is no longer smoke coming out of the stack. These new trucks are burning fuel much more efficiently.

What does the future of the trucking industry look like? Walmart has commissioned a prototype indicated on slides 101 and 102 to address driver comfort. The vehicle can be fueled with LNG or Compressed Natural Gas (CNG), and FedEx uses 48 different types of fuel in their fleet and are testing to see what works best.

The photograph on slide 104 shows what the inside of a futuristic truck might look like completely automated. A driver is no longer driving the truck. We are testing here in Nevada with truck platooning where a driver in the front truck is responsible for all 4 trucks as noted in the photograph on slide 105. This is the future of the trucking industry because we have an issue finding drivers. We hope this is a way to address the driver shortage and to help increase and enhance safety.

Chair Hammond:

We have talked about the driverless cars in the past. You indicated Nevada is piloting this technology now, but are we licensing anyone to drive this vehicle?

Mr. Enos:

It is a pilot project managed by the Nevada Department of Transportation.

Senator Denis:

Do we have any laws on the books to address this issue?

Mr. Enos:

No.

Chair Hammond:

I will open the hearing on Senate Bill (S.B.) 3.

SENATE BILL 3: Requires the Department of Motor Vehicles to establish a registry of emergency contact information for certain persons.
(BDR 43-14)

Senator Don Gustavson (Senatorial District No. 14):

Senate Bill 3 addresses the unfortunate situation where those involved in a vehicle accident cannot communicate with emergency responders, which creates a lag time between helping and transporting victims and finding and contacting relatives. In some cases, it may make the difference for a family member to reach the hospital in time to say goodbye to a loved one. The Next-of-Kin Registry gives first responders the ability they need to quickly contact the victim's loved ones.

This bill establishes a Next-of-Kin Registry at the Department of Motor Vehicles (DMV). The registry is an Internet-based emergency contact list for individuals with either a Nevada driver's license or identification card to store and maintain emergency contact information only accessible by law enforcement, a coroner or medical examiner.

In the event a driver or passenger is involved in a motor vehicle crash or another emergency situation that renders the individual unable to communicate, law enforcement officials can access the Registry and notify the designated emergency contacts. This Registry is strictly voluntary. It is not mandatory for anyone to participate. Currently at least six other states provide a Next-of-Kin Registry.

Florida was the first state to launch such a service in 2006, and more than 4 million people have taken advantage of the Registry. Florida created the Registry in response to numerous fatal accidents in which contact information was not available and family members were not notified for hours following the incidents. Provisions of the law address usage of the information from privacy and security perspectives. Only employees of the DMV, public safety officers, coroners or medical examiners are allowed to access the contact information in the database. Individuals can add, change or delete their personal contact information via the Internet for up to two next-of-kin contacts through a secure Website. For those under the age of 18 who are not emancipated, one of the contacts must be a parent or legal guardian.

I have provided a sample of a Next of Kin Registry form ([Exhibit E](#)) created by the Delaware Division of Motor Vehicles. There is a friendly amendment proposed by the DMV ([Exhibit F](#)) that should eliminate their fiscal note from the bill.

Chair Hammond:

Let us imagine there is an accident: the driver is unable to communicate, and it looks life threatening. Please take us through a scenario where emergency personnel would have to contact the next of kin.

Senator Gustavson:

Emergency personnel would do what they could for the injured person first. Most people carry a driver's license or have an active vehicle registration. The first responders would contact the DMV to determine if there is a contact listed in the Next-of-Kin Registry in order to notify that person the individual is injured or a fatality.

Chair Hammond:

Is there anything on the car that would indicate to the emergency responders these occupants participated in the Next-of-Kin Registry?

Senator Gustavson:

There is nothing in the bill addressing this issue. The bill would pertain to the person driving the vehicle and creates a starting point.

Chair Hammond:

Could you please name those having access to the information in the Registry?

Senator Gustavson:

Certain DMV employees providing maintenance and law enforcement could access the Registry.

Chair Hammond:

If the accident occurs late at night and the DMV is closed, will the officer be able to access the Registry?

Senator Gustavson:

Yes. The Department of Public Safety (DPS), will tie into the computer system in order to access the Registry to receive verification.

Chair Hammond:

You mentioned six states already have this Registry in place. In each of those jurisdictions, is the system also voluntary?

Senator Gustavson:

Yes.

Senator Farley:

My 17-year-old sister was in a rollover car accident in Arizona, and it took the Arizona DMV and emergency responders almost 3.5 hours to track down and notify my family. The idea of a Next-of-Kin Registry would have been better than what the emergency responders had to go through to find us. I support this type of legislation.

Senator Denis:

State personnel have access to the information, but does anyone from the federal side have access?

Senator Gustavson:

No. It will be emergency situations only, with access limited to law enforcement, coroners and medical examiners and some DMV employees.

Senator Denis:

Does the bill have a fiscal note for DMV to create the database?

Senator Gustavson:

In the original version of the bill, there is a fiscal note and a representative from DMV is here to propose an amendment which should eliminate it. There is no mandate or time limit associated with the bill, allowing the agencies time to complete programming as needed.

Terri I. Albertson (Administrator, Management Services and Programs Division, Department of Motor Vehicles):

We have been working with Senator Gustavson to support a friendly amendment, [Exhibit F](#), for S.B. 3. The proposed amendment will make this enabling legislation so the Next-of-Kin Registry can be included in the DMV's initiative for a system modernization effort. The original version of S.B. 3 did not include those individuals who have a driver authorization card to have this privilege. The amendment includes language to allow these individuals to participate in the Next-of-Kin Registry.

Chair Hammond:

There were several proposed amendments submitted to the Senate Committee on Transportation and two were submitted by DMV. Is the second amendment still applicable? Are you trying to eliminate the fiscal note from S.B. 3?

Ms. Albertson:

The DMV is proposing to amend the language in sections 9 and 10, and has added additional language in section 22 as noted in the amendment, [Exhibit F](#).

Chair Hammond:

Will the proposed language for the enabling legislation in section 22, subsection 2 eliminate the fiscal note?

Ms. Albertson:

Yes. This language will allow the DMV to submit a zero impact fiscal note for S.B. 3.

Senator Denis:

With the system modernization effort, what is the anticipated completion date?

Ms. Albertson:

The DMV is anticipating implementation of the system modernization within 5 years of beginning the project. The Next-of-Kin Registry would be placed within the timeline.

Senator Denis:

Are you saying the system modernization will be completed in 5 years or started in 5 years?

Ms. Albertson:

Our intention is to complete the project within 5 years.

John Fudenberg (Assistant Coroner, Office of the Coroner/Medical Examiner, Clark County):

We support S.B. 3 with a proposed friendly amendment where we added some language in section 10 ([Exhibit G](#)). We want law enforcement to coordinate next-of-kin notification with the coroner or medical examiner. We want to ensure the notification is made once positive victim identification is confirmed. The language does not change anything we are doing in practice and it clarifies

a concern that the Las Vegas Metropolitan Police Department has in reference to the Department having to provide the next-of-kin notification in the event of a death. We want to ensure there is understanding that the Medical Examiner's and Coroner's Offices in Washoe and Clark Counties have the responsibility to make notification to the next of kin in the event of a death.

Chair Hammond:

Are you referencing the amendment submitted by the Las Vegas Metropolitan Police Department?

Mr. Fudenberg:

There is an amendment proposed by the Clark County Coroner/Medical Examiner's Office, [Exhibit G](#), and another amendment proposed by the Las Vegas Metropolitan Police Department ([Exhibit H](#)).

Chair Hammond:

The Las Vegas Metropolitan Police Department wants the bill to ensure your office makes contact in the event of a death.

Mr. Fudenberg:

Yes. In Clark County and Washoe County, the Coroner and Medical Examiners are statutorily responsible for making the notifications to next-of-kin. In the other 15 counties, notification is left up to the Sheriff because he is the ex officio coroner.

Chair Hammond:

Are you asking to access the Registry? Will this language facilitate your office to access the database?

Mr. Fudenberg:

Yes.

Senator Denis:

What is the practice if someone dies in an accident? Would law enforcement contact your office so you could make the notification?

Mr. Fudenberg:

Once the investigating law enforcement determines there has been a death, they will contact the coroner's office to conduct an investigation into the next

of kin and provide an in-person notification. It is important to note this database would allow us to access this information much quicker. We may spend 1 to 5 hours investigating the legal next of kin, which delays the notification. Having access to this database will allow information to be instantaneous to make the notification much quicker.

Liane Lee (Washoe County):

On behalf of the Medical Examiner's Office, I am here to offer support for S.B. 3 and the amendment proposed by Clark County. We support any clearly defined process in how we conduct next-of-kin notifications in the event of a death from a vehicle accident. This bill ensures there are no incorrect notifications made to any family members. Our medical examiner's office has more resources beyond what is available to law enforcement officers. We can make a positive identification beyond a photo identification card or a driver's license.

Chair Hammond:

You made a point that this is not just about contacting family members, but it is also about misinforming family members and having to go back and correct the error.

Chuck Callaway (Las Vegas Metropolitan Police Department):

After listening to the discussion regarding proposed amendments, the Las Vegas Metropolitan Police Department (LVMPD) is in support of S.B. 3. We want to ensure the Clark County Coroner's Office makes the notification and not the LVMPD in the case of a death.

There was a question in section 10, subsection 1, paragraph (b) where the bill references, "Has been involved in a motor vehicle accident or other situation which results in the death, serious bodily injury or other incapacitation of the driver or passenger ..." opens the door to other incidents besides a traffic accident. A shooting incident could result in a serious injury or death. An assault or battery incident could result in a serious injury or death. Is the intent of the Committee to address traffic accidents only or include other incidents? If other incidents will be included in the bill, it may cause potential logistical concerns.

Senator Gustavson:

The language addresses a driver having a heart attack or diabetic incident as an "other situation," but it is relative to traffic accidents only.

Mr. Callaway:

A proposed amendment was submitted, [Exhibit H](#), on our behalf by officer A. J. Delap of the LVMPD, and we are requesting the language be changed from must to shall, when practicable to do so. An example would be a nine-car accident where there may be multiple injuries and people transported from the scene prior to the arrival of the officer. The officer may or may not know who was in the vehicle and in those cases, it may not be practicable for the officer to make next-of-kin notifications. We are requesting flexibility in the language for those cases outside of the ordinary.

Chair Hammond:

In the amendment you have stricken the word must and replaced it with shall. Are you proposing to remove the word shall?

Mr. Callaway:

We would like to strike the word must. When it is practicable for the LVMPD to notify the next of kin, we would do it.

Eric Spratley (Washoe County Sheriff's Office):

I worked with Mr. Delap to draft language for this amendment. Law enforcement officers want the ability to notify the next of kin, but we would not conduct these notifications if there was no mandate like the word shall. Last night we had a missing 14-year-old and an endangered elderly person incident along with traffic crashes, all happening at the same time. In circumstances like this law enforcement will be challenged to notify next of kin when we find out the person we need to notify is in Tahiti. If the language says shall but practicable, law enforcement will make the notification unless there are circumstances when too many things are happening at once.

Senator Hammond:

It seems must and shall are not distinct enough to be different.

Darcy Johnson (Counsel):

Both must and shall in this construction mean the same thing. As a drafting convention, we use the term must rather than shall in this situation due to a condition precedent. We are giving a duty to the law enforcement officer. Must when practicable to do so will have the same meaning as shall when practicable to do so. Based on our own drafting conventions, we would prefer to leave the word must in the language. The intent of the amendment is to ensure the

notification is made when practicable to do so. They do not have to do it right now, but must get to it when they can.

Senator Denis:

The proposed amendment does not need the word must or shall but needs the language when practicable to do so. The choice we have to make is to be sure they have to provide notification unless it is not practicable.

Mr. Spratley:

We welcome the proposal and the ability to respond to it, but if the strong language is not used, we would probably opt out most of the time. If the word shall is in the language, we will opt in most of the time.

Ms. Johnson:

The key word to the amendment is when. Law enforcement still must make the notification, but the amendment is providing them with some wiggle room as to when they have to make the notification. The must or shall still assigns law enforcement with a duty they have to perform, but there may be situations when they are unable to notify someone. We are requiring them to make the attempt at notification.

Chair Hammond:

We will work on the language so it will be available for the work session.

Senator Manendo:

Would this apply if a vehicle hits a pedestrian and the pedestrian possesses a driver's license or some type of identification card? There has been a 700 percent increase in pedestrian fatalities in Clark County compared to last year. We are seeing more and more of this type of accident.

Mr. Callaway:

We would treat a pedestrian and vehicle accident the same as we would treat two vehicles colliding. If the pedestrian was killed, we would notify the Clark County Coroner's Office for identification. If the pedestrian was injured and this law was in place, we would make next-of-kin notification to the family of the injured pedestrian.

Vanessa Spinazola (ACLU of Nevada):

The ACLU of Nevada submitted proposed amendments ([Exhibit I](#)). Our concerns are in the interest of privacy and want to ensure the registry information will not be disseminated. This affects the driver authorization cards that were introduced during the 77th Session. The information is relative to immigration status and whether or not someone has a driver authorization card.

Chair Hammond:

You are proposing to add language, "including information relative to legal presence" in section 1, subsection 8, paragraph (b), and you want to ensure the information is protected and accessed only by certain people at the DMV.

Ms. Spinazola:

Yes. Our second proposed amendment is to delete the language in section 8, subsection 3, paragraph (c). This is relative to whom the DMV can provide access to information in the Registry. We do not want the DMV to determine what is in the best interest of the registrant. The registrant should be allowed to maintain who has access to the information that person submitted.

Senator Gustavson:

Could you provide further clarification?

Ms. Spinazola:

It is not clear what type of situation would be in the best interest of the registrant. Perhaps that could be more clearly defined. If the purpose of the Next-of-Kin Registry is to notify in the cases of emergency, I am unsure why additional people would be given access to the information. I have another portion of amended language, [Exhibit I](#), which indicates people who sign up should be informed of who will have access to the information contained in the Registry. Unless the DMV continuously notifies those people in the Registry who has access to their information, it seems too broad. I could not think of a scenario where it might be in the best interest of the registrant.

Senator Hammond:

Do you want to know what employees at the DMV have access to the information?

Ms. Spinazola:

We understand individuals at the DMV, the coroners and law enforcement will have access to the Registry information. When I read the language in this section, it looks like the DMV may provide access to the account to other people in the best interest of the registrant. This language broadens who has access to information which is personal. We would prefer the language—access to the account is in the best interest of the registrant—could be more clearly defined and those DMV employees who have access could be listed.

Senator Denis:

What if someone at the DMV decides the FBI should have access to the information? The language in section 8, subsection 3, paragraph (c) would allow the DMV to provide this information to the FBI.

Ms. Spinazola:

Yes.

Senator Gustavson:

I agree and want to ensure we have protection in the language.

Ms. Spinazola:

If you look at the Delaware application provided, it is disclosed on the form who has access to the records. I want assurances when the DMV creates the form the registrants are informed of the people who will have access to their information. We would like to see this language written into the bill so it will appear on the form created by the DMV. In section 11, subsection 2, we would like to add language as noted on page 3 of our amendments, [Exhibit I](#).

In section 12, subsection 2, we would like to add the word “negligent,” as noted in the proposed amendment, [Exhibit I](#). This is immunizing individuals from civil and criminal liabilities. We are concerned about willful violations of privacy. We would also like to add the language noted on the bottom of page 3 of the proposed amendment.

Julie Butler (Administrator, General Services Division, Department of Public Safety):

Our Division placed a fiscal note on [S.B. 3](#) in the amount of \$56,000. The mechanism the DMV uses to pass information through to law enforcement is through Justice Link. It would require programming changes to pass the

information electronically from the DMV to the DPS and along to the law enforcement community. With the amendment proposed by the DMV to remove the time limitations along with their system upgrade, we are willing to remove the fiscal note submitted by the DPS. We would like to work cooperatively with DMV on this project.

Janine Hansen (President, Nevada Families for Freedom):

We support this bill. My brother was killed in 2002 on Golconda Summit, and I do not know how long it was until we were notified. Whenever a family is in that situation it is heartrending and very difficult. We support the concept of S.B. 3 and support the ACLU's privacy amendment.

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Chair Hammond:

I will close the hearing on S.B. 3. Having no further business to come before the Committee, we are adjourned at 10:16 a.m.

RESPECTFULLY SUBMITTED:

Martha Barnes,
Committee Secretary

APPROVED BY:

Senator Scott Hammond, Chair

DATE: _____

| EXHIBIT SUMMARY | | | | |
|------------------------|----------------|-----|----------------------------------|--|
| Bill | Exhibit | | Witness or Agency | Description |
| | A | | | Agenda |
| | B | 5 | | Attendance Roster |
| | C | 17 | Thomas Adams, Thomas R. Tietz | California Nevada Cement Association; Southwest Concrete Pavement Association presentation |
| | D | 107 | Paul J. Enos | Nevada Trucking Association presentation |
| S.B. 3 | E | 2 | Senator Don Gustavson | Next of Kin Delaware |
| S.B. 3 | F | 4 | Terri L. Albertson | DMV Proposed Amendment to S.B. 3 |
| S.B. 3 | G | 2 | John Fudenberg | Clark County Proposed Amendment to S.B. 3 |
| S.B. 3 | H | 1 | A. J. Delap | Las Vegas Metropolitan Police Department Amendment to Senate Bill 3 |
| S.B. 3 | I | 3 | ACLU of Nevada | Amendments Proposed to Senate Bill 3 |