

**MINUTES OF THE
SENATE COMMITTEE ON TRANSPORTATION AND HOMELAND SECURITY**

**Seventy-third Session
April 14, 2005**

The Senate Committee on Transportation and Homeland Security was called to order by Chair Dennis Nolan at 1:42 p.m. on Thursday, April 14, 2005, in Room 2149 of the Legislative Building, Carson City, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file at the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Dennis Nolan, Chair
Senator Joe Heck, Vice Chair
Senator Maurice E. Washington
Senator Mark E. Amodei
Senator Michael Schneider
Senator Maggie Carlton
Senator Steven Horsford

GUEST LEGISLATORS PRESENT:

Senator John J. Lee, Clark County Senatorial District No. 1

STAFF MEMBERS PRESENT:

Patrick Guinan, Committee Policy Analyst
Stephanie Landolt, Intern to Senator Nolan
James Puffer, Intern to Senator Nolan
Sherry Rodriguez, Committee Secretary

OTHERS PRESENT:

Chris Ho, Intern to Senator Cegavske
Cheri L. Edelman, City of Las Vegas
Stan Olsen, Las Vegas Metropolitan Police Department; Nevada Sheriffs' and Chiefs' Association
Derek Morse, Regional Transportation Commission of Washoe County
Barry Duncan, Southern Nevada Home Builders Association
Judy Stokey, Nevada Power Company; Sierra Pacific Power Company; Sierra Pacific Resources

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Bryan Gresh, Regional Transportation Commission of Southern Nevada
Robert A. Ostrovsky, City of Las Vegas
Laura M. Mijanovich, American Civil Liberties Union of Nevada
Martha Barnes, Administrator, Central Services and Records Division,
Department of Motor Vehicles

CHAIR NOLAN:
I will open the hearing on Senate Bill (S.B.) 288.

SENATE BILL 288: Revises provisions regarding alternative fuels. (BDR 43-889)

PATRICK GUINAN (Committee Policy Analyst):
There was a mock-up to S.B. 288 ([Exhibit C](#)) presented when this Committee initially heard this measure. There have been no new amendments proposed.

There was some opposition to the bill voiced by the petroleum dealers and some concerns regarding whether or not these provisions would apply to privately owned fleet vehicles as opposed to just government vehicles.

SENATOR CARLTON:
On page 2, lines 11 and 12 of [Exhibit C](#), reads, "Liquid fuels derived from coal or another source of power" Why were we taking that out?

MR. GUINAN:
The proponents of the bill expressed concern that the way this was written, it would allow regular gasoline to be included, because it is a liquid fuel.

SENATOR AMODEI MOVED TO AMEND AND DO PASS S.B. 288.

SENATOR CARLTON SECONDED THE MOTION.

THE MOTION PASSED. (SENATOR WASHINGTON WAS ABSENT FOR THE VOTE.)

CHAIR NOLAN:
We will close the hearing on S.B. 288 and open the hearing on S.B. 344.

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SENATE BILL 344: Establishes crime of driving under extreme influence of alcohol. (BDR 43-339)

MR. GUINAN:

There are new amendments proposed to S.B. 344. Only the pages that have been amended have been provided for this work session ([Exhibit D](#)). The amendments enhance or add penalties for those who are convicted of driving under the influence (DUI), the extreme DUI penalty. It also clarifies that if someone who clears their jail time after a third offense and then at some point down the road becomes a repeat offender, that individual will not be convicted of a misdemeanor; they will be convicted of a felony.

SENATOR CARLTON:

Page 12, line 41, reads, "Require, upon completion of any jail sentence, the immediate installation of an ignition interlock system" That was not in the original bill, correct?

MR. GUINAN:

Correct. The wording in green is new language. There are four pages that contain new language.

CHAIR NOLAN:

Mr. Ho, could you answer where the genesis of this particular provision came from with respect to putting in an ignition-interlock system.

SENATOR CARLTON:

The bill appears to go a few steps further than I originally thought. I understand penalizing and doing jail time, but now we are dealing with penalizing anyone else who may use this car.

CHRIS HO (Intern to Senator Cegavske):

This came from the research that was done about Arizona with their extreme DUI penalties. They actually install the ignition system on their first-time-offenders' vehicles.

The majority of the time, family members affected by this are in favor of it, because they do not want to see anything happen to the individual who was sentenced for the DUI.

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SENATOR CARLTON:

I understand that, but how do they drive the car? Can the car be driven?

MR. HO:

Yes.

SENATOR CARLTON:

How does this system work?

MR. HO:

The way this interlocking system works is that before an individual can start the car, they would have to breathe into an installed device. Five minutes later, they have to breathe into it again to make sure there is no alcohol in their system. Forty minutes later, if they are still in the car and it is running, they have to breathe into the device again.

SENATOR CARLTON:

What is the cost of this device and who pays to have it installed?

MR. HO:

I do not know the cost. However, the person who is cited for the DUI offense is the one required to pay for the system.

CHAIR NOLAN:

Is this device installed in such a way that a passenger could not breath into it?

MR. HO:

That is a good question. In examining the system, someone in the passenger seat could breathe into it. However, it is not something someone would really want to do, because there are stiff penalties for anyone who tampers with those devices.

CHAIR NOLAN:

We need to have a conceptual idea of how it works.

SENATOR CARLTON:

Would it be possible for Mr. Ho to look into that and come back to this later in today's work session? This is a whole new idea that we did not previously explore.

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CHAIR NOLAN:

The interlock concept is generally not a new idea, but you are correct, it was not previously discussed with regard to this bill. Mr. Ho, with regard to civil or criminal penalties associated with the interlock device, could you explore a little and come back to this Committee with what you find?

MR. GUINAN:

This device can be leased for \$2 a day.

CHAIR NOLAN:

We are going to have Mr. Ho retrieve a little more information for us and then we can try to move this bill. Are there other concerns with the bill?

SENATOR WASHINGTON:

If the interlock device is placed on a car for the individual who has the DUI, what about the other members of the family? Is there a device that overrides this interlock device so they can drive the car?

MR. HO:

Unfortunately, anyone who gets in the vehicle must use the ignition interlocking system. There is no getting around it.

SENATOR WASHINGTON:

What happens if I have used Listerine, which has approximately 67 percent alcohol content, and then I try to blow into this device?

MR. HO:

I will look for that information.

MR. GUINAN:

I believe I can answer that question. The devices are calibrated to measure not just the alcohol that is laden on the breath; they are calibrated in a different way to measure a deeper level of alcohol. If you have used Listerine or taken a breath mint that has alcohol in it, it will not register high enough to alert the device.

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CHAIR NOLAN:

We are going to set aside S.B. 344 until Mr. Ho can check on those items of concern that have been discussed. We will come back to this during this work session.

We will open the hearing on S.B. 378.

SENATE BILL 378: Authorizes city or county to designate certain highways as permissible for operation of off-road vehicles. (BDR 43-507)

MR. GUINAN:

There are some proposed amendments and a letter of support from the City of West Wendover ([Exhibit E](#)). The amendments limit the population numbers so this legislation would apply to rural counties and smaller towns. It raises the age of drivers allowed on a street to age 14. It also provides for periodic reviews of the roads designated as allowable for off-road vehicles (ORV) by the municipality or county that has allowed the vehicles to be used on the roads initially.

SENATOR CARLTON:

My original concern with the bill was the age of young drivers. The age has been raised. However, after the highway patrol testified, I realized how unsafe these vehicles are on pavement. After that testimony, even with raising the age, I still have some significant concerns with the bill.

SENATOR WASHINGTON:

If individuals drive their ORVs on pavement, is it usually within their own residential neighborhood to access an off-road trail or to load their ORV on a trailer?

CHAIR NOLAN:

As I understand, the intent of the bill was to allow individuals in residential neighborhoods who are near the desert to be able to ride to the trail without having to load the ORV onto a trailer for a short ride across the highway to get to a trail. Currently, the law prohibits them from getting their ORVs out of the driveways in order to drive down the street to the trails.

The testimony given stated people are doing it anyway. It happens so much in the smaller rural areas that local law enforcement is not enforcing the laws

prohibiting such behavior. The local law enforcement and local government need to make a decision about the routes from a neighborhood out onto a designated path. There will need to be some type of review at the local level with regard to where this would be allowed.

This would be an open meeting. If there are residents in the same neighborhood who would protest having their street being used as a route for the ORV to get into the desert, there would be an opportunity for public input.

I am inclined to move the bill and give the rural communities the opportunity to police this situation themselves. We will have to trust the officials and the open meeting process to determine where they will allow these paths.

SENATOR HECK MOVED TO AMEND AND DO PASS S.B. 378.

SENATOR WASHINGTON SECONDED THE MOTION.

THE MOTION PASSED. (SENATOR CARLTON VOTED NO.)

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CHAIR NOLAN:

We will close the hearing on S.B. 378 and open the hearing on S.B. 310.

SENATE BILL 310: Establishes provisions relating to promotion of safety of pedestrians. (BDR 43-290)

MR. GUINAN:

You have been given a copy of a mock-up ([Exhibit F](#)) I prepared without the benefit of having the proposed language from Cheri Edelman. Proposed amendments submitted by Ms. Edelman ([Exhibit G](#)) have also been handed to the Committee for review.

The mock-up contains language which is intended to address concerns expressed by the City of Las Vegas. It extends the amount of time government has to respond to complaints with regard to a dangerous intersection or section of road. It also requires the responsible agency to provide for the public an Internet Web site and the information resulting from their investigations into the dangerous locations.

Section 3, subsection 1 of the mock-up requires the public authority having jurisdiction to establish a single source where people can report complaints and receive information.

Section 3, subsection 2 of the mock-up simply extends the time from 24 hours to 7 days to verify there is a dangerous spot and to start an investigation within 14 days.

Section 4, subsection 1 of the mock-up extends the time from 72 hours to 7 days following receipt of evidence that there is a dangerous condition that the agency has to evaluate or mitigate the danger at the location.

It also changes the language from, "including" to "which may include," the placing of a temporary sign based on concerns that in some instances signage is not a good solution.

Finally, section 4, subsection 2, paragraph (a) extends another seven-day period to comply. The mock-up adds section 4, subsection 2, paragraph (b), a total of 120 days from the initial investigation to permanently reduce the risk of collisions between pedestrians and motor vehicles at a given location once the location has been identified as being dangerous.

I would like to have Ms. Edelman review her amendments, [Exhibit G](#), with the Committee.

CHERI L. EDELMAN (City of Las Vegas):

Prior to the meeting, I looked over the mock-up Mr. Guinan had prepared. It appears that most of our concerns with the amendment have been addressed as far as giving the agency additional time to respond in a proper manner.

I have two questions regarding the mock-up. First, in section 4, subsection 1, which reads, "Within 7 days after the collision or the receipt of credible evidence ... ," we would like it to simply state, "after the receipt of credible evidence," and delete the words, "the collision or." Not in all cases are those collisions going to be credible.

Secondly, in section 4, subsection 2, paragraph (b), the new language reads, "Within 120 days take action to permanently reduce the risk of collisions between pedestrians and motor vehicles at the location." "Take action," are

words we are concerned with because, as you know, we have to get funding and obtain right-of-way. We have to meet traffic warrants, do design and implement construction. As long as we define "take action" as "moving in that direction," to try to obtain that funding and make sure those other things are taken care of, we can certainly do that. I just want this Committee to realize that it does take longer than 120 days to get a signal or school flashing signal physically installed.

CHAIR NOLAN:

I appreciate your amendments. I am fine with the proposed amendment with regard to section 4, page 3 of the mock-up relating to, "Within 120 days take action" We can amend that to state; "Within 120 days initiate action"

With regard to your proposal on section 4, page 2, you have asked us to strike the word "collision." If we do that, we defeat the cause, because "collision" is defined in the first sentence of section 4 where it states, "... a pedestrian is injured by a collision" That language establishes the threshold that "collision" means a pedestrian who has been injured.

MS. EDELMAN:

I understand that. However, as we testified before, sometimes those injuries are caused by human error. For example, someone jaywalks across the street illegally, or they are hit by a drunk driver. Obviously, in those cases we would not do some type of a temporary action because none is really warranted.

That is why we stated, if there is credible evidence to the cause.

CHAIR NOLAN:

An example could be the traffic situation I spoke of in another hearing. In that case, through oversight on the part of the municipality, the proper engineering was not afforded for a street in front of Spring Valley High School in Las Vegas. There are 2,500 students and only one crosswalk one-half mile from the front of the school. Students are being forced to cross at intersections and places where they otherwise would not cross, because they feel it is an inconvenience to walk one-half mile in one direction to cross the street and then walk another one-half mile back when they could just walk right across the street.

Even though it is all within the school zone, we have created a situation where kids are simply walking out into the street and could potentially be hit by cars.

A couple of crosswalks and a few signs could go a long way to keep those students safe.

If the language remains intact, you can still evaluate each incident separately. In one case it might be determined a drunk simply staggered out into the street and was hit. However, if three or four pedestrians jaywalking result in accidents, then perhaps someone should address the fact that a crosswalk would be well warranted. Do you understand my perspective?

MS. EDELMAN:
Understood. And I agree.

SENATOR CARLTON:
I need clarification with regard to page 3 of the mock-up. Section 5, subsection 1, paragraph (a), reads, "Exercise due care to avoid a collision with a pedestrian." If a driver does not do that, then there is going to be community service involved. What is the definition of, "Exercise due care to avoid a collision ..."?

CHAIR NOLAN:
Law enforcement had indicated to me that all you have to do is use the reasonable-man standard. A pedestrian in an intersection, under any circumstance, has the right-of-way. That is the language currently in statute regarding pedestrians.

SENATOR CARLTON:
Now, that existing language has a penalty associated with it. So, once you step away from just having the language and now there is going to be community service involved, how does that get dealt with?

CHAIR NOLAN:
It would pertain if the person caused an injury. If a driver of a car hits a pedestrian, they were the proximal cause of the accident and they were cited for not exercising due care, then there would be community service attached to the first offense.

Does that answer your question?

SENATOR CARLTON:

I guess I am just reading more into it. There are so many cases of jaywalkers being involved in injury accidents where it was not the driver's fault. I still do not understand what "Exercise due care ... " is. I am just trying to understand what you would have to do to get the penalty of community service.

I support the bill. I understand what we are trying to do with it.

CHAIR NOLAN:

Stan Olsen, can you help us with this?

STAN OLSEN (Las Vegas Metropolitan Police Department; Nevada Sheriffs' and Chiefs' Association):

Are you looking for an explanation on the part of the driver or the pedestrian?

SENATOR CARLTON:

What is, "Exercise due care ... " on the part of the driver?

MR. OLSEN:

If a driver is driving down the road and a pedestrian jaywalks, it is incumbent upon the driver to pay attention. Regardless of whether or not the pedestrian is in a crosswalk and the driver is going the speed limit, the driver has the obligation to slow down, move around, divert, stop, whatever the situation calls for at that time. Paying attention is at the top of the list. If a driver is traveling down the road eating a hamburger, putting on make up or doing anything along those lines, then the driver is not exercising due care.

SENATOR CARLTON:

Law enforcement can already cite for those things, and there are fines and penalties associated with them. Is that correct?

MR. OLSEN:

Correct.

SENATOR CARLTON:

Chair Nolan, if we have one offense already established that would possibly result in a ticket, fine, traffic school, et cetera, then you have this provision which is only community service, how do we make all of this work?

MR. OLSEN:

The option for community service is the judge's option. If law enforcement cites someone for this type of situation and they go to court, the judge has an option of imposing a fine or levying community service.

SENATOR CARLTON:

If we put this community service language in the bill, would that eliminate someone from getting a ticket for the other offense, or would this be in addition? It seems like the language, "Exercise due care," and the term you used are the same thing.

MR. OLSEN:

Our responsibility as law enforcement is to cite the person. We then route that ticket to the courts. It is up to the court to determine whether or not it wants to impose a fine or community service, or both.

SENATOR CARLTON:

Would putting in this language eliminate the authority of law enforcement to cite because in this law it now says if you do not exercise due care, there will be community service imposed? It says nothing about a ticket or fine. Would the new language eliminate the other ticketing option?

MR. OLSEN:

No.

MS. EDELMAN:

A suggestion was made to me that we look at a pattern of collisions instead of a single collision. We could modify the wording. If we see that there is more than one or two accidents, then maybe a crosswalk would be warranted. But just a single incident does not necessarily mean that the city needs to take temporary action right away. That is just a suggestion.

CHAIR NOLAN:

I do not disagree with that.

MR. OLSEN:

I have no problem with Ms. Edelman's recommendation as long as it is not the responsibility of law enforcement to decide if that is the situation with a

particular occurrence with a particular individual at a particular time before we can cite. We cannot do it.

CHAIR NOLAN:

I am going to leave it up to the municipalities to take a look at these situations individually. If a police report states an incident was pedestrian error, then the responsible authority would not need to take temporary action. But, if three or four pedestrian errors occur at the same intersection, I would think the municipalities would want to examine the incidents to determine if an engineering flaw was causing people to go into the street; it could be anything.

MS. EDELMAN:

This bill is requiring us to establish a database. That should be simple enough to do.

CHAIR NOLAN:

If there is no further discussion, I would like to move this bill.

SENATOR HECK MOVED TO AMEND AND DO PASS S.B. 310 WITH THE MOCK-UP AMENDMENTS AND MS. EDELMAN'S PROPOSED AMENDMENT ON PAGE 3, LINE 1, WITHIN 120 DAYS INITIATE ACTION. ON PAGE 2, KEEP THE LANGUAGE, "THE COLLISION" AND TAKE OUT THE REST OF THE LANGUAGE AS PROPOSED IN THE MOCK-UP.

SENATOR WASHINGTON SECONDED THE MOTION.

THE MOTION PASSED. (SENATOR AMODEI WAS ABSENT FOR THE VOTE.)

CHAIR NOLAN:

We will close the hearing on S.B. 310 and open the hearing in S.B. 475.

SENATE BILL 475: Limits liability of certain private operators who contract with regional transportation commission. (BDR 32-1081)

MR. GUINAN:

This bill limits the liability to actual medical costs or \$50,000. There was concern voiced by Nevada Trial Lawyers Association about the cap and what that would do to persons who are injured. There are no proposed amendments.

CHAIR NOLAN:

My recollection of the testimony was that liability issues are beginning to cost the regional transportation commissions (RTCs) so much in settlements and in tort action that in the near future they will need to consider either cutting back on service to absorb those costs or deprivatize to get underneath the \$50,000 cap. This would cost them an additional 35 to 40 percent in taxpayer and user revenue from the services. They would also have to cut back services to try to provide some type of public transportation.

SENATOR HORSFORD:

I had previously asked for some information as this relates to other states and the precedents that occurred in those states. The threshold that is being requested is the same immunity that the State has and yet the private contractor employs these people. I was asking for some information as it relates to higher thresholds in other states with which they currently have contracts.

DEREK W. MORSE (Regional Transportation Commission of Washoe County):

We did attempt to find out what information was available on this. We could not find a comprehensive survey that looked at all 50 states. We sent out inquiries. We received responses from nine states. Of those nine states, three of them did have, in one form or another, situations under which they brought their operators under their sovereign immunity caps.

In Connecticut, it is up to their Department of Transportation. They have granted this to operators. I do not know the dollar limit of their cap.

Texas has immunity caps on the basis of a local option. Municipality by municipality and county by county, they can bring their operators under their sovereign-immunity caps with their contractors if they so desire.

It is my understanding that in Florida all the operators do come under the sovereign-immunity cap.

SENATOR HORSFORD:

That provides some information. There appear to be two policy decisions. The first is whether or not to provide an immunity cap to a contractor. Second, if a cap is provided, what level of a cap should be provided?

I do not believe there was a lot of discussion on the second point. I just wanted to bring that up. If you are going to make policy decision to give immunity at the same level the State currently offers, it is probably more relief than even the independent contractors really need. Based upon the estimates given, if they do not get this, it will cost 35 to 40 percent more to provide the service in another way. You might be able to come to a compromise that meets everyone's needs.

I am not prepared to offer a cap amount, because I do not know what would be a reasonable amount. I will probably end up opposing this bill.

SENATOR WASHINGTON:

Is the cap based on the current \$50,000 state cap?

VICE CHAIR HECK:

Yes.

SENATOR WASHINGTON:

Are the RTCs subdivisions of the State?

MR. MORSE:

Yes.

SENATOR WASHINGTON:

I do not see a problem with falling within the cap that is provided by political subdivisions of the State. I am in support of this.

VICE CHAIR HECK:

While the RTC is a political subdivision, the contractor, ATC/Vancom, is not and that is where the cap is being applied. That is the point of contention.

SENATOR WASHINGTON:

Is ATC/Vancom contracted by the RTCs?

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VICE CHAIR HECK:
Yes.

SENATOR WASHINGTON:
So that puts them under the purview of that political subdivision. Is that correct?

VICE CHAIR HECK:
As with other contractors that are contracted by political entities, they do not necessarily become part of the political entity.

SENATOR WASHINGTON:
Does ATC/Vancom transport senior citizens and disabled persons?

MR. MORSE:
The proposal is that they would come under the \$50,000 cap. However, in terms of medical expenses, there would be no cap. That is the proposal. It is not quite the same as the cap we enjoy as a political subdivision of the State.

Currently, we do have private contractors who are operating the service on behalf of the agency. They use our vehicles, equipment, building facilities and so forth. They are private contractors and currently do not fall under our immunity cap.

SENATOR AMODEI MOVED TO DO PASS S.B. 475.

SENATOR SCHNEIDER SECONDED THE MOTION.

THE MOTION PASSED. (SENATORS HECK, CARLTON AND HORSFORD VOTED NO.)

CHAIR NOLAN:
We will close the hearing on S.B. 475 and open the hearing on S.B. 365.

SENATE BILL 365: Revises provisions relating to public safety. (BDR 19-286)

MR. GUINAN:

I have provided the Committee with proposed conceptual amendments to S.B. 365 ([Exhibit H](#)) offered by Chair Nolan.

CHAIR NOLAN:

My original intent was to have S.B. 365 drafted as a resolution but it came out in bill format. I was under the impression that we could amend this bill into a resolution but I was incorrect. Apparently, we cannot take what has been drafted as a bill and then turn that into a resolution.

The options were twofold. One was to request an emergency bill for a resolution, which at this late date, was not warranted. Two, we could have redrafted it as a special act.

If the Committee is in agreement, we could pass this bill out of Committee with whatever amendments the Committee deems appropriate then take it to the Senate Floor and reevaluate it. The action today is to move all bills out of Committee. We could possibly amend it on the floor.

At one time, this Committee was given a video presentation of a vendor demonstrating the imaging and mapping techniques used for public buildings. Those techniques are being used to help law enforcement and responders know exactly what and where something is in a building when investigating acts of domestic violence. There are some high-tech types of mapping systems available to help locate individuals inside a particular building.

Additionally, some of the language expands the concept of what we should be doing in public buildings, including schools, to help in these situations.

This simply urges the municipalities to move in this direction, start being progressive and to think about how to take action to protect people in public buildings. The private sector, at least the resorts, is already starting to do this.

By taking these provisions out of S.B. 365 and putting them into a special act, we then leave S.B. 365 with only one provision. That provision is to encourage public and private businesses to adopt the Code Adam Act of 2003 (Code Adam). Code Adam is a national program to help locate kids who are lost inside public buildings.

We have been contacted by U.S. Senator Harry Reid's office, whose staff has been following our homeland security legislation. Apparently, there is a grant source available. We have submitted a letter of interest in a grant to provide funding for exactly this type of mapping project along with several million dollars to do this. What they need, in addition to the application and letter of interest, is some type of legislative direction. Senator Reid's office indicated this project would be considered fine for this type of grant.

SENATOR CARLTON:
What is a special act?

CHAIR NOLAN:
This was something new to me too. It was something that came up through the Legal Division. I think Mr. Guinan can answer that for you.

MR. GUINAN:
It came about as a discussion of whether or not we could do this as a resolution; as you heard, the answer is no. A special act is simply an act that does not enter into the *Nevada Revised Statutes* (NRS). It does not revise the statute, and so, by its very nature, it has to have a sunset date at which point the Legislature can decide if it wants to turn this into something that revises statute. It is typically used to direct a limited focus on a study or project that the Legislature deems important enough to get done but, does not feel it needs to go the route of amending statute.

SENATOR CARLTON:
Does a special act carry the same weight as a resolution?

MR. GUINAN:
My understanding from the Legal Division is that it carries more weight than a resolution. It is not an urging; it is an actual requirement.

SENATOR CARLTON:
So, we have gone to actually requiring this?

MR. GUINAN:
Exactly.

SENATOR CARLTON:

Are we not just giving an opinion anymore? If we are going to actually require it, why are we not making it a bill? I am confused as to what we are trying to accomplish.

CHAIR NOLAN:

The purpose behind the intent was to compel public agencies which are responsible for public buildings and the people within them to start taking steps toward this direction of public protection. That was the interest behind having a resolution in the first place. With the language we are contemplating for what would be a special act, it is still doing the same thing.

SENATOR CARLTON:

Will there be a fiscal impact on these entities to get this done? If this carries the weight, it is no longer a resolution. I know you were talking about a grant and using grant funds to deal with the fiscal impact. But, when we pass this legislation, will we be requiring these entities to implement and fund this?

CHAIR NOLAN:

I am sure the agencies are going to say there will some type of fiscal impact. There is going to be time committed to do this. All they have to do, over the next year, is report their progress. What the fiscal note would be is really to what degree the effort was put forward by these state agencies. As this sunsets, if they elected to do absolutely nothing based upon what we are expecting, which is a strong urging, there would be no fiscal note. If they move forward with it and dedicate someone to work on this, then there will be some kind of fiscal note.

SENATOR CARLTON:

So, your amendments, [Exhibit H](#), replace the entire bill and none of those mandates are included any longer? Is that correct?

MR. GUINAN:

The proposed amendment language is very broad. When I spoke with the Legal Division, they led me to believe that much of the language in the bill, in the special act that comes out, would be retained from the original bill. But, any language that mandates that a certain agency do something will be revised to read that the State Emergency Response Commission will urge these agencies to do these things, to get them to start making some plans. We will require

them to submit their progress on those plans for a report at the end of the year. It is not entirely clear yet what would happen to any agency that decides not to submit a report, because we do not have that language yet.

CHAIR NOLAN:

There is a fiscal note attached to S.B. 365 as a response from all the counties. It is interesting that the largest county, Clark County, has money available. A lot of the counties indicated that there are monies available to do these types of things already and there would be very little or no impact. During the biennium, Humboldt County submitted the largest estimated effect of \$112,000 which means they are going to do a really good job, or they do not want this at all.

SENATOR CARLTON:

Thank you for indulging me on this. I just wanted to understand what a special act was and what was actually going to occur. I understand what you are trying to do and I support it. I just had concerns about whether people would really understand what we are asking them to do. I would like to see the language. I support the concept.

CHAIR NOLAN:

I would submit the special act to the Committee for the purpose of taking a look at the language when it comes out in an amended form. We will call a floor meeting to adopt it. If it passes that Committee's approval, then we will move forward with this bill. Keep in mind what we are looking to do is amend and do pass with conceptual amendments which would leave us with a special act. That would leave us with S.B. 365 just addressing Code Adam.

SENATOR CARLTON MOVED TO AMEND AND DO PASS S.B. 365 USING THE CONCEPTUAL AMENDMENTS OF EXHIBIT H, LEAVING S.B. 365 TO ADDRESS JUST THE CODE ADAM PROVISIONS.

SENATOR HECK SECONDED THE MOTION.

THE MOTION PASSED. (SENATOR HORSFORD WAS ABSENT FOR THE VOTE.)

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CHAIR NOLAN:

We will close the hearing on S.B. 365 and open the hearing on S.B. 322.

SENATE BILL 322: Requires regional transportation commissions to take certain actions to minimize impacts of certain street and highway projects.
(BDR 32-738)

MR. GUINAN:

The presentation on this bill was given by the Community Advisory Committee to the Regional Transportation Commission of Southern Nevada (RTCSN). I have spoken to Senator Schneider regarding an amendment to the bill. He would like to discuss that with this Committee.

SENATOR SCHNEIDER:

I have been working with some of the business entities in the State and have actually spoken with some of the utilities and private contractors in an attempt to work out some sort of an agreement.

I would like Barry Duncan and Judy Stokey to come before this Committee. They have some comments for the record as to what we want to do and what we have negotiated.

BARRY C. DUNCAN (Southern Nevada Home Builders Association):

I am here requesting that you give us a two-year window during the interim to work on the various issues contained within S.B. 322. I am committing the full resources of the Southern Nevada Home Builders Association, specifically myself, to address this issue. It is a very complex issue; there are a lot of items that need to be addressed.

In addition, there are three various methods within the RTCSN where we could essentially adopt rules prior to the next Legislative Session, if we can reach a consensus.

JUDY STOKEY (Nevada Power Company; Sierra Pacific Power Company; Sierra Pacific Resources):

I am here to reiterate that we are going to work with this group and do everything we can to resolve some of these issues. I am putting that dedication on the record.

SENATOR SCHNEIDER:

I appreciate working with these people. I can say that certain parties have committed to participate more fully in the existing process. I wanted it to be on the record that they have committed to work on this. The RTCs should impose more authority and requirements on the existing Utility Coordination Committee to raise their stature and role in alleviating the problems raised during the hearing on S.B. 322.

Also, the member entities need to cooperate more fully in the process to make it more meaningful. Otherwise, I believe we will revisit this again in two years and the requirements that were asked for this time would actually be a gift compared to what we may propose next time in rules and mandates for them. We will be back here in two years, and we will be watching this.

I would like to see the RTCs report back to Chair Nolan in a year advising us on their progress. Next Legislative Session, they should come back to the Committee and make a full report on how they implemented these provisions. I know there are a lot of people who do not want to get on board with this. This has to be a cooperative effort to make the quality of life in Las Vegas better.

We have commitments from the business community and the utilities. I would like to see the county and all the cities down there work together and have the RTCSN head that up. If someone refuses to comply, whether it is Las Vegas, North Las Vegas or the county, those who are participating should report that to you immediately so we can take action, mainly with the Legislative Commission during the biennium.

I also propose that this Committee send a strong letter to the entities demanding they work on this and work together. Let them know this is serious. Even though we are putting it on the record today, they should still receive a letter from this Committee.

CHAIR NOLAN:

Thank you, Senator Schneider. Is it your intent to withdraw the bill but still take some formal action so we have something on the record, some type of commitment?

There is no one on this Committee who does not appreciate the situation our local municipalities and utilities are in with the rapid growth in southern Nevada.

We are trying to develop and extend service out to every part of that valley. We have to replace dated infrastructure, make improvements and coordinate those projects through a dozen different agencies and utilities to make it all happen. It needs to happen in such a way that we do not run into the situations we see every day and situations that Senator Schneider is trying to alleviate. We appreciate the difficult task these agencies face.

The problem is there appears to be no coordination among the agencies.

There is an article in today's *Las Vegas Review-Journal* ([Exhibit I](#)) that is so typical of what we live through. This is a classic example regarding a number of projects going on at the same time, during the summer, in the middle of the summer heat with temperatures of 114 degrees and 120 degrees inside a car.

There has to be a better way to coordinate these projects. We cannot have these projects going on at the same time blocking up the east/west major thoroughfares in our State's largest metropolitan area.

Mr. Duncan, since Senator Schneider is withdrawing his bill, we are going to take your offer that the Southern Nevada Home Builders Association try to orchestrate the municipalities. We expect those municipalities, which have all offered objections to this bill, to step forward. We hope that Washoe County, which is also suffering through the same type of issues and problems, will take this to heart as well. We will offer the same letter to them. In a letter, we will also ask that an annual report come back to the Legislative Commission on a formal basis regarding what progress is being made. Now, more than ever, we should see a higher level of cooperation amongst you.

SENATOR SCHNEIDER MOVED TO WITHDRAW S.B. 322 AND HAVE THE SENATE COMMITTEE ON TRANSPORTATION AND HOMELAND SECURITY SEND A LETTER TO ALL UTILITIES AND PUBLIC ENTITIES IN CLARK COUNTY DIRECTING THEM TO WORK TOGETHER TO COORDINATE INFRASTRUCTURE AND PUBLIC WORKS PROJECTS.

SENATOR CARLTON SECONDED THE MOTION.

SENATOR CARLTON:

I was going to mention that some of us will be sitting on the Legislative Commission during the interim. There is nothing stopping you from asking to

give a presentation to the Commission in order to fill us in on what is happening so we can be kept in the loop.

CHAIR NOLAN:

I am going to direct my staff to draft a letter. We will offer the chair of the Assembly Committee on Transportation the opportunity to participate if they would like to sign on. The letter will be sent to southern Nevada and Washoe County commissions with regard to the nature of our concerns. The content of the letter would be a directive from the legislative transportation committees to the municipalities, local utilities, and all of those affected to develop a consortium.

We will formally request the Southern Nevada Home Builders Association and Mr. Duncan to dedicate time and resources to coordinate the efforts to create a formal committee. The committee should meet regularly to better coordinate infrastructure project execution and timing to minimize the impact on the public. The committee should also make recommendations and return to the Legislature with those recommendations.

We will give the entities until sometime mid-2006 to develop something reasonable and report back to the Legislative Commission on their progress. In the event that no collaborative action plan develops, it would be my intent through the Senate Committee on Transportation and Homeland Security to initiate a very draconian piece of legislation. In other words, we will revive the "Schneider Legislation," which I think is not tough enough.

We are serious about this. I know you are serious as well and that you will take this to heart.

THE MOTION PASSED. (SENATOR HORSFORD WAS ABSENT FOR THE VOTE.)

CHAIR NOLAN:

We will close the hearing on S.B. 322 and open the hearing on S.B. 327.

SENATE BILL 327: Transfers authority to provide for benches and shelters for public mass transportation from local governments to regional transportation commission in certain larger counties. (BDR 32-1167)

MR. GUINAN:

Senate Bill 327 is sponsored by Senator John J. Lee, Clark County Senatorial District No. 1. There was opposition to the bill from the RTCSN. We have no proposed amendments.

CHAIR NOLAN:

I would like to have Senator Lee address his desire for what we should do in processing this bill.

SENATOR JOHN J. LEE (Clark County Senatorial District No. 1):

My bill is to continue to move forth with the word "shall" and give this to the RTCSN. Long after you and I are gone, we are still going to have bus shelters, mass transit and the responsibilities to constituents.

My goal is to move this responsibility to the RTCSN. I have had meetings with them, and they understand the issue. They do not want to come on board looking like kingdom builders, but they have told me they could do a better regional job than what is happening right now. I am willing to accept whatever we can work out here today.

CHAIR NOLAN:

That agrees with what you had told me earlier; you would like to process the bill in its current form. The opposition to the bill was both spoken and through e-mails following the initial hearing on the bill. The opposition came from the RTCSN. They really do not want to do this. They do not feel that it was in their purview.

BRYAN GRESH (Regional Transportation Commission of Southern Nevada):

I believe there is a slight confusion in the record. The RTCSN did not testify on this bill when it was initially heard nor did we oppose it. What the sponsor of the bill has indicated is correct.

In a meeting with Senator Lee, a representative of the RTCSN and I had a far-ranging discussion about this issue. At one point, it was asked if the RTCSN could do the job of handling the bus-shelter issue. The answer was that we

could probably do as good a job as the entities, although the entities may not think that we could. There were concerns expressed with regard to how much this was going to cost.

Those were the things discussed in that meeting. We have not sent any e-mails to Committee members or stated that we were in opposition. I wanted that to go on the record, Chair Nolan.

CHAIR NOLAN:

Thank you, Mr. Gresh. I do not think there was any confusion in my comment. I portrayed what I perceived to be an inaccurate statement. At any rate, we will not argue the point.

Right now the Committee needs to make a decision on whether or not we are going to require the RTCSN to place a shelter at each bus stop on their routes.

VICE CHAIR HECK:

Whether or not the responsibility resides with the RTCSN, I think someone needs to come up with a plan to provide shelters at all the stops where shelters can be placed without the restrictions of construction, access or other property issues.

Less than 50 percent of the bus stops throughout the county have a shelter. They want to count benches as being a service stop, but a bench is a far cry from a shelter. Someone needs to be compelled to provide a plan on how they are going to put shelters at those stops that require them.

SENATOR CARLTON:

I support Senator Lee and what he is trying to accomplish. If the RTCSN can do the job, then I feel we should give it to the RTCSN. We can monitor what happens over the next couple of years.

CHAIR NOLAN:

It would be great if we had a plan. I am sure there is a lot more involved than simply putting up a shelter at each stop. I have the mindset that we should develop a plan, give the RTCSN the latitude to do these things and design a shelter. Shelter design may be simple or very expensive. In some cases, shelters are solar powered and some require hardwiring in order to operate the lighting systems. There are some nontraditional shelters which are pretty much

plain-Jane and inexpensive, but they do provide shade when it is unbearably hot and something over your head when it is raining.

SENATOR LEE:

I believe there are groups within the RTCSN that can put these plans together. I just know that if you are waiting for a bus at 11 p.m. to work and the light is not on in the bus shelter, it can be scary.

Again, long after we are gone, and we put this in place, the delivery system to the transportation system will be far better off if it is managed by the same entity. I appreciate your support.

VICE CHAIR HECK:

Who is going to manage the project? I do not necessarily mean who is going to own the shelters or who is responsible for putting them in place, but who is going to manage the project? In that regard, I agree the RTCSN is probably the place to put that responsibility. So, perhaps it should be the RTCSN that is the overseer, while the sub-entities still put them up and are responsible for maintaining them. The RTCSN would be the one who calls the city to say they need a shelter in a particular location or a shelter is broken and needs to be repaired. They need to put together a committee that will develop a plan that demonstrates over a period of time there will be shelters in place where that is possible.

SENATOR LEE:

That is the plan. That is why we are here today, Senator Heck. It is a regional issue now. This is a big community. We need to have it properly managed.

VICE CHAIR HECK:

So giving the RTCSN the management authority is not going far enough. Do you want RTCSN to own it lock, stock and barrel?

SENATOR LEE:

I want the RTCSN to be fully responsible for protecting our constituents from the environment. I want them to be fully responsible for why the bus did not show up on time. I want to keep everything under the control of one entity to ensure that it is done properly.

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VICE CHAIR HECK:

Mr. Gresh, is the RTCSN willing to accept that; 100 percent, complete management of bus stop shelters?

MR. GRESH:

Yes, if it is the wish of this Committee and this Legislature.

CHAIR NOLAN:

Mr. Gresh, I owe you an apology regarding the RTCSN and the e-mail I received. The e-mail did address opposition to another bill, and in that same e-mail a request was made to speak to me regarding this bill. However, it did not expressly tell me that they were in opposition to S.B. 327. I apologize for the mistake on my part.

ROBERT A. OSTROVSKY (City of Las Vegas):

I need to respond to one thing. I think there is another question to pose. Is the RTCSN willing to manage the curbs, sidewalks and other infrastructure? Those rights-of-way belong to local government.

Maybe the RTCSN could work through the questions of how to manage the shelters and who to call. The fact of the matter is those rights-of-way are the responsibility of those local governments. They install those improvements and are responsible for them. That is where the issue gets a little more complicated.

CHAIR NOLAN:

Senator Lee, in the first section of this bill, it states, "The Commission shall provide for the construction and maintenance of" I do not know if that has the same effect as if it stated, "The Commission shall coordinate the construction and maintenance" In that case, what they are doing is actually being the ones who are developing the plan and then working with the local entities that may be responsible for erecting the shelters.

SENATOR LEE:

Chair Nolan, I see where you are going with this and you know I have respected you since the day we met. I think the way the bill is written, if these people can manage all these routes, put all these signs up and take care of everything that goes on, I am sure they can put up a \$3,000 bench and shelter to protect the constituents of our districts. It is somebody's responsibility; somebody does need that shelter.

MR. GRESH:

I would like to make a quick point of clarification. I need to elaborate on a point that Senator Heck made.

The RTCSN has not taken a formal position on this bill. There is no formal position on the part of the RTCSN on this particular piece of legislation. The Committee can do what it chooses to do today; it is your wish and your prerogative. This bill has not been before the RTCSN to take a formal position.

CHAIR NOLAN:

I appreciate that. The bill has been drafted and out there for quite a while.

SENATOR WASHINGTON MOVED TO DO PASS S.B. 327.

SENATOR CARLTON SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

CHAIR NOLAN:

We will close the hearing on S.B. 327 and open the hearing on S.B. 380.

SENATE BILL 380: Revises provisions relating to Nevada Commission on Homeland Security. (BDR 19-611)

MR. GUINAN:

There are extensive amendments that have been proposed by the working group from the Nevada Commission on Homeland Security in relation to both S.B. 380 and Assembly Bill (A.B.) 233 ([Exhibit J](#), original is on file at the [Research Library](#)). We also have proposed amendments from the American Civil Liberties Union of Nevada (ACLU) ([Exhibit K](#)).

ASSEMBLY BILL 233: Revises provisions relating to Nevada Commission on Homeland Security. (BDR 19-1200)

CHAIR NOLAN:

The amendments put together by the working group are the same amendments that were provided to the Assembly on A.B. 233. The Assembly bill is very

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similar to S.B. 380 and was introduced after this bill. It is my understanding that the amendments proposed by the working group would bring S.B. 380 into conformity with A.B. 233. At some point these two bills will be combined.

My question, as the sponsor of S.B. 380 is if the ACLU's proposed amendments to A.B. 233 were adopted by the Assembly? If they were not adopted by the Assembly, that means they were rejected by the speaker who was the primary proponent of this bill. Could someone from the ACLU tell us if the proposed amendments we have before us today were adopted in whole or in part by the Assembly?

LAURA M. MIJANOVICH (American Civil Liberties Union of Nevada):
The proposed amendments for A.B. 233 that were submitted to the Assembly are the same amendments the ACLU has submitted to this Committee for S.B. 380.

CHAIR NOLAN:
Have these amendments been adopted by the Assembly?

MS. MIJANOVICH:
Not to my knowledge. It is my understanding the amendments are still pending. I received an e-mail from Assemblyman David Parks, Assembly District No. 41, stating that the ACLU's proposed amendments were reasonable and that they were considering them. That is all I have as a statement from the Assembly.

CHAIR NOLAN:
Right now, we cannot tell what the status is of A.B. 233. The reality is, the two bills are going to come together and there is going to be a conference committee, because there are some subtle differences between the two bills.

It is my opinion that we just take this to conference committee when the two bills meet and then consider these amendments in conference.

SENATOR CARLTON:
I do not think there would be too much of a problem dealing with the open meeting section of this bill. It seems to be clear what parts of a meeting should be closed and what parts of a meeting should be left open to the public.

I believe the open meeting part of this is not a bad idea. I would like the Committee to at least discuss that portion.

CHAIR NOLAN:

Mr. Olsen, we have the ACLU amendments before us. I know, being a member of the Nevada Commission on Homeland Security, there was a great deal of discussion, debate and research regarding Nevada's Open Meeting Law. The Nevada Commission on Homeland Security was interested in both the open meeting and closed meeting provisions of that law with respect to constitutional issues and First Amendment rights. The Commission was specifically interested in how a meeting conducted by a public body could be closed to the public. Mr. Olsen, please respond to the amendments being provided by the ACLU.

MR. OLSEN:

The Committee may not be aware but there was a working group of interested parties of which the ACLU was a part. At the time, the discussion was on section 8 in the original draft of S.B. 380 pertaining to closing certain meetings. The working group has made the recommendation that section 8 of the bill not be changed, that existing language would stand and there be no discussion about closing meetings.

With that said, in defense of the working group's efforts, the ACLU expressed some concerns at the meeting. Their amendments were not supplied before we had to have a finished document. Once the ACLU's amendments came in and the discussion at the hearing on this bill in this Committee was done, the amendments changed from the first time on the original draft of the bill. Now, the amendment is intending to address existing language.

Again, the working group felt there was no need to change it. Now, what the ACLU is trying to do is go back and amend what is existing language and has been for the last two years. It has not shown to be a problem and has not been used.

SENATOR CARLTON:

I do not understand what the problem would be. In section 8, subsection 2, of the ACLU's proposed amendment to A.B. 233, [Exhibit K](#), it states that: "The Commission or a committee appointed pursuant to NRS 239C.170 may close the relevant portions of a meeting [hold a closed meeting] to: (a) Receive security briefings related to threats or actual acts of terrorism, tactical plans,

vulnerability assessments and discussions to prepare for threats or acts of terrorism;" You are still allowed to close the pertinent parts of the meeting that you feel are a security risk. The language clarifies that. I do not understand why this is bad language. It seems to address everything we have discussed over the last several years.

Yes, we understand you need to close the doors. I do not want to know some of the things you know. I would not be able to sleep at night if I knew some of those things. This gives you the opportunity to close those doors when needed. I just do not understand what your problem is with the language.

MR. OLSEN:

The amendments I have from the ACLU are not the same amendments we are discussing here.

SENATOR CARLTON:

This is out of the proposed amendments to A.B. 233, [Exhibit K](#), that are being discussed in the Assembly Committee on Government Affairs.

CHAIR NOLAN:

Senator Carlton, I know that your question was directed at Mr. Olsen. I am looking specifically at section 8, subsection 2, paragraph (a) of the proposed language, which reads, "Receive security briefings related to threats or actual acts of terrorism, tactical plans, vulnerability assessments and discussions to prepare for threats or acts of terrorism" Then it goes on to current language.

We have contemplated those things that the ACLU has perceived would be those topics the Committee would need to discuss in private.

SENATOR CARLTON:

I agree.

CHAIR NOLAN:

What I fear is that certain issues necessitating a closed-door meeting have not been included. Given time, I am sure I could think of a few that have been omitted. Because they have not been named, we risk the potential of violating the Open Meeting Law, if and when they close a meeting for a purpose not included in this language.

If the working group which is actually communicating with the chair of the Nevada Commission on Homeland Security has not had time to really digest this, I suggest we give ourselves more time to take it back to the chair and discuss this in conference. I am just afraid we are going to hamstring ourselves somehow.

SENATOR CARLTON:

I understand what you are talking about but I actually read this a little differently. Before, it just said, "receive security briefings ..." I think you have a list of many different types of things. If it is truly a threat, a threat can be a very open act of terrorism. We had a huge debate on what terrorism is. Is it civil? Is it disobedience? We have been through all this before. I see this as better language because the Commission can say that we have been told we can do this. Therefore, they will not get criticized for having these closed-door meetings any longer when they do need to discuss these things. So, I see this as a benefit to the Commission.

MR. OLSEN:

My concern is that the ACLU was at the meeting and had the opportunity to supply amendments. Now suddenly, they are coming up with amendments the working group has not had a chance to see. The ACLU was given multiple extra days compared to anyone else to supply their amendments, and they did not. They are blindsiding us with something new.

SENATOR CARLTON:

I understand that. These are amendments to an Assembly bill that has been out there for a long time. I am not here to carry the water for the ACLU. I am here to try to give the Commission the opportunity to have the closed meetings they need.

I do not have a problem with their language. My questions were geared more towards the language. That is what I am trying to address. I will withdraw the rest of my questions. I do not want a big debate. Some people are looking at the ACLU's amendments as being one thing whereas I think it is actually a good thing for the Commission to have.

CHAIR NOLAN:

I do not disagree with you.

I think the Commission should have more time to digest this. Undoubtedly, in the work session these issues are going to be brought up. We will be able to better address them after the Nevada Commission on Homeland Security has had a chance to really spend some time looking at them. In the end, they may decide the ACLU's amendments are a better provision than what we had before.

We really need to give them the time to review this. It would be my inclination to amend and do pass the bill with the amendments provided from the working group in [Exhibit J](#). Then, we should allow the ACLU amendments to be considered in the work session at a later date.

Mr. Olsen, I would like for you to take the amendments proposed by the ACLU back to the working group, evaluate them and come back when this bill is addressed in a work session.

MR. OLSEN:
That is fine

CHAIR NOLAN:
I would ask you to make sure those discussions include a representative from the ACLU.

MR. OLSEN:
For the record, Laura Mijanovich is a member of the working group.

MS. MIJANOVICH:
I would have preferred to just deal with, as Senator Carlton has brought up, the substance of this bill. There are very simple issues that the ACLU is bringing to this Committee's attention. Very simple and straightforward, and they would make this bill much cleaner and more in accordance with open meeting principles.

I would like to make some clarification about my participation in the work group. I did participate. I brought up many of the issues including the revisions to section 8. I did submit the proposed amendments on Monday morning. I was not aware that Monday morning would be too late. I was not aware there was a deadline with this Committee. I apologize if it caused so much distress to Mr. Olsen.

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CHAIR NOLAN:

That is okay. Your comments are on the record and we appreciate that.

SENATOR HECK MOVED TO AMEND AND DO PASS S.B. 380 WITH THE AMENDMENTS PROVIDED BY THE [EXHIBIT J](#) WORKING GROUP.

SENATOR AMODEI SECONDED THE MOTION.

THE MOTION PASSED. (SENATORS WASHINGTON AND SCHNEIDER WERE ABSENT FOR THE VOTE.)

CHAIR NOLAN:

We will close the hearing on S.B. 380 and reopen the hearing on S.B. 344.

Mr. Ho, do you have additional information for the Committee on the interlocking breathalyzers with regard to cost, how they work and how they apply to the bill?

MR. HO:

To answer Senator Carlton's earlier question, the interlock system measures a blood alcohol concentration (BAC) level of 0.02. That is calibrated through the company that makes the breathalyzer. Once the individual has the system installed in their vehicle at a cost of \$70 for the installation, they are shown how to use the system. The installation process takes an hour. Teaching the proper technique to breathe and use the system correctly takes about half an hour.

SENATOR CARLTON:

Is the legal limit on drinking a BAC level of 0.08?

MR. HO:

Correct

SENATOR CARLTON:

This system will be installed on a car that potentially multiple persons can use. If the wife was the one who got in trouble and the husband got in the car and was blowing a BAC level of 0.03, would the car not start?

MR. HO:

Correct. In my discussion with Ray Figueroa, who is the Director for the Moderate Offenders Program, he gave me a lot of information regarding the technical side of the interlock-ignition program. One thing that is made clear to all recipients of this system is they are told that if they are going to use mouthwash, it should be used 20 minutes prior to starting their car. The breathalyzer actually tests for any alcohol on the breath from the inhalation and breathing into the tube.

There is a manual which comes with the interlocking-ignition system. The manual tells the reader the "do's and the don'ts," about what will set off the device. However, if the individual does use mouthwash and it does set off the interlock ignition system, they do have a second chance. About 20 to 30 minutes later, they can try again. If the person tests for a false and it goes off and say the person is drunk, they come back 30 minutes later and the device goes off again, the car will not start.

There is a computer attached to this system that downloads all the information from false positives to the miles driven with the system installed on the vehicle. The computer also captures all of the BAC levels that have been breathed into the system. Every 30 days, the individual is required to go back to the manufacturer to have the information downloaded from their vehicle. The information is given to the technician who is in charge of watching over that individual's vehicle. That information is disseminated to the courts.

SENATOR CARLTON:

We have had this discussion about these systems in recent Legislative Sessions. Mr. Ho, did you look at any history with regard to these provisions?

MR. HO:

No. I do know there are statutes that regulate. There is a committee that actually regulates the calibration of the systems. That can be found in NRS 484.3947.

SENATOR CARLTON:

Are they are available in this State?

MR. HO:

Yes. There are numerous companies in Las Vegas. Currently, the north is getting a couple of companies now. In discussions with interlock companies that provide this service, if there is somebody who needs to have this device installed, the company will fly someone out to install the system in an area such as Elko or Ely.

SENATOR CARLTON:
At whose cost?

MR. HO:

It would be at the cost of the company. They want to make sure these people are receiving their ignition systems.

SENATOR CARLTON:
Thank you.

MR. HO:

Now, I would like to answer Chair Nolan's question about penalties for tampering or driving without the interlocking-ignition system as designated by the courts. In NRS 484.3945, it outlines all punishments that can be given to an individual who does any tampering with a device or does not install the device according to court order. It also gives the revocation period for driver's licenses in NRS 483.460.

CHAIR NOLAN:

Thank you for getting that information. The testimony was that someone who has consumed enough alcohol to result in a citation for driving under the influence (DUI) of alcohol with a BAC level of 0.18, has consumed enough that they are absolutely impaired. There are laws against driving under the influence and being impaired.

There are some questions to answer. First, do we feel that the person who has made that conscious decision to get behind the wheel of a car and drive impaired should have this enhanced penalty apply to them? That is the first policy question this Committee has to answer. Second, I feel there is some reservation on the part of Committee members regarding the recent requirement in the amendment that we have in front of us today. We have not had a lot of time to discuss the way the whole interlock system works. I appreciate what

you have presented to us; it has given us a lot of information from which to work.

There are still some questions that would probably take us beyond the time of today's meeting to answer about whether or not the services are even available statewide since this will be initiated statewide. Are there technicians and services available in the rural counties? Are the courts ready to deal with the issues of violations and using the interlocking system under this particular provision? These are things we have not discussed and they might not even fall within the purview of this Committee.

MR. HO:

I am willing to take out the particular amendment that deals with the interlock system. My main focus with the amendments that have been proposed to you is the one that closes the loophole and makes it a felony. After the initial felony, if the offender has a subsequent DUI following sentencing as a category B felony, the subsequent DUI offense does not go back to a misdemeanor. That is in section 15.

CHAIR NOLAN:

Is there any additional discussion? I hesitate to take a vote when we are two committee members shy; I am not sure how the vote will come out. I feel it is probably wise to take out that provision because the interlock complicates the bill somewhat. We just have not had enough time to discuss it.

SENATOR CARLTON:

I would be happy to support the bill to make sure it gets out of Committee. The full Senate body can debate this. I may change my mind on the Senate floor. Thank you for making the offer to remove that provision. That makes me more comfortable. I would like to study it a little more, but I will support the motion to at least move the bill out of Committee.

SENATOR HECK MOVED TO AMEND AND DO PASS S.B. 344 WITH THE PROPOSED AMENDMENTS, EXHIBIT D, WITH THE EXCEPTION OF THE PROPOSED CHANGES TO SECTION 15, SUBSECTIONS 4 AND 5 PERTAINING TO THE INTERLOCKING SYSTEM.

SENATOR AMODEI SECONDED THE MOTION.

THE MOTION PASSED. (SENATORS WASHINGTON AND SCHNEIDER WERE ABSENT FOR THE VOTE.)

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CHAIR NOLAN:

We will close the hearing on S.B. 344 and open the hearing on S.B. 290.

SENATE BILL 290: Removes limitation on issuance of special license plates commemorating 100th anniversary of founding of Las Vegas. (BDR 43-223)

MR. GUINAN:

There is an amendment that was not drafted. As it stands, there are no proposed amendments to S.B. 290. I believe Chair Nolan may have some discussion on the topic.

CHAIR NOLAN:

The proposed amendment was going to be for the Committee to discuss. Actually, we will draft the amendment; we just could not get it out in time. We need to have the policy discussion of really broadening what this Commission does so the Legislature does not find itself, or allow itself, to have the process that we already have established in statute to be circumvented.

The Commission is actually at a complete standstill right now with the limitations we have put on the number of allowable special license plates. We cannot accept any more license-plate bills. There are a number of license-plate bills for very good causes that have been presented to the Commission. They are on a waiting list with literally thousands of people who have signed up for them. Mr. Guinan, how many license plates are on the waiting list?

MR. GUINAN:

The limit is 25. There are 26 special license plates that have been approved. So, there is one on the waiting list. There are several applications that have been submitted to the Commission, and the Commission has not had a chance to look at those. In addition, there is the Red Rock plate that we are going to discuss in today's work session.

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CHAIR NOLAN:

We will prepare an amendment and have that discussion later.

This is a widely popular Las Vegas commemorative anniversary plate. Do we remove the cap that was legislatively established, or do we leave the cap in place?

SENATOR CARLTON:

I plan on voting no. I supported the original bill because it had the limitation. It is my recollection that I was one of the few who voted against the Commission on license plates. I was not supportive of that either. I think if a Legislator wants an opportunity to bring a proposed plate to this body and they can convince people that it is a good thing to do, then we should be able to process it.

I have helped to process one license plate and I do not plan on ever doing another one. The sponsor of the bill spoke to me about the good work this money would do. But, my original vote on this bill hinged upon the fact that there was a sunset date. Unfortunately, I will not be able to support this, even though I do know the money is going to a good cause.

SENATOR HORSFORD:

Does the recommendation lift the cap forever?

CHAIR NOLAN:

Yes. The commemorative plate would be just like any other vanity plate. It would be available for people to buy whenever it sunsets.

MR. GUINAN:

Currently, the Department of Motor Vehicles (DMV) reviews the purchase of plates under the rules set when the Commission was established. I believe they review the plates every year. Then, if the plate falls below a threshold purchase number, which I believe is 1,000 in a given year, the DMV takes that plate out of circulation. So, there is a cap that could apply to this plate at some point, if the plate becomes unpopular. The cap would not exist in statute as such.

SENATOR HECK MOVED TO DO PASS S.B. 290.

SENATOR AMODEI SECONDED THE MOTION.

SENATOR HORSFORD:

I would like to put on the record that based upon legislative intent, for those who purchased the plate, to have this decision now affects the value of what that plate otherwise would have meant, I wonder whether or not it would be better for this legislative body to extend it for another period of time. Rather than just letting this go on forever, perhaps as part of a compromise or as some consideration for the people who are buying this plate, could we consider an extension?

I understand the sponsor's intent and how well this plate was received in the city of Las Vegas. However, I think part the reason it was such a success is because it was for one year. I wanted to put it out there for the Committee's consideration.

CHAIR NOLAN:

I really do not have a sense of which way the vote would go on this if we took it just on face value. I do not disagree with what Senator Horsford stated. At least, with regard to the Legislature. The Legislature did this based upon the fact that this was going to be a limited license plate. At the same time, they established a Commission to try to cap the amount of activity.

We understand it is a popular plate and that it is raising money. I do not believe there was any marketing effort on behalf of the DMV to convey to the people buying the plate that it was a limited plate. These plates were offered to the public just like any other vanity plate. Is that correct?

Show for the record that the representatives in the audience from the DMV stated yes.

I feel that a compromise would be reasonable. Mr. Ostrovsky, do you have a compromise? I was thinking of perhaps limiting the bill through this year, which is actually the centennial year, unless you have something better.

MR. OSTROVSKY:

Let me tell you what the downside would be of making such a compromise. It limits the funding stream that we think can be used for historic-preservation projects. Then, we would not have a steady stream to be able to fund bigger types of preservation projects, because we would only have a short window span.

You also would create a new class of blue plate holders down the road. That creates problems later because people become married to their plates to the extent that when you want to reissue a plate or do something new in the licensing system, you begin to develop classes of plate holders.

We would prefer to lift off the cap of this plate, which I know is for preservation and for the centennial celebration, but people who buy this plate view it as a badge of honor for living in Las Vegas. We would prefer not to make a compromise if we can avoid it.

SENATOR HORSFORD:

Chair Nolan, can you explain what we are doing with other plate proposals that are before us? I feel we need to make the decisions on these plates altogether. Part of what we are going to do with those bills is going to determine my vote on this bill.

CHAIR NOLAN:

We have the other bill on the docket. It would be my intention to have the same type of open discussion we have had on this bill.

This is a plate that has been approved and is currently on vehicles right now. The question before us is not whether or not to approve another plate but, whether or not to take off the cap and extend it.

It appears that the individuals who have brought this bill to us are unwilling to address a compromise voluntarily. This bill has become something it was not intended to be or is desired to do something it was not intended to do and that is to become a permanent funding source. Although the charity is a good one, I do not know that extending this complies with the original legislative intent. I am very amenable to extending it for a time, but I think the original intent of the bill and what was delivered to the Legislature should probably stand.

VICE CHAIR HECK:

This Legislative Session, I have heard a lot about the concept that no Legislature can obligate a future Legislature. Mr. Guinan brought up that at some point in time, if sales drop, the plate will stop being produced. That, in and of itself, is a self-limiting factor.

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I would suggest that we let all other Legislators know that, in the future, any bill that comes before us pertaining to the issuance of a license plate will get an automatic vote to indefinitely postpone. Then, the proposal would go directly to the Commission.

CHAIR NOLAN:
Is there any additional discussion?

THE MOTION PASSED. (SENATORS NOLAN AND CARLTON VOTED NO.
SENATOR SCHNEIDER WAS ABSENT FOR THE VOTE.)

CHAIR NOLAN:
We will close the hearing S.B. 290 and open the hearing on S.B. 469.

SENATE BILL 469: Authorizes use of interest earned on money in State Highway Fund to match federal money for rural transit operations in certain counties. (BDR 35-1047)

MR. GUINAN:
Senate Bill 469 was brought to this Committee by way of the interim mass-transit study. There have been no proposed amendments.

SENATOR HORSFORD MOVED TO DO PASS S.B. 469.

SENATOR WASHINGTON SECONDED THE MOTION.

CHAIR NOLAN:
It is my understanding that currently the interest earned is reverted back into the State Highway Fund. It is then allocated for general use for general improvement and transportation projects. The rural counties receive a portion of those funds. The portion received is determined in a priority process by which projects are needed the most. The interest earned would actually be a substantial increase to what some of those counties are receiving with the current allocation process. As the Nevada Department of Transportation (NDOT) determines a priority for a particular project in a rural county, the NDOT will allocate funds for that particular project.

This bill earmarks money in a nontraditional way to those rural counties. This would supplant the way funding is currently provided for those projects. All it would do is initiate a cost shifting of sorts where the NDOT would state that the funds appropriated through the interest to the rural counties is X amount. That simply means we do not have to dedicate that much more from the Highway Fund to those projects. I do not know if it really does the rural areas any good other than providing more dedicated funds to them in an uncoordinated fashion. That is my understanding of the bill.

SENATOR HORSFORD:

I realized that I was looking at a different bill when I made my earlier motion.

SENATOR HORSFORD MOVED TO WITHDRAW HIS PREVIOUS MOTION
TO DO PASS S.B. 469.

SENATOR WASHINGTON WITHDREW HIS SECOND.

SENATOR HORSFORD:

The only other question I have is whether or not the interim study will continue, or whether that recommendation needs to be looked at. There are some issues that were brought forward in the interim study, and while the intent of this bill may not meet the intent of what needs to happen now, there are other recommendations that need to be explored. So, as a matter of policy, I do not know whether this bill has to be kept alive. Do we need to amend it to recommend for a continued interim study?

CHAIR NOLAN:

The interim study committee was a one-time committee. It dealt with the feasibility of long-range mass transit within the State to and between urban areas. This was an area of interest in trying to develop some type of ground mass-transit or rapid-transit system between the rural and the urban areas.

Mr. Guinan, do you have any background information to add?

MR. GUINAN:

I know there are quite a few bill draft requests that have resulted from the mass-transit study.

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SENATOR NOLAN MOVED TO INDEFINITELY POSTPONE S.B. 469.

SENATOR HECK SECONDED THE MOTION.

THE MOTION PASSED. (SENATOR SCHNEIDER WAS ABSENT FOR THE VOTE.)

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CHAIR NOLAN:

We will close the hearing on S.B. 469 and open the hearing on S.B. 215.

[SENATE BILL 215](#): Provides for issuance of special license plates for support of protection and enrichment of natural environment of Red Rock Canyon. (BDR 43-1285)

MR. GUINAN:

There is no opposition to S.B. 215 and there are no proposed amendments.

CHAIR NOLAN:

I support the efforts on where the money goes that will be generated from this plate. It is a very attractive license plate. But, the policy is that this plate should go in line behind the others waiting to be processed, unlike the bill we just voted on, which had already been approved.

SENATOR HORSFORD:

I think we should lift or adjust what the Commission is doing in order to provide more proposals before them so these bills do not have to come to this Legislature and that we provide some mechanism to do that.

CHAIR NOLAN:

That would be my intention with the amendment that we were hoping to have prepared today. It just did not get out of draft in time. I propose that we not take any action on this bill and let it rest.

We would ask that this bill be placed in the queue with the DMV. Then, we will take action to try to expand the abilities of the Commission to address these particular issues.

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SENATOR HORSFORD:
Why can this vehicle not meet that intent?

CHAIR NOLAN:
It is all just a function of the deadline. We took it to draft and they are just inundated with work. It just did not have the time needed to get drafted.

SENATOR HORSFORD:
Based upon other measures that are before all the other committees, there is an ability to do a conceptual amendment and keep the bill moving. We can always have a floor meeting to review the final language. I do not think we should wait if that is the intent of this Committee; let us amend the bill now and meet that intent.

CHAIR NOLAN:
The reason why I was going to tag this onto the other bill was that I actually saw some justification in that other bill to expand the cap on a limited basis. My reasoning was that the other license plate had already been approved and is out in the market. This would be a brand new bill to be approved. It came forward after the Commission was established by the Legislature. I think this would be circumventing the Commission.

I do not think that amending this bill at this late hour would work. It does not meet the intent of what we are trying to do in the first place. I am bringing it forward for discussion by the Committee, but my comments are the same; send it to the Commission.

Short of taking another motion, I would like to allow the bill to set. When we find the appropriate vehicle, we will then put an amendment in allowing any person who has a bill to return to the Commission. Only we are going to give them a little bit better latitude to try to make decisions to approve these types of bills.

SENATOR HORSFORD MOVED TO AMEND AND DO PASS S.B. 215 WITH THE CONCEPTUAL AMENDMENT THAT THE COMMISSION IS ALLOWED TO INCREASE THE NUMBER OF LICENSE PLATES IT IS AUTHORIZED TO ADOPT TO 30 AND THE PROVISIONS IN S.B. 215 BE PUT ON THE WAITING LIST FOR CONSIDERATION.

THE MOTION FAILED FOR LACK OF A SECOND.

CHAIR NOLAN:

If there is no other proposed motion, then there will be no action taken on S.B. 215.

We will close the hearing on S.B. 215 and open the hearing on S.B. 474.

SENATE BILL 474: Prohibits Department of Motor Vehicles under certain circumstances from renewing registration of motor vehicle if court has filed notice of nonpayment of certain outstanding criminal fines and fees with Department. (BDR 43-219)

We have been requested to revisit S.B. 474. We had taken a vote on this provision as amended (Exhibit L). The vote was three to three, and we did not have a full committee at the time. The motion to amend and do pass failed. We will bring it up for reconsideration at the request of Vice Chair Heck.

SENATOR HECK:

Senate Bill 474 was submitted on behalf of the Nevada Judges Association. They are trying to expand the mechanism already in use to go after delinquent parking fines to other violations in which an individual does not pay their court fines. In those cases, a notification would be sent to the DMV which would then prevent the reregistration of the offender's vehicle until there was evidence shown that the fines were paid. It does not suspend anyone's registration in midstream, but at the time they go to reregister their vehicle, it would be disallowed until proof of payment was made.

CHAIR NOLAN:

Would you identify the amendment?

VICE CHAIR HECK:

The proposed amendment from the April 12, 2005, meeting deletes subsections 1 through 4 in section 1. Section 2 amends in the reference to the NRS 176.064. Page 3, line 35 deletes the make and model year. The only thing that would be provided is the license-plate number. An amendment was going to be provided for a hardship exemption. If someone showed a hardship, not having

the ability to pay, there would be some provision for them to keep their registration.

SENATOR HORSFORD:

How does this apply to rental cars? Where is that exemption? I know when a car is rented, the driver is liable for their own parking tickets. If this bill is passed and those fines are automatically transferred to the DMV, the DMV is going to put a hold on registrations that may be rental cars.

CHAIR NOLAN:

Ms. Barnes, can you help us with this?

MARTHA BARNES (Administrator, Central Services and Records Division, Department of Motor Vehicles):

We agreed to make this process similar to our parking program. Currently, in the parking program, if there is a parking ticket in Washoe County, it would show on the record. We would send a notice to that customer stating that they would need to clear the parking ticket before their registration would be renewed. That is basically how the program works from our side.

SENATOR HORSFORD:

If a car was rented, and if the person renting the car gets a ticket, the rental contract states the rental driver is responsible for any tickets obtained. The DMV would put a hold on the registration of the rental car at the rental car company. Is that correct?

Ms. BARNES:

That is correct. The registration hold would go against the vehicle.

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CHAIR NOLAN:

Without any proponents of the bill being present to acknowledge or agree to an amendment to their bill, I do not know that we should amend their bill for them. Perhaps, we should just let this bill rest in peace as it was before we exhumed it.

The meeting of the Senate Committee on Transportation and Homeland Security is adjourned at 4:51 p.m.

RESPECTFULLY SUBMITTED:

Sherry Rodriguez,
Committee Secretary

APPROVED BY:

Senator Dennis Nolan, Chair

DATE: _____