

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

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

The Committee on Transportation was called to order by Chairman Richard Carrillo at 2:40 p.m. on Thursday, May 9, 2013, in Room 3143 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4406 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at [nelis.leg.state.nv.us/77th2013](http://nelis.leg.state.nv.us/77th2013). In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (email: [publications@lcb.state.nv.us](mailto:publications@lcb.state.nv.us); telephone: 775-684-6835).

**COMMITTEE MEMBERS PRESENT:**

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

**COMMITTEE MEMBERS ABSENT:**

Assemblywoman Lucy Flores (excused)  
Assemblywoman Melissa Woodbury (excused)



**GUEST LEGISLATORS PRESENT:**

Senator Barbara K. Cegavske, Clark County Senatorial District No. 8  
Senator Donald (Don) G. Gustavson, Senatorial District No. 14

**STAFF MEMBERS PRESENT:**

Richard Combs, Director, Legislative Counsel Bureau  
Vance Hughey, Committee Policy Analyst  
Sean McCoy, Committee Policy Analyst  
Scott McKenna, Committee Counsel  
James Fonda, Committee Secretary  
Olivia Lloyd, Committee Assistant

**OTHERS PRESENT:**

Kimberly Maxson Rushton, representing the Livery Operators Association of Las Vegas  
Michael Sullivan, representing Whittlesea-Bell Transportation  
Sean Gamble, representing Frias Holding Company  
Andrew J. MacKay, Chair, Nevada Transportation Authority, Department of Business and Industry  
Robert L. Compan, representing Farmers Group Inc.  
Paul J. Enos, representing the Nevada Trucking Association  
Chelsea Capurro, representing AAA Northern California, Nevada, and Utah  
Karen Peterson, representing American Express  
Lisa Foster, representing American Family Insurance; and Allstate Insurance  
David Goldwater, representing Desert Cab; and On Demand Sedan & Limousine  
Neal Tomlinson, representing Frias Transportation  
Kelly Kuzik, Management Analyst, Taxicab Authority, Department of Business and Industry  
Mike Draper, representing Ewing Brothers Corporation  
Brin Gibson, representing R & S Investments  
Lorne Malkiewich, representing Ewing Brothers Corporation  
Danny Thompson, representing the Nevada State AFL-CIO  
Gail Tuzzolo, Private Citizen, Summerlin, Nevada  
Randy Soltero, representing the International Alliance of Theatrical Stage Employees Local 720; and Teamsters Local 631  
Samuel P. McMullen, representing Copart, Inc.  
Derick Stowell, representing the Plumbers and Pipefitters Local 525

Peter Guzman, representing the Latin Chamber of Commerce  
Community Foundation

Terry Mayfield, representing the Nevada Collision Industry Association

Scott Scherer, representing Quality Towing

Bruce Sanfilippo, General Manager, Quality Towing, Las Vegas, Nevada

Andrew Mack, Chief Operating Officer, XpressWest, Las Vegas, Nevada

Gregory S. Gilbert, representing XpressWest, Las Vegas, Nevada

**Chairman Carrillo:**

[Roll was taken. Committee protocol and rules were explained.] This is State Employee Recognition Week, and I want to thank all of the state employees for their hard work. We are going to start hearing bills, and then we will go into a work session. We will open the hearing on Senate Bill 210 (1st Reprint).

**Senate Bill 210 (1st Reprint): Revises provisions governing certain motor carriers. (BDR 58-949)**

**Senator Barbara K. Cegavske, Clark County Senatorial District No. 8:**

I am here to present Senate Bill 210 (1st Reprint). With me this afternoon is Kimberly Maxson Rushton, and she can provide additional details concerning this bill. The purpose of this bill is to provide the traveling public with an extra layer of safety and security by ensuring that drivers of charter busses, taxicabs, and certain other vehicles transporting the public in Nevada have appropriate qualifications. [Continued to read from written testimony ([Exhibit C](#)).] I would like to turn it over to Ms. Rushton.

**Kimberly Maxson Rushton, representing the Livery Operators Association of Las Vegas:**

I am a partner with the law firm of Cooper Levenson in Las Vegas, and I am the executive director of the Livery Operators Association (LOA) of Las Vegas. The LOA is a professional trade organization composed of owners and operators of commercial transportation companies in southern Nevada. Our members operate varying sizes and types of vehicles and perform their services under various authorities issued by the Nevada Transportation Authority (NTA). Specifically, our members consist of taxicab operators, charter limousine, charter bus, scenic tour operators, airport transfer, and special service providers. On behalf of the LOA, we would respectfully request your consideration and passage of S.B. 210 (R1).

As was stated by Senator Cegavske, this bill is intended to protect the traveling public by ensuring the safety and fitness of commercial drivers when they transport passengers. That means either tourists or citizens of Nevada. In light

of the tragic and horrific limousine accident that occurred in northern California earlier this week, I would strongly encourage your support for this bill. Consistent with the other statutory provisions that ensure the safety of the traveling public, this will provide further protection.

Section 2, subsection 1, states a person shall not drive for a commercial motor carrier unless they have been issued a permit by the NTA.

Section 2, subsection 2, identifies the specific requirements a driver must present in order to be permitted by the NTA. That includes submission of a set of fingerprints for a criminal background check, an offer of employment or an employment contract, and a valid driver's license. The driver's license does not have to be a valid Nevada license, in recognition of the fact that we do have several carriers that operate in northern California as well as southern Nevada.

Section 2, subsection 3, paragraph (a), defines how and under what circumstances the NTA may deny the driver a permit. As enumerated by Senator Cegavske, those would be convictions for a felony within the past five years, a conviction for a felony involving a sexual offense, or driving while under the influence of an intoxicant within the past three years.

Section 2, subsection 3, paragraph (b), gives the NTA the discretion to withhold the issuance of a permit if the applicant is determined to be morally unfit, or determined to be a public health, safety, or welfare issue. This language is patterned directly after the standards as set forth by the Taxicab Authority that are currently in place.

Section 2, subsection 4, discusses the validity of the permit. The permits will be good for a period of three years, or until the driver leaves the employment of the company for which they were originally permitted or changes companies. In that instance, they would have 10 days to notify the NTA and seek another permit before they would be able to drive for another common carrier.

Section 2, subsection 5, sets forth the fees. We are proposing a \$50 fee. This would be a revenue generator specifically for the NTA. That would be in addition to the fee for doing the background check, which is approximately \$51.25. This is consistent with the Taxicab Authority fee structure.

Section 3, subsection 3, would preclude the NTA from issuing a driver's permit to an individual who is delinquent with child support payments. That is consistent with other licensing structures in Nevada.

Section 3, subsection 4, goes into further details with respect to requiring that an applicant ensure they have met all of their state requirements in regard to child support actions.

The proposed effective date of this legislation would be January 1, 2014. That is based on the recommendation of the Department of Motor Vehicles (DMV), as well as the Nevada Transportation Authority. It further allows the NTA to promulgate regulations for the ease of the permitting process with input from the operators, drivers, and other members of the industry.

**Assemblywoman Swank:**

Section 2, subsection 3, line 36, says, "The applicant is morally unfit." What are the criteria for judging moral unfitness?

**Kimberly Rushton:**

We took the language specifically from the Taxicab Authority. In discussions with them, the situations in which this arises go directly to a driver's act when employed by another commercial motor carrier and they were terminated from their position perhaps because of a continuing series of accidents or a failure to adhere to other traffic obligations. That information could be made known to the NTA and that could be a discretionary call on its part as to whether or not it denies the permit. It could also be because the driver was a recidivist on misdemeanor offenses, such as petit larceny, loitering, or things that show a complete dereliction or lack of responsibility relative to their obligation to adhere to the law. That was the basis for that language being included.

**Assemblywoman Swank:**

I am not sure what that has to do with morals, and I wonder if it would be better to say "offenses?" I feel this has a moral weight to it and seems vague. If you were talking about offenses, misdemeanors, et cetera, it would be clearer. It would not be so easily construed in ways that might not be intended.

**Kimberly Rushton:**

We wanted to have some parity with respect to the standards that other commercial drivers, such as under the Taxicab Authority, are required to adhere to. It also means the NTA would have the discretion to determine if someone was unfit to drive. Perhaps the term "morally" causes a legal concern or question relative to the NTA making a discretionary call. Through records such as this and legislative intent we can state that the objective is to ensure that the person is fit to drive and provide those services. At any time, they could be responsible for transporting up to 50 people in a commercial vehicle in which people are drinking, standing up, and not paying attention to their obligations to maintain their own personal safety.

**Assemblywoman Swank:**

I understand that and I agree. I am uncomfortable with calling that someone who is morally unfit. That has a very different weight and meaning to it. I would be happy to talk to you about it off-line, but I am not comfortable with calling it morally unfit.

**Kimberly Rushton:**

I would be happy to work with you as well.

**Assemblyman Sprinkle:**

What kind of permitting is done right now, if anything?

**Kimberly Rushton:**

If they operate a taxicab in southern Nevada, they are required to be permitted by the Taxicab Authority. Otherwise, the only other type of permitting issued is done pursuant to the U.S. Department of Transportation (DOT) and it is referred to as a CDL, a commercial driver's license, and that is based on the size and type of vehicles being operated. Generally, it applies to vehicles you would construe to be busses. Based on the size and weight of those vehicles and the uniqueness of their suspension system and brakes, the DOT has deemed that drivers of those vehicles are required to have CDLs. It is not applicable to commercial drivers that provide transportation pursuant to a charter limousine or a shuttle bus, something that has less than 16 passengers.

**Assemblyman Sprinkle:**

If this is not applicable to limousine drivers and such, right now there is no permitting?

**Kimberly Rushton:**

No sir. They are only required to have a medical card that is issued by a valid physician in Nevada and a Nevada driver's license.

**Assemblyman Wheeler:**

Right now drivers have to get the CDL and go through a medical, et cetera. This is going to impose quite a few new fees on them. Why cannot this be done at the same time by the DMV?

**Kimberly Rushton:**

There has been discussion between the NTA and the DMV in terms of permitting. It is not within the statutory guidelines or the obligations of DMV to issue commercial driver's licenses to individuals other than those that are defined, as I indicated earlier, pursuant to the DOT obligations. That CDL obligation is incumbent upon each specific state DMV, but it is limited to

certain drivers based on the size and weight of the vehicles they presently operate.

**Assemblywoman Carlton:**

Would this be for limousine drivers statewide?

**Kimberly Rushton:**

Yes, it would be.

**Assemblywoman Carlton:**

Currently, none of these provisions exists so we are not augmenting provisions; we are setting up a completely new structure?

**Kimberly Rushton:**

Yes, that is correct, a completely new structure.

**Assemblywoman Carlton:**

In southern Nevada, you are funded through the fees for licenses?

**Kimberly Rushton:**

In part. The Taxicab Authority is funded through the meter fees specific to Clark County. One aspect of funding for the NTA comes in part through fines and fees. The other aspect is through the State General Fund.

**Assemblywoman Carlton:**

I believe it is a little over 80 percent State General Fund and 11 to 15 percent fees. It is not State General Fund; it is State Highway Fund. With these new fees, how does that affect how this is going to be managed as far as the dollars go? I do not want to get into the fiscal side, but this is a new fee that drivers will pay.

**Kimberly Rushton:**

It could be a negotiable fee based on collective bargaining between the union that is represented and the specific carrier. As it is set forth, it is an obligation for the driver to pay the \$50 fee in order to be permitted.

**Assemblywoman Carlton:**

There are so many different ways things are funded. The fingerprints are going to cost money. How often is the license renewed?

**Kimberly Rushton:**

It is renewed every three years.

**Assemblywoman Carlton:**

Is it \$50 for three years?

**Kimberly Rushton:**

Yes. Before going into private practice, I was the former chairman of the Nevada Transportation Authority. I would be derelict in my responsibilities if I did not note that Chair MacKay is here and he could probably answer the budgetary questions better than I can.

**Assemblyman Paul Anderson:**

Is this permit transferrable from job to job? If they lost their job or moved to a different carrier, would they have to reapply?

**Kimberly Rushton:**

In the event someone is no longer with the carrier they were with at the time they obtained the initial permit, they would be required, within ten days, to notify the NTA and thereafter seek another permit.

**Assemblyman Paul Anderson:**

Is there a reason we would not make that transferrable to a job at another place and not have to reinstate that permit?

**Kimberly Rushton:**

There is no specific reason as to why. The basis of it was to ensure that when a driver leaves one place of employment, they notify NTA. Thereafter, consistent with the obligation that they demonstrate some type of employment through either an employment agreement or offer of employment, they then obtain a new permit. It is really for two purposes: 1) to keep track of the drivers through the internal infrastructure of the NTA, and 2) to ensure the safety and fitness of the driver.

**Assemblyman Paul Anderson:**

If I leave one job to go to another job, I lose my permit and have to reapply and pay the fees again?

**Kimberly Rushton:**

Yes, that is what is set forth in the current bill. That was based on the current work permit that is applicable in Nevada. Generally, when an individual leaves a place of employment, and they are in the liquor business or in gaming, they obtain a new permit.



**Assemblywoman Swank:**

We had a bill earlier in the session that dealt with the licensing of car sales people and allowed them to take their permit with them. One of my concerns is with having to submit your fingerprints; it can take a long time for those to be processed. It seems burdensome on a cab driver that they would not be able to go to the next job if they have to apply for a completely new permit and do everything over again. I am not sure that would happen quickly. I am wondering if Assembly Bill 14 would be a good model to look at for a way that this license could transfer with the person. If they have to renew, it they are rechecked when they renew.

**Kimberly Rushton:**

We did not make it transferable because even though they might have an employment agreement that mandates they advise their employer of whether or not they have been charged with or convicted of a crime, it does not always take place. By ensuring that when they go to another place of employment that is checked, that goes directly to the intent of this bill, which is to ensure their safety and fitness. In the event a driver has been convicted of a crime during the tenancy of their employment with carrier A, and then they move to carrier B, this gives NTA an opportunity to review their background and ensure they are still fit to operate a commercial motor vehicle.

**Assemblywoman Swank:**

How frequently do they have to renew the permit?

**Kimberly Rushton:**

Every three years.

**Assemblywoman Swank:**

Every three years is still frequent. I do not want to burden someone when he is trying to change jobs.

**Kimberly Rushton:**

You do not want to take for granted the safety and fitness of drivers. As noted relative to the accident that occurred in San Francisco, there are many incidences. You would not want to miss an opportunity to ensure that someone is safe to drive.

**Assemblywoman Swank:**

As I understand it, the accident that happened in California had nothing to do with the driver. There was something about the modification of the limousine.

**Kimberly Rushton:**

I believe it is still under investigation. I use that as an example of the importance of ensuring the safety of all passengers in commercial vehicles.

**Assemblywoman Spiegel:**

If an employee leaves and forfeits their permit, would the fee associated with the remainder of the period be rebated to that employee?

**Kimberly Rushton:**

That was not contemplated under the current bill.

**Assemblywoman Spiegel:**

If they renewed and two weeks later, they get another job, they are just out the fee and would have to reapply?

**Kimberly Rushton:**

That is correct.

**Assemblywoman Spiegel:**

Understanding that, yes we do absolutely want to be cognizant of passenger safety and maintaining the highest level of passenger safety possible, I would think it would be incumbent on somebody who is looking at hiring a new employee to perform a criminal background check, separate and apart from anything that would be contemplated for this permit.

**Kimberly Rushton:**

All certificated carriers currently do that function. They do ensure the fitness of their drivers. That is why we do not have a history of horrific accidents in Nevada. This is a secondary layer to ensure that in those instances in which there have been any criminal acts unbeknownst to the carrier, the NTA and the State are aware of them and make that discretionary decision as to whether or not someone is deemed to be fit to operate a commercial motor vehicle.

**Assemblyman Paul Anderson:**

Do we know how many drivers this would affect?

**Kimberly Rushton:**

Based on our estimates, it is approximately 3,300 drivers. Of those, approximately 2,000 are members of the LOA.

**Chairman Carrillo:**

You brought up an incident that happened in California. Do you have incidents that have happened in Nevada?

**Kimberly Rushton:**

This proactive bill is intended to ensure the safety of the traveling public. Yes, there is an incident. My mentor, Ben Graham, used to say that sometimes bad acts result in great pieces of legislation. One of our carriers had a driver who became frustrated while staging at the Palms Hotel and Casino in Las Vegas. He was in a sedan, waiting for a ride, and he felt like he was somewhat landlocked. Because he was not being loaded, he decided to take it upon himself to find his own way out of the valet driveway area, took a sharp right turn through the front of the Palms Hotel, and incurred about \$10,000 in damage to the hotel and property. He literally exploded. He was frustrated; he had road rage. He is someone I would say is unfit to drive. The other thing is to ensure we do not have incidents in which there are individuals riding in a commercial transportation vehicle in which the driver has previously been convicted of a DUI or a sexual assault, and they would become vulnerable to that driver.

**Chairman Carrillo:**

Would you say that every person that decides to become a driver should go through some type of mental evaluation?

**Kimberly Rushton:**

I think the objective is really to ensure that those individuals we trust to drive vehicles that are not standardized vehicles—usually they are larger, have more blind spots, and other associated obligations—are safe and fit to drive.

**Chairman Carrillo:**

The NTA controls taxis in northern Nevada. Am I correct?

**Kimberly Rushton:**

Yes sir, external to Clark County.

**Chairman Carrillo:**

Does section 2, subsection 2, paragraph (a), make NTA in control of southern Nevada?

**Kimberly Rushton:**

No, this is specific to those taxi drivers that are under the jurisdiction of the NTA. It would preclude those drivers in southern Nevada or Clark County that are under the jurisdiction of the Taxicab Authority.

**Chairman Carrillo:**

Are there any other questions from Committee members? [There were none.]  
Is there anyone in Carson City or Las Vegas wishing to testify in support of S.B. 210 (R1)?

**Michael Sullivan, representing Whittlesea-Bell Transportation:**

Whittlesea-Bell Transportation is in support of S.B. 210 (R1).

**Sean Gamble, representing Frias Holding Company:**

We have seven cab companies in Las Vegas, and we are in support of S.B. 210 (R1).

**Assemblyman Sprinkle:**

Do cab drivers currently all have to be permitted?

**Sean Gamble:**

I am not part of the regulatory group that does this.

**Kimberly Rushton:**

Yes, in southern Nevada all taxicab drivers are required to be permitted by the Taxicab Authority.

**Chairman Carrillo:**

Is there anyone else in Carson City or Las Vegas wishing to testify in support of S.B. 210 (R1)? [There was no one.] Is there anyone in Carson City or Las Vegas wishing to testify in opposition to S.B. 210 (R1)? [There was no one.] Is there anyone in Carson City or Las Vegas wishing to testify in neutral to S.B. 210 (R1)?

**Andrew J. MacKay, Chair, Nevada Transportation Authority, Department of Business and Industry:**

The NTA is neutral on this measure because of the fees contemplated and the associated fiscal impact. There were many questions regarding to driver transferring from company A to company B. I had given that some thought and looked at what the Taxicab Authority has in regulation. The Taxicab Authority can issue a driver's permit on a temporary basis. It says something along the lines that if the administrator has reason to believe the individual is fit, that individual could theoretically change jobs and would be able to work while the background investigation is taking place.

**Chairman Carrillo:**

Are there any other states that require this kind of background check?

**Andrew MacKay:**

I do not know the answer to that. New York has an extensive permitting system. I believe they do it in Boston. The regulations specifically, if we are talking about taxicabs and limousines, are disparate across the country. Some states, municipalities, and counties regulate it. This is not something that is out of the ordinary in larger cities, like Las Vegas, where you have 35 million or 40 million visitors each year.

**Chairman Carrillo:**

Does this apply to anybody that comes from interstate? Maybe they pick up in California and take to Nevada? Are they subjected to the same thing because they are interstate?

**Andrew MacKay:**

When a company operates wholly interstate, they are not subject to any regulatory oversight of the State of Nevada. That is specifically preempted in federal law. It would not apply in those instances where somebody goes from Las Vegas to Salt Lake City and vice versa.

**Assemblyman Paul Anderson:**

There is no fiscal note to this? You are able to absorb any cost of administrating and taking care of this.

**Andrew MacKay:**

When I initially testified to this bill in the Senate Committee on Transportation, I had put on the record that the bill had no fiscal impact to the State. There are costs that are going to be incurred to ramp up for additional employees, some software, et cetera. The NTA has submitted an unsolicited fiscal note. What I did not want to do, assuming the bill were to pass, was to go to the Interim Finance Committee and say we need funding to hire the individuals to execute the program. The note is still with the Legislative Counsel Bureau Fiscal Division. I have discussed this at length with Kimberly Rushton, in terms of trying to true up where the fiscal impact is going to be de minimis, hopefully.

**Assemblywoman Swank:**

Would the temporary permits add an additional fiscal burden if that was something that was done as people transferred between jobs?

**Andrew MacKay:**

I do not anticipate that. I do not foresee any significant work on the issuance of a temporary permit. If a person is moving from company A to company B because they are going to make \$1 more an hour, you have no reason not to deduce they would be fit.

**Chairman Carrillo:**

Are there any other questions from Committee members? [There were none.] I would like to ask Senator Cegavske to make closing remarks.

**Senator Cegavske:**

I want to thank you for listening to us today, and we appreciate all of the questions. We did not have as many on the Senate side. We appreciate the thoughtfulness. Any further questions you might have, please do not hesitate to let me know. Thank you very much to your staff. They have worked with me, not only on this legislation, but on some amendments that were asked to be put into different bills, and it has been a pleasure working with your staff.

**Chairman Carrillo:**

Thank you. We will close the hearing on S.B. 210 (R1). We will open the hearing on Senate Bill 428 (1st Reprint).

**Senate Bill 428 (1st Reprint): Revises provisions relating to tow cars. (BDR 58-1074)**

**Robert L. Compan, representing Farmers Group Inc.:**

In today's modern age of electronic transactions, many Nevada consumers and/or businesses really do not carry cash. In the best interest of modernization and safety concerns, we support Senate Bill 428 (1st Reprint). This bill would require that a tow operator be mandated to receive payment in some form of electronic method. Sections 1 and 2 set forth the requirements of accepting electronic transfers of monies. Section 3 allows a fee approved by the Nevada Transportation Authority (NTA) to facilitate this transaction. This fee will be mandated to be approved by the NTA. [Continued to read from written testimony ([Exhibit D](#)).]

With me today is a representative from American Express to present an amendment to the bill regarding cleanup language to make sure the fees that are taken are truly vetted by NTA.

**Assemblyman Paul Anderson:**

Is there a reason tow operators have not accepted credit cards in the past?

**Robert Compan:**

The majority of tow operators do. There are certain bad actors that put a black eye on their industry. Our adjusters cannot go out to some companies without bringing cash. It is not an overabundance of tow operators, but there are tow operators who work on a cash only basis. For consumers it is even more

challenging because they are not aware ahead of time that they are required to have cash. The vehicle may spend a day or so longer at the tow facility before they can get cash from the bank. During that time, the vehicle accrues storage charges.

**Assemblyman Wheeler:**

I am wondering how we can legislate the type of payment someone has to take in his or her business. There are many businesses that accept one credit card, but not another. American Express charges quite a bit more to the merchant than others do. You have to deal with chargebacks. I wonder what the intent is here. Why do we need to tell someone how to run their business and how to collect their money?

**Robert Compan:**

We are not telling people how to run their business. We want to protect Nevada consumers from being forced to pay on a cash-only basis. The bill also allows them to collect fees that are predicated and approved by the NTA. It is good public policy. It does not state which credit cards they have to take. They have to take some form of electronic payment. It could be electric check, debit card, or credit cards. The American Express amendment outlines some of the federal regulations. There could be a discount given for somebody that pays cash.

**Assemblywoman Spiegel:**

Have you contemplated some sort of requirement for posting of what payment methods are accepted so there is knowledge and consistency for all customers?

**Robert Compan:**

I have not. This will be regulated by the NTA. The rules that will be adopted in tariffs by Mr. MacKay and his authority will be standardized. Rather than vary from industry to industry and shop to shop, it will be a standardized rule. I thought it would be spelled out in statute since it would be regulated.

**Assemblywoman Spiegel:**

One of the concerns that has been expressed to me is that at times there is inconsistency within a single shop offering different payment methods to different customers or to the same customer but on different days. That is of concern to me.

**Robert Compan:**

I agree with you. Mr. MacKay can probably explain the process of tariffs, authorizations, and approvals.

**Chairman Carrillo:**

Will these fees be required to be posted by the towing company so that the consumer knows before offering payment?

**Robert Compan:**

The fees will be set forth in standards set by the tariffs that are regulated by NTA. I do not believe there is a consumer bill of rights for tow companies such as there is for auto body shops.

**Chairman Carrillo:**

Are there any other questions from Committee members? [There were none.] Is there anyone in Carson City or Las Vegas wishing to testify in support of S.B. 428 (R1)?

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

One of our subcouncils is the Nevada Tow Car Council. We are in support of S.B. 428 (R1) requiring tow operators to take some form of electronic payment. Assemblyman Anderson asked why they have not done that in the past. In a number of scenarios, these tows are made without the consent of the owner. We have had issues where the person who had their car towed will dispute that with the credit card company and try to get a chargeback. We had this conversation with our members and decided that the best public policy would be to have our members take credit cards instead of requiring people to make cash payments.

Assemblywoman Spiegel had a question on how posting would work. It is a little different with the tow operators who are performing nonconsensual tows because the customer does not know ahead of time that they are going to have their car towed. They do not really have the ability to negotiate what those charges are going to be. All of those fees and charges are going to be approved by the NTA in their tariffs. That is why we do not necessarily have the consumer bill of rights for tow operators.

**Assemblywoman Spiegel:**

I might not have been clear. I was saying they should have their payment policies made known, rather than saying what the fees are, so it is the same for every customer. For example, we accept cash, Visa, Master Card, electronic check, et cetera. If they have fees associated with payment vehicles, say what those are as well. When somebody goes there or calls regarding their vehicle, they know in advance what payment options are available so they can come prepared.



**Chelsea Capurro, representing AAA Northern California, Nevada, and Utah:**

On behalf of AAA Northern California, Nevada and Utah Insurance Exchange, I would like to extend our support for the passage of S.B. 428 (R1). This bill is a matter of convenience. It simply allows us to do business more easily in Nevada. When we visit a tow operator to remove one of our insured's cars from their lot, it is simply easier to pay for the transaction with a credit card. [Continued to read from written testimony ([Exhibit E](#)).]

**Karen Peterson, representing American Express:**

American Express submitted a proposed amendment and testimony in support of the amendment [([Exhibit F](#)) and ([Exhibit G](#))]. We have circulated the amendment to everyone we knew was interested in this bill, and we know of no opposition or objection to the proposed amendment. It is a friendly amendment to clarify certain provisions of the bill.

The proposed language for section 2 clarifies that a tow car operator shall accept the various payment methods that are set forth, rather than just one. That is a technicality with the Legislative Counsel Bureau (LCB), and we can work it out with LCB.

The proposed language for section 3, subsection 1, allows a tow car company to accept more than one type of credit and or debit card.

The proposed language for section 3, subsection 2, makes the cost to a tow car operator of credit card or debit card acceptance part of the tariff-filing process with the NTA.

The proposed language for section 3, subsection 3, reinforces federal law that allows merchants the option to provide a discount to customers who pay in cash.

The remainder of the language in section 3, subsection 3, is deleted as it is rendered moot by the inclusion of the cost recovery capabilities at the fee setting process with NTA.

**Lisa Foster, representing American Family Insurance; and Allstate Insurance:**

We support S.B. 428 (R1).

**Chairman Carrillo:**

Are there any questions from Committee members? [There were none.] Is there anyone in Carson City or Las Vegas wishing to testify in opposition to S.B. 428 (R1)? [There was no one.] Is there anyone in Carson City or Las Vegas wishing to testify in neutral to S.B. 428 (R1)? [There was no one.]

We will close the hearing on S.B. 428 (R1). We will open the hearing on Senate Bill 429 (1st Reprint).

**Senate Bill 429 (1st Reprint): Revises certain provisions relating to taxicabs.  
(BDR 58-1103)**

**Michael Sullivan, representing Whittlesea-Bell Transportation:**

I would like to walk you through Senate Bill 429 (1st Reprint). This bill deals with advertising wraps on taxicabs in Las Vegas. The bill seeks to allow cab operators to make more of their fleet available for advertising wraps. In the beginning, no one was sure how successful this form of advertising would be. The Taxicab Authority allowed taxicab operators to wrap 20 percent of their fleet. In the past ten years, it has proven to be a very successful form of advertising. Companies like it, and they would like to wrap all of their fleet, instead of just 20 percent. This bill allows taxicab companies, at a time when ridership is down and we are recovering from an economic downturn, to wrap more of their fleet.

Taxicabs would still be identifiable as spelled out in *Nevada Revised Statutes* (NRS) 706.8835 which states, "1. A certificate holder shall display on each of the certificate holder's taxicabs the fare schedule under which it is being operated. The schedule must be permanently affixed: (a) On the outside of both front doors in bold block letters which are of a color which contrasts with the color of the taxicab and which are not less than three-fourths of an inch in height; and (b) Inside the taxicab so as to be visible and easily readable by passengers. 2. A certificate holder shall have a unit number and the name of the certificate holder displayed on each side of each taxicab in bold block letters not less than 4 inches in height and in a color which contrasts with the color of the taxicab." Whether the cab has an advertising wrap on it or not, it will still be identifiable and have the medallion number. Passengers will be able to tell what cab company it is.

I do want to bring something to your attention. When we presented the bill in the Senate, we had an amendment and this is the reprint that came back. Section 1, subsection 3, paragraph (a), says, "Are readily distinguishable from the taxicabs of other certificate holders operating in the same county." The language we originally submitted had the line "pursuant to NRS 706.8835," which is what I just read to you. We are concerned that the cab companies would like to be able to accept ads from the same companies. If the MGM wanted to advertise with Whittlesea-Bell and have the same advertisement with Yellow-Checker-Star or Frias, we would like them to have that freedom. We are concerned that with the language change from what we submitted, it may not be clear. I do not know if we have to do an amendment or if it could be put on

the record that was the intent. I talked to the policy analyst about it. Our intent is to allow taxicab companies to have similar wraps from advertising venues in Las Vegas.

**Assemblyman Healey:**

What was the purpose of only 20 percent of the fleet being wrapped?

**Michael Sullivan:**

I do not know what the original intent was. What I testified to was that they did not know whether this was going to take off so they did not want to give the taxicab companies the ability to wrap all of the cabs. This was quite a few years ago, so I do not know why they did 20 percent and not the whole fleet. I was told they wanted to see how this would work.

**Assemblyman Wheeler:**

How many certificate holders there are in Nevada now?

**Michael Sullivan:**

I do not know.

**Chairman Carrillo:**

Can you get that information?

**Michael Sullivan:**

Yes, I can.

**Chairman Carrillo:**

You mentioned you were concerned with the possible amendment. We will talk off-line on that. We will get with the policy analyst and legal counsel as well.

**David Goldwater, representing Desert Cab; and On Demand Sedan & Limousine:**

We are in support of S.B. 429 (R1) and associate ourselves with the remarks from Mr. Sullivan.

**Neal Tomlinson, representing Frias Transportation:**

There are 16 different certificate holders in Clark County. I am not sure about the rest of Nevada, which is under the auspices of the Nevada Transportation Authority (NTA). We are in support of S.B. 429 (R1), and we support Mr. Sullivan's comments. It was brought to my attention a few minutes ago that the Taxicab Authority wanted to make sure the cabs are still readily distinguishable, so we have agreed to meet with them after this hearing to see what their concerns are and if we can work them out. We can do that in

conjunction with Mr. Sullivan and your analyst to finalize any amendment that may or may not be necessary.

**Chairman Carrillo:**

Are there any questions from Committee members? [There were none.] Is there anyone in Carson City or Las Vegas wishing to testify in opposition to S.B. 429 (R1)? [There was no one.] Is there anyone in Carson City or Las Vegas wishing to testify in neutral to S.B. 429 (R1)?

**Kelly Kuzik, Management Analyst, Taxicab Authority, Department of Business and Industry:**

We are neutral on S.B. 429 (R1). I spoke with Mr. Tomlinson and we would like to be involved in any amendments, so we ensure they do not run contrary to any of our statutory or regulatory mandates.

**Chairman Carrillo:**

Are there any questions from Committee members? [There were none.] We will close the hearing on S.B. 429 (R1). We will open the hearing on Senate Bill 456 (1st Reprint).

**Senate Bill 456 (1st Reprint): Revises provisions relating to operators of tow cars. (BDR 58-1089)**

**Mike Draper, representing Ewing Brothers Corporation:**

I am here today on behalf of Ewing Brothers Towing in Las Vegas. I am joined in representing Ewing Brothers Towing by my colleague, Lorne Malkiewich, and by Brin Gibson who is representing Snap Towing and R&S Investments. We are here today to talk about Senate Bill 456 (1st Reprint). This is a concept that was introduced during the 2011 Legislature. I met with many members of this Committee opposing Senate Bill No. 407 of the 76th Session. I made a commitment to members of this Committee to work hard over the interim and find some middle ground on this concept to present during the 2013 Legislature that would be a fair, open concept and allow many members to compete.

The concept that S.B. No. 407 of the 76th Session proposed would allow insurance companies to designate vehicle storage lots. Tow companies would tow vehicles at the request of law enforcement. They would be stored while insurance companies worked out liens, damages, et cetera. The bill was lopsided. It essentially favored one or two companies. It eliminated the possibility for many of the other storage lots, tow companies, and salvage yards to participate in the proposal. It was an interesting concept that I think many members of this Committee agreed had some merit. It was not the right policy at the right time.

We spent the last two years, at some points arguing, looking at this bill and we ripped it apart. We kept the concept and addressed every issue that we discussed previously. We feel we have a good piece of policy that benefits consumers and business and allows free market competition when it comes to storage yards in southern Nevada.

I am going to refer to the Las Vegas Metropolitan Police Department (Metro), since they are the biggest law enforcement entity in southern Nevada, but this applies to all of the law enforcement entities in southern Nevada. Metro put out a request for quotations (RFQ) that sets standards to ensure companies can safely and quickly clean up vehicles, store vehicles, help with investigations, et cetera. There are currently three companies that meet those qualifications that serve as Metro's duty tow companies. If a vehicle is involved in an accident, law enforcement arrives at the accident and calls dispatch. Dispatch sends a duty tow truck. That tow truck driver recovers, secures, and cleans the scene, and then takes the vehicle to their own storage yard. It is then stored until the insurance company or owner picks it up.

This proposal would change that. The duty tow company would still pick up the vehicle, clean the scene, et cetera. If the insurer of the vehicle involved in the accident has a designated storage lot, the vehicle would now be towed by the duty tow company to that storage lot. There is no requirement for any insurance company to have a designated storage lot. This is where the big differences come in between S.B. No. 407 of the 76th Session and S.B. 456 (R1).

I am going to go through the differences between S.B. No. 407 of the 76th Session and this bill.

Senate Bill No. 407 of the 76th Session required that vehicle storage lots be set on ten acres, have a 1,300-vehicle capacity, and a six-foot perimeter wall. It also required they have 24-hour video monitoring and an enclosed, secured building to house ten vehicles. That precludes many of the towing and storage facilities in southern Nevada. In S.B. 456 (R1), we have removed those restrictions. The vehicle storage lot, in order to participate in this program, has to meet the minimum requirements outlined for a vehicle storage lot either by law enforcement or the Nevada Transportation Authority (NTA), which regulates all nonconsensual tows, or tows done at the request of law enforcement, in Nevada.

The bill last session did not outline that there would be any indemnity for law enforcement. Currently law enforcement is indemnified when a tow company picks up a vehicle and takes it to their storage lot; the responsibility

for that vehicle and the belongings in that vehicle falls on the duty tow operator. As it currently stands, the duty tow operator indemnifies Metro. In this bill that policy will continue: the vehicle storage lot that is participating in this program will indemnify Metro.

The bill last session also said that the designation of vehicle storage lots would be sent to all law enforcement agencies and tow companies.

The number one goal of law enforcement, when it comes to responding to an accident, is to make sure everybody is safe, and to clean and quickly secure the scene. We do not want them to do anything different. We want them to continue that policy. This bill says law enforcement will make a good faith effort to identify the insurance company of the vehicles involved. It does not mean they are crawling through cars. It does not mean they are going beyond what they currently do. The law enforcement agency shall advise the tow car operator of the identity of the insurance company and direct the operator to deliver the vehicle to that company's lot. It imposes no additional restrictions or requirements on law enforcement.

The next thing we changed from last session was applicability to the tariff rates. Currently, all nonconsensual tows, or tows done at the request of law enforcement, have tariff rates that are approved by the law enforcement entity and, ultimately, by the NTA. This bill outlines that participating vehicle storage lot charges cannot exceed the tariff rates. We do not want people to secure this business and then raise rates.

In the bill from last session, there was no approval of a designation of a vehicle storage lot. This bill says that the NTA will still monitor and make sure the vehicle storage lots are appropriate places to be holding vehicles. In other words, somebody is not storing 25 vehicles in their backyard as part of this program. It is still an upstanding, credible business that maintains all of the requirements that a vehicle storage lot should have.

That is essentially the overview of what this bill does. In short, vehicle storage lots and tow companies would negotiate with insurance companies. The insurance companies do not look at just rates; they look at which vehicle storage lot or which tow company is giving the best accessibility to their claims agent. They also look at which vehicle storage lot or tow company is giving the best service to their customers. All of these things are taken into account. All of these things are problems that have been expressed by insurance companies over the last 2 1/2 years as we discussed this policy. By doing this and allowing insurance companies to negotiate on their own with vehicle storage lots, we can eliminate some of these problems. Presumably the

free market would dictate that these insurance companies would pick the best storage lots that meet the needs of their agents and customers, and also provide them the best rates. I hope that those rates would either be passed along to the consumer or it would simply provide a better experience for the consumer. Nobody likes to have his or her car towed, especially if it was because you were involved in an accident. We hope to make things a little easier.

We have an amendment we think further addresses some of the concerns that this policy might raise and continues to make it a better policy for consumers.

**Brin Gibson, representing R & S Investments:**

Senate Bill 456 (1st Reprint) is a product of quite a bit of work to create a competitive marketplace for vehicle storage lots, while ensuring the security of the vehicles in question. It allows insurance companies or the owner of a wrecked or stolen vehicle to designate a vehicle storage lot to which the vehicle will be towed. As the current tow yard system works, consumers are often subject to a litany of charges, including set out fees, lot visit fees, lien sale fees after 4 working days, another lien sale fee after 336 hours, auction preparation fees after 15 days, an open fee, and numerous other miscellaneous fees

Pursuant to S.B. 456 (R1), insurance companies would have the opportunity to negotiate with vehicle storage lot operators to avoid these additional onerous charges. A savings to consumers could be from hundreds to over \$1,000 per vehicle. For citizens who cannot afford full insurance coverage, personal exposure is limited by the amount saved. My client thinks those who cannot afford full insurance coverage make up approximately 30 to 50 percent of the vehicle owners in Clark County. As the case is now, and because of sometimes predatory practices of unscrupulous tow yard operators, down on their luck residents of Nevada simply lose their vehicles to lien sales once they enter this tow yard black hole. The vehicle owner cannot pay all of the stacked fees. To add insult to injury, these same residents are often pursued after the sale of their car at a lien sale for a deficiency judgment. This is a public policy problem that can and should be addressed by this body and S.B. 456 (R1) provides you a vehicle to do it.

The bill is about consumer choice and the creation, by the Legislature, of a competitive environment within which this new vehicle lot storage economy can operate. We have broad support from business, labor unions, the Latin Chamber of Commerce, and the Henderson Chamber of Commerce. This bill is a good piece of public policy.

In my career, I have had the opportunity to work for and against representatives from a number of different industries. As industries, or companies within an industry, become successful, they attempt to limit competition. They do not invite additional competition. They achieve some degree of market dominance and then they work to eliminate or erect barriers to entry. This practice is more prevalent in less public industries. The tow and storage industry is one of those industries. The result is that companies often become complacent, their product is weakened, and the consumer, as a result, suffers. Why does this happen? The answer is very simple. There is less threat, or a limited threat, that they are going to lose market share as they erect barriers to entry. The argument then is that competition is critical for the good of the consumer. Senate Bill 456 (R1) will lead to competition among vehicle storage lots for contracts with the insurance companies. As storage lots become complacent, charge more to the insurance companies, and are less responsive to their consumers, they will lose contracts.

Competition requires you to do more than you would otherwise. This bill would introduce competition into an economy that currently does not have very much competition. In addition to increased transparency, you will see increased responsiveness to the consumer, better prices, and better policy in general.

**Lorne Malkiewich, representing Ewing Brothers Corporation:**

We had a proposed amendment ([Exhibit H](#)). Some concerns were raised, and clarifications were requested based upon the hearing in the Senate.

Section 1, subsection 1, of the amendment clarifies that the insurance company may designate more than one vehicle storage lot. We testified to this effect in the Senate and some wanted this clarified. You would not have to designate just one, but you could. An insurance company may choose several lots to make sure they have coverage throughout the Valley.

Section 1, subsections 1, 2, and 9, clarify that a vehicle towed at the request of law enforcement following an accident need not be inoperable. The question was raised as to if there was an accident and a person was injured and taken away from the scene, but the vehicle technically was not inoperable. Do we need to make some sort of finding that it is inoperable before this law takes effect?

Mr. Draper indicated that the storage fees could not exceed the tariffed rates. They could be lower, and that is one of the places where you could find savings for the insurance company and the consumer. We want to make this open to everybody and while, in general, the most likely vehicle storage lots are going to be tow companies who already do this, we did not want to preclude



any competition. It could be salvage pools or another entity opening up a vehicle storage lot that may not have tariffed rates and may not be regulated by NTA. If you do not have tariffed rates, then you cannot exceed the rates of the law enforcement agency that requested the tow. This is only for those entities that are not subject to regulation by the NTA. If the requesting law enforcement agency does not have rates, then we default to Metro's rates, since it is the largest law enforcement agency in the county.

I spoke with representatives of the salvage pool industry, and they testified in the Senate. When they are operating within the ordinary scope of their business, they are not subject to this bill. If you look at the very end of the amendment, the term does not include a salvage pool that has not elected to operate a vehicle storage lot. If you do choose to enter into an agreement with an insurance company, you are a vehicle storage lot within the meaning of this section and subject to all those provisions.

In section 1, subsection 5, there was some language we felt was ambiguous. In paragraph (a) it says, "Except as otherwise provided in subsection 6, comply with all applicable requirements imposed pursuant to NRS 706.4485 on an operator of a tow car." There are a number of provisions in NRS 706.4485 that really just apply to just tow cars. The idea was that is the section that says law enforcement can set up this rotation and set standards for towing and storage of vehicles. What we did in section 10, subsection 1, paragraphs (d) and (e), of the bill are the ones that are applicable to vehicle storage lots. Instead of referring to NRS 706.4485, we took those paragraphs out and put them into the bill. They say the operator of a vehicle storage lot (d) "Maintains adequate, accessible and secure storage within the State of Nevada for any vehicle that is towed; and (e) Complies with all standards the law enforcement agency may adopt to protect the health, safety and welfare of the public."

That is a brief explanation of the amendment. As Mr. Draper indicated, we believe it tightens up the provisions of the bill and addresses some of the concerns that were raised.

**Assemblyman Sprinkle:**

When these cars are towed to a lot, they may sit there for a day, they may sit there for an indefinite amount of time, and there are charges associated with that. Is that correct? The lot owner is going to receive those monies.

**Mike Draper:**

That is correct. When the vehicle is towed to the storage lot, you accrue additional charges. There is a daily storage lot fee. For instance, in the case of

Metro, their storage fee is \$29 per day. There are additional fees such as processing fees, visitation fees after the first visit, et cetera.

**Assemblyman Sprinkle:**

My initial concern was potentially one lot owner could negotiate and end up having a monopoly. However, I think in this amendment where it says it could be one or more, that allows insurance companies to negotiate with multiple lot owners. Correct? Which might then open up more competition?

**Mike Draper:**

That is correct. The business model the insurance companies would most likely employ is to negotiate with a couple of the companies they believe are the best companies to work with. The ones that do not have as many citations or complaints with the NTA and offer better rates and accessibility. The rates cannot be more than what is already tariffed. The tariffs outline all of the fees the storage lots charge. Presumably, as insurance companies are negotiating for these contracts, they will negotiate lower rates. They would also negotiate with more than one storage lot so that, depending on what part of the Valley you are in, your vehicle is going to the closest storage lot.

**Assemblyman Wheeler:**

This says they "may" designate more than one vehicle storage lot. Does that mean they have to?

**Mike Draper:**

We do not want to force an insurance company to participate in this. If they do not want to and they like the system as it is, they continue going down that road. There are probably plenty of insurance companies that will continue to operate the system as it is right now. If there are insurance companies that do participate, we want to make sure they have the opportunity to negotiate. They can negotiate with as many storage lots as they want. It is not "shall," it is "may," and it allows them the opportunity to negotiate with one or more.

**Assemblyman Wheeler:**

Do they have that opportunity now? Can they negotiate with anyone they want?

**Mike Draper:**

They do not have the opportunity now. As it stands, tows done at the request of law enforcement are considered nonconsensual tows. Those are regulated by NTA. All other tows are consensual tows that are unregulated. With a consensual tow, you can negotiate whatever types of things you want. Storage yards and tow companies can charge whatever they want.

Nonconsensual tows are regulated by the NTA. The NTA put together a model tow tariff that outlines what can or cannot be charged for, with regard to towing and storage. Further, law enforcement entities outline what can and cannot be charged. However, they do work with duty tow companies; the expectation of the duty tow company is their storage yard will be part of that.

A nonconsensual tow is picking up a vehicle at the scene of an accident until an insurance company or vehicle owner picks it up from the storage yard. Nonconsensual tow includes towing and storage. This proposal would suggest that if an insurance company were participating in this program, the nonconsensual tow would be simply for the tow. When it got to the storage yard, it would then be a consensual storage yard, which allows the insurance companies to negotiate with the storage yards. As it stands right now, they cannot; the insurance company has no jurisdiction over what storage yard it goes to. As the vehicle owner, you always have the right to designate where you want your vehicle to go. If you do not designate that, then it just goes to the duty tow storage yard.

**Assemblyman Paul Anderson:**

Can you define salvage pools for me?

**Mike Draper:**

We do have some salvage yard operators here.

**Assemblyman Paul Anderson:**

Nevada Pic-A-Part yard, is that what you are defining as a salvage pool?

**Mike Draper:**

Yes. If an insurance company has another entity that is not currently considered a storage lot, we want them to continue to be able to work with that entity. That entity still has to meet the minimum requirements that are outlined for a storage lot.

**Assemblyman Paul Anderson:**

You have auction houses as well that auction vehicles. They are essentially an insurance storage lot. They would not be affected by this regulation?

**Mike Draper:**

We have worked with the auction yard and salvage pool representatives. They would not be affected. They would be able to participate in this program if they choose to. It does not preclude anybody.

**Assemblyman Paul Anderson:**

If this law passes and there are multiple storage lots, how do I find my car after the fact if it has been towed in a nonconsensual tow?

**Mike Draper:**

If your insurance company is participating in this program, that company should let you know where your car was towed. If you are involved in an accident and had to go to the hospital, you would probably call Metro and they would tell you who the duty tow operator was.

**Assemblyman Paul Anderson:**

I am concerned about the practicality of that. I am calling from my hospital bed so my wife can pick up my car. I call the tow company, I call the police, and I call my insurance company. They tell me it is at lot 72, but it was really at lot 69 because there are multiple lots.

**Mike Draper:**

This is a more practical situation than the current system. If you went to the hospital, you would still have to call Metro to find out what duty tow operator was there, then you would call the duty tow operator, and they would tell you where to pick up your vehicle. I would suggest the insurance companies would do a good job of letting you know where your vehicle was, and you would probably have access to your vehicle that is more efficient.

**Assemblyman Paul Anderson:**

If you could, draw the line where this potentially becomes a nonconsensual tow when law enforcement has my car towed. At some point, does it become a consensual tow, when the insurance company chooses which yard to go to? Is that part of the argument that we can get a better rate since we are removing the tariffs?

**Mike Draper:**

The very terms nonconsensual and consensual means somebody is consenting to having your vehicle towed. If you are allowed the opportunity or an authorized representative, your insurance company, says, "This is our designated storage lot," they are choosing to store the vehicle at that lot. That becomes a consensual storage. We are not suggesting anybody should choose the tow companies. The duty tow companies should stay on the rotation the way they are now. The tows would always remain nonconsensual. You have no choice in who is towing your vehicle and your insurance company has no choice. We want to ensure the scene of an accident is recovered quickly and safely. In order to do that, we do not want to mess with the tow system. If it were a participating storage lot, that is when it would

remain consensual. The tariff rates for tows would remain the same. You are not allowed to charge more, or less. If it became a consensual tow, we want to give those storage lots the opportunity to charge less, but we do not want them to charge more, which is why we put that cap in there.

**Assemblyman Paul Anderson:**

Let us look at a theoretical situation where this passes and somebody is very good at the competition and gathers insurance contracts. The current tariffs set with Metro for storage fees, tow fees, et cetera are built on a business model where all of those product centers, or cash flow centers, are put together. If we begin to take one of those pieces of the puzzle out, can you imagine a situation where Metro would have to raise the tariffs on the tow because that company is now not getting storage fees? A lot of times, many of these companies will see 30 to 50 percent of their revenue come from the storage fees, access fees, drop fees, et cetera. I am concerned about the theoretical opportunity for tariffs to bump and these tows to become more expensive because we have made storage that much more competitive. I am not sure it will balance out.

**Mike Draper:**

You have to look at where law enforcement is going with towing right now. Metro uses a system where they put out an RFQ and select their tow company, which then goes through dispatch, et cetera. They are very likely moving in a direction where they will have an automated tow management system. They will select one entity to manage all of their towing. That entity will then contract with storage companies and tow companies. In order to remove themselves from the towing industry as much as possible, Metro will have a different entity manage that. That would create new opportunities. This proposal allows those companies an opportunity to secure their business and make sure they have a good relationship with the insurance companies. If they are operating in an outstanding manner and they do not have many complaints with the NTA, there is a good chance the insurance companies are going to continue having these companies store their vehicles. If we begin to go toward tow management systems, as many municipalities around the country have done, these businesses will protect their piece of the market share regardless of whether that business model changes. Albeit they will protect it by competing.

**Assemblywoman Swank:**

If you have a large tow company and they arrange with an insurance company, what motivation is there for the insurance company to negotiate with any other tow companies? I am concerned this bill would give larger tow companies a greater leg up than it would smaller companies.

**Mike Draper:**

That is a valid concern. You have to remember how the current system is set up. This should provide more opportunity and competition for the bigger tow companies. In southern Nevada, there are only 11 entities that are doing nonconsensual tows and storage. Only three of those are Metro. There are many tow companies. Many of the small tow companies and storage yards cannot compete for this business as it is currently set up. Some of these small storage yards might be able to compete for the storage if they have a good relationship with the insurance company, if the insurance company finds them to be accessible and affordable. This opens the opportunity for a handful of additional businesses, as well as the 11 already on this rotation, to compete for that business.

Certainly you would suppose that a large tow company would have an advantage because they have a larger storage yard, a better relationship with the insurance company, or something like that. The current system is set up so the large tow companies already have these contracts. Are we affecting that? Not as much as you would think from opening this up. What we are doing is saying that anybody, including the salvage yards, auction pools, storage yards, and smaller tow and storage companies, as long as they meet the minimum requirements to store vehicles, can compete for this business.

One might also suggest that from the insurance company's perspective, they do not want just one storage lot. They are going to want storage lots throughout the Valley in order to continue to maintain and control their costs. A proposal like this would actually allow more opportunity for more storage lots to participate. If you are the duty tow company and an accident happens over here, but your storage lot is over there, you are going to that storage lot. This proposal would allow you to have various storage yards throughout the Valley.

**Chairman Carrillo:**

Are there any other questions from Committee members? [There were none.] Is there anyone in Carson City or Las Vegas wishing to testify in support of S.B. 456 (R1)?

**Danny Thompson, representing the Nevada State AFL-CIO:**

We supported this bill in the Senate. We still support the bill with the proposed amendment. We believe these costs have gotten out of line. If you have not had your car towed, it is an experience because there is a charge for everything from trying to get your stuff out of the car, to picking it up and putting it down, and starting a lien fee. My assistant in Las Vegas had a nonconsensual tow. To get the car back, she had to sell her vacation because

so many charges had been racked up. We think this bill will spur competition and that competition will drive the price down. The insurance companies are interested in not just the best price, but also the best service.

**Gail Tuzzolo, Private Citizen, Summerlin, Nevada:**

I would like to bring a little consumer perspective to this with an incident that happened to me not too long ago. I live in a gated community in Summerlin. Friends came from the airport in a rental car and parked on the street in front of my house late at night. There is a rule in the community that you cannot park in the street overnight, and I forgot to make sure they were not parked on the street. The next morning was Sunday and the car was not there. We ran down the street to see what the number of the tow yard was. I assumed from what I had read in my homeowners newsletter that it would be somewhere between \$250 and \$300 to get the car. When I called the tow yard, I was told I had to pay in cash and the bill was over \$700. I had to go across town to the only bank that was open, in a supermarket. They charged a fee because they picked it up after midnight. They charged \$200 because they had to open the office to the tow yard to let the car out on a Sunday. They charged the towing fee and a full day for storage at the tow yard. This bill addresses nonconsensual tows, not so much on the consumer level that I am speaking to, but I am hoping a bill like this will help cut down the costs and make the competitiveness a benefit for consumers.

**Robert L. Compan, representing Farmers Group Inc.:**

We are the second largest insurance company in Nevada. We have over 223,000 insured vehicles. In the Las Vegas Metro area, most of our vehicles go on the Metro tow to tow yards. If we designate one or several and enter into a contract with these secured tow facilities, once an accident has occurred, when the consumer calls we will know where the car has been towed. We will assign an adjustor to it very quickly. As Mr. Draper mentioned in his original testimony, many Nevada insureds carry only the minimum statutory limits of 15-30-10. They do not have collision or comprehensive. If their car were to be involved in a collision accident, we would still have the vehicle moved to the tow lot that was designated as an insured storage lot. The benefit to the consumer would be that they would not have erroneous charges for set out fees and daily storage. The contract would be such that the vehicle sitting there for the first five or six days would have no storage charge and no set out fees. Rather than going to a duty tow lot and paying the normal duty tows, the consumer would benefit from the same contract that we entered into.

**Lisa Foster, representing American Family Insurance; and Allstate Insurance:**

We support S.B. 456 (R1), particularly as it was amended coming out of the Senate. We support the amendment that was discussed today by Mr. Malkiewich.

**Randy Soltero, representing the International Alliance of Theatrical Stage Employees Local 720; and the Teamsters Local 631:**

We are in support of S.B. 456 (R1). We represent 7,500 or so folks in both organizations and they are consumers. Besides being drivers and stage employees, they are consumers. We feel this bill will help curb some of the costs incurred in being towed.

**Samuel P. McMullen, representing Copart, Inc.:**

Copart is denoted in this bill as a salvage pool company. We are in support of S.B. 456 (R1). We appreciate the clarification of the treatment of salvage pools and their ability to participate in this. Our impression of the bill is that a salvage pool, which can be the end place for a car in an accident, can also be the initial recipient lot for a tow. Cars that can be fixed will go to a body shop. Cars that cannot be fixed or are totaled will end up at a salvage pool yard. The insurance company has a magnum contract with that entity—we are one—and these are handled in a way that maximizes the return to the insurance company and the efficiencies, and reduces the expenses on a contract basis. It is the last resting place of the car, or at least a place for it to be transferred to some use.

**Derick Stowell, representing the Plumbers and Pipefitters Local 525:**

We are in full support of S.B. 456 (R1).

**Peter Guzman, representing the Latin Chamber of Commerce Community Foundation:**

We are in support of S.B. 456 (R1) and want to take a moment to commend and thank those who have worked so hard to improve this bill from last session, and who are always looking out for consumers. That is the reason why we support it because we feel this is protection and a better route for consumers. As our elected officials, we elect you to protect us with good laws. We believe this is a great bill.

**Terry Mayfield, representing the Nevada Collision Industry Association:**

Our members have reviewed S.B. 456 (R1) and its amendment, and support and endorse it. They see it as an opportunity to provide savings to the consumer on storage and related fees as well as for those individuals who cannot afford collision coverage.



**Chairman Carrillo:**

Are there any questions from Committee members? [There were none.]  
Is there anyone wishing to testify in opposition to S.B. 456 (R1)?

**Scott Scherer, representing Quality Towing:**

We are in opposition to S.B. 456 (R1) because, while it has been presented as something that is proconsumer, we believe the unintended consequences of this bill will actually be detrimental and harmful to consumers. I would like to talk about some of those unintended consequences and offer recommendations to fix them.

*Nevada Revised Statutes (NRS) 706.445* states that the NTA may not regulate rates and charges assessed or the terms and conditions imposed for towing services on a consent tow. The bill would deal with rates and charges, but it does not deal with terms and conditions. Towing services specifically include the storage of a vehicle.

*Nevada Revised Statutes (NRS) 706.4467* provides for the standards, the terms and conditions, under which a vehicle will be stored. However, it applies only to tow car operators. It does not apply to a separate company running a vehicle storage lot.

Some of the protections in the law include a requirement that you protect the vehicle from theft and damage, as well as the cargo and personal property that is in the vehicle. You must provide access during normal business hours to the owner of the vehicle. You must establish after-hours procedures for the owner of the vehicle to get access to their vehicle or personal property. You cannot hold the cargo or personal property as collateral for payment of the fees. You have to afford the owner of the vehicle, or their agent, the opportunity to inspect the vehicle before it is released, to detect damage or theft. You must provide the ability to file complaints and have those complaints resolved.

*Nevada Revised Statutes (NRS) 706.4483* gives NTA the authority and ability to investigate complaints regarding tow car operators. It does not give them any authority with regard to vehicle storage lots. The NTA should have the authority to require these vehicle storage lots comply with the same requirements in terms and conditions for storage as tow car operators comply with.

One of our other concerns is what happens if I do not have collision coverage and I am paying the bill? Mr. Compan testified that it was his view there is hope they would give the same rates to the consumer that the insurance company would get, but nothing in this bill requires them to give the same rates

to the consumer who is not covered for towing or storage charges. It allows the insurance companies to negotiate their own rates. There is a website that helps the partnership between the E&E Storage Lot/Facility, which is a partnership between Ewing Bros, LLC and R&S Storage Facility [more information at: <<http://www.rs-storage.com>>]. On that website, it says since all vehicles that have proof of insurance will be coming to E&E, insurance companies will not incur any fees, including advance charges, if a claim is denied or there is no collision coverage. This would be the responsibility of the registered or legal owner.

Another concern we have is how this is going to affect law enforcement. Mr. Draper testified that law enforcement officers would not have to do anything. They just have to make a good faith effort. On numerous occasions, the Nevada Supreme Court has said that to make a good faith effort means you actually have to do something. You have to use reasonable means at your disposal to try to accomplish the thing you were supposed to make a good faith effort to do. If that means crawling through the car, or opening the glove box to see if there is proof of insurance, you are required to do that. If you do not, you could be held liable. If staff would like to look it up, it is a 1998 case entitled *Department of Motor Vehicles v. Garcia-Mendoza*, 114 Nev. 1187, 971 P.2d 116 (1998).

They also mention the indemnification of law enforcement by the vehicle storage lots, but that indemnification only applies if, in fact, law enforcement has made a good faith effort. They have to actually do something more than they are currently doing to determine the identity of the insurance company that insures that vehicle.

One of our other recommendations would be to eliminate the requirement for the officer to make a good faith effort. We agree with Mr. Draper when he says the key priority of law enforcement is to take care of people that are hurt, clear the vehicles out of the way to get traffic moving, conduct a proper investigation, and get the site cleaned up. We think those are the important priorities, not having to determine who the insurer is. We believe this bill will require them to try to make a good faith effort to make that determination. If you do not delete that requirement to make a good faith effort, we think in the chaos of an accident scene, misunderstandings are going to be inevitable. You are on a highway, it is going to be loud, the officer tells the tow car operator the insurer is Farmers, and it might sound like State Farm. The other thing we would recommend is that the designation of the insurance company be in writing. That can be on a simple form with a blank for the insurance company and a signature of the officer. We recommend a two-part form so the officer holds one and the tow car operator has one. If the tow car operator

thought the officer said Farmers, the officer can pull his copy out and say, he told him it was State Farm. We do not think the officer should have to be involved in the first place, but if they are going to be involved, we want to make sure there are no misunderstandings. If there are, we are at risk under this bill of forfeiting all fees for the tow and having to do a second free tow from the storage yard where we took it, to the correct storage yard.

The laws relating to tow car operators require them to respond in a timely manner to requests for towing. As a way of improving timeliness and reducing costs, Quality Towing invested in a number of dual tow vehicles so we can send one tow car and one tow car operator to the scene of a two-car accident and tow both vehicles at the same time. If two different insurance companies insure those vehicles, one with a storage yard in Henderson and one in North Las Vegas, then we are running all over the Valley trying to deliver those two vehicles. Instead of achieving some efficiency for customers with those dual tow vehicles, we would instead have additional costs for the consumer. Many tariffs for towing services include charges based on time or mileage or both. If the vehicles have to travel farther, or it takes longer to get to the designated storage lot, that is going to increase the cost of the tow. If we go back to the situation where I do not have collision coverage, and I am paying for that tow, my costs as a consumer have gone up. The insurance company might get a better rate for the storage, but I am going to pay more for the tow itself. That also may be true if my coverage has lapsed, and in this economy people sometimes pay their bills late. It can also be true if I have changed my coverage from one company to another and I have not put the proof of coverage in my vehicle. The officer believes I am insured by Allstate, when it turns out Progressive now insures me.

Senate Bill 456 (R1) will also negatively affect Quality Towing's ability to realize a return on the investment they have made, not only in these dual tow vehicles, but also in storage lots. They have storage lots all over the Las Vegas Valley. They have a storage lot that is close to most locations and they can take the car to the most convenient storage lot and keep the costs down. If we lose that stream of revenue from the storage, that is going to negatively affect our ability to realize a return on that investment. We can lay people off and close down storage lots, or we can raise our tow rates. Our rates are regulated by NTA and through the Metro contract; however, as the insurance companies know well, if you have regulated rates, you must be allowed to achieve a fair rate of return on your investment. The insurance companies know that well because in 1989 when this Legislature passed a bill to regulate motor vehicle insurance rates, the insurance companies sued Nevada in federal court and ultimately won in the United States Court of Appeals for the Ninth Circuit, which struck down that law saying the insurance companies had a right to get a fair rate of return on

their investment. If we lose this cash flow source, we may very well have to raise our tow rates to be able to get that fair rate of return and the NTA constitutionally would have to let us raise those rates. The case was *Guaranty National Insurance Co. v. Gates* 916 F.2d 508 (9th Cir 1990).

We believe these impacts will fall disproportionately on low-income consumers. While all motorists in Nevada are required to maintain liability insurance, they are not required to maintain comprehensive or collision coverage. It is not unusual to have late payments, which are going to disproportionately affect low-income consumers, therefore the insurance company could deny coverage, and now I, as a consumer, am responsible for that higher tow bill to a vehicle tow lot that is farther away.

We are concerned that consumers will not benefit, that only large insurance companies will benefit from this bill. The unintended consequence of S.B. 456 (R1) will be negative for low-income consumers with cheaper insurance who may not have the same leverage to negotiate the same rates as the major insurance companies have. We are also concerned that smaller tow companies or storage yards will not truly be able to compete for the business, as the larger insurance companies will impose requirements for the quality of the storage yard and hours of operation. If you are a smaller storage yard, you will not be able to have people on staff as often as if you are a larger storage lot doing more business. The accessibility and financial stability are the kinds of things we expect the insurance companies will be looking for from storage yards. Those will all tilt the playing field in favor of the larger operators.

I mentioned earlier we are also concerned that the proponents have already gotten a jump on the rest of the competition. They have already formed their joint venture. We believe they have already started talking to the insurance companies. We do not know what stage those discussions are at, but we certainly are concerned about that. They already have their website indicating all insured vehicles are going to be taken to their storage lot. The bill says they may designate more than one storage lot but there is nothing that requires them to do that. They could very well have a monopoly.

**Assemblyman Paul Anderson:**

I brought up the issue of a storage lot potentially monopolizing the market and seeing tariff rates increase on other companies because that profit margin is gone. Could the opposite be true that Quality Towing could monopolize the storage yards since they already have a long-standing relationship with many of the insurance companies through Metro? Historically, they have had a lot of that business and, to my understanding, Quality Towing is one of the largest

towing companies in Clark County. Could they also benefit from the language of this bill?

**Scott Scherer:**

Theoretically, they could certainly bid on the business. There are two concerns, one is we think there have already been ongoing discussions and that the proponents of the bill have a jump on the rest of the competition. The second, and more serious one, is to make sure there is a level playing field so that all vehicle storage lots have to comply with the same requirements for storage of vehicles that we are held to as a tow car operator.

Mr. Malkiewich testified that their amendment took out the requirement to comply with all applicable provisions of NRS 706.4485 and put in just the two he thought were applicable. He said those were to have adequate security and comply with the legal standards. You used to be able to read that section, without the amendment, as requiring they get a Certificate of Public Convenience and Necessity. With the amendment, there would be no requirement for a vehicle storage lot to get a Certificate of Public Convenience and Necessity. The NTA would really have no authority over them to make sure they were complying with the same rules as those for certificated tow car operators.

**Assemblyman Paul Anderson:**

I agree with you. I think the certification of the yard should be appropriate across the board. I am not so sure first mover advantage is a good argument. I think Ewing was there before Quality and Quality is probably bigger than Ewing. There are a lot of times where second mover advantage can sometimes play into this as well, seeing that other people make mistakes and gaining from those opportunities. I agree that there needs to be an equal set of rules applied to each of these yards, whether they are tow operators or storage lots. I read a lot of that into the language there, that there is an attempt and intent to make those equal. Would referencing current NRS statutes be something that would point to and qualify those yards better?

**Scott Scherer:**

We could reference specific statutes or reference the entire chapter. We would need to make it clear that the vehicle storage lots would be subject to NTA authority. The NTA would have the ability to handle complaints and impose penalties against vehicle storage lots that violate the standards, the same way they could against the tow car operator. It is possible to make some amendments to the bill, but, as the bill is written, it does not do that.

**Assemblyman Paul Anderson:**

It is your opinion that it essentially exempts them from NTA authority to govern those yards?

**Scott Scherer:**

Yes, that is my opinion. The bill does not specifically require them to comply, and the existing statutes refer to tow car operators, not vehicle storage lots, having to meet these standards.

**Assemblyman Sprinkle:**

Back to your point about police officers making a good faith effort. Even if they are not able to identify the insurance company or where the vehicle needs to be towed, then the standard practice that already exists would come into play. That practice is that there is a rotation tow, it would be towed to whatever yard, and that yard has 24 hours to notify the insurance company where the vehicle is. It is not really something that is incumbent upon the police department; there is still a time frame in which the vehicle owner or insurance company needs to be notified.

**Scott Scherer:**

There is certainly the ability for the insurance company or the owner of the vehicle to redirect it to a different storage lot. The owner may redirect at the time of the tow. After it has been towed to the storage lot, many tariffs include the first 24 hours of storage in the price of the tow. Within those 24 hours, the insurance company could come on behalf of the owner and have the vehicle redirected to their designated storage lot. They can do that now under existing law. The bill would also require, in addition to law enforcement direction, if the tow car operator knows a particular insurance company insures it, they would look to see what that insurance company's designated storage lot is.

**Assemblyman Sprinkle:**

Going back to the statement you made about potentially increasing the requirements of police officers, I do not see the necessity for that if there are other avenues in place, if the police officers are not able to identify where that car needs to go.

**Scott Scherer:**

We agree. This is putting an additional burden on law enforcement when they have far more important things to do at the scene of an accident. There are other ways to address this situation.

**Assemblywoman Spiegel:**

Based on some of the testimony we heard earlier, there are homeowners' associations and merchants in shopping centers that have signs up regarding towing. Am I correct in saying those kinds of tows will not be covered by this bill?

**Scott Scherer:**

Yes, you are correct. This bill only applies when there has been an accident.

**Assemblywoman Spiegel:**

What percentage of business is made up of these private tows versus accident tows? There might be some third category that I do not know about.

**Scott Scherer:**

I am not sure what the percentage would be. There are different categories of tows. By regulation, it is categories A, B, and C. Category C is the private tow. I believe category B is the law enforcement tow. There are different tariff rates for the different categories.

**Assemblywoman Spiegel:**

Would the existing tariff structure be in place for these private and what I call the "I am broke down and need a tow" tows?

**Scott Scherer:**

For the private party tows, where the private property owner wants a vehicle towed, and it is your car and you did not give your consent to tow it, that would be a category C tow. It would be governed by a tariff approved by the NTA.

In the case where your car has broken down and you call for a tow, that would be a consent tow because you chose the tow company.

**Assemblywoman Spiegel:**

That would not be covered under this bill.

**Scott Scherer:**

That would not be covered by a tariff.

**Chairman Carrillo:**

Are there any other questions from Committee members? [There were none.]  
Is there anyone else wishing to testify in opposition to S.B. 456 (R1)?

**Bruce Sanfilippo, General Manager, Quality Towing, Las Vegas, Nevada:**

We are in opposition to S.B. 456 (R1).

**Assemblywoman Spiegel:**

Can you tell me roughly the mix between category A, B, and C tows? It does not have to be specific to your company.

**Bruce Sanfilippo:**

How many nonconsent tows are from private property owners versus how many are from law enforcement? Is that correct?

**Assemblywoman Spiegel:**

That is correct, but category C was also the consent tow. If we looked at a pie chart of the overall towing industry, what percentage of the business is consensual?

**Bruce Sanfilippo:**

I cannot answer that industrywide, but on a rotational month, the mix of consensual tows versus nonconsensual tows is probably 700 consensual to maybe 3,300 to 4,000 nonconsensual tows. I can get those numbers from my company.

**Assemblywoman Spiegel:**

That would be great.

**Chairman Carrillo:**

Has Quality Towing come to the table to try to work out any issues, other than being opposed to the bill?

**Scott Scherer:**

I got involved after the first hearing on the Senate side. Quality Towing did testify in opposition to the bill at that hearing. I did draft a proposed amendment, which I did not submit to this committee. I thought I had submitted it ahead of the deadline on the Senate side, before the work session, but it did not make it into the work session document. I did share a copy of that amendment with Mr. Compan. We are willing to sit down and work. I do not know what efforts were made prior to my getting involved. Other than the amendment we drafted and shared with Mr. Compan, I do not think we have had any other discussions. I am not the only one working on this bill.

**Chairman Carrillo:**

I was curious what was done on the other side as to any type of working together. Most of the time a lot of this is already worked out on the



other side and vice versa, I thought maybe people had already worked on it. You said there was an amendment you proposed on the other side. Is there any reason why you did not bring it forth on this side?

**Scott Scherer:**

There was an amendment. I think there was another amendment from the proponents of the bill. We were not sure what was going to be in it and whether or not it was going to address any of our concerns. I believe there was another provision in the amendment regarding the consent, nonconsent issue. There were a couple of things we were still working on, and I do not know what discussions have been made by other people who represent Quality Towing.

**Chairman Carrillo:**

Is this to be under the jurisdiction of the NTA?

**Lorne Malkiewich:**

I think the question raises the authority of the NTA. One of the concerns was competition, to make sure this is open. Many of the entities that would be qualifying as vehicle storage lots are tow companies under the authority and jurisdiction of the NTA. The question was, what about someone who is not? What about a salvage pool or some other entity? We incorporated the standards, including "comply with all standards a law enforcement agency may adopt pursuant to NRS 706.4485 to protect the health, safety, and welfare of the public." Those standards were adopted by Metro, and when they do their duty tow rotation, storage lots must comply.

Rather than take the approach of doing a completely separate licensing category and procedure to be licensed as a vehicle storage company, we want to keep this as open as possible. Remember, one of the things we were trying to do is encourage as much competition as possible. If you are meeting all of these standards, if you are meeting all of Metro's standards, if you are meeting all the requirements set forth in here, and an insurance company has approved it, all we are asking NTA to do is look at the agreement and say, yes, this agreement between the insurance company and the vehicle storage lot complies with these requirements. Certainly, you could choose to create a separate licensing category and make these entities subject to regulation by NTA. Many of the entities will be, but our idea was to keep it as open as possible to ensure they met the basic standards, but did not necessarily have to be someone who is under NTA jurisdiction.

**Chairman Carrillo:**

Can you shed some light for committee members regarding the regulation and the whole process?

**Andy MacKay:**

To simplify it, there is a checklist, you meet these, and we say you are good to go. If you have a specific regulation for the towing company, I can answer your question.

**Chairman Carrillo:**

I just wanted to make sure we conferred on that.

**Assemblyman Paul Anderson:**

Would the storage lots have the same requirements as the tow operator lots?

**Andy MacKay:**

Yes. It is straightforward. Section 1, subsections 5, 6, and 7, lays it all out.

**Assemblyman Paul Anderson:**

Would you have that same authority to enforce those regulations as you do over a tow operator?

**Andy MacKay:**

Yes.

**Assemblyman Hardy:**

Will this bill potentially cause rates to go up for towing? Will it hurt other competitors?

**Mike Draper:**

The issues two years ago, when we talked, were some you just raised, rates going up and the creation of a monopoly. In the interim, we went back and, after arguing with the proponents of S.B. 407 of the 76th Session, decided rather than continue to argue with them, we would work with them and address all of the concerns in the bill. This bill now gives everybody the opportunity. In fact, when you talk about a monopoly, this is the only way to allow more competition in this system. It gives some of the people that are not part of the tow rotation system an opportunity to get some of that business. Just like any other business model, this will be based on relationships, business, service, quality, et cetera. The only way it hurts a company is if they are not out conducting business by doing an upstanding job, competing, et cetera.

Will it raise tow rates? I think when you look at it in isolation you could make the argument that if you lost a lot of business from this you might need to increase your tow rates. However, you also have to look at what the law enforcement community is starting to do and that is to work towards a tow management system that would, in essence, take them out of the tow game

and put one company in charge of all the towing and storage in that jurisdiction. This proposal protects the current companies, allows them to still compete, and ensures they still have the opportunity for contracts under a tow management system that might preclude all of them from participating in that.

**Chairman Carrillo:**

Is there anyone in Carson City or Las Vegas wishing to testify in neutral on S.B. 456 (R1)?

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

We are neutral on this bill. We do have members who are on opposite sides of this issue. I did want to bring up a couple of points that clarify some of the issues at hand. We have heard a lot about charges that have been levied against people on tows and how those are dealt with. After last session, we worked with NTA, tow operators, and insurance companies to develop a model tariff so we will have the ability, as a consumer, as an industry, to know what those charges mean. When you think about a tow operation, there are three ways a tow company makes money. It makes money on the actual towing and that is your most capital-intensive situation. That is where you have to hire labor and have trucks. They make money on the storage. They make money on the auction of the vehicle. Those are the profit centers of the tow company.

We wanted to look at all of the different parts of how a tow operation makes money and put that in a model tariff. Instead of having different definitions and different towing companies saying they are going to charge X amount for a cleanup fee, somebody else calling it a broom fee, and somebody else calling it a taking fee, we wanted to streamline that definition, so it is more transparent to the consumer and the NTA. They could look at that and say company A is out of line with everybody else. What has that done? If you look at the six months prior to the implementation of the model tow tariff, there were 125 complaints between December 2011 and July 2012. The full model tow tariff was implemented in August 2012. In the ensuing six months, to March 2013, there were 101 complaints. When you look at the complaints from insurance companies, it went from 29 to 12 complaints. It is the insurance companies that have the expertise and are scrutinizing the tow bills to determine if those are valid charges.

We did take this bill seriously last session, and we did work with the industry, insurance companies, and regulators to make sure we were getting sensible regulation out there. The reality is it is never a good day when your car is towed. It is not a good day when it is towed by law enforcement, a private party because you parked in a red zone or overnight in a gated community, and it is not a good day when it breaks down and you have to call a tow company.

Category A tows are consensual tows and are not regulated by NTA. Those are rates that we can call around about and negotiate. The category B and C rates are law enforcement and private party tows. You do not have the ability to negotiate those prices; those are the ones that are regulated by the NTA. In this bill, we are talking about only the law enforcement tows, not the private party tows.

**Chairman Carrillo:**

Are there any questions from Committee members? [There were none.] We will close the hearing on S.B. 456 (R1). We are going to take a five-minute recess. When we come back, we are going into a work session.

[The Committee recessed at 5:25 p.m. and reconvened at 5:37 p.m.]

**Senate Bill 12 (1st Reprint): Clarifies the authority of the Nevada Transportation Authority to submit fingerprints to the Federal Bureau of Investigation. (BDR 58-356)**

**Vance Hughey, Committee Policy Analyst:**

Senate Bill 12 (1st Reprint) was heard on April 25, 2013 ([Exhibit I](#)). It clarifies that certain individuals associated with a motor carrier or applicants to operate as motor carriers must submit fingerprints to the Nevada Transportation Authority (NTA) for the purposes of a background check.

According to testimony, the NTA has relied upon *Nevada Revised Statutes* (NRS) 239.B.010 as its authority to require persons to submit to fingerprinting and to have the fingerprints forwarded to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation (FBI). However, the FBI has issued a directive indicating that there needs to be specific enabling language in statute that provides a regulatory agency with such authority. This bill provides the NTA with that specific enabling language.

No amendments have been proposed.

**Chairman Carrillo:**

Is there any discussion? [There was none.]

ASSEMBLYWOMAN CARLTON MOVED TO DO PASS  
SENATE BILL 12 (1ST REPRINT).

ASSEMBLYMAN HARDY SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYWOMEN FLORES AND  
WOODBURY WERE ABSENT FOR THE VOTE.)

**Chairman Carrillo:**

I will assign the floor statement to Assemblywoman Carlton.

**Senate Bill 13: Authorizes the Department of Motor Vehicles to suspend the registration of a motor vehicle under certain circumstances. (BDR 43-368)**

**Vance Hughey, Committee Policy Analyst:**

Senate Bill 13 was heard on April 30, 2013 ([Exhibit J](#)). It authorizes the Department of Motor Vehicles (DMV) to suspend the registration of a motor vehicle if the payment for the registration fee is returned to the DMV or otherwise dishonored. The bill requires the immediate return of the certificate of registration and license plates upon suspension. The DMV is required to notify the registered owner of the impending suspension and provide instruction for reinstatement. The registration must be reinstated upon payment of the applicable registration and license plate fees, Governmental Services Tax, and any late fees or penalties.

No amendments have been proposed.

**Chairman Carrillo:**

Is there any discussion? [There was none.]

ASSEMBLYWOMAN SPIEGEL MOVED TO DO PASS  
SENATE BILL 13.

ASSEMBLYMAN SPRINKLE SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYWOMEN FLORES AND  
WOODBURY WERE ABSENT FOR THE VOTE.)

**Chairman Carrillo:**

I will assign the floor statement to Assemblywoman Spiegel.

**Senate Bill 14 (1st Reprint): Revises provisions governing highways under the jurisdiction of the Department of Transportation. (BDR 43-362)**

**Vance Hughey, Committee Policy Analyst:**

Senate Bill 14 (1st Reprint) was heard on May 2, 2013 ([Exhibit K](#)). It authorizes the director of Nevada's Department of Transportation (NDOT) to reduce, for a period not to exceed 180 days, the maximum vehicle weight limit on any state-owned road or bridge for the purpose of public safety. The director must notify the NDOT Board of Directors within 60 days of making any weight limit reductions.

No amendments have been proposed.

**Chairman Carrillo:**

Is there any discussion? [There was none.]

ASSEMBLYWOMAN CARLTON MOVED TO DO PASS  
SENATE BILL 14 (1ST REPRINT).

ASSEMBLYMAN PAUL ANDERSON SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYWOMEN FLORES AND  
WOODBURY WERE ABSENT FOR THE VOTE.)

**Chairman Carrillo:**

I will assign the floor statement to Assemblyman Paul Anderson.

**Senate Bill 88 (1st Reprint): Authorizes the Department of Motor Vehicles to waive certain fines under certain circumstances. (BDR 43-109)**

**Vance Hughey, Committee Policy Analyst:**

Senate Bill 88 was heard on April 30, 2013 ([Exhibit L](#)). It authorizes the Department of Motor Vehicles (DMV) to remove the suspension of the registration of any motor vehicle for which the DMV cannot verify liability insurance coverage if the registered owner proves to the satisfaction of the DMV that the vehicle was dormant during the period in which the DMV was unable to verify coverage. Under such circumstances, the DMV may also waive the fees and administrative fines otherwise required before a suspension may be rescinded.

No amendments have been proposed.

**Chairman Carrillo:**

Is there any discussion? [There was none.] We are not going to do a motion on this one.

**Assemblywoman Carlton:**

I cannot find the document I was looking for in conjunction with this bill. Thank you for letting me do a little more on this before we process this bill.

**Chairman Carrillo:**

Thank you for bringing it to my attention.

**Senate Bill 143 (1st Reprint): Revises provisions governing certain examinations for driver's licenses. (BDR 43-696)**

**Sean McCoy, Committee Policy Analyst:**

Senate Bill 143 (1st Reprint), was heard on April 30, 2013 ([Exhibit M](#)). It directs the Department of Motor Vehicles (DMV) to add at least one question to the written driver's license examination concerning the Nevada law prohibiting the use of cell phones or other handheld devices while driving.

It came to my attention just before Committee that we have a proposed conceptual amendment. Assemblyman Hambrick will be discussing it.

**Assemblyman John Hambrick, Clark County Assembly District No. 2:**

During the testimony on this bill, the sponsor indicated that we would have a question on the test. She mentioned, and we had testimony from Las Vegas, that the State of Nevada is missing potential grant money in the Moving Ahead for Progress in the 21st Century Act (P.L. 112-141) (MAP-21) Program because we did not address drivers under the age of 18 using wireless, including Bluetooth and hands-free devices. I had a discussion with the Chairman and a few other members of the Committee today looking at this. We came up with this amendment. I believe most of the Committee members have received a copy of the conceptual amendment ([Exhibit N](#)). Should the Committee approve both option one and two, particularly option one, Nevada would be eligible for between \$11 million and \$22 million in grant programs to address distracted driving, particularly in those under 18. I hated to see that go by the wayside and not have Nevada get more federal dollars. I did some quick work, and Legislative Counsel Bureau staff attorneys and Brenda Erdoes reviewed this. You see her language before you. I urge you to look at it and consider approving both options. Option one would allow Nevada to apply for grant money.

**Assemblywoman Spiegel:**

The program details that are on the sheet you passed out include a provision for youth who are at the learner and intermediate stage being prohibited as drivers from using a cell phone or other communication device in a nonemergency situation. Nevada allows all drivers to use a cell phone with a hands-free device. Is the amendment including the prohibitions that would meet the other program requirements? I am unclear as to the specifics of the proposed amendment.

**Assemblyman Hambrick:**

The language will not affect adult drivers. They would still be eligible to use hands-free units. Minors under 18 would not have access to cell phones, including a hands-free unit. I did have a conversation with the sponsor of the bill to make sure she was comfortable with this. She indicated she was satisfied with the way this was going. Unfortunately, the Senate did not view the second portion going after the MAP-21 money. I hope this Committee might consider this and go forward. If we choose not to accept option one, it will not affect the sponsor's portion of the bill. This would just be an addition.

**Assemblywoman Carlton:**

We do not have an amendment. Even though most people are allowed to use hands-free devices, we would say that no one under the age of 18 would be allowed to use a hands-free device?

**Assemblyman Hambrick:**

That is correct. They would not be able to use a cell phone in the car, even with a hands-free device.

**Assemblywoman Carlton:**

I would be opposed to that. We ask them to drive at 16, they take the test, they are qualified drivers, and they probably pay more for insurance than anybody else does in this room. When my daughters call me in their cars, I yell at them to hang up and talk to me later, even though they have hands-free devices. I do not feel we should be treating legitimate young people that have a driver's license differently. We already have a graduated driver program in Nevada. They have to jump through many hoops to get their driver's license. I feel treating them differently is inappropriate. His or her driver's license is just as good as anybody else's.

**Assemblyman Sprinkle:**

There is a lot of discussion with this amendment. I might suggest holding it so we can look into it further.



**Assemblyman Hambrick:**

I do not want this bill to die just because of an amendment. The sponsor has done too much work on this bill. I hope we can get some money. The bill without the amendment is a good bill. With the Chairman's permission, I will withdraw the amendment.

**Assemblyman Bobzien:**

I appreciate Assemblyman Hambrick not wanting to kill the bill. I do not think anyone wants to kill the bill. We do still have time. I think there are some questions as to what the prospects would be for additional federal dollars. I would not want to lose that opportunity if there is a chance to get more federal dollars. While I agree with Assemblywoman Carlton's concerns about what this could mean, I would like more information before we move this bill along.

**Chairman Carrillo:**

We will pull Senate Bill 143 (1st Reprint). I appreciate the sentiments from Assemblymen Hambrick and Bobzien. We will bring it up at a later work session.

**Assemblyman Bobzien:**

Can we get more information on the federal program from the sponsor of the amendment? If we can get that information out to folks, I would certainly like to review that.

**Chairman Carrillo:**

I am sure Assemblyman Hambrick would be happy to assist with that.

**Senate Bill 191: Increases the maximum speed at which a person may drive or operate a vehicle. (BDR 43-729)**

**Vance Hughey, Committee Policy Analyst:**

Senate Bill 191 was heard on May 2, 2013 ([Exhibit O](#)). It allows Nevada's Department of Transportation (NDOT) to raise the speed limit on certain highways to not more than 85 miles per hour, except as otherwise provided by federal law. The measure also revises the incremental parameters for the imposition of a fine for exceeding the posted speed limit to account for the increase in posted speed limits of up to 85 miles per hour.

No amendments have been proposed.

**Assemblywoman Spiegel:**

I have some concerns about this bill because of the roads that are one lane in each direction. I am concerned about having a disparity between the speeds that different vehicles are going, whether it is a truck or passenger vehicle. I will be voting no on this bill.

**Chairman Carrillo:**

We have the bill sponsor available to assist with that concern.

**Senator Donald (Don) G. Gustavson, Senatorial District No. 14:**

I believe you are talking about the speed differential. We have speed differentials and speed differential laws in different states where trucks do drive at a different speed. In many states, they are required to drive slower than cars. In many states, trucks are allowed to drive at the same speed as cars. Studies in Utah and Texas, where they can drive 85 miles per hour, show they have not had any problems. In fact, accidents have decreased.

**Assemblywoman Spiegel:**

I am still concerned. I was on U.S. Highway 395, had cars coming at me when there is an opportunity for somebody to pass, and got run off the road.

**Senator Gustavson:**

According to my conversations with NDOT, this would only apply to four-lane interstate freeway system roads. Because of the safety factors in the design of the roads, you can see for longer distances, and cars are not passing or coming head-on. They have to do studies before they allow this anywhere.

**Assemblyman Bobzien:**

Knowing we are not talking about two-lane roads with opposing traffic, that we are just talking about the larger interstates, and knowing that NDOT would study and evaluate this before making any designation, that this is not just a blanket raising of the speed limits, makes me more comfortable with it.

**Assemblywoman Carlton:**

This was enabling. It is not mandatory. It is as they post, as they evaluate, they will change it.

**Senator Gustavson:**

Yes, that is correct. It is enabling legislation. It allows NDOT to increase, after doing studies, if they desire to do so.

**Assemblyman Hardy:**

For those who have had the opportunity to drive Interstate 15 through Utah, they did a study between the Beaver and Fillmore areas, and as a result, the 80 miles per hour speed limit has been expanded to Nephi. There are substantially lower visibility distances for traffic than on Interstate 80 because they have steeper grades all through that area. It works very well and I think it has actually decreased accidents as well.

**Assemblyman Paul Anderson:**

I have full faith that NDOT would make the appropriate decisions about which roads to pick. I am concerned about the fiscal impact of studies, signage changes, et cetera. I do have a concern about adding yet another item for the list of items they have to prioritize within their limited budget and constraints. I am sensitive to the argument of the speed differential. I will support the bill coming out of Committee, but I will reserve the right to change my vote on the floor.

**Senator Gustavson:**

There is a fiscal note and NDOT did testify in the Senate Committee that they could absorb the cost involved in their current budget.

ASSEMBLYWOMAN CARLTON MOVED TO DO PASS  
SENATE BILL 191.

ASSEMBLYMAN HARDY SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYWOMEN SPIEGEL AND  
SWANK VOTED NO. ASSEMBLYWOMEN FLORES AND  
WOODBURY WERE ABSENT FOR THE VOTE.)

**Chairman Carrillo:**

I will assign the floor statement to Assemblyman Hardy.

**Senate Bill 158: Revises provisions relating to motor carriers. (BDR 58-466)**

**Vance Hughey, Committee Policy Analyst:**

Senate Bill 158 was heard on April 25, 2013 ([Exhibit P](#)). It prohibits, in motor carrier transportation contracts, indemnification clauses that require one party to indemnify and hold harmless another party for that other party's own negligence or wrongful acts.

No amendments have been proposed.

ASSEMBLYMAN HAMBRICK MOVED TO DO PASS  
SENATE BILL 158.

ASSEMBLYMAN BOBZIEN SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYWOMEN FLORES AND  
WOODBURY WERE ABSENT FOR THE VOTE.)

**Chairman Carrillo:**

I will assign the floor statement to Assemblyman Paul Anderson.

**Senate Bill 343 (1st Reprint): Makes various changes relating to off-highway  
vehicles. (BDR 43-630)**

**Sean McCoy, Committee Policy Analyst:**

Senate Bill 343 (1st Reprint) was heard on May 2, 2013 ([Exhibit Q](#)). It allows an owner of an off-highway vehicle (OHV) that is defined as a "large all-terrain vehicle" the option of registering that OHV as a motor vehicle intended for use on a general or minor county road, unless the city or county prohibits such use. The owner of a large all-terrain vehicle who registers the vehicle for such use must provide proof of insurance that meets the requirements of insurance on an automobile. The bill also provides for a new registration sticker or decal for use on a large all-terrain vehicle registered for such use that is distinguishable from the sticker or decal of other OHVs.

No amendments have been proposed.

ASSEMBLYMAN BOBZIEN MOVED TO DO PASS SENATE BILL 343  
(1ST REPRINT).

ASSEMBLYMAN HARDY SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYWOMEN FLORES AND  
WOODBURY WERE ABSENT FOR THE VOTE.)

**Chairman Carrillo:**

I will assign the floor statement to Assemblyman Sprinkle.

**Senate Bill 503 (1st Reprint): Revises provisions relating to drivers' licenses and identification cards. (BDR 43-1159)**

**Sean McCoy, Committee Policy Analyst:**

Senate Bill 503 (1st Reprint) was heard on April 30, 2013 ([Exhibit R](#)). It authorizes the Department of Motor Vehicles (DMV) to issue driver's licenses and identification cards that expire on the eighth anniversary of the person's birthday or on the eighth anniversary of the date of issuance. The bill requires the DMV to charge twice the amount of certain existing fees for such driver's licenses and identification cards.

The bill also provides for the issuance of a nonresident commercial driver's license or nonresident commercial learner's permit if the person is a resident of a state that is prohibited pursuant to federal regulations from issuing commercial driver's licenses.

No amendments have been proposed.

**Assemblywoman Carlton:**

Was there any provision about someone getting the card and leaving the state? I know that with automobile license plates they can get a credit towards their next plate. Was there any discussion about that with this bill? Sometimes we have folks come to this state, they get their driver's license, they pay for eight years, and then they move out of state. Was there a provision in this bill for that?

**Assemblyman Healey:**

No, there was not.

**Assemblywoman Carlton:**

I will be opposed to this bill.

ASSEMBLYMAN HARDY MOVED TO DO PASS SENATE BILL 503 (1ST REPRINT).

ASSEMBLYMAN HEALEY SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYWOMAN CARLTON VOTED NO. ASSEMBLYWOMEN FLORES AND WOODBURY WERE ABSENT FOR THE VOTE.)

**Chairman Carrillo:**

I will assign the floor statement to Assemblyman Healey.

**Senate Bill 109 (1st Reprint): Revises provisions relating to off-highway vehicles. (BDR 43-467)**

Senate Bill 109 (1st Reprint) was not heard ([Exhibit S](#)).

**Chairman Carrillo:**

We will open the hearing on Senate Bill 508 (1st Reprint).

**Senate Bill 508 (1st Reprint): Repeals provisions relating to trains. (BDR 58-576)**

**Richard Combs, Director, Legislative Counsel Bureau:**

I am here today to testify on part of Senate Bill 508 (1st Reprint). As originally introduced, S.B. 508 (R1) contained only what now appears as section 4. Under *Nevada Revised Statutes* (NRS) 220.085, the Legislative Counsel Bureau Research Director and Legislative Counsel worked together during the interim to identify obsolete or antiquated statutes and make recommendations for repeal to the Legislative Commission. Senate Bill 508 (1st Reprint) was, in its original version, a result of that provision.

Section 4 repeals three sections of NRS. The first one is NRS 705.240, which indicates it is unlawful to employ a train engineer, or to act as a train engineer, if the person cannot read timetables and ordinary handwriting. The second provision is NRS 705.390, which protected flaggers and trainmen employed by the railroad companies based on legislation from 1963 and 1985. It had removed mandatory requirements for the number of employees employed by those companies. It grandfathered in some employees. That grandfather clause is not necessary anymore.

NRS 705.420 is a provision that set forth the penalty for violating the previous provision, NRS 705.390. Research Division staff contacted the Public Utilities Commission of Nevada and Nevada officials, and they agreed the provisions were obsolete. We also contacted the general attorney for Union Pacific Railroad, who also agreed the three provisions were obsolete.

On the Senate side, the bill was amended. The Senate Transportation Committee at the request of XpressWest added sections 1, 2, and 3.

**Lorne Malkiewich, representing XpressWest:**

I am here today on behalf of XpressWest. As Mr. Combs indicated, this bill, as introduced, had only the provisions he discussed. The Senate Transportation Committee was kind enough to let us amend in provisions concerning the Super Speed Ground Transportation Commission ([Exhibit T](#)). California no longer has their side of that. What we would like to do now, and I have discussed this with the Chair of the Senate Transportation Committee, would be to amend this bill further to change the Super Speed Ground Transportation Commission to a High Speed Rail Authority. There is also a document with letters in support of both the concept and specific projects ([Exhibit U](#)).

**Andrew Mack, Chief Operating Officer, XpressWest, Las Vegas, Nevada:**

I here in support of the amendment to Senate Bill 508 (1stReprint). We believe it will align the State of Nevada with federal high-speed policy as well as planned and current high-speed rail projects in Nevada and California. Since the Commission was formed in the late 1980s, high-speed rail nationally and regionally has evolved and solidified around steel wheel on rail, high-speed train technology. Over that same period, the California side of the Commission has expired and no significant development work has been formed through the Commission since 2004.

In 2009, the United States Department of Transportation (DOT) established its vision for high-speed rail and initiated funding for a national high-speed rail program. The Commission submitted an application for the program and was deemed by DOT to be an ineligible application for high-speed rail grant funding. In implementing the high-speed rail program, the Federal Railroad Administration is requiring that high-speed rail projects be interoperable, which requires compatible systems and infrastructure between different projects. On the California side, California is moving forward with steel wheel on steel rail high-speed train technology with a program through the California High-Speed Rail Authority. It has awarded its first package for the initial construction segment of the California High-Speed Rail project in the Central Valley.

XpressWest, on the Nevada side, is a fully federally permitted and authorized private interstate passenger railroad based on steel wheel on rail, high-speed train technology that would be interoperable with the California system. California governing bodies responsible for transportation have institutionalized their support for steel wheel high-speed train interoperability between southern California and southern Nevada.

In short, a new High-Speed Rail Authority, amending the current language, would align Nevada with federal high-speed surface transportation policy as well as regional transportation plans and projects in both southern Nevada

and California. Through the new authority, the state would also enable a receptor for future federal funding dedicated to high-speed rail projects that could facilitate connectivity with California as well as potentially onward into other states such as Arizona, Utah, and Colorado.

**Gregory S. Gilbert, representing XpressWest:**

Most of my day as a Nevada construction transportation lawyer is spent between Nevada and Washington, D.C. For approximately 4½ years, I have been travelling back and forth interacting with DOT. Our state, today, does not have a statute that speaks the same vocabulary as the DOT as it relates to high-speed rail. As a result, it makes it difficult for Nevada to interact with the federal government as it relates to rail. These slight changes bring our statute into current language and allow us to have a vibrant communication with DOT. These changes do not put any burden on any of the residents of Nevada; they are technical in nature and simply help us to better communicate with the DOT in general.

**Assemblywoman Carlton:**

As I read this bill, are we establishing a new authority or are we changing the name on the existing, but maybe nonperforming, authority right now?

**Gregory Gilbert:**

We are really just changing the name.

**Assemblywoman Carlton:**

Does the authority currently function?

**Gregory Gilbert:**

No, the authority does not currently function, which is why the technical corrections did occur. A commission would replace the authority and act in a consistent manner with the way it was acting before.

**Assemblywoman Carlton:**

There is no budget for this? How is it paid for?

**Andrew Mack:**

There is no funding obligation on behalf of this authority. The commission has existed for 35 years as a state agency, so that agency would continue to exist, only as the Nevada High-Speed Rail Authority as opposed to the California-Nevada Super Speed Train Commission.



**Assemblywoman Carlton:**

Thank you. I will have to go back and look at those budgets to make sure there were no adjustments made. If we did not give that agency what they needed to perform these functions, then we are going to need to reevaluate.

**Assemblyman Sprinkle:**

The way I understood it, this was not just a name change. There is going to be technology that is different as to how this high-speed rail is produced. This is what gets us in line with our neighboring states and that is how we will continue to qualify for federal dollars. Is that not correct?

**Gregory Gilbert:**

There are technical corrections that you did notice that relate to high-speed rail as opposed to the previous maglev technology. Just to be clear, the changes that are being made in this Senate bill do not preclude anyone from developing any type of rail program with the corridor. It is just broadening it to bring it into line with the current vocabulary, which is interoperable rail with the high-speed rail in California.

**Assemblyman Paul Anderson:**

We are talking about it meeting certain miles per hour, it has to hit a certain destination, and it has to carry primarily passengers. Why are we being so specific in this authority or commission as you spoke to the intent to expand the opportunities?

**Andrew Mack:**

The way the commission was initially established was very specific in that it set forth minimum speeds and the actual technology that would be employed by the commission, which was magnetic levitation. The language is intended to put it in line with the national high-speed rail program, which is specific with regard to steel wheel on rail technology. That is at least 150 miles per hour and is currently the definition of high-speed rail. Using the definition of standard gauge steel wheel on rail that is fully electric and at least 150 miles per hour, it makes the mission of the authority consistent with what is currently being built in California as a fully electric, high-speed, 150 miles per hour, standard gauge, steel wheel on rail project.

**Assemblyman Paul Anderson:**

I understand the alignment idea. I guess the concern is we are going to be back next session because technology has changed and it is going to be 140 or 180 miles an hour. We will have to go through each of these statutes and constantly change them. Why are we not just creating the commission and

then they create their own regulations on what those definitions should be. Why do they have to be in statute?

**Gregory Gilbert:**

The language that the federal government presently has created takes quite some time, so I want to allay your concerns that there is going to be some rapid movement that takes place forcing us to change again. The baseline definition for high-speed rail in the United States is characterized in different tiers; 150 miles per hour is one of them. That is the lowest speed of high-speed rail that is currently defined with the federal government. That is why it was picked, because it is a baseline. If at some point in time if there is a 220-mile-per-hour train, or faster, this would not preclude that.

**Assemblyman Paul Anderson:**

Why does it have to be in statute rather than the commission just dictating parameters?

**Gregory Gilbert:**

The reason it should be in statute is that this is consistent with the federal law right now. The idea behind this would be to mirror what the federal government has defined as it relates to interoperable high-speed rail. If the commission were inclined to define it on its own, we would ultimately reach the same conclusion after looking at similar laws and statutes. It would be up to the commission. We are trying to make it easy because that is what the current law says now.

**Chairman Carrillo:**

Are there any other questions from Committee members? [There were none.] In section 3, subsection 1, it says all of the members are appointed by the Governor. Why? Why are there no criteria set forth for those members as to where they are from? Are they from California?

**Gregory Gilbert:**

It originally read this way, so the Governor has always appointed these members. In terms of a resume for criteria for appointing them, we did not suggest that in the statute and would defer to the Governor concerning his appointment. As it presently stands, I do not believe there is any requirement that they be Nevada residents; perhaps that is an oversight and can be built into the statute.

**Chairman Carrillo:**

What about the criteria as to who these people would be specific to some type of position. Could it be a person that was working for the railroad at one time? Alternatively, one that has a background in technology?

**Lorne Malkiewich:**

That is what the old one was. As we have testified, we did not want to change too much. We wanted to make the changes to correspond to the federal law and the actual practice in California, to make sure this worked and put us in a position where we were able to receive federal money and have this authority in place that would help to implement it. The existing version said the Governor appoints these members; we left it as the Governor appoints. The amendment proposes reducing the authority from eight members to five. It would be up to this Committee if it wants a different number or wants to specify qualifications.

**Chairman Carrillo:**

Are there any other questions from Committee members? [There were none.] Is there anyone in Carson City or Las Vegas wishing to testify in support of S.B. 508 (R1)? [There was no one.] Is there anyone in Carson City or Las Vegas wishing to testify in opposition to S.B. 508 (R1)? [There was no one.] Is there anyone in Carson City or Las Vegas wishing to testify in neutral to S.B. 508 (R1)? [There was no one.] We will close the hearing on S.B. 508 (R1).

Is there any public comment? Seeing none, the meeting is adjourned [at 6:33 p.m.].

RESPECTFULLY SUBMITTED:

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James Fonda  
Recording Secretary

RESPECTFULLY SUBMITTED:

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Jacque Lethbridge  
Transcribing Secretary

APPROVED BY:

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Assemblyman Richard Carrillo, Chairman

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

**EXHIBITS**

**Committee Name: Committee on Transportation**

**Date: May 9, 2013**

**Time of Meeting: 2:40 p.m.**

<b>Bill</b>	<b>Exhibit</b>	<b>Witness / Agency</b>	<b>Description</b>
	A		Agenda
	B		Attendance Roster
S.B. 210 (R1)	C	Senator Barbara K. Cegavske, Clark County Senatorial District No. 8	Written testimony
S.B. 428 (R1)	D	Robert L. Compan, representing Farmers Group Inc.	Written testimony
S.B. 428 (R1)	E	Chelsea Capurro, representing AAA Northern California, Nevada, and Utah	Written Testimony (Michael Geeser)
S.B. 428 (R1)	F	Karen Peterson, representing American Express	Proposed amendment
S.B. 428 (R1)	G	Karen Peterson, representing American Express	Testimony in support of proposed amendment
S.B. 456 (R1)	H	Lorne Malkiewich, representing Ewing Brothers Corporation	Proposed amendment
S.B. 12 (R1)	I	Vance Hughey, Committee Policy Analyst	Work session document
S.B. 13	J	Vance Hughey, Committee Policy Analyst	Work session document
S.B. 14 (R1)	K	Vance Hughey, Committee Policy Analyst	Work session document
S.B. 88 (R1)	L	Vance Hughey, Committee Policy Analyst	Work session document
S.B. 143 (R1)	M	Sean McCoy, Committee Policy Analyst	Work session document

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S.B. 143 (R1)	N	Assemblyman John Hambrick, Clark County Assembly District No. 2	Proposed conceptual amendment
S.B. 191	O	Vance Hughey, Committee Policy Analyst	Work session document
S.B. 158	P	Vance Hughey, Committee Policy Analyst	Work session document
S.B. 343 (R1)	Q	Vance Hughey, Committee Policy Analyst	Work session document
S.B. 503 (R1)	R	Sean McCoy, Committee Policy Analyst	Work session document
S.B. 109 (R1)	S	This bill was not heard	Work session document
S.B. 508 (R1)	T	Lorne Malkiewich, representing XpressWest	Proposed amendment
S.B. 508 (R1)	U	Lorne Malkiewich, representing XpressWest	Letters of support