

MINUTES OF THE
MEETING OF THE SENATE COMMITTEE
ON TRANSPORTATION

SIXTY-FIRST SESSION
NEVADA STATE LEGISLATURE
February 24, 1981

The Senate Committee on Transportation was called to order by Chairman Richard E. Blakemore, at 2:00 p.m., on Tuesday, February 24, 1981, in Room 323 of the Legislative Building, in Carson City, Nevada. Exhibit A is the Meeting Agenda. Exhibit B is the Attendance Roster.

COMMITTEE MEMBERS PRESENT:

Senator Richard E. Blakemore, Chairman
Senator William Hernstadt, Vice Chairman
Senator Joe Neal
Senator Lawrence Jacobsen
Senator Wilbur Faiss
Senator Clifford E. McCorkle
Senator James H. Bilbray

STAFF MEMBER PRESENT:

Kelly R. Torvik, Committee Secretary

Senator Jacobsen moved that all minutes of the Senate Committee on Transportation be approved.

Senator Neal seconded the motion.

The motion passed unanimously.

SENATE BILL NO. 155

Mr. Mel Beauchamp, Counselor for the Department of Transportation explained that over the years the local governments have built sidewalks in state owned rights of way. He stated that a problem has arisen with regard to who is responsible for the maintenance on these sidewalks. He also questioned who is liable for any accidents which occur because of unmaintained sidewalks. Mr. Beauchamp stated that at the present time the department has no authority to construct sidewalks and with a few exceptions it never has. He stated that the local entities and the state are usually joined together in law suits that arise from unmaintained sidewalks. He said that the bill would be desirable because it would designate who is responsible for the sidewalks.

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Senator Hernstadt asked Mr. Beauchamp, if in his opinion, sidewalks are part of the roadway. Mr. Beauchamp stated that he did not feel that sidewalks are part of the highway. He explained that the definition of highway in Chapter 408 of the N.R.S. did not include sidewalks.

Senator Hernstadt asked if state funds could constitutionally be used to pay for the construction of sidewalks. Mr. Beauchamp believed that constitutionally the sidewalk would be considered part of the highway and therefore state funds could be used for the construction of sidewalks.

Senator Bilbray suggested that the bill be amended as follows: on line five of page one "county, city or town" be replaced with "state" and on line nine of the same page it be provided that the state will reimburse the local entity for costs incurred for sidewalk construction, improvement and maintenance.

Mr. Al Stone, Director, Department of Transportation, stated that the department would gladly assume responsibility for the sidewalks in state-owned rights of way. He said that the department has not budgeted for this responsibility in the past. Mr. Stone explained that sidewalks built by local entities in the past have not been inspected and approved by the department. He went on to explain that the local entity requests a permit to build sidewalks in a state-owned right of way. When the sidewalk begins to deteriorate the state becomes liable. Mr. Stone believed that the department should be responsible for pedestrian traffic since it is a mode of transportation. He did not feel that the department is equipped financially or legally to accept such a responsibility.

Senator Jacobsen asked if the department is presently responsible for utility equipment that is on state-owned rights of way. Mr. Stone explained that the department is not responsible.

Senator Bilbray asked who installs and maintains stoplights and other traffic control equipment. Mr. Stone stated that it varies. He explained that if the equipment pertains to vehicular traffic the department does install it. If the equipment pertains to pedestrian traffic the local entity installs it.

Chairman Blakemore asked how far the department right of way extends beyond the curb. Mr. Stone said that it is approximately four feet beyond the curb. Presently the department is trying to get enough right of way to allow for a utility corridor which would get the utilities out of the street.

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Chairman Blakemore asked what the general criteria, with regard to the size of rights of way in populated areas, is in other states. Mr. Stone explained that a minimum of 13 feet beyond the curb is desirable. In some states the local entities are not allowed to build sidewalks. They are all built by the state. Mr. Stone felt that the same procedure should be adopted by Nevada, if legally possible.

Senator Jacobsen asked if there was any fixed criteria that provided for utilities in the state-owned rights of way. Mr. Stone did not indicate that there was such criteria. He stated that this was the reasoning behind legislation providing for a utility corridor in the state-owned rights of way. Senator Jacobsen asked if entities which periodically dig up the roadway are required to replace it at their own expense. Mr. Stone stated that they are.

Mr. Robert Sullivan from the Carson River Basin Council of Governments stated that this problem had been under consideration by the counties in the Carson River Basin since the summer of 1980.

Mr. Robert Hadfield, Douglas County Manager, stated that Douglas county has worked with the Department of Transportation whenever possible to help the department achieve safety improvements that the department may deem necessary. Mr. Hadfield did not feel that the local entities should be forced to accept responsibility for sidewalks in state-owned rights of way. He stated that the local entities could not absorb the increased costs of such a responsibility. He felt that the state should be responsible for those sidewalks because they are in state-owned rights of way and the state does the planning for those corridors.

Senator Neal asked if the proposal would be acceptable if the local entities were only responsible for the improvements and maintenance. Mr. Hadfield said that it would not.

Senator Bilbray asked Mr. Hadfield if he would support his amendment. Mr. Hadfield stated that he would.

Senator Jacobsen asked who is responsible for the planters and other dividers that are in the middle of the roadways. Mr. Stone stated that generally the department is responsible for them.

Senator Faiss asked if the state roadways are ever reverted to the local entities. Mr. Stone stated that they can be reverted back to the local entities and that it happens quite often.

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Mr. Dan Fitzpatrick representing Clark County stated that the bill as written places an enormous burden on local governments. He stated that the local entities are already responsible for sidewalks constructed on their rights of way. He felt that the Department of Transportation should carry the same burden. He said that the local entities are facing the same problems with financing as the state. He supported an amendment which would legally allow the state to construct sidewalks. He also supported Mr. Bilbray's amendment and added that lines 16 and 17 of page one of the bill would also have to be amended for the amendment to be accurate.

Chairman Blakemore asked Mr. Fitzpatrick where he would suggest the state get the monies to finance the construction, improvement and maintenance of sidewalks since the highway fund is very limited. Mr. Fitzpatrick suggested revenues from fuel taxes be used for financing.

Senator Neal suggested that the local entities accept the state sidewalks once they are constructed by the state. Mr. Fitzpatrick stated that local entities do not presently inspect or accept state built sidewalks.

Chairman Blakemore pointed out that the department is restricted as to how the revenues from fuel taxes can be spent. Mr. Fitzpatrick noted that Clark County currently maintains portions of state highways in Clark County.

SENATE BILL NO. 156

Chairman Blakemore appointed Senator Jacobsen to check with Mr. Daykin to be sure that the bill was simply a technical revision to the statutes. The Chairman stated that the bill would be heard again when Senator Jacobsen reported back to the committee. Mr. Stone explained that the Organic Act repealed sections of the United States Code and that these same sections should be repealed from the Nevada Revised Statutes.

SENATE JOINT RESOLUTION NO. 15

Senator Hernstadt explained that the bill allowed mass transportation projects to be funded out of the state motor fuel taxes. Mr. Stone stated that the bill destroyed the highway users concept. Mr. Stone explained that the bill would open the highway fund for other uses such as payment of liability claims and could cause difficulties in budgeting. Senator Faiss asked how mass transit could be financed otherwise. Mr. Stone felt that the general fund could accommodate the system. Senator Hernstadt stated that the highway users benefit from mass transit.

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SENATE BILL NO. 161

Mr. Stone stated that the bill is a Department of Transportation proposal. He explained that because of peak months, mid-summer until mid-fall, the department suffers from a cash flow problem. Without the ability to obtain financing the department may lose federal funding because of the inability to prepare for the competition for federal funding due to lack of highway funds. The department had previously been faced with the problem of not being able to meet their financial obligations. Mr. Stone explained that the department was forced to borrow from the Interim Finance Committee, with interest, in order to meet those obligations.

Senator Jacobsen felt that there should be some legislative review, through the Interim Finance Committee, which would provide that the department first ask the Interim Finance Committee for funds and if the Interim Finance Committee could not supply funding the department would be allowed to go to a financial institution.

Chairman Blakemore explained that an amendment which reflected Senator Jacobsen's idea could be drawn up.

Mr. Stone supported the proposed amendment but was concerned that going through Interim Finance Committee would take too much time. Senator McCorkle did not feel that there would be a time problem. Senator Hernstadt felt that the department would be getting low interest rates because they are a tax exempt agency.

Senator Neal was concerned that the revenues used as securities for loans are only anticipated and there is a possibility they would never materialize. Mr. Stone explained that for the cash flow to stop in the department the entire economy of the nation would have to stop.

Chairman Blakemore explained that Senator Ford has wished to testify on Senate Joint Resolution No. 9. Since she was not presently at the meeting the committee would have a short work session.

SENATE BILL NO. 52

Chairman Blakemore appointed Senator Bilbray to resolve the conflict with the bill.

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SENATE BILL NO. 154

Senator Bilbray asked that the committee hold the bill for 48 hours in order for him to draw up amendments to the bill. Chairman Blakemore stated that the bill would be discussed at the February 26th meeting.

SENATE BILL 53

Chairman Blakemore asked Senator Jacobsen to track the amendment to the bill to see that the amendment is as requested.

SENATE JOINT RESOLUTION NO. 15 (Exhibit C)

Senator Hernstadt moved that Senate Joint Resolution No. 15 receive a do pass recommendation.

Senator Bilbray seconded the motion.

The motion passed. (Senators Blakemore, Jacobsen and McCorkle voted "no").

SENATE BILL NO. 161 (Exhibit D)

Senator McCorkle moved that the bill be amended to provide that the department must go before the Interim Finance Committee and the State Board of Examiners before going to a financial institution.

Senator Jacobsen seconded the motion.

The motion did not pass. (Senators Blakemore, Hernstadt, Bilbray, Faiss and Neal voted "no").

Senator Hernstadt moved that the bill receive a do pass recommendation and that it be rereferred to the Senate Committee on Finance.

Senator Neal seconded the motion.

The motion passed unanimously.

Senator Blakemore asked if the committee would approve a committee introduction of the following Bill Drafting Requests:

B.D.R. 43-1036--Abolishes requirement that drivers of motorcycles and their passengers wear protective headgear.

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The committee decided not to give B.D.R. 43-1036 a committee introduction.

* B.D.R. 43-760--Makes nonresident manufacturers eligible for special license plates.

The committee decided to give B.D.R. 43-760 a committee introduction.

SENATE CONCURRENT RESOLUTION NO. 9

Noel Clarke, Department of Energy, stated that the federal government is reconsidering giving tax exemption for energy purposes. He felt that the measure should receive a do pass recommendation from the committee. He also suggested that the committee consider an amendment to the resolution. (See Exhibit E).

Senator Jacobsen asked Mr. Clark if he felt any fuel should be exempt from the fuel tax considering the financial disability of the highway fund. Mr. Clark stated that any reduction in revenues to the highway fund could have a disastrous effect on Nevada's roadways.

Chairman Blakemore stated that since Senator Ford could not be available to testify on Senate Concurrent Resolution No. 9 the resolution would be heard again at the February 26th meeting.

There being no further business, the meeting adjourned at 3:27 p.m.

Respectfully submitted by:


Kelly R. Torvik

APPROVED:


Senator Richard E. Blakemore
Chairman

Dated: 2/26, 1981

*(SB.298)

SENATE AGENDA

EXHIBIT A

COMMITTEE MEETINGS

Committee on Transportation, Room 323
Day Tuesday, Date February 24, Time 2:00

S. B. 155--Provides for sidewalks in state-owned rights of way.

S. B. 156--Removes statute made obsolete by repeal of federal law relating to public domain.

S. C. R. 9--Directs study of possible exemption of certain petroleum-ethonal mixtures from motor vehicle fuel tax.

S. J. R. 15--Proposes to amend Nevada constitution to broaden permissible uses of state highway fund.

S. B. 161--Authorizes borrowing by department of transportation from financial institutions.

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EXHIBIT B

DATE: 2/24/81

PLEASE PRINT NAME	PLEASE PRINT ORGANIZATION & ADDRESS	PLEASE PRINT TELEPHONE
ROBERT HADFIELD	DOUGLAS COUNTY	782-5176
R. L. Sullivan	Clark County	885 4600
Wesley Keasing	Douglas County	782-5176
W E Hancock	PUBLIC WORKS BOARD	285 4870
Dennis Belmont	Intern	329-7057
Garth Dull	NDOT	885-5400
Mel Eberhart	NDOT	885-5420
Al Stone	NDOT	885-5420
DARYL E. CAPURRO	NEVADA MOTOR TRANSPORT ASSN	331-6884
VIRGIL ANDERSON	RAA	882-1790
Tom Gorda	Nev. Motor Trans. Ass'n	331-6884
Neil Bennett	DMV	885-5370
Ortiz Fitzpatrick	Clark Co.	
Jessie	DMV	885-5350
Noel A Clark	NJOE	885-5157
Gene Temen	TOWING	322 4597

S. J. R. 15

**SENATE JOINT RESOLUTION NO. 15—COMMITTEE ON
TRANSPORTATION**

JANUARY 30, 1981

Referred to Committee on Transportation

**SUMMARY—Proposes to amend Nevada constitution to broaden permissible
uses of state highway fund. (BDR C-444)**

**FISCAL NOTE: Effect on Local Government: No.
Effect on the State or on Industrial Insurance: No.**

EXPLANATION—Matter in *italics* is new; matter in brackets [] is material to be omitted.

**SENATE JOINT RESOLUTION—Proposing to amend section 5 of article 9 of
the constitution of the State of Nevada, relating to the use of money collected
from vehicle license and registration fees and motor vehicle fuel taxes, by
broadening the permissible uses of such money.**

1 *Resolved by the Senate and Assembly of the State of Nevada, jointly,*
2 That section 5 of article 9 of the constitution of the State of Nevada be
3 amended to read as follows:
4 [Section] Sec. 5. The proceeds from the imposition of any license
5 or registration fee and other charge with respect to the operation of any
6 motor vehicle upon any public highway in this state and the proceeds
7 from the imposition of any excise tax on gasoline or other motor vehicle
8 fuel [shall, except costs of administration, be used exclusively] *may be*
9 *used* for the construction, maintenance, and repair of the public high-
10 ways of this state [. The provisions] , *and for other projects which facil-*
11 *itate the transportation of persons or goods. The limitations* of this
12 section do not apply to the proceeds of any tax imposed upon motor
13 vehicles by the legislature in lieu of an ad valorem property tax.

S. B. 161

SENATE BILL NO. 161—COMMITTEE ON TRANSPORTATION

JANUARY 30, 1981

Referred to Committee on Transportation

SUMMARY—Authorizes borrowing by department of transportation from financial institutions. (BDR 35-280)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State or on Industrial Insurance: No.

EXPLANATION—Matter in *italics* is new; matter in brackets [] is material to be omitted.

AN ACT relating to the department of transportation; authorizing the board of directors to borrow money from financial institutions for short periods; providing that the loan obligation may only be secured by anticipated revenues; and providing other matters properly relating thereto.

The People of the State of Nevada, represented in Senate and Assembly, do enact as follows:

1 SECTION 1. Chapter 408 of NRS is hereby amended by adding
2 thereto a new section which shall read as follows:

3 1. *Whenever the legislature is not in session, the board may borrow,*
4 *with the approval of the state board of examiners, money from financial*
5 *institutions for short periods to carry out the responsibilities of the*
6 *department.*

7 2. *To secure short-term financing, the board may pledge only revenue*
8 *which it anticipates the department will receive.*

9 3. *The lending institution has no claim against the state, and may*
10 *recover from the board under the loan agreement only to the extent that*
11 *the revenues pledged as security for the loan become available.*

MEMORANDUM

February 5, 1981

To: Senator Blakemore, Chairman

EXHIBIT E

Senate Transportation

From: Noel A. Clark *NAC/KZ*

Subject: Suggested Language Changes to SCR 9.

The Nevada Department of Energy (NDOE) supports SCR 9. In my opinion the State of Nevada needs to review feasible alternatives to stimulate the use of alternative liquid fuels in Nevada. However, I believe the scope of such a study should be expanded. Therefore, the NDOE proposes the addition of the following language between lines 9 and 10.

"Resolved, that the Legislative Commission identify and analyze other financial incentives which can be used to help promote the production and use of alcohol fuels in the State of Nevada."

If you have any questions, please contact me at your convenience.