MINUTES OF THE
SENATE COMMITTEE ON TRANSPORTATION

Seventy-sixth Session
February 24, 2011

The Senate Committee on Transportation was called to order by Chair Shirley A. Breeden at 3:30 p.m. on Thursday, February 24, 2011, in Room 2135 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to the Grant Sawyer State Office Building, Room 4412E, 555 East Washington Avenue, Las Vegas, Nevada. Exhibit A is the Agenda. Exhibit B is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Shirley A. Breeden, Chair
Senator Mark A. Manendo
Senator Dean A. Rhoads
Senator Mike McGinness
Senator Elizabeth Halseth

COMMITTEE MEMBERS ABSENT:

Senator Michael A. Schneider, Vice Chair (Excused)
Senator John J. Lee (Excused)

STAFF MEMBERS PRESENT:

Kelly Gregory, Policy Analyst
Bruce Daines, Counsel
Laura Adler, Committee Secretary

OTHERS PRESENT:

Chuck Callaway, Lieutenant, Police Director, Office of Intergovernmental Services, Las Vegas Metropolitan Police Department
Sandy Heverly, Executive Director, Stop DUI, Inc.
Garry E. Rubinstein, M.A., Substance Abuse Counseling Services
Brett Kandt, Special Deputy Attorney General, Executive Director, Advisory Council for Prosecuting Attorneys, Office of the Attorney General

John R. Johansen, Highway Safety Representative, Office of Traffic Safety, Department of Public Safety
Laurel Stadler, Rural Coordinator, Northern Nevada DUI Task Force
Jim Holmes, Northern Nevada DUI Task Force
Bill Bainter, Lieutenant, Nevada Highway Patrol
Orrin J. H. Johnson, Washoe County Public Defender's Office
Dotte Holsey, Northern Nevada DUI Task Force
Jacky Eddy, Northern Nevada DUI Task Force
Rebecca Gasca, Legislative and Policy Director, American Civil Liberties Union of Nevada
Rich Fletcher, Lieutenant, Las Vegas Metropolitan Police Department
Michael Gross, Sergeant, Washoe County Sheriff's Office

CHAIR BREEDEN:
We will open the meeting with a presentation on the Las Vegas Metropolitan Police Department (Metro).

CHUCK CALLAWAY, LIEUTENANT (Police Director, Office of Intergovernmental Services, Las Vegas Metropolitan Police Department):
I would like to present a brief overview of the Las Vegas Metropolitan Police Department (Metro) as you see in my handout (Exhibit C).

SENATOR MANENDO:
Can you provide an update on the handicapped parking program? I appreciate that Metro does the "First Tuesday Community Open House" meetings that I have attended for over a decade, with between 70 and 80 people in attendance. Also, the participation with our "National Night Out" is wonderful. This last year, we hosted a "National Night Out" and 150 people attended.

LIEUTENANT CALLAWAY:
I do not have specific statistics on the number of handicapped violations written. I do know that it is not uncommon for our people to write 20 or 30 citations in a day. I can get that data for you. We are trying to get the "National Night Out" back into the community, as it has been beneficial. Several years ago, we moved the "National Night Outs" to parking lots around the substations; we found that some homes were broken into while the owners were at the event. That is why we are pushing them back into neighborhoods and making it a community-oriented program, rather than having folks show up to one location.

CHAIR BREEDEN:
How many citations do you issue in a year?

LIEUTENANT CALLAWAY:
We write approximately 400,000 traffic citations a year. That does not include the misdemeanor citations we write for other crimes such as trespassing, petty larceny, disorderly conduct, etc. I can also provide that information.

CHAIR BREEDEN:
We will open the hearing on Senate Bill (S.B.) 91.

SENATE BILL 91: Revises provisions governing driving under the influence. (BDR 43-626)

SENATOR MARK A. MANENDO (Clark County Senatorial District No. 7):
When we lowered the alcohol level from 0.10 to 0.08, we were not able to change the high blood-alcohol concentration (BAC). We want to lower the high BAC to include more people for evaluation and treatment. It has been shown that treatment options are successful and cost-effective. With treatment, we are not seeing repeats in the courts, which saves time and money. In most cases it has been beneficial and a savings to the taxpayers in Nevada.

SANDY HEVERLY (Executive Director, Stop DUI, Inc.):
I also chair the Attorney General's Advisory Coalition on Impaired Driving. I have been involved with the anti-drunk driving movement and a victims' rights advocate for the last 28 years. Senate Bill 91 is one of four bills the coalition voted to pursue this Session.

Stop DUI strongly advocates the punitive ramifications of driving under the influence. However, equally important is the treatment aspect. With the hope of achieving a successful outcome, we recognize the two must go hand in hand. This bill is designed to change the existing standard of what is considered to be a high-risk driver based on a BAC level. It allows us to be more proactive through an earlier assessment-intervention process.

Nevada's current 0.18 standard to determine if an individual is an abuser of alcohol is much higher than the 0.15 level that has been nationally recognized for many years by alcohol and drug counselors and others, as an indicator for this problem.

The National Highway Traffic Safety Administration and the National Traffic Safety Board, as well as the Century Council, which is supported by the nation's leading distillers, all recognize drivers with a 0.15 BAC as high-risk drivers. A driver with a 0.15 BAC is 20 times more likely to be involved in a fatal crash than a sober driver. With 20,128 driving under the influence (DUI) arrests made in Nevada in 2009, the average BAC was 0.16. Out of the 50 states, Nevada ranks 11th in the percentage of DUI fatalities.

If I had my way, all DUI offenders would be evaluated no matter their BAC level. The reason for this is that DUI offenders drive drunk 87 times before being caught the first time. So, John or Jane Doe may be a 0.08 or 0.10 at the time they were arrested, but the question is, "What was their BAC or drug of choice the other 86 times?" With that being said, 0.15 BAC is a more than reasonable standard.

Again, we favor early intervention hopefully to eliminate the multiple DUIs that may follow. Most important is reducing the potential for causing more death and injury to the men, women and children of Nevada and to our visitors.

Hopefully, all of you will join us in supporting S.B. 91.

SENATOR RHOADS:
This could have an impact on our jails and prisons. Do you have a fiscal note on S.B. 91?

MS. HEVERLY:
I do not have a fiscal note on S.B. 91. The offenders would pay for the assessment.

SENATOR RHOADS:
It looks like there should still be a fiscal note on the bill.

KELLY GREGORY (Policy Analyst):
> The fiscal note indicates that there would be no fiscal impact, because lowering the blood alcohol content would not affect the way the department processes the convictions when the court orders an interlock device, or when the program of treatment is authorized by the court. Again, it is because it is paid for by the

offenders, meaning there is no additional burden on the State according to the fiscal note.

SENATOR HALSETH:
I question the fiscal note, because if we change the alcohol level, that would result in more arrests. There is the cost of transporting someone from the scene to the jail where they have to be booked and held.

MS. HEVERLY:
That should not have an effect, as they would be arrested and transported anyway. The issue is where the testing is involved.

SENATOR HALSETH:
Do you not believe you would make more arrests because of the change?

MS. HEVERLY:
No, it is not going to effect more arrests.

SENATOR RHOADS:
Is this statewide or just for cities over 400,000 population?

MS. HEVERLY:
I am not aware if a population number was included in the bill.

SENATOR MANENDO:
The treatment programs are mostly in Clark County and Washoe County. I am not sure what will be done in other areas. The current alcohol level is 0.08, and if someone is arrested at the time of the stop, they will be evaluated. If that person has a higher BAC than 0.08, and if it is up to 0.15, that is the trigger for treatment. The 0.15 BAC is not necessarily going to catch more people. We hope this will be a deterrent and potentially save money on jail and prison costs. In time, this should have a positive impact to the budget.

GARRY E. RUBINSTEIN, M.A. (Substance Abuse Counseling Service):
I am a licensed counselor. I provide all the services originally required by the Bureau of Drug and Alcohol Abuse, now Substance Abuse Prevention and Treatment Agency (SAPTA). I am vice chair of the Northern Nevada DUI Task Force. Until the budget cut, I was the coordinator of the substance abuse treatment program at the University of Nevada, Reno (UNR), where I provided

prevention education and treatment services to students. I am currently in private practice, and most of the people I see are DUI offenders with more than one offense.

This bill would allow people to get into treatment quicker than before. Treatment does work, but there needs to be an opportunity for treatment to be made available. I agree with the previous testifiers, and, if I had my way, an initial screening would be done at any indication of a problem. The National Council on Alcoholism and Drug Dependence has determined that a BAC of 0.15 is synonymous to early stage chemical dependency. A BAC of 0.25 would be medically considered a health problem that needs to be addressed by never drinking again.

The BAC, for me as a counselor, is a therapeutic mechanism to determine the level of risk that someone has and could develop. I never yet met an offender who did not know it was illegal to drink and drive. What scares me is how many folks tell me they were fine; they were only stopped because their taillight was out. They did not see a problem.

Tolerance is the number one reason for why people are able to go out and kill themselves and kill others. The 0.08 is medical intoxication; most people use the word “high,” but at 0.08 people should fail. For the record, if people pass a field sobriety test at 0.08, it is my counselor opinion that they have the problem of tolerance. They may not be alcoholic, but we need to assess and evaluate to see if they are. People can get better. People get better when services are provided. On the average, according to counseling schools, the survey says it may take five to eight treatment opportunities for an alcoholic or other drug-addicted person to not only acknowledge their problem, but to make the appropriate changes for a recovery lifelong change. The quicker we bring the bottom up, the quicker we do an intervention, the better chance that things can be resolved. The 0.15 is consistent with medical scientific knowledge of early stage chemical dependency at-risk behaviors.

The offender would pay for the evaluation. It would not change the number of folks being arrested for driving under the influence, but it would reduce the recidivism of many folks I have met that were not evaluated on the first offense and were arrested a second time. It can help change the system early, and that would be beneficial for all of us. I provided handouts indicating how BACs correlate to certain problems and behavior (Exhibit D).

Unfortunately, Nevada is a high-risk state. Based on information from agencies and those present, Washoe County's BAC has been increasing. In the last couple of months, the average BAC was 0.18. I did not meet every student at UNR who got a DUI, but the average BAC of students at the UNR is 0.19. I would say that any BAC would trigger an assessment screening to identify the folks who need medical intervention and specific services.

From a counselor's perspective, this may be surprising; I sometimes meet folks who need to be locked up. Sometimes it is because of the way things are dealt with in the courtroom. I meet people who are scary. Even while they are learning how not to drink and drive, they still may be drinking. An evaluation can separate the psychopaths from the sociopaths, the criminals from the addicts, the dummies from anyone else. A meaningful evaluation does not just indicate a problem it also recommends the appropriate levels of intervention, service and treatment.

SENATOR RHOADS:
What does treatment cost?

MR. RUBINSTEIN:
The treatments vary. Some treatments are provided by nonprofit organizations funded by SAPTA, some through insurance and some by employer referral. Throughout the State, services are provided under the supervision of licensed counselors—it can vary. Personally, if I feel the person really wants to get better and does not have the money, I bring the individual into a group, because it does not cost me anything to have an extra person in a group. There are established fees just as in any fee for a dentist, doctor or mechanic. There is service available, and we know treatment works. We have a general rule of thumb, that for every $1 spent in treatment at least $7 is saved in the community regarding law enforcement, health consequences and employment.

SENATOR RHOADS:
What if a person does not have any money?

MR. RUBINSTEIN:
There are nonprofit organizations throughout the State.

SENATOR RHOADS:
Is there a chance the city or county would have to pick up the cost?

MR. RUBINSTEIN:
I cannot promise that they would not. Unfortunately, the nonprofit organizations have a waiting list at times. It is the same as someone with medical or other health concerns who has to make use of the support of our community. We know Nevada is struggling to provide services. I think if someone wanted or needed help, it would be provided.

SENATOR RHOADS:
It says on the bill, "Effect on the State: Yes." Is that correct?

MS. GREGORY:
It does say that on the bill. The fiscal note is zero.

MR. RUBINSTEIN:
In my experience, for the majority of people I meet for a DUI, the money they spent that night making a mistake that could have killed someone would have paid for several months, if not for a year, of treatment.

SENATOR RHOADS:
You are going to have a lot of losers picked up that do not have the money.

MR. RUBINSTEIN:
There are services for those without money. There are nonprofit organizations and sliding fees. Again, the difference is there may not be a change in the number of people arrested, but what will happen is that people will have a chance to get into appropriate service earlier than in the past. There is still a consequence for a DUI. Hopefully, through the early intervention of an evaluation, people will get quicker and more appropriate service. In my counselor experience, I have clients who were never evaluated on the first offense because they were not at that high BAC level. Lowering the BAC evaluation threshold will help people get into a service they would have needed anyway. This evaluation would resolve a future problem that would be more devastating and damaging.

SENATOR MCGINNESS:
In rural Nevada, sometimes there is not a treatment program available within 100 miles or 150 miles. How do you envision service happening in rural areas?

MR. RUBINSTEIN:
There are rural communities that have a hard time doing what we already have. I wish I had the answers. I hope that services can be arranged. I and others in my community have been willing to provide service to the rural areas. I would like to think the problems can be resolved. Again, it is identifying people at risk and responding to that level of concern. A limited resource is a problem. We want to be able to identify people who need a service and respond to it.

SENATOR MCGINNESS:
Does a judge have an option if he knows there is another program within 100 miles? What happens if the offender is sentenced and there is no place to go unless that person has the ability to drive 100 miles to 150 miles to get to that service?

MR. RUBINSTEIN:
You are correct. Currently, judges are doing what you are asking. I and other counselors have been asked to provide service by the rural courts, and arrangements are made. The question is at what point would someone be evaluated to determine the seriousness of their risk for chemical dependency? I hope the courts have discretion, and services made available whether a person is a 0.15 or 0.20. The 0.15 threshold is a key point regarding an intervention assessment and response to their needs. It would help to make information available to judges that this person is at greater risk than we otherwise thought. That would be the benefit of an early evaluation and assessment.

BRETT KANDT (Special Deputy Attorney General, Executive Director, Advisory Council for Prosecuting Attorneys, Office of the Attorney General):
As previous testimony indicated, S.B. 91 is a proposal endorsed by the Attorney General's advisory coalitions.

JOHN R. JOHANSEN (Highway Safety Representative, Office of Traffic Safety, Department of Public Safety):
You should have a handout from the Department of Public Safety (Exhibit E) with definitions of a hard-core drinking driver. The State's average BAC has

been remarkably consistent for the last decade at 0.16 for fatalities and arrests. Of the 20,128 DUI arrests made in 2009, 8 percent or 1,610, had a BAC of 0.15, 0.16 or 0.17. It does not change the number of arrests, because arrests are at 0.08. At that level we are making sure the individuals are evaluated so we have a better idea of how to handle them.

Our office is involved with several of the DUI courts in the State that have the treatment programs for this offense. In 2002, we helped fund these courts on a start-up basis until they became self-sustaining. Now, all the DUI courts in the State are self-sustaining, and they are offender-paid. The DUI courts' practice mirrors the request in S.B. 91. Most DUI courts, because they are evaluating all of these offenders, are fully aware that if we have a DUI, even a first DUI, at 0.15, there is a high probability that the finding will be dependence, not abuse. A second or subsequent DUI, at any BAC level, indicates you are probably in the dependent area. If you have a high BAC and multiple DUI offenses, it is a slam dunk that you are dependent. I checked with a couple of these people in misdemeanor DUI court. For a DUI first or a DUI second with 0.15 and up, 75 percent of the offenders were alcohol dependent; the balance were alcohol abusers.

People who are alcohol dependent have to drink to function. Alcohol abusers may not drink for a few days, but when they drink, they drink heavily, reaching very high BAC levels. The felony level DUI court is for those arrested for the third time within seven years. For practical purposes, according to one of the felony level people, they are all dependent at this time. Because of their high BACs and multiple arrests, many of them have five, six and seven DUI arrests but do not fall within the seven-year period.

As to the fiscal note on DUI courts etc., the treatment for alcohol dependency based on a DUI charge is an option. The offender does not have to accept treatment—it is offered as an alternative. They do know, and are told prior to accepting the treatment option, the cost, time frame, limits and other considerations. They know if they accept the option to go into the treatment program and fail the treatment, there is no credit; they will go back to the judge and be sentenced on the original charge.

There is a reward for completing the treatment program. If a person takes the treatment option, a misdemeanor level treatment option is a minimum of a one-year program. Felony level is a minimum three-year program. If we can use

the courts to help convince them to take the treatment option, the recidivism rate for people who successfully complete either the misdemeanor or the felony level DUI treatment option ranges from 10 percent to 12 percent for the 2 years after completion of the program. In comparison, those people who elect not to be treated, who are unqualified or, for whatever reason, do not go into the treatment program, the recidivism rate for the same 2-year period is running 33 percent to 35 percent. That is the value of the courts.

The courts say they do not anticipate any additional cost to them. Currently, they have a tendency to evaluate at the 0.15 level. They are not anticipating many additions, although there may be some because of a DUI first being evaluated at the new lower level. That would be a relatively small number and not worth writing a fiscal note. We work with courts in the First, Second, Eighth and Ninth Judicial Districts, which are in Clark County, Washoe County, Carson City and Douglas County.

Looking at Mr. Rubinstein's handout, Exhibit D, you will notice that 0.04 is the DUI perceived level for driving impaired for a commercial driver's license. A level of 0.08 is impaired. We can arrest and convict you at 0.06 based on your performance of erratic driving. At 0.12, most of us begin to pass out. At 0.15 we are dependent and beginning to become tolerant of the toxic effects of alcohol. The average for a Nevada DUI is 0.164. The 0.22 level can lead to death. For anything above that, we may be flirting with dying from alcohol poisoning.

There are two types of alcohol tolerance. There is the toxic effect, because alcohol is a poison. You can develop a tolerance to the toxic effect, and your tolerance will increase. It is like eating hot peppers where you start out with a mild pepper and work your way up to a jalapeño—that is tolerance. Tolerance to the impairing effects of alcohol does not change. No matter how much you drink or how used to the tolerance of the toxic effect of alcohol, the impairment remains at the same schedule. The 0.08 is 0.08 no matter if you are a practiced drinker or a new drinker. My counterpart in South Dakota sent a newspaper article about a woman who was picked up for stealing a car and driving impaired. Her BAC level blood test was 0.7, which is unheard of. She went to jail, and it took about a week to sober her up in the hospital. Then she was released awaiting the DUI charge. Two weeks after her release, she was found in a stolen pickup at the side of the road with a BAC of 0.6. They sobered her up again, and now she is waiting in jail for trial. That is an extreme case, but we

do see the 0.3s, the 0.35s and the 0.27 BAC levels. That woman has an extraordinarily serious problem. If we can use the courts to help people accept the treatment option that would be great, because it does work.

LAUREL STADLER (Rural Coordinator, Northern Nevada DUI Task Force):
Section 4 of S.B. 91 mandates that all first-time DUI offenders with a BAC of 0.15 or above would be evaluated to determine if they abuse alcohol or other drugs. We have heard from experts that 0.15 is the nationally accepted threshold or industry standard for high BAC, an indication that the evaluation is needed. The existing level of 0.18 does not comply with those standards. The treatment community has consistently said the best chance of successful treatment is at the earliest intervention. We have mandatory evaluation for DUI offenders under 21 years old. For all second-time offenders, this would greatly close the gap by including first-time offenders at 0.15 and above. The 0.15 is almost twice our legal limit of 0.08.

I have been testifying before this body since 1991 on DUI issues and have supported treatment options in addition to other sanctions, not in lieu of them. In reality, the evaluation and treatment for DUI offenders is not a sanction but an opportunity for offenders to receive the treatment they need to change their behaviors. Behaviors that are not changed will potentially lead to the creation of innocent victims of DUI crashes. While we would ultimately like to see evaluations for all DUI offenders, this bill would go a long way to improve the existing parameters and statute. The other changes in the bill are also appropriately defined by the 0.15 threshold.

Regarding an earlier comment, I would like to point out in section 4, subsection 4, the existing language already addresses the evaluation of an offender who resides more than 30 miles from the evaluation center. So, the concern about the rural areas is already addressed in statute at the 0.18 level and would be the same at the 0.15 level.

JIM HOLMES (Northern Nevada DUI Task Force):
Fifteen years ago, my son was killed by a drinking driver. He was on his way home from school when the drunk driver crashed into him. My wife and I have spent thousands of hours trying to raise the awareness of the tragic outcome of drinking and driving. When we started, the victim-impact panels were seeing about 250 offenders a year. Today, we are seeing about 3,000 offenders. At the same time, the Truckee Meadows population tripled from 150,000

to 500,000. The DUI offenders have gone up by a factor of five over the growth of the Truckee Meadows population. The challenge is to get people to recognize the problem and then conduct themselves in a safer manner. My wife and I have spoken to more than 150 victim-impact panels in the Truckee Meadows; this represents 35,000 DUI offenders. I submit that we have an epidemic on our hands. We are in support of S.B. 91. As for the fiscal note, this is something like Russian roulette. One-in-ten drivers are drinking or under some kind of influence.

We did a study about 5 years ago which suggests a cost to the state, cities and counties of about $1.2 million per fatal accident. When we first started this years ago, we were running 150 to 180 fatal accidents throughout Nevada. In recent years we are down to just over 100 fatal accidents—that is progress. We support this bill and others like it. I leave you with this message: You may not make it home tonight. Those drivers are out there and cannot control their vehicles.

BILL BAINTER, LIEUTENANT (Nevada Highway Patrol):
The Nevada Highway Patrol (NHP) supports S.B. 91. To put things in perspective, 0.15 is almost twice over the legal limit today. In 2010, the NHP arrested 3,692 drivers in the State for DUI. We are confident that legislation like this addressing chemical dependency will decrease the second, third and fourth offenses we deal with and make Nevada's roadways safer.

ORRIN J. H. JOHNSON (Washoe County Public Defender's Office):
We oppose S.B. 91 because I am in complete agreement with Senator Manendo that the important way to save lives, and also to save money, is proper treatment, and to make sure people get that treatment, if it is appropriate. It is not a good way to save money if we cast the net too wide. Then we have a lot of unintended consequences and unintended costs.

In reference to section 3 of the bill, right now, there is a program in place that is both a carrot and a stick. If it is your first-offense DUI and you are below 0.18, you can go to a treatment program for 6 months, which is pretty intense, instead of spending 2 days in jail or performing 48 hours of community service, which are the alternatives. This bill takes away the incentive for people who were told they needed it most to go through a treatment program. It takes away the option for people to have the treatment. It does not make sense to discourage someone from going into a 6-month treatment program because we

want to get an extra 36 hours of community service after taking into consideration the credit for the time they served while in custody.

Lowering the blood-alcohol level cuts out a lot of people who otherwise would have this program available to them. They would profit from it and be motivated to go through with it so they do not have to pick up garbage from the side of the road for a couple of days. To me, the safety factor is far more important than to have them spend a couple of extra days in jail to punish them. I absolutely understand, because of the hundreds of police reports I have read, that I might not make it home tonight. I have a small child and drive these roads as well. Except the police and my colleague from Clark County, I probably read more police reports than anyone here, and, I will not lie, it is scary.

When I say I want people to get treated so they do not come back, I say that with all sincerity. Not only is it my office's policy, but as a personal matter to me. That is why it is important that people be incentivized to go through these programs to the maximum extent possible. This bill will take away some of that incentive, and we think that is counter to the purpose, which is to get people treatment and to get impaired people off the streets. Right now, nothing prevents a judge from ordering people to get an evaluation and follow the recommendations as a condition of a suspended sentence, no matter if it is their first offense in seven years, and no matter the level of their blood alcohol. This happens frequently, particularly if people have previous DUIs and fall just outside the seven years, if they have a particularly bad driving pattern, if the BAC is high but not up to 0.18 or if their criminal history indicates an issue with drugs or alcohol.

Often, as part of the negotiations, there will be more of these treatment-oriented consequences. I want to use the word "consequence" neutrally, because we want to get people treated so they will be ordered to get the evaluation. In more extreme cases, when the BAC is low or when a criminal history so indicates, the judge has the discretion right now to order them into these programs. Counter to that, treatment is not necessarily appropriate for people who are above a 0.15. There is no criminal history, maybe they were at a wedding or a bachelor party—certainly, we have had our share of those— and it got out of control. Most of my clients are the first-time DUIs, and I do not see those folks again. The statistics show that about two-thirds do not come back because being handcuffed and put in the back of a police car, and just 12 hours in the Washoe County jail, frankly frightens them and changes their lives. That

is enough to trigger the "I will never do that again" reaction. Through the experience of judges, prosecutors and defense attorneys, judicial discretion is important to exercise in those cases to make sure we are not spending extra limited money or resources on folks who really do not need it.

Senator Rhoads expressed concern about costs, and I will tell you there will be. As a public defender, I represent indigent people, and most of the people who get arrested are indigent. When I first started in the office, I was only doing misdemeanors, handling an average of 20 cases a week. Of those, about 80 percent were DUIs, and all were indigent. The offenders have to pay and the cost of an evaluation is about $100. The classes cost about $30 a class, and if a person has to attend once a week for six months, you can see how it can add up. For some, $100 or $300 for classes is not a big deal, but for my clients it is, particularly if the DUI causes them to lose their jobs, which it often does, or to lose hours. It makes it more difficult to pay the bills. Frankly, some are not too bright with their money.

Sometimes a judge will order offenders to wear a "SCRAM bracelet" or other expensive thing to make sure they are not drinking. This means they no longer have the disposable income they were spending on alcohol. These other costs mean they cannot afford the counseling sessions, so they may stop going. Sometimes counselors will ask the judge to take action to enforce payment because the counselors have business and personal expenses. The tool the judge has to sanction people is to throw them in jail, and this is expensive. If we have people going through these programs, even the short programs, and they are financially on the edge, it is more likely they will be sanctioned and have to go back to jail. Unfortunately, I have often seen where people go to counseling but are still facing jail time because of the finances. We are concerned about the additional cost.

Again, we are not talking about the people who really need the treatment. It is those who are on the margin, and we want to keep the judicial discretion in place to allow them to do that. Treatment for these people is not optional. What happens is generally they have a suspended sentence of at least 90 days hanging over their heads and it depends on the judge as to how long it is if they do not follow through with the treatment. If they do not follow through they are brought back in, and if they do not comply, the judge will find them in contempt and throw them in jail for 25 days at a time until they comply or until they are discharged. Then they never will have received the treatment in the first place.

Those are our concerns. We respect and understand that these treatment programs offered for offenders save money and lives in the long run and we support that, but taking away judicial discretion because all criminal law is fact specific and no two cases are exactly the same, is not the right way to go about it. We believe the law should remain in place as it is. Let us not take away the incentive for people to go through one of the many programs we have, because this is one of the best ways to keep our communities safe.

SENATOR MANENDO:
I understand what you are saying. I understand some of those who get arrested are indigent and some are not. I have done the breathalyzer test by drinking for about two hours before I reached 0.08. I think I went through about $6 or $7 worth of alcohol before I got to that level. At 0.18 lowered to 0.15, I estimate it would be about $10 worth of alcohol. So when I hear these statistics of 1 stop out of 87 times that person was drinking and driving, I think about the 87 times some people are drinking and driving every day. Under the current law when someone is arrested at 0.18, I pray it is their only time. Unfortunately, those people have problems. I think if they have money to buy alcohol, they can find a way to pay for their treatment so the police and NHP's time is not wasted arresting them again, costing time in jail, in court, and, unfortunately, eventually in prison. That costs the taxpayer tens of thousand of dollars we do not have; so for a few hundred dollars, if they can afford their alcohol, they can afford the treatment.

MR. JOHNSON:
Any defense attorney with a soul who truly believes their client has a problem will want that person to get that treatment and not be sent back. I and my colleagues see our jobs as not to just defend this client in one particular case but to stop the client from coming back. As a client's attorney, if I see the potential that the client is likely to come back, then I will have a serious discussion, because that is part of what we do. More and more, our office is moving toward a broad-based approach to address addiction and treatment. I am talking about people on the margin who probably do not need treatment to be repelled from ever doing it again; they are the two-thirds of the DUIs you never see again. Those are the ones that add the extra cost to the system and take away resources, because there are only so many counselors and so many providers. They take away resources we need to focus on those who need it the most. Part of it is that we spread the money too thin so we cannot focus on the people who really need to be discouraged from doing it again.

CHAIR BREEDEN:
We will close S.B. 91 and open the hearing on S.B. 42.

SENATE BILL 42: Authorizes the testing of drivers involved in fatal vehicle accidents for the presence of alcohol. (BDR 43-293)

MR. KANDT:
This bill is about the search for truth when somebody dies on Nevada's highways. It amends our implied consent statute NRS 484C.150 to require any driver who survives a traffic accident resulting in a fatality to submit to a preliminary breath test for the presence of alcohol. Many statistics have already been provided. Nevertheless, the fact is that impaired driving continues to impose a significant threat to public safety in Nevada. We are enforcing our DUI laws better. That is demonstrated in the number of DUI arrests that have increased. We increased from just over 13,000 arrests in 2005 to over 20,000 in 2009. Historically and continually, Nevada has exceeded the national average for the percentage of traffic fatalities attributable to alcohol. Earlier, Ms. Heverly stated that Nevada ranks eleventh in DUI fatalities. Under our current implied-consent law, between 35 percent and 40 percent of drivers surviving a fatal car crash in Nevada are never tested for alcohol impairment, indicating that the scope of the problem may be far greater than statistics indicate.

This bill resolves this gap by amending *Nevada Revised Statute* (NRS) 484C.150 to require all drivers to submit to a preliminary breath test for the presence of alcohol if a police officer has reasonable grounds to believe the driver was involved in a fatal accident. Testing all surviving drivers in fatal accidents can close this gap in the statistical data collected by the impaired driving program of the Office of Traffic Safety, Department of Public Safety.

Under current law, an officer responding to the scene of a fatal car crash has the authority to administer a breath test to a surviving driver only if the officer has reasonable cause to believe the driver is under the influence. To establish reasonable cause, officers rely upon observations and routinely administer field sobriety tests. However, a driver survives only about 50 percent of car crashes resulting in a fatality. Drivers who do survive often suffer some level of injury. Deceased drivers must already be tested for the presence of alcohol under NRS 484C.170, but there is no similar requirement for surviving drivers. This is a problem for officers in attempting to develop reasonable cause, since they may be unable to administer field sobriety tests or otherwise ascertain signs of

impairment from an injured driver. Once again, up to 40 percent of drivers surviving fatal car crashes in Nevada are never tested for alcohol impairment. We see that S.B. 42 will address this problem.

There is no fiscal impact upon current law-enforcement operations. That can be required at no additional cost to Nevada taxpayers. The equipment used to perform the test is already in use by law-enforcement officers who respond to fatal crashes. The test would ensure the extent of alcohol-related driver impairment is accurately known. Additional testing would identify surviving drivers who were not under the influence of alcohol in the event an accident would lead to a claim of negligence or to other litigation. This will provide us more accurate data on the scope of alcohol-related driver impairment and the number of driver fatalities that can be attributed to alcohol. We can then formulate a more effective response system and save more lives while also serving justice by ensuring that drunk drivers are held accountable for resulting deaths.

Furthermore, failure to enact this legislation could put Nevada's share of federal funding for impaired-driving initiatives at risk—funding that is currently used for law-enforcement efforts and for our DUI courts. Similar laws have withstood constitutional challenges in other states. When someone dies on Nevada's roadways, does the public have a legitimate interest in determining whether alcohol impairment was the cause? I would like to enter into the record a letter from Attorney General Katherine Cortez Masto in support of S.B. 42 (Exhibit F).

MR. JOHANSEN:
The Department of Public Safety's primary concern is impaired-driving programs management for reduction of impaired driving on Nevada's roads. The handout, Exhibit E, shows the high point of alcohol-related crashes from 2004 to 2009 was in 2006. There was a gradual increase up to that point, and we have made significant progress since. From 144 alcohol-related crashes in 2006, it went down to 88 in 2009. There are three different definitions currently being used for an alcohol fatality. There is the old definition which included every fatality that was related to any level of alcohol in anybody counting motorcycles, motor vehicle operators, pedestrians, etc. If there was more than 0.01 alcohol in the fatality's system, it was counted. It was changed a few years ago, so all these numbers are being recalculated to cover motor vehicle operators and motorcycle riders only; these are the alcohol-impaired related crashes. They no longer count impaired pedestrians in an impaired crash when they are hit by a sober driver.

That used to be counted, and that causes the difference in some of these numbers.

The second page in the handout, Exhibit E, shows the percentage of alcohol involved. The numbers are going down, and that is progress. If you look at the percentage of alcohol-involved fatalities compared to the total number of fatalities, there is little difference. As a matter of fact, since 2005, it has gone back up as a percent of the problem. The question becomes: "Are we addressing the alcohol issue, or are we simply reducing all crashes proportionately?" It would be nice to know, and one of the reasons it is difficult to know is on page 3. All this information we have to help us determine the best course of action to take and whether progress is being made is being decided based on two-thirds of the data set. We are missing one-third. These are the surviving drivers for whom we do not have any test results. That is one of the primary reasons I would like to see S.B. 42 passed. It will complete the information needed to help us understand how to address this problem.

Mr. Kandt mentioned the inclusion in NRS 484C.150, which deals with the preliminary test. The preliminary test can be done with a preliminary breath tester (PBT) which is administered at the initial contact. On the other hand, NRS 484C.160 is the evidentiary tester located in almost any booking facility. Testing with this unit requires transporting the person to the facility. The language of the bill allows an officer to ask for a preliminary breath test of surviving drivers at the scene, record the reading and give us the information we need to include or exclude alcohol as a problem in that particular crash.

One reason it is tough for me is that I look at hard numbers, our actual data. When the National Highway Traffic Safety Administration (NHTSA) releases its official numbers, it qualifies the State for future funding. Now, NHTSA says you have 33 percent unknown. They have a fancy formula based on the 66 percent known, where they will statistically identify that of this third, "x" percent were probably alcohol related and add that into our official numbers. This makes it difficult when we look at national trends and Nevada trends. The other reason is a PBT is essentially free. All traffic officers have them. There is no cost; we are not going to have to buy new equipment. It is an effective way to gather the needed information, and that is why we are proposing it.

We are only getting information on two-thirds of the drivers of vehicles involved in crashes. As we know from other meetings, we need to make sure we can

properly identify the cause. For a large majority of surviving drivers, there will be a police report of the crash showing they were tested and there was zero alcohol. This should be invaluable for insurance and/or liability concerns. It is not uncommon that many surviving drivers are already asking to be tested, and some of them are already being tested. It does track the percentage of surviving drivers who need to have their test results and their percentage known. In fact, that is one of the eight criteria used to qualify for funding. Whether or not that will continue under the new authorization, I do not know. That particular criterion is that you either have a law to require testing surviving drivers, or you increase the percentage of surviving drivers tested each year. Frankly, I have qualified now for six years in a row by increasing our testing.

SENATOR RHOADS:
I think both these bill are good. On S.B. 42 there is a fiscal note for Churchill County of $5,000 and for Eureka County $4,000. It does not sound like much money, but when it comes to a little county that is a lot of money. As we know, a lot of State programs are going to be pushed down to county and local government levels.

Madam Chair, I would have a problem with the fiscal note. I would like to survey my rural counties to see if S.B. 91 and S.B. 42 have any effect. I would like two weeks.

CHAIR BREEDEN:
Two weeks is fine.

SENATOR HALSETH:
Are you asking for the ability to test everyone in an accident regardless of whether the police officer has reasonable grounds?

MR. KANDT:
Not everyone who was involved, but every driver who was involved in the accident. The reasonable grounds to administer the PBT would be involvement as a driver in an accident that resulted in a fatality. That would allow the officer to have the driver submit, and be required to submit under Nevada's implied-consent law, to the PBT.

SENATOR HALSETH:
If a driver is involved in an accident, and you believe that driver should have a breathalyzer, then why do you think we have to remove the words "reasonable grounds?" Do you think the bill already covers that? Do you think a driver who is involved in an accident and has been drinking is reasonable grounds, and therefore there should not have to be an addition to that law?

MR. KANDT:
Police officers would be more qualified to discuss reasonable grounds, because they are on the scene and deal with it every day. Typically, they establish reasonable grounds through certain observations they make or conditions they see. In the case of a stop where it was the weaving that gave reasonable grounds for the officer to pull the individual over, a field sobriety test may be administered. But when there is an accident in which one or more of the drivers may have sustained injuries, the officer's ability to make those observations and conditions of possible drunkenness or to administer a field sobriety test may be limited. This would, from a public policy standpoint, establish the reasonable grounds arising from the fact the driver was involved in an accident in which somebody died.

SENATOR HALSETH:
I would like to know the definition of reasonable grounds. I understand a police officer would be better qualified to provide that. What happens to a driver who has not been drinking, and if this bill passes, would have to by law be tested and refuses?

MR. KANDT:
Nevada's implied consent law, as it stands now, says that if you drive on Nevada's roadways and a police officer has reasonable grounds to believe you may be impaired, you consent to submit to a PBT. If you refuse, you can be arrested and lose your license. We are asking Legislators to expand the scope of that law to include instances where you are a driver involved in a fatality. So that, once again, if you refuse in those circumstances when requested by a law-enforcement officer to submit to the PBT, you can be arrested and lose your license.

SENATOR HALSETH:
What if a 16-year-old child is driving and involved in an accident, the parents are not present and the driver refuses and goes to jail. That is on the record forever?

MR. KANDT:
Under Nevada's current implied-consent law, any Nevada driver, including the 16-year-old, already consents to submit to a PBT when requested by a police officer. This bill does not change that scenario or the consequences under that scenario at all.

MR. JOHANSEN:
The chart on page 4, Exhibit E, shows that in 2009, we are missing 121 tests. These are 121 drivers surviving fatal crashes who were not tested. In the previous year, we missed testing 157. This bill specifically addresses this group of individuals. We are trying to simplify and complete our data set. We do not know their ages, and we do not know whether or not these 121 people were sober or had been drinking. The change in the law is saying that we would like the ability to test any driver involved in a crash that resulted in a fatality. The surviving drivers are the issue. All deceased persons in any crash are tested. Whether they are drivers, passengers, pedestrians, bicyclists or whatever, they are all tested. The coroner is required to do a blood draw and establish a level of impairment. It does not make any difference how old the individual is—a 16-year-old, a 14-year-old, a 90-year-old. If there is, in fact, alcohol present, that person is subject to the laws of Nevada.

As far as a refusal, everybody has the right to refuse. However, it does mean in Nevada that law enforcement does have a right to obtain a test. Probable cause in a normal traffic stop means that something caused that officer to stop that vehicle. It was not because of that person. It was because they knew the person had been weaving, made a weird turn, did not have lights on, failed to signal, failed to maintain the lane, etc. All sorts of things can lead to the stop. This is when probable cause comes in, because of an odor of alcohol, slurred speech or whatever. The next step is typically the standardized field sobriety test, which is the walk and turn or the classic one-legged stand. If they do not pass that test, then usually it is followed by the PBT. The problem with a crash scene is that the officer seldom, if ever, witnesses the crash; the officer is almost always there after the fact. There is no indication of how that person was driving prior to the crash. If I were in a crash and not too badly hurt,

I doubt I could pass a one-legged stand with my head up for three minutes without losing my balance.

This bill gives the officer the right to test simply because that person is a surviving driver in a crash with a fatality. Over a year, 120 to 150 individuals are affected.

SENATOR HALSETH:
I am still concerned that there would not be a requirement for reasonable grounds. I support what we are trying to accomplish, as I take drunk driving seriously. For the sake of time, Mr. Johansen, I would like to invite you to my office for a more in-depth discussion, which would be helpful.

MS. STADLER:
The Northern Nevada DUI Task Force supports S.B. 42 not only as a statistical tool, but the bill also provides a way for victims to know the true cause of a crash. As was stated, all fatal victims of crashes are tested. In a perfect world, we would like to see testing for alcohol and drugs in both fatal and substantial bodily-harm crashes. This bill makes a good start in getting the testing at the time and letting victims know the true causes of crashes.

DOTTE HOLSEY (Northern Nevada DUI Task Force):
I am a mother and a victim. I support S.B. 42 for the testing of alcohol. Testing for drugs should be added for substantial bodily-harm crashes. My son, Dillon Young, age 17, died in such a crash. His driver was a 16-year-old girl. On March 22, 2009, Dillon died at the scene of the crash, was revived and then care-flighted to Renown Regional Medical Center in Reno. It was determined he had brain damage, a broken neck, damaged lungs, a lacerated spleen and other injuries mostly to his left side. He was in a coma for two weeks and then woke up. He was able to talk and walk. It was April 17 when I learned the teen driver was high on marijuana, because she bragged about it at school. This 16-year-old girl was never tested because the officer did not think there was a substantial amount of evidence. This was a single-car crash on a rural county road in Fernley. I do not know why she was not tested. At 8:30 p.m. on April 17, I returned to the hospital only to learn they were doing emergency resuscitation but could not save my son. This is not something a mother should have to go through. Two days later, I found out about mandatory testing for drugs, and that he had been tested every day while in the hospital to make sure I had not given him anything. I also learned he was tested after death, again, to

make sure I had not given him anything. I was angry when I found out his driver was not tested because they did not find a reasonable amount of evidence. I did not see how that was possible, as it was a single-car crash. I later found out that the others in the car were going to put my son's body in another car and flee the scene. If they had, the driver would have been charged with murder. She was charged with a misdemeanor only because I fought for justice for my son; otherwise it would have been pushed under the carpet.

A lot of people are getting away with no charges or only a misdemeanor charge when a felony should be charged. I am not saying a 16-year-old girl should be charged with a felony, but a person who has done drugs or alcohol should not be behind the wheel of a vehicle, and there should be punishment. I have a lifetime sentence to be without my son, as does my family. I have collected signatures from around the community in support of S.B. 42 to make drug-and-alcohol testing mandatory.

JACKY EDDY (Northern Nevada DUI Task Force):
I am a volunteer speaker at the impact panels and at schools to educate people. My daughter was killed by a drunk driver on February 24, four years ago. The driver who killed my daughter was tested because there was a smell of alcohol on his breath and on that of his brother, an underage drinker, who was also in the car. Both were at a 0.322 alcohol level. They were on the wrong side of the road and crashed head-on, killing my 22-year-old daughter who was a mother. It is important these laws be passed to protect the innocent. Drunk drivers who are not tested get away with it, and it happens over and over again. It does not stop, because there is no punishment to stop them, and they keep going.

With S.B. 42 as law, these people would have to be tested for drugs and alcohol. You cannot smell drugs on somebody's breath, making it important to test for both substances at the scene of a fatality or a near fatality to stop what is happening on our streets. This was that young man's first offense, but I do not know how many other times he drove under the influence. I found out he started drinking alcohol at age 13. Even our children need this bill to get the help needed from these programs. Maybe if he had gotten the help he needed, he would not have killed my daughter. There are many children, mothers and fathers taken away from families, and we all live with this the rest of our lives. I had a nervous breakdown and my grandson has problems. This carries on through families year after year. It does not go away. They get the counseling they need to go on with their lives, but I cannot go on with that part of my life

anymore, because that part was taken away. My daughter was taken from the scene of the crime to Washoe Medical Center and was drug tested. It is mandatory to test the dead. What if they could not smell the alcohol on these young men that had killed my daughter? Nothing would have been done to them. This man is now in jail only because it was evident he had alcohol on his breath. They could not smell drugs on the girl who killed Ms. Holsey's son; as a result it was a misdemeanor instead of a class B felony.

CHAIR BREEDEN:
Thank you to all for coming forward. Mr. Kandt, is this bill only for the presence of alcohol, it does not include drugs?

MR. KANDT:
You are correct. It is just using the PBT device law enforcement currently has available to test for the presence of alcohol.

CHAIR BREEDEN:
Is there anything on the books now for testing for drugs if drivers in fatal accidents are not deceased?

MR. KANDT:
We referenced NRS 484C.170, which requires that anybody who dies in a traffic accident has to be tested postmortem for the presence of alcohol. I would note that is regardless of age, so if a 5-year-old child dies in a fatality, per the law, they need to be tested. That law only addresses the issue of alcohol. With regard to the presence of a controlled substance, the laws are essentially the same about the implied-consent law. You have per se limits for alcohol or controlled substances, or somebody can be arrested, not on the basis of a per se limit, but on the basis of an officer's observation and administration of tests and determination that the person appears impaired.

MR. JOHNSON:
Hard cases make bad law. It is tough to sit through any testimony where tragedies are involved, and oppose what people are trying to do. In our view, this bill as it is being proffered would not necessarily do anything to protect people. While blood is not part of this bill, if the implied-consent law was used to mandate a blood test, in my opinion, that would be unconstitutional. I would litigate that a blood test is much more intrusive than a BPT.

When there is an accident and the police report the smell of alcohol, bloodshot watery eyes, empty beer cans or liquor bottles in the back of a car, if there is any possibility that alcohol is at issue, the PBT will be used to aid in further investigation. Current law already allows for this. Senate Bill 42 makes it so if there is no nexus, if there is nothing whatsoever suggesting that alcohol had anything to do with anything, they still could test anyway. I want to note that a police officer could not come up to anyone on the street and demand you breathe into the tube. The officer could not pull you over without any other reason. They could not say they want to collect some statistics and want to know if you have been drinking. This cannot be done because it is a search and comes under constitutional protection. That is why you have to have an implied consent, because you have to have consent ahead of time in order to do that.

One of the reasons these types of laws are upheld is that it is recognized there is a nexus between this intrusion into people's bodies and the public-safety goals we want to reach. But taking that nexus out of it makes the scales tip out of balance. Now we are testing people and conducting searches without a good reason to do it. That is not what we do in the spirit of the Constitution. Often you can smell drugs, as methamphetamines have a distinctive smell on the breath, as does marijuana. There are green tongues involved, and pupils are dilated in a certain way. Officers are trained to look for these indicators, particularly when there has been an accident and especially when there has been a fatality. I submit that where there has been a fatality, officers are especially diligent to look for signs of impairment. All that is available under current law, so taking it to the next level where no indication whatsoever is there and go hunting for evidence that will be used in a criminal court of law against somebody goes too far and will not solve these problems. In essence, this bill is a solution in search of a problem. Right now, with the barest indication of drug or alcohol use, those tests can be demanded. Unfortunately, accidents happen without alcohol, in fact most of them do not involve alcohol, and those people need to have their rights protected.

REBECCA GASCA (Legislative and Policy Director, American Civil Liberties Union of Nevada):
I echo the sentiments expressed by Orrin Johnson, and we share some of the same concerns. We find it interesting that fatality is the tipping point in this situation. Unfortunately, it would be nearly impossible for an officer at the scene of an accident to know whether or not a fatality has actually occurred, unless the person were to be pronounced dead at the scene. The likelihood that

would occur is quite low. Most likely someone would be transported to a hospital where lifesaving methods would take place. This bill would give officers an open-ended ability to give people breath tests when it may not be warranted. That, in addition to due process and privacy concerns, is why we also agree this bill is in search of a problem. We see the current standard as reasonable, given the fact a person does not have a right to drive, but does have the implied consent to follow the rules.

SENATOR MANENDO:
Maybe we need someone from law enforcement to help me understand. If the person is not dead at the scene, then they would not be tested. Is that your interpretation? Or do you think they will?

MS. GASCA:
The nebulous language gives officers the ability to test even when no fatality has occurred or will occur. It is impossible for an officer to know what happens once somebody leaves the scene. It leaves it open-ended.

SENATOR MANENDO:
I am reading that if they have not been pronounced dead at the scene, they will not be tested. I do not know if this would apply.

BRUCE DAINES (Counsel):
I am inclined to think we ought to refer this to the Attorney General's office.

MR. KANDT:
Senator Manendo, you are correct, it would require the officer at the scene to determine that somebody is deceased before this bill would come into play, and all surviving drivers would be required to submit to a PBT. I propose this is a limiting factor contrary to what my colleague from the American Civil Liberties Union of Nevada implies that it is an expansive factor. Many states that have expanded their implied-consent laws have gone beyond fatalities by requiring a PBT of all surviving drivers in accidents with substantial bodily harm. We are not proposing that. We are limiting it to those circumstances in which the officers on the scene determine there is at least one deceased person as a result of the traffic accident. Only at that point would they require all surviving drivers to submit to the PBT.

MR. JOHNSON:
I noticed my colleague, Tierra Jones, in the Clark County Public Defender's Office, had to leave. I want it on the record that she told me that her office shares the position I presented.

CHAIR BREEDEN:
We will close the hearing on S.B. 42 and open the hearing on S.B. 84.

SENATE BILL 84: Revises certain provisions relating to roadblocks. (BDR 43-601)

LIEUTENANT CALLAWAY:
Senate Bill 84 cleans up language in where we have experienced problems in court cases. Section 2, subsection 2, paragraph (b) reads "... point of ..." about where warning signs are placed. The term "point of" is rather vague. We have had cases where different officers have placed signs at different locations because it was not clear. We suggest the language be changed to "the entrance to the checkpoint," to remove doubt about where to place signs.

In section 1, we are asking for a change in the distance where the signs are placed in urban areas. Currently, the statute requires warning signs to be one-quarter of a mile away from the checkpoint. In urban areas like Las Vegas, this is often a problem because there are many side streets and private drives that people inadvertently turn into or out of the checkpoints. We are asking to decrease that distance to 700 feet in urban areas.

RICH FLETCHER, LIEUTENANT (Las Vegas Metropolitan Police Department):
This bill will clarify the language. This resulted from an interaction I had with a concerned citizen at a checkpoint. The question was posed as to where the measurement starts. Looking through NRS, the term "point of" is vague. I would like the wording changed to "the measurement starts at the entrance of the actual checkpoint itself." This will help clarify for officers statewide exactly what the measurements are at any given location and alleviate any type of defense motion to dismiss a possible DUI case.

MICHAEL GROSS, SERGEANT (Washoe County Sheriff's Office):
I completely support and endorse what has been said for S.B. 84. We have seen the same thing in the Washoe County area working with the Reno Police Department and Sparks Police Department at DUI checkpoints. One concern is

the legal requirement as it stands now for the signage to be one-quarter of a mile away from where we are conducting the checkpoint. It is too difficult to do that in urban areas with the number of cross streets, making it difficult to do an appropriate checkpoint.

MS. HEVERLY:
Stop DUI is in support of S.B. 84.

MS. STADLER:
The Northern Nevada DUI Task Force supports S.B. 84. The task force does some funding for the DUI checkpoints in northern Nevada.

SENATOR MANENDO:
On February 22 Brian LaVoie, whose daughter Hillary was killed by a distracted driver, sent a message that he was contacted by a producer of the television program "*20/20"* since April is "Distracted Driver Month." They want to do an hour-long program on the subject of public safety. As a heads-up, we may be contacted by the producer.

CHAIR BREEDEN:
There being no further business before the Senate Committee on Transportation, the meeting is adjourned at 5:46 p.m.

RESPECTFULLY SUBMITTED:

Laura Adler,
Committee Secretary

APPROVED BY:

Senator Shirley A. Breeden, Chair

DATE:

EXHIBITS

Committee Name: Committee on Transportation

Date: February 24, 2011 Time of Meeting: 3:37 p.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
	C	CHUCK CALLAWAY	Brief Overview of the Las Vegas Metropolitan Police Department
S.B. 91	D	Garry E. Rubinstein	BACs correlate to certain problems and behavior
S.B. 91	E	John R. Johansen	Definitions of a hard core drinking driver
S.B. 91	F	Brett Kandt	Letter from Attorney General 3/31/2011