

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

**Seventy-Seventh Session
April 30, 2013**

The Committee on Judiciary was called to order by Chairman Jason Frierson at 8:16 a.m. on Tuesday, April 30, 2013, in Room 3138 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4401 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. In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (email: publications@lcb.state.nv.us; telephone: 775-684-6835).

COMMITTEE MEMBERS PRESENT:

Assemblyman Jason Frierson, Chairman
Assemblyman James Ohrenschall, Vice Chairman
Assemblyman Richard Carrillo
Assemblywoman Lesley E. Cohen
Assemblywoman Olivia Diaz
Assemblywoman Marilyn Dondero Loop
Assemblyman Wesley Duncan
Assemblywoman Michele Fiore
Assemblyman Ira Hansen
Assemblyman Andrew Martin
Assemblywoman Ellen B. Spiegel
Assemblyman Tyrone Thompson
Assemblyman Jim Wheeler

COMMITTEE MEMBERS ABSENT:

None

GUEST LEGISLATORS PRESENT:

Senator Barbara Cegavske, Clark County Senatorial District No. 8
Senator Mark Manendo, Clark County Senatorial District No. 21

Minutes ID: 1015



STAFF MEMBERS PRESENT:

Dave Ziegler, Committee Policy Analyst
Brad Wilkinson, Committee Counsel
Karyn Werner, Committee Secretary
Colter Thomas, Committee Assistant

OTHERS PRESENT:

Neal Tomlinson, representing Frias Transportation
Danny Thompson, representing Nevada State AFL-CIO
Eric Spratley, Lieutenant, Legislative Services, Washoe County Sheriff's Office
John R. McCormick, Rural Courts Coordinator, Administrative Office of the Courts
E. Alan Tiras, Judge, Incline Justice Court; President, Nevada Judges of Limited Jurisdiction
John Tatro, Judge, Carson City Municipal Court
Chris Frey, Deputy Public Defender, Washoe County Public Defender
Steve Yeager, Deputy Public Defender, Clark County Public Defender's Office
Tom Conner, Chief Administrative Law Judge, Office of Administrative Hearings, Department of Motor Vehicles
Laurel Stadler, Rural Coordinator, Northern Nevada DUI Task Force
Sandy Heverly, Co-Founder and Director, Stop DUI, Inc.
Sandra Scott, representing Stop DUI, Inc.
Nancy Greiner, Private Citizen, Henderson, Nevada
Melanie Holt, Private Citizen, Las Vegas, Nevada
Ed Farley, Vice President, Stop DUI, Inc.
Joan Eddowes, Private Citizen, Henderson, Nevada
James Jackson, representing Nevada Judges of Limited Jurisdiction
Richard Glasson, Judge, Tahoe Justice Court
Michael Moreno, Public Information Officer, Regional Transportation Commission of Washoe County
Linda Finch, representing Mothers Against Drunk Driving
David Thomas, Chief, Topaz Volunteer Fire Department

Chairman Frierson:

[Roll was taken. Committee protocol and rules were explained.] We have a busy schedule today, so we will go out of order. I have scheduled one bill today to accommodate travel schedules, so we will hear Senate Bill 432 first. I will open the hearing on Senate Bill 432 and welcome its introduction.

**Senate Bill 432: Revises provisions governing the regulation of taxicabs.
(BDR 58-1073)**

Neal Tomlinson, representing Frias Transportation:

I am here in support of Senate Bill 432. It is a very simple bill. We are just asking to have signs in taxicabs that alert passengers to the penalties for committing assault and battery on drivers. This stems from an incident back in 2011 where one of our drivers, Tesfaye Arze, was robbed and murdered in his cab. There have been other incidents of assault and battery, so we want to put a warning sign in taxicabs.

Assemblyman Ohrenschall:

Are other jurisdictions posting warnings of enhanced penalties in the vehicles? Do you know if it is proven to have a deterrent effect in those jurisdictions?

Neal Tomlinson:

I am not sure about other jurisdictions. When I testified previously on this bill, I was asked a similar question. We tried to find out, but could not. Our feeling is that, if it deters even one person from doing something he should not be doing, it is effective. The entire industry is behind this and wants to post the signs to try to protect our drivers.

Assemblywoman Dondero Loop:

Am I correct that all of the taxicabs have a plastic shield between the driver and the backseat?

Neal Tomlinson:

No, not necessarily.

Assemblywoman Dondero Loop:

I thought they did, so I thought that is where the sign would go. Would you tell us where the plaque would go? Is there a reason we do not have them on those shields?

Neal Tomlinson:

I had not considered that question. We do not have those shields in the Frias Cabs and I am trying to remember if the other taxis do. I do not believe they do. There is no mandate that we have those shields. Currently, there is one other sign in the cab, in the back, which advises the passengers that it is state law that they must wear their seatbelt. That is the only sign, and it is above the passenger doors when you enter. We would propose either putting the new sign next to that sign or affixing it to one of the seatbacks so it would be clearly visible to a passenger sitting in the back.

Assemblyman Hansen:

My question is for Legal. Do we regulate this industry so heavily that they have to come to us for permission to put a simple sign in their cabs? It seems silly to me that they have to come here to have a law passed to put one sentence about not killing the cab driver in the cabs. Is this necessary in Nevada law?

Brad Wilkinson, Committee Counsel:

I would not say that is necessary unless the Legislature wants to impose that requirement. I do not think there is anything that would prohibit a cab company from putting that type of sign in the cab if they voluntarily wanted to do so, but this bill mandates it.

Assemblyman Hansen:

It seems that they could just do it. I guess it is up to the industry if they want to pass a law to do it. You could have done it on your own and put them in the cabs. I am for it.

Chairman Frierson:

Please address the issue of why you would want to make it mandatory versus permissive, or why some drivers may not want to do this. What is the issue?

Neal Tomlinson:

As far as I know, the entire industry is in support of this bill. Certainly we can voluntarily put any sign in the cabs. The industry felt that it is important enough to protect the safety of our drivers, because there have been several incidents where there have been assaults and batteries, murders, and robberies against taxi drivers. We felt it was important enough to be a state mandate.

Assemblyman Martin:

While we are on the subject of signage in the taxicab—and what you are proposing is fine on the surface—what else does it currently read? Is there a passengers' bill of rights? What signage is currently in the taxicabs?

Neal Tomlinson:

Currently, there is a sign that advises the passengers that it is state law that they must wear their safety belts. The sign is located inside the vehicle, above the window of each passenger door. All cabs post the number and information for the Taxicab Authority in case the passenger wants to file a complaint. The driver is required to post his driver's permit number, along with his photo identification, in the front of the cab. That is what is currently in the cab.

Assemblywoman Diaz:

How often are taxicab drivers at risk of being assaulted or battered?

Neal Tomlinson:

There have been numerous incidents of violence against taxicab drivers, unfortunately. Clark County, as everyone knows, is a 24/7 town and sometimes people are up late imbibing a little too much and making bad decisions. I do not have those statistics. It does happen, and it happens more than we would like it to. We are hoping that this measure would prevent at least some of those incidents.

Assemblyman Thompson:

Have you thought, since you are going to have multicultural people who speak different languages, about having a few other languages on the sign besides English? You do not want a huge sign, but if people cannot read or understand it, it defeats the purpose.

Neal Tomlinson:

That is a fair question and we did consider it. Because the existing signage in the cabs is all in English, we decided this sign should be in English as well. We have found that the majority of tourists in Las Vegas do speak English. That is the primary signage in Las Vegas.

Assemblywoman Fiore:

I am not familiar with all of the Taxicab Authority rules and regulations. Do you prohibit your cab drivers from having a concealed firearm on them?

Neal Tomlinson:

I do not believe I know the answer to that question. I should know that, but I do not think it has ever come up. I do not believe they are allowed to, but I will check on that and get back to you.

Chairman Frierson:

It would be helpful if you would get back to the Committee on that issue.

Neal Tomlinson:

Absolutely.

Chairman Frierson:

The type of activity in the recent incident on the Strip that involved a taxicab driver would not necessarily be covered under this criminal provision because it was not specifically targeting the cab driver. Is that correct?

Neal Tomlinson:

There was an incident going on between two other vehicles, and the taxicab just happened to be crossing through the intersection at the time. There was

nothing that could have prevented that as far as signage inside the taxicab. That would not be part of this bill. If there is anything we can do to reduce any type of crime or illegal activity involving taxicabs, we want to do that.

Assemblywoman Diaz:

I want to know if taxi drivers only carry a certain amount of money on them at all times. Do they do drop-offs? I want to know if the amount of cash they carry is always limited.

Neal Tomlinson:

We try to limit the amount of cash. Several years ago, the industry as a whole put credit card machines in all taxicabs, so that has significantly reduced the amount of cash that drivers have. They need to have a certain amount of cash to make change, so it would vary throughout the shift. The goal is to always minimize the amount of cash that each driver has. The credit card acceptance has really helped that.

Assemblywoman Cohen:

Do you have any idea how much of the criminal activity against cab drivers is people setting out to commit a crime against the cab driver, and how much is people being drunk and stupid?

Neal Tomlinson:

Again, I do not have specific statistics. We have seen both of those situations occur, where people have targeted a taxicab driver and other situations where an opportunity arose for a perpetrator and he committed the crime. It seems to be fairly even.

Assemblyman Ohrenschall:

Are cameras recording what is going on? Is that standard in the industry, or is it company by company?

Neal Tomlinson:

Every taxicab in Clark County has a video recording device in the cab. There are several different vendors. Frias Transportation uses a vendor named DriveCam. It is not a streaming video, but anytime there is a certain movement of the vehicle—like a door opening or closing, or the meter going on or off, or a violent movement—the device will record what is going on within the taxicab.

Assemblyman Ohrenschall:

Are the passengers alerted that criminal activity may be recorded? Are they aware they might be on film and it will be used against them if they commit a crime?

Neal Tomlinson:

I do not believe there is any signage. Many drivers do tell passengers when they get in as a deterrent, but there is no particular signage about the video.

Assemblywoman Dondero Loop:

I am reading the sign that will go in the taxicab, which says, "Punishable by up to six years in prison." Since I am not an attorney, is that standard for an assault charge? Is that why it is there?

Neal Tomlinson:

Yes. The penalties on the signage are standard; they are not enhanced. It reminds them about existing law.

Assemblyman Wheeler:

The way the sign is written it looks like there is some space at the end. I wonder if we could also add that long-hauling is illegal.

Neal Tomlinson:

We have a technology bill, Senate Bill 430, that we hope will address the needs of that particular issue.

Chairman Frierson:

There are no more questions, so please stay around in case there are other questions or closing remarks. I will invite those here in support of S.B. 432 to come forward now, both in Carson City and Las Vegas.

Danny Thompson, representing Nevada State AFL-CIO:

We are in support of this bill. I represent cab drivers. In fact, we would like to propose an amendment to this bill. Mr. Wheeler hit on the amendment that I would like to propose. I propose an added feature on either this sign or any sign in every cab that states long-hauling is illegal. Let me explain why.

Chairman Frierson:

Before we get too far down that road, is Mr. Tomlinson onboard with it?

Danny Thompson:

I have not spoken with him.

Chairman Frierson:

Technically, your testimony would be either in opposition or neutral. I do not know if anyone else is planning on testifying, so I do not know if you need to wait at this point. If you would wait, I would like to get through the straight support testimony first to stay consistent. Is there anyone else who wishes to

offer testimony in support? [There was no one.] Opposition here or in Las Vegas? [There was no one.] Please come forward, Mr. Thompson. Is there anyone else?

Danny Thompson:

As I was saying, in reference to long-hauling, we were unaware of the mechanism for long-hauling until earlier last week when a group of our drivers came to Carson City and talked with many of you. Let me tell you how long-hauling goes. If I am a cab driver and I pick up a fare at the airport and take them to the Mirage via the city streets, it is a \$17 fare. I fill out a trip sheet for that fare. If I pick up the same passenger and take him through the tunnel to the Mirage, which is quicker but longer, it is a \$27 fare. There is a trip sheet filled out for that. Clearly, it is a difference of \$10. The legislative auditors recently completed an audit that showed that, in fact, long-hauling is occurring. The Taxi Authority is not addressing the issue, so we would like to propose an amendment to this bill that puts a sign in the cab that states that long-hauling is illegal.

The reason we think there should be teeth added to enforcement for the companies is that each cab driver has his book of business; they call it "the book." If I am taking a fare from the airport to the Mirage via the tunnel, I have a very high book. If I take the passenger from the airport to the Mirage via the city streets, it is a lower book—the right book. This was borne out in the audit that was performed by the legislative auditors, to the tune of \$14.8 million. If you are a cab driver and do not make average book, you are called in, are presented with your book, and then are disciplined for making low book. If I am hauling from the airport to the Mirage via city streets, I am going to low book against someone who is hauling from the airport to the Mirage via the tunnel. It is borne out in my trip sheets, but I am disciplined when clearly I am doing it right. I talked to these drivers and I asked them why they did not tell them to look at the trip sheets and they say that they did; they are told to get creative. If you are going to get disciplined, up to and including discharge for low booking, the next day you will start hauling via the tunnel. That is why we would like to propose an amendment to this bill to add long-hauling to the sign that goes in the cab.

It is evident by the legislative audit that legislative auditors are not partisan and have no axe to grind with anyone. I believe when they conduct an audit, they come up with the facts. Those are the facts. It is also a fact that the Taxicab Authority is not doing anything to address this issue. That is why we are here today. If you chase 6,000 cab drivers around trying to catch them long-hauling when keeping their job is an incentive for them to long-haul, you are chasing the wrong person. You have to go to the company and tell them

that they have to stop long-hauling, and if they do not, there are consequences. The passengers need to be aware that this takes place.

We are a tourist-based economy. We are 50 percent dependent on the gaming and tourism industries to pay our bills. To allow this type of activity clearly puts everything in jeopardy. When people come to Las Vegas, they want to have a good time. They do not want to get stiffed on a cab drive to a hotel. I do not have an amendment in hand, but I would like to have the opportunity to draft an amendment that would be germane to this bill. I think it would be germane legally because I am talking about putting a sign in the cab that relates to long-hauling.

Chairman Frierson:

We would have to see the amendment. You and I have discussed the concern about being germane. Between the amendment to this bill and Senate Bill 430, some decisions will need to be made. We will have to see it first, of course.

Assemblyman Martin:

As part of the signage, are you proposing that the long-hauling would have a map saying this is an estimated range of fares from McCarran Airport to the Strip? Would you clarify what that sign might say?

Danny Thompson:

Certainly. It needs to be something that is clear and concise so someone can look at it and know if they are being long-hauled. It is one thing if a passenger gets into a cab and says to get him to the airport in ten minutes and he does not care how he gets there. It is another thing, however, when a tourist gets in the cab and ends up with a big bill just to get to the hotel. Yes, it could include a map that would show an estimated fare, or something that would be concise.

Assemblyman Wheeler:

I am not sure how this is germane to this bill. On the issue of long-hauling, you said they were disciplined if they have a low book, so why are they not making twice as many trips and getting a high book? It seems they are the ones who are in charge of their own destiny.

Danny Thompson:

If you are hauling from the airport, you sit in line at the post. You cannot control the number of trips that you make. Whenever you make a trip, you have to go back and get in line. For those of you who travel through that airport and wait at the post to get across the road, you can see the line. The driver ends up in that line and has no control over it.

Chairman Frierson:

Are there any other questions? Seeing none, if you would provide the amendment to Mr. Tomlinson and my Committee staff for us to look at, I will have a conversation with Legal about the germaneness, but we will not know until we get the language.

Is there anyone else who wishes to offer testimony in the neutral position? I see no one, so Mr. Tomlinson, would you like to come back up for closing remarks.

Neal Tomlinson:

I agree with Mr. Thompson's intent. I was not aware of it until just now when he spoke. I will certainly meet with him. *Nevada Revised Statutes* 706.8846, which makes long-hauling illegal, is a clear statute. I will work with Mr. Thompson, but I think it is more appropriately addressed as part of S.B. 430 and not this bill. This is a simple bill and I think that S.B. 430 would be the place to put the language in to address Mr. Thompson's concerns.

Chairman Frierson:

With that, I will close the hearing on S.B. 432 and get back to the agenda. I see Senator Cegavske is here, so I will open the hearing on Senate Bill 224 (1st Reprint).

Senate Bill 224 (1st Reprint): Revises provisions governing driving under the influence. (BDR 43-668)

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

I come before you today to discuss Senate Bill 224 (1st Reprint), a bill that I believe combines both the principles of being tough on crime, as well as smart on crime.

The ideas submitted in this bill were born several sessions ago while working on felony driving under the influence (DUI) court legislation. Nevada's Office of Traffic Safety, much to its credit, was a pioneer in assisting courts in developing the first DUI courts in Nevada. Their discussions also raised the issue of how to create self-sustaining DUI courts. [Continued to read from written testimony ([Exhibit C](#)).]

If you have not received the letter from Judge Bell that she sent to everyone, I have it.

Chairman Frierson:

Thank you. That letter has been circulated to members of the Committee. Are there any questions?

Assemblyman Ohrenschall:

You spoke about section 1, subsection 1, but I am concerned about the scenario where someone is charged with driving under the influence, goes forward to the trial, and is found not guilty; however, he is found guilty of running a stop sign or changing lanes without signaling, a traffic offense. Under S.B. 224 (R1), he would be subject to that \$500 penalty even though he was not found guilty of a DUI. Is the net being cast too broadly?

Senator Cegavske:

I do not think so. I think this will help the specialty courts. What we are looking at if that person cannot afford to pay the fine is he can also do community service, if the judge so desires. Whatever the fine was going to be, it could be paid partially in cash and the rest with community service. It is very important that it be at the judge's discretion.

Assemblyman Ohrenschall:

My concern is that people who are only guilty of a traffic offense would be assessed this fee for the specialty courts. Obviously, the courts need support, but that is still my concern.

Chairman Frierson:

My concern is trying to squeeze blood from a turnip. We see repeatedly these efforts at targeting assessments to pay for other things. My concern with the fee is the inevitability that, although the court can assess community service for those who are indigent or cannot pay, those folks will be treated differently. Those who can pay will be rewarded, as opposed to those folks who cannot pay being looked down upon. I do not know if that came up on the Senate side. Part of my concern is that the folks who can pay are going to have a chance for more flexibility in some courts. Those who cannot pay may be perceived as not being willing to pay as opposed to not being able to.

Senator Cegavske:

I think that goes along with the judge making that decision. The judge can say that he wants them to do \$500 worth of community service. He may know that the offender can pay it, but wants him to go out to realize what is going on. There are different kinds of community services that the judge can ask them to do.

Chairman Frierson:

I am going to ask members of the court to address that if they are planning on testifying.

Moving to section 1, subsection 3, I recognize that the whole point of putting the language in is to show flexibility. Is that necessary statutorily? I think the courts already do it. I would hate to set precedent by putting flexibility in statute and possibly giving the impression that they do not have it in other areas. I believe they can already.

Senator Cegavske:

I agree with you. It is already in statute, but someone asked to have it put in again and I agreed since that is what they wanted to do. I do agree with you. I think it is redundant.

Chairman Frierson:

The notion is that the monies obtained from these fees would go to the mental health court and other specialty court programs. We have had other bills where the sponsors of the bills were criticized for earmarking and targeting things that are not directly related to the underlying conduct. I share the opinion of many on this Committee that mental health is really important. The nexus of mental health to this specifically as opposed to everything else in the county, whether criminal or not, is that we all have an obligation to deal with mental health, but why would we focus on this without a direct nexus? I am curious about the genesis of connecting this to things unrelated to DUI.

Senator Cegavske:

I think all of it is related. If you have people who are under the influence, or have a substance abuse issue, it links to some mental health issues. They all do connect. We have veterans who are suffering. We have people who are on prescription drugs. I think this all could lead to it; that is why we included all of the specialty courts. They are all linked. We are trying to help those people through this bill. In my mind, I believe there is a story behind everyone who is arrested. There is something lingering and things that are happening to them, and they need assistance. The specialty courts—the judges—can ascertain through assessment what the issues are and how we can help them. That is why I believe that these are all tied together. I believe strongly that the Supreme Court of Nevada had wisdom when they developed the specialty courts to intertwine all of these. That is what we are trying to get to: how do we help the whole person? Sometimes these are the areas where they need treatment, assessments, psychiatric help, and all of those come within this.

Chairman Frierson:

I agree that it is interrelated, but I do not understand why it is specifically related to DUIs more than other things.

Senator Cegavske:

This is one of the areas where DUIs have not had an increase for many years. When you look at the number of DUI arrests, it is extremely high. We are trying to deter people from drinking and driving, and this is another avenue to help. I think it is important to bring awareness again to this arena, and this is a way for Traffic Safety to help impose awareness programs. That is why it is the area that I looked to and thought we could help intertwine through the specialty courts. There may be other areas that you can think of, but this is the one I focused on.

Chairman Frierson:

Are there any other questions? I see none. Please remain for closing remarks if you can, Senator. I will invite those here to testify in support of S.B. 224 (R1) to come forward, both in Carson City and in Las Vegas.

Eric Spratley, Lieutenant, Legislative Services, Washoe County Sheriff's Office:

I am here in support of S.B. 224 (R1). One of the most important duties in law enforcement is the protection of lives, and DUI enforcement is a priority for the Washoe County Sheriff's Office. Any effort to reduce or deter DUI drivers in our state is welcome. We agree with the statements of Senator Cegavske, how it was presented, and its intent. We thank her for bringing this bill forward and thank you for your support, as well.

Chairman Frierson:

Are there any questions? Seeing none, is there anyone else in support? Seeing no one, we will go to the opposition. Is there anyone in opposition either here or in Las Vegas?

John R. McCormick, Rural Courts Coordinator, Administrative Office of the Courts:

I would like to thank the sponsor of this measure for her concern and interest in the specialty courts and her desire to provide more resources. However, we have a concern that this is not the proper funding mechanism to do that with.

As the sponsor indicated, specialty court revenue is currently down, and that is because it is currently funded through an administrative assessment fee like this. The ability of the courts to collect that fee has declined due to a variety of factors, including the economic downturn over the past several years. Again, our concern is that we are adding a fee to a funding source that is already in

decline and could be tapped out. As the Chairman said, in this case, we are confronting the issue of the bleeding turnip.

Chairman Frierson:

What are the current fees that folks convicted of DUI have to pay?

John McCormick:

Currently, as far as fees, there is the regular administrative assessment which is based on the schedule in *Nevada Revised Statutes* (NRS) 176.059 that corresponds to the amount of the fine. Then there is a court facility fee in jurisdictions that have imposed one. There is a specialty court fee of \$7, which funds the program. Next is the fine, and the judges can give you a better idea of the amount of that fine.

Chairman Frierson:

I pulled up NRS Chapter 176 while you were talking and I believe those fees were just raised in 2010.

John McCormick:

Yes, they were changed during the Special Session of 2010. The entire fee schedule for administrative assessments was increased by \$5 across the board.

E. Alan Tiras, Judge, Incline Justice Court; and President, Nevada Judges of Limited Jurisdiction:

The Nevada Judges of Limited Jurisdiction (NJLJ) represents all justice and municipal judges in the state. We are a strong supporter of the specialty courts programs and many of our members are also specialty court judges. The NJLJ respectfully opposes S.B. 224 (R1), and I speak to you today representing the vast majority of our association members who would be responsible for implementing S.B. 224 (R1) should it pass.

Our opposition is primarily based on several things. The NJLJ member courts handle the disposition of all DUI first and second offenses. This constitutes over 80 percent of all DUI cases. Many, if not most, of our defendants are currently unable to pay the statutory fines imposed upon them as a result of a DUI conviction. Currently, a significant number of imposed fines are already converted to community work service, and some of our courts have a difficult time finding organizations that are willing or able to accept additional workers. The imposition of an additional fee will increase the collection costs of the courts, both as staff works on the collection and the courts' increased caseloads related to the warrants that will be issued due to defendants' failure to comply with payment of this new fee. Further, as many of these defendants

are likely indigent, they will be unable to post the appropriate bail, and jail days will increase.

Second, most NJLJ member courts are currently seeing a year after year decrease in revenue. This new fee will make it less likely that the city or county governments will collect their portion of the fines, which according to the bill is only paid after all of the administrative assessments and this fee are collected. This will result in the diversion of funds currently paid to the cities and counties to the specialty courts—in essence, taking local government funds to support these courts.

Third, the substantial increase in the fines and administrative fees could also have constitutional impact that could significantly raise expenditures and use of court resources in processing and dealing with DUI offenses. That could ultimately require the addition of judges in courtrooms throughout the state. It appears, and it is difficult to tell if it is intended, that the bill wishes to charge the assessment to parties who may have been charged with a DUI, but not convicted of that offense. With some frequency, we see defendants charged with a DUI who, after discovery, have the charges dropped or amended to a non-DUI related offense. We find that these defendants should not have been charged with the DUI to begin with. They should not be required to pay this assessment due to an initial error by law enforcement or the prosecutor.

Last, requiring courts throughout the state to collect fees that go only to those areas that have specialty courts is unfair to the collecting courts and the local governments. Some might even say this is a new tax unfairly apportioned to both those paying it and those benefiting from it. I want to reiterate our strong support for specialty courts, and we believe strongly that these courts should be properly funded; however, for the reasons stated, we do not believe this is the appropriate funding mechanism. Based on the foregoing, we encourage you to vote no on S.B. 224 (R1).

Assemblywoman Diaz:

How much are DUI fees that you currently deal with? I want to know how much it is for someone who is facing these charges faces in terms of the financial burden.

Alan Tiras:

The statutory minimum is \$400 plus the assessments. The assessments are \$105, plus \$10, plus \$7. In addition to that, there is a chemical analysis fee of \$60, so the statutory minimum in most courts is \$582. Most courts charge more than that.

Assemblywoman Diaz:

We are looking at a minimum of \$582. I remember we heard a bill previously that might raise court assessments, so that would raise this minimum if that bill is passed.

Alan Tiras:

I believe you are speaking about Assembly Bill 54, which has to do with civil filing fees.

Assemblywoman Diaz:

So that does not have anything to do with the criminal court?

Alan Tiras:

No, not at all.

John Tatro, Judge, Carson City Municipal Court:

I have been a mental health court judge for eight years. I also served on the Supreme Court of Nevada's Specialty Court Funding Committee for six years until January when I left that committee. Mental Health Specialty Court is the most rewarding thing I do. It is the setting where we can watch firsthand while the clients gain independence and the families find peace. Specialty courts give offenders serious treatment, plus monitoring in the early stages of addiction, hopefully, and we help minimize the havoc they wreak on themselves and their families. Specialty courts are the way to go and are the best way to handle addiction; much better than prison. In fact, I extend an invitation to all of you to come to the mental health court that I hold every Thursday at 3 o'clock. Specialty courts are absolutely the best way to go, and there is a great need for funding. However, this bill is very well intentioned, but I do not think DUIs are the way to fund them. We want the money, but we do not want to get it this way. The reasons were outlined by our president, Alan Tiras.

In Carson City last year, we had 211 people convicted of first- and second-offense DUI. We are only talking about misdemeanors. Typically, I impose \$500, a \$137 administrative assessment, and a \$60 chemical fee; plus they pay attorney's fees. They are looking at about \$800 to walk out the door on a first offense DUI, and several hundred more for a second offense DUI. On misdemeanor DUIs, we imposed \$120,150 in fines, the part that goes to the county. On top of that, we imposed \$41,567 in administrative assessments. That \$41,567 has to be collected before the \$120,150, and that is assuming that it can be collected. If we added \$500 to all of those 211 DUIs, we would be looking at an additional \$105,500 in administrative assessments. We would be tripling what we already impose. The administrative assessments are going to be more than the fines, and the amount that we collect for the counties that

fund our courts is going to drop. It is a matter of fact. With the pecking order of how the fees are paid, if someone is on a payment plan and we had to make a finding that they cannot afford to hire an attorney—the majority of our DUI defendants are represented by the public defender—and they are indigent, many of those fines are not going to be collected. Lots of people will end up doing community service and lots of them will go to jail because they do not pay their fines or do other things that they are ordered to do.

I also want to say regarding Assemblyman Ohrenschall's question about traffic tickets, we do have cases where people are charged with a DUI, but are not convicted. They may be charged with other things, like speeding or other misdemeanor traffic charges, but were not drunk or under the influence of drugs. It happens. Sometimes they may be mentally ill or are acting out in some way, and the cops think they are drunk or under the influence of drugs and take them to jail. It turns out that the tests come back negative. In those cases, the people would have to pay \$500 or do the equivalent in community service.

Assemblywoman Spiegel:

You were speaking about the high percentage of people who are indigent who appear before you. Do you have any sense of the percentage of people who are unable to pay? Are the fines imposed then deemed uncollectible?

John Tatro:

Unfortunately, I do not have the figures. I said a majority, but I do not know the figures. I know that over 50 percent are represented by the public defender's office. Of those, I am not sure how many pay their fines.

Chairman Frierson:

Is there anyone else who wishes to offer testimony in opposition to S.B. 224 (R1)? Is there anyone who wishes to offer testimony in a neutral position here or in Las Vegas?

Chris Frey, Deputy Public Defender, Washoe County Public Defender:

We are in a neutral position on this bill, because we obviously want to see the continued existence of specialty courts given that our clients are the majority of the participants in those courts. We do want to see that this fee—or penalty as Senator Cegavske refers to it—is administered in a fair and tailored way. I know some of the questions touched upon what the public defenders do in some of these instances. Although I do not have the information that Assemblywoman Spiegel asked about, I am available for questions.

Assemblywoman Diaz:

I see the benefit of the specialty courts, but I also see that there are many people, especially in my district, that would not be able to afford that \$500 penalty. I understand that they can do community service, but the gist of the bill is to help the specialty courts that you are advocating for. Is there a fix? Is there a way that would be fair to both those who have and those that do not have? Do you have any insights?

Chris Frey:

We did work with Senator Cegavske to ensure judicial discretion was built into the bill so that, if a judge determined that an indigent was unable to pay the \$500, the judge could impose community service in lieu of it. That is consistent with the current public defender or appointed counsel fee statute. The judges do have discretion to adjust that fee to meet the financial circumstances of the client. This would operate much the same way, with one additional change: any balance would be converted to community service. In essence, the judge could say that he was going to assess \$150 but the balance is going to be converted into community service. That was a compromise that we worked out with the Senator.

I think you are hinting at the failing of the bill, and with all due respect to the Senator, if the intent of the bill is to create a funding stream for specialty courts, it is unclear how someone picking up trash on the side of the road could achieve that intent. I think that is what your question was alluding to. I am unclear how that could further the intent of the bill, but it is a compromise.

Assemblyman Ohrenschall:

My question has to do with the same individual whom Assemblywoman Diaz was talking about who cannot afford the \$500 and opts to do the community service. If something happens and they are unable to get all of the hours completed, do you think that some of these folks would end up back in custody for not meeting that requirement?

Chris Frey:

Potentially, if there is a noncompliance issue, the judge presiding over the case could issue an order to show cause and the individual would have to justify why that community service was not performed. If the reasons are deemed unsatisfactory, custody could be an outcome.

Steve Yeager, Deputy Public Defender, Clark County Public Defender's Office:

I do not have much to add except what Mr. Frey said. We are in a unique position because this helps some of our clients, but it does impose an additional penalty on others of our clients. I am here and available to answer any

questions the Committee may have about how DUIs function currently in Clark County justice courts.

Chairman Frierson:

I would like to know about your experience with the fee structure in Clark County.

Steve Yeager:

Typically in Clark County, on a first offense DUI with the minimum mandatory fines and assessments, an offender is usually looking at a minimum of approximately \$575. That can be greater. In addition, under statute, there are other requirements that offenders have to meet for a first offense DUI. One of those would be a mandatory 48 hours of community service. Sometimes, an offender will pay a \$20 or \$30 fee to an organization like Help of Southern Nevada that can set them up with community service. In addition, there is a mandatory DUI class that typically runs about \$300. Those are usually provided by third party organizations, like Legal Rehabilitation Services. There is also a victim impact panel—there is a bill being heard today about the victim impact panel—and that usually runs somewhere around \$50 to \$75. In addition, if you are convicted of a first-offense DUI, you obviously have some insurance implications as well. Typically, that is the scope of what an offender is looking at on a first-offense DUI. On a second-offense DUI, the fines are going to increase substantially, as does the community service.

Chairman Frierson:

Is there anyone else who would like to offer testimony in the neutral position in Carson City or Las Vegas? Seeing no one, I will come back to Senator Cegavske for closing remarks.

Senator Cegavske:

I am glad that we had the open dialogue to discuss this. If there are any questions that I can answer, I would be happy to answer them. I would like to thank the judges who were here. As I stated in my comments before, I have the highest regard for what they do and only want to help.

Chairman Frierson:

With that, I will close the hearing on S.B. 224 (R1). I will now open the hearing on Senate Bill 19 (1st Reprint). I see someone in Las Vegas.

Senate Bill 19 (1st Reprint): Revises provisions concerning driving under the influence of intoxicating liquor or a controlled substance. (BDR 43-366)

Tom Conner, Chief Administrative Law Judge, Office of Administrative Hearings, Department of Motor Vehicles:

I submitted my testimony in writing to the Committee ([Exhibit D](#)). I would like to say that this was originally our bill. I was the one who drafted a proposal for this bill. In my original draft, we were going after a problem that we discovered last summer after a hearing that was the result of a conviction in a Reno justice court. A gentleman had been convicted of a second offense driving under the influence (DUI) in Reno Justice Court under the Reno City Code. His attorney, after the Department of Motor Vehicles (DMV) revoked his driver's license for a year under *Nevada Revised Statutes* (NRS) 483.460, requested a hearing before the Department. I received a phone call from the judge and told him that we had a problem because the statute that was referred to talks about convictions under NRS 484C.110. Then there is the "crime decision," which makes it clear that the Supreme Court of Nevada believes when the statute says NRS 484C.110, it means NRS 484C.110 and not some other statute.

I drafted a bill to take care of the problem. The original bill was to amend NRS 483.460. The Legislative Counsel Bureau changed it and put it in where you see it now. It is a much improved bill. My original idea was to fix the problem that I perceived was the DMV's. Their solution fixes a whole range of problems that I was not aware of, and those are outlined in my written testimony. For example, the problem I thought was most important was, if a person convicted of a DUI under NRS 484C.110 applied for, or currently had, a carry conceal permit, the sheriff can deny or revoke the permit. Arguably, if a person is convicted of that same offense in a municipal court under a municipal ordinance, that law would not apply and that person would be eligible. I understand there may be some haggling and hearings involved, but ultimately, in a case like that, the Supreme Court would rule in favor of the petitioner based on the crime decision.

What the bill before you does is to eliminate any confusion that, if a person is convicted of a municipal court violation of a DUI on a county or city ordinance, the ramifications would be identical to those of state violations under NRS 484C.110 or 484C.120. We at the DMV strongly support the bill.

Assemblyman Ohrenschall:

In the case that you mentioned, can you give us more detail about what happened to that offender and how this would have corrected that issue?

Tom Conner:

What happened in that case is that the DMV decided that the person had, in fact, been convicted of a second offense and the law requires us to revoke his driver's license for a year, which we did. They requested a hearing and argued successfully, per the crime decision—which was a case involving a federal conviction—that NRS 483.460 states if a person is convicted of a second violation of NRS 484C.110 or 484C.120, the driving privileges should be revoked for a period of one year. Using the crime decision, they were able to successfully convince us that the imposition of a one-year revocation is only dependent on a person's conviction of the state DUI statute, and not city or county ordinances. We had to rescind that one-year revocation and that person got his driving privileges back.

During the course of preparing for this hearing, I requested statistics from our Driver's License Review Division, and was told this happens about 25 times a week. We are getting convictions that are under county ordinances and we are simply returning them, saying that we have no authority to take action on it as far as revocation of a license is concerned. This bill takes care of that problem.

Chairman Frierson:

Seeing no other questions from the Committee, I will invite anyone in support of the bill to come forward, both here and in Las Vegas.

Laurel Stadler, Rural Coordinator, Northern Nevada DUI Task Force:

I am here in support of S.B. 19 (R1). This establishes consistent sanctions for DUI offenders in our state regardless if they are cited under the state law or the county or local ordinances. We support this bill.

Chairman Frierson:

Seeing no questions from the Committee, I will invite anyone else in support of the bill to come forward, both here and in Las Vegas. Seeing no one, is there anyone who wishes to offer testimony in opposition? I see no one. Is there anyone who wishes to offer testimony in the neutral position in Carson City or Las Vegas? I see no one, so I will close the hearing on S.B. 19 (R1). We will move on to Senate Bill 312 (1st Reprint) and open the hearing.

Senate Bill 312 (1st Reprint): Makes various changes concerning victim impact panels. (BDR 43-888)

Senator Mark Manendo, Clark County Senatorial District No. 21:

My witnessing firsthand the substandard presentation of what a victim impact panel (VIP) was created and intended for, and the discovery that certain requirements of *Nevada Revised Statutes* (NRS) 484C.530 were being violated,

became the epitasis of Senate Bill 312 (1st Reprint). As one who has supported the VIP concept through legislative efforts for over 20 years and one who knows what the legislative intent was of this program, I am sponsoring this bill to eliminate the outrageous and detrimental activities that I have personally witnessed taking place by unqualified individuals operating makeshift VIPs solely for personal, financial gain. Senate Bill 312 (1st Reprint) is designed to eradicate those abuses by requiring strict standards and regulations that would ensure victim impact panels in Nevada are of the highest quality.

In the work that I have done with the ladies to my left even before I became a member of this body, and knowing what the intent of a true VIP is, this bill should have been here a long time ago, and for that I apologize to the Committee. Sadly, there are folks who have looked at victim impact panels as nothing more than a cash cow; they have made a mockery of it. The good folks of Stop DUI have worked so hard on this. Their focus is helping victims and trying to save lives. Legislation was not our number one priority. As we were learning more about these rogue organizations that are popping up—and even going on television and saying, "Of course I do it," and then put the money in their pockets, even though the statute says it has to be a nonprofit—I determined that we were going to have to go back to the Legislature and put in some strict standards. That is why the bill. Honestly, this bill should have been here several sessions ago because it was really needed.

This is the thirtieth anniversary of Sandy Heverly's work in the driving under the influence (DUI) related field. Thirty years of knowledge is a lot, and I am proud to know both of these ladies. Ms. Heverly has worked and provided victim's assistance to thousands of DUI victims. This includes helping victims through the grieving and recovery process, assessing financial and counseling needs, assisting with preparation of victim impact statements, and accompanying victims to all court proceedings from arraignment to parole hearings. She works closely with the judicial system to provide the best possible outcome for the victim. Recognizing the importance of education and awareness of the crime of driving under the influence, Ms. Heverly founded and coordinated a speakers' bureau that presents to schools, civic organizations, businesses, prisons, and juvenile offender facilities. Ms. Heverly has sat on numerous boards and committees to address crime victims' rights in DUI issues, most notably: the Governor's Commission on Drinking and Driving, the National Association of Blacks in Criminal Justice, the Clark County Citizen's Coalition for Victim Rights, the Surgeon General's Advisory Board on Drunk Driving, the National Commission Against Drunk Driving, and the Nevada Advisory Council on Impaired Driving. Ms. Heverly was appointed to President Bush's 11-member Commission on Drug Free Communities, and currently serves on the

Attorney General's Advisory Coalition on Impaired Driving. In December 2008, Ms. Heverly accepted an invitation by President George W. Bush to participate with him in a round-table discussion and news conferences on statuses and accomplishments of reducing teen drug abuse. Believing that DUI offenders should see and hear firsthand the devastation caused to DUI victims, Sandy created the first victim impact panel concept in the entire nation; it was born in Nevada.

There is pressure to make this right now, because the entire nation, not just Nevada, is looking upon what we do on this piece of legislation. We need to fine-tune this to make sure no one is abusing the system, including organizations that feel they are doing something right while pocketing all of the money and not helping victims—and for some reason think that is fine and dandy, which I do not. The folks who are convicted of DUI need to make sure that the money they spend to go to a VIP is the best possible experience for them, so they do not reoffend and kill someone.

I know that you will hear from folks that will say that no organizations in Nevada help victims. I have emails to that effect, that we do not give money to victims, and that no other organization does either. Our financials—and I say "our" because I have been working as a volunteer with Stop DUI for over 20 years—are public record. We will make them available. In fact, I think they are available, and I hope other organizations that come forward against this piece of legislation have their financials in hand to show you so you know exactly where their money is spent. If their money is not spent in Nevada, we need to know why. If their money is not spent to help victims, we need to know why. If their money is not spent to help law enforcement, we need to know why. I have a picture of a check that was provided years ago from MADD to Nevada for \$1.20. That is what was given back to Nevada for the \$144,000 that was raised in Nevada—from Nevada residents—that went to their corporate office in Texas. This is what we got back to help our community, \$1.20. That is wrong; that needs to stop.

Sandy Heverly, Co-Founder and Director, Stop DUI, Inc.:

I am here today on behalf of Stop DUI to respectfully request your support of Senate Bill 312 (1st Reprint), and I want to thank you for the opportunity to share our views on this measure.

Senate Bill 312 (1st Reprint) is designed to eliminate the outrageous abuses and bastardization of Nevada's victim impact panels. [Continued to read from written testimony ([Exhibit E](#)).]

Sandra Scott, representing Stop DUI, Inc.:

I am here today to speak in support of Senate Bill 312 (1st Reprint). I retired from the City of Las Vegas Municipal Court after 35 years of service. During that time, I managed the Alternative Sentencing and Education Division.

In the early 1980s, Sandy Heverly, along with my help and the support of the late Chief Judge Seymore Brown, established the first victim impact panel in Nevada. The VIP was formed to allow victims an opportunity to tell how the DUI crash has impacted their lives.

When Stop DUI began charging a fee to attend the VIP, a portion of the money was—and to this day still is—used to provide direct victim assistance. Stop DUI is the only anti-drunk driving organization in the country that provides direct victim assistance.

As a result of the current nonspecific laws governing these panels, over the past 18 months a number of programs have begun offering VIPs. These other so-called VIPs are in it for the money with no concern for victims. No one objects to any organization forming a VIP, as long as it is a legitimate panel using legitimate victims as speakers. I am very concerned about the lack of regulations and standards governing the current panels.

Until you pass laws that are more specific, the courts will continue to say, "We cannot do anything about these programs, because the statutes are not specific enough." This is what came of a meeting with the Clark County Justice Court. If Nevada Judges of Limited Jurisdiction is objecting to stricter laws regarding VIPs, you have to wonder why. The majority of judges from southern Nevada do not get involved in the running of VIPs. I am not sure what northern Nevada does, but I do know that they do not provide direct victim assistance.

A few years into retirement, I continued working with Stop DUI in a number of areas, but what stands out most is the time I volunteered as a victims' advocate. I have seen firsthand how drunk driving devastates these victims and their families—it makes you think it could have been me or my loved one. None of us are safe from this crime. Drunk drivers on the roadways do not discriminate. They do not care about your race, gender, or whether you are young or old; they do not discriminate. Educating drunk drivers through DUI schools is not enough, particularly because these offenders can meet that requirement by taking a class on the Internet. I have heard enough from convicted drunk drivers to know that the class through the Internet is not taken seriously.

Again, the current law for operating a VIP is too general and allows too many entities to form so-called VIPs to make a profit. They are operating similar to the way they run a DUI class. I believe you need to have a department monitoring these panels to make sure that the approved panels have legitimate victims speaking at the panels, not drunk drivers. They should not be allowed to speak more than twice a month, and they should not operate them for profit. By monitoring these programs, it can be ensured that, if they are sincere, it will not be about just making a profit. I support S.B. 312 (R1) and respectfully request that you support this bill by passing it today.

Chairman Frierson:

Of course, the last request is not an option since we have rules that do not allow us to vote on measures on the same day as the hearing, so do not take that as discounting your testimony.

Assemblywoman Fiore:

As I read the bill and listen to your testimony, you say that this bill is not "monopolizing," and that is the word you used. As I read the bill, and I am glad you used that word first, because I cannot see how this bill does not monopolize the VIPs by statute. That is disturbing to me, especially as a business woman. We are looking at our judges facing monetary sanctions if they were to host a VIP without using a DMV sponsor. Can you explain to me how this bill is not monopolizing?

Sandy Heverly:

It is very clear in the bill that anyone who follows the recommendations and standards that are placed in it has the opportunity to operate a VIP, and that would certainly include a court. If a court wanted to run a VIP, I think they could meet the standards and regulations.

Assemblywoman Fiore:

If a judge wants to host this and he was not a DMV sponsor, what would happen?

Sandy Heverly:

If he was not a DMV sponsor? The bill requires everyone to adhere to the standards and regulations. It is only appropriate. Why should there be anyone exempt from this? These standards and regulations are borne on the backs of victims. These are the types of things that need to be addressed. It is going to help eliminate the abuses that are currently taking place. I personally do not see why a judge should be exempt from this. If they are going to be working with victims, they need to have that background and experience. They also need to meet the other requirements that are listed in the bill.

Assemblywoman Fiore:

Who sets the rules and regulations for this?

Sandy Heverly:

This is done by the Department of Motor Vehicles.

Chairman Frierson:

So that I am clear, you are saying that if a court wanted to, the court would have to register with the DMV to be able to run a VIP and follow the same requirements that a nonprofit organization would have to as far as registering?

Sandy Heverly:

We feel that would be appropriate. Those standards and regulations are in there for a specific purpose. We are trying to eliminate any abuses that may occur.

Assemblyman Thompson:

I am looking at your handout on Stop DUI and I see that you have 14 trained victim impact speakers. Is that enough to meet the demand of courts? If so, with these new requirements, how would those persons who are interested in serving on these panels know about them and be certified?

Sandy Heverly:

First of all, the folks on our VIPs are people we have worked with for many months. You do not have a victim come in and you tell him to go ahead and speak; that is absolutely not how it works. Offenders have anywhere from three to six months to comply with all of the DUI penalties that are required of them. At one point, we were having VIPs only once a month. Now we offer two victim impact panels a month, including a Spanish VIP. The pool of speakers you are looking at on that list is constantly rotated, so they are not speaking more than once a month. We understand they do not have a speaker pool. That is why we are saying, under certain conditions and circumstances, if they feel they have the expertise and experience to deal with these folks and think it is going to be to their benefit to do that, then they should have the opportunity to do it. But more than twice a month is just not acceptable. It is very worrisome. If you understand the complexities of this type of victimization and everything that goes along with it, it is very disturbing.

Sandra Scott:

I ran the DUI school for the Las Vegas Municipal Court. In fact, I was one of those who first put those together before we had any regulations governing the DUI schools. This is the same thing we are talking about: regulations similar to what we have for DUI schools and domestic violence programs. Before any of those standards were put into place, you had folks operating DUI schools out of

the back of their cars and doing all kinds of things. All we are saying is to firm up the regulations so we do not have every Tom, Dick, and Harry putting together a so-called VIP. We do not mind them having their own panel; it is just that we want them to abide by regulations.

Assemblywoman Spiegel:

Have you worked with the other VIP organizations throughout the state on this? How many VIP organizations that currently exist meet the criteria that are outlined in this bill?

Sandy Heverly:

We initially introduced the VIP concept to northern Nevada. I am familiar with how that began. Unfortunately, it deteriorated to a point where it causes great concern for us. Right now, in southern Nevada, we know of five other organizations that are running these so-called VIPs: Stop DUI; Options Diversionary Programs, LLC; LRS Systems; New Beginnings Counseling Centers; and Mesa Family Counseling DUI. We have more testimony on how easy it is to start up a VIP, and how easy it is to have someone profess to be a victim. It is unbelievable.

Assemblywoman Spiegel:

It sounds like you have not worked with the other organizations in putting this forward. Also, my question was how many organizations in Nevada that have been doing this, and are currently doing it, meet the criteria that is outlined in the bill?

Sandy Heverly:

There is only one, but certainly others can.

Assemblyman Wheeler:

The way I read this bill, it is basically setting up a monopoly. I was going to ask the same question as Ms. Spiegel about how many others meet the criteria right now. That tells me that this does set up a monopoly. Why is setting up a monopoly good for Nevada?

Sandra Scott:

Again, I disagree that it sets up a monopoly. First, you need to have standards. If that was the case, that would have been the same thing we did when the rules and regulations were established for setting up DUI schools and domestic violence programs. You have to start somewhere.

Assemblyman Wheeler:

Starting with one company may not be the best, but it may be the best. That is what I am trying to figure out. If a DUI offender is indigent, can a court put him in a Stop DUI program for free?

Sandra Scott:

Absolutely. Any judge that refers to Stop DUI can waive the fee. We have judges who send people over to Stop DUI. Stop DUI would gladly put them through the program at no cost to the offender. All of the judges can waive the fee.

Assemblywoman Fiore:

If they waive the fee, are you waiving the fee or are you taking it from the courts? From where are you getting the fee?

Sandra Scott:

If the fee is waived, it is waived. We just put the people through the program.

Chairman Frierson:

My understanding is that they do not waive fees for programs, but it is the program's option. My understanding is that the courts do not necessarily order that, but there are some programs that offer a sliding scale. Are you saying that Stop DUI would waive it if the court so directed?

Sandra Scott:

Yes, absolutely. We get them all of the time where judges refer to Stop DUI and the fee is waived.

Chairman Frierson:

Why cannot the panelists be former offenders? I ask that from the perspective of Scared Straight and other types of programs that are extremely effective because they are put on by former offenders who have gone through it and injured themselves or other loved ones, who have killed their children or spouses, paralyzed themselves, et cetera. Why the insistence that they cannot be appropriate panelists for purposes of the victim impact panel?

Sandy Heverly:

When we put this program together, it was to make sure offenders had an opportunity to see the other side of the coin; to see the devastation, heartache, grief, sorrow, pain, and suffering that they could cause if they continued in that behavior. The offenders who attend our program are misdemeanor offenders. They have not killed or injured anyone yet. Additionally, having our victims speak to these offenders has been very therapeutic for them. For the first time,

it gives them the opportunity to be physically and actively involved in helping to prevent this crime from happening to other people. We feel there are venues for DUI offenders, like Alcoholics Anonymous and Narcotics Anonymous meetings, and DUI schools. I would suggest that, if someone wanted to create a specialized program that utilized only DUI offenders—having a DUI offender panel—we would support that, but the victims we work with do not feel comfortable, and I do not feel comfortable as a victim, to be on a panel with a DUI offender. It is called "victim impact."

Chairman Frierson:

I want to get to the heart of this, so we will agree to disagree. My point is that a DUI offender who has killed his spouse can relate to the notion of being a victim. In my experience in the practice of law, that has been effective. I think my question was if there was any wiggle room, and it sounds like no. I think there is something to be said about a former offender who is willing to humbly acknowledge not only the problems that he has caused for himself, but also for his loved ones and other people. Personally, I think that is a very effective way to connect with offenders who are often numb to anyone other than themselves. It could be a starting point of them finally hearing from someone whom they could relate to and would actually listen to. It struck me as different because of my experience in criminal law.

Sandy Heverly:

I do not disagree with you; they have something to offer. But what we do disagree on is the forum, the venue. They can certainly speak at DUI schools. The same people who come before us in front of a VIP are the same people who have to go to DUI school, so the audience is the same.

Chairman Frierson:

I am talking about former offenders, so they are not the same. I wanted to throw that out there, but with your passion you do not want to sit next to someone who caused harm to someone else with that underlying conduct. I understand your position, but I do not think we agree on the impact that it has on the offenders.

I want to make sure I am clear on section 10, page 5. It looks to me in section 10 like the bill is proposing to have the sponsor collect the fees instead of the court. On the top of the next page, it has the sponsor disperse those fees as set forth in the subsections. How is that handled now as opposed to putting it in statute that the sponsor does it? It would seem to me that the court would ordinarily collect those fees and disperse them. On page 7, in section 11, it refers to all administrative fines being collected by the DMV pursuant to these sections. We have section 11 talking about the DMV

collecting these fees and how they are deposited, but section 10 talks about the sponsor collecting the fees and being responsible for dispersing them. How is it working now compared to what is being proposed here as far as the collection of fees and the disbursement? Also, is there an inconsistency with respect to sections 10 and 11?

Sandra Scott:

I would say that the nonprofit agencies that run the panels should be the ones to collect the fees, and that is how it is done now. The people who are referred to Stop DUI are charged the fee and pay it at that time. We keep accurate records that are open to the public. Our agency knows how much money we collect and we distribute a certain amount to victims and law enforcement.

Chairman Frierson:

I want to make sure I am not misunderstanding, because it looks like there is a significant fee structure set up. This looks like it is talking about fees being dispersed, not only the fee for the VIP, but also other fees. I am not aware of the program collecting fees other than the fees for the program.

Sandra Scott:

No, it would only be Stop DUI fees. The court is responsible for collecting all other fees pertaining to DUI offenders.

Assemblyman Ohrenschall:

You brought up the other organizations that provide VIPs. Are they devoted to the treatment and prevention of driving under the influence, or are they multipurpose agencies that have classes for anger management, preventing petty larceny, AIDS awareness, and that kind of thing? Do they focus on the DUI issue? Do you see differences in how the panels work compared to what Stop DUI does?

Sandra Scott:

I will answer part and Sandy can answer the rest. Being familiar with some of these agencies, and having been a manager in this system for over 35 years, a lot of these agencies were formed as the laws were changed. In other words, they started their own programs, like the DUI schools, domestic violence programs, and so forth. When the opportunity came about for VIPs with no regulations in place, just like starting DUI schools, they all formed their programs. They offer many programs.

Senator Manendo:

Everyone is welcome to attend Stop DUI's victim impact panel anytime they want. If you are in southern Nevada, you are welcome to come in. We have

had people from all over the country come in and see the VIP. I am proud of that panel.

As far as the differences, when I went to one—because one took place in my district at the time—we were not really welcomed. It took a half hour to analyze why we were there. We wanted to see the program because we were very optimistic that it would be something positive for the community. When they finally decided to let us in, we were read to for the first hour. It was on a screen and they read it like they were reading a book. We were there because we were really interested. It was 7 o'clock at night, after work, and I was trying to figure out how I was going to stay awake since they just read to us. There were folks who were listening to their iPods. They were required to be there by the courts, but they had their music on. Two individuals smelled of alcohol, and people in the hallways were dancing while we were being read to. We were not there because we were being punished; we were there to learn and understand what was going on, but the distractions were enormous. Then it was break time and everyone got to leave. When they started up again, some people were not back, but they continued the program. Their trickling in was very distracting. The difference between a properly run VIP such as Stop DUI's and others that we have seen is absolutely night and day.

It is very discouraging to see that there are folks who just want to run VIPs for profit. These are supposed to be run by nonprofits. They are supposed to be people with big hearts who want to make a difference in the community running these programs. I understand the business aspect—I am a businessman—but this is not a business.

Assemblyman Ohrenschall:

Is there any data about recidivism from folks who attend a panel such as yours versus some of the others that were mentioned?

Sandy Heverly:

Before I answer that, I want to add one thing to Senator Manendo's experience in terms of why we were so concerned about what was going on with people who did not have the expertise to deal with victims. After we were read to for an hour, a legitimate victim—a woman whose daughter was killed—got up and told the group that she had just completed 16 weeks of being in a mental ward. She gives her presentation four times a week every week.

We had a study done on recidivism a number of years ago conducted by the Las Vegas Municipal Court's DUI program. It showed that we had a 92 percent success rate in terms of those offenders who went through our program who did not recidivate. The study was a random study done on 906 offenders.

Most recently, last year, we had another recidivism study done that was conducted by the Henderson Municipal Court DUI Program. With that program, we have a 97 percent success rate. Our program is quite unique compared to any other that is being presented around the state. I think that is what allows us to have such a high success rate. I have those studies if you would like me to provide them to the Committee.

Chairman Frierson:

In the interest of time, I would like to get out new points without rehashing the same stuff.

Sandra Scott:

I was going to say that there are very few organizations that conduct recidivism studies and that should be part of the law. The agencies that are providing these programs should be required to do recidivism studies to find out if they are effective. That is currently not being done. We did that on our own.

Chairman Frierson:

Are there any other questions? Seeing none, I would invite those who are here to testify in support of S.B. 312 (R1) to come forward, both in Las Vegas and here. As we have done with other bills that spark emotion, I would ask folks not to repeat what has already been said. Our time is limited and we want everyone to have a chance to testify, so please be mindful of that. A few other things: we have folks occasionally prepare written comments and I would ask that you not read to the Committee. In the interest of time, submit them and we will circulate them to the entire Committee. I want to make sure we get through everyone before we have to adjourn for floor. I see no one in Carson City, so we will go to Las Vegas.

Nancy Greiner, Private Citizen, Henderson, Nevada:

I am the victim of a drunk driver. I am here today to ask you to support the passage of S.B. 312 (R1). My crash ended my career as a vice president of an international global logistics company and I am now permanently disabled.

When I relocated to Las Vegas two years ago, I began searching for avenues in which to participate in a program that would offer victim advocacy and other services including, but not limited to, direct financial assistance to victims of impaired drivers, education, and awareness of all levels of the devastation and loss of life caused by impaired drivers. In my search, the first organization I contacted was Mothers Against Drunk Driving (MADD), but they appeared to only be interested in a monetary contribution.

The issue of driving under the influence is paramount to me and as I continued to discuss the issue with others, I was given the name of Stop DUI. I was told that they championed a nonprofit organization dedicated to the support of DUI victims and programs related to the same. I subsequently contacted Stop DUI and, after speaking with Sandra Heverly and other principals of the organization—and viewing one of their VIPs—I realized this organization consisted of a group of knowledgeable and compassionate individuals who had founded and maintained an organization with integrity and dignity. They definitely possessed the passion to make a positive difference in the lives of victims, while being driven to educate the DUI offender to make better choices.

I had the opportunity to meet with the other companies, or so-called organizations for VIPs. I would like to briefly explain to you what I saw firsthand.

Chairman Frierson:

I see you have written testimony and I would be happy to accept it and make sure it is circulated. We need to get testimony from as many people as we can, and we are short on time.

Nancy Greiner:

My written testimony is already on the website ([Exhibit F](#)). Since then, I have met with another company called Options last week. When I reached this facility, they had not asked me if I wanted to speak, but when I walked in I was introduced as a speaker. When I arrived, a video was playing and there was no moderator in the room. The offenders were left unsupervised watching this video. Shortly thereafter, an offender came out and asked if the person who ran the video was there because it had finished. To me, that was unbelievable. During the session after the video, we discussed a few things and the moderator informed me that they were having difficulty securing victim speakers. If they could not do so, they showed videos—she had three more to show if I had not shown up—or they use DUI offender parolees who are very remorseful and have a powerful story. To me as a victim, this was unbelievable and unacceptable. The funds that they collect for these so-called panels go into the Options company. She did not know what the funds were eventually used for. Even though I was not asked to speak prior to my going there, I did speak that evening because I thought my story could reach some of the offenders who were in that session. This so-called impact panel would have been just a sickening bastardization of a fantastic program if I had not been there to speak and they just sat there and watched four videos.

Since these are victim impact panels, as a victim of a DUI, I deserve the satisfaction of knowing where the funds are going from these organizations.

I find it repugnant that I would have to sit in a room and listen to a DUI offender talk about his actions that caused death or injury to another victim or a family of a victim. Hopefully, through our continued collaboration, effort, and diligence, we will be able to lessen and prevent other DUI victims from having their lives stolen from them, as I have, through injury or the families through death. Therefore, I respectfully urge the Committee to support S.B. 312 (R1).

Chairman Frierson:

I thank victims who come forward and share their personal stories with us. They do not go unrecognized.

Assemblywoman Spiegel:

I am new to this Committee and I am learning about how these programs work. I wonder if the speakers at these victim impact panels are compensated for their time, or if this is done on a volunteer basis. Could you tell me how this works from the perspective of a victim?

Nancy Greiner:

When I went to New Beginnings, they told me their victims were not compensated and I would not be compensated. When I went to speak with the people from LRS Systems, they told me there would be compensation for mileage. Recently, when I spoke with the people at Options regarding their program, they told me that there was no compensation for the speakers.

Assemblywoman Spiegel:

And at Stop DUI?

Nancy Greiner:

At Stop DUI, there is compensation for the speakers' mileage.

Chairman Frierson:

Are there any other questions? Seeing none, sometimes I have to stop at some point to give the other side ample time, so I will invite up the other two people who want to offer testimony and, hopefully, keep it as concise as we can to get as many people on the record as possible.

Melanie Holt, Private Citizen, Las Vegas, Nevada:

I am a victim advocate. My brother, Chris Holt, was killed in 2003 by a drunk driver. I want to get your support behind S.B. 312 (R1) because these organizations need to be regulated. They need to have oversight by the DMV.

I have been working with Stop DUI since 2003. Chris was killed on April 15, 2003, and I started working with Stop DUI after our court sessions

were over in September. For nine years now, I have been with this organization and I have not seen them waiver from the mission that they have put forth, which is to directly compensate and support people who have been financially devastated by these crimes. As a victim advocate, I have watched firsthand Stop DUI assisting those who need help, who have lost the breadwinner of the family or have lost their own income. People believe when these crashes occur there is some type of payoff from the insurance company. My offender, the person who killed Chris, had no license, registration, or insurance. There was no compensation. Stop DUI was there for my family and me personally, providing me with support. Every time I appeared in court, volunteers were there. I was grieving and they were there. You cannot get that kind of support anywhere else. Every entity that pops up should be able to provide similar support.

When I started with Stop DUI, there was no compensation. Compensation has only been provided recently when they realized that some of the victims who go there have children who need babysitters. Some have traveled long distances to come into town to be speakers and need compensation for their gasoline. Previously, there was no compensation; it was strictly for the victims. I cannot tell you the level of compensation that they have given the victims over the nine years that I have been participating.

This is an important bill. Everyone who wants to have a VIP should be doing what Stop DUI does. That is the important part that you need to understand. There is only one entity providing these services to law enforcement, buying them breathalyzers, getting them proper training for correctly making a stop and arresting someone to get it through the courts, and ensuring evidence is handled correctly. These are the important matters; where the money goes. This is a transparent agency. I would not be associated with one that is not transparent.

As a victim, having lost a family member—having watched my brother's children grow up without a father—I do not want to speak on a panel with an offender. I believe they have a proper place for their story. Their story should not be shared with mine. I am not blind to all of the resources and what impact they can have as well, but not on an impact panel. I have had people come up to me at the end of the evening and tell me that I have made a difference in their lives. My brother's death, though senseless when it happened, makes sense on the third Wednesday of every month. It makes sense—and that is the important part of it—that we share our stories with people and make a difference in their lives. When they leave there, they are impacted in a proper manner and go forward knowing their actions have consequences that affect other people in the community.

The money should stay in this town. Not a penny should leave Nevada. These crimes happen in Nevada, are paid for in the courts of Nevada, and impact the people of Nevada; therefore, the money should stay in Nevada. Stop DUI does not take any money from any other entity, city, state, county, or federal agency. This program is solely funded by the offenders.

Chairman Frierson:

We only have a few minutes, so provide testimony that has not already been provided. [Letter from Northern Nevada DUI Task Force was submitted but not discussed ([Exhibit G](#)).]

Ed Farley, Vice President, Stop DUI, Inc.:

My remarks will last less than a minute. My colleagues have covered all of the main points. I want to cover one additional point that has not been talked about much, and that is our support of law enforcement. I would like to add that I am a volunteer because I really care. I am not in it to make any money; I am here to make a difference. I have been volunteering in various places in the Valley over the last 18 or 19 years.

Stop DUI supports law enforcement. I have been to DUI checkpoints in the middle of the night on New Year's Eve, Thanksgiving, and Super Bowl Sunday. We have been there supporting law enforcement because we want to do all we can to support law enforcement in stopping DUI, as in our name. That is our mission and we are dedicated to doing that.

Chairman Frierson:

Thank you all for your testimony. Is there anyone else in Las Vegas?

Joan Eddowes, Private Citizen, Henderson, Nevada:

I am a victim. You have my testimony already ([Exhibit H](#)). I just want to reiterate the fact that we are fighting for the integrity of a victim impact panel. It is specific to victims. I became a victim when I lost my only son, and it gives me the chance to still be Mark's mom. It also gives me a chance to give back to the community. I respectfully ask the people who can make a difference and who can keep the integrity of the VIP for your favorable vote on S.B. 312 (R1).

Chairman Frierson:

I will come back up to Carson City and invite those wishing to offer testimony in opposition to now come forward, both here and in Las Vegas.

James Jackson, representing Nevada Judges of Limited Jurisdiction:

I want to quickly make one point clear for the record. I had the opportunity to sit down with Ms. Heverly and the Senator last night over dinner and talk about

some of the concerns that the Nevada Judges of Limited Jurisdiction (NJLJ) has with this bill. There has been prior discussion between Judge Glasson, who is immediately to my left, and Judge Tiras, whom you have been introduced to previously. They are going to make some comments on their ongoing concerns about the bill. As I said, I had a fruitful and frank discussion with the bill's sponsors and proponents, and we understand where we are all coming from. On some points we simply agreed to disagree. That is why we have these hearings and open forums.

I do not want to steal any thunder from the Northern Nevada DUI Task Force spokeswoman, but she and I spoke and I want the Committee to know that, while I have not been to a VIP in southern Nevada, I did attend one in northern Nevada. I will tell you that it had an impact. It was an extremely well-done program. From what I know of the Northern Nevada Task Force, having been a prosecutor and a public defender in my past life, they do a lot of good things. They provide support, funds, and law enforcement encouragement and support. I do not want them to go unrecognized since they are doing a good job and working hard.

Finally, I will say that, while Ms. Heverly and I have had many disagreements over the years in my various capacities in front of this Committee, I do not doubt for a moment her passion and conviction for what she pursues. I may not always agree with the way she describes it, and I may not always agree with the way she goes about it, but certainly no one is here to suggest that VIPs are not an important part of the DUI system and the recovery and rehabilitation of offenders. In that respect, we all share that goal, even those who are going to speak with opposition or amendments to this bill. With that, I will turn it over to Judge Glasson.

E. Alan Tiras, Judge, Incline Justice Court; President, Nevada Judges of Limited Jurisdiction:

Actually, I am Judge Tiras. The NJLJ represents all of the justice and municipal court judges in Nevada, and our members are the judges who adjudicate matters on most DUI offenses. We are on the front line in dealing with DUI offenders. We are also very sympathetic to the experiences of the victims of DUI and understand and appreciate the balance that is necessary between discouraging DUI offenses and victim advocacy.

The NJLJ respectfully opposes S.B. 312 (R1), and I speak to you today on behalf of the vast majority of our association members. Our opposition is primarily based upon the following: the courts use the VIP as a very important tool to discourage repeated behavior. However, different people react to different aspects of their sentencing in different ways. Having only one

perspective presented may discourage some people, but not others. The point is, it is important to provide something that has the best opportunity to reach each individual offender. A one-size-fits-all approach is not going to be as effective as multiple approaches. Only having the defined victims present will not be as effective to the population of offenders as having multiple speakers with different perspectives. We want the offenders to be able to see themselves in the presentation, and we want the courts to be able to utilize the programs that they feel will be most beneficial in discouraging recidivism.

The proposed requirements will only allow the larger organizations to provide the panels, which will make it difficult for offenders in our more rural communities to comply. This will increase failure-to-comply offenses, court costs, and potential jail days. Presently, the larger organizations are not in compliance with *Nevada Revised Statutes* (NRS) 484C.530. Victim impact panels are not to be offered for profit. Presently, the larger organizations charge up to \$75 to attend this compulsory panel. The profits of this are then spent on salaries, administration, and victim support. While victim support is certainly worthwhile and valued, the statute as written does not allow for such use of the funds. It was to provide another tool against DUIs. Should the Legislature wish to provide for programs of victim compensation, perhaps it should be through state-sponsored programs to provide such compensation in a uniform manner throughout the state. Instead, it is determined by these organizations.

I want to reiterate our support for victims of DUI and our desire to dissuade DUI offenses. For the reasons stated, we do not believe this law will help prevent future DUIs. We encourage you to vote no on S.B. 312 (R1).

Richard Glasson, Judge, Tahoe Justice Court:

I am on the board of directors of the Nevada Judges of Limited Jurisdiction. I also serve on the Education Committee for the Judges' association and am their chaplain. I have been, along with Judge Alan Tiras and Judge Stephan Dahl, a member of the Judges Association's Committee on the Development of Standards and Practices for a Model Victim Impact Panel.

For the last four years, we have been snowballing this effort of having the panels in our courtrooms where there are judicially directed model impact panels for our offenders. We found that this is the best way to handle and implement the statute's intent. That has been going on in Douglas, Tahoe, East Fork, Incline Township, Fallon, Pahrump, and North Las Vegas, and we are going online in a month or so in Sparks. The offenders are personally brought in to the courtroom, in a courtroom setting sponsored by the judge where we can actually watch the offender, make sure the victim speaker is conducting the discussion that is mandated under the current statute, while many of these

other programs are just a lecture with no discussion. We bring in first responders and people who have been convicted. We put together what is best so we can see what is going on and interact directly with our defendants. We also use this as an opportunity to make certain that those offenders are in compliance with the other aspects of a DUI sentencing law. As you are all aware, in addition to jail time or community service, and mandated fines, there is a VIP and DUI school. Those all have to be presented to the court, and we find that is an effective opportunity with law enforcement present, and an opportunity to address any failure-to-appear all in one fell swoop. This bill does away with that. We want to continue to grow this in North Las Vegas and Henderson, and in downtown Las Vegas and Reno, and throughout the state. The judges love it and we all have to subscribe to our code of judicial conduct that requires we promote, at all times, public confidence in the independence of the judiciary. Putting me under the supervision of the DMV, or subjecting Judge Tiras to a \$5,000 or \$10,000 monetary sanction if he wants to continue to sponsor his program, violates the separation of powers and breaks the back of our constitution. We are not supposed to be doing that. We are supposed to be separate and apart.

I urge you to allow us to continue with these wonderful programs and to allow us to continue to grow this without having this business—and that is what it is—diverted. Our average fee for these judicially imposed programs that are taking place in our courtrooms runs about \$23. I did the math based on what the proponents of this bill were suggesting. I collect VIPs and go to as many as I can. I learn from them. I have been to Stop DUI and it looks like there is about \$1.1 million annually generated by the \$75 fee that has to go somewhere. If it is not going to salaries, executive directors, or compensation to staff, it will be distributed at their discretion if this bill passes, and currently at their discretion without a bill, to victims as they see fit whether they are in California, Nevada, or New York. There is no oversight. As judges, we are not in it for the money. We are in it to get closure and education.

Recidivism studies are studies on whether that particular offender got caught and convicted again. As we heard in testimony earlier today, it is about 100 times driving drunk before someone gets caught. Anyone who is tossing about recidivism figures is talking about seeing the same offender again in their particular court, not that he did not drink and drive. [A proposed amendment was submitted ([Exhibit I](#)) but was not discussed.]

Assemblyman Duncan:

Please respond to the proponents of the bill who say there is a problem with the fly-by-night organizations that are setting up the VIPs. I am curious, I know that this VIP is judicially directed in statute and that you are trying to direct that,

but do you have an opinion on them? Have you seen some of those in Clark County that they are talking about that are not following that model? I am trying to get clarification.

Richard Glasson:

No sir, I have not. I just recently found out that it is a problem. When I found out that there was something going on with the victim impact bill, I tried to get involved with it. I wrote to Senator Manendo and met with him through my Senator, Mr. Settlemeyer, and I was ignored. I did not know what this bill was until it showed up in the Senate Transportation Committee.

Your point is right on. This is why we got involved as judges. We started hearing about the abuses that might be occurring in southern Nevada at Stop DUI. Folks could not get into the panels that they were ordered to attend by the judge. They would get there and it would be sold out, or they would go there and they were refused admittance because of the type of footwear they had on, or a visible tattoo. That is why we got involved, to try to figure out if the judges should be in charge of them.

I did go to a Stop DUI panel and I did not see any of that abuse. In fact, I was able to make my reservation online and I could see online if they were full. They would tell you to come back at another time, so you would not be standing around. I was favorably impressed with the speakers at Stop DUI. Would I recommend or order one on my defendants to go there if I was a judge in Las Vegas? I would not. I would be having my own panel because it is better. That is what we are teaching. When I first heard that S.B. 312 (R1) was being proposed, I thought it was in response to the judicial programs that we have in North Las Vegas. I thought it might be seen as taking away business from Stop DUI. I just recently heard about these other outfits. I did sentence someone to attend a victim impact panel offered through LRS online once, but that was because that particular defendant was from somewhere in Germany. How would I find a VIP in Germany? I let him do it online.

Assemblyman Duncan:

I understand where you are coming from regarding separation of powers, and usurping your ability as a judge to be able to supervise statutory requirements that you are supposed to fulfill. Can you outline for the Committee how your VIPs are better than Stop DUI's or some other organization's?

Richard Glasson:

We are a legislatively created branch of government. The *Nevada Constitution* allows the justice courts and municipal courts to be created by the Legislature, and that is where we get our authority. Our sentencing guidelines for a DUI are

set by the Legislature, and a portion of that is the victim impact law where you get down to other penalties. I do not see that as a penalty; I encourage our defendants to see it as education. We are mandated to meet with the persons, or panels of persons, in our jurisdictions who have come forward and contacted the court. Judge Tiras can speak to the fact that he is near the California border and no one is breaking down his door saying, "I am a victim. I want to speak." He went out and advertised and found victims. They can be located. We maintain a list of the persons who have been injured or have had a relative or close friend injured by a drunk driver who are willing to speak collectively in a discussion. That is the current law, and that is what we are doing. I do not believe that violates the separation of powers. We will get into that when I am mandated to go down to the DMV and work out a fee; when I am mandated to get a license to do what I have been doing for the last four years.

Chairman Frierson:

I want to remind you we are almost out of time and we have several other folks who have indicated their interest in testifying in opposition. I want to get as many folks on the record as we can.

I will ask the other folks in opposition to come forward. Please try to be concise and not repeat what other folks have said, but get on the record.

Laurel Stadler, Rural Coordinator, Northern Nevada DUI Task Force:

I have submitted a proposed amendment ([Exhibit J](#)) and the purpose of the amendment is to change the structure that defines the victim impact panel to be for counties under 700,000 people. There are five instances in the bill. What this would do is include Washoe County with the same stipulations for the VIP as the rural counties. I have included on the second page of the proposed amendment a VIP comparison, which shows the rurals—I am the panel coordinator and have been for the last 20 years—and the Reno panel, and estimates of what the Stop DUI panel is probably receiving in Las Vegas. The testimony has been that the for-profit groups are coming into Clark County and that seems to be the problem. That has not been seen in other counties in Nevada. You can see from the chart that, in the rurals, we are estimating to see 856 people this year at \$40 to \$45, which gives us a yearly budget of approximately \$36,000. I would guess that is probably a one-month budget for the southern Nevada operation. For the Reno panel, you can see that their numbers are going down. There are about 2,000 people that will be seen in Reno this year, for about \$80,000 in VIP revenue at the \$40 rate, which we have had in effect since 2009. The estimate for Stop DUI, at their current \$75 rate, is that they are probably collecting over \$500,000. In northern Nevada, we have seen our numbers fall at the VIP, not necessarily because there are less offenders, but because there have been so many budget cuts to

the law enforcement agencies up here that many of the DUI specific units have had deep cuts or eliminations. We have heard from Judge Tatro earlier on the other bill about the inability of offenders to pay higher fees, so that is why we have kept our fees at the \$40 level in the northern part of the state regardless of what has happened in the south.

On the third page are the types of programs. I want to clarify this because there has been some misinformation batted around this morning about what types of programs are supported by different agencies across the state. We are not saying that what we are supporting is better, but it is different from southern Nevada.

Chairman Frierson:

In the interest of time, is the essence of your proposal to apply this only to Clark County?

Laurel Stadler:

Yes. I just want to clarify that the Northern Nevada DUI Task Force has done direct victim support as needed and requested. Obviously, it has not been to the volume of the south, but fortunately we do not have the number of crashes up here in the north that they have in Las Vegas. The population, the offenders, and everything is a whole different structure from north to south.

We also provide law enforcement with monies for DUI checkpoints, saturation patrols, equipment purchases, and training. We are partners with the Regional Transportation Commission (RTC) on Safe RIDE Program. We support Safe n' Sober Grad Night events for graduating seniors in our area high schools. We have seen no fatalities of graduating seniors on grad night because of the programs that have been instituted. We support the Every 15 Minutes presentations. We support the Boys and Girls Club. We want to get in there with information and safety programs to educate the kids at a young age to not become the DUI offenders of the future. Again, we support direct victim support as needed and other requests that come to our agency. We have a system that we review them and determine what is appropriate. You can see from the previous income chart that we do not have the abundance of funds to support the 20 percent to distribute to victims and 10 percent to law enforcement. And what about the other community programs that we support? We believe our agency has been very diligent in the last 20-plus years in using the funds responsibly for programs that deter DUI offenses in the first place.

I have a short letter from the Reno Police Department supporting the amendment to this bill that we have presented.

Chairman Frierson:

In the interest of time, which we are out of, I understand that the position is to apply it only to Clark County. I do not know that I have a copy of the letter on hand, but if you have it I can provide it to staff and circulate it. We are out of time and I want to give other people a chance.

Michael Moreno, Public Information Officer, Regional Transportation Commission of Washoe County:

In the interest of time, I will state that the Regional Transportation Commission (RTC) is in support of the proposed amendment that Ms. Stadler just discussed. The program they help fund with the RTC is the RTC Safe RIDE Program on New Year's Eve and St. Patrick's Day that provides free transit rides to people who celebrate on those occasions, as well as those people who go to work on those holidays. This year alone, we have had 14,000 people take advantage of those free rides. For the past several years, there have been no serious injuries or fatalities as a result of the Safe RIDE Program, so we hope consideration will be given to this proposal. Should the provisions that would be mandated under S.B. 312 (R1) without the proposed amendment be enacted, this could have a detrimental effect in Washoe County for the Northern Nevada DUI Task Force's ability to continue funding the RTC Safe RIDE Program, as well as other worthwhile efforts the Task Force endeavors to do.

Linda Finch, representing Mothers Against Drunk Driving:

Mothers Against Drunk Driving (MADD) is completely opposed to this bill for a very simple reason: it is not necessary. I have decided not to go through the bill line by line and tell you all the things that we disagree with. Instead, I decided to tell you a success story.

Four years ago, the Judges of Limited Jurisdiction's education committee approached Mothers Against Drunk Driving Nevada to help create a new type of victim impact panel. They wanted a new model that would follow the current law and present offenders diverse perspectives on making the decision to drive while impaired. The guidelines were strict. The VIP had to follow the current law that states that speakers will be made available to judges, judges had to participate in the panel, the panel would take place in a courthouse, and that more than 50 percent of the program had to be interactive among victims, judges, and offenders. There also had to be a reasonable fee—we only charge \$35.

With the help of a friend, who is a psychologist, we built a model based on our years of experience in training and moderating group sessions. We pushed the limits of a traditional Mothers Against Drunk Driving panel to encompass multiple speakers with different experiences to share. We, the speakers,

sign the offenders in and issue receipts. We are warm and respectful. The judges often hang around in the same area. We do have armed security because we are in the courthouse and the bailiffs are available. Our program is different from either of the two talked about today. We have two victim speakers, and then we have one or two first responders and a recovery speaker. If we are going to talk to the offenders about making poor choices, does it not seem productive to offer alternatives for changing that behavior? One of the aspects of our VIP is to allow victims to tell offenders about their loss as a way to heal from their trauma.

For Sue Bukowsky, who lost her father, this experience has helped her deal with her pain. I, too, am a victim speaker and sometimes it is very hard, because I have to deal with the pain every day and sharing it with people is difficult for me. So, my presentation is very different from Sue's. I even make people laugh at me sometimes. I try to connect with them in any way I can. Some people connect with what Sue has to say, and some connect with what I have to say. Some connect with the first responders. Recovery is important to me. We should offer an alternative.

Chairman Frierson:

I hate to cut you off, but I really want to speak to the bill and you are offering testimony about some alternatives that show why it is not needed. I also want to point out that the letter that you were referring to, if it was presented in the previous Committee, it is not transferred and we would not have it.

Linda Finch:

Most of my presentation is about how our program works and why we think it is more efficient to not have these changes.

Chairman Frierson:

I would welcome your providing a copy of the information regarding the program that you are referring to that does not need this legislation, and we will circulate it to the Committee.

Linda Finch:

Are you asking me not to finish my presentation?

Chairman Frierson:

I am asking you to finish it, but quickly.

Linda Finch:

Parts of our program make people cry. Parts make people laugh, or it may scare people, but the best part of our program is when the offenders talk to each

other about how much life sucks for them right now. How are they doing without a driver's license? Have they lost their jobs? Have they lost their wives, friends, or family? It is the best when we can get a good discussion going. It is good when we hear offenders truthfully say they take responsibility for their actions—even if it only lasts for a short time. Our speakers talk about their faith and how it got them through; some talk about how they struggle with recovery. We will go with any truthful angle that might get to the offenders. We usually start and end with the judge speaking. The judge's presence makes the offenders take this more seriously. During the last VIP that we had in East Fork Justice Court, the judge started off with a tragic story, which included his best friend when he was growing up. It changed the air in the room. It stopped the grumbling from some of the people, because we allow recovery speakers and first responders. To me, first responders are victimized every time they go to the scene of a crash. My friend Dave will tell you that he gets used to it, but that is not true.

Chairman Frierson:

Thank you, Ms. Finch, but if you would please wrap it up so we can move on so we can get to Dave. We get the gist of your testimony, that there are programs that work well without the bill.

Linda Finch:

We do not do recidivism, because there is no way to do that properly. Let me end with saying that I would like to repeat MADD's opposition to S.B. 312 (R1) by saying our program is not broken, so please do not try to fix it.

David Thomas, Chief, Topaz Volunteer Fire Department:

I have been Chief for the last eight years, and I have over 15 years in the fire service. Our Department is part of the East Fork Fire and Paramedic District providing full range of emergency and life safety services to southern Douglas County.

Three years ago I was asked to serve as a first responder representative on the victim impact panel for Douglas County. After discussing the program with the program's coordinator, I readily accepted the invitation since I was impressed by the concept of presenting several perspectives to the participants, that of the victims, the first responders, and the recovering offenders, as well as providing an opportunity for the judge of the court to interact with the participants and the participants to interact with the speakers. The participants get an opportunity to see the judge in a more relaxed and informal setting, as well as to ask questions and relate their own experiences and to explore the impact their actions have had on others.

We are currently conducting two panels per quarter, one in the East Fork Justice Court, and one in the Tahoe Justice Court. I have been impressed with each one with the attention given by the participants, albeit their attendance is mandatory, and more importantly, with the impact it appears to have on them. I can only offer anecdotal testimony to our success, but it is clearly evident that the majority of the participants leave with a more clear understanding of the consequences of their decisions than before.

That, in fact, is the underlying key to our presentations: that all decisions that we make have consequences, some good and some bad. We make it clear to participants that it is not illegal to consume alcohol, and it certainly is not illegal to operate a motor vehicle, but it is illegal to combine the two activities. One's decision to do so can, and eventually will, result in catastrophic consequences. The combination approach that we have taken has been a powerful tool in our communications with the participants.

There are numerous incidents that I could relate to you that I have personally been involved in where drunk driving has taken its toll. Most recently, three or four months ago a neighbor of mine—I happened to be the first on the scene—was killed along with her boyfriend and the offender as well.

Chairman Frierson:

I apologize, but I really want to focus on the bill.

David Thomas:

I will finish with one small paragraph. The VIP model that we use gives the offenders the opportunity to hear firsthand in an interactive setting from a variety of speakers impacted by these types of incidents. They begin to understand the consequences of drinking and driving go way beyond their individual lives, and can resonate with the victims for many years to come. For these reasons, I respectfully urge you to vote no on S.B. 312 (R1) and allow programs such as I have described to continue to successfully have an impact.

Chairman Frierson:

I will invite Senator Manendo up for any closing remarks.

Senator Manendo:

If someone comes in barefoot into our VIP, yes, they are turned away, but if they have flip flops on they are not. Most businesses will turn away barefoot people too. We do not discriminate against tattoos. I look forward to working with everyone to come up with a solution.

Chairman Frierson:

With that, I will close the hearing on S.B. 312 (R1) and briefly open it for public comment. Seeing none, I will adjourn today's meeting of the Assembly Committee on Judiciary [at 11:19 a.m.].

RESPECTFULLY SUBMITTED:

Karyn Werner
Committee Secretary

APPROVED BY:

Assemblyman Jason Frierson, Chairman

DATE: _____

EXHIBITS

Committee Name: Committee on Judiciary

Date: April 30, 2013

Time of Meeting: 8:16 a.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
<u>S.B. 224 (R1)</u>	C	Senator Barbara Cegavske	Written Testimony
<u>S.B. 19 (R1)</u>	D	Tom Conner	Written Testimony
<u>S.B. 312 (R1)</u>	E	Sandy Heverly	Written Testimony
<u>S.B. 312 (R1)</u>	F	Nancy Greiner	Written Testimony
<u>S.B. 312 (R1)</u>	G	Jim Holmes	Letter of Support
<u>S.B. 312 (R1)</u>	H	Joan Eddowes	Written Testimony
<u>S.B. 312 (R1)</u>	I	Richard Glasson	Proposed Amendment
<u>S.B. 312 (R1)</u>	J	Laurel Stadler	Proposed Amendment