# MINUTES OF THE MEETING
# OF THE
# ASSEMBLY COMMITTEE ON WAYS AND MEANS

## Seventy-Seventh Session
## May 29, 2013

The Committee on Ways and Means was called to order by Chair Maggie Carlton at 8:01 a.m. on Wednesday, May 29, 2013, in Room 3137 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4406 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda (Exhibit A), the Attendance Roster (Exhibit B), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at nelis.leg.state.nv.us/77th2013. 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**:

Assemblywoman Maggie Carlton, Chair
Assemblyman William C. Horne, Vice Chair
Assemblyman Paul Aizley
Assemblyman Paul Anderson
Assemblyman David P. Bobzien
Assemblyman Andy Eisen
Assemblywoman Lucy Flores
Assemblyman Tom Grady
Assemblyman John Hambrick
Assemblyman Cresent Hardy
Assemblyman Pat Hickey
Assemblyman Joseph M. Hogan
Assemblywoman Marilyn K. Kirkpatrick
Assemblyman Randy Kirner
Assemblyman Michael Sprinkle

**GUEST LEGISLATORS PRESENT**

Irene Bustamante Adams, Clark County Assembly District No. 42

**STAFF MEMBERS PRESENT**:

Cindy Jones, Assembly Fiscal Analyst
Michael J. Chapman, Principal Deputy Fiscal Analyst
Carol Thomsen, Committee Secretary
Cynthia Wyett, Committee Assistant

Chair Carlton asked that the Committee review Bill Draft Request (BDR) S-1239 for possible Committee introduction.

**BDR S-1239**–Authorizes an expenditure from the Estate Tax Account in the Endowment Fund of the Nevada System of Higher Education for the design and construction of buildings on the principal campus of the Nevada State College. (Later introduced as Assembly Bill 502.)

Chair Carlton asked whether there were questions from the Committee, and there being none, called for a motion.

ASSEMBLYMAN EISEN MOVED FOR COMMITTEE INTRODUCTION OF BDR S-1239.

ASSEMBLYMAN HARDY SECONDED THE MOTION.

THE MOTION PASSED. (Assemblymen Bobzien, Flores, Horne, and Kirkpatrick were not present for the vote.)

Chair Carlton adjourned the meeting of May 28, 2012 at 8:03 a.m.

The Chair said the Committee would consider Senate Bill 430 (1st Reprint).

**Senate Bill 430 (1st Reprint): Revises provisions relating to motor carriers. (BDR 58-1072)**

Mark James, President/CEO, Frias Transportation Infrastructure (FTi), introduced himself to the Committee, and spoke in favor of S.B. 430 (R1). Mr. James stated that every industry had a lifecycle and went through critical phases. The critical phase that the taxicab and the for-hire vehicle industry were currently going through was one involving a technological revolution. The industry, he said, was experiencing the creation of not just Global Positioning System (GPS) technology but also of smartphone technology and other technologies that had drastically changed the way that companies conducted business in the for-hire vehicle industry and the way in which the public interacted with that industry.

Mr. James said part of that revolution, however, was that two new technologies had not been made available to regulators to use in regulating the for-hire vehicle industry. In addition, the technologies were not being used by the industry to provide the best means for the public to summon a taxicab, a sedan, or a limousine.

Mr. James indicated that S.B. 430 (R1) would establish minimum parameters for a system that could be adopted by the two state-level regulatory agencies of for-hire vehicles: (1) the Nevada Transportation Authority (NTA), which regulated for-hire vehicles such as limousines, black car companies, shuttle buses throughout the state, and taxicabs in northern Nevada; and (2) the Taxicab Authority (TA), which regulated taxicabs only in Clark County.

The bill, said Mr. James, would authorize the NTA and the TA to establish a trip charge, the proceeds of which would be used to acquire a system that would provide real-time data to the agencies, so that each agency could regulate the industry. The aim of the system was to protect the public, increase the reliability of the system, and ensure that public safety was at the forefront when people entered any for-hire vehicle.

Mr. James stated that S.B. 430 (R1) set the minimum parameters for the system and what the system needed to accomplish. He indicated that section 5 of the bill depicted the minimum parameters that any system adopted by the NTA would be required to meet. Similarly, section 13 of the bill depicted the minimum parameters that the system adopted by the TA would be required to meet.

Mr. James stated that the report from the Audit Division of the Legislative Counsel Bureau dated April 22, 2013, (Exhibit C), pointed out that the TA needed to update its systems to protect the public through a more effective means of deterring, investigating, and gathering real-time data about the practice of long-hauling. That practice had received much attention in the media in Las Vegas, said Mr. James, and members of the industry and others often debated the severity of the problem. The legislative audit reported that customers had been overcharged by approximately $15 million for trips over the course of the study. Mr. James reiterated that there were those in the industry who believed the problem was not as severe, but no one could argue that long-hauling was not a problem or that it did not occur.

According to Mr. James, the only way for the agencies to effectively address the problem was to have access to the same data as the for-hire vehicle industry. Section 5 and section 13 of the bill would require the government to have data-gathering capabilities that were used universally by the companies

within the industry. Mr. James said companies could already track their vehicles and were able to pick up the GPS location of their vehicles, but there was nothing currently in statute that required the industry to provide data, either real-time or otherwise, to the state agencies. In fact, said Mr. James, it was quite the opposite. State agencies received the trip-sheet information, which only depicted the customer pick-up and drop-off locations.

Mr. James noted that the legislative audit recommended that the capability to track vehicles should also be in the hands of state regulators of for-hire vehicles such as taxis. The bill would give state authorities that capability and would provide the information to the driver and the passenger. The bill would ensure that companies instructed their drivers to take the shortest route between two points, or the driver would be guilty of taking the passenger on a long-haul, which was fraudulent and subject to discipline with the employer and also under the law.

According to Mr. James, drivers did not currently have the technology that would allow them to memorialize the agreement between the driver and passenger about what route the passenger wanted to take. The system proposed in S.B. 430 (R1) would require that both the driver and passenger had access to the system so that both could select the shortest, least expensive route to the passenger's destination. The system would maintain a record of the route selected so that a driver could not be accused of long-hauling. The language included in the bill was that the system would memorialize the choice that the passenger made about the route taken.

Mr. James said the for-hire vehicle industry had seen the entrance of companies that were not taxicab companies, not black car companies, but rather Silicon Valley technological companies. The product from those companies was a smartphone app for iPhones or perhaps a website. One example, said Mr. James, was Lyft, a company that asked people to download a picture of their car, their driver's license, and an insurance card on the company's website. After a period of approximately one week, the person would receive a large pink moustache in the mail that was to be attached to the front of the vehicle. The person would then pick up passengers and deliver them to their destination, and the driver would negotiate a donation for his or her services.

Mr. James stated that Lyft raised $60 million in a private offering to operate in cities throughout the country including the City of Las Vegas. He reiterated that technology was making the for-hire vehicle industry far more competitive; the days when a taxicab company had a certificate that gave the company the right to be the sole company operating taxicabs were gone. There were over 3,000 employees at Frias Transportation Infrastructure (FTi) who made their

livelihood from the taxicab industry. Those employees had completed considerable training and had taken tests to drive taxicabs. It was not in the interest of those employees that an unregulated group could use private vehicles as taxicabs.

Mr. James stated that it was not his intent to legislate companies such as Lyft out of existence, but he wanted to make sure that the taxicab industry was equipped to respond with the best technological offerings available today. He noted that S.B. 430 (R1) would provide the platform or mechanism through which the taxicab industry could work together through a system operated by state government.

According to Mr. James, sections 1 and 3 of S.B. 430 (R1) would permit a taxicab certificate holder to go to the Taxicab Authority (TA) once the system was in place, and use that system to offer mutual e-hailing and dispatch services.

Mr. James indicated that letters in support of the bill had been submitted to the Committee and were posted on the Nevada Electronic Legislative Information System (NELIS). The first was a letter dated May 24, 2013, from Brent Bell, President, Whittlesea Blue Cab Company and Henderson Taxi (Exhibit D), and the second was a letter dated May 28, 2011, from George Balaban, President, Desert Cab, Inc. (Exhibit E). Both letters expressed concern about the need to equip regulators to properly deal with the long-hauling problem.

Mr. James said that Mr. Bell and Mr. Balaban were both very interested in having the regulatory infrastructure in place so that the industry could respond to the technological challenges it was facing and preserve the jobs in the industry by working together to offer mutual e-hailing and dispatch.

As an example, Mr. James told the story of the head of Zappos in Las Vegas, who was so upset with the lack of taxi service in the downtown area that he purchased 100 electric Tesla cars and stationed them around downtown. There was an app for persons to participate in the system and use one of the Teslas. Mr. James said that was how concerned a major business leader, whose operation and employees worked and lived downtown, was about the lack of taxi service in Las Vegas.

The system described in S.B. 430 (R1) would allow FTi, which had five certified taxicab companies, Bell Transportation with two certified taxicab companies, and Desert Cab Company with one certified taxicab company, to all offer their services through the same system. Then, said Mr. James, when a person was downtown and wanted a taxicab, it would not matter which cab company

responded. The system outlined in the bill would be a means for taxicab companies to offer the service of e-hailing, which was currently being offered through companies such as Uber, which offered an app to persons who would then provide the car service, and a passenger could e-hail the vehicle through that app.

Mr. James stated that the only way for a regulated industry such as the for-hire vehicle industry to effectively respond to companies such as Lyft and Uber, and meet the high public demand to use smartphones to secure a ride, was to cooperate through a governmental system, which would be provided by S.B. 430 (R1). If two or more certificate holders applied, rules would be established for use of the data system for e-hails so that the call would go out to the nearest taxicab. One of the main reasons the system had to work through the government was because the government would determine which car was closest rather than choosing from competitive taxicab companies.

The bill would answer the legislative audit regarding the problem of long-hauling, said Mr. James, and would better electronically track the medallions issued by the Taxicab Authority (TA), which the legislative audit described as a major problem.

Mr. James noted that the 2011 Legislature passed Senate Bill No. 320, which required the TA to develop a system to electronically track taxicab medallions. The TA failed to develop such a system because the radio frequency identification (RFID) technology became obsolete during the biennium. The system outlined in the bill would provide the ability for the vehicle to become a virtual medallion, which would allow the TA to pinpoint very accurately how many medallions had been allocated. Once temporary medallions expired, the TA would have the ability to take them offline through the computer system rather than wait for people to return the medallions.

According to Mr. James, the bill would also address the problem facing the for-hire vehicle industry and help it deal with the challenges from technological competition that the industry was not equipped to deal with without the regulatory infrastructure outlined in S.B. 430 (R1) that offered mutual dispatch and e-hailing services.

Chair Carlton informed the Committee and audience that the Committee would be in recess on and off during the day. She stated that she would first ask those in support of the bill to come forward. The Chair noted that Mr. Tomlinson was present in Las Vegas to speak on behalf of the bill.

Neal Tomlinson, Partner, Snell & Wilmer L.L.P., representing FTi, said he was present to assist Mr. James and help answer any questions that might arise.

Chair Carlton thanked Mr. Tomlinson and recognized Assemblyman Horne.

Assemblyman Horne said he was curious about the language in section 2, subsection 3 about imposing a reasonable charge for the use of the system by a limousine passenger. He voiced concern about the broad language and believed that statute should indicate a specific charge. More importantly, said Mr. Horne, section 6 of the bill would require an operator of a limousine to pay a fee of $100 for each limousine authorized by the Nevada Transportation Authority (NTA). Also, section 6, subsection 2, paragraph (b) required the operator of a limousine to remit to the NTA all technology fees collected by the operator by the 10th of each month. Section 6, subsection 3 indicated that any person who failed to pay any fee on or before the date would pay a penalty of 10 percent of the amount of the fee, plus interest.

Section 7 of the bill pertained to taxicabs, said Mr. Horne, and included that same language with the exception of payment of a late fee. He was aware that the language was taken from the *Nevada Revised Statutes* (NRS), but the current language in statute referred to taxicabs. He asked whether payment of a late fee for taxicabs had been omitted in error.

Mr. James explained that the language in section 6, subsection 3 was not new language and was the existing language from NRS 706.471 that was used by the NTA as its penalty for late fees. That language was not currently in statute pertaining to the TA; therefore, when the bill was drafted, the same language was added for the TA. Mr. James emphasized that section 6 was not an amendatory section of the bill that was requested by the industry. Rather, it was included by the Legal Division of the Legislative Counsel Bureau when the bill draft request (BDR) was written.

Mr. Horne asked whether Mr. James would have a problem with that same penalty applying to taxicabs as well as limousines.

Mr. James said that would be a change, and he would have a problem with the addition of the fee. However, he would not oppose removing the language from the bill because the bill drafter had added it.

Mr. Horne said NRS 706.471 stipulated that each "taxicab motor carrier" would pay an annual fee of $75. Section 7, paragraph 5 of the bill stipulated that "Any person who fails to pay any fee on or before the date provided in this

section shall pay a penalty of 10 percent . . . ." He asked Mr. James whether that applied to taxis. Mr. James replied that it did apply to taxicabs.

Mr. Horne said it appeared the fee included in S.B. 430 (R1) would only apply to limousines.

Mr. James said the bill did not apply to taxicabs in northern Nevada. The bill was not about the distinction between taxicabs and limousines; it was about a distinction between the NTA and the TA. The NTA regulated limousines statewide and taxicabs outside Clark County; the TA regulated taxicabs only in Clark County. Mr. James said the bill used the NTA format, whether it was for a limousine or a taxicab, to make the fees consistent.

Assemblywoman Kirkpatrick said she did not see a direct correlation regarding the purchasing phase and how the system would go out to bid. The language of the request for proposal (RFP) should not be streamlined to the point that there could only be one bidder. Assemblywoman Kirkpatrick stated that the bill was not specific regarding the bidding process.

Mr. James explained that the RFP process would not be included in the bill unless the bill attempted to change the manner in which the system would be purchased. There was a clear set of procurement rules in statute, and there was also a clear set of statutes regarding procurement of information technology (IT). Nothing in the bill referred to the sections of NRS regarding the RFP or procurement of the system or in any way exempted the acquisition of technology from that process. Mr. James said the bill spelled out the minimum requirements for the system, which were written around the existing regulatory mandates that the Legislature had imposed upon the NTA and the TA. In addition, the bill addressed some specific policy aspects of the regulatory obligations that the legislative audit determined had not been adequately discharged.

Mr. James said that was the reason there were several paragraphs included in the bill that discussed the system capabilities. One was to give the driver, the passenger, and the regulatory agency the GPS information, both in real time and forensically, so the agencies could determine whether a passenger had been long-hauled, and the agencies could deter and discipline drivers using that practice. Mr. James emphasized that there was nothing in the bill that included such tightly written technology that his company or any other company could not respond to the RFP.

Mr. James stated that he would be happy to supply members with specifications from the San Francisco Municipal Transportation

Agency (SFMTA) for the real-time taxi data system that was being used by that agency.

Chair Carlton indicated that members were in receipt of the letter of May 28, 2013, from the SFMTA, and she assured Mr. James that it would be made a part of the record (Exhibit F).

Mr. James read the following excerpt from Exhibit F into the record:

> The San Francisco Municipal Transportation Agency (SFMTA), which manages all modes of transportation in this city, including the regulation of taxis, recently signed a contract with Frias Transportation Infrastructure (FTi), a Nevada-based technology company, to collect and provide real-time location and taxi occupancy data. FTi's proprietary RideIntegrity system will create a single, authoritative data stream that will provide the ability to effectively monitor and improve the responsiveness of taxi service in San Francisco.
>
> In October 2012, the SFMTA issued a request for information for a real-time taxi data system. FTi's was the most responsive submittal out of 11 responses to the RFI, and FTi was selected as our contractor.

Mr. James stated that the procurement rules regarding acquiring information technology in San Francisco was termed a request for information (RFI). It was, nonetheless, a competitive process and a very expensive process. Mr. James said he could assure the Committee that the companies that responded and participated in the RFI were the major players in the industry of garnering and managing information technology for the for-hire vehicle industry. At that time, FTi was somewhat under the radar because most of the competitors were well-established Silicon Valley companies that had not taken FTi seriously. Mr. James said he could promise that those companies would take it seriously if there was an RFP for the same type of system in Nevada.

Mr. James said he would be more concerned if there were references to the NRS governing the purchasing process included in the bill. There were requirements set out in the bill, which were fully appropriate minimum requirements for the system. The agencies needed to adopt a system that would provide the information that was needed to accomplish the policy objectives.

Assemblywoman Kirkpatrick said there were only two parts to the bill that required regulations, one of which was the additional use of real-time data and the second was the collection of fees. She asked whether those were the only two areas where regulations would be necessary.

Mr. James believed that was correct. It remained to be seen how the rules would "grow up" around the operation of the real-time data system as a means of providing mutual dispatch and e-hailing services among certificate holders. That was an area where regulations could be expected. However, said Mr. James, there was one other area in the bill that discussed regulations, which was in the list of minimum requirements for the NTA and the TA systems. That section indicated that the data collected would be used as outlined in the bill, and there was a provision that the agencies would not use the data for anything else without first passing regulations.

Mr. James explained the provision was included in the bill because of concerns from the for-hire vehicle industry. There would be a wealth of data collected, and the taxicab companies wanted to be sure that they would have a voice in the process about how the regulatory agencies would use that data. The language in the bill was a concession to the industry and to taxi drivers that there would be a process in place before the data was used in a way that was not anticipated. The bill would not deny the regulators the ability to use the data in the future in ways that were beneficial to the traveling public, the drivers, and the companies, but there would be a process to vet the use of data through the regulatory adoption process.

Assemblyman Hickey said under the amended version of the bill, the estimated fee per trip would be approximately $0.22, and he asked how that would affect the TA; he wondered whether there would be a fiscal effect on the TA.

Mr. James replied that there would be a fiscal effect, but it would be a pass-through effect. It would be extremely difficult for the TA to determine the cost at the present time; FTi had demonstrated the system for the TA, and TA authorities were very excited. Mr. James stated that at its own expense, FTi had offered a pilot program, which was being called a vendor demonstration, and had recently received the first manufactured on-board diagnostic (OBD) devices that would be placed in cars under the jurisdiction of the TA. Those devices would provide the first real-time data that would be presented on dashboard screening for review.

Mr. James said it was very difficult for the TA to estimate what the administrative costs for the system would be. The TA estimated the cost would

be $960,000 over the biennium, which would be collected from the new fee and spent on the costs of the system.

Mr. James reiterated that the costs were unknown at the present time. The industry supporters of the bill wanted to ensure that there was a detailed review of the operation of the system, the operators, the amount of the fees, and the return on the investment of the license costs and that the state and public received the best deal.

Mr. James believed that there would be a downward trend in the fees because the technology would be adopted by other agencies throughout the United States and around the world. The more jurisdictions there were within a cloud-operated system, the more the cost of delivering that service would be driven down. Mr. James hoped that would be an advantage that FTi could offer with its system.

Assemblyman Anderson said his concern was that the requirements for the data system read like an advertisement for a specific product. The requirements read like a sales description for a product that the state was looking for, and he was concerned about including that language in statute. The day the language was added to statute, there would be newer, better technology available, and while the specifications were minimum, the framework was very specific to a very specific product.

Assemblyman Anderson opined that there were few companies that could fit inside the framework, and he was concerned about the specifics of the system. He trusted that the NTA and the TA would be able to create a framework that would meet their needs and build inside that framework rather than include the language in statute; he noted that the language could not be changed and would be outdated by the time the 2015 Legislature convened.

Mr. James respectfully disagreed with Assemblyman Anderson's opinion and said that the requirements included in the bill were not the specifications for a specific product. He said that the specifications of a particular product were extremely detailed and did not read the same as the language in the bill. The requirements included in S.B. 430 (R1) were capabilities that a product would need, and most of the capabilities could be accomplished by companies using current systems. He stated that the language was included simply because NTA and TA did not have a system that could manage the data.

Per Mr. James, far from creating something that would restrict the ability of the agencies to choose the product they wanted, it would require the agencies, as

a policy matter, to address the specific types of data management that applied to each agency's regulatory responsibilities. He reiterated that product specifications did not read the same as the language included in the bill. Product specifications indicated how a system operated and detailed its proprietary process, while the language in the bill depicted data management for specific policy purposes. Most of the language came from a review of policy issues that were raised by the legislative audit and the technology issues to which the taxicab industry needed to respond.

Mr. James noted that the industry believed there were 11 different companies that could have brought a product forward in San Francisco, and there would be a number of companies that would respond to the RFP in Nevada.

Chair Carlton asked whether there were further questions from the Committee or further testimony in support of S.B. 430 (R1).

David Goldwater, representing Desert Cab, Inc. and On Demand Sedan and Limousine, both located in Las Vegas, voiced support for S.B. 430 (R1). He believed that the bill would add another tool for the regulatory agencies and the riding public to use to address the issues of safety and long-hauling.

Michael Sullivan, representing Whittlesea-Bell Transportation, voiced support for S.B. 430 (R1). He agreed that the bill would help solve long-hauling and other problems.

Chair Carlton asked whether there was further testimony to come before the Committee in support of S.B. 430 (R1), and there was none.

The Chair declared the Committee in recess at 8:49 a.m., and reconvened the Committee at 9:56 a.m.

Chair Carlton asked whether there was anyone else who wished to testify in support of S.B. 430 (R1), and there was no one. She recognized Mr. MacKay from the Nevada Transportation Authority (NTA), who wished to testify as neutral regarding the bill. The Chair noted that there had been a number of discussions regarding sole-source contracts, and as the regulatory authority, perhaps Mr. MacKay could shed some light on the situation.

Andrew J. MacKay, Chair, NTA, Department of Business and Industry, said he could not positively state that the bill would not create a sole-source contract, but he believed the answer was no, it would not. Mr. MacKay stated that based on representation by Mr. James, any person who had a software program that fit within the parameters outlined in the bill could bid on the RFP.

Additionally, there had been discussion about the Taxicab Authority relative to the pilot program, but ultimately the decision would be made based on the technology information request (TIR).

Mr. MacKay believed that the decision regarding the final program would be determined by the Division of Enterprise Information Technology Services (EITS) with input from the NTA and the TA. He stated he would respectfully disagree with the idea that the bill would create the possibility of a sole-source contract.

Chair Carlton thanked Mr. MacKay. She had heard some concerns from taxi drivers who felt the bill would adversely affect drivers, and she wanted the Committee to understand how the book of business worked with drivers. The fee included in the bill was, in essence, the same as any other regulatory fee that went straight to the regulator and did not come out of the driver's book. Chair Carlton said that was her understanding, and she wanted to make sure that was correct. There was apparently some confusion among taxi drivers about the source of the fee, and she asked whether the fee would be similar to the $0.20 trip fee.

Mr. MacKay stated that Chair Carlton was correct, but he could not speak on behalf of the TA. His concern was with the charter limousine industry in Clark County. The bill would explicitly delineate the reason for the charge, and the receipt would include a line item for a pass-through cost; he believed the fee would not come from the driver's pocket.

Chair Carlton thanked Mr. MacKay. She wanted to make sure that everyone understood the fee structure. The Committee did not want to take action that would adversely affect someone's paycheck.

Assemblyman Bobzien said he also questioned how much of the specifications regarding the program belonged in statute regarding the requirements of the system and how much belonged in regulations. He noted that section 5 of the bill indicated that the system had to be capable of presenting information ". . . in both a format that displays the information and data in tables and a digital map format that displays streets and highways." Mr. Bobzien stated that the product sounded great, and he agreed with the direction in which the TA and the NTA were moving, but he shared the concern that the language of the bill regarding what was required by the proposed system would be too specific as a statute.

Assemblyman Bobzien said he viewed the requirement about what the passenger could do to interact with the system as part of the NTA regulations rather than language in statute. He asked Mr. MacKay whether there could be

additional regulations to further refine the process; he wondered why the information had to be included in statute versus regulations outlined by the NTA.

Mr. MacKay said NTA was not speaking in favor of the bill, but was neutral regarding the legislation. He stated he did not have an opinion either way. He had the utmost respect for the Legislature, and the NTA would "fill in the holes" on the rule-making end of the process. Personally, said Mr. MacKay, he would prefer that the language be included in statute, but there was some language that was more appropriately included in the regulatory arena.

Regarding the specifics within the bill itself, Mr. MacKay said he would defer to Mr. James and representatives of FTi to explain why the specifics should be included in statute. The language in the bill would provide a very good roadmap to the agency handling the rule-making. Mr. MacKay opined that the ability to electronically summon a taxi was another step in a long list of technological progress, such as e-filing an income tax return with the IRS.

The reality was that technology was finally arriving, said Mr. MacKay, and there were operators on the cutting edge in Las Vegas. He noted that regulatory agencies from across the country visited Las Vegas to see how the Taxicab Authority regulated the industry because the TA was very good at its job. He stated that the for-hire vehicle industry was somewhat behind, and the bill would bring the industry up to scale with other technological advances. Mr. MacKay said the NTA was an appellant body for decisions made by the TA, but he believed that the tenets of S.B. 430 (R1) were going to have a definitive, positive effect on the issue of long-hauling. Mr. MacKay noted that NTA had reviewed the report from the legislative audit, and from an investigative standpoint, he believed it would be valuable to NTA and also very valuable for the TA to tackle the problem of long-hauling.

Chair Carlton thanked Mr. MacKay and asked whether there were questions from the Committee.

Assemblyman Anderson said Mr. MacKay indicated that he did not know the details of the variety of products available, but the bill included very specific requirements for the program to perform in a very specific manner, and he was concerned that neither the Legislature nor the NTA or TA was familiar with the capabilities of the products that were available. Mr. Anderson stated that he might or might not be correct that the capabilities read like the framework for a very specific product. He was concerned that the language would be placed in statute, which would tie the hands of the NTA in the ability to go out to the market to select the best product. Mr. Anderson realized there was a problem

with long-hauling and that technology was the solution, but he did not want to create language in statute that could not be changed and was not fluid enough to keep up with advances in technology.

Mr. MacKay did not disagree with Assemblyman Anderson, but nine different technology companies had offered a product similar to what was required by the bill, and the NTA was not intimately familiar with any one of the companies. The NTA was in the process of laying the foundation to bring the pilot program to fruition. Mr. MacKay stated that the regulation process was not fast by design, and it would be a lengthy process.

Assemblyman Hickey asked about the fiscal effect the bill would have on both NTA and TA as regulatory agencies.

Mr. MacKay stated that the NTA submitted an unsolicited fiscal note prior to the amendment of S.B. 430 (R1), which was no longer viable. He indicated that he was not sure what the fiscal effect would be because section 2, subsection 1 and subsection 2 of the bill would affect those companies that chose to adopt the technology. Presuming that the $0.20 per trip charge was applied uniformly amongst all charter limousine operators, it would amount to approximately $350,000 in revenue. However, said Mr. MacKay, the amount of that fee would be worked out in regulation, which would be determined through input from certificate carriers, drivers, and possibly the substantial users of charter limousine transportation in Nevada such as the various gaming properties.

Chair Carlton thanked Mr. MacKay. The Chair opened testimony in opposition to S.B. 430 (R1) in southern Nevada.

Parker Moffitt introduced himself to the Committee as a taxi driver for Yellow Checker Star (YCS) Transportation and chief shop steward of the Industrial, Technical, and Professional Employees Union (ITPEU)/Office and Professional Employees International Union (OPEIU) Local 4873. Mr. Moffitt stated he was opposed to the bill, and he thanked the Committee for the opportunity to present testimony.

Mr. Moffitt believed that the issue was very important, and for those not familiar with the industry, there were some confusing aspects. First, the $0.22 fee that would be put toward the technology would be added to the trip charges. Mr. Moffitt explained that trip charges had been put into effect to pay the Taxicab Authority (TA). Since that time, trip charges at some companies were as high as $1.50. The trip charges at YCS Transportation were the lowest in the industry at $0.60, and at the end of the day, the trip charges were put

aside and taken off the driver's book. Mr. Moffitt explained that tip compliance for taxi drivers was determined at 9 percent of the gross book.

Chair Carlton asked whether the drivers were responsible for 9 percent of the total book, which included trip charges.

Mr. Moffitt replied that the only item excluded in the total book was the airport tax. Everything else was included.

Chair Carlton said she had not asked that question of the regulator because she did not understand how tip compliance worked on the gross book. She asked whether Mr. Moffitt was talking about the Internal Revenue Service (IRS) tip compliance. Mr. Moffitt stated that was correct.

Chair Carlton affirmed that the IRS tip compliance was 9 percent of the total book and the only exclusion was airport tax. Therefore, the current $0.20 trip fee that was being paid and the additional $0.22 proposed fee would be counted against the driver for IRS purposes.

Mr. Moffitt clarified that the current trip charges were not $0.20. Some companies had trip charges as high as $1.50 and other companies like YCS Transportation had the lowest trip charge in the industry at $0.60 a trip. Each company charged a different amount for trip charges. The original trip charge was initiated to pay the expenses for the TA. As the years had gone by, different things had been added to the trip charge. Now, each company would have to provide the information about how the trip charge was used.

Chair Carlton asked if the proposed fee was in the same realm as the airport tax and would not affect the taxi drivers, whether that would alleviate Mr. Moffitt's opposition to the bill.

Mr. Moffitt said that taxicabs in Las Vegas had some of the highest rates in the country. The 2011 Legislature passed a bill to allow the use of credit cards in taxicabs.

Chair Carlton said she was well aware of the legislation because she had been a sponsor of that bill.

Mr. Moffitt indicated that the fee was $3 each time a person used a credit card to pay the taxi fare. That affected the cab drivers because the $3 service fee posted on the screen was often misinterpreted by passengers as the tip for the driver. That impeded the tips for drivers, and Mr. Moffitt said most drivers had a problem with the fee. He stated that NRS 706.8824 directly addressed the

welfare and well-being of the riding public. Mr. Moffitt opined that a $3 credit card fee was somewhat exorbitant; he had used credit cards in many places and he had never been charged $3 to use the card.

Chair Carlton stated that the issues surrounding S.B. 430 (R1) were of concern, and the bill from 2011 could not be changed at the present time. She asked Mr. Moffitt to express his opposition to the current bill.

Mr. Moffitt said he brought up the credit card fee because NRS dealt with the welfare and well-being of the riding public, and each time a new fee or a new charge was included in the fare, the cost for each trip increased. He opined that it was not a fair way to treat the riding public.

Mr. Moffitt noted that Assembly Bill 329 had been introduced this session and also dealt with long-hauling. Several lobbyists had spoken in opposition to the bill, which he thought would address the problem quite well. Mr. Moffitt indicated that 90 percent of long-hauling occurred on trips from the airport, and A.B. 329 sought to make all rides from the airport a flat fee. The bill died in committee along with the alternative of fining the company the same amount as the driver for long-hauling. Now, said Mr. Moffitt, the state wanted to add more fees to the fares to put one certain type of tracking system into taxicabs that purported to be a "cure all."

Mr. Moffitt stated that the passenger in the rear seat of a taxicab would have a device that he would use to make a decision about which of the three or four routes he wanted to take. He pointed out that cabdrivers were hustlers, and the quicker a driver could get his passengers to their destination and pick up another ride determined the amount of that driver's earnings. A passenger making a decision about the route would take time, and Mr. Moffitt opined it was "ridiculous." The NRS stated that drivers were supposed to take the shortest route, and he could not understand why passengers would be given a choice.

Chair Carlton thanked Mr. Moffitt for his testimony. The Chair asked whether there was further testimony in opposition to the bill.

Theatla "Ruthie" Jones, Representative, ITPEU/OPEIU Local 4873, introduced herself to the Committee. Ms. Jones stated that the unions represented approximately 2,000 taxicab drivers, and United Steelworkers represented approximately 3,000 taxicab drivers; overall, said Ms. Jones, the bill would affect more than 10,000 taxicab drivers in Las Vegas.

Ms. Jones stated that two years ago the Legislature approved a $3 fee for credit cards, which affected both drivers and passengers. The drivers did not share in that fee, and union representatives continued to hear complaints about the fee. Drivers indicated that the credit card fee affected tips, and now there was a bill that would add an additional fee that would also affect the drivers because drivers paid taxes on their gross fares.

In addition, said Ms. Jones, the bill had been amended, and it appeared that the bill was exclusively adapted to Frias Transportation Infrastructure's RideIntegrity program, which had not been vetted to ensure that the program contained no deficiencies. Ms. Jones believed that in some cases the program could encourage unsafe driving because the McCarran International Airport did not allow a taxi to linger, and once a driver had a fare, he was expected to immediately exit the area. If the program consisted of the drivers attempting to assist the customers in selection of a route, the drivers would be doing that while driving away from the taxi station, which would put both drivers and passengers in jeopardy.

Ms. Jones explained that taxicab drivers moved away from the curb as soon as passengers were loaded and could not stop to assist a passenger in selecting the route. There had been no proper testing of the RideIntegrity program, and the bill was exclusively directed to that program, even though the final program would be selected through the RFP process. The TA had defined some of the procedures in the program, and it appeared that it was an effort to ensure there was no competition against the selected program. Ms. Jones opined that the bill was exclusive to FTi, which was the most lucrative taxicab company in Clark County. The bill would hold the other companies hostage and would force them into the RideIntegrity program. Also, Ms. Jones could not understand the urgency in setting an effective date of no later than October 1, 2013, to implement the program.

Chair Carlton explained that there was an effective date on all bills currently before the Legislature, which indicated the date that the law would go into effect. It did not mean that companies would be competing before that date: it was simply a start date. There were two effective dates used for bills, the first was July 1, which was the beginning of the state's fiscal year, and the fallback date was October 1. If the Legislature believed that it would take longer to execute the mandates of the legislation, it would have an effective date of January 1.

Ms. Jones said the effective date of October 1 for S.B. 430 (R1) was confusing because it would not allow time for other companies to address the RFP.

The agencies should review a program that had a better history so the deficiencies in the program could be addressed.

Ms. Jones said that she had received notice from the TA that it would impose heavy sanctions for long-hauling, which she believed would have an overall effect on that practice. The sanctions included:

- First offense: warning notice or a fine of not more than $100, or both.
- Second offense: one to three days' suspension of driver's permit or a fine of not more than $200, or both.
- Third offense: four to six days' suspension of a driver's permit or a fine of not more than $300, or both.
- Fourth offense: ten days' suspension of a driver's permit or a fine of not more than $500, or both.
- Fifth offense: revocation of a driver's permit or a fine of not more than $500, or both.

Ms. Jones indicated that there were many issues still to be addressed regarding the bill and the program, one of which was the effect on the drivers. Also, there should be discussion to determine what would occur if a passenger wanted to deviate from the chosen route and how the program would handle such a change in route. There were many variables that could occur, such as a passenger not wanting to bother selecting the route.

Chair Carlton asked whether Ms. Jones had spoken with the proponents of S.B. 430 (R1) and discussed her concerns. Ms. Jones replied that she had not spoken to the proponents of the bill.

Chair Carlton asked whether the concerns voiced by Ms. Jones had also been shared with the Senate Committee on Transportation when the bill was heard. Ms. Jones replied that she had not been able to testify before that committee.

Ms. Jones stated that at the last TA meeting, it was stated that there would be options for others to come forward with technology that would address the issue of long-hauling, and there should be no urgency in the effective date of the program because the TA had put regulations in place that were deterrents to long-hauling.

Chair Carlton thanked Ms. Jones for her testimony and stated that one of the issues previously discussed was the matter of competitive bidding for the program. The Chair asked whether there were questions from the Committee, and there were none.

Chair Carlton asked whether there was further testimony in opposition to the bill.

A. Jonathan Schwartz, Director, Yellow Checker Star (YCS) Transportation, stated that he and his family had been in the taxi business for more than 30 years in Las Vegas and in Cleveland, Ohio. In Las Vegas, Mr. Schwartz stated his company had slightly less than 30 percent of the market, and in Cleveland, his company had approximately 50 percent of the market. His management staff and ownership in Las Vegas was the oldest and longest serving in the industry, with some staff and principals with more than 50 years in the industry.

Mr. Schwartz said that, as currently written, S.B. 430 (R1) was bad for both the public and the taxi industry. Although not necessarily against technology, Mr. Schwartz said that if there was to be a technology program, he was in favor of the best and cheapest technology possible, and he was vehemently opposed to sole-source contracts.

Mr. Schwartz stated he had submitted letters of opposition to the bill from the following:

- John T. Moran, Jr., General Counsel, Western Cab Company, dated May 24, 2013 (Exhibit G)
- Ray Chenoweth, President, Nellis Cab Company, dated May 28, 2013, (Exhibit H)
- C. Jay Nady, Owner, A Cab Taxi Company, dated May 26, 2013, (Exhibit I)
- Richard R. Flaven, President, Deluxe TaxiCab Service, dated May 24, 2013, (Exhibit J)

Mr. Schwartz said that YCS Transportation was also opposed, which amounted to seven taxicab companies operating in Las Vegas that opposed S.B. 430 (R1). He stated that a significant group of taxicab companies had an effective action plan (Exhibit K) to stop long-hauling with no cost to the public. Mr. Schwartz said that was in stark opposition to the supporters of S.B. 430 (R1), who would

charge the public as much as $5 million to $6 million for one provider, Frias Transportation Infrastructure (FTi), which was equal to the entire annual budget for the Taxicab Authority (TA).

Most importantly, said Mr. Schwartz, S.B. 430 (R1) was unnecessary because of the existence of chapter 242 of the *Nevada Revised Statutes* (NRS), which outlined the mandates for the acquisition of new technology by state agencies. The TA had already made a decision on May 15, 2013, that would provide FTi with the ability to demonstrate its technology. Mr. Schwartz emphasized that the bill was not necessary because there was existing legislation that had to be followed regarding technology needs. He opined that the bill had been drafted to benefit only one provider.

Mr. Schwartz stated that the October 1, 2013, effective date for S.B. 430 (R1) had been broadly and confusingly drafted on purpose; it was drafted in that manner to bar competition. The bill was closely tailored to benefit a single potential provider of technology in that it required satisfaction of a list of requirements that only FTi could satisfy. Mr. Schwartz opined that the bill could not be passed as presented because it acted to bar competition.

Per Mr. Schwartz, the effective date of October 1, 2013, would effectively bar any other providers from demonstrating their technology and was, therefore, anticompetitive. Mr. Schwartz said his company, YCS Transportation, had been used as the Ford Motor Company desert testing center for over 20 years; no one in the taxi business knew how to test technology, vehicles, and parts better than his company.

With all due respect, said Mr. Schwartz, when testing a technology such as proposed in S.B. 430 (R1), it should be tested in all climatic conditions. A technology that functioned in the winter might blow up in the summer months and vice versa. It was simply impossible to test and apply such technology within a three-month period.

Mr. Schwartz stated that if the Legislature passed the bill the way it was currently drafted, it would simply represent poor testing practices. The technology should be tested for a minimum of one year for the industry to understand whether it would work. Mr. Schwartz said because of the effective date of October 1, 2013, the TA would not have the opportunity to evaluate FTi's competitors and the public would, therefore, be deprived of possibly the best performing, least expensive alternative that would result from open competition in the marketplace.

Mr. Schwartz commented that FTi was an unproven start-up company that had no record of technology in use that he was aware of. The issue was too important not to require adequate time and release of an RFP by the state to ensure competition, bidding, testing, and a reasonable evaluation over a one-year period.

For example, said Mr. Schwartz, over the past six months, the Las Vegas Metropolitan Police Department had to scrap a $42 million radio system because it would not work. Mr. Schwartz said he did not want the taxicab industry to go down that same road and charge the public up to $6.5 million because the state had acted too hastily. While FTi had won a contract in San Francisco, none of its systems were currently in use, and it would be reckless to pass S.B. 430 (R1) in its current form at the whim of a single possible provider. Mr. Schwartz stated that the Taxicab Authority, the state, and the public had nothing more than FTi's slide presentation to demonstrate that the technology would work; no one knew whether it worked because it had not been tested.

Mr. Schwartz noted that FTi was a division of Frias, which was the largest provider of taxi service in Las Vegas. He stated that S.B. 430 (R1) would effectively dump the contract for the technology into FTi and Frias' lap. That would create a worrisome conflict of interest because Clark County's largest supplier of taxi services would be providing its key enforcement tool and would be charging the public at a rate in excess of the current annual budget of the TA. Mr. Schwartz indicated that was a prime example of "the fox guarding the hen house."

Per Mr. Schwartz, S.B. 430 (R1) violated chapter 242 of NRS and contradicted or unnecessarily supplemented the TA board decision of May 15, 2013, (Exhibit L), which was a rehearing of the original TA board order dated February 25, 2013, (Exhibit M). Chapter 242 of NRS required all state agencies to substantiate the need for technology through the Department of Administration's Division of Enterprise Information Technology Services (EITS). Once a need for a new technology purchase had been established, the state would issue a request for proposal (RFP) so that all interested parties could bid on the project. By simply following chapter 242 of NRS, the TA could still request such a technology purchase.

Under chapter 242 of NRS, said Mr. Schwartz, the technology would have to be vetted by qualified state experts, and an RFP would be issued to ensure competition. The only possible need for S.B. 430 (R1) was to allow a funding mechanism for the TA to approve a fee for the use of technology. However, the bill went way beyond that and sought to narrowly tailor a list of requirements specifically for FTi's benefit and to bar competition. The language

of the bill was also purposely overbroad and vague, again to benefit FTi on future projects.

Mr. Schwartz said the decision of the TA on May 15, 2013, (Exhibit L) already provided a process for FTi to demonstrate its system and invited other companies to demonstrate systems. The decision confirmed the requirements for compliance with NRS. Given the foregoing, said Mr. Schwartz, there was no need for S.B. 430 (R1), other than to permit the TA to establish a fee for such technology.

As amended, said Mr. Schwartz, the bill would result in pandemonium at McCarran International Airport in Las Vegas and would compromise service. He explained that when a passenger entered a taxi, the regulations at the airport required the taxi driver to immediately pull away from the taxi station. Using the technology proposed by the bill, the taxi driver would need to ascertain from the passenger whether that person had the FTi app on his phone, and if not, the passenger would need to use a computer screen located in the rear seat of the cab. While driving away from the taxi station, the driver would need to turn around and instruct the passenger on how to operate the system, all the while losing valuable time.

Mr. Schwartz explained that the taxi industry was all about having the greatest number of trips possible during a shift. That was how drivers made the most money possible and how passengers and the community were best served. The driver would get verbal confirmation and authorization from the passenger for the route to be taken. Mr. Schwartz stated that to have a passenger interact with a computer device in the rear seat of the taxicab and require the driver to instruct the passenger would make a challenging situation at McCarran International Airport even worse.

Mr. Schwartz said that good service in the taxi business was quick service, and passengers could not sit for as long as five minutes fumbling with an app on a computer screen. Reducing the number of trips a taxi could complete would also reduce income for the drivers.

Additionally, Mr. Schwartz said S.B. 430 (R1) was unnecessary with regard to long-hauling because of the industry's action plan to stop the practice (Exhibit K). Mr. Schwartz said he had personally been working on the action plan for three years, and although initially there had been opposition, it appeared there was none currently. The plan, he said, had the support of the TA and three members of the TA board.

Mr. Schwartz said there had been no objections from two separate industry groups to the proposed plan, which included posting signs at McCarran International Airport advising passengers that taxi drivers were not permitted to take passengers on a longer route than necessary unless the passenger consented to that route. A copy of the passenger bill of rights that supplied passengers with the necessary information about long-hauling would be posted in taxis.

Mr. Schwartz said he was hearing from the industry work sessions that there was no longer any opposition to posting fare ranges in taxis. That was a huge step in the taxi industry: there was finally support for posting the fares in the rear seat of the taxicabs and at the McCarran International Airport so that passengers could determine how much the fare should be. Mr. Schwartz said because it appeared there was industry and TA support for posting fares, he was moving forward to accomplish that task.

Mr. Schwartz believed that a critical step in eliminating long-hauling was asking the Legislature to adopt a more significant penalty for long-haulers. The current statutory scheme was that a taxi driver could be prosecuted and convicted for long-hauling five times in a 12-month period. Mr. Schwartz opined that was far too lenient, and the majority of the industry supported a "three strikes, you are out" policy. If a driver was convicted for long-hauling three times in one year, that driver would be banned from the industry. He believed that would be critical in the effort to eliminate long-hauling.

Mr. Schwartz said the industry plan (Exhibit K) would also create a long-hauling hotline and post the number in the rear seat of taxicabs. If a passenger believed that long-hauling had occurred, the passenger could immediately call the hotline. The TA also supported the creation of a long-haul database. He explained that currently if a driver was convicted of long-hauling and was terminated by one cab company, the driver could walk down the street and apply at another taxi company, and that company would have no way of knowing whether the driver was ever convicted of long-hauling.

Mr. Schwartz stated that was outrageous, and he had finally received support from the TA to publish a list of every driver who had been convicted of long-hauling. He would have a recurring list of drivers so that when a driver applied with his company, he would know whether the driver had a history of long-hauling. Mr. Schwartz opined that with the action plan in place, long-hauling would be stopped without costing the public any additional fees.

In conclusion, said Mr. Schwartz, S.B. 430 (R1) was simply not necessary as written, and he requested that the Committee oppose the bill. Even the simple

funding mechanism in the bill was "putting the cart before the horse," because the technology had not been demonstrated, and it had not satisfied the existing law in chapter 242 of NRS. Mr. Schwartz asked how the Legislature could approve or authorize funding when a need had not been established in NRS. He opined that existing state law must be complied with. Mr. Schwartz believed that the technology proposal belonged with an interim study group to discuss and analyze other critical issues in the taxicab industry. He stated that the Legislature would be acting far too hastily if it passed the bill.

If the Legislature permitted S.B. 430 (R1) to pass in some fashion, Mr. Schwartz asked that it be amended to allow only the TA to establish a rate after the technology was purchased. He asked the Legislature to send a message that chapter 242 of NRS, the existing law, had to be complied with, and that as currently written, S.B. 430 (R1) was unnecessary.

Chair Carlton asked whether Mr. Schwartz had shared his concerns with the Senate Committee on Transportation when the bill was heard by that committee.

Mr. Schwartz said he had shared his concerns, but the bill had been amended at the eleventh hour.

Chair Carlton said she wanted to make sure that Mr. Schwartz had been able to present his testimony before the Senate Committee on Transportation. She noted that the bill was amended in a work session and moved forward.

Mr. Schwartz said he had presented testimony at that meeting; he indicated that Mr. Gordon would present testimony regarding the amendment.

Marc C. Gordon, General Counsel, Yellow Checker Star (YCS) Transportation, said he and Mr. Schwartz were provided ample opportunity to testify before the Senate Committee on Finance. The Senate Committee on Transportation felt that because of the fiscal component, S.B. 430 (R1) should be referred to the Senate Committee on Finance.

Mr. Gordon said he had some legal points he wanted to present to the Committee that he felt were important, and he wanted clarification regarding the effective date of the bill. Section 19 of the bill stated that the act would become effective on July 1, 2013, but section 18, subsection 1 and subsection 2 indicated that the Taxicab Authority would commence with the process of establishing the computerized real-time data system no later than October 1, 2013. Mr. Gordon stated that the language suggested that by October 1, 2013, the TA had to select a system, and that system had to be

well on its way to completion. The urgency alluded to by Ms. Jones in her earlier testimony appeared to be very real, said Mr. Gordon, and was of concern.

A lengthy discussion then ensued between Chair Carlton and Mr. Gordon concerning the differences in formatting between a reprint of a bill and an amendment or proposed amendment "mockup" to a bill. Chair Carlton pointed out that while proposed transitory language would be in color [green bold underlining] for purposes of amendment, the added transitory language would show up as standard text once the amendment was adopted and the bill reprinted.

Unconvinced, Mr. Gordon said he was simply surprised by the addition of language that was not shown as new, and he stated he would move on with his testimony.

Mr. Gordon asked why there was no fiscal note attached to the bill. He said he was also surprised that the amended version of S.B. 430 (R1) no longer included a fiscal note. He noted that *Nevada Revised Statutes* (NRS) required a fiscal note when there was a fiscal effect, and normally the fiscal note was prepared by the agency. Mr. Gordon had submitted an exhibit to the Committee of an example of a fiscal note copied from the *2013 Legislative Manual* (Exhibit N). Interestingly enough, the exhibit was a sample of a fiscal note for a website and technology program for a regulatory agency. Also included in Exhibit N were the guidelines of the Nevada Legislature regarding fiscal notes. Mr. Gordon said there had been testimony that the administrative expense was estimated to be about $960,000, and there would be a fiscal effect.

Chair Carlton indicated that there had been an unsolicited fiscal note attached to the original bill, and because the fiscal note was unsolicited, it would not necessarily follow every reprint of the bill. She explained that tracking an unsolicited fiscal note should commence from the original version of the bill. Once there was a fiscal note attached to the bill, it remained with the bill; even when the amendment deleted a fiscal note, it would remain in effect because it was tied to the original bill.

Mr. Gordon said he had followed the bill on the Nevada Electronic Legislative Information System (NELIS) since its inception and had never noted a fiscal note attached to the bill. Now the bill was in its third evolution, and the language was far different than it had been in the beginning.

Chair Carlton stated that she would make sure Mr. Gordon received a copy of all documentation pertaining to the bill.

Mr. Gordon stated that he had heard many times from Mr. James that it was his intention to comply with chapter 242 of NRS, which was the technology investment request (TIR) mandated by statute. Mr. Gordon said that Mr. James had made that representation before the TA, before the Senate Committee on Finance, and again today before the Committee. Mr. Gordon stated that that Mr. James had fought the industry every step of the way regarding FTi's need to comply with chapter 242 of NRS. It was not until the TA board ordered compliance with the state process through its order dated May 15, 2013, (Exhibit L) that the FTi was made to comply. That order stipulated the mandates that RideIntegrity, and any other vendor, had to follow.

Mr. Gordon submitted a letter dated May 28, 2013, to the Committee for its perusal, which was available on NELIS (Exhibit O).

Chair Carlton thanked Mr. Gordon for his testimony. She indicated that Mr. Gordon could access any necessary documentation regarding the legislative process.

Assemblyman Horne said he was uncertain from Mr. Schwartz's testimony whether he believed that long-hauling was occurring in southern Nevada and whether it was problematic.

Mr. Schwartz replied that long-hauling was a problem that occurred in every city in the world that had taxicab service. The question was the size of the problem. Much had been made of the audit performed by the Audit Division of the Legislative Counsel Bureau (Exhibit C), which came to certain conclusions and findings. The recommendations included in the audit report were appropriate, but Mr. Schwartz stated that the way the audit arrived at the recommendations was incorrect.

Mr. Schwartz explained that the LCB Audit Division made an assumption that any trip costing $5 over the estimate of the fare posted by the TA was presumptive long-hauling. The estimates that were established by the TA were based on Google Maps rather than actual trips.

Assemblyman Horne said it appeared that Mr. Schwartz believed that long-hauling was not as severe a problem as the audit suggested. Mr. Schwartz stated that was correct.

Assemblyman Horne noted that Mr. Schwartz did not think the technology proposed in S.B. 430 (R1) had been vetted to address the problem. The industry plan submitted by Mr. Schwartz (Exhibit K) would post signs that advised passengers, who might not be familiar with Las Vegas, whether they

were being taken on a longer route. The plan would also post fare ranges in the rear seat of the cab for passengers to gauge the fare. Mr. Horne said he remembered that suggestion in a previous legislative session and that taxicab companies had opposed it. The industry plan would also ask the Legislature to impose more significant penalties for long-hauling; however, if the technology to determine whether a driver was long-hauling was not available, the penalty could not be imposed. Currently, said Mr. Horne, the penalties were "hit and miss," and the TA had to receive complaints from passengers about long-hauling before it could act.

Mr. Horne pointed out that under S.B. 430 (R1), there would be computer data that would suggest whether the driver was long-hauling. Even if the audit erred in the percentage of long-hauling, there was the factor that long-hauling was occurring more often than reported to the TA. He wondered how the proposed "fix" in the industry plan would be superior to the "fix" in S.B. 430 (R1).

Mr. Schwartz said that first of all, the industry plan (Exhibit K) would not bill the public between $5 million and $6 million, which was superior to S.B. 430 (R1). Also, the industry believed that it could achieve a reduction in long-hauling by creating a deterrent, with drivers aware that any potential taxicab company that might hire them would know whether the driver had been convicted of long-hauling. Mr. Schwartz also believed that making the penalty phase more stringent would dramatically deter drivers from long-hauling, along with the "three strikes and you are out" element, higher per-dollar penalties at each phase, and longer suspensions at each phase. The industry believed the deterrent would be enough to curtail long-hauling.

Mr. Schwartz explained that in 2009 there were less than 300 long-hauling convictions, and in 2012 there were 119 long-hauling convictions. There had been many discussions about the severity of the long-hauling problem, but Mr. Schwartz said he could only discuss the facts.

Assemblyman Horne stated that the facts presented by Mr. Schwartz only covered the incidents of long-hauling that were actually reported to the TA. Mr. Horne said he would argue that long-hauling was occurring in greater numbers than the number of reported incidents, and the industry plan (Exhibit K) failed to capture that.

Assemblyman Eisen said he liked the idea of posting fare ranges in the rear seat of taxicabs, and he asked whether there was anything preventing the industry from going ahead with that plan. Also, Assemblyman Eisen wondered whether Mr. Schwartz had negotiated a zero-tolerance policy for long-hauling with his company's drivers. He noted that Mr. Schwartz had mentioned possible delays

in leaving the taxi station at McCarran International Airport with the new technology. He wondered whether the technology would present an opportunity for persons waiting in line for a taxi to access the app on a device and select the route ahead of time.

Mr. Schwartz explained that he would personally like to establish a zero-tolerance policy for long-hauling at YCS Transportation, but the challenge was that the larger taxicab companies in Las Vegas were subject to union contracts. The companies had to have progressive discipline, and as much as Mr. Schwartz would like to establish such a policy, it would never be accepted by the unions.

Assemblyman Eisen asked whether Mr. Schwartz had ever approached the drivers about a zero-tolerance policy. Mr. Schwartz said it had been discussed, but he did not think it would ever happen.

In response to Assemblyman Eisen's earlier question, Mr. Schwartz said the idea of a passenger preselecting a route was an interesting idea, but he could not answer that question. That would probably be possible.

Mr. Schwartz said there could be some conflicting statutes with regard to posting fare ranges in taxicabs. The industry always tried to work in a cooperative manner, but one problem that might arise would be taxicab companies posting different fare ranges. He noted that NRS required uniform rates. Mr. Schwartz said the entire industry should post fares in the same range, otherwise, one company could post a lower fare range, which could create a problem with fare wars. He hoped that everyone in the industry could agree with a fare range in the near future.

Chair Carlton asked whether there were further questions from the Committee, and there were none.

Hearing no response to her request for additional testimony in opposition to the bill, Chair Carlton called for public testimony. There being no public testimony, she closed the hearing on Senate Bill 430 (1st Reprint) and opened the hearing on Senate Bill 484 (1st Reprint).

**Senate Bill 484 (1st Reprint): Makes an appropriation to the Mental Health Information System Account of the Division of Mental Health and Developmental Services of the Department of Health and Human Services for new software to implement the Department's technology policies. (BDR S-1181)**

Chair Carlton stated that Senate Bill 484 (1st Reprint) made an appropriation to the Mental Health Information System Account of the Division of Mental Health and Developmental Services of the Department of Health and Human Services. The Chair noted that the bill contained an appropriation of $126,000 for new software to implement the Department's technology policies.

Cindy Jones, Assembly Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau, explained that S.B. 484 (R1) was a request for one-shot funding for the Mental Health Information System Account of the Division of Mental Health and Developmental Services, soon to be known as the Division of Public and Behavioral Health. The request was for $126,000, and the amount had been amended down from the original appropriation of $204,000 included in The Executive Budget.

Chair Carlton asked whether there were questions from the Committee regarding S.B. 484 (R1), and there were none.

Hearing no response to her request for testimony in support of or in opposition to the bill, Chair Carlton called for public testimony. There being no public testimony, she closed the hearing on S.B. 484 (R1).

The Chair declared the Committee in recess at 11:20 a.m., and reconvened the Committee at 4:37 p.m.

Chair Carlton announced that the Assembly Committee on Ways and Means would meet jointly with the Senate Committee on Finance at 7:00 a.m. on May 30, 2013, to discuss Senate Bill 400 (1st Reprint). The bill would be available for review by the public after 5:00 p.m., May 29, 2013, via the Nevada Electronic Legislative Information System (NELIS).

Chair Carlton said the Committee would consider Assembly Bill 38 (1st Reprint).

**Assembly Bill 38 (1st Reprint): Makes various changes concerning the abatement or deferment of certain taxes imposed on a new or expanded business. (BDR 32-296)**

Cindy Jones, Assembly Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau, explained that A.B. 38 (R1) was first heard by the Committee on May 13, 2013. The bill was related to economic development and would revise the provisions governing the partial abatement of certain taxes imposed on a new or expanded business and revise the provisions governing a deferment of the payment of the sales and use taxes on certain property purchased by a new or expanded business.

Ms. Jones said it was her understanding that there was a proposed amendment to the bill.

Chair Carlton asked Assemblywoman Bustamante Adams to come forward and explain the proposed amendment to A.B. 38 (R1).

Assemblywoman Irene Bustamante Adams, Clark County Assembly District No. 42, stated that the proposed amendment, Exhibit P, was available for review on the Nevada Electronic Legislative Information System (NELIS).

Assemblywoman Bustamante Adams explained that A.B. 38 (R1) would make numerous changes to the current law related to abatements or deferrals of taxes imposed on new or expanding businesses. There had been several discussions between Assemblywoman Kirkpatrick and Steve Hill, Executive Director, Office of Economic Development, Office of the Governor (GOED), to determine what the next steps would be in the evolution of abatements for the state. Everyone understood that a balance had to be struck to keep Nevada competitive without "giving away the farm." Based on those conversations, the proposed amendment had been drafted (Exhibit P).

Assemblywoman Bustamante Adams stated that the first section of the amendment dealt with foreign trade zones, which were addressed in section 5, subsection 4 of the bill. That was an untapped economic tool within Nevada, and it would be key in positioning the state for economic development. She explained that a foreign trade zone was an area where imported goods could be stored or processed without being subject to an import duty.

The first section of the amendment, said Assemblywoman Bustamante Adams, granted a partial abatement to a business that was or would be located in a foreign trade zone in Nevada. Under the current provisions of A.B. 38 (R1), the partial abatement might be for up to 15 years, with up to 60 percent of the

taxes on personal property payable by the business. The amendment proposed to reduce the duration from up to 15 years to up to 5 years. Also, the maximum amount of personal property taxes that might be abated would be increased from 60 percent to 75 percent. The provisions would be clarified to state that the abatement only applied to a business that was or would be located in an activated foreign trade zone.

Assemblywoman Bustamante Adams explained that the foreign trade zone process required a business that wished to be part of the trade zone to not only be located in the area that was eligible, but the area also must be activated for the provisions to become effective. Specifying that the abatement only applied to a business in the activated zone assured that the business must go through the necessary steps to receive the abatement.

The second section, said Assemblywoman Bustamante Adams, dealt with the provisions in chapter 274 of the *Nevada Revised Statutes* (NRS) relating to abatements for businesses in certain zones for economic development. Under current statutes, the GOED was able to grant partial abatements of certain property and sales taxes to businesses locating or expanding in: (1) a historically underutilized business zone, (2) a redevelopment area, (3) an area eligible for a community development block grant, or (4) an enterprise community.

Assemblywoman Bustamante Adams said that under current law there were no limits to the amount of partial abatements that might be granted under those sections of the NRS, either with respect to the number of years for which the abatements might be granted or the maximum amount of taxes that might be abated.

The proposed amendment (Exhibit P) to A.B. 38 (R1) would limit the length of the abatement permitted in NRS 274.310, NRS 274.320, and NRS 274.330 to not more than five years. Additionally, it would limit the amount of the property tax abatement to 75 percent of the taxes on personal property that the business would have otherwise paid each year.

Assemblywoman Bustamante Adams stated that the length of the abatements from sales and use tax that were permitted in each of those sections of NRS would be limited to five years. After discussions with Steve Hill, Executive Director of GOED, the amendment included an exception to the limitations proposed to be added to NRS 274.310, NRS 274.320, and NRS 274.330, which would be provided for data centers that made a minimum investment of $200 million over the period for which the abatement was granted.

Assemblywoman Bustamante Adams said a data center that met the criteria would be eligible to receive the partial abatements from property tax pursuant to NRS 274.310, NRS 274.320, and NRS 274.330 for up to 10 years. The length of the sales tax abatement in those sections of NRS would also be extended to 10 years rather than 5 years.

Assemblywoman Bustamante Adams explained that Mr. Hill had also worked with Assemblywoman Kirkpatrick and Legislative Counsel Bureau Fiscal Analysis Division staff to provide the definition of a data center, which was included in Exhibit P. She noted that the LCB Legal Division would determine the actual language to identify a data center when drafting the amendment.

Chair Carlton asked whether there were questions from the Committee.

Assemblyman Aizley asked whether the state portion or the county portion of the property taxes would be abated.

Steve Hill, Executive Director, Office of Economic Development, Office of the Governor (GOED), replied that the property tax would be abated by 75 percent in the proposed amendment. He explained that property taxes, both real and personal, were primarily collected through local governments, roughly split between school district money, which would have an effect on the Distributive School Account, and local government revenue, with a small portion allocated to the state. Mr. Hill said that the amendment to abate the property tax by 75 percent had to be approved by local governments. He noted that local governments actually made application through the GOED for tax abatements for companies. Through chapter 274 of NRS, local governments were completely in control of the abatement process.

Chair Carlton thanked Mr. Hill and asked whether he would like to present additional testimony.

Mr. Hill stated that he and various members of the Legislature had been working on the proposed amendment (Exhibit P) to A.B. 38 (R1) since May 2013, and he thanked Chairwoman Bustamante Adams and the members of the Assembly Committee on Taxation, Chair Carlton and the members of the Assembly Committee on Ways and Means, and Assemblywoman Kirkpatrick for their hard work on the bill.

Chair Carlton asked about the fiscal note on the bill. Mr. Hill replied that there was no fiscal note attached to the bill.

Chair Carlton asked whether there were further questions from the Committee regarding A.B. 38 (R1), and there were none. The Chair called for a motion.

> ASSEMBLYMAN HORNE MOVED TO AMEND AND DO PASS ASSEMBLY BILL 38 (1ST REPRINT).
>
> ASSEMBLYMAN SPRINKLE SECONDED THE MOTION.
>
> THE MOTION PASSED. (Assemblywoman Kirkpatrick was not present for the vote.)

Chair Carlton informed the Committee that the next bill for consideration would be Assembly Bill 325 (1st Reprint).

**Assembly Bill 325 (1st Reprint): Authorizes a court to commit certain convicted persons to the custody of the Department of Corrections for an evaluation. (BDR 14-742)**

Cindy Jones, Assembly Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau, explained that A.B. 325 (R1) was first heard by the Committee on May 23, 2013. The bill authorized a court to commit certain convicted persons to the custody of the Department of Corrections for an evaluation. Ms. Jones stated that the bill would restore the provisions that were repealed by Senate Bill No. 74 of the 69th Session (1997), which authorized a court to commit certain convicted persons to the custody of the Director of the Department of Prisons, which was now the Department of Corrections, for a period of not more than 120 days for a complete evaluation. After the period during which the person was committed, the Department of Corrections would be required to provide the court with a report of the results of the evaluation and any recommendations that the Department believed would be helpful to the court in determining the proper sentence for the person.

Chair Carlton asked whether there were questions from the Committee regarding A.B. 325 (R1). There were no proposed amendments to the bill, and the Chair called for a motion.

> ASSEMBLYMAN HORNE MOVED TO DO PASS ASSEMBLY BILL 325 (1ST REPRINT) AS AMENDED.
>
> ASSEMBLYMAN HAMBRICK SECONDED THE MOTION.
>
> THE MOTION PASSED. (Assemblywoman Kirkpatrick was not present for the vote.)

Chair Carlton asked whether the Committee was amenable to review and possible action on Senate Bill 430 (1st Reprint), which was heard earlier in the meeting. She noted that there were no proposed amendments to the bill and there had been significant discussion.

The Chair stated she had received information regarding taxi drivers' tips. The tips were taxed based on federal guidelines, and the Legislature could not alter that percentage.

Assemblyman Horne said he had not received answers to his questions earlier in the day, and he asked about the possibility of holding further action on the bill.

Chair Carlton asked whether there was someone present who could address Assemblyman Horne's questions, and there was no one. She asked Mr. Horne to remind her of his questions.

Assemblyman Horne said he requested further clarification regarding the various penalties for noncompliance by limousine companies in section 6, subsection 2, paragraph (b), which stipulated that the operator must remit all technology fees by the 10th day of each month to the Nevada Transportation Authority (NTA). The current language in *Nevada Revised Statutes* (NRS) was specifically for taxicabs, but it would be applied to limousine owners should the bill pass.

Assemblyman Horne had also asked about section 2, subsection 3, paragraph (a), subparagraph (2), which stated that the reasonable charge for the use of the computerized real-time data system by a passenger ". . . is not required to be uniform within a county." Mr. Horne wanted to know why the charges were not required to be uniform. He questioned why there would be varying charges throughout an individual county.

Chair Carlton asked whether there was a representative present who could address Mr. Horne's concerns.

Greg Ferraro, representing Frias Transportation, stated that he would take action to address Assemblyman Horne's concerns as soon as possible.

Chair Carlton thanked Mr. Ferraro and stated that Senate Bill 430 (1st Reprint) would be scheduled for further consideration on May 30, 2013. The Chair noted that Assembly Bill 360 (1st Reprint) would also be scheduled for a hearing on May 30, 2013, so that members could review the proposed amendment.

Chair Carlton asked whether there was public comment to come before the Committee, and there was none. The Chair adjourned the meeting at 5:05 p.m.

RESPECTFULLY SUBMITTED:

_____
Carol Thomsen
Committee Secretary

APPROVED BY:

_____
Assemblywoman Maggie Carlton, Chair

DATE: _____

## EXHIBITS

**Committee Name: Committee on Ways and Means**

**Date: May 29, 2013** **Time of Meeting: 8:01 a.m.**

| Bill | Exhibit | Witness / Agency | Description |
|---|---|---|---|
| | A | | Agenda |
| | B | | Attendance Roster |
| S.B. 430 (R1) | C | Mark James, FTi | 2013 Legislative Audit Report |
| S.B. 430 (R1) | D | Mark James, FTi | Letter of 5/24/13 from Brent Bell |
| S.B. 430 (R1) | E | Mark James, FTi | Letter of 5/28/13 from George Balaban |
| S.B. 430 (R1) | F | Mark James, FTi | Letter of 5/28/13, from Christiane Hayashi, SFMTA |
| S.B. 430 (R1) | G | Jonathan Schwartz | Letter of 5/24/13, from John T. Moran, Jr. |
| S.B. 430 (R1) | H | Jonathan Schwartz | Letter of 5/28/13, from Ray Chenoweth |
| S.B. 430 (R1) | I | Jonathan Schwartz | Letter of 5/26/13, from C. Jay Nady |
| S.B. 430 (R1) | J | Jonathan Schwartz | Letter of 5/24/13, from Richard R. Flaven |
| S.B. 430 (R1) | K | Jonathan Schwartz | Industry Action Plan |
| S.B. 430 (R1) | L | Jonathan Schwartz | TA board decision of 5/15/13 |
| S.B. 430 (R1) | M | Jonathan Schwartz | TA board order of 2/25/13 |
| S.B. 430 (R1) | N | Marc Gordon | Example of a Fiscal Note |
| S.B. 430 (R1 | O | Marc Gordon | Written Testimony |
| A.B. 38 (R1) | P | Irene Bustamante Adams, Clark County Assembly District No. 42 | Proposed amendment |