

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

**Seventy-Eighth Session
May 12, 2015**

The Committee on Ways and Means was called to order by Chair Paul Anderson at 11:29 a.m. on Tuesday, May 12, 2015, 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 www.leg.state.nv.us/App/NELIS/REL/78th2015. In addition, copies of the audio or video of the meeting may be purchased, for personal use only, through the Legislative Counsel Bureau's Publications Office (email: publications@lcb.state.nv.us; telephone: 775-684-6835).

COMMITTEE MEMBERS PRESENT:

Assemblyman Paul Anderson, Chair
Assemblyman John Hambrick, Vice Chair
Assemblyman Derek Armstrong
Assemblywoman Teresa Benitez-Thompson
Assemblywoman Irene Bustamante Adams
Assemblywoman Maggie Carlton
Assemblywoman Jill Dickman
Assemblyman Chris Edwards
Assemblyman Pat Hickey
Assemblywoman Marilyn K. Kirkpatrick
Assemblyman Randy Kirner
Assemblyman James Oscarson
Assemblyman Michael C. Sprinkle
Assemblywoman Heidi Swank
Assemblywoman Robin L. Titus

GUEST LEGISLATORS PRESENT:

Senator James A. Settelmeyer, Senate District No. 17

Minutes ID: 1212



STAFF MEMBERS PRESENT:

Cindy Jones, Assembly Fiscal Analyst
Stephanie Day, Principal Deputy Fiscal Analyst
Barbara Williams, Committee Secretary
Cynthia Wyett, Committee Assistant

The Committee Assistant called the roll, and a quorum was established. Hearing no response to his call for public comment, Chair Anderson opened the hearing on Senate Bill 504 (1st Reprint).

Senate Bill 504 (1st Reprint): Amends provisions relating to a safe and respectful learning environment in public schools. (BDR 34-1201)

Michon Martin, Chief Counsel, Office of the Governor, reminded the Committee that Senate Bill (S.B.) 504 (1st Reprint) had been discussed at length in meetings of both the Senate Committee on Education and the Assembly Committee on Education and there had been no opposition. She believed that the testimony from Clark County School District and Washoe County School District had improved the bill.

Ms. Martin said that the Governor had heard the stories of families tragically affected by bullying and had sought a legislative remedy, which was now before the Committee. She understood that it was a personal issue for many, and parents expected that their children would be safe at school.

Ms. Martin said that S.B. 504 (R1) gave concrete guidance to the definition of bullying, provided for timely notification to the parents of all children involved, and required an investigation be conducted. The bill provided for consequences for administrators in the event that notifications and investigations were not done in a timely manner. The bill also created the Office for a Safe and Respectful Learning Environment within the Department of Education. The appropriation for the Office was not in S.B. 504 (R1), but with the appropriation, the intent was to set up a 24-hour hotline for students and parents seeking help.

Dale Erquiaga, Superintendent of Public Instruction, Department of Education, said the appropriation to establish the Office for a Safe and Respectful Learning Environment was included in The Executive Budget. He noted that only one other office in the Department of Education was created by state law, which was the Office of Parental Involvement and Family Engagement. He believed that giving the Office for a Safe and Respectful Learning Environment such

prominence was an indication of how serious the Department was in addressing the problem of bullying.

Mr. Erquiaga stated that the approved appropriation would pay for a small staff in the Office for a Safe and Respectful Learning Environment. The focus of the Office would be training and support for school district personnel to carry out the provisions of the law. Additionally, the Office would be a final resort for parents who were unsatisfied after going through the notification and investigation process at the district level.

Chair Anderson clarified that the funding allocation had been approved earlier in the day, contingent on the bill being approved by the Assembly. He wanted to bring S.B. 504 (R1) to work session after the hearing.

Assemblyman Armstrong asked whether the changes to the bill had affected the fiscal notes that he had seen.

Ms. Martin replied that Clark County and Washoe County had removed their fiscal notes because the Department had allocated funds for social workers elsewhere in the budget, resolving the counties' concern about S.B. 504 (R1).

Assemblyman Edwards asked how many positions would be created, in what schools, and how the Department envisioned phasing in the personnel.

Mr. Erquiaga replied that the Office for a Safe and Respectful Learning Environment was small. It would include one unclassified position for the Director of the Office, and The Executive Budget created one additional position and moved an existing position that was historically grant-funded to the State General Fund. The function of the Office was primarily training, policy development, investigation, and grant administration. There was a separate line item that would place personnel in districts through block grants, but that program would not affect the Office for a Safe and Respectful Learning Environment.

Chair Anderson clarified that the approved funds were \$300,000 for the Office for a Safe and Respectful Learning Environment and its staff.

Assemblywoman Kirkpatrick understood that there were many opinions about what bullying was and how it should be addressed, and she thought that training for both students and teachers was critical. She asked whether the new bill would affect current antibullying efforts in schools.

Mr. Erquiaga agreed that the correct identification of bullying was critical. All Nevada school districts had programs for recognition and reporting of bullying, and the bill would not affect the existing programs. He believed the bill only made the problem clearer and provided more guidance regarding reporting and investigation compliance. Prior to the bill, the Department of Education's training was focused on the district school boards and assisting in the development of policies. The bill broadened the Department's role in supporting school district personnel.

Mr. Erquiaga said that the definition of bullying had evolved. The advent of cyberbullying had resulted in youth now being "followed home" by online bullies. He thought the training requirements in the bill were essential in maintaining a safe space for children.

Assemblywoman Kirkpatrick asked on what performance measures the new Office for a Safe and Respectful Learning Environment would be evaluated and whether the Office would be required to report to the Legislature.

Mr. Erquiaga said the Department of Education would report to the Interim Legislative Committee on Education and would be happy to provide a report to the State Board of Education, the Governor, and the Legislature in advance of the next legislative session. In the past, the Department tended to measure outputs, such as counting the number of complaints. The Department was required to report the number of bullying incidents and violent acts in school, and the new Office for a Safe and Respectful Learning Environment would be tracking the numbers and the ratio to student enrollment going forward to measure the effect of the new steps being taken.

Mr. Erquiaga noted that, if approved, the Office would oversee the social worker program that was referenced earlier, and the proposal included a mental and behavioral health-screening tool that would provide a benchmark of the overall behavioral health of the student population.

Assemblywoman Kirkpatrick said she would like to see the performance measures include the training and grants the Office for a Safe and Respectful Learning Environment administered to provide feedback to the Legislature.

Assemblywoman Titus asked about the provision in section 7, subsection 6, paragraph (d), of the bill, which provided that "Any teacher, administrator . . . who tolerates or engages in an act of bullying . . . will be held accountable." She asked how they would be held accountable.

Joseph C. Reynolds, Deputy Chief Counsel, Office of the Governor, said that the intent of section 7 of the bill was to set policy governing bullying by making it clear that bullying in any form would not be tolerated. Section 2 of the bill outlined the consequences to administrators and principals for failing to identify or report bullying.

Assemblywoman Titus expressed concern at the difficulty in defining bullying and the fact that the bill was holding educational personnel accountable for failing to recognize something that was hard to define.

Chair Anderson asked Mr. Reynolds to explain how the definition of bullying in the bill had evolved.

Mr. Reynolds replied that in drafting the bill, definitions from all across the nation were examined, including federal definitions. The state of Maine had an exemplary code, and much of the language in section 6 of S.B. 504 (R1) was taken from Maine statutes. He agreed that bullying could mean different things to different people. Section 6, subsection 2, provided specific examples to add clarity and guidance to the definition. The ultimate goal was to create a safe learning environment for children. He said only those actions that resulted in a fear or inability to learn rose to the level of bullying.

Assemblywoman Dickman asked how S.B. 504 (R1) might have prevented the recent suicides by two girls at O'Brien Middle School in Washoe County, which she understood involved bullying that had been brought to the attention of the administration.

Mr. Erquiaga noted that the rate of youth suicides and suicide attempts was striking and troubling. He believed the key was the actions required of the adults in the system. The purpose of the bill was to immediately involve the parents, the students, and the administration in addressing any incident of bullying. Senate Bill 504 (R1) provided, as state policy, that adults involved with youth had a legal and a moral responsibility to intervene whenever bullying was suspected.

Assemblywoman Dickman thought that children might be prone to accusing others of bullying even when it was not the case and wondered what method would be used to discover the truth.

Ms. Martin replied that the bill injected adults into the conversation. If there was an incident, it would be reported that day to the parents, so that everyone would be aware of the incident. An investigation would follow immediately to determine the validity of the complaint.

Assemblywoman Kirkpatrick believed the intent of the bill was to change the culture and environment and ensure that adults became involved sooner rather than later so students knew what the expectations were. She thought that the training of students, teachers, and administrators was vital to changing the culture.

Ms. Martin said that Assemblywoman Kirkpatrick was correct. Section 7 of S.B. 504 as introduced began, "The Legislature declares that: a learning environment that is safe and respectful is essential for the pupils." She said that saving children's lives began with changing the culture to one of respect.

Chair Anderson called for testimony in support of S.B. 504 (R1).

Nick Vassiliadis, representing R&R Partners Foundation, discussed an antibullying program called "Flip the Script," which was already being used in a number of schools in the state. He thought that the bill did a good job, not just stating the policy, but also identifying how policy would be carried out, enforced, and maintained.

Mr. Vassiliadis believed the bill's definition of bullying provided needed flexibility, because there was no one-size-fits-all type of bullying. He had found that different areas within school districts had to deal with different types of bullying. He added, in response to the concern voiced by Assemblywoman Dickman, that there were already laws on the books that prohibited false reporting and established consequences.

Chair Anderson called for testimony in the neutral position.

Nicole Rourke, Executive Director, Community and Government Relations, Clark County School District, noted that the district had a number of concerns with the bill as originally written and had worked with the Office of the Governor on amendments to the bill. She emphasized that the proposed additional social worker staffing was essential to meet the timelines in the bill.

Lindsay Anderson, Government Affairs Director, Washoe County School District, agreed that the staffing of the additional social workers was essential to meeting the investigation timeline and the additional reporting requirements in the bill. The district looked forward to having a partnership with the Department of Education to get the necessary training into the schools.

Jessica Ferrato, representing the Nevada Association of School Boards, thanked everyone involved in producing S.B. 504 (R1). She echoed the previous comments regarding the importance of providing the social workers in both urban and rural area schools to comply with the requirements of the bill.

Assemblyman Sprinkle asked Ms. Rourke whether the fiscal note from Clark County had been removed.

Ms. Rourke said that no additional staffing was contemplated, contingent upon the social workers being funded in the Governor's recommended budget. The district anticipated needing one social worker for every two elementary schools, one in each middle school, and one in each high school.

Assemblywoman Titus questioned the district's ability to hire the social workers proposed in the Governor's budget by the start of the school year.

Ms. Anderson replied that the Washoe County School District expected to hire about 35 social workers and had concerns about its ability to do so. She believed that some flexibility would be needed regarding the type of social workers the district hired depending upon the available workforce. The timeline was short, but she said the district would make every effort to comply with the bill in a timely manner.

Ms. Rourke echoed Assemblywoman Titus's concerns regarding the availability of social workers, but the Clark County School District would make a good-faith effort to bring all social workers on board as quickly as possible.

Assemblywoman Titus said she was particularly concerned about the ability of rural schools to find the necessary social workers.

Mary Pierczynski, representing the Nevada Association of School Superintendents, agreed that the rural areas were concerned about the availability of social workers. The Association was neutral on S.B. 504 (R1) because it was concerned about staffing and the ability to comply with the timelines. She understood that it was permissible to hire contract social workers, but that was not always a viable solution, depending on the location of the schools.

Chair Anderson, hearing no response to his request for testimony in opposition to the bill, closed the hearing on S.B. 504 (R1).

Chair Anderson said he wanted to move the bill into work session and asked for a motion to suspend the rule.

ASSEMBLYMAN OSCARSON MOVED TO SUSPEND RULE NO. 57
OF ASSEMBLY RESOLUTION 1.

ASSEMBLYMAN HAMBRICK SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Chair Anderson opened the work session on S.B. 504 (R1).

Assemblywoman Titus stated she would not be able to support the bill because it would be impossible to meet the July 1, 2015, effective date. Conceptually, she believed measures to address bullying were critically needed, but believed the S.B. 504 (R1) criteria would be difficult to fulfill.

Chair Anderson noted that the July 1, 2015, date was the date that created the Office for a Safe and Respectful Learning Environment.

Assemblywoman Dickman said she would be unable to support the bill because she had concerns with its ability to do what it was intended to do.

Assemblywoman Benitez-Thompson emphasized that she believed the most important consideration was the bill's intent to change the culture in the schools. She said that sometimes bills were passed knowing that the full goal would not be met, but getting part of the way there was better than doing nothing.

ASSEMBLYWOMAN BENITEZ-THOMPSON MOVED TO DO PASS
SENATE BILL 504 (1ST REPRINT).

ASSEMBLYMAN SPRINKLE SECONDED THE MOTION.

THE MOTION PASSED. (Assemblywomen Dickman and Titus
voted no.)

Chair Anderson closed the work session on S.B. 504 (R1) and opened the policy discussion [the Committee had no legal jurisdiction] regarding Assembly Bill 175 (2nd Reprint). He said there would be no action on the bill.

**Assembly Bill 175 (2nd Reprint): Revises provisions relating to transportation.
(BDR 43-703)**

Senator James A. Settlemeyer, Senate District No. 17, explained the Senate amendments to Assembly Bill (A.B.) 175 (R2). Section 9 required

a transportation network company (TNC) to disclose insurance coverage and limitations to a driver and required drivers to notify any lienholder that the vehicle would be used to provide transportation services.

Senator Settelmeyer said that section 10 of A.B. 175 (R2) covered the requirement to maintain certain insurance coverage levels. The requirement in the bill was for \$1.5 million of coverage, although there were lower levels of coverage required while a driver was logged into the software application (app) but before he or she agreed to accept a passenger. The TNC's were required to carry insurance at all times, and the TNC insurance was the primary insurance. An insurer who provided TNC coverage had a duty to defend and indemnify the driver and the TNC. Sections 12 and 13 of A.B. 175 (R2) stipulated accident reporting requirements and proof of insurance requirements.

Senator Settelmeyer said the definition of "transportation services" in section 19 was important, covering services from the time a driver accepted a request by a passenger through the app to when the last such passenger fully disembarked from the vehicle. Section 23 clarified that TNC drivers were independent contractors. All TNC drivers would be required to have business licenses in Nevada. He noted that the amount of revenue the state could expect from that requirement depended on the tax plan that was eventually passed.

Senator Settelmeyer stated the TNC would be required to be licensed by the Public Utilities Commission of Nevada (PUCN), and the bill stipulated the conditions under which that would occur. Section 27 obliged the Commission to charge a fee for a permit to operate as a TNC, and the fee would be determined by the Commission. Doing so would ensure it could charge fees as required and have all resources necessary to regulate the industry. Additionally, section 28 provided for a 3 percent excise tax, based on the total fare charged, inclusive of all fees.

Senator Settelmeyer said the bill required drivers to share specific information with the TNC. Drivers had to be at least 19 years of age and have a valid driver's license, proof of registration, and proof of insurance. Every three years, the TNCs would perform background checks on a driver to ensure there were no changes to criminal history, and would review the driving record of each driver no less than once a year. If a driving record identified any safety issue, that driver would no longer be allowed to drive. The bill allowed for no more than three minor moving violations and no gross misdemeanor or felony motor vehicle violations in the three-year period prior to submitting an application. The bill allowed for no violations for driving under the influence or acts of violence, sexual offense, fraud, or theft in the seven years prior to submitting an

application. Failure to meet any of the criteria would result in the individual no longer being permitted to drive for the TNC.

Senator Settlemeyer said section 31 of A.B. 175 (R2) required that the software application provide an estimate of the fare and how fares were calculated and disclose the information in the app. The TNC was only allowed to take electronic payments and could not charge more for a ride given to a passenger with a disability. The PUCN would have the ability to establish maximum fares that could be charged in an emergency.

Senator Settlemeyer explained that the bill required vehicles to be in compliance with all federal, state, and local laws concerning operation and maintenance, have no less than four doors, and carry no more than eight persons, and prohibited the use of certain types of commercial and recreational vehicles. The bill also required the TNC to adopt a policy against discrimination. For safety reasons, the TNC would be required to provide a picture of the driver and description of the vehicle to the rider prior to he or she entering the vehicle.

Senator Settlemeyer stated the TNC was required to provide the rider with an electronic receipt, maintain detailed records for three years, and make the records available to the regulator. The records would include trips, drivers, vehicle inspections, complaints, and accidents. The bill required TNC drivers to provide service only through the application and included other requirements specifying driver conduct. Drivers could only refuse service if they were afraid for their personal safety or if providing the ride would be a violation of law. He gave the example of a prospective rider wanting to take children somewhere without the required safety seats. In that event, the driver must refuse.

Senator Settlemeyer said not only were drivers prohibited from driving under the influence, but the TNC was also required to maintain a digital reporting system that allowed a passenger to make a complaint, after which the TNC must immediately suspend the driver's access to the app until an investigation was done. Any substantiated complaint would result in revoking the driver's ability to work for the TNC. Additionally, the TNC could not disclose any personal identifiable information about a passenger to a driver; even the passenger's phone number would be "scrambled" so the driver would not have the actual number.

Senator Settlemeyer stated the bill required each TNC to set up a system for reporting and resolution of complaints that would be shared with the PUCN. Other sections of the bill specified penalties that could be levied against any TNC that was found to have violated the terms of its permit, and restricted local government from imposing additional regulatory burdens on a TNC.

The bill provided for airports and owners of private property to negotiate separately with a TNC for permission to conduct business on that property. The bill also provided a structure for what information and how often the TNC must report to the PUCN and how often the PUCN would report to the Legislature or Legislative Commission. Each TNC was required to report all accidents that occurred during the first 6 months that the company operated within the state and again at the 12-month mark.

Senator Settlemeyer said that section 46 of A.B. 175 (R2) was deliberately broad to give the PUCN permission to adopt such regulations necessary to carry out the provisions of the law. The 3 percent excise tax was applied to all common motor carriers in the state to create parity. The funds collected would be deposited with the State Treasurer, and the first \$5 million in each biennium would be credited to the State Highway Fund, with any additional amounts credited to the State General Fund.

Senator Settlemeyer said the bill required that within six months, the PUCN would compare the differences between Federal Bureau of Investigation (FBI) fingerprint background checks and private-party background checks, and report its findings to the Legislative Commission. He added that most sections of the bill would become effective upon passage and approval.

Assemblyman Sprinkle asked about the process in the event of an accident.

Senator Settlemeyer replied that the bill was drafted with required insurance coverage higher than existing law, while making sure the levels were also higher than average insurance payouts for accidents in Nevada. In Nevada currently, average payouts for injuries were approximately \$8,000 to \$10,000 and approximately \$5,000 for property damage. When an accident happened, law enforcement would be involved, and information would be shared with the PUCN to determine fault and liability. The TNC's insurance would be the primary insurance.

Assemblyman Sprinkle expressed concern that changing the level of insurance coverage depending on what point in the transaction had been reached might cloud the issue of coverage and deductibles. He also worried that, as independent contractors, the drivers working for the TNC would not be covered by workers' compensation.

Senator Settlemeyer replied that there was no question of driver deductible, because the TNC insurance would be the payer in any accident, regardless at what point in the transaction the accident occurred. He agreed that as independent contractors, drivers would not be eligible for workers'

compensation, but if they were injured in an accident, the TNC insurance would provide coverage.

Assemblyman Sprinkle asked, given that the PUCN would be regulating the industry, how often the vehicles would be inspected and how fines and penalties would be handed out.

Senator Settlemeyer said there had been some discussion about putting the TNCs under Chapter 706 of the *Nevada Revised Statutes* and the Nevada Transportation Authority (NTA), Department of Business and Industry. However, one of the elements of NRS 706.151 was that it was "hereby declared to be the purpose and policy of the Legislature . . . to discourage any practices which would tend to increase or create competition . . ." and it did not seem like the logical body to regulate the new transportation network companies. Additionally, it was important that the regulatory body be statewide. During the month that TNCs operated in Nevada, they operated in Douglas, Lyon, Storey, Churchill, Washoe, and Clark Counties. Many of the communities were underserved by regular cab companies. He believed the PUCN was ideally suited for the regulation of TNCs, because it had regulated transportation until the duty was shifted to the NTA and the Taxicab Authority, Department of Business and Industry. The regulatory authority the PUCN was given in the bill gave it maximum flexibility to do what it needed to do.

Assemblyman Sprinkle asked whether a photograph was required of the passenger requesting the ride.

Senator Settlemeyer replied that the driver would not get a picture of the passenger, but the passenger would receive a photograph of the driver for safety purposes.

Assemblyman Hickey asked what fees or excise taxes were currently paid by taxicabs.

Senator Settlemeyer said currently taxicabs were allowed to charge \$3 for use of a credit card, and that would not change under A.B. 175 (R2). He mentioned that although taxicab drivers were required to be employees, he had numerous examples of contracts that cab companies required their drivers to sign that clearly identified them as independent contractors. They were not currently paying a specific tax or fee to the state.

Assemblyman Hickey asked how much experience the State Treasurer had in the collection of an excise tax.

Senator Settlemeyer replied that the Office of the State Treasurer collected money from the Office of the Secretary of State from business license fees and credited that revenue to the State General Fund. Legal counsel had advised him that was standard procedure.

Assemblyman Hickey asked whether Senator Settlemeyer had looked at how other states collected fees and taxes from the TNCs and whether he was confident of Nevada's ability to collect those fees and taxes.

Senator Settlemeyer stated that he was very confident that the TNCs would pay what was owed, especially because all transactions would be electronic, and all records would be accessible by the PUCN.

Assemblywoman Carlton expressed concern with public safety and the rigorousness of the driver screening. She wondered whether the FBI criminal repository would be used to screen the drivers.

Senator Settlemeyer said the TNCs were not required to fingerprint their drivers, but the background check the TNC performed was more extensive. He emphasized that the bill required the PUCN to study the efficacy of both types of background checks and report back to the Legislative Commission.

Assemblywoman Carlton said she preferred to err on the side of caution and require the background checks. If it was determined later they were unnecessary, they could be eliminated at that time.

Senator Settlemeyer replied that in reviewing TNC operations in other states over numerous years, there did not appear to be any safety issues.

Assemblywoman Carlton replied that Nevada was like no other state, and Las Vegas was like no other city.

Assemblywoman Kirkpatrick said that currently the taxicab industry was providing 27 million trips each year. She wondered whether the TNCs would encroach on the taxicab business.

Senator Settlemeyer said there were many communities in Nevada with little or no taxicab service. Other states that allowed TNCs to operate had seen as much as a 10 percent reduction in citations for driving under the influence, which, in his view, was reason enough to pass the bill. After the TNCs began operating in New York City, the number of taxicab rides did not decrease, because TNCs served a different market and he expected the same would happen in Nevada.

Assemblywoman Kirkpatrick asked for specific data about the fiscal benefits of allowing TNCs to operate.

Steve Thompson, General Manager, Uber Nevada, said in the month Uber operated in Nevada, no pickups were allowed on the Las Vegas Strip or the McCarran International Airport, because it was understood that 95 percent of trips by the taxicab industry began or ended at those locations. The company believed this translated into a large, underserved community whose needs took them elsewhere and who had no other transportation options. During that same month, over 100,000 unique users opened up the Uber app a half-million times, most of them occurring outside the Strip. During that month, Uber completed over 25,000 trips, all of them originating outside the Strip, with 47 percent of them ending on the Strip, allowing the rider to use a taxi to get home. He emphasized that over 56,000 individuals had signed a petition asking for access to TNCs. He offered documents, "Uber in Nevada" ([Exhibit C](#)), to support his testimony.

Assemblywoman Kirkpatrick said she wanted to hear the fiscal considerations with specifics.

Mr. Thompson said that with only one month of operations in the state, it was impossible to determine the exact dollars A.B. 175 (R2) would generate. Looking at other comparable launches across the United States, Las Vegas was the fastest-growing launch Uber had seen in any domestic city. He was confident that the TNC contribution to Nevada's economy would be significant.

Veronica Juarez, Director of Government Relations, Lyft, said that in Seattle, Washington, when the TNCs launched, taxicabs reported higher earnings in that year than in any previous year. The reason was believed to be that when individuals had more transportation options, they depended less on their own vehicles. Once they depended less on their own vehicles, they depended more on all other modes of transportation. She offered a document, "What is Lyft?" ([Exhibit D](#)), to support her testimony.

Assemblywoman Kirkpatrick asked for specific numbers that could be used to calculate the benefit to the General Fund while figuring in the administrative costs of the bill.

Senator Settelmeyer reminded the Committee that the bill provided for the PUCN to charge whatever was necessary to cover the administrative costs. He would provide to the Committee the numbers that the Senate had used for revenue. Given that Uber and Lyft anticipated signing up approximately 15,000 drivers between them, the additional revenue from business licenses

could be calculated as soon as a determination about business license fees was made.

Chair Anderson asked whether the revenue would be both business license fees and the 3 percent excise tax, and Senator Settelmeyer stated that was correct.

Assemblywoman Kirkpatrick asked what amounts the TNCs would pay to add to state revenue.

Senator Settelmeyer said the drivers would pay for their business license, and the TNC companies would pay an assessed fee to the PUCN and the 3 percent excise tax.

Chair Anderson asked what defined a transportation network company.

Senator Settelmeyer said that to be a TNC in Nevada, one would have to satisfy all the requirements of the law: \$1.5 million in liability insurance that met the other coverage limits in the bill, a private party background check process that met the requirements of the bill, and software that enabled drivers and riders to connect while capturing the data that must be reported to the PUCN. He emphasized that no one was trying to stifle competition.

Assemblywoman Kirkpatrick asked how the driver would inform the lienholder of a vehicle that he or she was using the vehicle to provide transportation services. Additionally, she expressed concern that people accepting the terms of service on an application might not fully read or understand what they were agreeing to.

Senator Settelmeyer replied that the use of the app on the phone was like a membership club. An individual could not use the service without going through multiple affirmative steps to download and agree to the app. The burden of disclosure to the vehicle's lienholder was with the driver, and the lienholder would decide if TNC use of the vehicle complied with the lien.

Assemblywoman Kirkpatrick mentioned that in Clark County the police did not respond to minor accidents. She wondered how that would work in the event an accident occurred with a TNC vehicle.

Senator Settelmeyer said that, just as now, the insurance companies would be the arbiters, and the TNC insurance would be primary claim payer. He added that with a TNC vehicle accident, the GPS would track the time and location of the accident very accurately. The bill created a process with the PUCN to resolve complaints and problems that might arise.

Assemblywoman Kirkpatrick asked how the vehicles were tracked and whether the level of insurance coverage that applied at various times was also tracked.

Senator Settelmeyer said all the data was accessible through the digital network of the TNC and was submitted to the PUCN.

Assemblyman Armstrong mentioned that the TNC apps had the ability for passengers to rate their driver, and failure to maintain a good rating would result in that driver's termination, which he believed provided for quality control. He also said the app tracked where the car was and where it was going, thus preventing long-hauling. He believed that adding TNCs as a transportation option would enhance tourist and resident experiences.

Senator Settelmeyer said that the passenger could rate the driver after a trip and could use the app to alert the TNC that the driver may be impaired, which would result in immediate suspension of that driver's ability to access the app. Additionally, the driver could rate the passenger, and if a passenger's rating fell too low, he or she could be suspended from the service. He added that Las Vegas was the only top-25 destination in the United States that did not have TNCs.

Mr. Thompson referred the Committee to his handout, "Uber in Nevada" ([Exhibit C](#)). He said that it illustrated the application process for a rider, from ordering the ride to rating the driver. Through the app, the passenger could learn how far away the driver was and see his or her photograph, vehicle make, model, and license plate number. Before the ride, a passenger was able to do a fare quote and know how much the trip would cost. All that transparency, he thought, would lead to an overall safer and comforting experience. Passengers were issued electronic receipts with a breakdown of the fare, which showed the route taken. In addition to providing 24/7 coverage for urgent matters such as accidents, the TNC used the app to set and adjust fares and review passenger feedback on drivers and vehicles. Uber required its vehicles to be 2005 or newer models. Passengers could also use the app to report other issues, such as a crack in the vehicle windshield, which Uber would immediately require the driver to repair. Traditional taxicabs did not have that immediate feedback and response system.

Assemblyman Armstrong asked Mr. Thompson to address tipping and price surge concerns.

Mr. Thompson said there was no need to tip on the Uber platform, and because only electronic payments were accepted, neither drivers nor riders needed to carry cash. Because this added a measure of safety, 14 percent of Uber drivers

were female. Dynamic pricing existed to incentivize drivers to work during times of high demand and low availability and as more cars became available, the price self-corrected.

Assemblywoman Swank said that her neighborhood in Las Vegas was near the Strip, but residents had a hard time getting taxicabs to come to the area. Many were elderly and had disabilities. She asked what efforts the TNCs made to ensure the elderly and disabled were able to use the service.

Mr. Thompson replied that 25 percent of Uber drivers were over age 50. In rural communities in other states, there were significant numbers of older riders who regularly used a TNC for transport to medical appointments. In a number of jurisdictions, as the market dictated, the company had introduced a program called Uber Assist. Uber Assist drivers had gone through training to serve individuals with disabilities.

Assemblywoman Swank asked whether a TNC was required to pick up a disabled individual and whether the insurance would cover an event such as a wheelchair-bound individual falling and breaking his or her hip while getting into a car.

Mr. Thompson said Uber had another program in certain cities called uberWAV, for wheelchair-accessible vehicles, and the company would be happy to work with Assemblywoman Swank on addressing the needs of her district.

Ms. Juarez said Lyft had the policy that all passengers would be picked up, and it definitely applied to service dogs and wheelchairs. Motorized wheelchairs needed a ramp, and in other cities the company had worked with partners to be able to assist those individuals. If an individual fell while getting into a car, the incident would be covered because it occurred during the course of the ride—in other words, after driver and rider had connected via the app.

Assemblywoman Swank said the Taxicab Authority had a program for discounted tickets for seniors and the disabled and wondered whether the TNCs offered any discounts.

Ms. Juarez said she had not heard of the program, but it was a conversation her company was certainly willing to have. Access to transportation options could offer real quality-of-life improvements to Nevada residents.

Assemblywoman Dickman asked why the PUCN was tasked with regulating the TNC industry, because it was not a utility, and how the regulations in A.B. 175 (R2) compared to those in other states that had regulated TNCs.

She thought that gross operating revenue tax sounded too much like gross receipts tax. She wondered, from section 38 of the bill, who determined there was "reason to fear for the driver's personal safety."

Senator Settlemeyer said it had been the consensus of both houses of the Legislature that TNCs needed to be regulated. The companies were subject to regulation in all the other states in which they operated. Compared to other states, A.B. 175 (R2) had some of the most stringent regulations but still enjoyed industry support. The 3 percent excise tax was conceived as a way to ensure that a new industry would not adversely affect the fiscal situation of the state.

Assemblywoman Bustamante Adams speculated that because many of her constituents were underbanked and had no credit card, TNC vehicles would not be available to them. She asked for more information regarding price surging, why the NTA had not been selected to regulate the TNCs, and why the regulation of transportation had been removed from the PUCN. She asked for specifics on whether a driver could refuse a passenger, whether a driver had to have a Nevada driver's license, and whether the regulation of drivers involved drug testing.

Senator Settlemeyer said that a driver could only refuse to pick up passengers if picking them up would violate a law or if the driver feared for his or her own personal safety. Drivers were required to have a Nevada driver's license, except in the event that it was not required by NRS, such as individuals in the military.

Mr. Thompson said Uber would be happy to share the demographics of pickups during the month Uber operated in Nevada with the Committee, emphasizing that no pickups had occurred on the Strip or the airport in Las Vegas. He said that during peak times, prices could change dynamically, with the goal of bringing more supply onto the road. During dynamic pricing, prospective riders had to verify three times that they were accepting a higher fare. If they chose not to accept it, they could opt to receive a text message when the fare dropped.

Assemblywoman Benitez-Thompson said her concern was what it meant to be a responsible employer in Nevada and what type of obligations companies had to their employees. She was unsure that the present model would keep TNC drivers off programs such as Medicaid, Temporary Assistance to Needy Families, or the Supplemental Nutrition Assistance Program.

Mr. Thompson stated that the typical Uber driver was one looking for more flexibility and independence when it came to earning supplemental income. Nearly one-third of Uber driver partners already had a full-time job, and 51 percent of drivers drove less than 15 hours per week. The national average was about 19 hours per week that TNC drivers logged into the platform to drive. Traditional taxicab models often required 12-hour shifts for five or six days per week and vehicle-leasing fees, and drivers took home only 50 percent of the fare. The driver partners of TNCs took home 80 percent of the fare and could log on and off the platform at their convenience. Driver surveys had shown that the average TNC driver partner had a specific goal he or she was trying to reach, such as paying off a student loan.

Assemblywoman Benitez-Thompson asked what the mean income for a TNC driver was.

Mr. Thompson said that, driving 19 hours per week, a driver's income would be between \$300 and \$500 per week, depending on when the driver was on the road.

Ms. Juarez said that 98 percent of all Lyft-approved drivers had another full-time or part-time job. Over 65 percent drove less than 10 hours per week, and over 50 percent drove less than 5 hours per week.

Assemblyman Hickey reminded the Committee that he had sponsored legislation during the 2013 Legislature that required taxicab companies to institute random drug testing. He asked whether A.B. 175 (R2) would require drug testing.

Senator Settlemeyer said drug-testing requirements were not in the bill, but they could be discussed at the PUCN level. He believed that the software platform was efficient at weeding out and permanently prohibiting problem individuals from driving.

Mr. Thompson said that because all rides occurred through the app, there was immediacy in the reporting of problems and immediacy in the driver being deactivated from the platform. He cited studies that showed preemployment drug tests were ineffective at screening out users. Random drug tests were just that—random. With TNC rides, every ride was a test and an opportunity for the driver to be reported.

Ms. Juarez stated that no other state had required random drug testing of TNC driver partners. She said of all Lyft rides, only 0.04 percent had resulted in any kind of drug- or alcohol-related investigation.

Chair Anderson asked whether the bill exempted drivers from having to have a Nevada driver's license and their vehicle registered in Nevada.

Senator Settlemeyer said the only exemption was granted in NRS to military families.

Chair Anderson asked whether registered TNC drivers from other states could drive in Nevada.

Mr. Thompson said drivers applied to the state they wished to drive in and could only pick up in that state. A driver could drop off in another state, but not accept a new passenger. The technology involved was in place to create "geofences," so the TNCs could guarantee that drivers met the various state regulations.

Chair Anderson asked whether drivers could register in multiple states, and Mr. Thompson and Ms. Juarez said drivers could not.

Senator Settlemeyer cautioned that prohibiting certain transactions could be a violation of federal interstate commerce laws.

Chair Anderson said he would refer to legal counsel for expertise in the area. He called for further testimony in support of the bill.

John Doherty, Vice President and General Counsel, TechNet, said TechNet was a national advocacy organization for the technology industry and the innovation economy. Its client list included such companies as Google, Microsoft, Apple, and eBay. He said A.B. 175 (R2) was an appropriately balanced approach that included regulatory oversight, while allowing transformative companies to provide a great service throughout Nevada, and he respectfully requested that the Committee support the bill.

Stan Olsen, representing the Henderson Chamber of Commerce, said the Henderson area was underserved by the taxicab industry, and the Chamber stood in support of A.B. 175 (R2).

Chair Anderson called for testimony in opposition to the bill.

Brent Bell, President, Whittlesea Bell, and President, Livery Operators Association of Las Vegas, presented an April 2014 NBC Bay Area news clip ([Exhibit E](#)) highlighting some problems with TNCs. He said the taxi industry was not opposed to new technology or competition: it were opposed to lack of regulation and lack of policy discussion up to the present.

Mr. Bell said the taxi industry employed over 14,000 people with full-time jobs, health insurance, 401(k) plans, vacation pay, safe-driving bonuses, and workers' compensation. The industry paid all state and local government taxes: payroll tax, unemployment tax, and the modified business tax. Taxi companies conducted FBI fingerprint background checks and drug testing: preemployment, post-accident, and random.

Mr. Bell emphasized that the taxicab industry provided service to the disabled. He said A.B. 175 (R2) did not have a provision to require the TNCs to provide service to the disabled. He said it cost from \$18,000 to \$25,000 to convert a vehicle to be wheelchair capable. The industry had full-time liability insurance, and drivers underwent Department of Transportation (DOT) medical fitness tests. Fares and tariffs were regulated. Taxicab passengers were not asked to agree to terms that limited the driver's liability.

Mr. Bell said the TNC industry was asking for a completely new set of rules that lacked the basic public protections required of the taxicab industry. He said that the TNC industry resisted drug testing and FBI background checks, because it wanted to put as many cars on the road as fast as possible. He believed the introduction of TNCs to the Nevada market would erode the full-time, stable jobs that were provided by the taxicab industry, and he noted that Florida and Kansas had resisted TNC approval because of the lack of consumer protections. He believed that cash transactions would be a problem with drivers attempting to bypass the app and troll for cash business on the Strip.

Assemblywoman Titus asked whether taxicab drivers were required to have a commercial driver license (CDL) and what was involved in the DOT fitness tests that Mr. Bell had referenced.

Mr. Bell replied that taxicab drivers were not required to have CDLs. He said the DOT test was required of taxicab drivers every two years and included an eye test, basic bloodwork, and other tests to ensure an individual was physically fit to drive.

Mark E. Trafton, Vice President and General Counsel, Whittlesea Bell, said the two issues facing the Committee were public safety and fairness of competition. He maintained A.B. 175 (R2) was inadequate in the areas of insurance, drug testing, and FBI background checks. Public safety would be jeopardized if A.B. 175 (R2) was passed with no requirement for drug testing. The taxicab industry required preemployment drug testing, and 30 percent of applicants failed the drug test. Another 20 percent declined to take the test when it came due, and consequently did not become drivers. He believed these individuals would end up driving for TNCs.

Mr. Trafton said the taxicab industry had grown as an industry along with the governing regulations. He believed that none of the regulations should be relaxed and public safety compromised. He thought that saying the 3 percent excise tax created parity was untrue because there was not parity in regulations.

Mr. Trafton said there were serious gaps in the insurance coverage requirements in the bill. Over 55 percent of accidents in the taxicab industry occurred with no passenger in the vehicle. He believed a comparable percentage of accidents with a TNC vehicle would occur while the driver was logged on to the app but had not arranged a passenger, when the coverage requirement was only \$50,000. He believed the three-tier system of insurance coverage was a problem and the use of the phone app while driving would increase the likelihood of accidents. Current taxicab regulations required \$250,000 of insurance coverage at any time the wheels were rolling, and he believed A.B. 175 (R2) did not mandate adequate coverage for TNC vehicles.

Guy Hobbs, of Hobbs, Ong & Associates, Inc., shared a presentation commissioned by the Livery Operators Association of Las Vegas, entitled "Fiscal and Economic Impacts of the Entry of Transportation Network Companies Into the Clark County, Southern Nevada Market" ([Exhibit F](#)). Mr. Hobbs said the statewide combined revenue from taxicabs, limousines, scenic tours, and all other forms of transportation-for-hire was approximately \$624 million annually. If a 3 percent levy was applied, it would generate \$18.7 million dollars per year. He believed the presence of the TNCs would diminish the taxicab revenues significantly. According to estimates from the industry, the loss would be approximately 30 percent. To achieve the projected \$35 million in annual revenue, after factoring in the loss of revenue by the taxicab industry, the TNC industry would need to generate revenue of \$667 million per year. He said this meant the TNCs expected to double the current level of demand in the taxicab industry. He believed the revenue numbers put forth previously were unsupported.

Mr. Hobbs said there were fiscal and economic implications from the operation of TNCs in Nevada. If the 30 percent reduction to the taxicab industry were to occur, he estimated there would be a \$5.6 million negative effect on public revenues, such as McCarran International Airport fees, the modified business tax, and fees and charges assessed by the Nevada Taxicab Authority. He said the TNCs should have to demonstrate that the public revenue that would be generated by their presence in the market would at least equal the loss from a public revenue standpoint.

Mr. Hobbs said his firm estimated that the effect of the introduction of TNCs on total economic output in southern Nevada would be in excess of \$208 million in losses and nearly \$100 million in lost wages for 1,847 jobs lost. He believed that for TNCs to make a positive contribution to Nevada's economy, all the negative effects he had outlined would have to be mitigated and additional income realized.

Monica Pappas, Managing Partner, Fingerprinting Express, said that her company had processed millions of fingerprints. She said that national criminal database sites were not accurate or complete. Without the biometric fingerprint, companies could not be sure whose background they were checking, and sex offender records were not necessarily included in the criminal databases. She strongly urged the Committee to consider requiring FBI fingerprint background checks of TNC drivers.

Chair Anderson clarified that the fiscal projections discussed by Mr. Hobbs were not from the Legislative Counsel Bureau. The Legislative counsel Bureau had prepared some projections, but they had not yet been made public.

Assemblyman Armstrong asked why the taxicab industry assumed that 30 percent of its customers would prefer to use a TNC. He noted that testimony had supported the fact that a large percentage of TNC passengers would come from areas underserved by taxicabs.

Mr. Bell acknowledged that the taxicab industry had underserved the outlying areas in Las Vegas, and he hoped that it could improve service in those areas. The projection of a 30 percent loss was taken from studies conducted in Chicago and San Francisco when TNCs were introduced.

Assemblyman Sprinkle asked for details on taxicab oversight and the enforcement of regulations.

Mr. Bell said the taxicab industry in Nevada was the most heavily regulated in the country. The Taxicab Authority in Clark County mandated quarterly vehicle inspections, and drivers had to receive a Taxicab Authority permit, go through training, and take tests. Failure to comply with various regulations could result in fines for drivers or cab companies from the Taxicab Authority or the Nevada Transportation Authority. Vehicles that failed to pass inspection were put out of service until the problem was rectified. If there were problems with drivers, there was usually a hearing by the Taxicab Authority or the Nevada Transportation Authority to resolve the problem.

Assemblywoman Carlton expressed concern over the money lost out of workers' paychecks and asked Mr. Hobbs to explain the methodology that was used to arrive at the labor effects of the bill.

Mr. Hobbs said his firm looked at the current level of revenue generated by the taxicab industry. Estimating a 30 percent reduction in taxicab revenue equaled a loss of \$122.8 million, and using an input-output modeling program generated an additional \$29.6 million of indirect effect and an additional \$56 million of induced effect. The numbers equaled his previously mentioned \$208 million reduction in economic output.

Mr. Hobbs admitted that the presence of the TNCs in the market would generate some level of income, employment, and revenue to the state. In putting together the analysis, he had no verifiable data on what level of replacement income and economic output to expect from the TNCs.

Assemblywoman Carlton asked what an average compensation package for a taxicab driver in Las Vegas would be.

Mr. Bell said over 70 percent of the drivers in Las Vegas were unionized. Most drivers earned about 43 percent of the meter, and some had to pay for gas from that compensation. They were eligible for health insurance, 401(k) plans, and vacation pay. In his companies, accidents had been reduced by 25 percent after the introduction of an incentive: a safe-driving bonus program. Additionally, Nevada minimum wage was guaranteed. He said an experienced driver who worked hard could earn between \$40,000 and \$60,000 per year.

Assemblyman Hickey appreciated the fact that the taxicab industry recognized that a level-playing field was the right approach to TNCs. He did not appreciate the video that was presented, as he felt a similar video could also have been presented against the taxicab industry. He asked whether the 3 percent excise tax was based on the fare itself or calculated on the overall gross revenue of companies.

Mr. Hobbs said he used the overall gross revenue for existing transportation carriers that would be subject to the tax. He thought the better approach would be to use realistic expectations of what the TNCs would do in the market.

Assemblyman Edwards asked whether Mr. Bell would prefer to have less regulation to level the playing field, rather than insisting that TNCs have more regulation.

Mr. Bell said he was not frustrated with regulation because he believed the regulations worked and kept the public safe.

Assemblyman Armstrong said he was concerned that Mr. Hobbs' methodology assumed supply equaled demand, but in this case, it did not. He believed that led to skewed numbers.

Mr. Hobbs said the model he used was a static input/output model. He believed the 30 percent revenue encroachment was the most likely figure to be debated. It was based on taxicab revenue losses experienced in some other cities after the launch of TNCs, but he agreed the effect could be less, and that would affect all the other numbers derived from the revenue loss. He agreed that in the discussion of taxicabs, supply was insufficient for demand, but demand was an unknown value until the TNCs began operating.

Assemblyman Armstrong asked whether Mr. Hobbs was using the \$3 per-ride fee cabs paid currently.

Mr. Hobbs said he was using gross revenue, which included additional assessments paid out before arriving at net revenue.

Chuck Callaway, representing the Las Vegas Metropolitan Police Department (Metro), said the police were not opposed to TNCs but were concerned about the lack of regulations. He believed Metro would see an increase in calls for service. Currently in Las Vegas, if a dispute arose between a taxicab driver and a fare, the Taxicab Authority would respond and arbitrate. He thought that since the PUCN had no law enforcement arm to respond to TNC problems, dealing with the problems would fall to Metro. He echoed previous concerns regarding the lack of fingerprint background checks for TNC drivers.

Randy Soltero, representing the Nevada State AFL-CIO, said the union represented over 6,000 taxicab drivers in Nevada, who were professionals and subject to many regulations. He disagreed with the concept of allowing TNCs to have a negative effect on working families and believed the TNCs were transportation companies and must be subjected to the same regulations as the taxicab companies.

Gary Shapiro, President and CEO, Consumer Electronics Association, submitted a letter ([Exhibit G](#)) in support of legislation allowing transportation network companies to operate in Nevada.

T.J. Bingham, President, Elko Taxi Service, Inc., submitted a letter ([Exhibit H](#)) in opposition to A.B. 175 (R2).

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Chair Anderson closed the policy discussion on transportation network companies, and hearing no response to his request for public comment, he adjourned the meeting at 2:43 p.m.

RESPECTFULLY SUBMITTED:

Barbara Williams
Committee Secretary

APPROVED BY:

Assemblyman Paul Anderson, Chair

DATE: _____

EXHIBITS

Committee Name: Assembly Committee on Ways and Means

Date: May 12, 2015

Time of Meeting: 11:29 a.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
	C	Steve Thompson, General Manager, Uber Nevada	"Uber in Nevada"
	D	Veronica Juarez, Director of Government Relations, Lyft	"What is Lyft?"
	E	Brent Bell, President, Whittlesea Bell	Video clip of NBC Bay Area news story
	F	Guy Hobbs, Hobbs, Ong & Associates	"Fiscal and Economic Impacts of the Entry of Transportation Network Companies"
	G	Gary Shapiro, President and CEO, Consumer Electronics Association	Letter of Support for Transportation Network Companies
	H	T.J. Bingham, President, Elko Taxi Service, Inc.	Letter in Opposition to <u>A.B. 175</u>