

**MINUTES OF THE  
SENATE COMMITTEE ON COMMERCE, LABOR AND ENERGY**

**Seventy-Eighth Session  
February 20, 2015**

The Senate Committee on Commerce, Labor and Energy was called to order by Chair James A. Settelmeyer at 8:33 a.m. on Friday, February 20, 2015, in Room 2135 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to Room 4412 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

**COMMITTEE MEMBERS PRESENT:**

Senator James A. Settelmeyer, Chair  
Senator Patricia Farley, Vice Chair  
Senator Joe P. Hardy  
Senator Becky Harris  
Senator Mark A. Manendo  
Senator Kelvin Atkinson  
Senator Pat Spearman

**GUEST LEGISLATORS PRESENT:**

Senator Ben Kieckhefer, Senatorial District No. 16

**STAFF MEMBERS PRESENT:**

Marji Paslov Thomas, Policy Analyst  
Dan Yu, Counsel  
Christine Miner, Committee Secretary

**OTHERS PRESENT:**

Brian Reeder, The Associated General Contractors of America  
Alexia M. Emmermann, Insurance Counsel, Division of Insurance, Department of  
Business and Industry  
Randy Robison, CenturyLink  
Torry Somers, Counsel, CenturyLink  
Linda Stinar, CenturyLink

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Mike Eifert, Executive Director, Nevada Telecommunications Association  
Charlie Born, Frontier Communications  
Mark DiNunzio, Director, Regulatory Affairs, Cox Communications Inc.  
Steven Tackes, Charter Communications; XO Communications  
John Griffin, Sprint  
Sam McMullen, Southwest Cable Communications Association  
Helen Foley, T-Mobile; Delta Dental Insurance Company  
Samuel Crano, Assistant Staff Counsel, Public Utilities Commission of Nevada  
Anne-Marie Cuneo, Director of Regulatory Operations, Public Utilities  
Commission of Nevada  
Adam Plain, Nevada Dental Association

**Chair Settlemeyer:**

I will open the work session on Senate Bill (S.B.) 67.

**SENATE BILL 67**: Revises provisions governing the regulation of insurance.  
(BDR 57-371)

**Chair Settlemeyer:**

Mr. Reeder, we received two documents from you. One has the amount 10,000, and one has 100,000. Which number is correct for the work session documents on S.B. 67?

**Brian Reeder (The Associated General Contractors of America):**

Section 5, should read 10,000, not 100,000. I apologize for the error.

**Marji Paslov Thomas (Policy Analyst):**

I will read the summary of the bill and amendments proposed from the work session document (Exhibit C).

**Alexia Emmermann (Division of Insurance, Department of Business and Industry):**

Our conversation with Randy Johnson clarified the issue on how section 41 of the amendment affected the bill. We have clarification and accept the amendment.

**Senator Hardy:**

Did the clarification keep the current language or are you accepting the amendment?

**Ms. Emmermann:**

Subsections 4 and 5 of section 41 will remain in the amendment as proposed.

**Chair Settlemeyer:**

I will close the work session on S.B. 67. Senator Hardy will present the Floor Statement.

SENATOR HARDY MOVED TO AMEND AND DO PASS AS AMENDED  
S.B. 67.

SENATOR MANENDO SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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**Chair Settlemeyer:**

I will open the work session on S.B. 86.

**SENATE BILL 86:** Revises provisions governing pipeline and subsurface safety.  
(BDR 58-347)

**Ms. Paslov Thomas:**

I will read the summary of the bill and amendments proposed from the work session document ([Exhibit D](#)).

**Chair Settlemeyer:**

The discussion on S.B. 86 has focused on the negligence section. We have a separation between intentional actions and negligent actions. The Public Utilities Commission of Nevada (PUCN) can make that determination accordingly. The past penalty amounts were \$200 and \$1,000, which were not effective. The proposed penalty amounts are \$1,000 and \$50,000.

**Senator Hardy:**

Will the motion be in accepting the change in these amounts, though it is not written?

**Chair Settlemeyer:**

I will accept a motion undertaking either and accept the PUCN motion to clarify their bill.

I will close the work session on S.B. 86.

SENATOR HARDY MOVED TO AMEND AND DO PASS AS AMENDED  
S.B. 86.

SENATOR SPEARMAN SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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**Chair Settlemeyer:**

I will open the work session on S.B. 87.

**SENATE BILL 87**: Authorizes the Public Utilities Commission of Nevada to modify resource plans submitted by certain public utilities. (BDR 58-349)

**Ms. Paslov Thomas:**

I will read the summary of the bill and the amendment proposed from the work session document ([Exhibit E](#)).

**Chair Settlemeyer:**

Hearing no discussion, I will close the work session on S.B. 87. Senator Spearman will present the floor statement.

SENATOR HARRIS MOVED TO AMEND AND DO PASS AS AMENDED  
S.B. 87.

SENATOR SPEARMAN SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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**Chair Settlemeyer:**

I will open the hearing on S.B. 112.

**SENATE BILL 112**: Revises provisions relating to telecommunications.  
(BDR 58-636)

**Randy Robison (CenturyLink):**

I will introduce S.B. 112 and read from my written testimony ([Exhibit F](#)). This bill seeks to eliminate mandatory reporting requirements on certain telephone companies. The reporting requirements have become outdated and act as a competitive disadvantage to non-rural incumbent local exchange carriers (ILECs) in the current and evolving telecommunications industry. Current statute requires ILECs to file monthly reports of performance measures and pay penalties to Competitive Local Exchange Carriers (CLECs) if engaging in anti-competitive behavior and for failure to meet certain requirements. These reports are made available to the PUCN and any CLEC. These structures are known as the Performance Measurement Plan (PMP) and Performance Incentive Plan (PIP) and are reviewed every 3 years. These requirements are in statute and cannot be removed by the PUCN. This bill proposes to eliminate the PMP and PIP requirements. The existing expedited complaint provision will remain in statute.

[Exhibit F](#) details the background of the statute enacted by the 1999 Nevada Legislature. Today, the goals of the PMP and PIP have been achieved. Only ILECs are still subject to the outdated mandate and expense of this model. Few CLECs access the monthly report and most have not requested an authorization code to do so. Most disputes are resolved between the carriers themselves because the goals for competition have been achieved.

The PMP and PIP now act as disadvantage and anticompetitive factors in Nevada's telecommunications industry. Senate Bill 112 proposes to update the statute in order to reduce the resources needed to comply, and allow for a better competitive environment in the telecommunications industry.

**Senator Harris:**

What expenses are incurred for the preparation of the required reports?

**Mr. Robison:**

The costs include information technology, programming, software and labor resources to collect data.

**Senator Harris:**

Can you give me an estimate of the actual costs?

**Mr. Robison:**

The costs are roughly \$1 million annually.

**Senator Hardy:**

Who are the ILECs in the current market?

**Torry Somers (Counsel, CenturyLink):**

The ILECs are determined statutorily; AT&T, CenturyLink and Frontier are ILECs in Nevada. We are now called "competitive suppliers"; that was changed several years ago by the Legislature. Some of these competitive suppliers are ILECs and some are CLECs.

**Senator Hardy:**

Are all ILECs wire, cable or wireless?

**Mr. Somers:**

The ILECs in Nevada are CenturyLink, AT&T and Frontier. Other providers who are competitive suppliers are CLECs.

**Senator Hardy:**

Do ILECs wholesale to CLECs, and are some ILECs cable companies?

**Mr. Somers:**

Cox Communications, Inc. and Charter Communications are CLECs.

**Senator Hardy:**

Is there an ILEC that is a cable company?

**Mr. Somers:**

No cable companies in Nevada are ILECs. The ILECs in this State are CenturyLink, AT&T and Frontier.

**Senator Hardy:**

Do these companies share their wires?

**Mr. Somers:**

Yes.

**Senator Spearman:**

The term "incumbent" means current or present. Would the ILECs be considered those companies that were in existence in 1999 when the law originated, or would that definition carry over to a subsequent company with the same business model, the name being the only difference?

**Linda Stinar (CenturyLink):**

The ILECs were designated. Those were the local telephone companies that were in existence before the breakup of the Bell System mandated in 1982. They were labeled ILECs. Today, we have other facilities-based competitors in the marketplace, such as Cox and Charter in the cable sector, and other CLECs that have facilities in the ground that also wholesale their services to other competitors. XO Communications is one of these. CenturyLink is not the only wire line company that wholesales its services.

**Senator Spearman:**

Mr. Robison mentioned costs of \$1 million annually to generate the performance reports. What is the process of a company securing a login number to access the reports?

**Ms. Stinar:**

We have 36 carriers that are purchasing network elements from CenturyLink. All of those customers have access to the online reporting system. They request a password-protected access code to view the comparative data of CenturyLink's performance. In 2012, the PUCN approved a change that allowed CenturyLink to request that carriers opt in to participate in the plan, and only 6 of the 36 are participating.

**Senator Spearman:**

Does a company need to request an access code each time it wants to access the report?

**Ms. Stinar:**

The access code is a one-time provision. It remains the same over the years. The data can be accessed any time and as often as desired.

**Senator Spearman:**

Does the access code keep track of how often the system is used?

**Ms. Stinar:**

Yes.

**Chair Settlemeyer:**

Please send a report to the Committee on how many companies have accessed the report over the last 2 to 3 years.

**Mr. Robison:**

Of the six companies that have accessed the report anytime in the last 3 years, one accesses the report once a month, one accessed it 4 days in 2012, and three companies accessed it for 1 day in 2013.

**Senator Farley:**

Can the CLEC issues be resolved by the PUCN?

**Mr. Robison:**

CenturyLink believes the PUCN can resolve any issues that may arise. The CLECs should confirm this.

**Senator Farley:**

Do the majority of CLECs agree that resolving issues through the PUCN would yield an effective result?

**Chair Settlemeyer:**

It would be better to have these companies give their opinion in their testimonies.

**Senator Hardy:**

How many penalties have been paid through the expedited process, or through another process, of those companies who access the system?

**Ms. Stinar:**

Since July 2013, CenturyLink has paid zero incentives to any CLEC.

**Senator Harris:**

Has only one carrier accessed the report in 2014?



**Ms. Stinar:**

Yes, one carrier accessed the report in 2014.

**Mr. Somers:**

My testimony provides the legal implications of S.B. 112, what it is intended to do and what it is not doing. This bill is intended to eliminate the measurements and self-executing penalties addressed in *Nevada Revised Statute* (NRS) 704.6881 and the corresponding PUCN regulations. This bill is not intended to change anything other than eliminate the PMPs and PIPs that only a few competitive suppliers in the State are bound by, and whose purpose is no longer valid. The purpose of the statute is to encourage competition and discourage discrimination in the provision of local telecommunication service. The telecommunications market is open to competition. Senate Bill 112 does not change any statutory provisions that provide certain protections. It does not change the requirements of the federal Telecommunications Act of 1996 dealing with interconnection. These agreements will continue to be in place to govern the relationships between ILECs and CLECs, and be subject to jurisdiction and review. Senate Bill 112 does not alter the NRS 704.6887 provision that an ILEC not engage in any anticompetitive act or practice or unlawfully discriminate against similarly situated customers. If a CLEC believes that an ILEC is discriminating against it, or violating their interconnection agreement, the CLEC will continue to have all the protections of NRS 704.6882 and the related PUCN regulations that establish expedited procedures for the provider versus provider. Answers to expedited complaints are due within 7 calendar days after the day it is filed. Senate Bill 112 does not change this. Parties to an expedited complaint proceeding must participate in a mediation no later than 30 days after the date it is filed. Parties can immediately pursue discovery, and time frames are shorter than other Commission discovery rules. If a complaint is not resolved in mediation, a hearing must be conducted within 45 days after the report is filed. A party that files a complaint under the complaint process can immediately seek interim relief from the Commission. These provisions are not changing.

CenturyLink competitors who oppose S.B. 112 are misguided in their insistence the PMPs and PIPs are still needed to protect CLECs. Several statutes, regulations and other mechanisms remain in place to protect CLECs. Forcing only certain competitive suppliers to maintain PMPs and PIPs creates a mechanism that forces some providers to spend significant amounts of money to maintain unnecessary and outdated measurements and incentive plans, when

those resources could be used to expand services and provide a more level field of competition.

**Mike Eifert (Executive Director, Nevada Telecommunications Association):**

The Nevada Telecommunications Association (NTA) supports S.B. 112. The statute had its benefits at the outset. Today's competition is such that some of the provisions of the statute are no longer useful. The complaint resolution process is firmly in place and any issues can be worked out between the CLECs and ILECs.

**Charlie Born (Frontier Communications):**

Frontier Communications supports S.B. 112. We are an ILEC and a competitive supplier. We assumed the requirement when we purchased the Verizon properties in 2010. We have been monitoring the report. We do not have a history of complaints from our competitors. The reporting requirement of NRS 704.6881 has outlived its usefulness. We support having the complaint process be kept in the statute.

**Senator Harris:**

What does your company spend to comply with the reporting provisions of the statute?

**Mr. Born:**

The information is not available at the moment. Frontier goes through the same reporting process as other ILECs with software use, the internal tracking process and results, maintaining the database and preparing the report.

**Senator Harris:**

How many parties access your reports?

**Mr. Born:**

Twenty parties access our reports. We have not paid any violations.

**Chair Settlemeyer:**

Please submit the spending figures to me for the Committee.

**Mark DiNunzio (Director, Regulatory Affairs, Cox Communications, Inc.):**

Cox Communications is a CLEC in Nevada and opposes S.B. 112. The Legislature has directed the PUCN to establish standards of performance and to

encourage competition and discourage discrimination of telecommunication services. Senate Bill 112 strips away the authority and ability of the Commission to protect competition and consumers from the failure of an ILEC to meet established performance standards. Cox considers the best venue for modifications to reporting standards, or the removal of any specific performance standard, is best made with the PUCN before a hearing, where all parties have an opportunity to be represented. These performance measures help gauge that the ILECs are providing the CLECs with the same discriminatory standard that they provide to themselves. The PUCN needs the tools necessary to see the problems and address them. Competition is working and it should continue for the benefit of the consumers and carriers. This oversight should not be eliminated.

**Chair Settlemeyer:**

I agree this should be regulated. Can the PUCN make regulation changes?

**Mr. DiNunzio:**

The PUCN sets the standards and the penalties. This bill takes away the PUCN's authority to set standards and issue penalties.

**Chair Settlemeyer:**

You indicated this belongs with the PUCN. Do we leave the statute as is and change the word "shall" to "may"? This would allow the PUCN be the arbitrator rather than have these discussions. What is your opinion of that?

**Mr. DiNunzio:**

The Commission is the authority that should determine that. The word "shall" is more important to us than "may." I advocate keeping the language in place.

**Senator Hardy:**

Is Cox Communications willing to pay part of the costs of the reporting company to keep the statute in place?

**Mr. DiNunzio:**

The majority of the costs associated with the reporting standards were incurred years ago, and the costs of these standards are now minimal. The standards are important to the competitive carriers to ensure they do not incur penalties. It is an obligation placed on the incumbent carriers to ensure the competitive carriers and other providers competing in the market receive fair competition.

**Senator Hardy:**

Are you saying yes, or no, to sharing the costs of the reporting?

**Mr. DiNunzio:**

The minimum cost would not be applicable to the CLECs.

**Senator Spearman:**

To what performance standards are you referring?

**Mr. DiNunzio:**

There are a number of performance standards that the incumbents need to comply with as set forth by the PUCN. They are preordering activity, ordering activity, provisioning to install services, maintenance, network performance, billing, collocation, updates to databases for directory listings and assistance, 911 services and interfaces so CLECs and ILECs can communicate. These are standards the incumbents must meet or be penalized.

**Senator Spearman:**

Is it possible to get that information from the PUCN? How does the expedited process now work?

**Mr. DiNunzio:**

If there is a problem or complaint filed by a competitive carrier, it is filed with the PUCN. The Commission takes the steps to resolve the complaint. Cox is concerned that if the reporting provision is eliminated, there will be no follow up on the accuracy and timeliness of the customer information.

**Senator Farley:**

Can issues be resolved if there are alternatives to the reporting requirement? If parties are not accessing the report, then it is not being used. What is the potential loss of not having the report, and are there other ways to resolve issues without it? Is the process working with the PUCN in place to resolve issues?

**Mr. DiNunzio:**

The performance measures are in place to provide the PUCN the tools to address any problems. With these tools in place, the problems have been minimal. The metric is in place and fines are not being charged.

**Senator Farley:**

Is Cox Communications a customer of CenturyLink?

**Mr. DiNunzio:**

We are a separate competitive provider to our customers. We interface with CenturyLink for interconnections, directory listings and as a wholesale customer, not a direct customer.

**Steve Tackes (Charter Communications; XO Communications):**

Charter Communications and XO Communications oppose S.B. 112. The suggestion by the Chair to change the word "shall" to "may" is intriguing, and I will relay this to Charter and XO Communications. The PUCN decides which measures are needed and how they are applied. The first set of performance measures was put in place in 2001. The Commission has reduced those substantially. There were originally 45 measures and subcategories, now there are less than 30. Some elements are truly competitive.

Performance measures are the metric for how the ILECs provide service to their retail customer compared with the service they provide to the wholesale customer. The CLEC is a customer of the ILEC. The ILEC would prefer not dealing with the CLEC at all, just the retail customer. The CLEC has a special product the retail customer wants. The CLEC needs a certain component of the ILEC's network to complete a service to a customer. It may be the last mile that connects the central office to a business or home. It might be that piece that interconnects their network with the ILEC network. There are end-use features that are important like the 911 network. The CLEC relays that information to the ILEC. If the information is not processed properly, there could be a problem for the retail customer. If the ILEC offers the customer of the CLEC a better product, then the customer may not buy service from the CLEC. Some service is only available from the ILEC, no other sources. The CLEC has to use some of the interconnecting service of the ILEC to do business. Law requires the ILEC make those links available to the CLEC at reasonable prices and terms. The PUCN sets the price, unbundled network element pricing, for those services unavailable from another company. The performance measures are part of the terms and conditions the PUCN sets. The measures compare the ILEC retail customer service with their service to the CLEC. Everyone should get the same fair treatment. This is the function of the performance measures. One of the measurements is the time efficiency of a service call.

The ILECs are the phone companies that have been doing business for many years. At one time, there was only one telephone company. The phone customer built those lines. It is only fair that a new company wanting to use these lines be allowed to do so.

The repeal of these measures, as proposed in S.B. 112, removes the mechanism that establishes standards that encourage competition and discourage discrimination. The 3-year filing to the PUCN is in place and this is working for AT&T. CenturyLink is asking these measures be eliminated. This is harmful to our business.

**Senator Harris:**

How many times do Charter and XO Communications access the CenturyLink measurement report?

**Mr. Tackes:**

This information from the report is highly competitive. The number of times the report is accessed is not important. It may only be accessed if there is a problem. This means the system is working. The ILECs have done a good job on the reporting and on their performance. They only occasionally pay penalties. I personally do not have an access code.

**Senator Harris:**

Please follow up with your client and provide that information to the Committee.

**Mr. Tackes:**

Yes, I will on behalf of Charter and XO Communications.

**Senator Spearman:**

I would like to know from any of the companies represented here, if they access these reports and how often. The cost of \$1 million to produce the report that only six companies access is significant. If the report is only accessed when a problem arises, then why would the expedited process not work?

**Mr. Tackes:**

The testimony by CenturyLink referred to six companies in their territory. AT&T operates in the northern part of Nevada and I do not know how often they access the reports. Charter would not be accessing CenturyLink because Charter serves a different area. The complaint process is used for high levels of

complaint and is akin to filing a lawsuit. Many of the resolutions are done between the carriers. When the issue cannot be resolved in this manner, the complaint process to the PUCN is used.

**Senator Spearman:**

I understand this. Why does the expedited process, as explained, not work in these situations where a problem occurs? The report is rarely accessed by the CLEC, yet it is claimed to be so important. A complaint is filed when the report is accessed and a problem is identified. Based upon your answer, are you saying that if a report is viewed and a problem is detected, it is evaluated as to whether a complaint should be filed because it is akin to filing a lawsuit?

**Mr. Tackes:**

Yes, the complaint process would still work, but on what basis would there be a complaint? By eliminating the performance measures, there is no regulatory data to reveal a problem.

**Chair Settlemeyer:**

My past experience with the PUCN shows it is not averse to making regulations. We will approach this subject with its representatives during their testimony.

**John Griffin (Sprint):**

I do not know if Sprint accesses this report. I will provide the Committee with this information. Accessing the report is not the issue. The elimination of the performance standards is the issue. The fact there have been few penalties imposed does not prove the provision is obsolete. It proves the opposite. It proves the performance standards and the system is working. It is notable that AT&T, the other major ILEC in the State, is not testifying in support of S.B. 112. I would submit that removing the standards is akin to eliminating the speed limit and assuming everyone will conduct themselves appropriately on the roads.

**Senator Farley:**

Are the performance measures, or just the report, proposed to be eliminated by this bill?

**Mr. Griffin:**

Repealing NRS 704.6881 eliminates the report as well as the requirement to “establish standards of performance.”

**Chair Settlemeyer:**

It is up to this Committee to decide the changes that will be made.

**Senator Harris:**

There is a lot of data being collected, which may or may not be accessed. We are concerned about performance standards. There is a reason the standards are in place. Are those standards something that could be put into a contract as opposed to having them in the statute?

**Mr. Tackes:**

Yes, sometimes it works to put the standards in the contract. Some contracts will not work this way. Ms. Stinar, with CenturyLink, testified an offer is made to their competitive carriers to include the performance measures in the contract. The six companies she referred to access the performance measures from the report and the others through their interconnection agreements.

**Senator Harris:**

Is there a problem contracting for the standards as opposed to having them in statute? If contracting for the interconnection agreements is available, why does this need to be in statute?

**Mr. Tackes:**

Some of the smaller competitors are comfortable contracting for the standards. Their usage of the network is not as large or critical as some of the larger companies. Charter and XO Communications would not be comfortable doing this in an interconnection contract. Knowing the standards are in place and the PUCN monitors them is important to these two companies.

**Sam McMullen (Southwest Cable Communications Association):**

The deregulation battles and the breakup of AT&T initiated legislation to ensure a fair system. The phone service system was built by the citizens of this State. Many of the costs are handled between the arrangements of the competitors. The standards are the key part of this statute. The report is secondary. A company accessing their own performance in the system knows if there is a problem. The CLECs know what the standards are and how the system works.



It is complicated and takes the expertise of the PUCN. The data from the standards is necessary for enforcement. Whether the word "shall" is changed to "may" would not change the functions of the PUCN.

**Chair Settlemeyer:**

The ILECs were considered the bullies 15 years ago. Now, they are no longer the 70 percent owners of the businesses, the CLECs are. Do you agree that the climate has changed and other things should be changed as well?

**Mr. McMullen:**

Yes. For that reason, the work was done 15 years ago establishing the standards and regulations currently in place. The ILECs are customers and they are competitors. This system is working and this system prevents the reemergence of the past issues. The resulting protections and customer service standards affect your constituents.

**Senator Farley:**

Are the performance standards being eliminated in this bill? Are there parts of the statute that will continue and allow your client resolution if an issue is uncovered? The stated costs of maintaining these resulting reports are the issue.

**Mr. McMullen:**

My opinion is that this bill will evaporate the whole regulatory system that leads to a report. The costs were imposed years ago to establish the system. I would think the computerized system prevents more costs.

**Senator Harris:**

It is my understanding that the data is being collected and the performance standards are part of that data. Accessing this data is not important; the value is in the standards required by the data. To revisit Senator Hardy's question, if this data and the performance standards are so intertwined and so important to the competitors, are the CLECs willing to share in those costs?

**Mr. McMullen:**

There was never a mandate that these had to be put in for free. The ILEC burden was priced into the costs of the provisions at some fraction of a penny per transaction—and there are millions of transactions. It is my understanding the cost sharing is already happening, but I do not know the answer. That

\$1 million mentioned may have been the original cost to set up the system. It would be much less now. Hard data would show the actual costs.

**Helen Foley (T-Mobile):**

T-Mobile is part of the Commercial Mobile Radio Service (CMRS). Every call that takes place on a wireless phone for a T-Mobile customer to an outside carrier has to be connected through the ILEC. The PUCN developed and established the standards that S.B. 112 seeks to eliminate. T-Mobile wants the PUCN to continue to have a strong role and the authority to modify and enforce these standards.

**Samuel Crano (Assistant Staff Counsel, Public Utilities Commission of Nevada):**

The PUCN is neutral on S.B. 112. In 1999, when this statute came into effect, it served a great need. Most of that need has been fulfilled. With the advances in technology billable to CLECs, they are no longer the fully captive customers and competitors of the ILECs. The ILECs would rather have business from the customers of CLECs, than no business at all. If an ILEC chose to slow down the service for a CLEC customer, that customer could choose to go to a non-CLEC competitor. The complaint process is still in place. The PUCN will follow whatever guidelines the Legislature chooses to initiate.

**Anne-Marie Cuneo (Director of Regulatory Operations, Public Utilities Commission of Nevada):**

I have a list of performance metrics available.

**Senator Farley:**

Are the CLECs left without protection if S.B. 112 were to be passed as proposed?

**Ms. Cuneo:**

If the language eliminates the need for the performance, needs for the report, the PUCN cannot expect to get the report. The data collection must still occur because if there was a complaint brought to the PUCN, there must be data to evaluate both sides of the complaint. The data still has to be kept, but not actively submitted and would not have any standards outside those that are required with the interconnection agreement.

**Mr. Crano:**

In NRS 704.6884, the ILECs are required to comply with state and federal consumer and antitrust protections. The interconnection agreements between the ILECs and the CLECs are brought to the Commission for approval and are approved by Commission order. If an ILEC were to violate the agreement, that would be a violation of the agreement and the Commission order.

**Chair Settlemeyer:**

If the report requirement was eliminated, are there still enough protections in place for the consumers, and would the PUCN be able to monitor abusive companies?

**Ms. Cuneo:**

I think we have enough in our arsenal to address any disagreements between the telecom companies with respect to performance.

**Senator Hardy:**

If S.B. 112 was adopted as proposed, but language was added saying any standards currently in place would remain. Would that be an agreeable solution?

**Mr. Crano:**

Changing of the word "shall" to "may" is an easier fix and allows us to have rule-making capabilities. The standards themselves are not adopted in the regulations, but adopted in each company's performance measurement plan, which is filed with us every 3 years. Those are adopted for a 3-year period, in anticipation that they will bring back the next plan, but there might be some expiration included.

**Senator Hardy:**

Is there a legal way to say "and we do not expect nor countenance any backsliding"?

**Mr. Crano:**

I would have to think about the language, but it could be said.

**Senator Harris:**

Is it within your purview to mandate performance standards in interconnection agreements?

**Mr. Crano:**

The interconnection agreements are industry standard and worked out by trade groups. The Commission approves all ILEC interconnection agreements. The agreement becomes part of the Commission order giving it authority to enforce the agreement.

**Senator Harris:**

Can the PUCN approve, but not mandate the agreements?

**Ms. Cuneo:**

We do not have that information available. We will supply it to the Committee.

**Senator Spearman:**

The performance standards are worked out by the trade groups. Do all telecommunications companies participate in establishing the standards?

**Mr. Crano:**

The ILECs have to file their performance measurement plan every 3 years with the Commission. Those are publically noticed and notices are sent to every telecommunication company in the State. These companies have an opportunity to petition to intervene and ask for measures to be changed or deleted. They would be allowed to negotiate during the case. Commission staff is a party to each case and participates in every docket.

**Senator Spearman:**

Are the performance standards part of the interconnection agreements? Would all companies have access to any changes, additions or deletions that were requested to be enacted prior to a decision?

**Mr. Crano:**

Yes, it is public information.

**Mr. Robison:**

You have heard a clear distinction of the issues and differences of opinion. The data is still available per the PUCN. The standards were put in place to encourage competition and discourage discriminatory activity, and it has worked.

**Senator Harris:**

Is the expense incurred in the data collection or in the report preparation?

**Ms. Stinar:**

The costs include collection of data and staff needed to oversee the reporting.

**Chair Settlemeyer:**

Please provide the information to me for the Committee.

**Senator Spearman:**

It appears that the issue is based on the performance standards and not the reporting requirement. Would you be amenable to an amendment stating that the performance standards remain and allow the PUCN authority and rule-making ability to ensure the requirements are written in statute?

**Mr. Somers:**

The Commission has mechanisms in place to deal with discrimination. The recommendation on a possible amendment would not eliminate the cost to maintain and monitor the plans. There are statutes to deal with discrimination. The data still exists. A company claiming discrimination to the Commission can seek discovery, expedited discovery, data information and ask for a swift decision from the Commission. They could seek interim relief on a very short basis.

**Chair Settlemeyer:**

My office is available for the ILEC and the CLEC companies to meet and resolve the issues to the satisfaction of both. The alternative is for this Committee to make those decisions. I will close the hearing on S.B. 112. I will open the hearing on S.B. 159.

**SENATE BILL 159**: Revises provisions relating to insurance. (BDR 57-829)

**Senator Harris:**

I disclose that my husband is a dentist and this bill is in reference to dentists. I have checked with legislative counsel and have determined that I do not have a conflict of interest with respect to S.B. 159 under Senate Standing Rule No. 23. This bill does not affect my husband any differently than any other dentist in Nevada. Under this rule, I will be participating in discussion on the bill.

**Senator Ben Kieckhefer (Senatorial District No. 16):**

Senate Bill 159 was brought to me by the dental community in its effort to create a peer-review process within existing statute over independent evaluation of disputes on insurance claims. Physicians and chiropractors have the same process that the dentists are seeking.

**Adam Plain (Nevada Dental Association):**

The aim of S.B. 159 is to make the lives of Nevadans easier by ensuring only trained professionals perform the final evaluations of their dental insurance claims. Consumers, insurers and doctors do not always agree on the best course of treatment for a patient. We have legal and contractual protections that permit multiple levels of review before a claim is ultimately accepted or denied. One level of review can go by multiple names—external review, independent examination or peer review, and all may include the same thing. An independent licensed or trained professional reviewing the information can make an informed decision. This valuable consumer protection, the ability to have a third-party opinion in a dispute, only exists in statute for medical and chiropractic benefits. There is no consumer protection for dental benefits. Insurers can voluntarily provide this by contract; not all do this, and the statutory requirement will prevent an insurer from ceasing to offer the benefit as a business decision. Senate Bill 159 adds the word “dentist” or “dental” to existing consumer protection statutes to guarantee that Nevadans have access to an informed professional opinion on the final determination of their dental claims.

**Senator Hardy:**

Was including oral surgeons or podiatrists considered in the writing of the bill?

**Mr. Plain:**

The way the sections of the statute are now written, the generic term “medical” is used, which encompasses many specialties including podiatry. Oral surgery or maxillofacial surgery performed pursuant to Nevada’s dental statutes would not fit the definition of medical. The term “dentist” or “dental” added to the statute would include this surgery because it is a subset of those terms.

**Senator Hardy:**

Are oral surgery and podiatry encompassed in this bill?

**Mr. Plain:**

Yes.

**Helen Foley (Delta Dental Insurance Company):**

Delta Dental is in opposition to S.B. 159. Dental insurance plans are different from medical plans. Adjudication of a medical claim is often predicated on showing medical necessity, a clinical determination required by someone with medical training to review the records, symptoms, X-rays and other matters. Dental claims are not determined on medical necessity, but on basic contractual policy agreed to by the purchaser and issued in the insurance contract by the payer. There are strict limitations and exclusions in place that have no relevance to whether or not a service is medically necessary. Services are either inside or outside the scope of the plan benefits design. There is limitation on what claims a dental insurance will pay. Delta would agree to discuss the differences in medical and dental insurances with the Dental Association.

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**Chair Settlemeyer:**

Delta and the Dental Association can debate this issue. Hearing no further discussion, I will close the hearing on S.B. 159. I adjourn this meeting at 10:21 a.m.

RESPECTFULLY SUBMITTED:

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Christine Miner,  
Committee Secretary

APPROVED BY:

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Senator James A. Settlemeyer, Chair

DATE: \_\_\_\_\_



EXHIBIT SUMMARY				
Bill	Exhibit		Witness or Agency	Description
	A	1		Agenda
	B	6		Attendance Roster
S.B. 67	C	25	Marji Paslov Thomas	Work session Document
S.B. 86	D	10	Marji Paslov Thomas	Work session Document
S.B. 87	E	2	Marji Paslov Thomas	Work session Document
S.B. 112	F	3	Randy Robison	Written Testimony