

**MINUTES OF THE
SENATE COMMITTEE ON TRANSPORTATION**

**Seventy-Eighth Session
April 7, 2015**

The Senate Committee on Transportation was called to order by Chair Scott Hammond at 8:08 a.m. on Tuesday, April 7, 2015, in Room 2135 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to Room 4412E 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 Scott Hammond, Chair
Senator Don Gustavson, Vice Chair
Senator Patricia Farley
Senator Mark A. Manendo
Senator Moises (Mo) Denis

GUEST LEGISLATORS PRESENT:

Senator Michael Roberson, Senatorial District No. 20

STAFF MEMBERS PRESENT:

Megan Comlossy, Policy Analyst
Darcy Johnson, Counsel
Tammy Lubich, Committee Secretary

OTHERS PRESENT:

Rudy Malfabon, P.E., Director, Nevada Department of Transportation
Sean Sever, Communications Director, Communications Division, Nevada
Department of Transportation
Kelly Martinez, City of Las Vegas
David Gaskin, P.E., Deputy Administrator, Administrative Services and Water
Programs, Division of Environmental Protection, State Department of
Conservation and Natural Resources

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John Madole, Executive Director, Nevada Chapter of the Associated General Contractors of America, Inc.

Gerard Mager

Illona Mager

Laurel Stadler, Northern Nevada DUI Task Force

Vicki Higgins, Wellness Education Cannabis Advocates of Nevada

Cindy Brown

Mona Lisa Samuelson

Will Adler, Executive Director, Nevada Medical Marijuana Association

Sean McDonald, Administrator, Division of Central Services and Records,
Department of Motor Vehicles

Ann Yukish-Lee, C.P.M., Services Manager, Division of Central Services and
Records, Department of Motor Vehicles

Jude Hurin, DMV Services Manager, Division of Management Services and
Programs, Department of Motor Vehicles

Scott Scherer, Counsel, XpressWest

Andrew Mack, Chief Operating Officer, XpressWest

Greg Gilbert, XpressWest

John Fudenberg, D-ABMDI, Assistant Coroner, Office of the Coroner/Medical
Examiner, Clark County

Chair Hammond:

We will begin the hearing on Senate Bill (S.B.) 324.

SENATE BILL 324: Revises provisions concerning the Department of
Transportation. (BDR 35-23)

Rudy Malfabon, P.E. (Director, Nevada Department of Transportation):

I would like to start with a brief video that explains the storm water program
([Exhibit C](#)).

The Federal Water Pollution Control Act (Clean Water Act) establishes a basic structure for regulating pollutants into the waters of the United States and regulates quality standards for surface waters. The Clean Water Act was enacted in 1948, expanded in 1972 and has since gone through several amendments in establishing the National Pollutant Discharge Elimination System permit program (NPDES). The Nevada Department of Transportation (NDOT) has to obtain a Municipal Separate Storm Sewer Systems (MS4) permit from the NPDES to allow for discharge of any storm water outside of the State's

rights-of-way. This permit was issued by the authority of the United States Environmental Protection Agency (EPA) to NDOT in 2004, and subsequently renewed in 2010 with oversight authority delegated to the Division of Environmental Protection (NDEP).

One of the requirements of the MS4 permit is the development and implementation of a Storm Water Management Program (SWMP). This includes several key program elements, including an Illicit Discharge Detection and Elimination program (IDDE) as shown in [Exhibit C](#) and the creation and enforcement of certain best management practices (BMP) that must be enforced with respect to construction projects, maintenance facilities, drains, culverts and other assets managed by NDOT.

The SWMP is essentially an overview of the problematic BMP that the NDOT has or plans to have in place to reduce pollutant discharges associated with storm water runoff onto all of NDOT's rights-of-way. The MS4 permit authorized the discharge of storm water runoff from the NDOT's rights-of-way statewide, provided the plan is developed and implemented according to the federal regulations.

The MS4 permit explicitly states what is and what is not permitted to be discharged from the NDOT rights-of-way. The IDDE is a very important part of the plan. Unauthorized discharges into NDOT's storm sewer systems that are not authorized by the MS4 permit are illicit and NDOT is responsible for eliminating these.

In the event NDOT does not investigate and eliminate such illicit discharges, NDOT can be held liable and fined. The EPA Website states that MS4 permittees must develop and implement effective programs to prohibit illicit discharges from entering the rights-of-way. The prohibition of illicit discharges should be linked to a legal authority to ensure proper enforcement.

The NDOT's ability to prohibit and regulate discharges within NDOT rights-of-way is limited by statute. Pursuant to the terms of the MS4 permit, the responsibility of developing sufficient legal authority falls to the MS4 permittees.

Municipalities do not face the same legal constraints as does NDOT; they are able to develop ordinances and other illicit discharge enforcement methods more readily. This results in more robust IDDE-related programs. The change in

statute requested in S.B. 324 would grant NDOT the immediate authority to regulate and control discharges from outside entities including businesses, the general public, contractors and governmental and municipal agencies. This would be the first step in NDOT's goal to be fully compliant with the IDDE program to protect our State's water quality. Without sufficient legal authority, the NDOT is unable to implement the IDDE program effectively. The EPA could consider the NDOT as noncompliant with the MS4 permit.

The NDOT is also seeking the addition of one new deputy director position to provide executive oversight for our expanding environmental responsibilities, programs and the SWMP. The new position will provide NDOT with the necessary authority to carry out its obligations with the MS4 permit. The SWMP and the federal regulations are far-reaching and affect virtually every construction contract, maintenance facility, NDOT asset, drain, ditch and culvert in the State. This includes all permits that are issued by the NDOT that affect the highways, roads and rights-of-way.

Implementation of each aspect of the SWMP will not only include new programs and expansions of existing programs, but will include implementing a new reporting system to the EPA, expanded training programs and duties for ensuring compliance from contractors and permit holders. This will ensure the NDOT will be in full compliance with EPA and NDEP.

These additional environmental responsibilities cannot be effectively managed by our current structure. The new deputy director will be responsible for managing and overseeing all environmental programs, the State's SWMP, as well as program development, administration and ensuring ongoing federal regulatory compliance. The NDOT intends to create a dedicated storm water division to ensure it will achieve full compliance with the NPDES requirements.

Chair Hammond:

For the Committee's understanding, there is a paper copy of a draft amendment ([Exhibit D](#)) to S.B. 324. If more than 50 percent of the bill is to be replaced, please go through the amendment for the Committee. Is this a dual enforcement between the NDOT and the NDEP, or will the enforcement be transferred to the NDOT?

Mr. Malfabon:

In the amendment, [Exhibit D](#), the green text will replace the original text of S.B. 324, which had the NDOT developing regulations. Based on experience with other regulations that have been adopted, making regulations could take a couple of years. In order to be timely, the NDOT needs to go forward with the amendment, which would place enforcement requirements in statute.

The proposed amendment to S.B. 324 also defines discharge, adds “unpermitted” or “illegal discharge” under the encroachment definition and defines a municipal separate storm sewer system.

In *Nevada Revised Statute* (NRS) 408.175, a new deputy director would be appointed. Deputy Director Bill Hoffman has been responsible for starting this program and I can attest that due to the responsibilities, a full-time deputy director is required to be over all the NDOT environmental programs. There is just too much responsibility for one deputy director to handle.

In NRS 408.423, the terms “discharge” and “entry and inspection of premises” have been added. The NDOT needs the authority to go on adjacent properties to find where an illicit discharge originates. An example would be oily water that is entering a right-of-way. The NDOT could follow it back to the source and take immediate action to stop the discharge.

Chair Hammond:

Please take us through the procedure of how the NDOT and the EPA handle a situation with illicit discharge at this time. This will help the Committee understand why the NDOT feels S.B. 324 is necessary.

Mr. Malfabon:

If for example, the NDOT personnel discovered polluted water entering an NDOT right-of-way, they would try to determine where it originated. If they found a car wash facility’s drains plugged and discharge was coming onto the right-of-way, an NDOT official would contact the owner or manager of the car wash. However, the NDOT does not have any enforcement authority to stop them.

Chair Hammond:

When you contacted the owner or operator of the car wash, what would be a typical response?

Mr. Malfabon:

The response could be that the NDOT has no authority to stop them, or they could ignore our request and the pollution would continue to go onto the NDOT right-of-way. The NDOT would then go to the NDEP to ask for assistance because it has enforcement authority. This would take more time.

Chair Hammond:

What would the typical response time be after the NDOT goes to the NDEP for assistance?

Mr. Malfabon:

It would take a matter of several days for the action to take place. If the NDOT had enforcement authority directly, there would be a more prompt response time. In a matter of hours, the NDOT could give notice to the owner of the facility that is adjacent to the NDOT right-of-way.

Chair Hammond:

How many days would it take the NDEP to get results? If the NDOT were to handle the problem directly, how many days would be cut in stopping the illegal discharge of materials into the street and drain?

Mr. Malfabon:

I do not have a specific number of days in this instance. I can say that the EPA would hold the NDOT responsible for the pollution that is occurring in the water in NDOT right-of-way. If the NDOT is responsible under the Clean Water Act, then the NDOT needs the enforcement ability to act quickly and show the EPA that NDOT is serious in dealing with violations immediately, rather than going through a bureaucratic process with the NDEP.

Chair Hammond:

It is important for the Committee to know that the NDOT is being held accountable, and the NDOT does not have the enforcement authority at this time. If the NDOT goes to another agency, it will take more than a few days to resolve the issue, but if the NDOT has the authority, it would take less time. Will this be a shared responsibility with the NDEP?

Mr. Malfabon:

The NDEP will still have the authority over NDOT, because the permit is received from them. Senate Bill 324 will show the EPA that the NDOT is more

responsive to the SWMP under the Clean Water Act and is following federal law.

Chair Hammond:

I stand corrected, both NDEP and NDOT will have the authority.

Mr. Malfabon:

Yes, NDEP will have authority over NDOT, and NDOT will have the enforcement authority over the property owner discharging illegally onto NDOT property.

Kelly Martinez (City of Las Vegas):

The City of Las Vegas supports S.B. 324.

David Gaskin, P.E. (Deputy Administrator, Administrative Services and Water Programs, Division of Environmental Protection, State Department of Conservation and Natural Resources):

The NDEP supports S.B. 324 as amended. Senate Bill 324 will provide NDOT with the authority necessary to implement their SWMP under the Clean Water Act.

John Madole (Executive Director, Nevada Chapter of the Associated General Contractors of America, Inc.):

The Associated General Contractors of America Inc., Nevada Chapter (AGC) is not opposed to clean water and supports what S.B. 324 is attempting to accomplish. Our concern is the NDOT does not have enough money to take care of their primary mission to keep the public safe when traveling on the highways and to protect the economic lifelines of the State. The NDOT is spending money, and because the funding is coming out of the Highway Fund, the problem is being overkilled. The NDOT is not building or designing as many roads as they are established to do.

The NDOT should take current resources that are underutilized and retrain those people to handle the SWMP. If the NDOT starts with a new deputy director for the SWMP, in 5 or 10 years, there will be \$2 to \$3 million coming out of the Highway Fund that should be used to build roads, but instead will support another division of an internal bureaucracy. There is no reason resident agents could not have existing staff trained to take care of the SWMP. It does not take a new staff person to go to the car wash that Mr. Malfabon referenced. Someone can be trained to show up at the car wash and notify them of the

violation and that the NDOT is authorized to enforce this law. The NDOT is starting something that will become a monster in a few years. The NDOT is being told by a federal agency that it would look kindly upon the Department, if there were an internal division to take care of the SWMP.

I admire and respect what the people are doing at NDOT. They are hardworking, diligent people. If the NDOT needs the authority included in S.B. 324 to do its job, the AGC is not in objection to that, but we do object to adding more staff and more cost. If the cost is \$2 million in the future, that is \$2 million you cannot spend fixing the roads. Eventually, we all pay for it.

Chair Hammond:

Mr. Madole, you do not object to using existing personnel to perform the SWMP, but you do object to adding new personnel to the agency to carry out the SWMP.

Senator Manendo:

Would you object if the money were from the General Fund instead of the Highway Fund?

Mr. Madole:

I would have fewer objections if the money came from the General Fund. If it were General Fund money, S.B. 324 would be dead as we speak.

Senator Manendo:

That is not known for a fact.

Mr. Madole:

I am suggesting that if this were a business and money was being lost, and the business did not have the money to do what was currently required, would the business really go to the bank and increase its debt? Essentially, that is what the Highway Fund is. The Highway Fund is to finance the roads, and our children and grandchildren will have to pay more if the expenditures are not cut today.

Senator Manendo:

There are some businesses that actually take out loans to make the businesses more profitable. This is apples to oranges, but there are some similarities.

Chair Hammond:

I am closing the hearing on S.B. 324 and will open the hearing on S.B. 383.

SENATE BILL 383: Revises provisions relating to certain persons' ability to safely operate a motor vehicle. (BDR 43-225)

Senator Don Gustavson (Senatorial District No. 14):

I am here to present S.B. 383 for your consideration.

Senate Bill 383 requires a physician who supports a patient's application for a registry identification card for the medical use of marijuana to file a report and inform the Department of Motor Vehicles (DMV) of the licensee's medical condition within 30 days of submitting the required registry documentation.

The report must include the attending physician's contact information indicating the licensee has a medical condition for which the physician believes medical marijuana is required. This information is to be kept confidential except at the licensee's request or upon a court order. This requirement only applies to noncommercial driver's licenses, and violating any of the provisions is considered a misdemeanor violation.

Existing law allows the DMV to impose necessary restrictions on a driver's license to ensure the person drives safely. The law also allows a person who believes another person cannot safely operate a motor vehicle to report this fact to the DMV. The DMV must require the licensee to submit to certain physical and medical examinations and can take action to impose restrictions on a driver's license based on the results of the examinations.

This Committee has considered numerous bills to protect the safety of the traveling public. Senate Bill 383 is no different; it is proposed in the interest of ensuring that drivers who use medical marijuana are fit and able to drive.

I have a conceptual amendment ([Exhibit E](#)) from Stacy M. Woodbury, Executive Director of the Nevada State Medical Association. This is a friendly amendment proposing that the Division of Public and Behavioral Health (DPBH) transmit the registry application to the DMV upon receipt of the registry identification card application from the medical marijuana patient.

Section 1 of S.B. 383 directs that a physician fill out a patient's paperwork to submit documentation to the DMV within 30 days. From a practical standpoint, a physician could fill out the paperwork, provide it to the patient and the patient could then decide not to file application with the DPBH registry. In this situation, the physician filing a separate report with the DMV could subject that physician to potential HIPAA violations.

By removing the physicians from the process, the DPBH could transmit the information directly to the DMV in a secure and encrypted manner. The DMV could then initiate any appropriate action it deemed necessary regarding driver's licenses.

Gerard Mager:

Our 17-year-old son was killed in a traffic accident by a marijuana-impaired driver. With tens of thousands of people going down the road and getting the medical marijuana card, we hope S.B. 383 will keep fewer impaired drivers on the road. Senate Bill 383 would restrict the number of medical marijuana cardholders driving and save lives. If one life can be saved, any cost of S.B. 383 would be paid for.

The amendment, [Exhibit E](#), is for the applicant to go to the physician in order to receive the prescription for a medical marijuana card. The process would include the physician indicating if the person can drive safely or not and what restrictions would be necessary. The paperwork would then go to the DPBH and the DPBH would transmit the information to the DMV. When the person goes to the DMV to get his or her card, the DMV would be required to determine if that person can continue to drive with the medical marijuana card or have certain restrictions put on his or her driver's license.

The only concern I have with the amendment at this time is the wording: the DMV "could" initiate appropriate action. I would like the wording to read the DMV "shall" or "must" initiate appropriate action once the information is received from the DPBH.

Public safety on our highways is a major issue, and we cannot afford to have any more senseless deaths. Responsible people pro and con for medical marijuana all agree that marijuana impairs the ability to drive. I hope you will be favorable to S.B. 383.

Chair Hammond:

When you request to change the wording to “shall,” what do you anticipate the DMV doing after they receive the information?

Mr. Mager:

After the physician fills out the paperwork and DPBH receives it and authorizes the card, the information is then sent to the DMV. When the DMV gets the report from the physician stating the person can only drive 3 hours a day, the person should not drive, or the person should only drive 6 hours after using; instead of giving the DMV the “option” of imposing the restriction, I want the DMV to be “required” to impose the restriction. I would also like to have the action be effective for the entire time the person holds the medical marijuana card. The card is good for 1 year, and if it is renewed, then the same restrictions are renewed automatically without any further examination.

Senator Denis:

Is this already done with prescription narcotics?

Mr. Mager:

This is already in the regulations. If you look at the application for a driver’s license, all types of medical issues are listed. If a person says yes to any of the issues, it is up to the DMV to place a restriction on the driver’s license. The DMV gives a person an eye exam and there can be a restriction on the license. If a person admits to taking a prescription drug, OxyContin or another narcotic, then the DMV has a form called a DLD-7 ([Exhibit F](#)). This is a confidential physician’s report that the DMV can require when determining what kind of restrictions should be placed on a driver’s license. All of these items are currently in the law. I want to add medical marijuana because it will be more prevalent in the future. I want to be sure that the medical marijuana issue will be covered in the same way as any other issue.

People aged 71 and older have to submit medical documentation from a physician stating they do not have a condition that would prevent them from driving safely. All these issues are covered in law. Senate Bill 383 is just in addition to these issues.

Chair Hammond:

Is the system based on voluntary information from the applicants, or is this information required of physicians when they know a patient should not drive due to taking a narcotic drug?

Darcy Johnson (Counsel):

Chair Hammond, I would have to look up that information. The DMV may know whether this is required as part of the application for driver's licenses or renewals.

Illona Mager:

I am the mother of Steven Smith, my only child. There are hundreds, if not thousands, of victims in Nevada. The driver of the car tested positive for marijuana, not any other substance.

The problem of getting a medical release to drive came to our attention when we testified on A.B. No. 351 of the 77th Session at the Senate Committee on Health and Human Services on May 7, 2013. Chief Deputy District Attorney Brian Rutledge from Clark County testified that marijuana DUIs were only 5 percent of the misdemeanor DUI cases, but represented a high percentage of the DUI death and substantial bodily harm cases. Marijuana was the causative substance in four of the last five death cases he had handled.

Tod Raybuck, a Sergeant in the Traffic Bureau of Las Vegas Metropolitan Police Department, testified: "Unlike other prescription drugs, marijuana has no instructions about a safe dosage in relation to driving a vehicle. Marijuana is a self-induced and self-medicated drug."

Senate Bill 383 is a way to attain accountability once a request for a medical marijuana card is issued. There is nothing in the application that refers to driving privileges or how medical marijuana might be impairing. In my view, there needs to be some type of accountability for the physician recommending the medical marijuana and the person taking the drug, related to driving under the influence.

The patient does not get a bottle from the pharmacy showing the restrictions, as you would with Percocet or any other narcotic. Senate Bill 383 will create accountability and conversation between the doctor and the patient and between the DMV and the person obtaining the medical marijuana card.

Chair Hammond:

Are you familiar with the packaging for medical marijuana?

Ms. Mager:

I have not seen Nevada's packaging. On what I have seen from California and Colorado, there did not seem to be any warnings on the packaging. In a TV special I saw, a person dispensing the drug claimed to tell everyone who buys medical marijuana not to drive for 5 hours. I believe this is up for debate. I read a National Institute on Drug Abuse study about driving with marijuana in a person's system, and one of their leading researchers claims there should not be any amount of THC in a person's system. Even when a person believes he or she is clear and straight, the THC may still impair that person's ability to operate a motor vehicle.

Mr. Mager:

I went to a Join Together Northern Nevada marijuana summit and one of the directors of the department of health spoke. I asked the question, "What would keep medical marijuana card holders from using up their 2 1/2 ounces that they are allowed to have on a daily basis, and then going to the black market and purchasing more? No one would know they got more, only that they had 2 1/2 ounces or less."

The director said there was nothing in the regulations to stop that.

There is no dosage in S.B. 383, because no dosages exist. These people can use marijuana every day, all day, once they have approval, and there is nothing to stop them. There are some controls, but there is no way to enforce them because they are only allowed 2 1/2 ounces from a dispensary. They also do not have to go in once a month to see a doctor. If you get a prescription for OxyContin, you must have a paper copy from the doctor once every month. The medical marijuana holders do not see a doctor for a year.

Chair Hammond:

Anybody can do something illegal. If a person is getting medical marijuana, he or she can go out and buy on the black market or any market. I appreciate you letting us know, but for consideration of S.B. 383, we are trying to stick to exactly what is being asked for.

I appreciate your testimony. I believe it is important to hear from the DMV to find out how this would roll out and the possible pitfalls. It is not just the intent, but also the procedural part of S.B. 383 and how it plays out in real life that concerns the Committee.

Laurel Stadler (Northern Nevada DUI Task Force):

The Northern Nevada DUI Task Force's legislative intent is to put accountability into the medical marijuana program as it relates to driver's licenses. To have these patients fully licensed when they are using a known impairing substance seems contradictory for the DMV to authorize.

The original legislative intent of A.B. No. 453 of the 71st Session, as heard in the Assembly Judiciary Committee, was to authorize the use of medical marijuana for "persons who suffered from terminal and chronic illnesses that were extremely debilitating." With this definition, is it appropriate for anyone with a medical marijuana card to have a driver's license?

Assemblywoman Christina Giunchigliani, author of A.B. No. 453 of the 71st Session, said during the April 10, 2001, hearing in the Assembly Committee on Judiciary, she believed "a doctor's regular medical regime would be to determine which prescription worked best for their [sic] patient before they recommended the use of medical marijuana." The Northern Nevada DUI Task Force has looked at the physician's form and the regular DMV form, [Exhibit F](#), to be used in this process. One of the questions on the DMV form, [Exhibit F](#) is, "How long has this person been your patient?" The choices on this form are years or months, not minutes as is the apparent case with many of the medical marijuana doctors who see a patient once and write the recommendation. Medical marijuana was supposed to be the last resort for extreme cases and patients who had tried everything else to relieve their symptoms. This does not seem to be the case. Another question on the form, [Exhibit F](#), asks, "Will these medications affect the patient's ability to operate a motor vehicle safely?" The answer to this must be yes, because there is no dosage or strength of product on the recommendation. The patients can use as much at any one time in any strength of the authorized amounts of medical marijuana. Marijuana is recognized as an impairing substance whether smoked, in oils or in edibles. Edibles present an even greater danger as the "brownie" or other edible can be marketed as being a four-dose bar. The edibles do not act as quickly as smoking and do not produce a high as quickly as smoking. The user

tends to ingest more than one dose, creating a stronger and more dangerous high when it does take effect.

The use of the form, [Exhibit F](#), may also provide some level of protection for the doctor. It puts the patient and the DMV on notice that medical marijuana is an impairing substance that can cause the patient to be detected, apprehended, arrested, prosecuted and convicted of a DUI in the State.

The Northern Nevada DUI Task Force is in support of the friendly amendment, [Exhibit E](#), that came from the director of the Nevada State Medical Association. The form, [Exhibit F](#), would be part of the original packet the medical marijuana patient would submit to the DPBH. It is the intent of the Northern Nevada DUI Task Force to have the form and the driver's license information addressed at the original submission of the application and not reviewed on a yearly basis. This was to be looked at during the original request for the medical marijuana card. Senate Bill 383 is unclear on this and seems to indicate a yearly review by the DMV. One other note for the Committee's information, I have been told by the DMV that holders of commercial driver's licenses (CDL) can have either a CDL or a medical marijuana card; they cannot have both. It has already been recognized that there is a problem with commercial drivers and a medical marijuana card. A regular car can be just as dangerous as a commercial vehicle.

Chair Hammond:

Is there any opposition to S.B. 383?

Vicki Higgins:

I am a medical cannabis patient and advocate and was involved in the creation of part of this statute and the regulations. With respect to the marijuana-involved accident, I am very sorry for your loss.

I am appalled and insulted that I would be targeted as someone who is chronically intoxicated simply because I use a medicine that is not a pharmaceutical. The medical marijuana patient's HIPAA rights are at risk.

I do not want people on the highway if they are intoxicated. The problem will be with the recreational users.

With patients having chronic pain, there will be constant levels of nanograms of marijuana in the blood and urine. I probably have a higher level today without

medicating than these laws allow. This medicine is used to maintain life and make it possible to function on a day-to-day basis. There are people on diabetic or blood pressure medications who get dizzy on occasion. Is this going to be under review by the DMV?

The DMV is not a health care provider and should not be involved in the medical marijuana card issuance. The doctor and the patient should be making the decisions. The marijuana in people's systems was the target of the reference to accidents that are on record. They need to look at what else contributed to those accidents.

In response to the woman who commented that this is a last resort, I cannot take pharmaceuticals. I spent 10 years on pharmaceuticals and this is my last resort. I am a patient not a recreational user and I see a doctor on a regular basis. I respect your efforts in making our world a safer place, but please take into consideration that we are patients and not a danger to society.

Chair Hammond:

Have you had the ability to look at the amendment that was proffered by Ms. Woodbury? Would this amendment satisfy your worries about the HIPAA requirements or potential violations? Senate Bill 383 is proposing to put certain restrictions on a medical marijuana cardholder's driver's license not take the license away. Do you understand the bill a different way?

Ms. Higgins:

I understand there are many studies that need to be done on medical marijuana. I have a very qualified medical lab and will be doing a baseline of tests for the different methods of cannabis use for patients. The tests will be done first thing in the morning to get baseline measurements of marijuana or its metabolite in the urine and blood. This information will be given to Legislators and the people making these decisions about our lives.

I feel the medical marijuana users are being targeted because it is a unique medicine. I could stop taking my medicine for a month, and I will still show a measurable amount in my system. The rules for the new patient packages state the legal limits are 10 nanograms per milliliter (ng/ml) of urine and 2 ng/ml of blood, and I can almost guarantee my levels are higher and I can drive just fine.

Chair Hammond:

Thank you, we look forward to seeing the data.

Senator Manendo:

When you use your marijuana medicine, how long do you wait before you drive a car?

Ms. Higgins:

I do not use medicine if I have to drive. If I were in pain I would use the topical, which does not create intoxication levels. As a long-term patient, I have a very high tolerance. Even with a high tolerance, I do not medicate before I drive or before I have to go to any function. In order to drive and come to these functions, I use the medicine the night before.

I am on what is called the cannabis concentrated oil, cannabidiol, CBD, that helps to regenerate and repair the system. I have fibromyalgia and arthritis and I can move and reach above my head. I can do this because I take cannabis oil each night before I go to bed. In the morning, I wake with no intoxicating effects and get up and proceed with my day. If I hurt and I have to drive, I use the topical. If I stay home, I might medicate.

I am like any other patients seeing a doctor. I am responsible and take responsibility for my medicine ingestion. I understand the concerns about the edibles, and as a community, we need to help educate the new users coming into this realm of medicine. More research needs to be done in the United States in order to know more about medical marijuana.

Cindy Brown:

I have a few issues with S.B. 383. In Colorado, they have had an increase in traffic and fewer accidents with recreational marijuana use. What will the Legislators do when recreational usage comes into play in 2016? Why do you want to penalize responsible patients? I take the oil at night only. I hurt my knee years ago, was prescribed Percocet and was not restricted to drive.

There was a point made that 15 years ago this was about the very sick and people dying from cancer. Since that time, a lot has been learned about how the oils, the brownies, the topicals and tinctures can cure many things.

Medical marijuana is a miracle medicine. If it were discovered today, everyone would be jumping up and down for joy for all the wonderful things this medicine can do. Yes, there are people who use it recreationally.

Marijuana can stay in your system for over a month. Generalized assumptions are being made that are not based on fact. Having 2 ng/ml in your urine does not mean you are high.

What is the fiscal impact to this State? In your fiscal note, it states in the first year this legislation will cost the State \$294,576. In 2016 to 2017, the cost will be \$1,061,239 to implement; every year thereafter it is projected to be over \$4 million. I am a homeowner and taxpayer and do not think the taxpayers need to bear this burden.

There are fewer accidents and fewer problems with medical marijuana use than there are with anything else. Since you are not users of medical marijuana, you do not know that it makes you more aware. We are responsible citizens and do not need to be penalized or treated like 3-year-old children. We are adults who are in pain and hurting. Driving in pain is more dangerous than driving on medical marijuana. Driving sleepy is more dangerous than driving on medical marijuana.

Chair Hammond:

You posed a question as to what will happen in 2016 if we legalize recreational marijuana. I am not sure that will happen. I understand that you feel picked on and treated as a child for being a medical marijuana user. Senate Bill 383 is contemplating that if you are a medical marijuana user, the DMV is asking for documentation just like any other medical condition. The bill does not have anything about levels of use. The bill does anticipate having people go in and be tested.

The reason for the fiscal note is the time and money required of the DMV. As there are more users of medical marijuana, the cost will continue to increase.

Mona Lisa Samuelson:

I am a 25-year resident of Nevada. I am here because I want to stay on top of any legislation being introduced concerning marijuana.

I am finding that the Legislators really do mean to do their best in writing our laws. The reality of a medical marijuana patient has not been addressed, especially medical marijuana use versus recreational use. I am here to let you know S.B. 383 is going to hurt medical marijuana patients, not the recreational users. It will not even address the people you want it to address.

In every packet, there is already a piece of paper that clearly states you cannot drive a car, you cannot drive a boat and you cannot even be in a sailboat and be intoxicated. The truth is you cannot even be on a rollercoaster. I want you to remember there is a civil rights issue. I am a medical patient and see a doctor on a regular basis.

Nevada law required it be a specific type of doctor. The medical doctors are not ready to get onboard and lose their licenses in order to prescribe medical marijuana. In Las Vegas, there are only three or four doctors who prescribe. This is not the medical marijuana patients' fault that physicians fear being looked at as irresponsible.

A lot of the problem is due to Legislators who do not understand how medical marijuana is used. Medical marijuana patients take fresh plant material and cook it down to get the oils. Then it is used as butter, oil or in milk and ingested. This is the vehicle to get the medicine into the body.

Medical marijuana does not get you high like recreational. I take medical marijuana every single day and have not driven in years. I am here to represent my community and cannot afford to be stopped. I have a driver's license and a medical marijuana license, but thanks to the laws as they are written, I am too fearful. I want you to know this is hurting real medical patients. This bill will never touch the people you are trying to address.

I want to make sure that you know, as it is now, 2 1/2 ounce limits are being imposed and can only be purchased from businesses. At this time, the laws are such that we patients grow marijuana. The assumption that medical marijuana patients will go out and get 2 1/2 ounces more is ridiculous. Medical marijuana patients have access to pounds not ounces because to use it medically there has to be abundance. You can get away with smoking a few puffs for recreation, but medically that will not work.

You get high when you have certain cannabinoid levels skyrocketing in your system. Cooking marijuana does not have the same high limits; you have lower cannabinoid levels going through your system for an extended period. I hope that we can somehow address the medical issue for you to understand how S.B. 383 will hurt the medical patients.

Medical marijuana patients see doctors frequently and are very responsible. This comes down to one person's emotionally charged testimony, and this is a dangerous trend happening with the medical marijuana issue. I am here to help you understand in any way possible.

Will Adler (Executive Director, Nevada Medical Marijuana Association):

I would like to speak to a few things the patient advocates in southern Nevada said. It is wrong to punish those who are willing to come out and get a medical marijuana card, whereas 99 percent of the marijuana use in the State is from nonmedical marijuana cardholders. These people stay in the recreational market, stay in the black market and do not use it constantly as medication. They use it for fun, have higher spikes and end up being more impaired.

I am against S.B. 383 because it classifies medical marijuana people as a different category of people at the DMV and unfit to drive.

Putting a number on a DUI limit will make it easier for law enforcement, but it could be used as an instant fail in a drunken driving situation. If law enforcement just smells marijuana in a car, the person fails without an on-site sobriety test and is taken to the station.

Our officers do a good job detecting drivers who are unfit to drive on the road, by observing the tired drivers, high drivers and drunk drivers swerving. This will continue with officer education. Law enforcement needs to detect intoxicants at the scene to see if the driver is unfit to drive and use the appropriate testing methods to prove that the driver is on an opiate, marijuana or alcohol. Just because the smell of marijuana is on a person, or the person has a medical marijuana card, does not mean he or she should instantly be tested. Most medical marijuana patients have higher than 10 ng/ml in their urine constantly and live their lives just fine. As long as S.B. 383 does not replace on-site detection and officer education of the actual DUI situation, it could be used for a good pass-fail test. This should not replace situational awareness in detecting someone who is unfit to drive. We do not want high drivers out there either,

just as we do not want people who have measurable marijuana in their systems to be punished automatically.

Senator Manendo:

Law enforcement officers do not just pull over a car without cause. If they smell marijuana, just like alcohol, they are going to conduct a field sobriety test. If the person fails the field sobriety test for whatever reason, then they would proceed to the next step. I have never heard of a law enforcement officer just smelling marijuana and arresting the person. This is not the protocol at this time.

Mr. Adler:

I do not want it to become the protocol. With there being a DMV data bank of people who have the medical marijuana cards that can be checked as the officer pulls them over, my fear is the law officer can say, "I smell marijuana in the car, and I am taking you to the station." This could be a knee-jerk reaction when they really pulled the vehicle over for a taillight being out or some other offense. Marijuana is a very potent, smelly substance and it can stay on clothes for hours. The smell will stick to your clothing even if you smoked it 4 hours earlier.

I just want to make sure it does not become an instant "check the box"; this person has a DUI now because of nanograms of marijuana in their system. Marijuana is a different substance; it is stored in the lipid system and fatty molecules. Under stress, your metabolism goes up and the lipids release the THC back into your bloodstream. This is why it can be detected weeks later, because it can reenter your system as your metabolism goes up. Marijuana is not like alcohol, where once it processes through your system, it is eliminated by urinating. It stays in your system for weeks at a time and is reactivated through a metabolic burst, like being nervous. This is why a field sobriety test needs to be conducted to determine if the person is safe to drive. Law enforcement cannot just go by the medical marijuana card and assume the motorist is unfit to drive.

Senator Manendo:

Do you think most people are using medical marijuana and getting behind the wheel of a motor vehicle?

Mr. Adler:

Most medical marijuana patients are responsible users. They are declaring when they apply for the card, they want to be an official user of a medical product.

Ninety percent or more of the marijuana used in the State is recreational and unregulated. The people who do not use marijuana constantly do not know the effects. Senate Bill 383 classifies medical marijuana patients differently. They are probably the safest marijuana users in the State because they use it as medication. Whereas the majority of marijuana users are weekend or recreational users, they will not know the whole effect because they do not use it constantly.

Senator Manendo:

Since the 98 percent that use it are not using it for medical purposes, the protocol will probably stay the same for the 2 percent that use it medically. I cannot imagine they would change it just because of the medical marijuana card.

Ms. Brown:

Five years ago when the program first started, the police did have access to our medical marijuana records. I was pulled over one day because I was hauling silk plants in the back of my van and they thought they were marijuana plants.

Law enforcement once had access and then was informed that access violated HIPAA. When the police did have access to the information, they were purposefully pulling over people when they ran their plates and found they were medical marijuana cardholders. They would do whatever they could to give us tickets. This was taken away because they abused it.

Chair Hammond:

Would the DMV and anyone from the Department of Public Safety please come to the table at this time? How would the DMV enforce this policy?

Sean McDonald (Administrator, Division of Central Services and Records, Department of Motor Vehicles):

When the DMV receives the information from a physician, it is for the treatment of a condition and not necessarily directly related to what substances or medications are being prescribed. The DMV does not always know what types of medications are being prescribed in a situation. The DMV would know epilepsy is being treated. The process is based on a condition and not a specific medication being prescribed.

Chair Hammond:

In testimony, it was stated that the information is voluntary. Is there any situation where that the information would be mandatory and the physician would have to tell the DMV?

Ann Yukish-Lee, C.P.M. (Services Manager, Division of Central Services and Records, Department of Motor Vehicles):

There are two situations where the DMV would find out someone needed to be medically evaluated. Physicians do have a requirement in statute to inform the DMV that there are medical conditions that could affect a person's ability to drive. This would be a medical condition and not the prescription drug.

Mr. McDonald:

There is a heavy fiscal note that has been assessed to S.B. 383. The way the DMV interpreted S.B. 383 was based on a trend recorded with the division of health showing that more cards are being issued. Under the bill, it was interpreted that every year these licensee cardholders would have to come in for an examination. This meant drive test examinations to the DMV. This is where the bulk of the fiscal note is. There will be some back office impact, but the majority of the impact would be in administering drive tests on an annual basis to those who are affected by this bill.

Jude Hurin (DMV Services Manager, Division of Management Services and Programs, Department of Motor Vehicles):

The fiscal note is based on the intent that individuals would be required to have a physician's medical report. Section 5 requires that person to come in on an annual basis. The numbers were based on information provided by the DPBH for fiscal year 2014; these were actual full-year numbers as well as annualized fiscal year 2015 numbers. This was with the current patient cardholders in the DMV system. It was determined that 95 percent of those cardholders were valid driver's license holders. The other element was that the field service examiners would be required to administer the annual examinations from the physician requests which would be increasing. Each examiner can only perform approximately 2,990 exams a year. Based on the three pieces of data, it was projected a drastic increase in the number of examiners would be required for the field service offices as well as two additional technicians in Central Services to handle the increased volume.

When we met with Ms. Stadler, it was DMV's understanding that the intent of the bill is that only new patient cardholders would require the examination, and not on an annual renewal basis. With this understanding, the fiscal note would be reduced. If it were 8,900 more people coming annually through the field service offices, the DMV would not be able to keep up with its existing staff.

After discussion with Ms. Stadler, the DMV is willing to work with the sponsors of the bill and reevaluate the fiscal note. The DMV would take the approach that the language would need to be specific to be sure this would be only for a one-time, new patient cardholder and not on a yearly renewal basis.

Chair Hammond:

Is the process that the card is renewed by the physician, the physician then sends the record to DPBH and the DPBH sends the information to DMV stating the patient has a license and a medical marijuana card?

Mr. Hurin:

Yes, that is our understanding of the amendment. The wording in the amendment alludes to an electronic interface behind the scenes that would need to be created in order to comply with the intent of the amendment. The DMV would need to make sure the language of "new patients" is included as well as to make it clear that the intent is to communicate through electronic interface, keeping those people out of the offices. The intent of the DMV is to remove additional people coming into the offices.

The intent is to notify the DMV of the patient's medical condition. Then the DMV issues a letter to the patient requiring that patient to come in and take a drive exam. It is a snapshot in time. The examiner looks at the person's ability to drive, to react to certain situations and to understand traffic signals; and that snapshot in time is what the examiners use to determine if the person is considered safe to drive. The DMV is not in the position to state whether or not the person is medically stable. The DMV is taking the position that we have been requested by a physician to reexamine a particular driver and based on that examination, the DMV is to determine whether or not to place a restriction on the license. It is based on that exam. At this point, the DMV cannot know if the exams will be a driving test or a combination of a knowledge test, a visual test and a drive exam. It is difficult to determine this since the records are not kept for this type of statistic.

The DMV took the worst-case scenario for the fiscal note. The amendment clarifying that it is just for new patients will help reduce the fiscal note.

Chair Hammond:

I am looking at the overall policy as well. The fiscal note is part of it and we need to be aware of it, but this not a fiscal committee. The policy of this is that the DMV will be notified of a card through an interface, and will determine how to handle the evaluations so there are no additional unnecessary customers at the DMV Offices. At some point, a person will be requested to come to the DMV to take whichever test needs to be administered. Since this is a snapshot in time, the person may not have used the medicine for a week, and he or she drives perfectly. The DMV will put in writing the person was administered a driving test and he or she passed. This does not solve the problem of getting people off the streets who are impaired. As was mentioned, the officers on the street have the training to recognize when someone is impaired.

Senator Denis:

Can you please explain the addition of medical marijuana to the form and what would be required to add this wording?

Ms. Yukish-Lee:

Are you asking if we give reevaluations for other prescription medication?

Senator Denis:

I am asking if this is in addition to what is already being done, or is this new wording that would be added.

Ms. Yukish-Lee:

There is an established policy and procedure on how the DMV does medical reevaluations. This would not be a new process for the DMV. This would just be a new reason.

Senator Denis:

Would this be an additional reason to do the medical evaluation?

Ms. Yukish-Lee:

Yes, that is correct.

Senator Denis:

Does the DMV add a medical indicator on the driver's licenses?

Ms. Yukish-Lee:

Yes, there are medical restrictions shown on the driver's licenses when a person has been reevaluated. The restrictions are basic for an annual drive, an annual physician's letter or an annual eye test. The results of the reevaluation at the time of the exam determine what restriction would be placed on the driver's license.

Senator Denis:

Are prescription narcotics part of the medical evaluation?

Ms. Yukish-Lee:

The DMV does not evaluate for prescription narcotics. The DMV evaluates for physical and mental conditions.

Senator Denis:

Would you have to change the system if this information was required to be put on the driver's license?

Ms. Yukish-Lee:

Yes, it would.

Chair Hammond:

If a person has a medical condition, does the person volunteer that information or does the physician have to tell the DMV?

Ms. Yukish-Lee:

The DMV conducts medical evaluations for the medical condition. Most of the time we are notified by the medical physician that the patient has a medical condition which might affect his or her ability to drive.

Chair Hammond:

Is it the physician's responsibility to inform patients they have a responsibility to make this known to the DMV?

Ms. Yukish-Lee:

I cannot state 100 percent, but I believe the physician is required to notify both the DMV and the patient.

Usually, the DMV is notified by the physician concerning a patient's medical condition that would affect driving ability. The DMV notifies the patient that the physician is requesting a reexamination.

On the application when people apply for driver's licenses, there is a place on the form where they can voluntarily indicate they have a medical or mental condition that might affect their driving ability.

Chair Hammond:

Is there anyone who would like to give neutral testimony? There being none, Senator Gustavson, would you like to make a last statement?

Senator Gustavson:

I brought this bill forward at the request of Mr. Mager, and with your permission, I would like Mr. Mager to give brief closing remarks.

Mr. Mager:

There are forms at the DMV that not only ask for medical conditions, but also ask the question if there are any medications being taken that would affect the ability to drive.

The DMV did not address what it would do if a physician statement came in and indicated a medication that would impair the patient's ability to drive safely. This is what we are asking for in S.B. 383. We are asking that a physician, at the time of application for the card when they start the process, include medical and medication information and state whether or not it would affect the patient's ability to drive safely. Then, as it continues through the process and it is sent to DMV, we are asking that the DMV take the necessary action based on the information, which would include the medication and how it will affect the person's ability to drive. The Department would put restrictions or make a determination that the person should not drive. In the case where the DMV only wants it for new cardholders, new is correct. When the patients get their renewal cards, they no longer have to go to the DMV because the restrictions are already on record. Those restrictions will continue. As long as they have the

cards, they would not have to go in every year and present themselves to the DMV. This did not seem to be clear in what I heard in the testimony.

Chair Hammond:

I am closing the hearing on S.B. 383 and opening the hearing on S.B. 457.

SENATE BILL 457: Revises provisions relating to the Super Speed Ground Transportation System. (BDR 58-1106)

Scott Scherer (XpressWest):

Senate Bill 457 amends NRS 705—Railroads and Monorails. Specifically, the provisions relating to the California-Nevada Super Speed Ground Transportation Commission enacted in 1997 and updated in 2003. The original proposed technology for the super speed ground transportation system between Las Vegas and southern California was going to be Maglev. Maglev is no longer feasible, as it is not supported by the federal government or by neighboring states. Despite popular misconceptions, there is a technology which is feasible and interoperable with California. This technology is high-speed rail. XpressWest has spent substantial private time and resources developing a high-speed rail system between Las Vegas and southern California, and we are making great progress. Senate Bill 457 updates NRS 705 to account for the changes in technology and changes governance of the Super Speed Ground Transportation Commission to the Nevada High-speed Rail Authority. The technology must be operable with California, and high-speed rail is. Senate Bill 457 makes Nevada the sole authority rather than sharing authority with California. Having a current Nevada authority with the ability to work with the federal government to advance this project will be helpful in making it a reality. With me today is Greg Gilbert, counsel for XpressWest, and Andrew Mack, chief operating officer of XpressWest.

Andrew Mack (Chief Operating Officer, XpressWest):

My slide presentation ([Exhibit G](#)) provides information on the background of the corridor and the project.

Slide 1 shows the need for the project and that Nevada has a long history of supporting high-speed ground transportation between California and Nevada. The strong and robust need for the project is why, as a private company, we have spent the last 10-plus years developing the project and why we believe it will be profitable and serve a real transportation need. The market from

southern California and Las Vegas differs from other high-speed rail projects in that the vast majority of the ridership diverted to the train would come from automobiles. This is directly related to the relationship between California and Las Vegas. A huge proportion of Las Vegas visitation comes from southern California, and almost 90 percent of the southern California visitors, drive on U.S. Interstate 15 (I-15). There is a real need for an alternative to driving between California and Las Vegas due to time and safety.

The XpressWest implementation strategy was to build an initial system close enough to the population centers in southern California to attract the ridership needed to make a financially viable project and to use standard gauge steel wheels on rail high-speed train technology. These newest and best high-speed trains are operating around the world at over 200 miles per hour. These trains are also fully interoperable with what other states, particularly California, are planning in their high-speed rail systems.

XpressWest is a private interstate passenger rail corporation with federal authority granted by the Surface Transportation Board of the U.S. Department of Transportation. The initial approved project is from the Las Vegas to Victorville, California, with plans to extend the system to Palmdale, California. This would connect to the existing Metrolink system in southern California and the California High-Speed Rail Project.

The approved project is 185 miles between southern California and Las Vegas and is within or adjacent to I-15. The system will be built on all new tracks, so there will be no sharing with the existing railroad system. There are no at-grade crossings to fully dedicate, and the exclusive system will serve passengers only. The end-to-end travel time is under 80 minutes from Victorville to Las Vegas. To be competitive with cars, we had to provide frequent service. To meet this demand, the operating plan calls for train departures every 20 minutes during peak time, with an average roundtrip fare of \$100. With this type of frequency, it is almost a commuter service.

The technology is standard gauge wheel on rail, fully electric multiple unit trains. If there is a 10-car train set; every train has its own propulsion on board so that every axle can be powered. The power is derived from overhead power lines, making the train a zero-emissions vehicle.

In terms of our entitlement process, XpressWest is a fully approved, federally entitled high-speed rail project. Its authority is derived from the U.S. Surface Transportation Board, which is the federal agency with exclusive regulatory authority over ground transportation systems and interstate systems.

The Environmental Impact Statement process started in 2005 with the Federal Railroad Administration as the lead agency and cooperating agencies that include the U.S. Bureau of Land Management (BLM), Federal Highway Administration (FHWA), Surface Transportation Board (STB) and the National Park Service. Between 2005 and 2011, XpressWest conducted the environmental document and funded all the work privately. There has been no federal, State or local public money spent in development of the project. Between July and November 2011, the lead and cooperating agencies issued all their records of decision approving the approved project between Las Vegas and Victorville. In October 2011, the STB issued a certificate of public convenience and necessity, which authorizes XpressWest as an interstate railroad for construction and operation. In December 2011, XpressWest executed a lease agreement with the BLM for all of the public and federal rights-of-way required for the project. A majority of the I-15 is managed by the BLM with overlapping easements to federal highways for I-15. Both Nevada and California highway administrations signed off on the concurrent use of the rights-of-way. In September 2012, the final federal section 404 Clean Water Act Nationwide Permit was issued by the U.S. Army Corps of Engineers.

The environmental document is lengthy, but the basic conclusion is that the project will deliver a significant environmental benefit. This is derived from the diversion of cars from the I-15 and the reduction in emissions related to the diversion to the fully electric, zero-emission, high-speed trains. This will amount to a 40 percent overall reduction in emissions over the corridor, saving 440,000 barrels of oil or the equivalent of 8.5 million gallons of gas annually.

Slide 7 of [Exhibit G](#) summarizes what has happened in the state of California, both at the state and local levels setting forward a public policy supporting connection between southern California and Las Vegas by high-speed rail. The High Desert Corridor Joint Powers Authority, which was established between the counties of Los Angeles and San Bernardino, has membership from the affected cities along the 50-mile corridor between Victorville and Palmdale. They have initiated as a joint power authority in cooperation with the Los Angeles Metropolitan Transportation Authority Board and have approved an

environmental document for a multipurpose corridor between Victorville and Las Vegas. This originally started as a freeway corridor, but following publication of XpressWest Environmental Impact Statement and subsequent records of decision, they added high-speed rail into the corridor. This corridor will provide for the connection between Victorville and Palmdale and hence into the existing Metrolink system and ultimately the California high-speed rail system.

The California Association of Governments has identified the project from Palmdale through Victorville to Las Vegas as a strategic plan project in their regional transportation plan. The Los Angeles Metropolitan Transportation Authority Board has approved and supported the connection of high-speed rail between Los Angeles and Las Vegas.

The Federal Railroad Administration has released its "Southwest Rail Planning Study," which is a document intended to set forth the vision for high-speed surface transportation across the Country. The three key networks that were identified as the backbone for the future high-speed rail system are from San Diego to San Francisco/Oakland, Las Vegas to Los Angeles and Los Angeles to Phoenix. There is support and there is an institutional framework for high-speed rail at the state and local level in California.

With respect to Nevada, the demand for a transportation alternative in this corridor is real. The State has been pursuing a connection for 30-plus years and there is a long history of support for an alternative connection between southern California and Las Vegas. XpressWest believes the Nevada High-Speed Rail Authority will bring the State into consistency with federal policy and the policy the state of California is pursuing with its high-speed rail authority program.

Chair Hammond:

What is the difference between the bill presented last Session and S.B. 457?

Mr. Scherer:

Last Session the bill was passed, went to the Governor and came back, and in the rush at the end, was not passed.

Greg Gilbert (XpressWest):

The changes that were made were administrative and break down into two categories. The changes make the language current with the technology of

today and consistent with the federal government and the state of California. The concept of magnetic levitation is no longer appropriate or relevant and has caused confusion at the federal government level. The authority essentially functions the same way it functioned before and creates a Nevada High-Speed Rail Authority that is consistent and similar to the California High-Speed Rail Authority. There are vocabulary changes that make this a consistent piece of legislation.

Chair Hammond:

Would you please explain the similarities between the Nevada Authority and the California Authority? Specifically, please explain the makeup of the authority and how the members are chosen.

Mr. Gilbert:

We have essentially advanced what was done last Session. The Governor would appoint certain members to serve on this board. They would have authority over a type of rail, in this case high-speed rail, and would have the ability to review not only the project, but also the policy behind the implementation of this project. In many ways it is very similar to the previous legislation except before it was with Maglev system in place. Maglev technology is no longer interoperable throughout the United States, and because it is not interoperable it is not supported by the federal government. The technology that is now referenced in this legislation is the technology that is being advanced by the federal government, neighboring states and in our own jurisdiction. That primary change is wrapped through this document.

Chair Hammond:

Will the Governor choose each member of the authority?

Mr. Gilbert:

Yes.

Mr. Scherer:

It is the same as the conference report, which is one of the issues that caused the bill to be returned from the Governor last Session. It is what was in the final conference report.

Chair Hammond:

The conference report asks that the members be chosen by the Governor. Were the members chosen in a different manner in the original bill?

Mr. Scherer:

Yes, that is correct.

Senator Gustavson:

Is this a private or public system?

Mr. Gilbert:

XpressWest is a private company and the system is completely private. XpressWest has been given the Surface Transportation Board approval and it is now a federal railroad. To date, it has been funded by private money and has never taken public money.

Senator Gustavson:

Will this ever be funded and built with public money?

Mr. Gilbert:

There is a possibility that there could be public funds to support this project and other high-speed rail around the Country. It is not XpressWest's intention. The question should be: Is Nevada going to have to fund any of this? The answer is, no, these changes are not intended to obligate Nevada to fund XpressWest at all.

Senator Gustavson:

Is it correct that the system going from Las Vegas to Victorville and then eventually to Palmdale will be private? Then will the system tie into the public system in Palmdale and go north or south? How long does it take to get from Los Angeles proper to Palmdale using this system?

Mr. Gilbert:

You are correct in your assumption for the first question as to how the project is intended to be implemented from Las Vegas to Palmdale as a private project and to meet with the existing California project. This is not only the high-speed rail system that has a station in Palmdale; the Metrolink system is there also.

We were previously asked why this is needed. The environmental work between Victorville and Palmdale that is being conducted by the joint power authority will be scheduled to be completed in the first quarter of 2016. At that time, the necessary environmental work to connect Victorville to Palmdale and then Palmdale to Burbank or at least connect with the California system will be complete. This is the time frame to which XpressWest and others are paying close attention.

Senator Manendo:

There are many countries that are far more advanced than we are. We need to invest in our future, and transportation is the way. Linking southern California to southern Nevada is a huge tool in advancing the prosperity of our State.

John Fudenberg, D-ABMDI (Assistant Coroner, Office of the Coroner/Medical Examiner, Clark County):

Clark County supports S.B. 457 with a few friendly recommendations. In section 2, subsection 3, Clark County would like to keep the definition of southern California a little broader and include Kern and San Diego Counties. In section 3, due to this being a southern Nevada project, we would like to recommend the majority of the members appointed to the authority be from the southern Nevada area.

Ms. Martinez:

The City of Las Vegas supports S.B. 457 and the recommendations from Clark County.

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Chair Hammond:

I am now closing the hearing on S.B. 457. There being no public comment, the meeting is adjourned at 10:21 a.m.

RESPECTFULLY SUBMITTED:

Tammy Lubich,
Committee Secretary

APPROVED BY:

Senator Scott Hammond, Chair

DATE: _____

EXHIBIT SUMMARY				
Bill	Exhibit		Witness or Agency	Description
	A	1		Agenda
	B	7		Attendance Roster
S.B. 324	C		Rudy Malfabon	Video
S.B. 324	D	5	Rudy Malfabon	NDOT Amendment
S.B. 383	E	1	Senator Don Gustavson	Woodbury friendly amendment
S.B. 383	F	2	Laurel Stadler	DMV form
S.B. 457	G	10	Andrew Mack	Slide Presentation