

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

**Seventy-ninth Session
March 10, 2017**

The Senate Committee on Commerce, Labor and Energy was called to order by Chair Kelvin Atkinson at 8:10 a.m. on Friday, March 10, 2017, 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 Kelvin Atkinson, Chair
Senator Pat Spearman, Vice Chair
Senator Nicole J. Cannizzaro
Senator Joseph P. Hardy
Senator James A. Settelmeyer
Senator Heidi S. Gansert

COMMITTEE MEMBERS ABSENT:

Senator Yvanna D. Cancela (Excused)

GUEST LEGISLATORS PRESENT:

Senator Becky Harris, Senatorial District No. 9

STAFF MEMBERS PRESENT:

Marji Paslov Thomas, Policy Analyst
Bryan Fernley, Counsel
Lynn Hendricks, Committee Secretary

OTHERS PRESENT:

Lee F. Gunn, retired Vice Admiral, U.S. Navy; Vice Chair, CNA Military Advisory Board
Anna M. Durst, CEO, Nevada Society of Certified Public Accountants

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Jeffrey M. Cooper, Chairman of the Board, Nevada Society of Certified Public Accountants

Kim Wallin, Nevada Society of Certified Public Accountants

Bob Seale

James Cox, American Institute of Certified Public Accountants

Michael Hillerby, Nevada State Board of Accountancy; Lyft, Inc.

Nicola Neilon, Nevada State Board of Accountancy

Viki Windfeldt, Executive Director, Nevada State Board of Accountancy

Josh Griffin, Uber Technologies, Inc.

CHAIR ATKINSON:

We will start this morning's meeting with a presentation on energy and national security.

LEE F. GUNN (retired Vice Admiral, U.S. Navy; Vice Chair, CNA Military Advisory Board):

I have two handouts to accompany this presentation. The first is a report from the CNA Military Advisory Board (MAB) dated November 2015 titled "National Security and Assured U.S. Electrical Power" ([Exhibit C](#)). The second is a PowerPoint presentation intended to accompany and illustrate [Exhibit C](#) and dated March 2017 ([Exhibit D](#)). This report covers the MAB's views on four aspects of America's grid and energy posture today: America's almost total dependence on electricity and the grid that distributes it; the extraordinary vulnerabilities of that electrical grid; some trends in technology and emerging approaches, including possible solutions to some of the vulnerabilities and improving the grid's resilience; and what your military is doing and how it applies to the Nation at large. I will wrap up with some thoughts about how this relates to Nevada.

The Nation's dependence on electricity has never been greater, in civilian life and in military operations as well. We train, maintain and operate in myriad ways relying entirely on the availability of electricity, and we assume the supply will always be there when we need it. The more the MAB learned about the state of America's electrical grid, the more concerned we became about depending on it.

There are four areas of concern with regard to vulnerability: design, age, weather and attack. The most problematic of these is the design of the grid. America's electrical grid was not designed; rather, it just happened. It is based

on a 100-year-old model, and some of its pieces are actually 100 years old, relying on large power generation plants and hundreds of thousands of miles of high-voltage alternating current transmission lines. There are three big problems with this. First, nearly everything is exposed to the elements and to potential enemies. Second, transmission lines have huge energy losses. Nearly half of the energy we generate is lost in transmission due to heat. Third, the U.S. grid is divided into only three major networks: the Eastern, Western and Texas interconnections. If one part goes down, it could take down as much as a third of the country's power. There are thousands of transformers in the U.S., but it would only take the destruction of nine key transformers to take down major portions of the grid.

Until recently, those transformers were not manufactured in the U.S. When a serious problem happened, the only transformers available were built in South Korea or Germany, which made it difficult and expensive to get replacements. I learned recently that Siemens opened a plant in Alabama in October 2016 to build transformers. That is great news, though transformers are still expensive, and it is generally not economically feasible to stock spares. The U.S. Department of Homeland Security knows about these problems and is working to fix them, but for the near future, we remain very exposed.

The second factor in our vulnerability is the age of the grid. Many components are simply old. The grid developed piecemeal as the need for it grew. In Washington, D.C., last year, a bolt rusted away on a pole in southern Maryland, and the transformer it held fell off the pole. This shut down power to the White House and the U.S. State Department. As it happened, the back-up power at the State Department did not work, and not only did it go dark, it stayed dark.

The American Society of Civil Engineers estimates we have a \$10 billion annual maintenance deficit in repairs to the grid. That is the amount it takes to hold our place, not to improve the grid. The MAB argues that if we are going to spend that kind of money, or if there really is going to be a trillion-dollar level investment in U.S. infrastructure, as proposed by the Trump administration, the money should not be spent to buy new, bright, shiny versions of the same equipment. Rather, we should upgrade the equipment to make the grid better. The movement in Nevada is in the direction of making it better, more flexible and more readily accepting of various forms of energy. We need to address all aspects of grid vulnerability as we rebuild our electrical infrastructure. We must

not just repair and replicate what we have. We must use what we have learned and the technologies at our disposal by making smart investments that address issues with age and design and also build in resilience against future weather events and human attacks.

We can and must generate electricity in more places with more renewables and build into the resulting distribution system a sensing system for meeting and managing demand for electrical power. That is the smart investment guidance needed to rebuild America's grid.

The third vulnerability is weather. The biggest single cause of widespread power loss is weather, from summer thunderstorms to major tornadoes, hurricanes and wildfires. All of these events can take down exposed wires, towers and transformers for days or weeks. In fact, the largest single cause of any power loss in the United States is squirrels. Fortunately, we have systems in place where linemen from outside the affected area respond to help in emergencies. That is reassuring, and we have all seen the trucks with out-of-state plates rolling to assist when the power is out for an extended period. However, when and if we experience more extreme weather in the future, if there are more frequent or simultaneous storms or multiple physical attacks, even with the help of these Good Samaritans, we may be overwhelmed.

Our vulnerability to attack was the most eye-opening part of this study for me. Over the last four years, our grid has been deliberately attacked 362 times. Those are not all the attacks that were attempted; those were the ones that succeeded in doing some damage to elements of the grid. Most were physical attacks using guns, cars or fires. At least 14 were cyber attacks, which can be launched by a sophisticated child in a basement in Russia, China or Iran. Physical attacks are surprisingly easy, and there are many places in our domestic grid where a physical attack could be made. Our infrastructure is out in the open. We drive by it every day.

The MAB looks at trends, and both cyber and physical attacks are becoming more frequent. The 2013 attack on the Metcalf Transmission Substation near Sacramento was the one that made the hair on the back of my neck stand up. Gunmen fired on 17 transformers and caused \$15 million worth of damage. This is the substation that supplies power to Silicon Valley. The attack reminded me of the 1993 truck bombing of the World Trade Center in New York, in which America's enemies experimented with the importance of the World Trade

Center, to find out if it was of strategic importance and how vulnerable it was. The answer to both was realized in the 9/11 attack.

Could the 2013 Metcalf incident be a dress rehearsal and a warning? We think it might be. That adds to the urgency of addressing the many vulnerabilities of our electrical grid, which is essentially our electrical lifeline.

Now that I have painted a picture of doom and gloom, let us move on to some possible solutions and some approaches that are being considered in Nevada. Great ingenuity and technology can work us out of these problems. The best news is that much of the technology to address these vulnerabilities already exists, and we are on the verge of a breakthrough in others. Four examples in this area are distributed generation, electrical storage, microgrids and smart grids.

Distributed generation is an all-of-the-above strategy. It moves electricity generation closer to consumers, eliminating much of the vulnerable transmission infrastructure. Distributed generation can include geothermal, biomass, solar, wind, small modular nuclear reactors, fuel cells, commercial hydrogen, and other technologies. Some of these distributed generation techniques do not operate 24 hours a day, 7 days a week, so energy storage will enhance our capability. We already have great storage capacity from compressed gas, fly wheels, pumped hydroelectric energy storage, and batteries. As you know, Tesla Technologies has just produced a battery capable of powering a house. This will help revolutionize domestic solar generation.

Perhaps the most exciting thing is that nanotechnology and carbon fibers are going to revolutionize our ability to store electrons. We will see the day, in the not-too-distant future, when capacitors will store electrons that can power a small city without having to convert it to chemical or potential energy first. I believe we are seeing a paradigm shift in the electric grid from one of producing and distributing electricity to one that stores electricity produced not only by grid-scale renewable utilities, but also by consumers for later use and distribution.

The final two changes, microgrids and smart grids, are already improving the grid's reliability and efficiency for some consumers. Microgrids are like the ships I operated in the U.S. Navy for more than 30 years. In port, we plugged into the

city's grid. At sea, we were completely self-sufficient and isolated from any problems associated with the larger grid.

Smart grids, where generators adjust production of electricity to anticipate demand, give consumers more control over the price they pay for electricity. This allows the grid to be as finely tuned, effective and efficient as a twenty-first century piece of equipment instead of the old, vulnerable, inefficient system we have today.

The final issue I want to talk about is the application of newer, smarter, mostly renewable energy generation to our national security. Military leaders recognize the value of distributed generation and the importance of reducing our dependence on liquid fuels. We measure the cost of fuel going to the battlefield not only in dollars, but also in lives and limbs lost. The cost of fuel for generators, for example, is many multiples of our per-gallon cost at the gasoline pump at home. The risk to military service members and the dangers of exposed supply lines far outweigh even the high dollar cost of fuel. We are committed to reducing the amount of fuel we use. We are committed to finding alternatives and ways we can generate electricity closer to the battlefield, allowing us to run fewer generators and fewer convoys, reducing the exposure of our young men and women to the risks of transporting fuel.

In 2009, Lieutenant General Rick Zilmer of the U.S. Marine Corps submitted a mission needs statement from Anbar Province in Iraq. He did not ask for bullets, soldiers or weapons; at the top of his list, he asked for renewable energy. Marine expeditionary forward operating bases use electricity-generating solar tents, compact wind generators, foldable solar panels, and so on. The commandant of the Marine Corps invited Marines at every level to send him an email if they saw something that needed to be fixed. He got an email from a second lieutenant platoon commander in Afghanistan who said that when he sent his troops out on a 7- or 8-day patrol, they were weighed down by as much as 110 pounds of gear and body armor in 100-plus degree heat. One of the reasons their kits weighed so much was that they had to take batteries with them because there was no way to recharge them in the forward battle area. He said, "The Marine Corps is lagging behind the moms and pops of America. My young men asked their parents for help, and their parents sent them foldable solar panels for charging batteries. Now I've cut the battery load in half." Needless to say, the commandant got Washington, D.C., organized to support

the Marines in more ways, but many of them translated into increased use of distributed generation and renewables.

The Department of Defense's renewable goal by 2020 is 3 gigawatts (GW). There are many problems that cannot be overcome by new electrical plants. However, the military is using geothermal power in the China Lake Naval Weapons Station, California, biomass power at Fort Drum, New York, biowaste power in Norfolk, Virginia, and solar power at Nellis Air Force Base, Nevada. Fort Bliss in Texas is going off the grid; the commander of the base has planned to use the resources there, the abundant sun and the wind, to take Fort Bliss off the grid. The Marine Corps base at Twentynine Palms, California, is working toward renewables as well.

The MAB is about to finish a new study on advanced energy. Although we have not completed our deliberations, I am comfortable sharing one of our preliminary findings. As the U.S., the European Union (EU) and China battle to lead in technical capability and expertise, China and the EU member states are already leading manufacturing, deployment and market penetration of advanced energy systems and technologies. We see great opportunity for the U.S. as a dominant scientific and technical force in advanced energy. However, reestablishing that position in the face of this international competition requires greater investment and more commitment. If the U.S. fails to recapture and sustain its leadership of the technical development and integration of advanced energy systems, we will risk losing global influence and potentially foregoing economically advantageous opportunities. We also expose ourselves to the potential risk of losing access to the intellectual property and manufacturing expertise of others who beat us to the punch. China has recently become the world's largest producer of solar energy, and the portion of its energy mix satisfied by solar now surpasses that of the United States. China also is the world's leader in wind power by a fairly large margin. At 145 GW, China now has more capacity for wind power production than either the U.S. or the EU. Further, in early January 2017, Chinese officials announced a plan to invest \$361 billion in renewable power generation by 2020.

This is my second visit to Nevada. What is happening in Nevada is exciting and could be an example for other states and perhaps internationally as well. Nevada used imported coal until March 2017 when the last coal-fired power plant was closed down, but it imports a large portion of its energy as well. You have an average of 300 days of sunshine a year, which is virtually limitless sun

compared to the rest of the country, along with abundant wind and probably the best geology for geothermal energy in the country. There is a lot of intellectual firepower here as well, numerous incubators and enthusiasm for innovation that I have been exposed to on both these visits. This equals the potential for national and international leadership by Nevada. The problem of regaining America's preeminent position in renewables and distributed generation can start or be sustained from here. In addition, Governor Sandoval will be chair of the National Governors Association (NGA) starting this summer. He told me that the chair gets to pick a theme for the NGA to study for the year, and he was considering energy as that theme.

SENATOR HARDY:

With regard to nuclear power plants, have you looked at the micro nuclear power plants in areas that do not have sun or wind?

MR. GUNN:

Yes. The general consensus in the MAB with regard to nuclear power is that it is part of an all-of-the-above solution. There needs to be a menu, a portfolio of ways of producing electrical energy. The U.S. Navy believes in nuclear power. We have operated small modular nuclear reactors in the most extreme environments since 1953, when the USS Nautilus went to sea as the first nuclear-powered submarine. The record is almost perfect for operating what are now hundreds of these small reactors.

Designs have moved on dramatically for large nuclear plants since the bulk of the current U.S. nuclear fleet of power plants was put into operation. They are much safer, but they are regrettably still very expensive. Small modular reactors are different. They provide the opportunity in the future for safe, modest-scale electrical generation in places where those other sources are not feasible. Some of the reactor designs can be buried. Air cooling is a feature of some designs, which allows you to dispense with the risks associated with water cooling. In Texas, during the drought in 2012, large nuclear reactors had to be shut down because there was not enough fresh water for cooling. The state forecast rolling blackouts and brownouts for major metropolitan areas in summer 2012. As it happened, Texas is the state that generates the most electricity using wind, with large wind farms in the north and on the coast. When there is no coastal wind, there is often wind in the north, giving Texas almost baseload wind-driven electricity for that period. The U.S. Army is also experimenting with a number of designs, including small, portable modular reactors that could replace generators

at the forward edge of the battle area. Nuclear power is definitely being included in our considerations.

SENATOR HARDY:

I gather that means you would not need fresh water to cool the nuclear fuel rods. How are the spent rods stored?

MR. GUNN:

I do not know about the waste issue. I am told by Admiral Frank Bowman, who was the director of the U.S. Naval Nuclear Propulsion Program, that the nuclear waste issue can be addressed with modern reprocessing techniques that will make it far less hazardous. However, I am not an expert in that area. I do know that the MAB included the potential for nuclear power in our considerations.

CHAIR ATKINSON:

I will open the hearing on Senate Bill (S.B.) 129.

SENATE BILL 129: Amends provisions regarding the regulation of certain accounting firms which perform attest services. (BDR 54-481)

SENATOR BECKY HARRIS (Senatorial District No. 9):

Senate Bill 129 relates to the regulation of accounting firms that perform attest services. Only a certified public accountant (CPA) operating in a CPA firm can perform attest services. Just as a person must have a medical license to practice medicine or be a member of the State bar in order to practice law, a person must be licensed as a CPA in order to perform attest services. Audits are one type of attest service. Others include review of financial statements and examination of prospective financial information.

This bill is an extension of the individual CPA mobility law, which was enacted by the Legislature in the late 2000s. Under this law, CPAs operating within CPA firms can provide non-attest services such as tax advice and financial planning in states where they do not have a physical presence. The provision of these services does not require the firm to register in the new state.

This bill proposes to allow CPA firms to perform attest services in Nevada when they do not have a physical presence here. Further, the firms would not have to register with the Nevada State Board of Accountancy, similar to existing requirements when such firms perform non-attest services.

I will go through the key provisions of S.B. 129. Section 2 of the bill eliminates the requirement that a partnership, corporation, limited liability company or sole proprietorship must register with the Board in order to perform attest services for a client whose home office is in Nevada. This section also authorizes such a partnership, corporation, limited liability company or sole proprietorship to perform attest services for a client whose home office is in Nevada without registering with the Board if the aforementioned entities meet the existing criteria for non-attest services.

The remaining sections of the bill make conforming changes necessary by the revisions of section 2.

ANNA M. DURST (CEO, Nevada Society of Certified Public Accountants):

I am here on behalf of the nearly 1,500 members of the Nevada Society of Certified Public Accountants (NVCPA) to support S.B. 129. I have written testimony ([Exhibit E](#)) explaining firm mobility and the need for this bill. I also have a letter of support from the Board from January 2014 ([Exhibit F](#)), a list of frequently asked questions about firm mobility ([Exhibit G](#)), a letter of support from the American Institute of CPAs (AICPA) ([Exhibit H](#)), an executive summary regarding firm mobility from AICPA ([Exhibit I](#)), and a map showing the U.S. states with firm mobility ([Exhibit J](#)).

JEFFREY M. COOPER (Chairman of the Board, Nevada Society of Certified Public Accountants):

I am here to voice my support for S.B. 129. I have written testimony ([Exhibit K](#)) describing my support for this bill.

SENATOR HARDY:

If I understand this, out-of-state accountants do attest services such as audits, examinations and reviews in Nevada. This saves their clients money, decreases regulations, limits license fees and conforms to the idea of increasing sharing of talents across state lines, while still requiring quality and oversight, much of which is done at the federal level, and the clients are still protected. Does that cover it?

MR. COOPER:

Yes. There are those regulations and requirements. Our firm audits some of the largest card clubs in California, and we are subject to all of the Nevada

regulations. In addition, we have oversight by the California Gambling Control Commission.

KIM WALLIN (Nevada Society of Certified Public Accountants):

I am a member of NVCPA's Law and Legislation Committee, and I am in support of S.B. 129. I have written testimony ([Exhibit L](#)).

BOB SEALE:

I am a former Assemblyman and former State Treasurer. I have been a CPA for more than 50 years, and I support S.B. 129.

SENATOR SETTELMAYER:

How many other states have passed firm mobility? How many are currently considering it?

JAMES COX (American Institute of Certified Public Accountants):

There are currently 14 states with firm mobility. Last year, two states out of three enacted legislation. Illinois also considered a bill on firm mobility; it was not passed, but it is being considered again this year. Nine states are considering firm mobility this year, including Nevada. We have seen overwhelming support from CPAs and state boards of accountancy in these states. The legislation recently passed in New Mexico unanimously.

SENATOR SETTELMAYER:

Have you seen any problems arise in other states with this change?

MR. COX:

No.

SENATOR SETTELMAYER:

In those other states, have their boards of accountancy supported firm mobility?

MR. COX:

We have not seen any opposition from state boards in other states.

SENATOR SPEARMAN:

In looking at [Exhibit J](#), it looks like three of our neighboring states have firm mobility, Idaho, Utah and Arizona. If this bill does not pass, would that have any effect on Nevada firms?

MR. COX:

Washington State enacted firm mobility last year, which will allow Nevada CPAs to move in. In the spirit of reciprocity, the hope is that all states will follow suit to create a seamless system similar to that for individual mobility or for drivers licenses. I could come to Nevada from another state and drive a rental car with my out-of-state drivers license. That is the seamless process the profession needs to succeed and move forward.

MICHAEL HILLERBY (Nevada State Board of Accountancy):
The Board is in opposition to S.B. 129.

As you know, the Legislature sets the rules and the Board enforces them. As Senator Harris mentioned, the Board helped launch individual mobility in 2009. That allows accountants and accountant firms to come into Nevada and provide non-attest services without registering. It also allows out-of-state accountants and firms to come into Nevada and provide attest services for companies that are headquartered somewhere else but have a branch in Nevada. The one situation for which we still requires registration is when an out-of-state firm comes to Nevada to provide attest services for a company headquartered here. The Board believes that is an appropriate requirement for registration, and the fee is relatively small.

We have been working with NVCPA on an Assembly bill (A.B.) to do some cleanup and modernization of the Board. The matter in S.B. 129 is one area where we could not agree. Members of the Board are here to tell you why they think this is still an appropriate restriction in registration requirement.

NICOLA NEILON (Nevada State Board of Accountancy):

I am a Nevada CPA and a shareholder of a CPA firm in Carson City. Our firm is registered in multiple states. We perform attest services in multiple states, and we find the registration process to be simple. It is not onerous. In fact, there is a Website, <<http://www.cpamobility.org>>, that tells us the requirements we need when we go to another state. We have to register in Florida, New Mexico and California, but we do not have to register in Arizona.

The sole issue this bill addresses is whether it is in the best interests of Nevada to allow out-of-state CPAs to enter our State and perform critical financial services to Nevada businesses without notifying the regulatory body of their presence. At this time, out-of-state firms are required to register with the Board

if they are performing attest services for firms headquartered in Nevada. The premise is that they are performing single or minimal engagements, but that is not a requirement. They can come in and perform as many engagements as they want under that mobility. We just require that they notify us they are here. Passage of this bill will eliminate that registration.

As a board, we believe we already have firm mobility. Any CPA firm that is duly licensed in any state in the U.S. can come to Nevada and provide attest services for Nevada firms. The only thing they have to do is notify us they are here.

The Board has been meeting with NVCPA for the last year to discuss what changes we would request for *Nevada Revised Statutes* (NRS) 628 this Session. The one issue we were unable to agree on is this one.

According to NRS 628.002, the Board is the body created by statute whose purpose is:

To protect the interest of the public by requiring that persons who are engaged in the practice of public accounting be qualified, so that the auditing, examining, reviewing and compiling of financial statements and the issuing of reports, opinions and assurances relating to those statements are reserved to persons who have demonstrated ability and fitness to observe and apply the standards of the profession of accounting.

We strongly believe passage of this bill will limit our ability to fulfill our mission as defined in statute.

The attest function is probably the most important duty of any CPA and is in fact the only duty or service that requires certification. It requires expressing an opinion about financial information that the public relies on to make decisions. The most commonly known attest service is a financial statement audit, which is relied upon by bankers, investors, pension plans, local governments and even the Legislature when reviewing the financial results of boards, commissions and local governments. Attest service failures have the potential to have a profound impact on Nevadans. To the Board's knowledge, no other professional board in Nevada, whether it oversees doctors, attorneys, contractors or manicurists, allows mobility without notification.

We oppose S.B. 129 and firm mobility for attest services without notification. Protection of the public through the regulation of attest services is a primary and vital function of our Board. The process is not onerous for either the applicants or the Board. Notification is submitted online and approved the same day. The Board researches whether the notifying firm is active and in good standing in its home jurisdiction, whether it has been disciplined by its home state or any other state in which it is registered, whether it is current with peer review in its home state, and whether ownership information is in compliance with Nevada requirements. If we find they are not in compliance, we give them an opportunity to correct. They are not summarily denied.

As Ms. Durst pointed out, professional licensing discipline is reactive in nature, as it is complaint-driven. The licensing and registration process is the opportunity the Board has to be proactive. Verifying compliance with the standards of our profession allows us to identify bad actors before they have an opportunity to harm Nevadans. If you vote against this bill, the Board can continue to be proactive in this manner. This is a win for Nevadans, as they can rely on verification by the Board, and it is a win for Nevada and the licensees within the State because the cost of proactivity is typically significantly lower than the cost of reactivity. This is important because as a Board we have limited resources. We only have two full-time employees.

It has been noted that tracking down a licensee who is not registered can be challenging. If we have a registration, we have the person's name, address and license number in other states. We know who we are dealing with and are able to find them if complaints are filed. We know what state to go to if we need to pursue discipline.

Companies that engage CPA firms for attest services are not always sophisticated. They might be homeowners' associations run by a lay board. They might be nonprofits who are unaware of the standards our profession adheres to. They may not know to ask if a firm is duly licensed or engages in peer review. Nevadans rely on us to do that on their behalf, and we would like to continue doing that.

Each state has its own process for licensing, registration and discipline. Many states perform these services under umbrella agencies, with staff responsible for multiple categories of professional licenses. The disciplinary function is not uniform from state to state, and some states have neither the budget nor the

manpower to investigate and discipline in a manner that would protect Nevadans in a timely manner. In addition, the administration and reliability of the peer review process of other states is inconsistent, and at this time, we feel it cannot be relied upon to meet Nevada standards.

The AICPA is in the process of developing a new process for peer review that is called the evolution of peer review. The final standards for that have not yet been released. We do not know how it is going to work, and we do not know how it will affect our ability to regulate. We would like to wait until we see how it will impact the attest function within our State.

Nevada is not lagging behind in the area of firm mobility. Even if all the states currently in the process of hearing firm mobility pass those bills, we are still only at 50 percent.

Nevada businesses are currently not limited as to the CPA firm they can engage. They can bring a CPA firm with them; they can continue to use the firm they have always used. We just require that CPA firm to notify us they are performing these services. A Nevada business can engage any CPA firm regardless of location. A Nevada CPA firm can perform services anywhere in the Country. They too may have to register in some states.

Lastly, we heard that firms are compliant. We would love that to be the case, but it is not. As we started looking into this process, we looked at out-of-state firms that have registered with the State to see if they are in compliance with other state regulations. They are not. In fact, only 57 of the 290 out-of-state firms had a valid Nevada business license.

Registration with the Board reveals information that other State agencies, such as the Secretary of State and the Department of Taxation, can use for compliance in other areas. Without registration, there would be no evidence that out-of-state firms were engaging in activities in Nevada that require the payment of appropriate business license taxes or fees. That puts them on different footing than our in-state firms, who do have to pay those fees. Last Session, provisions were put in place for the different agencies to talk to the professional licensing agencies to gather that information to help in the administration of their mandate as well.

The issue is whether you want an out-of-state firm to come to Nevada and provide the most vital financial service a CPA firm can perform without notifying the legislatively mandated regulatory body. We strongly believe this harms our mission and does not permit us to adequately protect the public. How do we regulate effectively if we do not even know these firms are here?

VIKI WINDFELDT (Executive Director, Nevada State Board of Accountancy):

When we adopted individual mobility, we agreed that CPAs can come into Nevada and provide any service without registering. The only time registration is needed is when an out-of-state CPA performs an audit or other attest service in Nevada for a client whose home office is in Nevada. If the home office is not in Nevada, the CPA does not need to register. Registration is only required if those two questions have a yes answer: Is the home office in Nevada? Is the service an attest function?

We believe we have had firm mobility since the inception of individual mobility. If you are going to do one attest function, you register the firm, and everyone from the firm can come in and do the engagement. They can renew if they want to. It does not matter how many engagements. They can perform all of the services under that one notification. If they no longer need it, they let us know, and we discontinue the registration until the next time.

Registration holds those out-of-state firms to the same standards as our in-state firms. It is a one-page application that is not difficult to complete. Currently, there is no barrier to a firm coming to Nevada. There is no client that cannot have an out-of-state firm provide services to them. They just need to register with us.

[Exhibit F](#) is a letter from the Board from January 2014 that seems to support firm mobility. However, if you read the letter in its entirety, it says the Board supports firms entering the State along with individual CPAs. It is just that we prefer notification if it is for an attest service for a firm with its home office in Nevada. Again, we do not find that burdensome. Clients in Nevada are not being harmed in any way. There are no barriers to getting the services they need.

CHAIR ATKINSON:

Did any of you have an opportunity to work with the sponsor of the bill to work out your concerns?

MR. HILLERBY:

We have worked with NVCPA, and we talked to Senator Harris to let her know we had not reached any agreement.

SENATOR HARDY:

Is there a fee with registration?

MS. WINDFELDT:

There is a fee. One of the compromises we offered to NVCPA was to remove that fee. They did not accept that and wanted notification removed completely.

SENATOR HARRIS:

It is important for the Committee to consider the progress the accounting profession is making. It is also important for Nevada to be on parity with our neighbors in surrounding states.

CHAIR ATKINSON:

I will close the hearing on S.B. 129 and open the hearing on S.B. 226.

SENATE BILL 226: Revises provisions relating to transportation network companies. (BDR 58-486)

SENATOR KELVIN ATKINSON (Senatorial District No. 4):

Transportation network companies (TNC), such as Uber and Lyft, provide computer application-based ride sharing services. Last Session, the Legislature passed several bills relating to TNCs, which authorized and regulated TNCs' operations in Nevada. The TNCs are flourishing and thriving throughout our State.

I am sponsoring S.B. 226 in an ongoing effort to review and improve the operation of TNCs in Nevada. At the beginning of the Legislative Session, the Department of Business and Industry reported there are 57,000 TNC drivers in Nevada. However, the Legislature still does not have all of the TNC data points necessary to guide use in order to make informed decisions in all areas of TNCs.

Foremost, we need to have an accurate number of TNC drivers. This is especially important as we consider dynamic transportation issues facing our State.

As many of you are aware, TNCs like Uber and Lyft classify their drivers as independent contractors, not employees. Uber and Lyft drivers use their own cars, do not wear uniforms, and most importantly work whatever hours they please. In Nevada, independent contractors engaging in business within the State must register with the Secretary of State and obtain a business license. This business registration requirement should be fairly implemented. In fact, it was a critical point in last Session's discussions on this topic.

I would like to highlight the key provisions of S.B. 226.

Section 1 of the bill requires each TNC to submit a quarterly report to the Nevada Transportation Authority (NTA) stating the total number of drivers affiliated with the company in Nevada and the number of drivers with the company whose State business registration has been verified by the company.

Let me be clear about this provision. It does not require a TNC to list the name and identification or driver number of each driver that is registered with the company. It only requires numbers be submitted to the NTA.

Subsection 2 of section 2 of the bill requires a person who wishes to become a driver affiliated with a TNC to include in his or her application to the company the business identification number assigned to the person by the Secretary of State upon issuance of a State business registration.

Section 2, subsection 3, paragraph (k) of the bill prohibits a TNC from allowing a driver or potential driver to be affiliated with the company unless he or she possesses a valid State business registration.

Section 2, subsection 2, paragraph (d) of the bill requires the TNC to verify the State business registration of each driver before allowing the driver to be connected to potential passengers and not less than once every year thereafter.

This is not new information. This was information we included last Session and asked the TNCs follow. I have been trying to obtain this information for more than a year and a half now. I have not received that information and so was forced to introduce this bill.

You will hear from the TNCs that many people sign up to be drivers and never drive. If that is the case, this bill might prevent people who are not serious

about being drivers from signing up. Uber and Lyft have mechanisms in place to turn the application off remotely when drivers let their insurance expire, they turn the app off remotely, and those individuals are not able to drive until they prove their insurance is up to date.

You will hear from the TNCs that they do not want to enforce this law and someone else should do it, such as the Secretary of State or someone else. However, they oversee their drivers in other ways. I do not understand why this cannot be part of their checks-and-balances system.

We had an agreement last Session that the TNCs would make sure their drivers had Nevada business licenses like anyone else doing business in Nevada. I had to get a business license before I submitted any other applications to open my business in Nevada. I do not know why they should be exempted from this requirement.

I have heard from the TNCs that they are being treated differently. They asked to be treated differently last Session, and so we crafted legislation to do just that: A.B. No. 176 of the 78th Session. They did not want to be included with the taxi industry or anyone else. But a promise is a promise, and they promised to make sure their drivers had State business licenses. If they are not going to police them, who is? Does it become a State responsibility? If so, does the TNC pay the State for the time and labor to oversee this? Again, 57,000 people are estimated to be TNC drivers in Nevada. That means the State is being shortchanged by \$11 million.

When the TNCs say it should not be their responsibility to enforce this requirement, I respectfully disagree. They enforce other requirements, and I see no reason why this cannot be added to their platform to make sure their drivers obey the law that a person doing business in Nevada must have a State business license. They claim they tell their drivers repeatedly that they have to have a business license, and that they are not their employers. I get that, but they are providing a service and making money from it.

We had many hours of discussion on this last Session. According to the Secretary of State's office, the number of business licenses issued to TNC drivers is really low. They may say that this is because so many people sign up as drivers but never drive. However, a lot of people who do drive do not

have business licenses. We have to clean this up. We have to do better, and we have to force the TNCs to do better.

I urge your support of this critical legislation.

SENATOR HARDY:

What do they do in other states?

SENATOR ATKINSON:

I am not sure. I was mostly concerned with what we asked for last Session. The TNCs promised that their drivers would get Nevada business licenses, and that promise has not been kept.

SENATOR SETTELMAYER:

Last Session, we discussed the idea of the TNCs being covered separately. Senate Bill No. 439 of the 78th Session put them under the Public Utilities Commission of Nevada. Because that bill did not pass and A.B. No. 176 of the 78th Session did, TNCs are covered by the NTA, the same entity that governs taxicabs. Would there be any objection to stating that all independent contractors hired under the NTA should all have to follow this protocol? I have no problem with the provision, but it should apply to a broader base than just the TNCs. It should apply to everyone covered by the NTA.

More and more taxis are also becoming independent contractors, which is why we had the bill last Session to clarify the rules, to make sure who is an independent contractor. There are unscrupulous businesses that were using the independent contractor as a work-around. Other states have seen that happen with increases in the minimum wage. If the minimum wage goes up, they tell their employees that they are no longer employees but independent contractors. This may be a problem we need to address on a larger scale.

SENATOR ATKINSON:

I am willing to address whatever you feel we need to address, but I do not necessarily think that larger scale needs to be part of S.B. 226. I am trying to get after one specific issue: that TNC drivers must have a State business license.

SENATOR SETTELMAYER:

Existing law makes an exemption for smaller, home-based businesses. It is not required that every business in the State of Nevada have a business license if the business is small. That is in the NRS now. This bill would change that and say that a person who is hiring an independent contractor should be required to step in and help out with enforcement rather than having the State do that.

SENATOR ATKINSON:

I am not trying to harm anyone. I know that is one of the TNCs' talking points. However, last Session the sponsor of A.B. No. 176 of the 78th Session insisted that the TNCs make sure their drivers had business licenses. A lot of people who drive a lot for the TNCs do not have business licenses. How do we get to those folks? If you want to exclude people because they are making less than a certain amount, we can talk about that. I am not opposed to that. But this situation must get cleaned up. A lot of people are not bothering to get business licenses because there is no enforcement.

SENATOR SETTELMAYER:

Would you consider giving drivers a grace period of a month to get business licenses?

SENATOR ATKINSON:

I am willing to entertain such a provision. I have talked to the industry about that as well.

JOSH GRIFFIN (Uber Technologies, Inc.):

We are opposed to S.B. 226.

Senator Atkinson summarized our opposition well. We have had several conversations with Senator Atkinson and others during the Interim on how we can help the State make sure drivers are complying with the business license requirement. The TNCs are required to make sure our driver-partners are aware of their legal obligation to get business licenses. We do this in a couple of ways. First, we notify them when they sign up. When they sign up, we require evidence of vehicle inspection, insurance verification and background checks. They are also notified that they are obligated as independent contractors to receive business licenses. The Website provides a link to complete that process. When they are approved to become Uber drivers, they come to our offices in person to pick up permit stickers for their vehicles. During that pickup, Uber

instructs that all driver-partners be made aware of the requirement that they get business licenses.

Senator Atkinson has been open to talk to us about this. To the extent that we can or should do more, we are willing to discuss it. Our worry is that this bill goes further than we think is necessary. This puts the TNCs in a unique position of being the business license enforcement division for the State. We are available to continue working on this issue to ensure continued compliance and make sure the State has the data it needs.

MR. HILLERBY (Lyft, Inc.):

I echo Mr. Griffin's comments. I have a printout of the application pages of Lyft's Website ([Exhibit M](#)).

Both Uber and Lyft report all of our drivers' names, data and permit numbers to the NTA. That is done weekly, and that list is always current. Within that pool of 57,000 drivers, there is some overlap, since there are many drivers who drive for both Lyft and Uber. Potentially, the number of drivers is much smaller than 57,000.

We have worked very hard to follow the requirements of NRS 706A.310, subsection 3, which says we must require drivers to be aware of the need to obtain business licenses. Page 7 of [Exhibit M](#) shows a sample of a State business license and how to get one, including a link to the Secretary of State's Website. Much like Uber, when drivers come to the Lyft office to pick up their permits, we go through a checklist to make sure they know about any State or local business license requirements.

We want to be a part of any discussion about changes in the requirements. Many of our drivers do this as a part-time activity to fill an immediate financial need, pay a bill, make tuition payments and so on. Some drive on a more full-time basis, and we try to defend and protect that entire universe of drivers. We appreciate that Senator Atkinson has left his door open to discuss allowing our drivers to qualify for the existing home-based business exemption or something like that, whether time based or money based.

SENATOR SETTELMAYER:

I believe compromise is possible on this in trying to find a balance. It is a question of getting to the numbers. According to the Secretary of State,

numerous people have applied for business licenses to drive for Uber, not realizing that the business licenses they already had would suffice. They were independent contractors, plumbers, people whose trades could no longer support them. It is interesting that data from the Secretary of State shows that the number of people requesting business licenses the last two years has gone up dramatically, yet those who have a \$500 license have gone down.

SENATOR SPEARMAN:

Have you considered a monetary threshold, in which drivers who make over a set amount of money would be required to have a business license?

MR. HILLERBY:

Ideally, we would like the exemption that allows home-based businesses making up to $66 \frac{2}{3}$ percent of the average median income in Nevada to apply to our drivers. That may not be acceptable to the sponsor of the bill, but it is a starting point for discussion. Another possibility is how many hours a driver spends driving for a TNC. We are happy to work with the sponsor to find a number that is agreeable to all.

MR. GRIFFIN:

We agree.

SENATOR ATKINSON:

Do either of you believe this would help cut down on the number of people who sign up to be drivers but do not actually drive?

MR. GRIFFIN:

It probably would. I do not know whether that would be good or bad for Uber as a business.

MR. HILLERBY:

I agree. It would likely keep people who were not serious about being drivers from applying. Our concern is that it would also drive away people who really want to drive and need to make some money because of that hurdle up front. We want to find a way to bring them into compliance, perhaps by way of a grace period to allow them to make enough money to pay for the business license fees before the requirement kicks in.

SENATOR ATKINSON:

You reinforce my point that the State cannot do this alone. We need the TNCs to help us bring those folks into compliance.

SENATOR SETTELMAYER:

In Douglas County, we have three engineers who make more than \$80,000 a year working for General Electric who also drive for Uber one day a month. They do this because they believe in the technology and want to be out in the community talking to people about it. I would also note that news articles have reported that 2016 was the first Fourth of July we have had in which no one died in a drunk driving accident. I believe that is due in part to the fact that we now have TNCs in Nevada.

I agree that we need the assistance of the TNCs to get the information we need to know if there even is a problem.

SENATOR ATKINSON:

I appreciate that. If you are making \$80,000 a year, \$200 for a business license is not too much to spare. I have heard of some professional football players who drive for a TNC. If they were in Nevada, we would get their \$200 as well.

As I said, my door is open to continue working on this. We have to hold people responsible, and we have to make sure people are doing what we asked them to do.

VICE CHAIR SPEARMAN:

I will close the hearing on S.B. 226.

CHAIR ATKINSON:

We have a bill draft request ready for introduction.

BILL DRAFT REQUEST 54-549: Revises provisions relating to the Board of Dental Examiners of Nevada. (Later introduced as S.B. 256.)

SENATOR SETTELMAYER MOVED TO INTRODUCE BDR 54-549.

SENATOR HARDY SECONDED THE MOTION.

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THE MOTION PASSED UNANIMOUSLY.

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CHAIR ATKINSON:

Is there any further public comment? Hearing none, I will adjourn the meeting at 10:01 a.m.

RESPECTFULLY SUBMITTED:

Lynn Hendricks,
Committee Secretary

APPROVED BY:

Senator Kelvin Atkinson, Chair

DATE: _____

EXHIBIT SUMMARY				
Bill	Exhibit / # of pages		Witness / Entity	Description
	A	1		Agenda
	B	4		Attendance Roster
	C	34	Lee Gunn / CNA Military Advisory Board	Military Advisory Board Report November 2015
	D	15	Lee Gunn / CNA Military Advisory Board	PowerPoint: National Security and Assured U.S. Electrical Power March 2017
S.B. 129	E	2	Anna M. Durst / NVCPA	Written Testimony
S.B. 129	F	2	Nevada State Board of Accountancy	Letter of Response re: Firm Mobility
S.B. 129	G	4	Anna M. Durst / NVCPA	Firm Mobility FAQs
S.B. 129	H	3	AICPA	Letter of support
S.B. 129	I	1	AICPA	Firm Mobility Summary for Legislators
S.B. 129	J	1	AICPA	Firm Mobility Map
S.B. 129	K	1	Jeffrey M. Cooper / NVCPA	Written Testimony
S.B. 129	L	2	Kim Wallin / NVCPA	Written Testimony
S.B. 226	M	13	Michael Hillerby / Lyft, Inc.	Online Lyft Application