

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

**Seventy-ninth Session
March 31, 2017**

The Senate Committee on Commerce, Labor and Energy was called to order by Chair Kelvin Atkinson at 8:08 a.m. on Friday, March 31, 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 Yvanna D. Cancela
Senator Joseph P. Hardy
Senator James A. Settelmeyer
Senator Heidi S. Gansert

GUEST LEGISLATORS PRESENT:

Senator Moises Denis, Senatorial District No. 2
Senator Joyce Woodhouse, Senatorial District No. 5

STAFF MEMBERS PRESENT:

Marji Paslov Thomas, Policy Analyst
Bryan Fernley, Counsel
Christine Miner, Committee Secretary

OTHERS PRESENT:

Jeanine Swygman, DNP, President, Nevada Advanced Practice Nurses Association
Michelle Giddings, DNP, President, Nevada Chapter of the American Psychiatric Nurses Association
Jessica Ferrato, Nevada Nurses Association

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Joan Hall, President, Nevada Rural Hospital Partners
Sean Sullivan, Washoe County Public Defender's Office
John Piro, Clark County Public Defender's Office
Catherine M. O'Mara, Executive Director, Nevada State Medical Association
Liz MacMenamin, Retail Association of Nevada
Mendy Elliott, Nevada Osteopathic Medical Association
Lea Cartwright, Nevada Psychiatric Association
Norma Jean Opatik, Commissioner, Real Estate Commission, Real Estate
Division, Department of Business and Industry
Keith Kelly, Chair, Legislative Committee, Nevada Association of Realtors
James "Jim" Maniaci, President, Laughlin Economic Development Corporation
Robert Bilbray, Laughlin Economic Development Corporation
Judy Stokey, NV Energy
Les Lee Shell, Director, Office of Risk Management, Department of Finance,
Clark County
Lisa Gianoli, Washoe County
Tammi Davis, Treasurer, Washoe County
Jon Sasser, Legal Aid Center of Southern Nevada; Washoe Legal Services
Sophia A. Romero, Legal Aid Center of Southern Nevada
Shaun Petersen, National Independent Automobile Dealers Association
Brent Newman, J.D. Byrider
Andy MacKay, Executive Director, Nevada Franchised Auto Dealers Association
Milo Trevizo, Director of Finance, Chapman Auto Group Acceptance
Conor Flynn, Chapman Auto Group Acceptance
Jarl Kongsrud, Smart Auto; Smart Finance
Alfredo Alonso, Alliance of Automobile Manufacturers
Jaron Hildebrand, Nevada Trucking Association
Jennifer J. Gaynor, Nevada Credit Union League
Keith Duffy, Enterprise Holdings
Maggie Tracey, President, State Board of Oriental Medicine
Dan Musgrove, State Board of Oriental Medicine
Chris Bosse, Vice President, Government Relations, Renown Health
Regan J. Comis, Board of Medical Examiners

SENATOR ATKINSON:

I will open the hearing on Senate Bill (S.B.) 227.

SENATE BILL 227: Revises provisions relating to nurses. (BDR 54-213)

SENATOR JOYCE WOODHOUSE (Senatorial District No. 5):

Senate Bill 227 authorizes an Advanced Practice Registered Nurse (APRN) to sign certain documents in place of a physician's signature, if it is within his or her scope of practice.

Every day in Nevada, APRNs care for thousands of patients from newborns to nursing home residents, in hospitals and community-based clinics to schools. All APRNs have advanced clinical training and graduate educations that expand their scope of practice beyond that of a registered nurse. These include advanced practice competencies such as clinical nurse specialists and nurse practitioners. They work with other health care professionals to manage patients' health needs. The APRNs are central to the functioning of the health care system.

Given the current circumstances related to access to care, Nevada can no longer afford to maintain the regulatory status quo. Nevadans are challenged to access basic health care in urban and rural areas. As care solutions are considered, we need to recognize the value the APRN workforce can play in providing health care to residents.

I will highlight the key provisions of S.B. 227. Section 2 authorizes an APRN, when the signature, certification, stamp, verification or endorsement of a physician is required, to provide his or her own signature, certification, stamp, verification or endorsement if he or she is qualified to do so. The State Board of Nursing is required to adopt regulations specifically providing for when an APRN may do so.

In certain circumstances, APRNs are authorized to make certain certifications, diagnoses, and determinations required to be made by a physician or other provider of health care.

A court must appoint two psychiatrists or psychologists to examine the competency of a defendant to stand trial. Section 5 of the bill authorizes a court to appoint, as part of the appointment of two professionals, one or more APRNs who have psychiatric training and experience.

Sections 1 and 14 through 22 expand the list of persons who are authorized to evaluate a person for emergency hospitalization in a facility for a psychiatric evaluation to include APRNs.

This measure expands the ability of APRNs to sign documents. These include section 4, excusing a person from jury duty due to a permanent physical or mental disability; section 7, authorizing a pupil to self-administer medication for asthma, anaphylaxis or diabetes; and sections 8, 9, and 11, exempting a pupil from immunizations if he or she is prevented by a medical condition from receiving the immunization.

Sections 23 through 33 allow signing death certificates or stillbirth certificates and authorizes the APRN to make a pronouncement of death. Sections 37, 38 and 52 through 63 authorize the execution of physician's orders for life-sustaining treatment forms, and section 86 allows authorization for youths to return to play a competitive sport after sustaining a head injury. Sections 87 through 90 allow APRNs to authorize a person who has a disability to obtain a disabled parking placard from the Department of Motor Vehicles; sections 91 through 126 authorize signatures on workers' compensation forms for an injured employee who has experienced an industrial accident. Sections 127 and 128 allow issuing a health certificate to a prospective taxicab driver.

I have a soft spot in my heart for nurse practitioners, as my sister was one and had her own practice in Oregon before she passed away due to brain cancer four years ago. When I was first elected to the Legislature, she said to me, "I hope you will help nurse practitioners." So, I am living up to that promise by doing what I can to support her and the APRNs of Nevada. I urge your support of S.B. 227.

JEANINE SWYGMAN, DNP (President, Nevada Advanced Practice Nurses Association):

I am a Doctor of Nursing Practice and president of the Nevada Advanced Practice Nurses Association (NAPNA). Senate Bill 227 is a cleanup bill in follow-up to the passage of A.B. No. 170 of the 77th Session which gave APRNs full practice authority. One of the promises of A.B. No. 170 of the 77th Session was "build it and they will come," and since its passage in 2013 there has been an increase of APRNs in Nevada. As of February 12, 2017, the number of APRNs has increased 80 percent from 880 to 1587. However, the benefit of APRN full practice authority has not been realized due to practice barriers which include outdated statutes requiring physician signatures on forms.

I will go over various parts of S.B. 227. In section 2, subsection 2, paragraph (c), APRN signature authority allows an APRN to provide his or her

signature, certification, stamp, verification or endorsement when the same by a physician is required, but only if it is within the APRN authorized scope of practice. Section 2, subsection 5 further clarifies there will be no expansion of the APRN scope of practice through this signature recognition.

The APRN signature recognition will improve health care access. By improving system efficiencies it will decrease health care costs. Health care delivery and form completion can be performed in the same visit, preventing consequences from delays caused by waiting for a physician's signature which could involve another doctor's visit resulting in additional costs. Eliminating the delay in care created by requiring a physician's signature maximizes the efficiency and utilization of the health care system. It promotes transparency and accountability for the care provided. It addresses the concerns of physicians' liabilities for signing forms for patients they have not seen or with whom they have had minimal contact.

My submitted presentation ([Exhibit C](#)) breaks down the various parts of the bill including signing DMV forms, death certificates, medical clearance of students post-concussion, taxicab health certificates and workers' compensation forms. There is additional information related to mental health ([Exhibit D](#)) and ([Exhibit E](#)) such as determining competency to stand trial and involuntary court-ordered admission of a person. These are only allowed to be completed by psychiatric mental health APRNs and, as with every section of the bill, can only be completed if it is within their scope of practice.

Senate Bill 227 seeks to allow APRNs to practice to the full extent of their education, training and certification authorized in A.B. No. 170 of the 77th Session. The cost-effectiveness and health care quality of APRNs are noted across the health care continuum. They are part of the health care solutions for Nevada. We at NAPNA request your support of S.B. 227 to allow APRNs sign forms when it is appropriate to their scope of practice.

SENATOR HARDY:

Is the amendment from Mr. Piro, Deputy Public Defender, a friendly one?

SENATOR WOODHOUSE:

I have not seen it yet, but will consider a friendly amendment. I will be working with the individuals from the Public Defender's office.

SENATOR SETTELMAYER:

In section 96 of the bill, regarding workers' compensation forms, do the APRNs release individuals to return to work or what capacity have they on these forms?

Ms. SWYGMAN:

The APRN will sign all the forms related to workers' compensation. They will determine the entire spectrum from the level of disability, limitations, work eligibility to whether vocation rehabilitation is needed.

SENATOR SETTELMAYER:

Will the APRN be determining what level of work a person is capable of?

Ms. SWYGMAN:

Yes. It is done in the current practice of APRNs for non-workers' compensation patients.

SENATOR GANSERT:

The bill is good. My constituents' concerns are with the mental competency exams, and the amendment addresses this.

MICHELLE GIDDINGS, DNP (President, Nevada Chapter of the American Psychiatric Nurses Association):

I am a Doctor of Nursing Practice, board certified psychiatric mental health nurse practitioner, President of the Nevada Chapter of the American Psychiatric Nurses Association and a member of NAPNA. The Nevada Chapter of the American Psychiatric Nurses Association supports S.B. 227. It addresses the barriers preventing psychiatric mental health APRNs from practicing to the full scope of their education and training.

SENATOR HARDY:

Are you proposing nurse practitioners provide competency evaluations for felonies in trials?

Ms. GIDDINGS:

Yes, it is within the scope of psychiatric mental health nurse practitioners to assess for capacity, and it is within our scope to make those determinations. There is an amendment requesting a psychiatric mental health APRN do evaluations for misdemeanors but not felonies. I do not understand

differentiating the level of a crime and associating it with evaluations to determine competency. The APRN will be thorough, using constructive interview practices with the professional tools required to perform these evaluations. Supporting documentation from peer review journals speak to our ability to provide these evaluations. Nevada is not the first state to issue similar legislation.

SENATOR SPEARMAN:

What does it mean to be “board certified” and what is the criteria and training to become an APRN?

MS. GIDDINGS:

The APRNs complete an accredited training program. Psychiatric mental health nurse practitioner is a specialty and requires specialty training. We are credentialed by the American Nurses Credentialing Center. It is a National certification stating the basic standards required have been met to enable operating within the scope of a psychiatric mental health nurse practitioner. There are board certifications for several specialties within the APRN practice.

JESSICA FERRATO (Nevada Nurses Association):

The Nevada Nurses Association supports S.B. 227, which clarifies statute to allow signing authority under the APRN scope of practice. It streamlines the process and eliminates delays for patients in care, especially in rural areas of Nevada. The APRNs are often the only providers in rural areas. We have not seen the amendment, and we will review it to let the Committee know our response.

JOAN HALL (President, Nevada Rural Hospital Partners):

Nevada Rural Hospital Partners supports S.B. 227.

CHAIR ATKINSON:

I have a letters of support for S.B. 227 from Barry Gold, AARP Nevada ([Exhibit F](#)) and from Beth Ennis ([Exhibit G](#)).

SEAN SULLIVAN (Washoe County Public Defender’s Office):

The Washoe County Public Defender’s Office has concerns and has just contacted Senator Woodhouse on the concerns. We have been working with Assemblywoman Titus on A.B. 116. We have submitted a friendly amendment

to S.B. 227 section 5 ([Exhibit H](#)). As public defenders, we are concerned with the challenges section 5 will present.

ASSEMBLY BILL 116: Authorizes advanced practice registered nurses to perform certain acts required to be performed by a physician or certain other providers of health care. (BDR 54-497)

The 1960s landmark decision by the U.S. Supreme Court, *Dusky v. United States*, 362 U.S. 402 (1960), created the standard for competency for a person to stand trial. If found to be competent to stand trial a defendant must have a “sufficient present ability to consult with his lawyer with a reasonable degree of rational understanding” and a “rational as well as factual understanding of the proceedings against him.” Competency to stand trial is being used in federal court cases. The defendant must understand the charges against him and must have the ability to aid his attorney in his own defense.

In *Pate v Robinson*, 383 U.S. 375 (1966), another U.S. Supreme Court case held that in the court’s opinion, a failure to observe procedures adequate to protect a defendant’s right not to be tried if convicted while incompetent to stand trial is depriving that person of his or her due process rights.

Our chief concern with section 5 of S.B. 227 is there are no peer-to-peer reviews with APRNs and licensed psychologists or psychiatrists doing the competency standards. The Public Defender’s Office has concerns with the gross misdemeanor and felony level cases because those crimes could put a person on the sex offender registry and has far reaching collateral consequences. A person could be put in prison for life without parole or Nevada could seek the death penalty on those types of cases. The gravity of the situation is self-evident. Without a peer-to-peer review between APRNs and licensed forensic psychologists or forensic psychiatrists, there could be due process challenges within the courts. If section 5 of S.B. 227 is approved as written, it could have unintended consequences. The defense bar could challenge the APRN credentials and hire other licensed forensic psychologists and psychiatrists to challenge the findings in competency proceedings.

My mother was a registered nurse, and I appreciate how difficult their work is. The APRNs are even more specialized, and I have a great deal of respect and admiration for them. I am concerned there are going to be due process

challenges from the defense bar within the competency proceedings and processes.

In *Sell v. United States*, 539 U.S. 166 (2003), the United States Supreme Court imposed stringent limits on the right of a lower court to order the forcible administration of antipsychotic medication to a criminal defendant who had been determined to be incompetent to stand trial for the sole purpose of making the defendant competent and able to be tried. Is the court going to accept the APRNs with their training and experience when it comes to psychotropic medications?

I had a competency proceedings case which started as a competency adjudication and moved to a Sell hearing and was not fully adjudicated for two years. The licensed forensic psychologist or psychiatrist had to testify about drug medications, clinical reviews, and the like. We were entitled to hire our own forensic psychiatrist or psychologist to challenge the results and present evidence to the court. The court may not accept APRNs as vetted expert witnesses. Often the attorney will stipulate to the credentials of the expert witness. We are willing to work with Assemblywoman Titus and Senator Woodhouse on both of the bills to draft language and present friendly amendments to both of the sections we question in the bills.

SENATOR SPEARMAN:

Are your concerns important and imperative?

MR. SULLIVAN:

Yes. I take full responsibly for not speaking to Senator Woodhouse in advance.

SENATOR SPEARMAN:

What could a licensed forensic psychiatrist do that a psychiatric APRN cannot do?

MR. SULLIVAN:

It is the peer-to-peer review. The credentials, trainings and studies are different for a forensic psychiatrist reviewing the work of an APRN. They are in different levels in their fields. If there is a challenge in court of the findings of an APRN, the first move of a defense attorney is to hire his or her own forensic psychiatrist to challenge the finding in court. My concern is the judge would give more credence or credibility to the forensic psychiatrist as opposed to the

APRN. There is no peer-to-peer review. Are the APRNs' studies and clinical findings looked at and vetted and challenged within the same scope as forensic psychiatrists?

SENATOR SPEARMAN:

In the peer-to-peer review, are you speaking of forensic psychiatrist to forensic psychiatrist? If one were to testify and you disputed the findings, would you hire another one?

MR. SULLIVAN:

Yes, I would to hire another forensic psychiatrist. A forensic psychiatrist and an APRN offering two opinions in a case could result in the defense hiring a forensic psychiatrist to offer a third opinion. When a tie occurs, the court may need to appoint a tiebreaker. A forensic psychologist or forensic psychiatrist is usually called in these cases.

SENATOR SPEARMAN:

Is the determination subjective or objective?

MR. SULLIVAN:

It is objective.

SENATOR SPEARMAN:

Are you familiar with any of the studies that have been done regarding the capabilities of the APRNs in the psychiatric field?

MR. SULLIVAN:

I just received copies of the studies and am reviewing them.

SENATOR SPEARMAN:

I am looking at seven studies from 2009. I will read from January 12, 2017, *Perspectives in Psychiatric Care* article authored by Kathleen T. McCoy titled, "Achieving Full Scope of Practice Readiness Using Evidence for Psychotherapy Teaching in Web and Hybrid Approaches in Psychiatric Mental Health Practice Nursing Education"

PRACTICE IMPLICATIONS: In that program, they prepared their students for full scope of practice, upon graduation, inclusive of

psychotherapy as well as the other highly demanding and compressed requirements of the 3-year program.

It is saying the level of advanced training the psychiatric APRNs receive is comparable to a forensic psychologist, though APRNs may not have the alphabets following their names.

MR. SULLIVAN:

I am not disputing the training and experience of the APRN. How much credence and credibility are the courts going to give a forensic psychiatrist opposed to an APRN for competency evaluations? These are highly contested and litigated issues. We have respect for the APRNs and the valuable service they provide. This is a new area of law going back to the mid-1990s. We are concerned with the credibility of APRNs in contrast to forensic psychiatrists or psychologists in competency evaluations.

JOHN PIRO (Clark County Public Defender's Office):

I echo the sentiments of Mr. Sullivan. The intent of the proposed amendment, [Exhibit H](#), is to allow APRNs give competency evaluations in misdemeanor cases only, so we can evaluate the results of their evaluations, then move forward in allowing APRN competency evaluations to occur in felony and gross misdemeanor adjudications. Since psychiatric social workers or other qualified persons are allowed by the Division of Public and Behavioral Health of the Department of Health and Human Services to examine defendants in misdemeanor adjudications, we are suggesting the APRN be tested in this area of misdemeanor adjudications before we move forward into the competency evaluations for felonies and gross misdemeanor adjudications.

SENATOR SPEARMAN:

Have you spoken to any of the Committee members to express your concerns prior to today's hearing?

MR. PIRO:

No, we have not. We usually appear before the Senate Committee on Judiciary hearings and will catch wind of something coming through on a different bill from a different committee. We missed this one. The sponsor of A.B. 116 was receptive to our amendment. Although it is late, we did speak to Senator Woodhouse and apologize for failing to do so in advance.

MR. SULLIVAN:

We have communicated regularly with the Board of Medical Examiners and the State Board of Nursing on this issue. We should have met with the Committee and the sponsor sooner and we take full responsibility for not doing this.

CATHERINE M. O'MARA (Executive Director, Nevada State Medical Association):

The Nevada State Medical Association supports S.B. 227, but is neutral on Section 5. We support APRNs working within their scope of practice and maximizing their ability to serve Nevada patients. We have concerns with the competency evaluation provision in section 5. Our psychiatrists concur with our concerns. It is a highly sensitive area and the Committee should proceed with caution. We support the public defender's amendment. It is rational and displays common sense to test the provision for two to four years. The current statute differentiates between felonies, gross misdemeanors and misdemeanors as to who can perform the competency tests. The amendment does not change the State's perspective and we encourage full consideration.

LIZ MACMENAMIN (Retail Association of Nevada):

The Retail Association of Nevada supports expanding health care in Nevada and ensuring patients receive the care needed. We are neutral on section 93 regarding workers' compensation. I will be discussing our concerns with the bill sponsor.

MENDY ELLIOTT (Nevada Osteopathic Medical Association):

The Nevada Osteopathic Medical Association does not have a position on S.B. 227. We will meet with the bill sponsor. We appreciate what the bill is proposing to accomplish.

LEA CARTWRIGHT (Nevada Psychiatric Association):

The Nevada Psychiatric Association is neutral on S.B. 227. We are supportive of the proposed amendment submitted by the Public Defender's Office, [Exhibit H](#). The amendment is a good first step to prepare APRNs for competency trainings. It is a contentious area of law, and some psychiatrists have difficulty in the proceedings which can be three to five hours long. This area of law requires specialty training and involves very difficult procedures.

SENATOR SPEARMAN:

Did you know the U.S. Department of Veterans Affairs has proposed a policy change for nursing practice that will grant full practice authority to APRNs nationwide?

MS. CARTWRIGHT:

I am not aware of this, but will take that information to our psychiatrists.

MS. GIDDINGS:

I will address some of the concerns of the Public Defender's offices about APRNs going through the competency process and their ability to evaluate on voluntary medications. As a former employee of Southern Nevada Adult Mental Health Services crisis unit, I can assure you APRNs are already involved in these processes. It would be educational to learn what is already being done by APRNs in the field prior to raising the concerns.

SENATOR WOODHOUSE:

Assemblywoman Titus has sponsored a mirror bill, A.B. 116. She and Assemblyman Oscarson have agreed with S.B. 227. We are in concert on the importance of these two legislations in our urban areas and especially in our rural areas. Access to health care is critical. Page 7, line 31 of section 5 of S.B. 227 states, "... or any combination of two such persons" When the Nevada Advanced Practice Nurses Association first brought the bill to me, I heard real stories illustrating the need in rural areas. One standout story concerns death certificates. Many rural Nevada families are waiting weeks and months to get death certificates signed. It is imperative we move forward on S.B. 227, and I urge your support.

MS. SWYGMAN:

I will clarify the competency to stand trial evaluations. Sandra Talley, Ph.D., who is a University of Nevada, Reno, Orvis School of Nursing professor, testified on A.B. 116, attesting to the competency evaluations being within the scope of practice of the psychiatric APRNs. To differentiate competency evaluations for misdemeanors and felonies is ridiculous. It is the same exam. We are asking to be allowed to practice at the top of our licensure. There is nothing in the bill to make the criminal justice system utilize APRNs. We will be there as an option.

CHAIR ATKINSON:

I will close the hearing on S.B. 227 and open the hearing on S.B. 285.

SENATE BILL 285: Revises provisions relating to real estate licenses (BDR 54-790)

SENATOR MOISES DENIS (Senatorial District No. 2):

I will present S.B. 285. I became a real estate agent a couple of years ago and took all the trainings and classes needed to become a licensed real estate professional. A broker approached me about producing a bill on training issues for the newly licensed.

Section 1, subsection 3, paragraph (a) of S.B. 285 states, "Establish a postlicensing curriculum of continuing education which must be completed by a person within the first 6 months immediately after initial licensing of the person." We propose the change be six months from the current one year requirement. Because the real estate industry is constantly changing, requiring the initial education be completed in the first six months will help ensure the licensees are current with the latest developments, skills, laws and technologies needed to reinforce the knowledge gained through pre-licensing education. The change to six months will enable new licensees to develop the proper expertise and knowledge necessary as they enter into the field of real estate. Pre-licensing training is about laws, regulations, and statutes. Post-licensing training helps a licensee understand the contracts and shows how to be a real estate agent.

The problem with allowing a full year for the post-license training is the mistakes being made by the new agent. Often new licensees wait until the end of the first year to complete continuing education. It may be to their detriment since they will not be equipped with the best resources in education to excel as real estate professionals.

Completing the post-licensing education in six months may be an issue for those living in rural areas who may not have the same access to live continuing education classes. It may be burdensome if they must travel to Las Vegas or Reno to complete the live class. Chapter 645 of *Nevada Revised Statutes* (NRS) provides an exception to the live education requirement for those living in rural areas, with the prior written approval of the Real Estate Division.

NORMA JEAN OPATIK (Commissioner, Real Estate Commission, Real Estate Division, Department of Business and Industry):

I am the immediate past president of the Real Estate Commission and have been a Commissioner for the past five years. The Commission consists of brokers, broker owners and broker sales people and each member has a minimum of 20 years' experience in real estate. The experience of the members of the Commission is such that we are in tune with all aspects of the industry. Due to our personal experiences in real estate, we see daily the need for real training of new licensees. The pre-licensing education is insufficient to prepare one to represent the public purchasing homes, possibly their largest investment in a lifetime. We need to ensure the public is being served by the best educated licensees we can prepare.

Pursuant to NRS 645.254, a licensee is to exercise reasonable skill and care to carry out the terms of the brokerage agreement. How is a new agent to know what reasonable skill and care is? What skills do they have to offer as a new licensee? It is the brokers' responsibility to supervise and train their agents. It is a difficult task for some brokers. To assist brokers and ensure a new licensee gains the basic skills needed, a post-licensing program was created in 2005. The program consists of 15 modules to be completed in 30 hours. These hours must be completed in 12 months. Most licensees wait until the end of the 12 months to complete the program requirements. The licensees are representing the public without proper skills to protect the public's interests. The modules are agency, ethics, professionalism, fair housing, contracts, what a home inspector is and is not, escrow and so forth. These are skills needed for the agents' very first transactions.

As an educator, I have taught the courses. I see the benefit of the classes and the need to offer the benefits sooner than the one year requirement. Requiring the classes be taken in 6 months, rather than 12 months, will protect the public. Brokers encourage new licensees to take the classes while they are attempting to make a living at the same time. The Commission has hosted many public hearings on the subject of shortening the timeframe for post-licensing class completion. Results of the meetings show most people are in favor of shortening the timeframe. It is in the best interest of the public and the licensee. In NRS 645.575, subsection 3, paragraph (a), a licensee has 12 months to complete post-licensing education. In S.B. 285, we seek to shorten the timeframe to six months.

SENATOR SETTELMAYER:

Why not include the skills necessary for selling the first real estate transaction in the required classes needed to take the real estate test?

MS. OPATIK:

It is difficult to include all the material in the 90 hours of licensing education. Pre-licensing classes teach law and general real estate knowledge. It is impossible to teach everything needed prior to the first transaction. Post-licensing is subsequent practical application. Most licensees complete their first transaction within the first three to five months. The six-month requirement will give them most of the basic skills they need. There are 15 modules spread over 30 hours. Real estate is a career difficult to digest all at once.

SENATOR SETTELMAYER:

What are the costs of the post-licensing classes?

MS. OPATIK:

The classes are not free. Real estate is one of the few businesses you can enter with minimal costs. People entering a real estate career must think about the costs of the classes. The first year can be costly.

SENATOR DENIS:

From my personal experience when considering a real estate career, I was supplied with a list of costs associated with the various requirements. Some brokers offer authorized education classes without a fee.

SENATOR SETTELMAYER:

I understand some brokers offer classes for free and other classes are \$200.

SENATOR GANSERT:

The Real Estate Division's Website shows the one-year requirement is aligned with the initial renewal. What happens with the gap of time between the six-month education requirement and the one-year renewal? When is the educational requirement due, at the end of the six months or upon renewal? What happens if an agent has not finished the six-months requirement when the one year renewal time comes?

MS. OPATIK:

Agents submit their renewal information with all requirements to the Division.

SENATOR GANSERT:

When does the new licensee submit the post-licensing education requirements?
Is it after six months or upon the one-year renewal?

MS. OPATIK:

The post-licensing educational requirements are due within six months.

SENATOR DENIS:

The paperwork has to be physically submitted to the Real Estate Division. I am looking into using available technology to automatically update agents' records when renewing, so the Division will know the agent has completed the education requirements.

SENATOR SPEARMAN:

Do any of the courses include information on helping real estate professionals understand how to market properties having energy efficiency, solar panels or other alternative energy sources?

SENATOR DENIS:

Current real estate training does not include alternative energy information. As the State moves forward, that information may be included. The real estate profession is consistently developing new classes.

KEITH KELLY (Chair, Legislative Committee, Nevada Association of Realtors):

The Legislative Committee for the Nevada Association of Realtors supports S.B. 285.

CHAIR ATKINSON:

We will close the hearing on S.B. 285. It has been brought to my attention we did not need to amend S.B. 412. The change was in the legislative digest and not in the bill.

SENATE BILL 412: Revises provisions related to lifeline service. (BDR 58-624)

BRYAN FERNLEY (Counsel):

After the meeting on Wednesday, March 29, 2017, I spoke with our Legislative Counsel. She agreed the change is a technical correction the Legislative Counsel Bureau can make in the bill to create a new bill. The new bill now has an

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asterisk showing the change was made in the Legislative Counsel's Digest to reflect what was in Committee on Wednesday.

SENATOR ATKINSON:
I will entertain a motion.

SENATOR SETTELMAYER MOVED TO RESCIND THE PREVIOUS ACTION
TAKEN ON S.B. 412.

SENATOR SPEARMAN SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

* * * * *

SENATOR ATKINSON:
I will entertain a new motion.

SENATOR SETTELMAYER MOVED TO DO PASS S.B. 412.

SENATOR SPEARMAN SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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SENATOR ATKINSON:
We will open the hearing on S.B. 347.

SENATE BILL 347: Imposes penalties on electric utilities that fail to comply with provisions governing surplus assets. (BDR 58-269)

SENATOR JOSEPH P. HARDY (Senatorial District No. 12):
Senate Bill 347 is a follow-on bill to S.B. No. 416 of the 78th Session. There are 2,000 acres in Laughlin, Nevada, surrounded by fences, and within this acreage there was a coal-burning plant. It is now a brownfield. It is located between Casino Drive, known as the Laughlin Strip and upper Laughlin. The vacant four square miles is surrounded by fences. There is a residential area and a park nearby, and if a ball gets thrown across the fence, the guards on the

property are not allowed to throw the ball back. It is an eyesore, an irritation to the local community and a brownfield. It has not been remediated and there is no legitimate serious plan to do so. NV Energy owns a portion of the property. As partial owner, they cannot make definitive decisions on the remediation, its condition or a process to fix the issue. Southern California Edison (SCE) and Los Angeles Department of Water and Power (LADWP) are the other owners of what used to be the Mohave Generating Station (MGS), formerly and partially owned by the Salt River Project. NV Energy is the minority partner trying to spearhead and help the other partners do something about this property that needs to be remediated to allow for economic development.

Existing law requires electric generating utilities to dispose of unproductive assets as surplus. I will refer to some of the definitions from the enrolled language of S.B. No. 416 of the 78th Session ([Exhibit I](#)). "Surplus" means an asset that is out-of-service and no longer needed, suitable or reasonably intended to be used to generate electricity. "Post-operational reserve" means an asset which was formerly operational that is currently closed or temporarily out-of-service, or held for future energy generation. "Decommissioned" means a surplus asset on which all operations have ceased and which has been cleared and environmentally remediated as necessary and which is ready for sale or disposal. None of the definitions apply unless the owners are willing to put the definition into practice.

The Public Utilities Commission of Nevada (PUCN) is authorized to impose an administrative fine of \$1,000 per day for violating the provisions in law. The fine will never be assessed unless the utility companies define their assets. Why would they define a property as needing remediation if they would be forced to pay a fine? It is challenging to enforce the remediation of a brownfield and a former coal-burning plant.

Senate Bill 347 seeks to give the PUCN strength to insert itself into the process. Section 2 requires the Commission to impose an administrative fine on an electric utility who fails to comply with the requirements of law regarding its nonproductive assets, thus creating a plan for decommissioning and disposal of surplus assets and carrying out such a plan and so forth.

Senate Bill No. 416 of the 78th Session required a report from all electric utility companies to submit utility asset classification lists to the PUCN. The reports are required from jurisdictional companies, meaning from Nevada and

non-jurisdictional companies, meaning out-of-state. NV Energy submitted its report, but there were no reports submitted from the out-of-state partners. It is difficult for NV Energy to enforce the provisions with its partners. The intention of S.B. 347 is to force the remediation, sale or disposal of an unused asset that the owner has no intention to use. The residents of Laughlin are not happy with the blight in the middle of their township.

SENATOR SETTELMAYER:

Who are the current owners of the Laughlin property?

SENATOR HARDY:

There are three owners. NV Energy is the minority partner. Southern California Edison and LADWP are the majority partners.

JAMES "JIM" MANIACI (President, Laughlin Economic Development Corporation):
I came to the Colorado River country in 1971 from Las Vegas. Senate Bill 347 will become a great page in the history of our Silver State. I am the chair of Laughlin's elected five-member Town Advisory Board and President of the Laughlin Economic Development Corporation. The longtime unused and removed MGS site is four square miles of empty land sitting in the middle of Laughlin dividing upper and downtown Laughlin.

In the Mohave consent decree of 1999, MGS was ordered by a federal court to install a \$500 million worth of air pollution controls by the end 2005. Another \$500 million was needed to replace and expand the worn out water wells and 400 miles of slurry lines in Arizona which brought the coal to MGS. Attempts to sell or convert MGS from coal-fired to gas-fired continued for several years and finally MGS was decommissioned. The two decades of inaction by the controlling owners proves they want to keep penalizing electric customers by keeping non-producing property on their books. The passing of S.B. 347 will aid many communities in Nevada, including Laughlin. I have heard 1,400 parcels throughout the State would qualify as surplus unused assets. These properties need to be reintegrated into the hosting communities. Imagine the boost to the economies of those communities, their district municipalities and county treasuries from property taxes. These vast acreages could contribute to Nevada's limited supply of taxable private property if occupied with homes, businesses, offices, factories and government facilities.

The Mohave Generating Station had 350 of the highest paid employees in the tri-state area. Factory owners looking for space inquire through the Las Vegas Global Economic Alliance and the Nevada Governor's Office of Economic Development. One company wanted to do a brownfield conversion in Laughlin providing a highly paid and stable workforce. When that company found it takes three to five years for the three partners to close a deal, the deal fell through. It took that long for the original partners to grant the sale of eight acres to NV Energy for its Laughlin field office.

Senator Hardy held a town hall meeting in Laughlin in 2015 which drew a large crowd. The community voted for its preference of the location for a gas-fired electric power generation plant. The MGS site is 2,500 acres, 2,100 acres of which is for sale.

The population of Laughlin is growing. There is a need for land for development. The Laughlin town manager, a representative of SCE, the broker for the MGS property and NV Energy, on a phone conference, said there were no credible buyers for the land. It was revealed the price is \$15 million. We need this land to be sold. The provisions in S.B. 347 will encourage the sale. Southern California Edison owns 56 percent of the property, LADWP owns 30 percent and NV Energy owns 14 percent. A master plan was drawn up for a multiple use project for this high-value property. We are unable to continue with our economic development without that property. Ninety-five percent of Laughlin township lives in upper Laughlin. Clark County is updating the local land use plan, and the property needs to be integrated into the plan so the fence can be removed. I encourage the passing of this bill.

ROBERT BILBRAY (Laughlin Economic Development):

I am a 40-year resident of Laughlin and serve as strategic development advisor for the Laughlin Economic Development Corporation, a 501(c)(3) corporation operating for 9 years in Laughlin. Senate Bill 347 is an economic development bill seeking to stop the blight in our community. This bill aims to keep our communities, our State, and the PUCN advised to the intent of out-of-state owners of Nevada assets. This is an issue that can happen in any community in Nevada. The purpose of S. B. No. 416 of the 78th Session was to require a disclosure of the designation of assets so the host communities can plan for the orderly disposition and reintegration of these assets.

The property in question is owned by the ratepayers served by the utility companies. The costs of the stagnated assets is not a corporate expense, it is piled on the rate base. The property owners have little incentive to proceed. Senate Bill No. 416 of the 78th Session also required an integration with the Governor's Office of Economic Development and the local jurisdiction to plan for the development of the property and the integration into the community.

A letter from the Governor's Office of Economic Development dated September 2, 2016 ([Exhibit J](#)) requested from the PUCN a compliance list of which out-of-state utilities submitted the generation asset lists as required by the provisions of S. B. No. 416 of the 78th Session. The response letter ([Exhibit K](#)) from the PUC stated they had not received the filing from these entities to date by the required deadline.

The owners have claimed they have made attempts to sell the property in question. There was no sales price on the initial offering, yet it required a non-refundable 10 percent deposit. It provided no closing date. As of March 29, 2017, there are no buyers. In 2001, I purchased property from these owners and it took four years to close the escrow. I am convinced LADWP makes the other owners dysfunctional because of their procedures. I want these power companies to be prohibited from purchasing Nevada generation distribution or transmission sites until fallow sites are sold and integrated into the host communities.

JUDY STOKEY (NV Energy):

NV Energy opposes S.B. 347. There are several owners of the MGS property. NV Energy has done a good job since last Session getting this property marketed and ready for sale. We understand the passion the residents of Laughlin have about this. We have met with the town board members numerous times to lay out our process in getting the property sold. Some of the meetings have been attended by SCE and LADWP. They are partners in this process and have been working in good faith. We have received only one proposal which was not acceptable to the owners. We came up with another plan and have a \$15 million sales price. We went out for another bid and hope to have something in 45 days. If a proposal comes in prior to the 45 days, we will take it to the owners for approval. Fining a business that is trying to sell an asset is not a good way to get the sale done. It may hurt the sale of the property. NV Energy will continue to work with the other owners. We are committed to selling the property as soon as possible.

LES LEE SHELL (Director, Office of Risk Management, Department of Finance, Clark County):

Clark County opposes S.B. 347. Upon speaking to the sponsor, there is some acceptance of a conceptual amendment. The bill reads the PUCN could put a lien on private property and public rights-of-way. We do not think that is the intent of the bill, so that portion needs to be clarified. Generally, the outset of these are centrally assessed properties managed through the Department of Taxation. This bill is setting forth a different process for the county treasurers.

LISA GIANOLI (Washoe County):

I am here on behalf of Washoe County and our County Treasurer is here to go over the technical issues regarding the treasurer's office involvement in the bill.

TAMMI DAVIS (Treasurer, Washoe County):

The county treasurers are responsible for selling property when it defaults. When a situation occurs adding to the tax bill, we need to ask if this is truly something that should be given super priority tax lien status. It is a policy question resting with the lawmakers. Consideration should be made to be sure a lien is an appropriate end result. We are concerned with the precedent this might set. This situation is outside the normal process of the treasurer's office, and others could consider us their collection agents.

The Washoe County Treasurer's Office has several procedural concerns. Senator Hardy has indicated he is willing to discuss them. The public utilities are centrally assessed. We do not send tax bills on these properties. The assets being described may be owned by someone different than the land beneath it and could present legal ramifications. We are not clear how the bill might affect other liens on the property. Do liens fall away in this instance and is it appropriate? Another concern is the \$15 million price tag on the MGS property. Treasurers require cash payment when selling a defaulted property. This could affect the sale. We understand the intent of the bill, we question if the Treasurer's Office is the proper mechanism.

SENATOR HARDY:

There is a problem in Laughlin and in Nevada, and it is wise to figure out how to solve the problem. I am happy to consider a friendly amendment.

CHAIR ATKINSON:

I will close the hearing on S.B. 347. We heard S.B. 285 and I will entertain a motion.

SENATOR SETTELMAYER:

I was concerned with the cost of the classes and have spoken to people that say it is a worthy concept.

SENATOR SETTELMAYER MOVED TO DO PASS S.B. 285.

SENATOR SPEARMAN SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

* * * * *

CHAIR ATKINSON:

We will open the hearing on S.B. 350.

SENATE BILL 350: Prohibits the installation and use of certain technology devices in a motor vehicle. (BDR 52-575)

JON SASSER (Legal Aid Center of Southern Nevada; Washoe Legal Services):
Senate Bill 350 concerns vehicle interruption devices. They are devices placed on automobiles with Global Positioning Systems (GPS) which track wherever cars travel. These devices contain the ability to shut off vehicles remotely to make them inoperable. Sometimes they are called starter interruption devices because they affect the ability of the starters to start the cars. This is the third Legislative Session this topic has come forth. Assembly Bill No. 187 of the 77th Session was introduced by two out-of-state corporations. PassTime and Payment Assurance Technology Association wanted authorization for the use of the devices in Nevada. An amendment was proposed to regulate the use, however, the bill did not pass both Houses. Assembly Bill No. 228 of the 78th Session was brought forth by the same out-of-state companies and died with bipartisan effort on the Assembly Floor.

There are problems with these devices. One is safety. Even though the devices are only supposed to affect the starters when the cars are turned off, that is true only if the devices are properly installed. Sometimes, the vehicles were

turned off while being driven on the interstate, which created safety issues. When the car is turned off, the circumstance of the driver is unknown. The driver could be in an unsafe place or in a dire situation. It is a civil liberty issue. The device allows a customer to be tracked wherever he or she goes and these locations can be recorded. Do we know how that record can affect a customer? The devices can be used to evade the law. If a person is buying a car on installment payments, there is a payment grace period of 30 days before the car can be repossessed. Use of the devices allows the car to be shut off at any time.

SOPHIA A. ROMERO (Legal Aid Center of Southern Nevada):
I will read from my written testimony ([Exhibit L](#)).

MR. SASSER:

In light of the problems outlined by Ms. Romero and the inability to negotiate regulation of this industry in the last two Legislative Sessions, S.B. 350 outlaws the use of these devices by making them a deceptive trade practice. The out-of-state companies had insisted on putting into our law that the devices could be used to shut off the automobile without waiting the 30-day grace period. Andy MacKay with Nevada Franchised Auto Dealers Association did not like prohibiting the use of these devices. We are in discussion to bring reasonable regulations which address the legal issue of 30 days, the safety issues described, contract obligations, installation requirements and so forth. I am hopeful prior to the work session we can bring a bill that will work for everyone. We have been approached with proposed amendments from several interested parties. Nevada Credit Union League submitted a proposed amendment requesting adding a non-profit corporation element ([Exhibit M](#)). This is a consumer protection, and we are not trying to prevent law enforcement. The bill is not to prevent leasing commercial trucks. If we move from the issue of banning the devices to regulating the use, we might address some of the concerns.

SENATOR SETTELMAYER:

If a fee simple title owner of a car, without liens, is a corporation wanting to put an interlock on a personal vehicle owned through the corporation, or corporate-owned, could it be a problem installing a device as the right to protect property from theft? What is your opinion on that?

MR. SASSER:

I agree, it is about protecting the consumer. Our intention in the bill is not to keep people from protecting their property. There are safety issues with the devices, and we may have to put standards for installation in the bill. The bill addresses a consumer protection issue.

SENATOR SETTELMAYER:

The stories expressed today on this issue had to do with vehicles with liens on them, not with individuals who own their vehicles outright with fee simple title. I am concerned with the bill if it affects those individuals.

SENATOR SPEARMAN:

Are the consumers of loans where the dealership installs this device low to moderate income individuals or are the dealers who loan unconcerned about a person's credit score?

MR. SASSER:

The people we deal with at the Legal Aid Center are of lower income, but I have heard devices can be installed on higher priced vehicles where there is a concern about theft.

MS. ROMERO:

Ms. Torres testified in 2015 that her car was paid off and she had good credit. The dealer told her she needed the device because of the location of her residence. Ms. Smith said her credit score was 690. We do see more high-risk consumers at the Legal Aid Center, and we have income guidelines. Not everyone coming to us is going to have perfect credit and be financially stable. If there is any risk factor, the device will be put on the vehicle.

SENATOR SPEARMAN:

Are new vehicles affected by these devices?

MR. SASSER:

I have heard some higher end and new vehicles are affected.

SHAUN PETERSEN (National Independent Automobile Dealers Association):

The National Independent Automobile Dealers Association (NIADA) is among the Nation's largest trade associations representing the used motor vehicle industry, comprised of nearly 38,000 licensed used car dealers across the Country. Since

1946, NIADA has represented the voice of the dealers across our Country. During those 71 years, we have engineered programs and leveraged technology to fulfill our mission to advance, educate and promote the independent used car dealer. We have a strict code of ethics of duty, honor and integrity our dealers are required to adhere to. We believe in the advancement of small businesses and support the free-market system. Our members are the quintessential small business owners and entrepreneurs who make up the backbone of the main street economies in towns both large and small. More than half of our businesses have less than five employees.

There exists a group of un-bankable customers that cannot get financing for the purchase of needed transportation. Many of our members have provided a way for those customers to purchase a car. Members put up their own capital to finance the customer, and the member then carries the paper. They are buy here, pay here dealers. Part of the car-buying experience in some instances involves the assignment of paper to a third party. This is not in every car-buying transaction. Many of the buy here, pay here dealers have made a business decision to utilize the GPS starter interrupt devices for two main purposes: as a payment insurance device and as a collection protection device. The devices are designed to improve customer payment performance, thereby reducing or eliminating repossession risks and helping consumers establish good credit histories.

The starter interrupt devices are discreetly installed to the starter under the vehicle's dashboard. They are not designed to allow the stoppage of a vehicle in transit. They are designed to disable the starter; not to disable a running engine. If properly installed, that should not happen. Millions of vehicles have had these devices installed. I am unaware of any circumstance when the installment of a device resulted in a vehicle being stopped while in operation.

Many device manufacturers have dedicated installation portal manuals and installation guides focusing on clear and concise information so installers and mechanics can assist dealers and lenders on proper installation of the devices in the easiest and most effective way possible.

The outright ban on the devices as proposed in S.B. 350 has been introduced in several state legislatures across the Country. Each instance has started with a complete ban. Those states have then made decisions to reform the ban into a regulatory framework because they recognize the benefits to consumers and

businesses. The use of these devices impacts not only the vehicular dealer but also insurance, finance and rental car companies. Senate Bill 350, as it is proposed, adversely impacts all of these businesses.

There are consumer benefits. Consumers often qualify for a better or more reliable vehicle through the use of the devices. Creditors are more comfortable with providing consumers greater purchasing power because the risk of being unable to recover collateral is diminished in the event of default. Less risk to the creditor often translates to lower interest rates, higher loan-to-value ratios and longer termed notes. After the transaction is consummated, consumers will realize benefits in the event of default that would not be present without the use of such devices. The devices open lines of communication between creditors and consumers. If the vehicle starter is rendered temporarily inoperable because of default, a consumer will often cure the default much quicker. Compared to the unavailability of the vehicle due to repossession, the consumer can be on the road much faster through the use of the device. The use of the devices invariably results in lower repossession costs, which are ultimately borne by the consumers. Creditors know exactly where the car is and can dispatch a recovery agent to retrieve it. The device functions as, and is frequently used by consumers, as an anti-theft device. The use of the product often qualifies the consumer for reduced vehicle insurance premiums.

The passing of S.B. 350 would all but dry up credit accessibility for the un-bankable customer who has no other option but to go to a buy here, pay here dealer or a similar company to help them. We do not believe this is a good outcome for Nevada consumers. The legislation would harm Nevada's economy as many buy here, pay here dealers would be forced to shut their doors. These devices help those businesses sell more cars and generate revenue for the State.

From the creditor's perspective, the devices can be used to verify consumers' jobs and addresses when no other proof is available. This decreases the risk of fraud for the creditor. The reduced risk of fraud allows creditors to open their purse strings. The devices can be used to locate stolen vehicles and report them to the police. The device can be used to give immediate notification when a vehicle is impounded so the vehicle can be recovered at a lesser cost. When a vehicle is towed, besides a towing fee, the impound lots charge upward of \$50 per day. If mail is the only option to notify the creditor the vehicle has been impounded, those storage fees can reach thousands of dollars, making it

impossible for a creditor to recoup its collateral. The device can help a creditor see if the vehicle has not moved for some time, which could be an indicator the vehicle has been abandoned. The buy here pay here dealers are very capital-intense businesses. Dealers are required to put up their own money for inventory acquisition and carry that risk throughout the life of the loans. Dealers who assign the paper to third party finance companies do not face that risk. Buy here, pay here dealers often seek capital loans from financiers to fund their business operations. It is not uncommon for those financiers to require the dealer to use these devices. If the devices become banned in Nevada, it is likely those financiers will pull funding and put dealers out of business which would set off the reaction that comes from less competition with increased prices and cost of credit. Because these devices provide value benefit to both consumers and businesses alike, we oppose any legislation that bans their use.

Our dealer members are taught and trained on the responsible use of the devices and have, as an association, issued best practices requiring dealers to disclose the existence of the devices to the consumers in writing before financing the sales. This disclosure includes the consumer's consent to have the device installed and an explanation on how the device will be used, including what information will be gathered. We share the interest in helping Nevada consumers who are the dealers' customers. The dealers want the customers to succeed. They do not want to sell one car, but many cars. They want to see the customers successfully fulfill their contracts, sell them their next cars, their friends cars and their families cars. The responsible use of these devices is a means to that end, and we are committed to seeing customers stay successful. We will continue to advocate for the responsible use of these devices because of these benefits. We encourage the Committee to table the bill, study the positive impact of the devices in our industry and consider the impact on other industries.

SENATOR CANNIZZARO:

We have heard conflicting testimony on whether a vehicle can be stopped while in transit. It is very concerning. Can you clarify whether the devices can stop a moving vehicle?

MR. PETERSEN:

We are not aware of any situation in which the start devices have resulted in a vehicle stopping while in operation. The manufacturers we do business with provide installation guidelines. Their technicians have material showing the

proper installation of the devices. The vehicle must be stopped for the starter to be rendered inoperable.

SENATOR CANNIZZARO:

I would appreciate that information. It concerns me. Is there a way to control the device to monitor if the car is at the customer's home or work, then disable the starter? Or is it at random without consideration of the location of the vehicle?

MR. PETERSEN:

The devices come in two buckets. There is a GPS only device and another that functions both as a GPS and a starter interrupt device. The GPS tracking component can be set up in various ways allowing the company to see where the vehicle is at all times. It is geolocation data, not the consumer's private information. No names, account numbers, social security numbers, or contract information are transmitted to the manufacturer.

SENATOR CANNIZZARO:

My concern is if the car is disabled at any time of day or in any neighborhood, there could be safety issues. At the time of the disabling, a person could be in a bad neighborhood, have an elderly relative or children in the car, or is a distance from his or her residence. Disabling the vehicle at any time potentially puts people in dangerous situations when they may have missed just one car payment. Do any of your best practices deal with this concern?

MR. PETERSEN:

The manufacturers often provide emergency access codes to be used in restarting the devices. Consumers can contact the manufacturers if they find themselves in emergency situations when the vehicles are disabled. The code is usually valid for 24 hours. We are amenable to having discussions on what responsible use legislation would look like with the inclusion of an emergency access code.

SENATOR CANNIZZARO:

Under your current best practices, are there guidelines as to the time of day or where the car is being disabled?

Mr. Petersen:

We do not have best practices pertaining to that because it will be unique to the business situation where the dealers and consumers are located. It would be difficult for the manufacturers to know what neighborhoods in any given location are considered safe. Providing the emergency access code provides for that.

SENATOR CANNIZZARO:

There are current laws regarding repossession of vehicles. There are other means for vehicles not equipped with the starter devices to be repossessed. What are the issues with current repossession laws and why are these devices necessary?

MR. PETERSEN:

The devices are not repossession tools. They are communication tools to enable payment assurance. They can be used as collateral protection tools. Most of the dealers utilizing the devices are using them to communicate with their customers. If a customer falls behind on a payment, the dealer is not moving to repossession or disablement of the vehicle. In Nevada, there is the 30-day wait period for repossession upon default. The device is being used as an opportunity to communicate by beeps to notify the customer of a late payment and to foster a call to work out an accommodation agreement. Very rarely is it being used as a means to get the car back immediately.

SENATOR CANNIZZARO:

I am still concerned with disabling of a vehicle at any time of day for reasons of a late payment and yet, repossession is not yet an avenue for recovering the vehicle in these instances. There does not seem to be best practices for where the vehicle may be disabled, at what time of day or other means of communication with the individual before it gets to that point. If the bill moves to more regulation of the devices, I would like to see these concerns addressed.

SENATOR GANSERT:

Is there an amendment that addresses some of these issues? Can you use the device outside of 30 days or between 10 to 30 days if someone is moving toward defaulting on his or her loan? The amendment will be important to work through the issues we have. It is important for people to have transportation to get to their jobs. Many of the vehicles with the devices are being purchased with loans for those who cannot otherwise get a conventional loan.

SENATOR CANCELA:

Is it true that people can get cell phone notifications when their vehicles are about to be disabled?

MR. PETERSEN:

There was a reference from the Legal Aid attorney to a case where a person was able to remotely disable a vehicle from a phone application. Our dealer members are making great strides to communicate with their customers through all channels available.

SENATOR CANCELA:

I was misunderstanding. I was unsure of the different avenues available to contact customers. Having a mechanism in place for notification that the car is in transit, and it is not a good time to shut down the vehicle would be of benefit.

SENATOR SETTELMAYER:

Over 880 subprime lenders use these devices traditionally for people with credit scores below 640. If the devices are forbidden, lenders may decide not to lend to these people. I hope the proposed amendment will address these concerns.

SENATOR SPEARMAN:

If someone is in an unsafe place, for example, a person driving from Carson City to Las Vegas. It is a long, long, lonely stretch of highway, and in some places cell phone service is not available. What does a person do if his or her vehicle is disabled in a situation like this?

MR. PETERSEN:

We will check with the manufacturers of the devices as to how they handle these situations and get back to you.

SENATOR SPEARMAN:

There is a story of a 31-year old buyer whose car was disabled and who had to push the car to the side of the highway to avoid a collision. It is often said the devices are safe and do not shut down the vehicle while a person is driving, but there is the possibility it could happen. Before this device was invented, what did creditors do when people defaulted on their loans? I understand there are more than 200 million cars with devices on them.

MR. PETERSEN:

The old repossession method is what was done. The dealer would send out an order to a repossession company who would find the vehicle and haul the car.

SENATOR CANNIZZARO:

I am hopeful we can get some data to support the benefits the devices are doing in terms of the credit market, purchasers of the vehicles with devices, better interest rates and so forth. I would like to see some of that data.

MR. PETERSEN:

We will garner what data we have available and get that to you.

BRENT NEWMAN (J.D. Byrider):

I have been with J.D. Byrider for 23 years. This organization is a national franchise company with 170 locations nationwide. We use the GPS device, not the starter interrupt device. We have used GPS devices for over ten years. The GPS device is disclosed with the customer at the time the sale is closed. The device is used in the event we need to secure the vehicle in a timely and efficient manner. I have met with many customers over the years and have yet to get pushback on device usage. Customers see it as a benefit in many cases, and they have received breaks on their insurance costs. Over 800 dealers could be affected with the passage of S.B. 350. It would be a devastation and a deal breaker to our businesses. It would affect our ability to offer loans. Las Vegas has a transient feel and the device allows us to do additional business and to provide a better vehicle for the consumer. A GPS device is not intrusive. We definitely disclose it to each of our consumers. We are looking to expand our business. We pay half a million dollars a year in tax revenue to Nevada and this could easily reach \$1.5 million. Without the GPS devices, we could go out of business. It is a part of our business and could be a difference in our margin.

SENATOR SPEARMAN:

Testimony indicates the purpose of the GPS device is to alert the driver of a late payment. There is a report in the *New York Times* that Lionel M. Veard Jr., head of collections at First Castle Federal Credit Union in Covington, Louisiana, said he was once able to disable someone's car while Mr. Veard was shopping at Walmart. If the GPS device is there to monitor the whereabouts of the car, why not include a step in the business process indicating the consumer may not be at home or is in an unsafe place or at the hospital or something similar? According to the person at the First Castle Federal Credit Union, he was able to

push a button and a person's car was disabled. It would appear he had no knowledge of where the vehicle was and what the repercussions were for the consumer. That is of major concern.

MR. PETERSEN:

It is difficult for a dealer and manufacturer to know what situation the consumer is in or which neighborhoods are good and which are not. Repossession often takes place at a shopping center. It can happen at any point in time depending on finding the vehicle, securing it and returning it to the creditor.

ANDY MACKAY (Executive Director, Nevada Franchised Auto Dealers Association):

We have met with Mr. Sasser to discuss the bill and are working on an amendment. My opposition is strictly on an outright ban of the devices. For certain borrowers, the minority of car sales in Nevada is at the franchise level. Some lenders will not fund the buyer unless a device is put on the car. The end result of the bill will push those buyers into the buy here, pay here market where some of the operators in that category charge exorbitant interest rates and there are no consumer protections. That is the minority of those dealers. Our concern is that a person qualified to buy a new car from a franchise dealer would be pushed into the secondary market.

MILO TREVIZO (Director of Finance, Chapman Auto Group Acceptance):

Chapman Auto Group Acceptance (CAG) is a subsidiary of the Chapman Auto Group. We specialize in financing automobile loans and operate in Nevada and Arizona. We oppose the bill. Our company was introduced to starter interrupt technology in 2010 and 2011. Between 2011 and 2016, CAG was able to provide financing for 3,200 customers which is over a 1,000 percent yearly increase from loans provided prior to the introduction of this technology. From our experience, the starter interrupt technology has enabled customers to obtain loans who would otherwise be unable to obtain financing. We had been seeing vehicle repossessions in Nevada double, delinquencies triple and our loan volume reduced in the absence of starter interrupt technology. If the proposed legislation passes, we envision a sharp decrease in loans, leading to severe reduction in profitability. This will force CAG to cease conducting business in Nevada. This will mean customers of CAG may be left without an avenue to purchase a vehicle.

We use this technology to encourage our customers to contact us, have a conversation with us and allow us to help them work through the issues they are experiencing. Starter interrupt technology similar to what we use has proven to be a tool to improve consumer payment performance, thereby reducing or eliminating repossession risks and creating a path for better opportunities. Starter interrupt devices will not cause a car to stop while a driver is operating his or her vehicle. These are designed as starter interrupt devices, not ignition interrupt devices. The payment reminder system reminds consumers when their payments are due so they can stay current on their loans. Studies have shown the devices have significantly reduced the likelihood of default and repossessions for consumers by reducing the risk and helping consumers. The devices can also incentivize the consumers to work with their creditors on payment plans if they find themselves having difficulty making payments due to unforeseen circumstances.

Even when payments are due, industry best practices are to equip devices with override codes to allow drivers to restart their vehicles in case of an emergency. Many of the devices have additional features which provide antitheft and stolen vehicle recovery services which can help lower a consumer's insurance premiums. Without this device, many individuals could not access the credit necessary to purchase safe and reliable vehicles to get them to work, the grocery store or pickup their children.

This device provides additional security to a lender to allow it to underwrite loans to individuals who would otherwise be unable to obtain credit. The industry has worked with other states and the federal government to support responsible legislation. In fact, the Consumer Financial Protection Bureau has included in a section of one of its approved examination manuals that expressly allows creditors to responsibly use a GPS as a starter interrupt device. We offer to work with the author of the bill to modify the legislation from a ban of this technology and support the responsible use of this technology.

CONOR FLYNN (Chapman Auto Group Acceptance):

Chapman Auto Group Acceptance is in litigation on a few cases with Ms. Romero of the Legal Aid Center of Southern Nevada. Ms. Romero alleged there were violations of law and discussed the single document rule. We dispute any allegation that CAG has violated Nevada law by its use of the GPS or starter interrupt devices.

SENATOR CANCELA:

Why are these devices essential to your business model?

MR. TREVIZO:

We would not be able to lend to some customers without the devices installed in the vehicles.

SENATOR CANCELA:

Why is that true if people were able to get loans prior to the existence of the devices? The devices are not essential to repossession of the vehicles which could be done by other means. Part of your business model is assuming the risk of lending to people in certain credit brackets or however you describe that. Why should the burden be on the individual who engages in business with you and loses his or her purchase because of a late payment? It is you who assumes the risk. There is not a good argument as to why these devices are essential to how you do business.

MR. TREVIZO:

Lending did happen prior to the devices. Lending to our customers has increased 1,000 percent in Nevada since the devices began being used. Our policies changed. Our delinquencies and losses had increased prior to them. It has allowed us to lend to a larger scale of customers.

SENATOR CANCELA:

The idea that you would go out of business if the devices were outlawed is a hyperbole, because you would still be able to lend, just not be at the rates you have been lending in recent history.

MR. TREVIZO:

That is correct.

JARL KONGSRUD (Smart Auto; Smart Finance):

Small Auto and Smart Finance lend to the customers who cannot secure loans from other financial institutions. We have been in business for over 15 years. We employ over 20 employees. We have a portfolio in excess of \$10 million. We contribute \$500,000 in tax revenue to Nevada yearly. As a buy here, pay here organization, we do not make our money selling cars because we carry the notes. We take a minimal down payment and spend thousands of dollars in purchasing, refurbishing and reconditioning vehicles for sale. The only security

we have for the loan is the vehicle. We must have the GPS device to protect our investment. Before we used the devices, in 2008 we had a \$6.9 million portfolio. The GPS devices have allowed our portfolio to increase to \$10 million in 2017. We could not lend to the type of customers we lend to without the devices. We provide full disclosure on the GPS devices with every sale we make. I have never heard of a device that turned the vehicle off while in transit. Our devices are hooked up to the starter. The starter of the vehicle does not affect the vehicle when running.

When we turn off a vehicle, it is the last resort. We try every means available to contact the customer. The GPS devices buzz the customers to notify them to contact us. We only turn vehicles off during business hours. The customer can contact us and resolve the issue during this time. We will then turn on the vehicle right away. We locate the vehicle prior to turning it off to know the vehicle is either at the customer's home or employment. If the vehicle is at another location, we will not activate the device.

MR. NEWMAN:

Please take into consideration an amendment with the GPS only issue.

CHAIR ATKINSON:

I have written testimony from Don Hamrick with Chapman Automotive in opposition to S.B. 350 ([Exhibit N](#)).

ALFREDO ALONSO (Alliance of Automobile Manufacturers):

The Alliance of Automobile Manufacturers is neutral to the concept. Section 1, subsection 1, paragraph (b) is broad enough where it could potentially include technologies like OnStar and similar devices which are within the manufacturer's purview of the technology today, including GPS. The unintended consequences of including the manufacturers are to be considered.

JARON HILDEBRAND (Nevada Trucking Association):

The devices are essential to the daily trucking business considering the International Registration Plan, Inc., and International Fuel Tax Agreement. We need to know the location of our trucks. The Nevada Trucking Association has proposed an amendment seeking commercial vehicles be exempt from S.B. 350 ([Exhibit O](#)).

JENNIFER J. GAYNOR (Nevada Credit Union League):

The Nevada Credit Union League does not make use of these technologies but we have one credit union in Nevada that does. They are concerned with an outright ban on the devices. They would not be able to provide their members who have bad credit with fair and reasonable lending options. We look forward to working with the bill sponsors on some regulations.

KEITH DUFFY (Enterprise Holdings):

Enterprise Holdings includes Enterprise Rent-A-Car, Alamo Rent A Car and National Car Rental. We protect many of our higher-end vehicles such as our Maseratis, Lamborghinis, Audis and Porsches and see much fraud and theft in these markets. The devices enable us to protect and recover our vehicles.

MR. SASSER:

Senate Bill 350 does not outlaw the GPS device. Section 1, subsection 2, paragraph (a) defines an electronic repossession technology as a device with both GPS and starter interrupt technology. If the GPS unit is in the vehicle, why does a vehicle also need a starter interrupt device? In other states, legislation which began with banning the use of the devices went to legislation for regulating devices. We have been attempting to do this for several years and have been unable to satisfy all parties concerned. I pledge to this Committee I will do my best to submit a good bill and address the concerns, including shutting down a vehicle in transit and devices improperly installed.

CHAIR ATKINSON:

There are many issues that need to be worked out. Perhaps combining the amendments and addressing all the issues as needed will help.

MS. ROMERO:

There was a finder of fact regarding a device that turned off a car before 30 days was a violation of Nevada law. This was determined in Candace Smith's case by judicial district court Judge Carolyn Ellsworth.

CHAIR ATKINSON:

We will close the hearing on S.B. 350 and open the hearing on S.B. 466.

SENATE BILL 466: Makes various changes relating to the State Board of Oriental Medicine. (BDR 54-557)

SENATOR JAMES A. SETTELMEYER (Senatorial District No. 17):

Senate Bill 466 is a recommendation from the Sunset Subcommittee of the Legislative Commission concerning the State Board of Oriental Medicine which was formed in 1973. Nevada was one of the first states to have a State Board of Oriental Medicine. There are five members on the Board whose function is to license and discipline practitioners of Oriental medicine. The Board is authorized to approve the establishment and curriculum of a school or college of Oriental medicine in Nevada.

The State Board of Oriental Medicine was reviewed by the Sunset Subcommittee in the 2011-2012 Interim. When the Sunset Subcommittee reviews a board, it has the power to monitor the board. At the recommendation of one of our Senators, the Board was brought back before the Sunset Subcommittee for review in December 2015. There were issues and concerns about its operations. The Board had proposed a regulation which created barriers for licensing people in Oriental medicine. We have heard repeatedly the need for more licensed people in this field. Representatives from Woung University, the only college of Oriental medicine in Nevada, urged another review by the Sunset Subcommittee because of concerns about getting its curriculum approved. There were other complaints about the Board of Oriental Medicine.

Senate Bill 466 seeks to increase the Board members from five to seven. It requires one member must represent a school or college of Oriental medicine in Nevada. There is a friendly amendment to have one member be a doctor. The bill also provides that the members of the Board serve at the pleasure of the Governor of Nevada. Over the three Interims the Sunset Subcommittee has operated, we have learned the Governor or other appointing authorities often lack the statutory authority to remove members of boards and commissions if there is a problem.

The bill exempts licensed physicians from provisions of NRS 634A. The effect of this recommendation is to enable doctors licensed under NRS 630 or osteopaths licensed under NRS 633 to treat their patients with these kinds of procedures without obtaining the degree and licensure from the Board of Oriental Medicine. Training is still required. Many of these trainings and certifications are provided by the American Society of Acupuncture. I liken this to the concept that we allow a doctor to stick us with a needle for a shot and allow the doctor to use a knife to operate, but we do not allow the doctor to

use a pin on us. It is an obvious request not to fall under the Oriental Medicine Board.

Senate Bill 466 requires the Oriental Medicine Board to submit to the Sunset Subcommittee a semiannual report throughout 2017-2018 Interim. Section 4 lists the items for inclusion in the report.

The Legislature required this kind of monitoring a couple of years ago when it reorganized the Nevada Funeral and Cemetery Services Board. It lets the entity know the Sunset Subcommittee is watching and will review it again, if necessary.

MAGGIE TRACEY (President, State Board of Oriental Medicine):

The State Board of Oriental Medicine supports S.B. 466. I will read from my written testimony ([Exhibit P](#)). We hope to expand the number of providers of Oriental medicine. We have a proposed amendment to S.B. 466 ([Exhibit Q](#)).

DAN MUSGROVE (State Board of Oriental Medicine):

I will review the proposed amendment [Exhibit Q](#). It seeks to change Section 3 to increase three members to four members appointed to the Board by the Governor. It deletes Section 3, subsection 5, "The Governor shall appoint one additional member to the Board."

CHRIS BOSSE (Vice President, Government Relations, Renown Health):

Renown Health appreciates S.B. 466, section 1 for clarifying the language added to exclude those physicians licensed under chapters 630 or 633 of NRS. There is adequate training and oversight in those licensing categories to oversee the practice of medical acupuncture.

SENATOR SETTELMAYER:

I am thankful to Maggie Tracey and her leadership on the Board for changing the direction of the Board to alleviate some of the problems.

SENATOR SPEARMAN:

Does the Board include cannabis extract?

MS. TRACEY:

No.

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REGAN COMIS (Board of Medical Examiners):
The Board of Medical Examiners is neutral on S.B. 466.

SENATOR SETTELMAYER:
The proposed amendment, [Exhibit Q](#), on S.B. 466 is agreeable to all parties.

CHAIR ATKINSON:
We will close the hearing on S.B. 466.

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CHAIR ATKINSON:
Hearing no further testimony, I will adjourn at 10:22 a.m.

RESPECTFULLY SUBMITTED:

Christine Miner,
Committee Secretary

APPROVED BY:

Senator Kelvin Atkinson, Chair

DATE: _____

EXHIBIT SUMMARY				
Bill	Exhibit / # of pages		Witness / Entity	Description
	A	1		Agenda
	B	9		Attendance Roster
S.B. 227	C	14	Jeanine Swygman / Nevada Advanced Practice Nurses Association	Presentation
S.B. 227	D	87	Jeanine Swygman / Nevada Advanced Practice Nurses Association	Written Information
S.B. 227	E	3	Jeanine Swygman / Nevada Advanced Practice Nurses Association	Written Information
S.B. 227	F	1	Chair Kelvin Atkinson	Barry Gold, AARP Nevada Letter of Support
S.B. 227	G	1	Chair Kelvin Atkinson	Beth Ennis Letter of Support
S.B. 227	H	1	Sean Sullivan / Washoe County Public Defender's Office	Proposed Amendment
S.B. 347	I	9	Senator Joseph P. Hardy	Enrolled Language S.B. No. 416 of the 78th Session
S.B. 347	J	1	Robert Bilbray / Laughlin Economic Development Corporation	Letter, Governor's Office of Economic Development
S.B. 347	K	1	Robert Bilbray / Laughlin Economic Development Corporation	Letter, Public Utilities Commission
S.B. 350	L	2	Sophia A. Romero / Legal Aid Center of Southern Nevada	Written Testimony
S.B. 350	M	2	Jon Sasser / Legal Aid Center of Southern Nevada	Nevada Credit Union League Proposed Amendment
S.B. 350	N	3	Chair Kelvin Atkinson	Don Hamrick Written Testimony

S.B. 350	O	12	Jaron Hildebrand / Nevada Trucking Association	Proposed Amendment
S.B. 466	P	2	Maggie Tracey / State Board of Oriental Medicine	Written Testimony
S.B. 466	Q	1	Maggie Tracey / State Board of Oriental Medicine	Proposed Amendment