

**MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON GROWTH AND INFRASTRUCTURE**

**Eightieth Session
March 21, 2019**

The Committee on Growth and Infrastructure was called to order by Chair Daniele Monroe-Moreno at 1:35 p.m. on Thursday, March 21, 2019, in Room 3143 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4401 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at www.leg.state.nv.us/App/NELIS/REL/80th2019.

COMMITTEE MEMBERS PRESENT:

Assemblywoman Daniele Monroe-Moreno, Chair
Assemblyman Steve Yeager, Vice Chair
Assemblywoman Shea Backus
Assemblywoman Shannon Bilbray-Axelrod
Assemblyman Richard Carrillo
Assemblyman John Ellison
Assemblyman Glen Leavitt
Assemblywoman Rochelle T. Nguyen
Assemblyman Tom Roberts
Assemblyman Howard Watts
Assemblyman Jim Wheeler

COMMITTEE MEMBERS ABSENT:

None

GUEST LEGISLATORS PRESENT:

Assemblywoman Alexis Hansen, Assembly District No. 32

STAFF MEMBERS PRESENT:

Michelle L. Van Geel, Committee Policy Analyst
Lori McCleary, Committee Secretary
Alejandra Medina, Committee Assistant
Lisa McAlister, Committee Assistant



OTHERS PRESENT:

Kristina L. Swallow, P.E., Director, Department of Transportation
Thor Dyson, P.E., Assistant Director, Operations, Department of Transportation
Bill Wellman, Division Manager, Las Vegas Paving Corporation
Lance Semenko, President, Q&D Construction
Dan Musgrove, representing Southern Nevada Chapter, National Association of Electrical Contractors
Alexis Motarex, Government Affairs Manager, Nevada Chapter, The Associated General Contractors of America, Inc.
Brian Reeder, representing Nevada Contractors Association
Lee Gunn, Vice Admiral, USN (Ret.), Vice Chairman, CNA Military Advisory Board
Leigh Berdrow, Director, Academy for Career Education, Reno, Nevada
April Sanborn, Services Manager III, Division of Management Services and Programs, Department of Motor Vehicles
Sarah M. Adler, representing Charter School Association of Nevada
Alexander Marks, Political Coordinator, Nevada State Education Association
Jude Hurin, Administrator, Division of Management Services and Programs, Department of Motor Vehicles
Thomas Conner, Chief Administrative Law Judge, Department of Motor Vehicles
J. Chip Siegel, Private Citizen, Las Vegas, Nevada
John J. Piro, Deputy Public Defender, Legislative Liaison, Office of the Public Defender, Clark County
Kendra G. Bertschy, Deputy Public Defender, Washoe County Public Defender's Office
Victoria Hauan, Impaired Driving Program Manager, Office of Traffic Safety, Department of Public Safety
Amy E. Davey, Administrator, Office of Traffic Safety, Department of Public Safety

Chair Monroe-Moreno:

[Roll was called. Committee rules and protocol were explained.] I will open the hearing on Assembly Bill 22.

Assembly Bill 22: Revises provisions governing the amount of money that the Director of the Department of Transportation must retain under certain highway contracts. (BDR 35-239)

Kristina L. Swallow, P.E., Director, Department of Transportation:

I appreciate your taking the time today to consider Assembly Bill 22. Next to me is the Assistant Director of Operations, Thor Dyson, and Communications Director, Sean Sever. We are excited to present A.B. 22 to you today, which deals with the retention amount we can withhold on projects [page 2, ([Exhibit C](#))]. We think it is a very good bill for all of our partners, those who help pave and build the excellent roads we have in Nevada. I will have Mr. Dyson explain the bill, and then we can answer questions at the end.

Thor Dyson, P.E., Assistant Director, Operations, Department of Transportation:

Our current retention policy and procedures follow *Nevada Revised Statutes* (NRS) 408.383 [page 3]. We withhold 5 percent, but not more than \$50,000, on Department of Transportation (NDOT) contracts. Presently, that \$50,000 retention is withheld when the work reaches 85 percent. Retention is withheld until the project is complete and accepted by the director of NDOT.

Last December we proposed a bill for 5 percent with a 2.5 percent friendly amendment ([Exhibit D](#)). Industry reached out to us, and we felt it was important to meet with them and work with them. Instead of the 5 percent, NDOT agreed to the 2.5 percent [page 4, ([Exhibit C](#))]. This proposed retention bill allows NDOT to withhold 2.5 percent for completed contract work on every payment. Once the contract starts, we have a good contractor on board, and the work is completed, NDOT pays them for the work as the work progresses and we withhold 2.5 percent. It is proposed in this bill that NDOT reduce the cost to \$50,000 when NDOT grants final inspection. When our field people, district people, construction people, and the contractor work together and have completed all the cleanup items and the punch list items, we will return all the retention money with the exception of \$50,000. The \$50,000 is withheld until the contract is accepted by the NDOT director and completed in its entirety.

At the end of the project, if the contractor is meeting a number of criteria, we can reduce that \$50,000 to \$10,000 at the director's discretion. The reason we do that is because we have a lot of paperwork; [U.S. Department of Transportation, Federal Transit Administration] "Buy America" clause issues; and certifications, so it provides incentive, not just to the contractor but to NDOT as well, to work hard to close out contracts and move on.

What are the benefits of the change [page 5]? It provides fiscal responsibility for the contractor to complete the work in a timely manner in conformance with the plans and specifications. It provides taxpayer and public assurance of good, quality work. It protects the taxpayer and the public in the event the contract requirements are not met. We have a lot of good contractors. It is very rare that we have to exercise the retention. I have been with NDOT for a long time, and we occasionally have one. They are few and far between, but we want to be able to protect the public. It protects the taxpayers from unsatisfactory performance, and it ensures the taxpayers and the public we will get the work done in a timely manner [page 6]. I know none of you like to see contract work cones and construction zones any longer than necessary. We are of the same opinion: we want to get in, get out, and stay out. This helps us in that regard.

Currently, NRS allows the prime contractor to hold up to 10 percent on the subcontractor. This bill changes that. We worked very closely with industry, and everyone is in concurrence with this. We are changing from 10 percent to 2.5 percent that the prime can hold on the subcontractor. We have worked closely with The Associated General Contractors of America, Inc. (AGC) in the north and south. We feel very confident that this is a good bill and a good change in updating the statutes to meet all of Nevada's needs. I am willing to answer any questions you may have.

Chair Monroe-Moreno:

Are there any questions from the Committee?

Assemblyman Leavitt:

Have you had a chance to talk about the retention? If it is reduced to 2.5 percent and that retention is not the equivalent of \$50,000, what is done at that point as far as keeping the retention until the finalization of the project?

Thor Dyson:

We would withhold no more than 2.5 percent. If \$50,000 is greater than 2.5 percent, we would only withhold 2.5 percent. On a \$1 million project, 2.5 percent is \$25,000, so we would not withhold \$50,000, we would withhold 2.5 percent.

Assemblyman Leavitt:

You give 90 percent of that retention back in the final stage of the project when the punch list items come about. What part of that smaller retention would you give back? If it is a \$1,500 retention, would you keep the \$1,500 until the job is complete, or would you give 90 percent of it back so you are holding \$50? How would that work?

Thor Dyson:

We can reduce the retention amount if everything is going well with the project. We can keep it the same. It is needed to ensure the Department, the director, and the taxpayers that we have all of the certifications and final remaining documents to close out the job, so we can survive an audit and deal with a nice, clean project.

Assemblyman Leavitt:

My only concern is the motivation for a contractor to finish in a timely manner. If it is a large project, holding back 10 percent of that 2.5 percent may be more motivation. If it is not a lot of money, there is no motivation for them to finish in a timely manner. At what point are you holding back retention for no purpose at all?

Thor Dyson:

The main crux of this proposal is for large projects—\$600 million or \$700 million—withholding only \$50,000 is not really providing the incentive to the contractor to get in, get out, and get the work done within contract requirements. I am happy to say that 98 to 99 percent of our contractors do an outstanding job. They want to get the work done, they want to get paid, and they want the retention back. This helps us with those anomalies that could arise.

Chair Monroe-Moreno:

Currently, how do you handle a situation when you do the final inspection and find part of the work is unsatisfactory? What is the process now and how would that change, or would it change with this bill?

Thor Dyson:

The process would stay the same as it is currently. When the contract is substantially compliant, the field people, the resident engineer, the project superintendent for the contractor, and other required people make a determination that they are awfully close to finishing the work for that specific project. Punch list items are developed, and everyone is in agreement that the project is very close. There are 30 days to clean up concrete spoils, pick up garbage, maybe regrade a slope, or fix a particular item. What happens then is the contractor, with NDOT's assistance and review, gets those punch list items cleaned up and done. Then a meeting is called for the various representatives, including the NDOT field people, the district engineer, the assistant district engineer, and possibly maintenance individuals—someone who is going to assume ownership of that particular stretch of road because they have a vested interest. Those people review the project, and if it is acceptable to them—and generally it is at that point because a lot of effort has been made by the contractor and NDOT to get it to that point—a letter is written to the contractor and to the various individuals within NDOT saying the project has been accepted at the field level. That is when we go to the \$50,000 retention.

Chair Monroe-Moreno:

Thank you for working with those who were in opposition to get to the amendment ([Exhibit D](#)) so we can come to a conclusion and move this bill forward. However, in the negotiations you have all had together, there is a big difference from where the original bill started and where the amendment is taking it now. Do you feel that the amount of 2.5 percent is enough to incentivize the contractors to get the job done correctly and on time?

Thor Dyson:

I do. I think it is a good compromise. The 2.5 percent makes sense. To withhold payments starting at 85 percent of the work does not make sense. Doing it at the very first payment cycle to the contractor is beneficial to ensure the contractor is acting diligently to complete the work contractually and to do it timely. I think it is a huge improvement from where we are and a very reasonable number.

Chair Monroe-Moreno:

Are there any further questions from the Committee? [There were none.] Is there anyone present who would like to testify in support of the bill?

Bill Wellman, Division Manager, Las Vegas Paving Corporation:

Las Vegas Paving Corporation is likely NDOT's largest contractor across the state. We are here in support of A.B. 22 with the amendment ([Exhibit D](#)) as written. We did work extensively with NDOT over the last many months, even prior to session, to make sure this was palatable across the table for all contractors of all sizes. It is fair, reasonable, and responsible. In most cases, it actually brings NDOT into the realm of what other public entities, including the private sector, do in holding retention to assure completion of the project on time, on budget, and of quality.

Madam Chair, to your question about whether 2.5 percent is enough—it is plenty enough. The Department of Transportation does not typically do small projects, so the amount of money does add up rather quickly. Other entities in southern Nevada, like Clark County, will hold 5 percent until such time as the project is 50 percent complete. As long as there are no issues, they quit holding retention. Essentially, at the end of the project it is 2.5 percent, which is pretty consistent with most of the public entities.

Lance Semenko, President, Q&D Construction:

Without going through the exact same iteration Mr. Wellman went through, I would agree that we have been working with the AGC and NDOT for almost a year now on this bill. We feel this amended version is a fair version for all contractors and everyone involved.

Assemblyman Leavitt:

Mr. Wellman, do you find that the smaller projects are mainly agreements rather than contracts? Is that why this would work better? This bill only concerns contracts and not agreements. As a contractor, if it is a smaller amount where it would not matter so much, is that more of an agreement?

Bill Wellman:

I believe everything is a contract regardless of size, but you do start someplace. I believe it is always reasonable and responsible to have something more than what \$50,000 has been over the course of time. I think there has been a lot of argument through the industry as to why we are even going to 2.5 percent. Where is the problem and how is it a problem? At the same time, we realize in this day and age, responsible contracting requires everyone to be covered. Frankly, it helps the contractors as well by holding that retention to ensure our subcontractors are performing.

Assemblyman Ellison:

This helps the contractors keep the subcontractors in line also. It would be better to ensure the work is completed by the subcontractors and for you to hold that retention until the end. Is that correct?

Bill Wellman:

We do in some cases. For smaller subcontractors, once they have substantially completed the work, we release or reduce the retention. Our biggest concern with subcontractors is that we might see the work completed, but have they paid all their bills? Have they paid their employees? Those are the things that can come back and haunt us at times. We work pretty diligently, especially at the completion of the project, to make sure the subcontractors are current.

Assemblyman Ellison:

Do you work with NDOT to make sure all the paperwork is completed and prevailing wages are paid?

Bill Wellman:

Yes, we do, from the beginning of the project all the way through. I believe it is on a weekly basis that payroll is turned in.

Assemblyman Ellison:

I just want to get that on the record.

Chair Monroe-Moreno:

Seeing no further questions, is there anyone else in Carson City or in Las Vegas who would like to testify in support?

Dan Musgrove, representing Southern Nevada Chapter, National Association of Electrical Contractors:

We are a subcontractor that does a lot of the electrical work on these projects, such as the lights you see when you drive down the freeway. We are absolutely in support of this bill. We think it is an excellent precedent that is being set by NDOT. For a number of years, 10 percent was the retention. In 2015 we were able to get a bill [[Senate Bill 254 of the 78th Session](#)] that was about to sunset on most other public works in NRS Chapter 338 down to 5 percent and kept it at 5 percent. The fact that NDOT is willing to work with the folks on this bill and get it to 2.5 percent for subcontractors is an excellent move and we appreciate it. We are absolutely in support of the bill.

Chair Monroe-Moreno:

Seeing no further testimony in support of the bill, is there anyone present who would like to testify in opposition to the bill? [There was no one.] Is there anyone present who would like to testify as neutral to the bill?

Alexis Motarex, Government Affairs Manager, Nevada Chapter, The Associated General Contractors of America, Inc.:

We are here as neutral to the bill and are agreeable to the changes being made with the amendment ([Exhibit D](#)).

Brian Reeder, representing Nevada Contractors Association:

The Nevada Contractors Association represents more than 600 members throughout the southern Nevada construction industry. We appreciate working with NDOT on this amendment and have no problem with the bill.

Chair Monroe-Moreno:

Seeing no further testimony in Carson City or Las Vegas, does the sponsor have any closing statements?

Kristina Swallow:

The only closing statement is a thank you. If any questions from the members come up, we are happy to work with anyone as we move forward.

Chair Monroe-Moreno:

I will close the hearing on A.B. 22. There is one item that was not on the agenda. We have a Committee bill draft request for introduction, BDR 43-426

BDR 43-426—Makes certain minor traffic violations civil matters. (Later introduced as [Assembly Bill 411](#).)

Committee, remember, a vote in favor of introducing this bill draft request (BDR) does not imply a commitment to support the measure later pursuant to Assembly Standing Rules, Rule No. 57, subsection 7. All this action does is allow the BDR to become a bill and then be referred to a committee for possible hearing. A vote to introduce a BDR requires a majority vote of the entire Committee. We do have a quorum. I will entertain a motion to introduce BDR 43-426.

ASSEMBLYWOMAN BILBRAY-AXELROD MOVED TO INTRODUCE
BILL DRAFT REQUEST 43-426.

ASSEMBLYMAN YEAGER SECONDED THE MOTION.

Is there any discussion on the motion? [There was none.]

THE MOTION PASSED UNANIMOUSLY.

Getting back to the agenda, we will proceed to the presentation from Vice Admiral Gunn.

Lee Gunn, Vice Admiral, USN (Ret.), Vice Chairman, CNA Military Advisory Board:

I am representing the CNA Military Advisory Board on this Nevada visit, which is my fourth, on issues of energy and advanced energy. I am here at the invitation of the National Security Forum of Northern Nevada, Inc. I have a few graphs we will be looking at ([Exhibit E](#)). I gave a presentation this morning to the National Security Forum, which took substantially more time. I was very gratified by the fact that people were enthusiastic, interested, and engaged in the topic of advanced energy, particularly its relationship to the national electrical grid.

Part of the essence of our conversations at the Military Advisory Board and our recent research has been to discover and explain some of the vulnerabilities and difficulties with the national electrical grid. The grid is the first topic I will discuss, and I will end with some economic consequences for the advances into the realm of new energy.

The CNA Military Advisory Board has existed since 2006. There are 35 of us who are retired admirals and generals of the three- and four-star level who have looked at a succession of questions and eight studies since 2006, producing our first report in 2007. We have discussed the national security implications of climate change and the transition to

advanced energy with regard to transportation fuels, which of course is a potentially very thorny issue for the Department of Defense for both tactical and nontactical vehicles, ships, and aircraft. We have discussed the international relationships that have been formed during the era of oil, relationships that were often uncomfortable for us because the nations with which we were connected through the oil supply line were not necessarily those that shared our values.

We have discussed a total of eight reports and the national security implications of a variety of things that are changing in the world around us. What I am showing here [page 4, [\(Exhibit E\)](#)] are electrical dependencies. It is not a surprise to anyone in this room that we depend almost entirely on the electrical grid for the support of our daily lives. In fact, important things such as air traffic control rely on uninterruptable power. Almost all financial transactions take place at some point during the transaction over an electronic medium.

The continuity of electrical power is important for military bases and the generation of readiness that takes place at those bases which is, after all, their primary function. It has only been recently, and with the best example being here in Nevada at Nellis Air Force Base, that actual combat operations are being conducted internationally from domestic bases with drone operations. It makes it all the more vividly clear that we have to have, for military purposes, uninterruptable power. All of the military services are embarking on issues that will allow bases and stations to provide their own power when the grid is interrupted, and to provide further vital support to the surrounding communities in some areas beyond the fence line. For example, in Hampton Roads, Virginia [Norfolk Naval Station], it would not do to have the naval station fully powered if the sailors who live in the surrounding areas cannot get supplies needed for the base over the drawbridge.

The grid, however, is extraordinarily vulnerable [page 5]. The most important things we discovered in our examination of the grid and determining its importance to us was how vulnerable it is. I would like to say the grid was not actually designed, it happened. Across the country, when resources ran out to electrify the next county or the next community, things were put on hold until resources were available. Electrification of the United States hopped across the country. That was great work by an enormous number of people, providing electricity pretty quickly, spread across the country in support of substantial improvements in life. However, it means that many of those facilities that were born and put into operation at that time still exist and are being asked to serve. The age of the grid is very important. Weather is the primary disrupter of electrical delivery. One of the things that we became very aware of was the vulnerability and fragility of the grid in the case of attack.

Regarding age and weather first [page 6], I think it was Tower :27/22 of the Pacific Gas and Electric Company distribution system that released one of its high-tension electrical cables and allegedly started the Camp Fire in Northern California—the one that killed 85 people and destroyed the town of Paradise. That tower is 99 years old. The service life for towers of that type is 75 years at the outside. There are dozens of those all over that distribution system. In southern Maryland, a transformer fell off a tower onto a car and killed a woman recently. The ravages of age and weather are taking their toll on our electrical grid.

The most important thing, however, from a national security perspective, is attack [page 7]. During the four years prior to the 2016 release of our report on the grid reliability and vulnerability, there were 267 physical attacks on the grid by human beings in the United States. I do not know if there were more. These were attacks that were successful to the extent that they were detected one way or another. That is 80 or 90 a year around the country. An example during that period is the Metcalf Transmission Substation very close to San Jose, California, which was attacked by riflemen from some range. Seventeen bullets struck the transformers and put the Metcalf Substation out of commission. Much of Silicon Valley went dark for half a day, even though this was just one transformer station. The central California area was all affected to some degree. Connections were reestablished from elsewhere pretty quickly, but one of the things to note is there are vulnerabilities at various levels of our grid. It is not just the infrastructure we see driving by every day, but when something bad does happen, it takes a while to fix it. At the time this attack happened, there were no spares for that transformer in the United States. They cost \$1 million or more each, so they are not kept standing by. In the United States at that time, we did not build transformers—we bought them all from Korea. It took months to get the Metcalf Substation back on line.

We also discovered that at the unclassified level, if an individual knew the correct nine transformer stations to disable in this country, the entire United States electrical grid could be nullified for a period of time. You can imagine the havoc that would cause.

There is also the international threat. During that time, there were 14 successful cyberattacks on the U.S. grid. There were hundreds of thousands, perhaps millions, of probes and attacks, but 14 were successful. That means the assailant actually took control of a piece of the grid for a period of time or affected the delivery of electricity to consumers for a period of time. This is something that can happen thousands and millions of times during the year and is aggressively being attempted by people overseas who do not like us.

The other thing I have not mentioned is electromagnetic pulse (EMP), which can be man-made. While I was still on active duty, we believed the Soviets had EMP weapons designed to fire off two nuclear bursts to disable our electrical grid. I do not know whether that is still the case. There is also the risk we face from a natural solar disturbance like the ones in the late 1800s that actually happened to the telegraphy system—one of the few interconnected electrical systems throughout the country. The telegraphy system was

electrified momentarily and killed telegraph operators across the country. Not all of them, but a significant number. If the operators had a hand on the key and the connections in the earphones, they were susceptible to this magnetic pulse. We think the answer to this is going to be smaller, more manageable grids based on smaller-scale generators of electricity. I will get back to that.

The military is leading the way in a transition to advanced energy out of necessity [page 9]. The military does not pay taxpayer money to do projects that are hobbyist-type things. The military does things that enhance mission effectiveness. In eastern Afghanistan and Iraq, troops on patrol were taking 40 pounds of batteries in their 80-pound pack because they did not have the capability to recharge while on patrol. In the case of a bunch of young Marines in a platoon, their parents had actually sent them roll-up solar panels that were designed to charge cell phones. Those Marines used them not only to charge cell phones, but to charge radio communications and, therefore, relieved themselves of three-quarters of the weight of the batteries they had been carrying.

Nellis Air Force Base, with its solar power example, is one of the many bases throughout the country that is trying to establish its own power supply and the ability to support its vitals in the surrounding community. In addition, here close to us is the Naval Air Weapons Station China Lake, which is relying on geothermal energy.

For every convoy that was avoided in the eastern part of Afghanistan, we avoided the statistical risk of having one killed in action or seriously wounded in action. Most of the convoys in the Middle East that carried material to the front lines, were carrying liquids, and most of the liquids were fuel. The extent that we can deploy small modular nuclear reactors, the kind the U.S. Army is experimenting with at the Department of Energy nuclear site in Idaho Falls, Idaho, we can relieve the logistics risk that the military faces in those areas.

I had the opportunity on a couple of previous visits to talk to Governor Sandoval. I have not talked with Governor Sisolak yet. I am really excited about what is happening here in Nevada [page 10]. It seems to me the forces are aligned that will allow Nevada to not only move forward in its own interests with regard to transitioning to advanced energy, but also help to set an example for the rest of the country.

There will be a tremendous increase in demand between now and 2050 across the world for energy [page 12]. The International Energy Agency estimates the increase will be 40 percent. It will primarily be due to two things. The first is an increase in population of 1.5 billion people, bringing us to about 11 billion people, with a half billion of those being in South Asia and 1 billion in Africa. As much of a factor as that is, the fact that many of the people who are already here or people who are going to populate us are going to want to join the middle class. That accession to the middle class is going to increase energy demands as well.

How can we satisfy that 40 percent increase in demand for energy? The variety of that expansion will be affected by the degree to which these nations now depend on oil for transportation. Some of the additional demand will undoubtedly be met between now and 2050 by increased use of fossil fuels. It is inevitable. The Military Advisory Board believes it is essential that as much of that energy be met with renewables as possible and the benefits they bring, including microgrids and smart grids.

We think the electrification of vehicles is going to play an important role [page 13]. The vehicles are achieving the cost and performance parity of gasoline-powered vehicles. Ranges are going up. Market penetration, even though small, is increasing. The infrastructure is growing. Nevada is doing great things along the major highways here with recharging stations. It is going to be a pleasure for those from elsewhere, as well as Nevadans, to use electrical vehicles in Nevada. I think government mandates are useful. They set goals for us to aspire to, and Americans have always been good at aspirations.

With regard to the international realm, the Chinese have decided that by 2025 no internal-combustion-engine automobile will be sold in China by anyone. The United Kingdom and Norway have made the same decision about 2030. Carmakers are moving to increase their electrified vehicle fleet. Volvo Car Corporation has said that after 2025, or perhaps before, they will not make a gasoline or diesel-powered vehicle.

Exciting things are happening that challenge the course with small market penetration for electric vehicles. We are starting from a small point, but the graph on the left [page 14, ([Exhibit E](#))] shows the vast majority of electricity was still being satisfied by fossil fuels up through the end of 2017. The good news is, the others are growing.

Of course, the challenge of some growing renewables, particularly solar and wind, is their intermittency [page 15]. Storage is terribly important. This is another area where Nevada is a hotbed of research and improvements in production. Tesla, Inc. is the center for that, but I think Tesla, Spark, and others will attract other high-technology industries to Nevada. The 7,000 jobs at Tesla—even greater than what was originally promised to Nevada—is a really good sign.

The Military Advisory Board says the global energy landscape is changing [page 16]. Burgeoning populations together with rising affluence are going to cause demand to rise with it. New technologies are making clean, affordable advanced energy widely available. Growing demand for reliable electric power will drive the need for more resilient, efficient, distributed electric power systems. That means generating on a smaller scale, generating closer to the consumer and, therefore, having the tie between the consumer and the generator be much more reliable and easily defensible.

The United States has looked at this pretty carefully. There are economic advantages to the United States to be in the lead on this transition to advanced energy. The transition is going to happen anyway. It is underway, and it will happen with us or without us. We feel it is vastly important to America's economic and national security welfare in the future that it happen with us.

With regard to Nevada [page 17], there are 25,400 jobs associated with advanced energy in one way or another, if you include efficiency. More than 10,000 jobs in energy efficiency, nearly 12,000 in advanced electricity generation, 6,500 in rooftop solar, 2,000 in advanced grid and energy storage, 1,000 in advanced vehicles, and 190 jobs in advanced fuels. From 2016 to 2017 there has been a 10.6 percent increase in clean energy generation in Nevada, and an almost 8 percent decrease in natural gas. Nevada is ranked second for geothermal energy and fourth for utility-scale solar energy generation. I am proud to take Nevada's story in my travels around the country and tell the other states that Nevada is doing it better—why do you not all get with it?

We feel we must make these choices now because we are facing changes that are inevitable [page 18]. We have to bring them under our control and not wait until they are controlled by others. It is important we understand the impact of the choices. When it comes to energy, we need to focus on our national security, and energy is security.

Chair Monroe-Moreno:

Thank you for that presentation. I think I can speak for the members of this Committee, we want to be the leader in this area. I am happy you feel Nevada is going in the right direction, which is the goal. Are there any questions from the Committee?

Assemblywoman Bilbray-Axelrod:

You mentioned that the military is taking the lead on a lot of these things. You made reference to the internal combustion engines and China and the United Kingdom stopping the sale of those by 2025 and 2030. Has the military begun reducing their internal combustion engines as well, or is that something on their radar?

Lee Gunn:

Yes. This is far easier with nontactical vehicles than it is with tactical vehicles, such as mail trucks and vehicles that carry cargo. That movement is definitely underway. One of the important signals in the electric vehicle world will be sent by the large fleet buys that the military does. I am not aware of the details in the 2019 budget, but I have seen some things in the 2020 budget that indicate in the nontactical vehicle area this will be an important facet of the purchase.

I am firmly convinced we are going to make great advances in the areas of tactical vehicles, tanks, ships, and airplanes. The important thing is to signal to the electric vehicle production world that large fleet buys will support their business plan and allow them to produce what they need. It is probably similar with United Parcel Service of America, Inc., FedEx Corporation, and those kinds of organizations as well.

Assemblyman Ellison:

We have been seeing this come for years and years. I am glad to see it moving forward. We saw last session and we are seeing this session that we have to do something. If we wait, we might be in trouble. My question is about electronic pulses. Does it not destroy most of the electronic components in vehicles and aircrafts? Could you elaborate, because that may be a big part of what we are putting our money into?

Lee Gunn:

The electromagnetic pulse is the most difficult problem we face. To answer your question, yes. Because of the internals of our electronic devices, my iPhone would not work again ever. Aside from some militarily essential hardware, things are not hardened to deal with this, and it is not cheap to harden them. We did not come up with a magic solution to this, and I am not aware of whether there is work underway in the battery realm or not. I know there is a variety of research underway attempting to devise special grounds for equipment that would permit them to survive such an attack.

I think we will be better at defending against man-made electromagnetic pulse, which is an attack by an enemy on us, if we have smaller grids and less expensive grids, so that whatever is wiped out will not bring down the rest of the nation. Again, the idea that nine transformer stations could bring down all three major segments of the U.S. grid, which includes most of the population centers in Canada, is pretty frightening. One of the advantages we have in distributed energy generation and consumption is that it helps to some degree with that problem. The solar flare electromagnetic pulse is something we just hope never happens.

Chair Monroe-Moreno:

Are there any further questions from the Committee? [There were none.] I would like to thank you for the presentation. You kind of scared me a little bit, but I am happy to hear we are doing the right thing.

I will open the hearing on Assembly Bill 213 and invite Assemblywoman Hansen to the table.

Assembly Bill 213: Revises provisions governing the issuance of restricted drivers' licenses to certain pupils. (BDR 43-706)

Assemblywoman Alexis Hansen, Assembly District No. 32:

I am looking forward to presenting this bill today and talking about what this bill is really about. There has been a lot of misinformation. I would like to introduce my copresenter, Leigh Berdrow with the Academy for Career Education (ACE). I will turn some time over to her when I am done, if that is agreeable to you, Madam Chair.

It is my honor to be here to present Assembly Bill 213. We are looking to amend the current law, which has existed since 1969, by essentially adding two words to *Nevada Revised Statutes* (NRS) 483.270. The current law exists for a restricted driver's license. It was revised in 1975 by Senator William J. Raggio to include private schools. The age range was changed from 14-16 to 14-18 in 1997. There is currently a cap for public schools and public charter schools for populations under 55,000 in counties and 25,000 in cities. Seven other states allow similar legislation.

Assembly Bill 213 amends NRS 483.270 to add charter school students to the list of students who may apply to the Department of Motor Vehicles (DMV) for a restricted driver's license if the charter school does not provide transportation. Most charter schools do not have funding for transportation. The bill requires public charter school students who apply for the restricted driver's license to meet the same requirements as private school students and students from rural counties and cities who apply for the restricted driver's license. If passed, it would become effective July 1, 2019.

The DMV submitted a zero fiscal note. The DMV already has a process in place for students to receive a restricted license. On the Nevada Electronic Legislative Information System (NELIS) you will see the current application for the restricted driver's license ([Exhibit F](#)). There are several categories for restricted driver's licenses. Therefore, there are no new regulations or processes necessary. I have been in touch with the DMV at length.

The DMV states there are currently 45 students across the state with this type of restricted license. They are unable to determine how many charter school students would apply for and receive this license should the bill pass, but the change will not cause an undue burden on the Department. To give you a point of reference of how many public charter high schools, state-sponsored and district-sponsored, Clark County district-sponsored charter high schools have 2,030 students. Washoe County district-sponsored charter high schools have 820 students. State-sponsored charter high schools have 1,434 students. That is a total of 4,384 charter high school students in brick-and-mortar schools in the state. There are also online charter students who do not need transportation. Obviously, not all of those students need a restricted driver's license because at least half or more already have a driver's license. We are talking maybe 2,100 students in the state who might have the ability to apply for a restricted driver's license. However, this license is not for all students. It is based on their maturity level, parental permission, DMV permission, and the school principals' permission after assessing the students' grades and maturity level. A route is mapped out, and the students are only allowed to drive from point A to point B in the morning, and point B to point A on the way home in the afternoon. The safest route is the one that is charted out and approved, not the fastest route. Therefore, that will keep most students off the freeway.

With the advent of public charter schools, many of which are career and technical schools that school districts do not provide transportation to, and the majority of which are located in populations over 25,000 for cities or 55,000 for counties, ACE charter school on behalf of some of their parents asked for a bill draft request to allow public charter school students to have the same opportunity to request a restricted driver's license. We have allowed restricted driver's licenses since 1969 for public school students in certain populations, and since 1975 for private school students regardless of their population.

On NELIS you should be able to reference a personal letter from Joelle Gutman ([Exhibit G](#)), who happens to be a lobbyist in the building and not in any way, shape, or form tied to this legislation or to charter schools. She was a student in the late '90s being raised by a single mom and was able to get a restricted driver's license so she could get to and from her private school. As I stated before, this is not for all students who are 14 and 15 years old, only for high school students with a specific educational need and maturity level.

I have also sponsored a bill that would require students who are going to be licensed at 16 to take a defensive driving course [[Assembly Bill 338](#)]. It is sponsored by Nevada Youth Legislators.

The terms of the restricted driver's license require that the student is only allowed to drive to and from school on the safest route possible. The DMV, the parent, and the principal must give permission. If the student violates any provision of the restricted driver's license, it is revoked until that student is 18 years old. There are very serious consequences for any infraction.

I am going to turn the time over to Ms. Berdrow.

Leigh Berdrow, Director, Academy for Career Education, Reno, Nevada:

I would first like to thank you for hearing this bill today and express my appreciation to Assemblywoman Hansen and the other sponsors to bring this bill forward. I want to provide a bit of background about ACE High School for those of you who do not know about us. We are a career and technical charter high school that serves students primarily in Washoe County but also in neighboring counties, such as Lyon County and Carson City. Through our partnership with Truckee Meadows Community College (TMCC), ACE students graduate with industry-recognized credentials and advanced building trades, where our students have built nine single-family homes and three tiny homes; computerized drafting and design, where our students learn technical and architectural design; and our diesel technology program and advanced machinery and manufacturing program, where students graduate from ACE High School and the community college with a 32-credit certificate of achievement in those areas. Last year, and only our second year competing at the national level, ACE High School produced the national gold-medal winner in advanced machining and tooling. We have also won nationally in plumbing and architectural drafting, and frequently we are in the top ten in the nation.

Our graduation rate has ranged from 93 to 96 percent in the last five years. In April 2019 we are scheduled to be featured in the *The New York Times* for our newest program in partnership with the Nevada Chapter of The Associated General Contractors of America (AGC), where seven of our seniors are being trained to operate heavy equipment via AGC's equipment simulation program.

I share all this with you not only because I am very proud of what we do at ACE High School, but because ACE, without a doubt, is a ticket to an excellent career. Even with all the success—we have enrollment of around 200 students—we have the capacity to serve more kids. The information we receive from many families, often tearfully, is that they want their children to attend our school, but they cannot figure out a way to schedule the transportation. We also know this because we have students who cannot come to us until they are 16 years old, which is their junior year of high school. They are at a distinct disadvantage at that point because they miss out on the tenth grade year of credits that are required for them to graduate for free from TMCC. They would then have to pay for it on their own dime after graduation. We know transportation is a barrier to attend our school.

This law was brought to our attention by our parents, who have tried to obtain the restricted driver's licenses for their children and were denied because, in its present form, the law clearly does not apply to charter schools in large populated counties. It does, however, apply to all private school students regardless of the county where they reside. That is what we are asking for. We are not advocating for every 14-year-old to get a driver's license. We are asking that charter school students have the same opportunity already provided in law. It is that simple. I know there has been great concern expressed about students who are clearly not mature enough or responsible enough to be issued a driver's license. That is valid. However, I believe the procedures that are already in place make that highly unlikely. It takes great effort to apply for a restricted driver's license. Some students do not want to make that effort. The time it takes to meet the requirements to get the license, which really puts them more at age 15 by the time they are granted the license, and the added fact that they not only need parental permission but our permission as well, really helps alleviate some of those concerns. I can assure you, we have no interest whatsoever in allowing a student who is not mature enough to handle the serious responsibilities of driving to drive. We do, however, have students who are mature enough and are responsible enough to do so. Not many, but we do have a few. The point is about equity and allowing the system that has already proven to work for private school students to have the same option for qualified charter school students.

Thank you again for your consideration and your time and all the hard work you do for our state. [Written testimony ([Exhibit H](#)) and a document from Academy of Career Education ([Exhibit I](#)) in support of Assembly Bill 213 were also submitted.]

Chair Monroe-Moreno:

I love ACE High School. What the kids are doing there is amazing. Touring the homes they have built was phenomenal. What I really love is when you go to the work site, there are so many girls building those houses. We do have some questions.

Assemblyman Carrillo:

Is the population cap going to go away altogether? Also, what about magnet schools where parents need to transport kids between the ages of 14 to 18? They are in the same school district, but sometimes these parents have to take their child to another school to be picked up and taken to the school they actually attend.

Assemblywoman Hansen:

To answer your first question about the population cap, no, we are not changing the population cap. The population cap applies to public school students because typically they have transportation. The genesis of the population caps in 1969 was because some of the kids in the rural areas were on the buses for hours because of all the stops. In 1975 Senator Raggio added private schools, and it was not confined to the population cap. We just want to classify charter schools with private schools so the population cap would not apply and, of course, because of the advent of charter schools in the late '90s, most of our charter schools are in the Reno/Sparks and Las Vegas area. There are some out in the rural counties, but the majority are not.

Pertaining to magnet schools, I have been approached about perhaps including magnet schools in the legislation, but they do have the ability to use the district school transportation. The kids catch a bus at one school and then take it to another public school. Some kids I know who go to the Academy of Arts, Careers and Technology (AACT) in northern Nevada may go to Spanish Springs High School, take the bus to Wooster High School, and then have to get from Wooster to AACT, which is on the other side of the airport. They are not in this legislation because by the letter of the law, they are provided transportation from the district.

Assemblyman Carrillo:

I am under the assumption that this would apply to the population caps as well, so it would not include Reno, which is 400,000-plus.

Assemblywoman Hansen:

The population caps will not apply to charter schools because they are going to be grouped in the same part of the statute where private schools are located. *Nevada Revised Statutes* 483.270, subsection 1(a) refers to the population caps but states "or, (b) A private school meeting the requirements." The population cap does not apply, and that is the section where we would add charter schools.

Assemblyman Carrillo:

What about a student who is a victim of bullying and has authorization to change schools? Last session we passed the law that a parent can move their child from one school to another school to protect the child. If the student went to a charter school and is a victim of bullying, is that something we could possibly look at? Obviously, there is a substantiated need for it.

Assemblywoman Hansen:

Off the top of my head, I would assume if the child who is a victim of bullying went to a charter school, then this bill would cover him or her also. If they went to a magnet school, they would have to use the transportation system provided. Unless I am stating it wrong, it would apply if they go to a charter school if this was legislated.

Assemblyman Carrillo:

I am sure bullying does not happen in private schools and charter schools. You do not have to respond to that.

Assemblyman Leavitt:

To clarify, when we are talking about the population cap, it is the population cap of the city where the student lives and not the population of the city where the student is being transported.

Leigh Berdrow:

My understanding is it is the location of the school. You make a good point. For students who are in outlying counties, based on what is already there, that could happen. However, what we are proposing is no population cap at all for charter schools.

Assemblyman Leavitt:

Thank you for that clarification. I would like to go on the record that I do support this bill and I signed on to this bill, but I would like a gag order not allowing my children to know about this bill. I live in a town that has 15,000 people, and I do not want my 14-year-old daughter telling me the law says she can drive.

Assemblywoman Nguyen:

I will be honest with you. I could not believe this language existed when I saw the bill. I read it multiple times because I could not get over the fact that there are potentially 14-year-olds driving to private schools in Clark County with a population of 3.3 million. I also want to clarify that I have children in a magnet school. Last year they cut funding for transportation, so they no longer have transportation for magnet schools—not all kids have access. I know you said it was publicly funded, but it is not.

Do you have any concerns with children that age driving, even under these circumstances? Assemblyman Leavitt does not want his own 14-year-old to drive.

Assemblywoman Hansen:

I think anytime we carry possible legislation, we worry about how it will affect our state, and this is also a safety issue. As the mother of eight children, I sat next to every single one of those eight children when they were learning to drive. It is nerve-racking. My kids are ages 20 to 36. To this day, whenever they drive, I am still very nervous. Automobile accidents are the No. 1 killer of children, but that is with their being a passenger. That is the No. 1 threat we have for our kids, more so than their even walking to school. I lost a son-in-law in 2015 to an automobile accident. This is not lost on me. However, because I have been around kids enough, my own and others I have worked with in the community, I know that it is not for every kid. It is about equity and letting a parent, the DMV, and the principal of the school help make the decision whether or not that student is mature and responsible enough to handle this responsibility. When students take on that responsibility, they know there are some very dire consequences. They stand to lose their license until the age of 18 if they violate the route or any terms of the restricted driver's license.

Assemblywoman Nguyen:

Do you have any statistics about accident history from the other jurisdictions that allow children this young to drive vehicles?

Assemblywoman Hansen:

We did do some research. Some statistics are harder to break out. One statistic I was able to get, which I can forward to you, about fatal accidents involving youth 15, 16, and 17 years old, and on the other end of the spectrum for senior citizens to see a comparison. There were four in the state for 15-year-olds in 2018. That is four too many. The highest number, which was interesting to me, was for 19-year-olds. The 15-year-olds were actually the safer category. However, for ages 16, 17, and 18, as the age went up, the number of accidents either stayed the same or grew in number. In the 19-year-old category, I think it was seven. I wonder if they just get a little more comfortable and a little more remiss about paying attention to things. The 15- and 16-year-olds are more nervous. I would be happy to share those statistics with you, but as I recall there were four to seven fatal accidents in the state involving a youth driver.

Chair Monroe-Moreno:

My question may need to be answered by DMV. I am looking over the Restricted License Information [page 1, ([Exhibit F](#))]. Under Testing and Fees, it states applicants "may" have to complete a written test. Could you explain why it is "may" and not "must"?

**April Sanborn, Services Manager III, Division of Management Services and Programs,
Department of Motor Vehicles:**

There could be reasons why they may not have to take the test. Perhaps they hold a permit and they have already tested. That is why there is "may" language. More than likely, they would have to take the written test and the driving examination.

Chair Monroe-Moreno:

Do you know how many students currently hold a restricted license?

April Sanborn:

The number of restricted licenses for this particular category is 45.

Chair Monroe-Moreno:

Of those 45 students, are the majority in rural communities?

April Sanborn:

The majority of those 45 students are in rural communities.

Assemblyman Watts:

The main concern I have with the bill is, as you stated, the potential for a few hundred more drivers to enter the community. Since this was first enacted in the 1970s for private schools, our urban communities have gotten much larger, traffic has gotten much more complicated in some areas, and understanding the attempt to determine the safest route with traffic can still be a bit difficult. I am glad you brought up the defensive driving bill [[Assembly Bill 338](#)]. One of the things I noticed in that bill was the concept of having instruction permit holders have something to alert other drivers to their presence on the roadways. I was wondering if you have given any consideration to having something to designate those with restricted licenses on the roadways, especially considering we are currently seeing a rapid growth in student population at charter schools. My main concern is that with continued expansion, we could end up with a few hundred of these students on our roadways.

Assemblywoman Hansen:

I have heard the idea of a placard as well. At first blush I was certainly on board. I did have some concerns come to me later from other people about not being comfortable with others knowing there is a young, vulnerable person alone on the road. That caused me to think a bit, but I am certainly open to the conversation of trying to find a way to designate the driver as new and young without being a flashing light to those in the community who would want to harm a child.

Assemblywoman Bilbray-Axelrod:

One of the concerns I have about this bill in my area of Las Vegas is that, in 2002 my husband took the steps to quit smoking. He went to the Southern Nevada Health District in order to go through the process to quit. The statistic that was told to him in 2002 was that, at any given time in the Las Vegas area, at least 50 percent of the drivers were under the influence. There are different times when people get off work. If they get off at 6 a.m., they may go to the bar or play poker for a bit. That is a very staggering statistic. I just wonder how you would address that.

Assemblywoman Hansen:

If I could answer that question, I would get the Nobel Peace Prize. That is a concern all the time—drivers on the road under the influence or distracted. I have no answer other than we try to put as many precautions in place as possible. We have laws on the books to punish people when they break the rules of the road. There is no simple answer. Every time our kids leave our house, regardless of whether they are driving themselves or are in the car with us, that is the No. 1 threat. It is not being abducted from the park down the street; it is being in a vehicle, regardless of who is driving. It is a tool we use to get to work, to get to school, and to do the things we need to do. We wear seatbelts. We have a lot of kids on school buses who do not have seatbelts, so that is a risk. It is a balancing act of safety and trying to accomplish a certain goal. Here, we are looking for equity. Will those kids be at risk? Certainly they will, just as all kids are at risk when they are driving a vehicle, even at 16, 17, or 18 years old. With the restrictions as they are, this is the best way to ensure as much safety as we can while not being in control of other unforeseen forces by people who make bad choices. We can only ensure what our own children know, if they are prepared, have they matured, are they trained, are they in a safe vehicle, are they belted, et cetera. Those are the only factors we can control. I think we all feel the worry of your question.

Assemblywoman Bilbray-Axelrod:

You mentioned you had some statistics, and I would love to see them. I have actually been approached by folks to actually raise the driving age to 18. I have seen statistics where the number of accidents from 16-, 17-, and 18-year-olds have gone down. My daughter is 12, and I shudder to think of her driving. Please share the information you have. Do we have law enforcement here as well who could talk about those statistics? We are here to think about everyone's children, not just a couple from a certain charter school. We have to think about the state as a whole.

Assemblywoman Hansen:

I will get that information to you. I did speak with law enforcement as well. They were not going to be in opposition at all. I talked to Las Vegas Metropolitan Police Department and Mr. Spratley, the executive director of the Nevada Sheriffs' and Chiefs' Association. I will certainly pass on that information.

Leigh Berdrow

I share your concerns. I would not have let my daughter get a driver's license at 14 either. However, my nephew, who spends a lot of time driving off-road, is probably a better driver than most kids at 16. Those are the kinds of kids we are thinking about, and we have a lot of those. There are kids who currently drive off-road and they are very practiced, more so than my daughter at 16. I really think adding these restrictions at age 16 would even be safer than the way we do it now. There is so much oversight for these restricted licenses. It is not a lot of kids, but because the law is already there and parents came to us, we thought we should make it available to the charter school kids as well.

Chair Monroe-Moreno:

On the Application for Restricted License [page 3, ([Exhibit F](#))], it states, "The route shall be travelled on scheduled school days only" and not for extracurricular activities, and they cannot exceed the posted speed limit. What mechanism do you have in place that ensures the students are following those guidelines?

April Sanborn:

We do not have a mechanism in place. It would fall on law enforcement to enforce whether or not those students are following the rules. One of the things we do have is the restricted license agreement. We create all of the guidelines for that particular student's driver's license, and they are required to carry that with their driver's license. The students do know the requirements. It would fall on law enforcement, along with all other things that are enforceable and that we do not have any control over.

Chair Monroe-Moreno:

Unless the student is involved in an accident or in some way comes in contact with law enforcement, we would have no way of knowing if they stopped at the mall on the way home or are driving on the weekends to pick up their friends and hang out. Is that correct?

April Sanborn:

You are correct.

Assemblywoman Hansen:

I did speak with some insurance representatives from State Farm Mutual Automobile Insurance Company and Allstate Insurance Company to understand how they insure now and going forward. There are devices that can be put into cars that keep track of how the driver brakes and drives, speed limits, and how many miles have been driven. There is always the possibility, with all of the technology we have, parents could use that sort of device or GPS tracking. I know I could track my kids on my iPhone. I think there is some technology out there that could give us comfort, and I would be more than happy to get that to you when I send the traffic safety statistics.

Chair Monroe-Moreno:

Are there any further questions from the Committee? [There were none.] Is there anyone present who would like to testify in support of the bill?

Sarah M. Adler, representing Charter School Association of Nevada:

The Charter School Association of Nevada (CSAN) wants to express its appreciation to Assemblywoman Hansen for bringing A.B. 213. We are in full support of this bill. Charter schools are public schools and, in most cases, they provide terrific education without the benefit of facilities, funding, or district-provided transportation. I am going to briefly add to the remarks already made.

Returning to safety, DMV is literally in the driver's seat. *Nevada Revised Statutes* 483.270, subsection 4, already states, "No restricted license may be issued under the provisions of this section until the Department is satisfied fully as to the applicant's competency and fitness to drive a motor vehicle." In addition, as we have discussed, a restricted license requires the principals' and the parents' approval.

My second point is opportunity. Opportunity is what public charter schools are all about. The opportunity for a student, parents, and the school to form a partnership to provide that student with the education available in his or her community that best matches the student's learning style, personal passion, and career goals. What these families do not have access to is the transportation provided to other public schools in the county, perhaps most other public schools. Families are working hard to make up that difference. If the parents, the principal, and DMV decide the student is mature enough and skilled enough, then allowing a restricted license is appropriate.

Assemblyman Watts brought up that potential universe of students who would use this option. We see the number already as small. To clarify the population cap, that first paragraph in the existing statute is for those students enrolled in communities whose school district does not provide transportation to a public school. That is a very small relationship. As has been referenced, the charter school provision would mirror the private school provision where a population cap does not exist. We are not going to have hundreds of students flooding to charter schools if this becomes possible.

As you know, charter schools are filled by lottery. It is an open lottery, and most charter schools have a waiting list. That waiting list is reestablished every year with the lottery. Should this become available, there is not room within charter schools for hundreds of students to take advantage of this provision.

I appreciate the opportunity to be before you in support of A.B. 213.

Assemblywoman Bilbray-Axelrod:

I am curious, Ms. Adler, how the determination is made with your association's support? I know we have a ton of charter schools in Las Vegas and throughout the state. I was wondering if you send out a poll.

Sarah Adler:

We have a policy task force of the CSAN board and other CSAN members who wish to be on the policy task force. I send out a policy memo every week and let them know what bills are upcoming. We did that with A.B. 213, and we received support for the bill.

Chair Monroe-Moreno:

Seeing no further testimony in support, is there anyone here to testify in opposition?

Alexander Marks, Political Coordinator, Nevada State Education Association:

The Nevada State Education Association opposes A.B. 213, which would allow 14-year-olds to obtain a restricted driver's license. We definitely echo what has been said about the safety on the roads and safety in general. From a public education standpoint, we believe charter schools, which are publicly funded, should be required to provide transportation on the same basis as the local school districts. This bill would begin providing a resource that traditional public schools do not receive. We have heard today that they consider themselves public schools. We think this is a double standard. Lastly, to have on the record, we also take issue with restricted driver's licenses for the private schools for basically the same reasons, even though the law has been there for years.

Chair Monroe-Moreno:

Seeing no further testimony in opposition, is there anyone here to testify in neutral?

April Sanborn:

The DMV is here for neutral testimony, but I will answer any questions the Committee may have.

Chair Monroe-Moreno:

Are there any questions from the Committee? [There were none.] Does the bill sponsor have any final comments?

Assemblywoman Hansen:

Thank you for your time and your consideration of this bill. We are just asking for equity in existing law and to give students an opportunity to find the school and attend the school that fits their educational choice.

Chair Monroe-Moreno:

I will close the hearing on Assembly Bill 213. I will open the hearing for Assembly Bill 53.

Assembly Bill 53: Revises provisions governing the issuance and revocation of drivers' licenses, instruction permits and privileges to drive by the Department of Motor Vehicles. (BDR 43-225)

Jude Hurin, Administrator, Division of Management Services and Programs, Department of Motor Vehicles:

With me today is April Sanborn from Management Services and Programs, Department of Motor Vehicles (DMV), and Denise Engle from Central Services Division, Department of Motor Vehicles. Assembly Bill 53 is a cleanup bill for DMV and amends various sections

within the driver's license and identification card programs located in *Nevada Revised Statutes* (NRS) Chapters 483 and 484C. Sections 1 through 5 deal with a variety of programs, and sections 6, 7, 8, as well as sections 12 through 24, address amendments regarding the ignition interlock program.

The Department has submitted a friendly amendment ([Exhibit J](#)) to A.B. 53 for the Committee's review and consideration. This amendment was the result of a partnership between DMV, the Department of Public Safety, and Nevada court representatives to address additional foundational concerns with the ignition interlock program. The group decided to concentrate on the sections within NRS Chapters 483 and 484C in order to bring clarity between our agencies on how to process these cases within our respective agencies.

For the Committee's review, we have provided an opening statement and an overview of each section of the bill ([Exhibit K](#)) and have identified the sections that are affected by the friendly amendment ([Exhibit J](#)) proposal, which has been submitted by DMV.

Madam Chair, with your permission, I could go one of two ways. I can go through the 26 sections with a brief overview, or I can condense this down very quickly.

Chair Monroe-Moreno:

I think we would all prefer you to condense it.

Jude Hurin:

Sections 6, 7, 8, and 12 through 24 deal with foundational changes regarding the ignition interlock program. These are a variety of changes to assist DMV, law enforcement agencies, and the courts in processing the actual violations that occur from the street to the courts and then to DMV and the logistics within DMV to actually process ignition interlock devices. There are a variety of benefits we can go over briefly, but at the same time, it is amending some of the language to allow the courts and DMV to process these a lot clearer and have the sections provide clarity, because there are some sections that are very jumbled, and we need to align them to flow better.

Section 2 ([Exhibit K](#)) deals with supervised experience and a clarification when a person has an instruction permit. It always said "experienced" in some sections, whereas other sections it was "supervised experience." We need to be consistent across the board.

Section 4 revises the driver authorization card (DAC) section, basically allowing us to align the sections in NRS that we have already done this for in NRS 483.290 to take some of the language out of the NRS in regard to the DAC and put it into regulations, just as we have done for consistency with driver's licenses to ensure the legal name and age requirements stay consistent with what we have done in the past.

Section 10 revises the Department's authority by allowing DMV to be more stringent than the federal government, in some cases, for the commercial driver's license (CDL) requirements. The federal government may have some rules that, under a state review, we need to have the authority and flexibility to become not necessarily more stringent but more flexible in our authority.

[Assemblyman Yeager assumed the Chair.]

Section 11 allows us to align with federal requirements regarding the CDL skills test waivers from a 90-day period to a year period, which aligns with 49 CFR 383.77 [*Code of Federal Regulations*].

I will cap it off at that, and we can definitely take any questions the Committee may have at this point.

Vice Chair Yeager:

We do have a few questions.

Assemblyman Carrillo:

My question is regarding section 2, subsection 1, paragraph (b). I know you said this is cleanup language regarding "experience" and "supervised experience." I went through the process of getting my endorsement for driving a motorcycle. How would you supervise that, unless the driver is riding with someone else? Many times a motorcycle may be the driver's only mode of transportation to get to work, which is getting experience. I am trying to figure out how you would find someone else who is also an avid rider who already has their endorsement. To me, it seems 50 hours would take forever to cover.

**April Sanborn, Services Manager III, Division of Management Services and Programs,
Department of Motor Vehicles:**

To supervise an individual who has an instruction permit on a motorcycle, you would need to have an experienced motorcycle rider next to them to supervise their training in driving. I would like to paint a picture for you. There is a 16- or 17-year-old individual who walks into the DMV, takes the written examination, and gets his or her instruction permit for a motorcycle. Without the word "supervised," they now have the ability to get on that motorcycle and operate that motorcycle without anyone helping them practice their driving or log their driving time. That was the purpose in adding the clarification of having "supervised" for those individuals who are in a training capacity.

Assemblyman Carrillo:

At one time, people could take the introduction rider course for motorcycles. They then had to take that endorsement to the DMV to receive the endorsement on their driver's license. How does that play into this? Obviously, that course is not 50 hours. I took an advanced rider course to give myself some peace of mind, but how does that apply for "supervised experience?"

April Sanborn:

If someone walks into the DMV today with that completion of the motorcycle safety course, he or she will automatically receive a motorcycle license and not an instruction permit. Therefore, the supervision does not apply.

Assemblyman Leavitt:

We were talking about the increased standards or strictness for CDLs and the increase from a 90-day to a year period. What is the impetus behind that? Did you see an issue with the way things are currently? Commercial driver's licenses have been around for a long time, so what was the impetus behind the need for that change?

Jude Hurin:

This was simply to align with the federal requirements at this point in time for the skills test waivers.

[Assemblywoman Monroe-Moreno reassumed the Chair.]

Assemblyman Ellison:

Did you say you are going to loosen some of the restrictions on the CDLs?

Jude Hurin:

Section 10 allows us to be more stringent than federal rules. It is not necessarily the intent of the DMV to be more stringent than the federal rules, because 98 percent of the time the rules that come from the federal government are more than acceptable and we can implement those programs. Utah lowered the blood alcohol level to 0.05. That is lower or more stringent than what the federal government would be. If this body, at some point in time, wanted to actually align with the federal government, we would not have the ability, under our chapters, to actually align without this kind of correction.

Assemblyman Ellison:

The community colleges help drivers receive their CDL. We are having so many problems, but after I called your office, we were able to fix some of those problems. Their trucks were being delayed for hours. What they went through was unbelievable for CDL driving. I am hoping you look at some of these issues. I can get a pilot's license a lot easier than I could get a CDL to drive a truck. I am glad you are going to look at this, because it is a real problem, especially for those living in areas like Eureka or Ely. They have to drive all the way to Elko and if they fail the test, it has to be rescheduled, which has been a real nightmare.

Assemblyman Roberts:

To follow up on Assemblyman Carrillo's correction about the motorcycles, perhaps you could explain the current law to me. In section 3, subsection 4, it states, "Any person who is at least 15 1/2 years of age and less than 18 years of age may apply to the Department for an

instruction permit authorizing the holder to operate a motorcycle." It goes on to say, "to drive a motorcycle upon the highways for a period of 1 year." You are adding new language that states, "when under the direct visual supervision of a person who is licensed to drive a motorcycle and who is at least 21 years of age." Under the current law, is there no requirement for someone who is 15 1/2 years old to have any supervision once they receive an instruction permit for a motorcycle?

Jude Hurin:

I do see your point, Assemblyman Roberts. It appears that there is no direct visual supervision currently.

Assemblyman Roberts:

Before an individual can apply for a motorcycle endorsement, do they need to have a regular driver's license first?

Jude Hurin:

I believe they can go directly to a motorcycle license.

Assemblyman Roberts:

This drastically improves what we have now.

Assemblyman Yeager:

On the amendment ([Exhibit J](#)) in section 6 regarding the five-year suspension for a second or subsequent violation for driving without an interlock device or tampering with an interlock device, I certainly understand that is a serious offense. Five years seems like a long time. Do you know how many people in Nevada are currently under a five-year suspension for violation of section 6 in the amendment?

Jude Hurin:

I do not have that information, but we can research that to see what statistics we can find.

Assemblyman Yeager:

Perhaps we can talk a little more offline. I think some of what you are trying to accomplish in the bill has to do with the driver's license suspension and breath interlock devices resulting from DUI charges. There was obviously a bill last session [[Senate Bill 259 of the 79th Session](#)] that I understand had some issues and caused some difficulties for the DMV as well as the defense attorney community about how it should be applied and what it meant. At a high level, what is the problem you are trying to correct with some of the amendments in the bill that relate specifically to the breath interlock devices? I also noticed the 90-day suspension going to 185 days. We can talk more later if we need to, but could you shed a little light on that?

Jude Hurin:

The high-level overview benefits of this cleanup bill are to try to identify or create a distinction between a restricted license as well as create a new ignition interlock privilege. There was a lot of confusion on what a restricted license would do when we implemented an ignition interlock requirement. We want to separate those two and create an actual ignition interlock privilege, so it would be a driver's license with an ignition interlock device restriction and kept clean and separate from an existing restricted license.

The other area is that there was language where the courts could actually require less than 185 days for an ignition interlock device. That was a logistical nightmare for us at the DMV because it could be a fluctuating amount of time. It could be 60 days, 40 days, 20 days, it did not matter. In speaking with a majority of the courts in Washoe County and Clark County that were in the committee we had, they were not opposed to putting it in as a strong 185 days. That would actually clean up a lot of the logistical nightmares for the DMV as well.

The other thing is that the 90-day period we have is an administrative action we wanted to align with the 185 days to make it a cleaner approach. These were things we each wanted to clean up, as well as to bring more clarification to sections that were very jumbled due to historical amendments that have taken place over the years.

I have had an opportunity to talk with some of the public defenders prior to this hearing. Although they may be formally opposed at this point, we have agreed to meet with them and talk with them about their issues. We are looking forward to that opportunity.

Assemblyman Carrillo:

Section 15, subsection 2, paragraph (a) of the bill was struck out. I think that language was actually put in place by the Attorney General in the 2015 or 2017 Session. Why are we removing that paragraph? It is basically the refusal of a field sobriety test.

Jude Hurin:

This is one of the internal discussions we had with our chief administrative law judge, Mr. Conner. In a couple of these sections, we removed the preliminary breath test requirements to advance this directly to an evidentiary blood test. What this does is align and remove the seizing of the license and goes right into requiring an evidentiary blood test to occur. Mr. Conner is in Las Vegas and can add anything I may have missed.

Thomas Conner, Chief Administrative Law Judge, Department of Motor Vehicles:

The bill does seek to remove a revocation for refusing to take a preliminary breath test. That was actually my suggestion. The reason I suggested that is because there are some major logistical problems with revocations for preliminary breath tests. I have been the chief administrative law judge for the Department for 11 years. During that 11 years, we have had two of these. The first one went up on petition for judicial review and is still not resolved today. On the second one, the law enforcement agency called me and said they did not know what to do.

Regarding the statute as it stands right now, although it says the Department shall revoke, there is no provision under Nevada law for the length of that revocation. Under current Nevada legislation, a revocation means the loss of the driving privilege. Interpreted literally, that means if individuals fail to submit to a preliminary breath test, their driving privileges are forever gone. For an evidentiary breath test, the license is revoked for one year.

A couple of things need to be done. If you choose to leave that in the statute, we need to amend somewhere else to tell us the length of the revocation period. Additionally, for an evidentiary breath test, the law requires the individuals to be warned in advance of the consequences. That is not so for a preliminary breath test. Under Nevada law, individuals who are now facing what appears to be the permanent loss of their driver's license are not even advised that they may suffer any consequence for failing to submit to a preliminary breath test.

My suggestion is this: either take it out or get serious about it. As it stands, it is useless. We do not use it, so it needs to be changed.

Chair Monroe-Moreno:

Seeing no further questions from the Committee, I will open the hearing to anyone present who would like to testify in support of A.B. 53, both in Las Vegas and Carson City. [There was no one.] Is there anyone present who would like to testify in opposition to the bill?

J. Chip Siegel, Private Citizen, Las Vegas, Nevada:

I am here as a practicing attorney in Las Vegas in this area of law. I am aware of the difficulties from the last time the legislation came through. I would like to highlight about four different areas and see if I can answer any questions. Also, if I refer to an ignition interlock device as a breath interlock device or BID, I mean the same thing.

The four areas I would like to see addressed is the fact that the second offense DUI provision, which I believe an amendment is taking care of, where the person would lose his or her license for a period of one year for a conviction, needs to wait six months. After six months, the individual would become eligible for the breath interlock device. That does not really make a lot of sense as far as safety to the community. The best thing for the safety of the community is to have people driving sober and allow them to drive for the full year, as we are doing for felony DUIs and first offense DUIs.

The second thing I would ask the Committee to address is probably the area of the biggest confusion. That is the difference between a conviction loss of license and then the reinstatement provision. Right now, if a person is convicted of a first offense DUI, when the court clerk notifies DMV, that person is not allowed to drive for 185 days. However, with a breath ignition device, they can drive for 185 days, which makes sense. However, under current law, when the person who has been driving for 185 days then goes to reinstate the real license, he or she would have to have a breath interlock device for an additional 185 days. I do not know if that is what the Legislature intended to occur, and it might be one of those unintended consequences, but it double penalizes and does not seem to address the fact

that the person has been driving sober for 185 days. There is the same problem with a DUI second offense. What I would ask this Committee to consider doing is to allow amended language, which I believe the Nevada Attorneys for Criminal Justice would need to provide, to at least allow, if a person is going to use a breath interlock device when he or she has been convicted, to get credit when they reinstate his or her license. I think that would make a lot more sense.

The third thing I ask you to consider is that I just heard there was going to be a proposed change of what is called an implied consent violation. What that means is, someone who is out on the road and submits to a test and the test showed that person was 0.08 or more or there was a blood test that showed the person was 0.08, had prescription drugs, marijuana, or some other drug in his or her system, DMV would suspend the license for 90 days and the person could use a breath interlock device for 90 days. If the person is convicted, it would then be 185 days.

I am sure you are all quite aware that there is a much different standard of proof at a DMV hearing than there is in a criminal court hearing. A DMV hearing is administrative. Under Nevada Supreme Court law, there are only two questions: did the officer have a reasonable belief that the person was the driver; and at the time of the test—not at the time of driving—did the person submit a blood sample with either 0.08 alcohol, marijuana, or prescription drugs without a valid prescription? If the person is convicted beyond a reasonable doubt in criminal court, then it is 185 days. It seems there could be two different provisions: a 90-day provision for the administrative loss with the lower standard of proof as opposed to the 185 days for the criminal level of proof.

Additionally, the last concern which was just brought up about a preliminary breath test, and at the risk of providing information I am guessing you are all aware of, a preliminary breath test occurs at the side of the road. When you compare a preliminary breath test device to the Intoxilyzer 8000, it is night and day. The Intoxilyzer 8000 requires at least a 15-minute observation period to make sure the person has not burped, regurgitated, or had any alcohol. They are calibrated every single time they are used. The roadside preliminary breath test is calibrated once a year, and they sit with the officer or trooper, in the trunk of the car, or on the back of a motorcycle. They are not nearly as accurate. To allow that to be used as a source for having people lose their license does not seem to be the same amount of due process as waiting to see what is in the person's blood from a gas chromatograph or from the Intoxilyzer 8000. I would encourage you not to allow that. I think that was also addressed by Mr. Conner before. The reason for not having a one year loss of license for a preliminary breath test refusal is the same logic. It is just not quite the same amount of due process. If the person refuses an actual chemical test at a jail, understood. If a person on the roadway who is going through all these instructions refuses a breath test, it just does not rise to the same level.

Should you have any questions, I am happy to answer them.

Chair Monroe-Moreno:

Are there any questions from the Committee? [There were none.]

John J. Piro, Deputy Public Defender, Legislative Liaison, Office of the Public Defender, Clark County:

We have the same concerns as Mr. Siegel. As Mr. Hurin said, we are more than happy to work on those concerns with the DMV.

Kendra G. Bertschy, Deputy Public Defender, Washoe County Public Defender's Office:

I appreciate the individuals from the DMV speaking with us regarding this bill and the amendments. We look forward to continuing the conversation to make sure our issues are addressed.

Our first concern is regarding the amendment striking the ability for our clients to request an economic hardship. It is my understanding that was removed for grant purposes. We just want to make sure our clients are still able to request the economic hardship waiver in order to still comply with the law and be able to drive their vehicles. We look forward to working with the DMV to ensure that is taken care of.

On page 2 of the amendment ([Exhibit J](#)) regarding the restricted interlock license, we are very grateful that this provision was deleted from the original bill. We are in support of that. On page 5 of the amendment, there is some discussion that individuals must obtain the interlock device within 14 days from the court ordering it. We have some concerns with that because there are some individuals who lose their vehicles as a result of the DUI or they may not have a car. We are concerned that they may not be able to comply with that requirement.

Lastly, in section 15 of the original bill, we look forward to working with DMV to ensure enough of that language has been deleted to make sure it is compliant with the law.

[A letter in opposition to [Assembly Bill 53](#) was submitted but not discussed ([Exhibit L](#))].

Chair Monroe-Moreno:

Is there anyone present who would like to testify as neutral to the bill? [There was no one.] Would the sponsor please come back up to the table? We have one more question.

Assemblyman Yeager:

The breath interlock device language, as you know, came from Senate Bill 259 of the 79th Session. Some of the testimony we heard during that bill was if Nevada were to implement this system of a mandatory breath interlock device to be able to get a restricted license or a license renewed, Nevada would then be eligible for some federal grants. My recollection is that was some of the main testimony. Did we ever get any federal grants or federal money as a result of implementing Senate Bill 259 of the 79th Session?

Victoria Hauan, Impaired Driving Program Manager, Office of Traffic Safety, Department of Public Safety:

I am also the chair of the Committee on Testing for Intoxication. In answer to your question, no, we did not. We were excluded from that funding because of the exemptions for economic hardship, which is not one of the U.S. Department of Transportation, National Highway Traffic Safety Administration's allowed exemptions.

Assemblyman Yeager:

One of the things you are trying to do is remove the economic hardship in this particular bill. I know we cannot speak for the federal government, but are we under the belief that if we remove that, we would be eligible for federal monies. If so, do we have any idea of how much money we are talking about?

Victoria Hauan:

They sent us a letter saying that was specifically the language that excluded us from the funding. I am not sure how much money.

Amy E. Davey, Administrator, Office of Traffic Safety, Department of Public Safety:

I appreciate your memory talking about all the changes and requests that have gone on around this for the last two years. We feel the access to the program is addressed through the affordability provisions that were also included. When I say the affordability provisions, I am talking about the section in statute that requires interlock providers to address affordability for those who meet the federal standards for poverty levels and to adjust the sliding scale. Under those affordability provisions then, we felt the exemptions were duplicative and could be addressed through that sliding scale.

With respect to your particular question, the federal government does not tell us the exact amount of money Nevada would receive, but they indicated the amount is somewhere between \$150,000 to \$200,000 annually. It does not sound like a lot of money, but that would allow us to put that money into impaired driving programs through our office. We subgrant those monies to drug courts, alternative sentencing programs, and impaired driving remediation programs.

Chair Monroe-Moreno:

Are there any further questions from the Committee? [There were none.] Do you have any closing remarks?

Jude Hurin:

We look forward to working with the public defenders' offices and with Assemblyman Yeager. We believe our next amendment will be even stronger.

Chair Monroe-Moreno:

I will close the hearing on A.B. 53. Is there anyone here for public comment, either in Carson City or Las Vegas? [There was no one.]

This meeting is adjourned [at 3:48 p.m.].

RESPECTFULLY SUBMITTED:

Lori McCleary
Committee Secretary

APPROVED BY:

Assemblywoman Daniele Monroe-Moreno, Chair

DATE: _____

EXHIBITS

[Exhibit A](#) is the Agenda.

[Exhibit B](#) is the Attendance Roster.

[Exhibit C](#) is a copy of PowerPoint presentation titled "Nevada DOT: Safe and Connected," presented by Thor Dyson, P.E., Assistant Director, Operations, Department of Transportation, regarding [Assembly Bill 22](#).

[Exhibit D](#) is a proposed amendment to [Assembly Bill 22](#), submitted by Sean Sever, Communications Director, Department of Transportation.

[Exhibit E](#) is a copy of a PowerPoint presentation titled "Assured U.S. Electrical Power And Economic Opportunity of New Energy," dated March 2019, presented by Lee Gunn, Vice Admiral, USN (Ret.), Vice Chairman, CNA Military Advisory Board.

[Exhibit F](#) is a document titled "Restricted License Information" and an application for a restricted license, provided by Department of Motor Vehicles, Central Services and Records, Driver's License Assessment, regarding [Assembly Bill 213](#).

[Exhibit G](#) is a letter, dated March 19, 2019, from Joelle Gutman, Private Citizen, Reno, Nevada, in support of [Assembly Bill 213](#).

[Exhibit H](#) is written testimony from Leigh Berdrow, Director, Academy for Career Education, Reno, Nevada, regarding [Assembly Bill 213](#).

[Exhibit I](#) is a one-page document submitted by Leigh Berdrow, Director, Academy for Career Education, Reno, Nevada, regarding [Assembly Bill 213](#).

[Exhibit J](#) is an amendment to [Assembly Bill 53](#), dated March 5, 2019, submitted by Jude Hurin, Administrator, Division of Management Services and Programs, Department of Motor Vehicles.

[Exhibit K](#) is an opening statement and overview of [Assembly Bill 53](#), dated March 7, 2019, submitted by Jude Hurin, Administrator, Division of Management Services and Programs, Department of Motor Vehicles.

[Exhibit L](#) is a letter, dated March 20, 2019, submitted by Jim Hoffman, Nevada Attorneys for Criminal Justice, in opposition to [Assembly Bill 53](#).