

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

**Eightieth Session
April 2, 2019**

The Committee on Growth and Infrastructure was called to order by Chair Daniele Monroe-Moreno at 12:57 p.m. on Tuesday, April 2, 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 and to Room 102, McMullen Hall, Great Basin College, 1500 College Parkway, Elko, 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 Greg Smith
Assemblyman Howard Watts
Assemblyman Jim Wheeler

COMMITTEE MEMBERS ABSENT:

None

GUEST LEGISLATORS PRESENT:

Assemblyman William McCurdy II, Assembly District No. 6
Assemblyman Alex Assefa, Assembly District No. 42
Assemblywoman Melissa Hardy, Assembly District No. 22



STAFF MEMBERS PRESENT:

Michelle L. Van Geel, Committee Policy Analyst
Jessica Dummer, Committee Counsel
Joan Waldock, Committee Secretary
Alejandra Medina, Committee Assistant

OTHERS PRESENT:

Marty Elzy, Management Analyst, Division of Central Services and Records,
Department of Motor Vehicles
Derek Morse, representing Nevada Chapter, Associated General Contractors of
America
Bill Wellman, representing Nevada Economic Development Coalition
Brian Reeder, representing Nevada Contractors Association
Tom Polikalas, representing Southwest Energy Efficiency Project
Christi Cabrera, representing Nevada Conservation League
Tobi Tyler, Member, Executive Committee, Toiyabe Chapter, Sierra Club
Peter D. Krueger, representing Nevada Petroleum Marketers Association
Paul J. Enos, Chief Executive Officer, Nevada Trucking Association
Joelle Gutman, Government Affairs Liaison, Office of the District Health Officer,
Washoe County Health District
Vinson Guthreau, Deputy Director, Nevada Association of Counties
Debbie Martinez, Management Analyst III, Motor Carrier Division, Department of
Motor Vehicles
Dawn Lietz, Administrator, Motor Carrier Division, Department of Motor Vehicles
Tyler Ingram, District Attorney, Elko County
Micah Krintz, Private Citizen, Sacramento, California
Joshua Krintz, Private Citizen, Elko, Nevada
Brian O'Callaghan, Government Liaison, Office of Intergovernmental Services,
Las Vegas Metropolitan Police Department
Adam Cate, representing Nevada District Attorneys Association
Janine Hansen, Private Citizen, Elko, Nevada
Larry Roth, Private Citizen, Elko, Nevada
Marcie Krintz, Private Citizen, Elko, Nevada
Daniel Solow, Lieutenant Colonel, Nevada Highway Patrol, Department of Public
Safety

Chair Monroe-Moreno:

[Roll was called. Committee rules and protocol were explained.] We are at a crunch time in our legislative session, so some of our members will be leaving to give presentations in other committee hearings. We will start with our work session. The first bill in our work session is 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)

Michelle L. Van Geel, Committee Policy Analyst:

Assembly Bill 22 was sponsored by the Committee on behalf of the Department of Transportation. It was heard in Committee on March 21. It revises provisions governing the amount of money that the director of the Department of Transportation must retain under certain highway contracts ([Exhibit C](#)).

The amendment reduces the retention amount from 5 percent to 2.5 percent until all work is complete and accepted by the director of the Department of Transportation. Additionally, the amendment provides that upon notice of completion of an entire project and final inspection, the director shall reduce any money being retained to no more than \$50,000 within 30 days if the inspection discloses that all work has been completed satisfactorily. If the inspection determines the work is unsatisfactory, the Department will provide the contractor with instructions for correction, and then the process will repeat. Additionally, the amendment reduces the amount of payment that a contractor may withhold from a subcontractor before a subcontractor may contact the Department for assistance. This amendment was proposed by the Department of Transportation.

Chair Monroe-Moreno:

I will take a motion to amend and do pass A.B. 22.

ASSEMBLYMAN CARRILLO MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 22.

ASSEMBLYMAN WATTS SECONDED THE MOTION.

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

THE MOTION PASSED UNANIMOUSLY.

Assemblyman Watts will give the floor statement.

Our next item on the work session is Assembly Bill 24.

Assembly Bill 24: Revises provisions governing the requirements for posting of security bonds by motor vehicle related industries and activities. (BDR 43-229)

Michelle L. Van Geel, Committee Policy Analyst:

Assembly Bill 24 was sponsored by the Committee on behalf of the Department of Motor Vehicles (DMV). It was heard in Committee on March 7 ([Exhibit D](#)). The bill prohibits the DMV from accepting bonds of the United States or the State of Nevada in lieu of a surety

bond or cash payment required to be deposited with the Department, including the security required to be deposited with the Department by persons in certain motor vehicle-related industries.

There are no amendments for this measure. The amendment offered by Bailey Bortolin on behalf of the Coalition of Legal Service Providers was deemed not germane to the bill.

Chair Monroe-Moreno:

I will entertain a motion on Assembly Bill 24.

ASSEMBLYWOMAN BILBRAY-AXELROD MOVED TO DO PASS
ASSEMBLY BILL 24.

ASSEMBLYMAN WHEELER SECONDED THE MOTION.

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

THE MOTION PASSED. (ASSEMBLYMAN SMITH WAS ABSENT FOR
THE VOTE.)

Assemblyman Wheeler will take the floor statement.

The next item on our agenda is Assembly Bill 63.

Assembly Bill 63: Revises provisions governing vehicles. (BDR 43-226)

Michelle L. Van Geel, Committee Policy Analyst:

Assembly Bill 63 was sponsored by the Committee on behalf of the Department of Motor Vehicles (DMV) (Exhibit E). It was heard in Committee on March 7. Assembly Bill 63 is a clean-up bill submitted by the DMV. The bill makes various changes, including:

- Eliminating redundant language concerning the appointment of agents for the DMV;
- Creating requirements regarding the usage of the DMV's name, service marks, trademarks, or logo;
- Allowing licensed Nevada dealers to perform certain inspections on mopeds for their customers;
- Allowing the DMV to explore developing technologies that cannot be replicated by the license plate factory;
- Clarifying the distribution of fees for the first issuance of license plates for certain vehicles that are exempt from emissions testing;
- Including "qualifying service-connected disability" in the definition of a "person with a permanent disability";

- Allowing the DMV to accept a certificate of service-connected disability from the U.S. Department of Veterans Affairs or the U.S. Department of Defense for the purposes of issuing special license plates, placards, and stickers; and
- Eliminating the one-year physical paper title retention requirement.

There are no amendments for this measure.

Chair Monroe-Moreno:

I will entertain a motion on Assembly Bill 63.

ASSEMBLYWOMAN BILBRAY-AXELROD MOVED TO DO PASS
ASSEMBLY BILL 63.

ASSEMBLYMAN ROBERTS SECONDED THE MOTION.

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

THE MOTION PASSED. (ASSEMBLYMAN SMITH WAS ABSENT FOR
THE VOTE.)

The floor statement will go to Assemblywoman Bilbray-Axelrod.

The last item for our work session is Assembly Bill 363.

Assembly Bill 363: Revises certain provisions relating to homeless youth.
(BDR 43-1033)

Michelle L. Van Geel, Committee Policy Analyst:

Assembly Bill 363 was sponsored by Assemblyman Thompson and heard in Committee on March 28 (Exhibit F). It requires the Department of Motor Vehicles to provide an original or duplicate driver's license or an original or duplicate identification card free of charge to a homeless child or youth under the age of 25 years in certain circumstances. The bill also revises provisions requiring the state registrar to provide certain certificates free of charge to a homeless child or youth under the age of 25 years in certain circumstances.

Assemblyman Thompson offered two amendments during the hearing:

- Add language to provide that the testing fee to obtain a driver's license is waived for a homeless child or youth under the age of 25 years; and
- Change the effective date of the bill from July 1, 2019, to January 1, 2020.

Chair Monroe-Moreno:

I will entertain a motion to amend and do pass Assembly Bill 363.

ASSEMBLYWOMAN NGUYEN MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 363.

ASSEMBLYMAN LEAVITT SECONDED THE MOTION.

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

THE MOTION PASSED UNANIMOUSLY.

I will assign the floor statement to Assemblyman Thompson.

I will open the hearing on Assembly Bill 386.

Assembly Bill 386: Provides for the issuance of a specialty license plate memorializing the historic Moulin Rouge Hotel and Casino in Las Vegas. (BDR 43-320)

Assemblyman William McCurdy II, Assembly District No. 6:

Assembly District No. 6 is in Clark County. I am here presenting Assembly Bill 386 which provides for special license plates to commemorate the Moulin Rouge Hotel and Casino. Before I get into the bill itself, I would like to provide some background. The Moulin Rouge opened May 24, 1955. It was the first racially integrated hotel and casino in Las Vegas. Black entertainers were not allowed to eat or stay at the major hotels and casinos they were performing in, rather, they sought accommodations in black boarding houses on the west side of the city—which is in my district. After the Legislature failed to pass bills barring discrimination in public places, investors developed plans for a hotel and casino that would be integrated at all levels—employees, patrons, and entertainers. Although the Moulin Rouge only remained open for six months, it attracted many famous celebrities: Ella Fitzgerald, Frank Sinatra, Dean Martin, Judy Garland, Harry Belafonte, Bob Hope, Marlene Dietrich, and others.

Financial mismanagement forced the Moulin Rouge to close; however, Las Vegas had observed what a racially integrated Las Vegas could look like. Five years after its closure, the Moulin Rouge was the site of an important civil rights meeting between Dr. James McMillan, the National Association for the Advancement of Colored People branch president; Governor Grant Sawyer; and various powerful gaming executives. The meeting was a success, as most hotel owners finally decided to integrate their businesses—which transformed the setting of the Las Vegas we know.

Despite the decades it has been dormant, the site of the Moulin Rouge remains important. Gambling has taken place on the site every two years in order to maintain the gambling license. The Moulin Rouge endures as a symbol of the civil rights struggle in Las Vegas and the ultimate racial integration of the entertainment capital of the world.

I will now describe the provisions of the bill. Assembly Bill 386 directs the Department of Motor Vehicles (DMV), in conjunction with the Las Vegas Historic Preservation

Commission, to design, prepare, and issue special license plates commemorating the historic Moulin Rouge Hotel and Casino in Las Vegas. For initial issuance, the plates would cost \$60, plus standard fees and taxes. Of that extra amount, \$25 would go to the Urban Chamber of Commerce in Las Vegas. For renewal, the additional cost would be \$30, \$20 of which would go to the Urban Chamber of Commerce in Las Vegas. The fees must be used to provide support to the historic West Las Vegas neighborhood that includes the site of the former Moulin Rouge Hotel and Casino. Twenty-five percent must fund neighborhood beautification projects, including painting homes and fences and making minor repairs to the exteriors of the homes. Seventy-five percent of the funds would go to fund scholarships to low-income neighborhood residents who are high school graduates pursuing education in the arts at an institution of higher education or at a vocational school or a trade school.

Sections 6 through 8 exempt these plates from certain statutory requirements regarding recommendation for the DMV approval by the Commission on Special License Plates, overall limits on separate designs of special license plates, and the application threshold that must be reached before issuance. Those are the main provisions of A.B. 386. The remainder of the bill involves conforming changes.

This bill celebrates a significant junction in Las Vegas history—the beginning of racial integration. It also will set up a financial mechanism to support the current and future generations of this community that was so heavily involved with the civil rights movement in Las Vegas.

Chair Monroe-Moreno:

The Committee has questions for you.

Assemblyman Wheeler:

My question is for our committee counsel. I see this bill requires a two-thirds majority vote. I have seen a lot of license plate bills but have never seen one require a two-thirds majority. Why does this bill require it?

Jessica Dummer, Committee Counsel:

I could not speak to why you have not seen this majority requirement on other bills. On this one, it is because it is creating a fee raising funds for the government. If you would like, I can look into this further.

Assemblyman Wheeler:

Please do. I have seen a number of license plate bills, even when I was chairing this Committee. I do not remember seeing a two-thirds majority requirement on a license plate bill before this.

Assemblyman Ellison:

I see that part of the money is going to the Urban Chamber of Commerce, based on section 1.

Where is the breakdown of how the money will be spent? Did you say a portion would go to neighborhoods and a portion into a fund that would help students with scholarships?

Assemblyman McCurdy:

Seventy-five percent of the proceeds generated by issuance of the license plate will go toward students who live within a two-mile radius of the historic Moulin Rouge site. Twenty-five percent will go toward beautification projects. I envision those funds will be used to paint dilapidated homes or to rent a dumpster for someone to use in cleaning up a property.

Assemblyman Ellison:

I am glad to see this bill shows where the money is going. I have been on the Commission on Special License Plates and have not seen a two-thirds majority required.

Assemblyman McCurdy:

The breakdown can be found in section 1, subsection 5, paragraphs (a) and (b), on page 3.

Chair Monroe-Moreno:

I have a question about the 25 percent for neighborhood beautification. Is it your intention to have the funding go to an existing nonprofit organization, or would it go to a new nonprofit organization? I have the same questions regarding section 1, subsection 5, paragraph (b).

Assemblyman McCurdy:

It is my intent that the funds be allocated to a nonprofit, which is designated as the Urban Chamber of Commerce. I am looking for them to have the responsibility of dissemination of funds within this bill.

Chair Monroe-Moreno:

Are there any other questions from members of the Committee? [There were none.] Is there anyone here to testify in support of Assembly Bill 386? [There was no one.] Is there anyone here in opposition? [There was no one.] Is there anyone neutral?

**Marty Elzy, Management Analyst, Division of Central Services and Records,
Department of Motor Vehicles:**

With me today is Denise Engle, manager over the Division of Central Services and Records' License and Business Programs section. We are representing the Department in the neutral position on this bill. We are happy to answer any questions you may have.

Chair Monroe-Moreno:

Are there questions for the DMV? [There were none.] I will invite the bill's sponsor back to the table for closing remarks.

Assemblyman McCurdy:

This bill is very important to me and to many people who live within the historic West Las Vegas area. The area has evolved over the years, but not how you would think. It has evolved in a way in which the residents of the district are looking to be recognized. I believe this would be just a small piece that would allow the community to see they are recognized and that what they have gone through is not forgotten.

Chair Monroe-Moreno:

I will close the hearing on Assembly Bill 386. We will move on to the next item on our agenda, Assembly Bill 401.

**Assembly Bill 401: Revises provisions governing the highway funding mechanism.
(BDR 43-832)**

Assemblyman Alex Assefa, Assembly District No. 42:

Assembly District No. 42 is in Clark County. With me is Mr. Derek Morse, formerly with Washoe County Regional Transportation Commission who will help me present the bill.

It is my pleasure to present Assembly Bill 401, which relates to motor vehicle registration and fees for vehicle miles traveled. As you are aware, vehicle fuel efficiency has been increasing for many years. The use of alternative fuels such as electricity, natural gas, hydrogen, and biofuels supports greater energy security and reduces greenhouse gas emissions, protecting the only home we have—our planet. However, with increased efficiency and the use of alternative fuels, there has been a substantial decrease in highway funds generated from gas taxes. This has made it very difficult to maintain our roadways.

Our current method of funding highways is dependent on taxing the energy consumed. When fewer and fewer people are going to gas stations—either because they are driving fuel-efficient vehicles and do not need to go to gas stations as frequently as they used to, or they are not going to gas stations at all because they drive vehicles that do not consume gas—this creates a discrepancy in our highway funding mechanism. Assembly Bill 401 proposes a solution to mitigate this discrepancy—the vehicle miles traveled (VMT) method. This program allows all users of the highways to pay for their use of the highways. Many states have studied and/or conducted pilot programs on vehicle miles traveled.

How does it work? Assembly Bill 401 requires a person to provide the Department of Motor Vehicles (DMV) with the mileage on the odometer of any light-duty vehicle (LDV) upon initial registration and each renewal or transfer of ownership thereafter ([Exhibit G](#)). The DMV will then calculate the VMT fee amount to be charged. If the vehicle is subject to complying with emissions standards, the form submitted regarding such compliance will contain the odometer reading. If the vehicle is not required to submit such emission compliance, a person must report the mileage on the odometer of the vehicle to the DMV.

The odometer can be read and certified by the DMV, any category peace officer, auto dealers, or emissions testing stations. Assembly Bill 401 also provides that, upon renewal or transfer of registration for certain light-duty vehicles, the person renewing or transferring the registration must pay the VMT fee for the miles the vehicle traveled during the previous registration period. The vehicles subject to provisions of A.B. 401 are motor vehicles manufactured in 1984 or later for the United States market, with gross vehicle weight rating of less than 8,500 pounds. Motorcycles, mopeds, and electric bicycles are not subject to the provisions of this bill.

Assembly Bill 401 further provides the methodology for the DMV to calculate VMT fees. To summarize that process, the DMV must first calculate a VMT rate beginning at Year One. In subsequent years, it will use a target rate adjustment factor. In certain counties, an annual inflation adjustment factor will also be used. The VMT rate is then multiplied by the miles traveled by the vehicle based on the odometer reading submitted. The DMV will then subtract from that amount an estimated fuel purchase credit to determine the VMT fee. The estimated fuel purchase credit is a calculation based on the following:

1. The miles per gallon (MPG) rating established by the U.S. Environmental Protection Agency (EPA) for the year, make, and model of the vehicle;
2. The miles traveled by the vehicle; and
3. The per gallon fuel tax rate imposed in the county in which the vehicle is based.

Except for the portions of the fees withheld by the DMV to defray the costs of administering the VMT program, the money collected by the DMV will be deposited in the State Highway Fund.

Assembly Bill 401 requires the DMV to post certain rates adjustment factors on its website and to provide a tool on its website whereby a person can enter the vehicle identification number (VIN), county of residence, and estimated miles traveled to get an estimate of what the VMT fee would be for any given vehicle.

Finally, A.B. 401 requires Nevada's Department of Transportation (NDOT) to submit a report to the Legislature beginning in 2023 and every five years thereafter concerning the condition of our state highway system, the performance and condition standards of the highway system, certain cost and revenue projections, and recommendations for adjusting the target rate adjustment factor used to calculate the VMT fee.

Before I close my presentation, I will ask Mr. Derek Morse to go through the bill and guide us through a presentation he has prepared for us.

Derek Morse, representing Nevada Chapter, Associated General Contractors of America:

Why do we need A.B. 401? The primary reason is, we have lost revenue due to better fuel economy in our vehicle fleet [page 2, ([Exhibit H](#))]. This is being driven by improved efficiency standards at the federal and state levels and by consumer demand for more efficient vehicles. The second issue is that, because of the increasing fleet economy and the wide variance in what people pay for using the highway system through the current fuel tax mechanism, we have increased inequity among highway users.

The graph [page 3] shows what we are collecting for light-duty vehicles. These are vehicles with a gross vehicle weight rating under 8,500 pounds. This includes cars, SUVs, pickup trucks, and vans. In 2008, we were collecting a little more than a penny per mile driven on the state highway system from the state gas tax. If we were to look at this chart back to 1993, we would see that the rate did not change much; it was pretty stable during that time. Beginning in 2008, we started to see a rapid decline in what we were collecting per mile driven due to the increasing fuel economy of the fleet. Between 2008 and 2016, there was about a 25 percent decline in per-mile collections from the LDVs driving on Nevada's highways. Between 2008 and 2030, we project there will be about a 55 percent decline in per-mile collections.

In looking at this from the bigger picture of lost revenue to the Highway Fund, the chart on page 4 shows the difference between collecting at the 2008 rate of about a penny per mile and where we are today because of increasing fleet economy. In 2018, that difference caused a loss of about \$80 million to the Highway Fund. This will accelerate over time as more and more fuel-efficient vehicles are introduced into the LDV fleet. By 2030, we are projecting the annual loss will be about \$160 million. The cumulative loss between 2018 and 2030 is estimated to be \$1.6 billion [page 4]. This is not a trivial amount.

Today's fuel tax system has served us well for decades, but it has become increasingly dysfunctional as the world around us has changed [page 5]. The current method has a low cost of collection. In Nevada, the cost of collecting revenue through the fuel tax system is about 3 to 4 percent of the revenue. The fuel tax system we have today allows drivers to simply pull up, pump the gas, pay, and drive away. We do not have to file any forms or go through a process to pay fuel taxes; the taxes are included in the price of the fuel. Our fuel tax system makes no significant impact on personal privacy—we do not give up any information to folks, we are not being tracked, and none of the other things people find objectionable are occurring. For these reasons, it is a tough system to replace. As we look at

replacements for the fuel tax system, we need to look at whether what is being proposed is as good as or better than the current system. If it is not, it is probably not as viable as a replacement.

One replacement that has been talked about for a number of years is a device called a vehicle miles traveled fee [page 6]. It might be called a mileage-based user fee. The premise of vehicle miles traveled fees is fairly simple. Vehicles of the same class or weight would pay the same amount per mile regardless of their fuel type. These LDVs all cause about the same amount of wear and tear on the highway, and they all take up about the same amount of space, which is a capacity issue. If we think about it rationally, they should be paying about the same for their use of the highway and yet, they are not, under the current system. With VMT fees, collections are based upon road use, not fuel type. It does not matter whether you own an electric vehicle, a gas vehicle, a diesel vehicle, or some combination thereof—you are paying the same amount as all the other vehicles for your use of the system.

Vehicle miles traveled fees have been discussed for more than 20 years, yet there has been no significant implementation anywhere in the country to this point [page 7]. Most of the proposed systems are extremely complex technically and administratively. They make huge changes in what the users have to do, what industry has to do, and what government has to do to collect this revenue, so they have made no progress. They are also quite costly to collect. Assembly Bill 401 is different from the models that are being proposed for most VMT systems around the country. Assembly Bill 401 proposes what I have termed a "low-cost/low-tech" VMT fee system [page 8]. Initially, the system would be applied to light-duty vehicles registered in Nevada, including cars, SUVs, pickup trucks, and vans. These vehicles make up about 93 percent of all registered motor vehicles in Nevada and account for nearly 90 percent of the vehicle miles traveled on the roadways. This is a substantial implementation. Non-enrolled vehicles—the heavier vehicles that are not LDVs or are those from out of state—would continue to pay fuel taxes instead of a VMT fee. Enrolled vehicles would pay a VMT fee instead of the state fuel tax for that type of vehicle.

How does it work? The graphic [page 9] shows what we are doing today. Everything except what is in the lower right-hand corner of the chart where it says "enter odometer reading" is what we do today. The DMV collects fuel taxes from the suppliers—there are about 176 of them in the state. Once a month, the suppliers submit fuel taxes to the DMV. As the suppliers sell fuel to retail establishments or end users, the fuel suppliers recoup the fuel tax in the price of the fuel they are selling to retailers. As consumers, we drive up, pump, pay, and drive away. In the future, this would not change except for a small tweak to the registration process whereby vehicles enrolled in the VMT system would have a "true up" at registration time to adjust, plus or minus, the VMT fees they paid through their fuel tax contributions as they bought fuel.

I will talk about the benefits of A. B. 401 [page 10]. The system would be fully automated. We are not going to have to fill out tax returns; no one is going to have a big change in what

they have to do. The only change would be for some users having to provide odometer readings when registering. About 75 percent of the vehicles in the state are in Clark County and Washoe County and are subject to smog control. Those not in those two counties would simply have to provide odometer readings when registering. The system keeps collection costs very low because it utilizes the existing vehicle registration and fuel tax collection systems and does not require us to build very complex, stand-alone systems separate from these.

I will give you examples of different vehicle types [page 11]. The first is a pickup truck running on gasoline. It was driven 12,000 miles in the year; its EPA combined city and highway mileage rating is 15 MPG. You divide the 12,000 miles by 15; the estimated usage of fuel was about 800 gallons. Since it is a gas-driven vehicle, the state gas tax rate is 17.65 cents per gallon. That rate multiplied by the estimated 800 gallons equals an estimated fuel tax credit of \$141.20. The VMT fee would be 12,000 miles times a penny a mile, equaling \$120. If we subtract \$141.20 from the \$120, there is a credit. The owner paid more than necessary toward the VMT through the fuel tax contribution. The credit would be applied to the registration fee at the time of registration.

The next example is similar, with a different vehicle. This vehicle drove 12,000 and gets 22 miles to the gallon. If you divide 12,000 miles by 22 MPG, you get an estimated 545 gallons. You multiply that by the gas rate and get the credit of \$96.19. You subtract that from the \$120 vehicle miles traveled. The owner would have to pay an additional \$23.81 at registration to true up their contribution to VMT fees.

Currently, all-electric vehicles do not pay for the use of our highway system. That is an equity issue. In this example, if you were able to drive this electric-only vehicle 12,000 miles in a year, you would owe \$120. You would not get a fuel tax credit and would have to pay that at the time of registration.

One of the benefits of A.B. 401 is that the system is entirely odometer-based [page 12]. There is no tracking or anything like that, which addresses the privacy concerns that we have heard from the public. The fuel tax collection process we have today will not change; there is no additional burden for anyone—retailers, suppliers, or the DMV. Drivers would still retain that vital pump, pay, and drive away experience. We are not asking anyone to fill out forms, press buttons, enter new numbers, have a bunch of technology, or anything. They will just pump their fuel, pay, and drive away. At the DMV, there would be a onetime charge for modification to the registration process to set this up. Out-of-state drivers would still pay just as they do today [page 13]. They would pay Nevada gas or diesel tax, whatever their vehicle runs on. They would still pay a share that way.

This system substantially addresses increasing fuel economy in the fleet and its impacts on revenue streams, which I have shown are quite significant. It also has provisions to protect revenues from loss of purchasing power through inflation over time, as it uses the same type

of adjustment we have seen in Clark and Washoe Counties for fuel tax indexing. The collection costs are remarkably low. They will be basically the same as under the current fuel tax system, with a minor additional cost to the DMV for setting up their system and running it. The cost is minor compared to the revenue we would recover under this system. It improves user equity. Every one of these LDVs would pay the same amount for taking up space and for wear and tear on the highways, as opposed to the big inequity we see today. It performs as well or better than the current fuel tax system in virtually every aspect. I have done quite a bit of research on this and have written papers that I can provide to the Committee.

We have been looking at the language as proposed in the bill. As we tried to translate these concepts into legislative language, some errors crept in. The overall intent of the amendments we are proposing at this time do not vary from the underlying principle of the system as proposed. They are primarily to clean up, add clarification, and correct scrivener's errors that were caught in the legislation as currently drafted ([Exhibit I](#)).

1. Amendment No. 1 would correct the reference to *Nevada Revised Statutes* (NRS) in section 3.
2. Amendment No. 2 intends to make sure all the vehicles that are exempt from registration under NRS Chapter 482 are also exempt from the vehicle miles traveled fee so that we maintain the current system of exemptions.
3. Amendment No. 3 intends to provide that the expenses incurred by the DMV for the establishment of the vehicle miles traveled fee system will be paid by the Highway Fund. This was modeled after the fuel revenue indexing language for Clark County. This makes sure the DMV has the funds to make these changes.
4. Amendment No. 4 was suggested by the DMV. It would allow the DMV to adopt regulations regarding exceptions for certain registered vehicles from the vehicle miles traveled fee pursuant to the bill, such as active duty military personnel.
5. Amendment No. 5 is to ensure the new vehicle miles traveled fee system does not impair bondholders of existing state bonds that have been secured by state fuel taxes. This is a concern; we want to make sure there is no panic among bondholders about changing methods of collection or revenue streams. They are held whole.
6. Amendment No. 6 contains small things that need to be corrected:
 - In subsection 3 we are correcting an error made in the calculation of the vehicle miles traveled.
 - Subsection 4 clarifies that, in the event a vehicle registration has moved to a new county, the vehicle miles traveled fee will be calculated for the county where the vehicle was previously registered since that is where the miles were driven.

- Subsection 5, paragraph (a) corrects the calculation of the estimated fuel purchase credit.
 - Subsection 5, paragraph (b) clarifies the state fuel tax is consistent across the state and does not differ by county.
 - Subsection 7 and subsection 8, paragraph (a) clarify that the target rate adjustment unit is MPG.
 - Subsection 8, paragraph (b) clarifies that the MPG is based on the combined city/highway rating calculated by the EPA.
 - Section 10 clears up and clarifies language calculating the fee and makes very clear where we are using calendar year data versus fiscal year data for making various adjustments to the fee for inflation and other purposes.
7. Amendment No. 7 clarifies that, in the report that is going to be required from NDOT on the condition and performance of the entire system and what it takes to reach the standards that have been established for the system, they can make recommendations on adjustments to the vehicle miles traveled rates for future fiscal years, not the target rate adjustment factor.

I would be more than happy to answer any questions the Committee may have.

Chair Monroe-Moreno:

I will apologize that I have to step out soon to do a bill presentation in another committee. A number of members have questions for you.

Assemblywoman Bilbray-Axelrod:

I think this is an important conversation. I have some concerns with the bill—even with the amendments. There have been issues with the EPA fuel ratings. It took two years for the EPA to change Hyundai's fuel estimates when thousands of Hyundai's customers said they could not even get close to what the EPA estimates were. I am concerned that a Prius that weighs 3,000 pounds does a different amount of damage to our roads than a Ford F-150 that weighs 6,000 to 7,000 pounds. The other thing I would like to have you speak about is the real cost to the state for carbon emissions. We are looking at a problem, but not realizing we could be removing the incentive for people to do the right thing and get rid of their internal combustion engine vehicles.

Derek Morse:

Those are all good questions. The most reliable data regarding the accuracy of the EPA mileage estimates was compiled by *Consumer Reports*. They found that virtually all of the EPA mileage estimates from the combined city/highway cycle they use were within about 1 to 2 miles per gallon in the real world. Edmunds, the company that provides used car values, maintains a fleet of several thousand vehicles, constantly bringing new vehicles in and running them in the real world. They report that, for their entire fleets, the mileage experience is plus or minus 2 miles of the EPA numbers. If you go to the EPA website, you can report your actual experience. It is remarkable to me that the vast majority of people who write in are getting better mileage than the EPA numbers. Maybe they want to brag

about their driving. I think the bottom line is that the numbers are pretty close. The target rate adjustment factor is to true up the real-world experience once the data is in, compared to what we are doing as an estimate for the entire fleet. We should be able to use that to stay pretty close, in terms of the entire fleet, to what the real-world experience being reported through the federal data is.

The Hyundai example is unfortunate. These things happen. The commercial database relating each vehicle's VIN to EPA estimates is constantly updated. Every time the EPA makes a correction, the database receives it. There could be a few cases out of the millions where there is something that is off; it will be corrected in time once it is brought to the EPA's attention. We do not have any control over that. Industry does the tests; the EPA certifies them. If there are mistakes, they are corrected as soon as they are uncovered.

[Assemblyman Yeager assumed the Chair.]

Let me address your next question, which has to do with the weight of vehicles. There is no definitive research that differentiates the wear and tear of vehicles of the light-duty class—8,500 pounds gross vehicle weight rating—from one another, such as a 3,000-pound vehicle versus a 6,000-pound vehicle. I think it is logical to assume, but within the class the wear and tear and the space they take up on the road is about the same. There is research that relates to the difference between the damage done by semitrucks and cars. One pass of the fully loaded 18-wheeler does as much damage as 9,600 passes of LDVs. In the event that definitive research comes in and can differentiate between the damage from a 3,000-pound vehicle and a 6,000-pound vehicle, this system is flexible enough that the information from the research could be incorporated into it. You could start seeing a difference in the rates that people might have. I am an engineer; I look at this stuff all the time. The data simply is not there that can definitively address those differences between LDVs.

Let me address two points regarding your question about carbon emissions. I have run dozens of scenarios for people considering moving from their current car to a more fuel-efficient car and the economic benefits of that in terms of fuel savings under the current system. In all the scenarios I have run, comparing that benefit to the benefit you would achieve under the VMT fee system, the benefit is retained in the VMT fee system about 80 to 90 percent in every one of the scenarios. What I am trying to say is that the benefit from moving to a more fuel-efficient vehicle is not really in the taxes or the VMT fee; it is in the underlying price of the gas you are saving. That benefit, whether under the current fuel tax system or under a VMT fee system, is largely retained. The economic incentive is still there.

The VMT fee system does not address the global issue of carbon emissions. The incentive is for people to save money on gas in the fuel economy. Carbon emission is a separate issue, a valid one that we as a nation will have to address. It is another discussion for another system to integrate that regardless of how we are collecting revenue to maintain the highway system in the first place with fuel tax and VMT. The fuel tax and VMT systems are about maintaining what we have.

Assemblywoman Bilbray-Axelrod:

It is important for us to think about the overall cost of carbon emissions—bills we are paying for or children with asthma or things like that. When does it become cost-effective for the state? I am glad you brought this bill; it is an important conversation we need to have, but I think we have a lot to work on.

Vice Chair Yeager:

There are a number of other questions from the Committee.

Assemblywoman Nguyen:

I think this is an important issue. In researching states that are using a vehicle miles traveled system, I looked at Oregon. I have concerns that perhaps implementing this is premature. In Oregon's transition to the VMT model, they started studying it in 2001. Assemblyman Watts presented Assembly Bill 483 to start the process of collecting data that would be useful in determining what we want to incorporate here. Oregon started its task force in 2001 and followed it up with various pilot programs in 2006 and 2012 and a more permanent pilot program that was capped at 5,000 vehicles in 2015. Have we considered pilot programs and waiting to see the data so we have a results-based program in place?

Derek Morse:

I am glad you used Oregon as an example. Oregon has pioneered in this area, but what they are pursuing will never be implemented. Their cost of collection for their systems is high because they are tracking people and using high technology. It will change what technology users have to have in their cars, moving the point of collection for fuel taxes from 176 suppliers, in the case of Nevada, to all of the retailers. It is going to move the point of collection to 60 million fueling transactions. It is way too complicated and way too expensive. That is the point I was trying to get across earlier. I have been involved in this for more than 25 years. Twenty-five years ago it was said that 10 to 20 years from now we will have real implementation, not just pilots. Today we are still saying 10 to 20 years from now because of privacy concerns and the cost of collection. The cost of collection for the Oregon pilots, for some of the methods they were looking at, were greater than the revenue collected. When we compare that to the fuel tax system that we have today, where the cost of collection is 3 to 4 percent of revenue, I would find it very difficult to come before a body such as this and say, We want a new system and guess what, we are going to take 20 or 50 percent of the revenue for the cost of collection. It does not make much sense. To get to the same net revenue, we would have to raise the fees quite a bit over our current system.

The whole reason I developed this low-cost, low-tech system is because I am a very practical person. I am an engineer. I was the head of the Regional Transportation Commission (RTC) of Washoe County for a number of years. I have dealt with this all around the country. If we are really going to move to something other than fuel taxes—and if VMT is the solution—we have to have a way that makes this work that does not create an administrative nightmare and a problem for consumers. That is why this system does that. Is it perfect? No, but it is much better than what we have right now, and it addresses \$1.6 billion between 2018 and 2030 in

our Highway Fund that is gone because of increasing fleet economy. We have to address that. We are short as it is, and we are going to be even shorter in the future.

When I showed you the diagram of the current system with the little box that showed the change—that is the beauty of this. If we were to pilot, what would we pilot? We already know how we collect fuel taxes and register vehicles. The only wrinkle we have in here is we are going to have the LDVs in the system have a little change at registration where they get a credit for the fuel tax they paid against the VMT fee and that is it. There is no technology to pilot. There are no satellites in the sky tracking people or anything like that. The idea of a pilot—it could be done. I do not think it would give us any data. It would delay us for a couple of years. If we are losing \$80 million a year and more, it is lost money to the Highway Fund.

Assemblyman Assefa:

We looked at the Oregon program extensively in preparation for this bill. One of the biggest issues—among the many issues that I saw—is the privacy concern. It talks about GPS tracking you to determine how many miles you drive. That is a nightmare I would never propose or support in our state. This will go away from that. To build some integrity in the reporting system, we are saying any category peace officer, the DMV, or auto dealers can do the inspection and reporting of the odometer reading. I think the data is out there and available. It may be a matter of compiling it and bringing it together for a usable purpose. We know what the problem is—the previous system worked fine when everybody was participating in it. Now, because of fuel-efficient vehicles, some people are departing from the system. This bill is simply proposing a solution to mitigate the discrepancy that has occurred in the highway funding mechanism. As long as we are taxing the energy that is consumed in order to fund highways, we are going to have to have some equivalency and fairness in the system. That is what this bill is all about.

Assemblywoman Nguyen:

I used Oregon as an example, not hoping that we would implement that type of program here. I used it more to see what your opinion was on the idea that they had the data; they had the research that A.B. 483 might provide to make it a better program here, whatever it is we end up implementing.

Assemblyman Wheeler:

When people have their cars smogged, their odometer readings will be taken. Only two counties in this state smog, and they are the counties with the highest number of vehicles. It looks as if you are basing rates on around 12,000 miles a year average driving. In rural counties, we drive more than that—Assemblyman Ellison can drive that in a month; I drive that in two to three months, based on the size of our districts. Are you going to give us money back from the DMV, since we exceed 12,000 miles per year, to put us at parity with the people who do not drive as much? If someone exaggerates his miles traveled and it is not checked by smog, is the cost passed on to the buyer of the vehicle when he sells it? If you are driving mostly out of state and buying fuel in other states, how are you getting any of that money back?

Derek Morse:

Right now, about 75 percent of all the LDVs in the state are being smogged. They are in Washoe and Clark Counties. Not all the LDVs in Washoe and Clark Counties are smogged. If you have a brand-new vehicle, you have a couple of years' grace. Twenty-five percent of the vehicles in the state are not subject to smog inspections. If someone does not report the right mileage, it will eventually come out. When they sell the vehicle, they are going to have to show it to transfer to the new registrant; it will be picked up. But the amounts of money we are talking about are typically small. We are talking about tens of dollars, maybe \$100 in some cases. There is not a huge financial incentive to try to cheat. If you cheat, underreporting your mileage, and then you sell the vehicle a year later when the true mileage comes out, you have to pay then. You are actually going to be paying more because you will be paying at the rate that has now been adjusted for inflation. There is not a huge incentive there. The language as written talks about having the non-smogged vehicles subject to a check no more often than every two years. That would mean running by the VIN inspection station at your DMV or—these are details the DMV will work out in terms of regulations—you could be going to a highway patrol officer to simply read your odometer and turn it in. That keeps the system honest in terms of trying to address evasion.

The question of parity between someone who drives a lot and someone who does not drive as much is significant. If you drive a lot today, you pay more because you buy more gas. In the future, if you drive more miles you will pay more VMT fees. In the rural counties, there is a higher proportion of pickup trucks than sedans. In Clark County, 12 percent of all the registered vehicles are pickup trucks. There are pickups there. In White Pine County, it is like 50 percent. Generally, pickup trucks are less fuel-efficient; they are a bigger vehicle. If you look at the examples on the chart [page 11, ([Exhibit H](#))], assume the first column represents a White Pine County pickup truck. Do you see the credit there? That is because all these fuel-efficient vehicles are not paying quite what they should for their use of the roadways in terms of taking space and wear and tear. You see the sedan next to it has to pay a little bit more. In terms of people in rural versus urban areas, the people who have to drive a lot more, the statistics will show this is a more equitable system than what we are currently doing in terms of what they are paying through fuel taxes. I have run hundreds of scenarios on these various things, trying to understand that. I think the statistics and data are very clear that this helps with equity throughout the system. The people driving more fuel-efficient vehicles are saving a bunch of gas and get a huge benefit, but they need to pay a fair share toward operating the system—the same as the pickup truck driver does.

The legislation as written would require the owner of a used car to record the odometer reading, and he or she would have to pay for the miles driven since the last time the VMT fees were paid. The new owner would not be responsible for those miles. There are other ways of doing that, but this is the way it came back to us. I do not see it as being significant. It is pretty easy to record the miles and figure out what the fee is. Part of the legislation requires the DMV to have a system available to users online or at a kiosk where you can go and type in the VIN for the vehicle you are thinking about buying with the current odometer reading to see what that fee is going to be when you sell it and transfer title. It is trying to make it convenient for those types of transactions to occur.

Vice Chair Yeager:

If further discussion on that is needed, please take it offline so we can have other questions answered.

Assemblyman Roberts:

We have to do something. I agree this is a great conversation. I assume we are basing the calculation on the taxes you pay every year based on the fuel efficiency of your car against the mileage. We are not collecting receipts or using a special card when you pay. We have always had an issue with high vehicle registration fees in Nevada and challenges with people who live here registering their cars out of state. I can see that someone with an electric vehicle would not be highly motivated to register that car in Nevada because of having to pay more. Do you see that as a challenge? How could you circumvent or address that?

Derek Morse:

There are concerns currently—people buying gas and paying the California taxes and coming over here and driving on our roads without paying Nevada fuel taxes. This situation could occur today. I live in Washoe County. Gas prices are higher in Washoe County than in Carson City because there are some local option taxes. It is not worth my time or my money—and it is not for most people—to drive from where I live in Washoe County to come down here and fill up. When we were doing fuel tax indexing in Washoe County, there was a concern about evasion and people buying gas elsewhere. The statistics never bore out that people were motivated to do that. There just is not enough financial incentive to go through all of those things. What is your time worth? You have to burn a lot of gas to make that an issue. You mentioned a scenario in which an individual had an electric vehicle registered elsewhere and they are driving all their miles here in Nevada. That could happen today. It is no worse than what is happening today and is better in so many other instances. If that type of behavior continues, even if we do not have VMT, the state may want to take action to try to rein that in. In some states, they pull over out-of-state drivers routinely just to see how long they have been in the state and if they are still keeping that state's registration. If they have been there more than six months, they need to register their car there. We have the problem today. This does not correct the specific problem, so it is no worse. If it is a big problem in the future, we are going to have to address it.

Assemblyman Roberts:

So if I own an electric vehicle, rather than pay my tax at increments throughout the year, I will be hit with a big payment at the end of the year. Would that further deter people from going electric because they would have a larger registration bill?

Derek Morse:

I gave an example of 12,000 miles driven by an all-electric vehicle. If you look at the industry studies, very few people are ever going to drive that. There is not enough range in an all-electric vehicle. The \$120 is a high fee. The regulatory process could do like what we do with our utility bills—I am sure they could set up a monthly payment off your credit card or out of your bank account toward your fee. Then, when your true up comes, it will be very small if that is an issue for you. For most people who own all-electric vehicles, the statistics

tell you the more affluent members of our society are buying these vehicles; \$120 probably will not be a big issue for them. In the event that it is, it is very easy to allow partial payments so the true up is not severe.

Assemblyman Watts:

Some of the questions have shown this is a complicated issue with all kinds of hypotheticals and ways you can look at it. I appreciate the intent of trying to figure out a system that is not extremely burdensome to implement. There are some things to consider. One is in regard to the miles-per-gallon rate. If I understand correctly, the EPA rate is the blended rate. When you look at a car, you see a city and a highway mileage. One of the things to consider in our state is that we have two major urban areas. The mileage will be closer to the city rate most of the time. In the rural communities, there is a lot more highway driving with better fuel efficiency. There is the potential for a lot of fuel purchasing to be done out of state and funding those states' roads, but getting a credit back when it is time to pay for vehicle miles traveled from the state of Nevada.

How did you come up with the one-cent rate? Is it projected to be revenue-neutral? Do you have a projection on the revenue this would bring in?

Derek Morse:

One cent a mile is easy to say, rather than 0.779 cents. If we go back to 2008 when we started seeing the decline in per-mile collection, it was little more than a penny a mile at that time [page 3, ([Exhibit H](#))]. If we were trying to collect the same amount per mile today as we did in 2008 in real purchasing power, adjusted for inflation, we would have to collect about 1.77 cents a mile. Another way of looking at it is that every year you can see the rates decline. The longer we wait, if we simply say in any one of these years, we will pick that rate and call it revenue-neutral, the longer we wait the further we get behind and the rate we pick is going to guarantee that, while we recover some revenue, we are still having major problems. After considering this and a number of other factors, the one cent per mile was seen as a reasonable middle ground that would accomplish a couple of things. It does not give us the same purchasing power that we had in 2008, that would be 1.7 cents a mile. It is not quite as much as what we are collecting today. And one of the considerations is, when we look at the revenue that comes in through this—fuel tax collections and the VMT fee combined—we have to be careful to make sure that the revenue stream under the new system is not going to be significantly less than what it is under the current system, because we have bondholders out there who have been told we have this fuel tax revenue stream securing their bonds. One way of making sure that issue is addressed—the revenue stream is healthy enough to support paying the debt service on the bonds and we still have money left over to fill potholes and plow and sweep—is to try to set a rate that is not the 1.77 cents but it is also not something that would put us in jeopardy of taking in less revenue than we should. The one cent per mile was thought to be a reasonable level to set the initial fee. There is a requirement for NDOT to tell you what it costs to run the system through the standards for conditions and performance, giving the Legislature a pretty good idea of what the rate should be. Then the Legislature, as a matter of policy, can decide whether to make adjustments up or down to those things once you have the data. It is a rational approach. We should be

doing that even with the current fuel tax. Fuel tax rates are just debt. What do they accomplish? They certainly do not accomplish maintaining the state's system to the performance and efficiency standards that are out there. We are behind. We have backlogs. Regardless of the revenue stream, you really need to look at that. There is a provision that allows future legislatures to ask if it makes sense or if we need to collect more or if we are collecting too much.

Assemblyman Leavitt:

Where do the funds collected go? Where do the rebates come from? How does it affect the current system when we have two counties that are on different systems than the rest of the state? Do they stay on their current systems? Do you have to incorporate this program into the current systems Clark and Washoe Counties are using?

Assemblyman Assefa:

The funds collected go straight to the Highway Fund for highway maintenance, less the amount it will cost the DMV to administer the program. This only affects the state portion of the fuel tax; it does not affect county, municipality, or other taxes built into the current system.

Assemblyman Leavitt:

Thank you for the clarification. We use technology to make our lives easier. I can now register my car by walking into Albertsons. Under this system, I would have to speed in order to get pulled over by a law enforcement officer and then have him verify my odometer reading. This seems to eat away at the technological convenience for car registration. How do you reconcile that?

Assemblyman Assefa:

You can still have that convenience. You do not have to be pulled over by a police officer. In order for you to be able to use the kiosks currently, you have to have emissions testing done. The emissions testing stations would report that you are clear and can register. During that process, they can read your odometer and transmit the information to the DMV. If you have a vehicle that does not require emissions testing, any category peace officer can verify the reading. We have such a system in place for VIN verification. You have to print out the form from the DMV website and take it to any peace officer. The officer will verify the VIN is correct, sign the form, and you can go on your way. This is the same thing. Auto dealers, any peace officer, and the DMV can all verify the odometer reading. The convenience of using the kiosks is not eliminated.

Assemblywoman Backus:

The cost of doing fuel tax indexing was 3 to 4 percent each year. Have you determined what it would cost the DMV to set up the system and what the annual cost would be? Where will the funds for the initial cost to the DMV come from?

Derek Morse:

The 3 to 4 percent collection cost under the current fuel tax system is not just for the indexed fuel taxes, it is for everything. The 176 suppliers pay the fuel tax to the DMV. They are allowed to keep 2 percent of the fuel tax for their administrative costs. The DMV has agreements with NDOT and the counties collecting local fuel taxes—they take down a percent or so. Overall, there is about 3 to 4 percent of the total in administrative costs for the fuel tax. The fuel tax collection process will remain unchanged. We will not shift the burden from 176 suppliers to all the retailers or to every fueling transaction and require everyone to start filling out forms and keeping track. It remains the same; the change is in the registration process. I believe the DMV will be filing a fiscal note on this. I have talked to people in the industry about what it would take to get the database that relates VINs to the EPA mileage figures. I have also talked to folks about what it might cost to amend the programming on the DMV registration systems to have this new calculation for the true up on the VMT fee. Compared to the revenue that is being recaptured out of this, I expect those total costs, including any other wrinkles in there, will probably be less than 2 percent of the revenue we are recapturing. It is going to be very small. Once you set up the automated systems, they are set up. The only ongoing cost is that every year you have to update your database as new vehicles are produced with different EPA mileage information, so if someone brings you a 2020 Lexus, you have a database that will tell you what the EPA mileage is for that. It is going to cost in the neighborhood of \$50,000 to \$80,000 a year to keep the database updated. It is not a huge amount of money. As of today, we are losing \$80 million a year, and it will go to \$160 million a year. The costs of collection for the DMV, whatever they are, are going to be very reasonable compared to the revenue we are recovering through this process.

Assemblywoman Backus:

For clarification, I am trying to find out what the initial cost is.

Derek Morse:

The language in the amendment we presented says the setup costs are going to come out of the Highway Fund. You are not going to have to make a State General Fund appropriation. That was done when indexing was set up in Clark County. In Washoe County, the RTC paid the setup costs, which were minimal. This gives them a funding source for doing that, rather than asking for an appropriation.

Assemblyman Carrillo:

I have a vehicle that weighs 2,160 pounds and one that weighs 5,300 pounds. Will I be expected to pay the same amounts? I drive them about the same number of miles. Is the weight of the vehicle a factor? My little car is not going to do as much damage as my bigger vehicle does.

Derek Morse:

I am unaware of any definitive research that says a 3,000-pound vehicle running down this type of pavement does this amount of damage and one that is 5,500 pounds does this much more. There simply is no research currently that differentiates between the small weight

differences of the light-duty vehicles (LDVs). There is research about differences between semitrucks and cars. As the system is set up, LDVs are causing about the same amount of damage over time for each mile they drive, and they are taking up about the same amount of space on the roadway, which is a capacity issue. How many lanes do we need to get all this traffic through? It would not matter what fuel type your vehicles are—all-electric, gas, or diesel. If they are all LDVs as defined in the legislation, under 8,500 pounds gross vehicle weight rating, they would pay the same rate per mile for using the roadway. That is to bring the equity back in and to make sure those vehicles—with all-electric vehicles being at the extreme end—not paying anything today to use the highway system would be paying a reasonable share comparable to what everyone else is paying. It decouples collection from fuel type and just says, You are an LDV; you take up space and cause wear and tear on the roadway. You are going to be paying the same as your compatriot in the rural county or the city.

Assemblyman Carrillo:

Would this exempt motorcycles? Since owners of classic vehicles are on the honor system not to drive them more than 5,000 miles a year, they do not need to have their vehicles smogged. Would this exempt them because, in theory, they drive fewer than 5,000 miles a year?

Derek Morse:

Motorcycles and mopeds are not defined as LDVs. Light-duty vehicles have four wheels and are under 8,500 pounds gross vehicle weight. Motorcycles and mopeds are getting off free, which is a policy decision that can be addressed. They are a very small part of the vehicle fleet, and the miles they drive are low compared to all of us running around to and from work and everything.

Would you please restate your second question?

Assemblyman Carrillo:

Classic vehicles are exempt from emissions testing as long as they are driven fewer than 5,000 miles per year. The DMV does not monitor the mileage; it is based on the honor system. Some of these vehicles are landscaping trucks but meet the criteria of being classic vehicles. Would they be required to submit their mileage to the DMV?

Derek Morse:

There was never an intention to eliminate any existing exemptions, such as the one exempting smog testing for classic vehicles. That would not change. One could say that if they are driving, they are buying gas and are paying their fair share right there. That is a policy decision as to whether or not you want to exempt that type of classic vehicle from the VMT fee system or whether you would want them to go through the process of providing miles traveled with a credit against the fuel purchased. That is a detail the DMV will have to work out. It was never our intention to get rid of any existing exemptions in statute.

Assemblyman Smith:

How do you differentiate between out-of-state users and in-state users? Are you going to roll back the taxes at the pump in order to go to a different system?

Derek Morse:

No. There will not be a system with two different prices at the pump for whether you are in or out of the system. That type of system has been proposed, but it requires technology onboard the vehicle that tells the pump whether you are in or out of the system. It will give you a different price. Then you have to ask if the price includes the VMT fee or fuel taxes, and then what about local taxes? It becomes so complex. Instead of the DMV having a few thousand transactions a year to collect fuel taxes from the suppliers, they now have a transaction that has to occur with every fueling transaction at the pump—more than 60 million transactions a year. This system leaps over all that. When we all go to the pump, we are going to see the same price. We are going to pump, pay, and drive away. The key to making this work is that if you are in the system and subject to VMT fees, we have to have a reasonable way of giving you a credit against the fuel taxes you paid at the pump through the VMT fees. That is the estimated fuel tax purchase credit you see in the legislation. That is the key to keeping it low-tech, low-cost and making this manageable for everyone without significantly changing the experience for the driver or for industry or for the DMV.

Assemblyman Smith:

I would like to applaud you for bringing this forward. It is unique and different. Someday we will have to do this.

Assemblyman Ellison:

In rural Nevada, the Nevada Highway Patrol is overloaded with cars as it is. To try to get law enforcement to verify an odometer reading will create a problem. I drive a gas-guzzler. Most pickup trucks in rural Nevada are four-wheel drive because of the terrain and the weather. This is just a problem with hybrids and electric cars. The people buying gasoline are paying their way right now. Why not just charge owners of electric cars and hybrids the VMT?

Assemblyman Assefa:

Slapping a fee on electric vehicles would not work; it would disincentivize clean energy. I would not support that. This bill brings everyone to equity. Right now, you have one class of people who are consuming energy and contributing to highway maintenance. You have another class of people who are not paying anything toward it but are using the roadways. This is a way we found, after studying other pilot programs, to bring everybody to equity. As far as having problems with someone reading your odometer, I do not think that will be a problem. Outside of Washoe and Clark Counties, you still have auto dealers and peace officers. You do not have emissions stations now, but if you have them in the future, they will be able to do that. I do not think the logistics will be an issue; you will have options for having your odometer verified. It would be similar to what you have to do to have your VIN verified—DMV, peace officers, or auto dealers can do it for you.

Assemblyman Ellison:

I disagree with you. Owners of electric cars and hybrids are not paying their fair share; owners of gasoline-powered cars are. They are paying for the roads right now. If people want electric cars so they can save on purchasing gasoline, that is fine, but they need to pay for using the roads. I hope if you go forward with this, you will look at some of the problems in rural Nevada, which is a whole different world. We do not have stations to go to in Ely, Eureka, Elko, White Pine, or Tonopah. I want you to know that you almost burned up my phone with the "no" votes on A.B. 401.

Vice Chair Yeager:

I would encourage members who have further questions to ask them offline. Before we open the meeting to additional testimony, I want to let audience members know that I will limit testimony to two minutes due to the number of people who signed in to speak. I will take testimony in support of Assembly Bill 401.

Bill Wellman, representing Nevada Economic Development Coalition:

This coalition dates back to 2012 when we started the fuel revenue indexing campaign. Assembly Bill 413 of the 77th Session enabled Clark County to follow suit with what Washoe County did in fuel revenue indexing. It was created as a stopgap to help stabilize some of the lost revenue. It was not a fix-all. It was to be in place until something else could be put in place. On September 20, 2013, the Clark County Commission approved moving forward with a pilot project for three years, with a vote of the people in 2016. Governor Steve Sisolak, who was the chair of the Commission at that time, specifically—through the coalition, and myself personally—challenged us with what we were going to do about electric vehicles and the parity in fixing that, as Assemblyman Ellison talked about. Since then, in 2015 and in 2017, we had many discussions with many of you, and with former Governor Brian Sandoval, but for certain reasons it was not brought forward. Ironically, in 2017 it was Assembly Bill 401 of the 79th Session. That was a fixed fee which also had a VMT component as an option only for those types of vehicles. It had the same kind of cents-per-mile fee as is being proposed here today.

The challenge has continued for the last 4 1/2 to 5 years. I promised that we would do something and we attempted to do it, and we are still working on it today. I applaud Assemblyman Assefa for bringing this bill forward, thus I have no choice but to get up and support it because I think it does a lot of that. It was part of our plan that the people would vote in 2016 on whether fuel revenue indexing continued. On November 8, 2016, it was done. It was done in every county in the state except for Washoe County, because they already had fuel revenue indexing. In Clark County, it passed. It was the only county that passed—with 57 percent. However, across the state, 52 percent of the voters said, Fix our roads. That was the campaign. Charge us more and fix our roads. You folks have looked at that. The voters, your constituents, spoke out and did that as they did in Washoe County in 2007.

Today, 18 states do fixed fee. If that is not palatable, that is fine. I get it. However, 12 more states are currently looking to do some fixed fee as a simple parity for electric vehicles and/or

hybrids. This is a fairness for road users. This is not about the environmental side of things, which I appreciate very specifically because I have grandkids who are going to grow up in our communities, especially the big urban areas like Las Vegas. This is about the road user fee itself. Environmental issues are completely separate in my mind and should be addressed at some point in time. It does not disincentivize anybody from buying a Tesla or other type of hybrid, because it actually is an equality issue and trying to make the road mileage use fee the same across the board for everybody.

Brian Reeder, representing Nevada Contractors Association:

The Nevada Contractors Association has hundreds of members throughout the southern Nevada construction industry. We, too, want to thank Assemblyman Assefa for bringing this bill forward. As has been said, this is a complicated change, but the current system leads to inequity and also leads to what is going to be a massive hole in the Highway Fund, something that will be too difficult to catch up to in future sessions. The last thing we want to do two or three sessions from now is to be back here begging for a gas tax increase because we cannot fund the road construction in southern Nevada. We urge the Committee to pass this bill.

Vice Chair Yeager:

Is there anyone else in support of Assembly Bill 401? [There was no one.] Is there testimony in opposition?

Tom Polikalas, representing Southwest Energy Efficiency Project:

The Southwest Energy Efficiency Project is a nonprofit public-interest organization with a program in transportation. We thank Assemblyman Assefa for introducing this bill. This is one of the most important conversations we can have related to energy policy. As we previously noted, transportation is now the largest emitter of greenhouse gas emissions in Nevada.

We are opposed to A.B. 401, while praising its intent, goal, and the hard work of its sponsor and supporters for placing fair and equitable funding of Nevada's transportation system into place. We echo the concerns and believe it is premature because more data and information are needed to assure the implementation of an optimal policy. The intent of A.B. 483 is to gather data and to develop a pilot program. We would also like to note that this past February the Federal Highway Administration announced \$10.2 million in Surface Transportation System Funding Alternatives grants to seven states to test new ways to finance highway and bridge projects ([Exhibit J](#)). We believe that, as these studies are completed, there will be more information relevant and useful to Nevada's policymaking process. Using these studies and the information gathered from A.B. 483 will put us in a much better position to determine and implement a transportation funding policy in two years. I hope that over the interim we will have robust stakeholder discussions in addition to getting the input from these studies.

Christi Cabrera, representing Nevada Conservation League:

We are in opposition to this bill. We appreciate Assemblyman Assefa for bringing the bill forward. This is an important conversation to have, and we are glad it is starting somewhere. We have some concerns with this legislation. An important component of the current transportation funding system is that there is a built-in incentive for fuel efficiency. We believe the mechanism to get a rebate if you have a gas-guzzling vehicle takes away part of the incentive of having a more fuel-efficient vehicle. We recognize there needs to be a discussion on how we fund our roads, but we think we need take a more thoughtful, data-driven, and holistic approach when coming up with an alternative.

Tobi Tyler, Member, Executive Committee, Toiyabe Chapter, Sierra Club:

On behalf of more than 30,000 Sierra Club members and supporters in Nevada, the Toiyabe Chapter opposes A.B. 401 on the basis that it is premature and it penalizes fuel-efficient vehicles and rewards inefficient vehicles. We urge the Committee to vote no on this bill.

The current funding system for our state's road and highway system incentivizes efficiency with the tax on gas. Updates to the funding system need to ensure that those incentives are maintained. This bill, which would create a system using both the VMT fee and the traditional gas tax, would result in fuel-efficient vehicles paying far more than they currently do, while inefficient vehicles would pay less because of the mechanism by which the driver can get a rebate for the gas tax paid over and above the VMT. Any bill that disincentivizes electric vehicle use we would oppose. We encourage a "no" vote on this bill ([Exhibit K](#)).

Vice Chair Yeager:

Is there anyone else in opposition to Assembly Bill 401? [There was no one.] Is there any neutral testimony concerning Assembly Bill 401?

Peter D. Krueger, representing Nevada Petroleum Marketers Association:

I am in the neutral position and am bringing you new, exciting information. First, this body has not raised gas taxes since 1991. I suspect I am the only one in the room who was here then. Second, we need to talk to the DMV about a new program for smog checks they are considering and promulgating regulations for regarding remote sensing. This program for smog checks would have a sensor along the freeway. As you drive through the sensor, your car would be identified as having emissions problems. To my knowledge, the DMV is waiting until after this session to promulgate this particular set of regulations. It is concerning that if we go to remote sensing, some of the things in this bill would be difficult to do.

Paul J. Enos, Chief Executive Officer, Nevada Trucking Association:

I am here today in the neutral position on Assembly Bill 401. I appreciate that this is not a black box; it is an odometer reading. I am also neutral because I understand trucks are not covered under this bill. When you look at how trucking pays—we already pay a usage tax with the International Registration Plan. It is not based on where you fuel up; it is based on where you use the roads. That is contemplated in a state-by-state jurisdiction. We are members of that international compact.

In talking about an energy charge, eventually we may want to look at a diesel gallon equivalent to a kilowatt-hour, like we do with other fuels. For those in the trucking industry, that is how we contemplate how we pay our taxes. We are nationally supporting a VMT study, A Penny for Progress, part of the infrastructure bill being debated that will put 25 cents a gallon on fuel, one cent of which would go to VMT. We believe it should be a federal solution because there are a myriad of issues with vehicles crossing state lines. We want to make sure the vehicles using the roads are the ones paying.

I would like to bring some context to a statement that Mr. Morse made earlier about trucks. He said one truck did as much damage as 9,600 cars. That is a totally bogus and incorrect statement. I have provided a technical bulletin to members of the Committee. The statement comes from a study that was done in the 1950s where they were designing roadbeds to fail in order to see which pavements worked and which ones did not. I have a nine-page engineering report I can share with the Committee. Let me assure you that the statistic Mr. Morse stated earlier is completely and factually incorrect.

Vice Chair Yeager:

Do you know what the actual number is according to the studies you provided?

Paul Enos:

That number ranges depending on the type of road, how worn the road is, and how heavy the truck is. A properly loaded truck on a properly built road will not do that kind of damage. The numbers I have seen are 200 to 300, but that depends on many other factors. It is definitely not 9,600 to 1.

Joelle Gutman, Government Affairs Liaison, Office of the District Health Officer, Washoe County Health District:

I am here on behalf of the Air Quality Management Division of the Washoe County Health District. We are here in neutral but wanted to put on the record that we strongly support the collection of the VMT. The data collected would be invaluable for air quality planning purposes, especially in the Advance program areas in Washoe and Clark Counties.

Vinson Guthreau, Deputy Director, Nevada Association of Counties:

We represent all 17 of Nevada's counties. We want to thank Assemblyman Assefa for bringing this forward. I know it is a tough issue, which you discovered today. The Nevada Association of Counties supports the policy of capturing additional revenue to serve our infrastructure needs. We are neutral on that policy piece. The bill, as written, does not provide for a local funding option. If the intent of the bill is to provide road funding, counties maintain nearly 65 percent of the roads here. We would suggest that a direct county allocation be included.

Debbie Martinez, Management Analyst III, Motor Carrier Division, Department of Motor Vehicles:

On behalf of the Department, I am here to testify as neutral on Assembly Bill 401 which, as proposed, will create a VMT fee for vehicles under 8,500 pounds manufactured in and after

1984. The Department thanks Assemblyman Assefa and the stakeholders for working with us on the amendment before you today. Available on the phone is Dawn Lietz, Administrator of the Motor Carrier Division, to assist with any questions the Committee may have.

Vice Chair Yeager:

Does the Committee have any questions for the Department of Motor Vehicles on Assembly Bill 401?

Assemblyman Carrillo:

Currently classic cars driven fewer than 5,000 miles a year are exempt from reporting mileage. Would this require them to submit their mileage to the DMV?

Dawn Lietz, Administrator, Motor Carrier Division, Department of Motor Vehicles:

One provision we worked on with the bill's sponsor was to allow us to have exceptions to various odometer requirements. Most classic vehicles were manufactured prior to 1984 and would be exempt under this bill. Anything manufactured after 1984 would be something we could work on with the Committee to determine whether they should remain exempt.

Vice Chair Yeager:

Are there any further questions? [There were none.] Is there any additional neutral testimony on Assembly Bill 401? [There was none.] Assemblyman Assefa, we invite you to the table for any concluding remarks.

Assemblyman Assefa:

The lively discussion on this bill has revealed that we have a problem. I believe we will not have served our state well if we do not do anything about it. The conversation has been postponed too long, and it is time to start talking about it. If the option for funding our highway system is to continue to tax energy consumption, then we need to figure out how to plug the gaping hole created in the state highway funding system. If we do nothing and kick the issue down the road, we will arrive at a point where we will not be able to adequately fund the maintenance of our roads. Then we will be faced with a bigger issue and will be playing catch-up. This bill proposes one solution. We ask that you support it.

Vice Chair Yeager:

I will now close the hearing on Assembly Bill 401.

[Assemblywoman Monroe-Moreno reassumed the Chair.]

Chair Monroe-Moreno:

We will open the hearing on Assembly Bill 403.

Assembly Bill 403: Revises provisions relating to certain traffic offenses. (BDR 43-42)

Assemblyman John Ellison, Assembly District No. 33:

I am here today to present Assembly Bill 403 for your consideration. I have three people with me who will testify. Tyler Ingram, the Elko County District Attorney, has been working with me on this bill for quite some time. I would like to show you a picture of a young man who was killed in a Walmart parking lot [he held up a copy of ([Exhibit L](#)), a photograph of Reverend Jared Krintz]. People think there is existing law that if a person—your spouse, child, or grandchild—is hit by a car in a commercial parking lot, the driver of the car would be held liable. That is not true, as we will show you today. You received a letter from Nevada Attorneys for Criminal Justice ([Exhibit M](#)). They had been opposed to the bill, but after speaking with us are now neutral on the bill. They would be able to give testimony that this is not common. Utah and California do it. There is a portion here that Texas does it. Some of the other states do the same things.

If you pull off of a highway and into a commercial parking lot, such as Walmart's, you should be held to the same standards for driving as you would on the highway. If someone runs over you or kills your children, they should be held for vehicular manslaughter. This is not a heavy bill that will create a long prison sentence or a big fine. This bill would hold people accountable. The next time you go to a big store, look at how many people are racing through the parking lot, talking or texting on their phones, or paying no attention to pedestrians in the parking lot. That is the problem we have.

Jared Krintz was so well loved, more than 900 people showed up for his funeral. He was a young pastor who sang at most major events in Elko. We had to hold his funeral at the Elko Convention Center. Was this unjust? Yes, it was. That is what this bill is for. It is trying to fix the problem so if someone runs over a person while driving through a parking lot, and is not paying attention, they can be held accountable.

Mr. Ingram, Elko County District Attorney, will testify. In the audience are two brothers of Jared Krintz—one is a pastor and the other is a policeman in California.

Tyler Ingram, District Attorney, Elko County:

Thank you all for listening to what I have to say. I became involved in this case because my chief deputy prosecuted it. The facts of the case are that the gentleman driving the vehicle, the defendant, was driving too fast through the Walmart parking lot. His vehicle was equipped with a series of gauges, typically seen in race car type vehicles, that blocked part of his view. While Mr. Krintz was crossing in the crosswalk adjacent to the main door of the store, the man driving the vehicle struck and killed him. The case was litigated, and the driver was convicted of misdemeanor manslaughter. The ruling was appealed to one of Elko County's District Court judges. The District Court judge reversed the conviction. Although we do not always agree with judges' decisions, this was a reasonable decision. He found that, because of the way vehicular manslaughter statute is written, you would have to commit simple negligence that would otherwise be a traffic violation according to case law. The case law was cited in the judge's opinion. Because our traffic laws do not apply on premises to

which the public has access, but only apply to public highways, the conviction was reversed. You can imagine all sorts of scenarios with facts similar to this one where we do not now have the ability to prosecute these cases, at least in Elko County, because we know how the judge who handles our justice of the peace appeals will rule. If you have any questions about why we prosecuted the case the way we did or why we think this is the appropriate fix, I would be happy to answer them for you.

Assemblyman Ellison:

During the trial the parents, who are both pastors, forgave everyone for this incident. The only thing the driver of the vehicle had to do was to pay for having the body moved to Reno for organ donation. He was also required to go to traffic school. For the judge to reverse the conviction was a slap in the face to the parents. What would you do if your child were hit in a parking lot? There was nothing they could do about it. That is why we think this is unjust. It is easy to fix this—it is being done all over the United States. We are not asking for a change in speed limits or asking police to patrol parking lots and give tickets. We are asking that if there is a vehicular homicide in a parking lot, the driver be held for vehicular homicide.

Chair Monroe-Moreno:

Would you please walk us through the bill and show us where the changes are that you would like to see?

Tyler Ingram:

The change in section 1 is minor: Except as otherwise provided by a specific statute. I cannot recall a traffic law statute off the top of my head that that particular change would apply to, so I do not know if it is the most important change in the bill or not. I do not have an opinion either way. The major changes we are here to speak about are in sections 2 and 3. We would add the words "on a highway or premises to which the public has access." This is not unprecedented. Our DUI statute applies on premises to which the public has access. In my opinion, someone could be found guilty of a DUI in a Walmart parking lot, but could not be found guilty of vehicular manslaughter for other acts, because those are simply traffic violations that have occurred on premises to which the public has access—not a highway—that a specific statute has not allowed someone to be convicted of. That is the major change in all of these sections, simply adding or adopting the language that other traffic-oriented statutes use, for example, DUIs.

Assemblyman Ellison:

I would like to have Micah Kraitz and Joshua Kraitz come up.

Micah Kraitz, Private Citizen, Sacramento, California:

I have been a police officer in Sacramento for 15 years. When I first heard about what happened, I had to leave work and drive to Reno where I met my brother coming off a helicopter at the hospital where he was eventually pronounced dead. Looking at it from the position of a police officer, removing myself from the emotion of the situation, I went to Elko to look at the scene. I then looked at the laws in Nevada to see what would apply to that

scenario, and I could not find anything that would apply specifically to a parking lot, off-street parking, or in a private parking area or structure. With that, I was reticent to see what would happen. As it played out, the driver was convicted, but the ruling was reversed because the law does not speak to off-street parking and/or areas to which the public has access.

In California, we do address those issues. Anything that is called "off-street parking," including parking structures, parking lots, or even a private driveway, would be addressed. Just as in California, Nevada includes DUI; however, in California we also include reckless driving and/or exhibitionist speed. I would urge you to consider the change in this bill.

Joshua Kraintz, Private Citizen, Elko, Nevada:

I am the oldest of the Kraintz brothers. My brother Jared, the third-oldest, was killed July 15, 2015, after concluding an evening service. When you hear that close to 1,000 people came out for his funeral, you need to realize that our congregation is only about 40 or 50 people on a weekend. His impact on our community was far greater than just on our congregation. He was well beloved. I would encourage you to pull up his Facebook page. I am not a Facebook user, but his generation is. There is nothing on that page that I would look away from or be embarrassed for you to see. Every comment about my brother was positive; you will not find anything negative. I am here today to testify and encourage you to support and close up these loopholes in what seems to be a commonsense bill to protect our citizens and our communities from people who are being negligent in parking lots. One of the most dangerous places I have ever walked across the street to get into a store is getting into Scheels in Reno. That is interesting.

The death of a family member is not something I ever imagined I would have to go through. To go through this and to find out there is no accountability for someone who is either intentionally negligent, or just negligent, or in this case speeding through a parking lot, that nothing is going to be done is upsetting. I am not looking for vengeance and hold no ill will toward the man who struck my brother. We forgave him and we stand by that. This is so that other families do not have to go through something similar. Assemblyman Ellison showed you a picture of my brother. On the screen behind you, you can see a beautiful woman and two beautiful children sitting at the table [in Elko]. They are my wife and my two children. Jared was my children's uncle and hero. He is the only one in our family of four boys who never forgot a birthday. He sent a card every time. We have not had that for the last four years. The cries of my children and wife when I had to let them know over the phone from a waiting room in Renown Regional Medical Center in Reno that Jared was no longer with us is not something I would wish on anyone. Even though what you may decide is not going to change what we have experienced, I just pray that moving forward people will have a better closure than our family received in this situation. I encourage you to support the changes being proposed in this bill.

Chair Monroe-Moreno:

The Committee has a few questions for the sponsor. I want to thank the family for bringing this legislation and for your sharing your story. Our hearts go out to you.

Assemblyman Yeager:

It sounds as though Jared was a wonderful person. I am so sorry for your loss and so sorry that Elko does not get to have him there spreading his joy. Thank you for turning that pain into advocacy. That is a tough thing to do.

I have some questions about what happened in the case, then some about the bill itself. Could you tell me what happened on the case? It sounded as if the driver was convicted. Was that a bench trial? Was he actually sentenced, and then there was an appeal? Who decided that appeal?

Tyler Ingram:

That is exactly how it played out. A bench trial was held in one of our justice courts. The justice of the peace found him guilty. The driver was sentenced. Unfortunately, he actually expired his sentence. There was some jail time associated with the sentence—not a lot, but there was some jail time. Unfortunately, the conviction was reversed—that did not reverse the fact that this man did time in jail for what was ruled not to be a violation of the law.

Assemblyman Yeager:

Was the appeal to the District Court or to the Nevada Supreme Court? Who made the ultimate decision that his conduct was not covered by state law?

Tyler Ingram:

Our appellate rights from our justice court decisions are to the District Court, so that was the defendant's appellate remedy. That is who decided our case. The only available route to get this in front of the Nevada Supreme Court would be an extraordinary writ, like a writ of mandamus or a prohibition. I cannot speak for what the Supreme Court would do, but I imagine it would not be a top priority given the facts.

Assemblyman Yeager:

Was there a written opinion issued by the District Court? If so, would you share that with the Committee?

Tyler Ingram:

Yes, there is a written opinion. A district court judge's opinion, even if written, is not state precedent; however, without some sort of a writ process to the Supreme Court, that is essentially precedence to us in Elko County because any later conviction would go before the same judge. If the statute remains the same, it would be reasonable for that judge to conclude the same as she did in this case.

Assemblyman Yeager:

It certainly seems odd to me that in our statutes, we have some offenses that pertain to the public highways and to other areas where the public has access, but some of our statutes do not. I will not ask you why that is. We can dig into legislative history and often we find there is no rational reason for the way some of these things are written. My question as it pertains to the bill is, Would it be possible for the Elko County Commission to take this

issue on? If we put this in statute, it applies to the whole state, and I understand that may be the intent. But, with some of our traffic laws, particularly in Clark County, either city or county jurisdictions have also enacted local codes that prescribe what would be a violation of traffic laws as misdemeanors. Is there a reason you think Elko County could not adopt an ordinance, or is it that you would prefer to have this apply statewide rather than just in Elko?

Tyler Ingram:

I would argue that uniformity in the law is always the best practice. I understand, when it comes to traffic violations, there are municipalities and counties that branch out a bit further than what our state law allows. The risk is that you could commit an act in Washoe County where it is not illegal, but if you go to Elko County, you are responsible to know that what you are doing is now illegal. That is the drawback to what you are suggesting.

Assemblyman Ellison:

I talked to several attorneys in Las Vegas regarding this bill. Apparently, this problem exists in Clark County. They said they could get more information back to us. There are people, mostly teenagers, who are hitting cars because they are not paying attention. One recently hit a child. These attorneys see the problem with this not being state law. I own a commercial parking lot. This bill does not affect the buildings; it only affects the people who are breaking the law inside parking lots or structures. It does not affect Walmart, KMart, or any big stores, but it makes the driver accountable for his or her actions.

Assemblyman Carrillo:

I want to express my sorrow for your loss. It sounds as though your brother was a great man.

I have a question regarding local jurisdictional issues. There are many parking garages attached to casinos. Some of them have blind corners and sometimes you see pedestrians walking down the middle of the parking garage. Sometimes they walk near the cars for safety. Is there a difference between if a driver intentionally strikes a pedestrian or if it was accidental? Sometimes, children get away from their parents and are not holding their hands like they should be. I am concerned that a person who was just leaving a casino could be charged with a category B felony because of the irresponsibility of the parents.

Tyler Ingram:

I understand your concern. If you are talking about anything intentional, a prosecutor would take it out of the vehicular manslaughter realm and be talking about a greater version of homicide. If you are talking about something that is purely an accident—prosecutors are not in the business of prosecuting accidents; there has to be some criminal element to our prosecutions. In this particular case, the misdemeanor vehicular manslaughter statute uses the term "simple negligence." What you referenced was the category B variety that requires a different level of proof, with different elements. For instance, as a deputy district attorney I prosecuted an involuntary manslaughter case in which a truck driver was driving almost 90 miles per hour in a 70-mile-per-hour zone. He was also over his daily driving allotment hours. He struck a 19-year-old Elko County resident, a tow truck driver, who was trying to assist two elderly people. He killed all three people. Because he committed those violations

on a public street and because of the egregiousness of the acts, that rose to the level of a category B felony. If he did that in the Walmart parking lot, we would not be talking about this case. I do not anticipate that Elko County would try to elevate these types of accidents or anything like what you are describing to category B felonies. Those would squarely fit within the misdemeanor manslaughter statute.

Assemblywoman Nguyen:

I read the letter of the Nevada Attorneys for Criminal Justice's concern that by changing the language in section 1, the bill is repealing preemption. It would allow the localities to create separate laws. Is that something you are addressing, or is that your intent?

Tyler Ingram:

That was not my intent, and I have no reason to believe it was Assemblyman Ellison's intent. Earlier I said I thought it would be a bad idea to allow the municipalities and counties to make their own laws concerning traffic laws.

Assemblyman Ellison:

The Nevada Attorneys for Criminal Justice brought this to our attention. The concern they have is section 1. We are working with the Legal Division of the Legislative Counsel Bureau to remove that.

Assemblyman Leavitt:

I appreciate the Kraintz family for being brave and coming here.

If a person is driving safely in a parking lot and a child runs out from behind a car and is struck, how is that situation dealt with? The motor vehicle driver was not breaking any laws, but driving slowly and watching the road. If a child runs out and is struck, does this statute require legal action against the driver?

Tyler Ingram:

You could look at nearly every criminal statute and there is nothing that says we have to prosecute. Nothing about the change in this statute or its current form requires prosecution. With the scenario you described, the driver would not be prosecuted. Our legal standard is probable cause for charging. The Elko County District Attorney's office elevates that. If we do not believe we can prove a case beyond a reasonable doubt, it does not get charged. In your situation, there is no reasonable trier of fact who could ever conclude that, with these facts, this was a vehicular manslaughter case.

Assemblyman Ellison:

I agree. That is not the intent of this bill. Most parking lots have cameras that can show if a driver was speeding or was not paying attention. About three weeks ago, we watched two youths drag racing from the tire shop down to where they turn off onto the highway. They had to have been driving 70 miles per hour in the parking lot. If there had been a child or a pedestrian out there, they would have been killed. The intent of this bill is to protect

the innocent, not to go after a driver who backed up and hit a person. The intent is to go after negligence.

Tyler Ingram:

If we are going by the letter of the law, the change in this statute does not do anything to lessen the burden of proof. It still has to amount to simple negligence, which has been defined by our court as something that would otherwise amount to a traffic violation. With the facts described, no reasonable trier of fact would prosecute. The actual letter of the statute precludes that prosecution, in my opinion.

Chair Monroe-Moreno:

Are there any other questions from Committee members?

Assemblyman Smith:

Would this relieve any burden from Walmart for any lawsuits because the state now holds the process in its hands?

Tyler Ingram:

Although I have never practiced civil litigation in the private sector, it seems it would be no different than if someone was murdered in the Walmart parking lot. If Walmart has some culpability, if they neglected a duty they had, there would still be civil remedy. That is true for almost every criminal act. I think that is why we have a no-contest plea, nolo contendere versus a guilty plea. It would not absolve any liability, but I caution you that I do not practice that type of law.

Chair Monroe-Moreno:

Seeing no other questions, we will hear anyone who is here to testify in support of Assembly Bill 403.

**Brian O'Callaghan, Government Liaison, Office of Intergovernmental Services,
Las Vegas Metropolitan Police Department:**

This bill clarifies public access and private property. We are in support.

Adam Cate, representing Nevada District Attorneys Association:

We are in support of this bill. There is no law this bill creates. It essentially expands the laws already on the books, that have already been vetted by the courts and through the Legislature, to areas to which the public has access. You can already get a DUI, but if you get a DUI and kill someone while you are driving under the influence, you cannot be convicted of vehicular manslaughter.

Assemblywoman Backus:

When there are accidents on private property, sometimes law enforcement does not respond. Section 3 says it is unlawful for a person to disregard the safety of persons or property. Who will implement the ordinances that would set the standard for this? Las Vegas has many large commercial areas. What is the extent of this law?

Brian O'Callaghan:

This has been brought up a couple of times on the DUI laws. If an act is unlawful and there are injuries, there would be a response. If called about a car backing into another car in a parking lot, law enforcement likely would not respond. We would respond in the case of willful and wanton disregard for safety, such as speeding through a parking lot resulting in a serious injury or major accident. When there is no endangerment involved, law enforcement typically does not respond.

We had a doctor in southern Nevada who went through a stop sign with his daughter in his vehicle. It was not intentional, but he went through the stop sign and a car hit his vehicle. A misdemeanor manslaughter charge was brought against him because his daughter died. This would carry over into a parking lot. If there is a stop sign and a driver disregards it, if something happens it is an issue of negligence.

Assemblywoman Backus:

People cut through parking lots. Will it be upon Clark County or municipalities to implement rules of private property? I know a lot of private properties have stop signs, but I was trying to think of how far this is going. My original hang-up in section 3 was with speed contests that do not result in injury. How would you patrol this?

Brian O'Callaghan:

This bill will not change anything—we are not going to patrol a parking lot. When a call comes in and there are injuries and a major violation, we will respond.

Janine Hansen, Private Citizen, Elko, Nevada:

As a resident of Elko, I am here in support of the bill. I know how devastating it can be to lose a family member; my brother was killed on Golconda Summit. We need to have responsibility in parking lots.

Chair Monroe-Moreno:

Seeing no one else to testify in support in Carson City, is there anyone in Elko?

Larry Roth, Private Citizen, Elko, Nevada:

I am here as a community member, as a concerned citizen, and as the owner of a DUI traffic safety school for over 30 years. I am in support of the changes in this bill. I recognize it was not the intent to give law enforcement authority to enforce traffic laws in parking lots. I would also point out parking lots in any city—Las Vegas, Henderson, or Reno—have the potential of being deadly areas. We have young people who participate in car drifting contests and speed contests. It must be very frustrating for a person to call law enforcement, only to be told there is nothing that can be done.

How frustrating it must be for families such as the Kraitz family to have experienced what they did. This law provides this Committee with the opportunity to make some positive changes. In the case of the DUI law that has been referenced, law enforcement can take

enforcement action even if there is no complaint or driving behavior; it is just that important of an issue. I am not recommending any changes to our effective, lifesaving, and life-changing DUI law; however, I would point out that driving is considered a privilege, not a right. I would think that potentially saving the lives of individuals and protecting the public should take precedence over driving in parking lots in a reckless manner. There should be some enforcement action. Certainly, in the case when someone is killed, there should be the opportunity for a person to be held accountable under the law.

When it comes to speed limits and speeding, speed limits apply only under ideal circumstances. Factors such as the presence of pedestrians, weather, and types of pedestrians—smaller children or handicapped adults—should play a role in enforcement of the law.

Marcie Krantz, Private Citizen, Elko, Nevada:

I am Jared Krantz's sister-in-law. Joshua, my husband, is there in Carson City. These are our two small children with me. We support this bill. As a mother, I instill in my children a sense of what is right and what is wrong. It is a hard thing to lose a family member, no matter what. But, in our particular circumstance, the man who hit my brother-in-law was being negligent in the parking lot. He was driving on a suspended driver's license and did not have proper insurance. He was swerving around people when he struck my brother-in-law. I do not want my two young children to grow up in fear that they are not safe in a parking lot, knowing that somebody was killed and the driver responsible received a slap on the wrist and was sent on his way. No matter what is said or done, it will not bring my brother-in-law back. I would love for this bill to go through so that other families do not have to explain to their young children why something as horrible as this happened, but that nothing could be done about the actions that took place.

Chair Monroe-Moreno:

Seeing no one else to testify in support, is there anyone here to testify in opposition? [There was no one.] Is there anyone here to testify as neutral? [There was no one.] Are there closing remarks from the sponsor?

Assemblyman Ellison:

The driver did everything wrong in the parking lot—he had no driver's license and no insurance. I heard his car was not registered, but I do not know if that is true. This was a bad accident. I do not want to see your children, my children, or anybody else's children killed in a parking lot. If this saves one person's life, we did our job. Please consider this bill.

Chair Monroe-Moreno:

We will close the hearing on Assembly Bill 403. Moving to the last item on our agenda, we will open the hearing on Assembly Bill 407.

Assembly Bill 407: Revises provisions governing the administration of laws relating to motor vehicles. (BDR 43-1032)

Assemblywoman Melissa Hardy, Assembly District No. 22:

Assembly District No. 22 is in Clark County. I am pleased to present Assembly Bill 407 today for your consideration. Increasing information sharing activity between government agencies is important for government departments in meeting their objectives. As government agencies improve their services and opportunities for information sharing, protecting the private information of citizens must continue to be a top priority. This is especially true for law enforcement agencies whose information sharing has expanded significantly to improve their ability to detect, prevent, and respond. As the law stands right now, it is very difficult to get Department of Motor Vehicles (DMV) photographs into the hands of officers in the field. This small change in the law will authorize the director of the Department of Motor Vehicles to enter into agreements with certain governmental agencies, which will more easily allow this use in the field, enabling officers the ability to positively identify persons they are in contact with.

With me today is Lieutenant Colonel Dan Solow, Assistant Chief of the Nevada Highway Patrol, Department of Public Safety (DPS). He will walk you through the bill and answer any technical questions you may have regarding it.

Daniel Solow, Lieutenant Colonel, Nevada Highway Patrol, Department of Public Safety:

The reason we are here today is to propose amending a section of statute that is currently preventing Nevada law enforcement officers from being able to access DMV photographs in the field across the state. On a daily basis, Nevada law enforcement officers make contact with persons who do not have identification readily available with them. The vast majority of the time it is simply a citizen who has forgotten their identification. Law enforcement officers then gather information and check it through a number of sources to verify the information given to them and to confirm the identity of the person they are dealing with.

Sometimes, persons being contacted are wanted or have reasons to attempt to conceal their true identities from us. Many times these citizens provide false information—or even worse, someone else's information—in an effort to avoid detection. In these cases, a photograph can be vital for confirming an identity. The DMV has recognized the value of their driver's license and identification card photographs to public safety. In 2015, then-Director Troy Dillard issued a letter allowing official use of the photographs by law enforcement to carry out its duties. As I understand it, the DMV still recognizes this and approves of public safety use of their photographs.

In Nevada, all law enforcement transactions with the DMV go through the DPS's Nevada Criminal Justice Information System (NCJIS) Justice Line (JLINK) switch. This provides for tracking of all inquiries into the system and all the returns. This also serves as a master dissemination log to know about the request. Every time a Nevada law enforcement officer

conducts a driver's license or identification card check and/or registration check through the DMV, it goes through this system.

Current statute, *Nevada Revised Statutes* (NRS) 481.063, requires that a dissemination log be kept for five years on any personal information—including a photograph—that is released by the DMV. Statute also requires that such a log include names of every person who is provided the information along with the purpose of the release. The JLINK system log was designed to retain records of all transactions for three years plus the current year. Additionally, the system does not have a "purpose code" feature that allows for a reason for the request to be logged. Upgrading JLINK to retain the required five years and add purpose coding would require programming and additional storage capacity, which would be both costly and time-consuming, particularly as DPS is currently working to replace JLINK with a more modern system. This process will still take many years to complete. The only current option out there absent amending statute would be for each agency to maintain a separate manual log to record all of the statutorily required information. With the number of transactions conducted by law enforcement, this would become prohibitive. For these reasons, despite both DMV and law enforcement's desire to share for official use, Nevada law enforcement has been unable to access and use the photographs contained in the database.

Assembly Bill 407 seeks to correct this. This change to statute would authorize the director of the DMV to enter into an agreement with other governmental entities that would exempt the entity from maintaining such a dissemination log and have access to these photographs without having to log these transactions for the five years required. This would enable law enforcement to use these photographs where they are most needed, in the field during a law enforcement contact to verify identities, avoid unnecessary detentions, and enhance the effectiveness of our public safety officers.

Chair Monroe-Moreno:

We will take questions from the Committee.

Assemblyman Roberts:

Assemblywoman Hardy and I are cosponsors on the bill. When we received the bill, it was different from what we intended. Even though we are taking away the manual dissemination log, will you still be able to access through the system to determine who pulled what photographs? It is logged electronically in JLINK. Would you still be able to find out who pulled which pictures?

Daniel Solow:

Currently JLINK contains the log, but only keeps it for three year plus the current year, a maximum of four years. Right now, statute requires five years. That is what the hang-up is in getting us the access.

Assemblyman Ellison:

Do law enforcement officers take pictures in the field?

Daniel Solow:

No, we do not create a separate database. The DMV has a database of every Nevada driver's license and identification card photo. Using the mobile data computers in our cars, we could pull the database up if we were authorized to access the photograph. That way, officers in the field could verify the identity of the person they are with and know if the person is being truthful and if they have the correct person. In no way do we want to create an extra database. We do not want to attach these to any sort of record. The only time any sort of photograph would be attached to a record is when a person is arrested and a booking photograph is taken and that is included with a report.

Chair Monroe-Moreno:

Are there any other questions from members? [There were none.] Is there anyone wishing to testify in support of Assembly Bill 407?

**Marty Elzy, Management Analyst, Division of Central Services and Records,
Department of Motor Vehicles:**

With me is Denise Engle, manager over our Division's License and Business Programs section. We are in support of this bill. We have been working on this language with the Department of Public Safety for the past couple of years. We would be happy to answer any questions you may have.

Chair Monroe-Moreno:

How is it this bill does not have a fiscal note?

Marty Elzy:

We currently do this; we have the system available to us. The reason we have not been sharing with the Department of Public Safety is the five-year retention process. It is already available and built into our system from our end. It is just a matter of changing the retention piece for them.

Chair Monroe-Moreno:

There would be no cost to changing the retention piece?

Marty Elzy:

That is correct. It would mean updating our retention policies with the Nevada State Library and Archives, and our records retention policy that is already in place.

Chair Monroe-Moreno:

Are there any other questions? [There were none.] Is there anyone else wishing to testify in support? [There was no one.] 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? [There was no one.] The sponsor of the bill may come back to the table for closing remarks.

Assemblywoman Hardy:

Thank you, Chair Monroe-Moreno and Committee members. I appreciate your hearing this bill. That concludes my presentation and remarks. I appreciate your consideration and hope that you will support A.B. 407.

Chair Monroe-Moreno:

We will close the hearing on Assembly Bill 407. Is there anyone here or in Las Vegas for public comment? [There was no one.]

This meeting is adjourned [at 3:58 p.m.].

RESPECTFULLY SUBMITTED:

Joan Waldock
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 the Work Session Document for [Assembly Bill 22](#), dated April 2, 2019, presented by Michelle L. Van Geel, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit D](#) is the Work Session Document for [Assembly Bill 24](#), dated April 2, 2019, presented by Michelle L. Van Geel, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit E](#) is the Work Session Document for [Assembly Bill 63](#), dated April 2, 2019, presented by Michelle L. Van Geel, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit F](#) is the Work Session Document for [Assembly Bill 363](#), dated April 2, 2019, presented by Michelle L. Van Geel, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit G](#) is an infographic titled "Vehicle-Miles Traveled (VMT) Framework," presented by Assemblyman Alex Assefa, Assembly District No. 42, regarding [Assembly Bill 401](#).

[Exhibit H](#) is a copy of a PowerPoint presentation titled "[A.B. 401](#): Low-Cost/Low-Tech VMT Fee Collection—A Practical Implementation Pathway," dated April 2, 2019, presented by Derek Morse, representing Nevada Chapter, Associated General Contractors of America.

[Exhibit I](#) is a proposed amendment to [Assembly Bill 401](#), dated April 1, 2019, by Jeanette Belz, representing Nevada Chapter, Associated General Contractors of America and Nevada Highway Users Coalition, presented by Derek Morse, representing Nevada Chapter, Associated General Contractors of America, submitted by Assemblyman Alex Assefa, Assembly District No. 42.

[Exhibit J](#) is press release FHWA 02-19, dated February 12, 2019, released by the Office of Public Affairs, Federal Highway Administration, U.S. Department of Transportation, submitted by Tom Polikalas, representing Southwest Energy Efficient Project, regarding [Assembly Bill 401](#).

[Exhibit K](#) is written testimony dated April 2, 2019, presented by Tobi Tyler, Member, Executive Committee, Toiyabe Chapter, Sierra Club, regarding [Assembly Bill 401](#).

[Exhibit L](#) is a copy of a photograph of Reverend Jared E. Krintz, presented by Assemblyman John Ellison, Assembly District No. 33, regarding [Assembly Bill 403](#).

[Exhibit M](#) is a letter dated April 2, 2019, to the Assembly Committee on Growth and Infrastructure, authored by Jim Hoffman, Nevada Attorneys for Criminal Justice Legislative Committee Member, presented by Assemblyman John Ellison, Assembly District No. 33, regarding Assembly Bill 403.