

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

**Eightieth Session
April 9, 2019**

The Committee on Growth and Infrastructure was called to order by Chair Daniele Monroe-Moreno at 12:37 p.m. on Tuesday, April 9, 2019, in Room 3143 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4406 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at www.leg.state.nv.us/App/NELIS/REL/80th2019.

COMMITTEE MEMBERS PRESENT:

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

COMMITTEE MEMBERS ABSENT:

Assemblyman Richard Carrillo (excused)

GUEST LEGISLATORS PRESENT:

Assemblywoman Lesley E. Cohen, Assembly District No. 29
Assemblyman Chris Edwards, Assembly District No. 19
Assemblywoman Sarah Peters, Assembly District No. 24

STAFF MEMBERS PRESENT:

Rocky Cooper, Legislative Auditor
Michelle L. Van Geel, Committee Policy Analyst
Jessica Dummer, Committee Counsel

Minutes ID: 850



Joan Waldock, Committee Secretary
Alejandra Medina, Committee Assistant

OTHERS PRESENT:

Tennille K. Pereira, Director, Vegas Strong Resiliency Center
Robert L. Gipson II, Legal Victim Advocate, Legal Aid Center of Southern Nevada
Marty Elzy, Management Analyst, Division of Central Services and Records,
Department of Motor Vehicles
Brian D. Rothery, Vice President, Government and Public Affairs, Enterprise
Holdings, LLC
John Sande IV, representing Protection Plus; and Nevada Franchised Auto Dealers
Association
Andy MacKay, Executive Director, Nevada Franchised Auto Dealers Association
Eric Spratley, Executive Director, Nevada Sheriffs' and Chiefs' Association
Dominique M. Etchegoyhen, Deputy Director, State Department of Conservation and
Natural Resources
Sophia Romero, Staff Attorney, Consumer Rights Project, Legal Aid Center of
Southern Nevada
Craig B. Friedberg, Attorney, Law Offices of Craig B. Friedberg, Esquire, Las Vegas,
Nevada
Craig Stevens, Senior Manager, Government and Regulatory Affairs, Cox
Communications, Inc.
Jack Stanko, President, Champion Chevrolet, Reno, Nevada
Mitch Fox, President and CEO, Nevada Broadcasters Association
Chris Way, Vice President and General Manager, KTNV Channel 13, Las Vegas,
Nevada
David Dazlich, Director, Government Affairs, Las Vegas Metro Chamber of
Commerce
L. Christopher Rose, Partner, Jolley Urga Woodbury Holthus and Rose, Attorneys
at Law, Las Vegas, Nevada
Sally Summers, Executive Director, Horse Power, Washoe Valley, Nevada
Rose McKinney-James, representing Energy Works, LLC
Judy Stokey, Vice President, Government and Community Strategy, NV Energy
Kyle J. Davis, representing Nevada Conservation League
Rudy Zamora, Program Director, Chispa Nevada
Jerry Holliday, President, Uplift Foundation of Nevada
Leonard B. Jackson, Director, Faith Organizing Alliance
Annette Magnus-Marquart, representing Battle Born Progress
Laura Richards, Member, Executive Committee, Toiyabe Chapter, Sierra Club
Cameron Dyer, representing Western Resource Advocates
Ernest E. Adler, representing International Brotherhood of Electrical Workers
Local 1245
Aleta Dupree, Private Citizen, Las Vegas, Nevada
Jessica Ferrato, representing the Solar Energy Industry Association

Jennifer L. Taylor, Deputy Director, Office of Energy, Office of the Governor
Neal Tomlinson, Hyperion Advisors, Carson City, Nevada
Edward Fu, Legislative and Regulatory Counsel, Bird Rides, Inc.
Gary Milliken, representing Lime
Jonathan Hopkins, Director of Strategic Development NW, Lime
Thomas Walker, representing Bogo Technologies, Inc., Las Vegas, Nevada
Mendy Elliot, representing the Reno-Sparks Chamber of Commerce
David D. Boehrer, representing Nevada Justice Association
Joey Paskey, Deputy Director, Transportation Division Manager, Department of
Public Works, City of Las Vegas
Lucia Maloney, Transportation Manager, Public Works Department, Carson City

Chair Monroe-Moreno:

[Roll was called. Committee rules and protocol were explained.] We have a very long agenda today. We are at a crunch time in our legislative process. I am attempting to get as many bills heard as possible. For that reason, our meeting will go until 3:50 p.m. If we have not made it through our agenda, we will recess so members can attend another committee meeting at 4 p.m. Once the Assembly Committee on Legislative Operations and Elections is finished, our meeting will reconvene at the call of the Chair. If I have not gotten to your bill, please do not think I will not; we will finish today. Members of the Committee, since I am asking a lot of you, I am providing dinner so you will have nourishment and do not pass out while you are working.

We are going to start today with our Work Session, because a few members have hearings in other committees. The first item on our Work Session is Assembly Bill 344 ([Exhibit C](#)). Since the printing of today's agenda, that has been moved to Thursday's agenda.

Assembly Bill 344: Makes various changes to modernize the provision of cellular coverage. (BDR 58-838)

We will open the Work Session on Assembly Bill 377.

Assembly Bill 377: Revises provisions governing weight limits on certain vehicles. (BDR 43-802)

Michelle L. Van Geel, Committee Policy Analyst:

Assembly Bill 377 authorizes, to the extent authorized by federal law, a vehicle that is powered by an engine fueled primarily by natural gas or by one or more electric motors to exceed the existing weight limit for vehicles operating or moving on a public highway by not more than 2,000 pounds. The bill was sponsored by Assemblyman Watts and heard in Committee on April 4, 2019. There were no amendments for this measure ([Exhibit D](#)).

Chair Monroe-Moreno:

You have heard the briefing on A.B. 377. Are there any questions from the Committee?

Assemblyman Watts:

I want to make clear for the legislative record that the intention of this bill is not to create any problems with the formulas that relate to weight impacts on bridges.

Chair Monroe-Moreno:

Are there any other questions? [There were none.] I will call for a motion.

ASSEMBLYWOMAN BACKUS MADE A MOTION TO DO PASS
ASSEMBLY BILL 377.

ASSEMBLYMAN YEAGER SECONDED THE MOTION.

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

I will assign the floor statement to Assemblyman Watts.

The next bill on our Work Session agenda is Assembly Bill 407.

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

Michelle L. Van Geel, Committee Policy Analyst:

Assembly Bill 407 was sponsored by Assembly members Hardy and Roberts, and Senators Hardy and Hammond, et alia. It was heard in Committee on April 2, 2019. It authorizes the Department of Motor Vehicles, upon the written request of a governmental entity, to enter into an agreement with the governmental entity that exempts the governmental entity from all or part of the requirements for the maintenance and retention of certain records relating to the provision and use of certain personal information contained in the files and records of the Department. There were no amendments for this measure ([Exhibit E](#)).

Chair Monroe-Moreno:

Members, are there any questions on the measure? [There were none.] I will entertain a motion.

ASSEMBLYMAN ROBERTS MADE A MOTION TO DO PASS
ASSEMBLY BILL 407.

ASSEMBLYMAN LEAVITT SECONDED THE MOTION.

THE MOTION PASSED. [ASSEMBLYMEN CARRILLO AND SMITH
WERE ABSENT FOR THE VOTE.]

I will assign the floor statement to Assemblyman Roberts.

The last item on our Work Session is Assembly Bill 476.

Assembly Bill 476: Revises provisions concerning affordable housing. (BDR 25-1119)

Michelle L. Van Geel, Committee Policy Analyst:

Assembly Bill 476 was sponsored by Assembly members Benitez-Thompson, Kramer, and Peters. It was heard in Committee on April 4, 2019. The bill recreates the Advisory Committee on Housing in the Department of Business and Industry and prescribes its membership, powers, and duties. The bill also creates the Special Committee on Private Activity Bonds and authorizes the Advisory Committee to provide advice to the Special Committee concerning needs and priorities for the allocation of private activity bond authority to finance affordable housing projects. The Special Committee also is required to approve or deny certain proposals by the director of the Department of Business and Industry, and it is authorized to advise the governor, the State Board of Finance, or the director on any matter concerning private activity bonds, if requested. The attached conceptual amendment revises the membership and duties of both the Advisory Committee on Housing and the Special Committee on Private Activity Bonds. The amendment was proposed by Assemblywoman Benitez-Thompson ([Exhibit F](#)).

Chair Monroe-Moreno:

Members, are there any questions on the measure or the conceptual amendment? [There were none.] I will entertain a motion for approval.

ASSEMBLYMAN WATTS MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 476.

ASSEMBLYWOMAN NGUYEN SECONDED THE MOTION.

THE MOTION PASSED. [ASSEMBLYMEN CARRILLO AND SMITH
WERE ABSENT FOR THE VOTE.]

I will assign the floor statement to Assemblyman Yeager.

We will open the bill hearing for Assembly Bill 333.

**Assembly Bill 333: Provides for the issuance of “One October” specialty license plates.
(BDR 43-273)**

Assemblywoman Rochelle T. Nguyen, Assembly District No. 10:

I am happy to present this bill on behalf of Assemblywoman Cohen. The proceeds from this license plate would go to the Vegas Strong Resiliency Center. The Resiliency Center is currently being run by the Legal Aid Center of Southern Nevada. There is a mockup of the plate available on the Nevada Electronic Legislative Information System (NELIS) ([Exhibit G](#)). We have permission from Clark County and all necessary parties to use that logo if A.B. 333 is approved. I will ask representatives in Las Vegas to answer any questions and to give you an overview of the Resiliency Center and the services they provide.

Tennille K. Pereira, Director, Vegas Strong Resiliency Center:

We appreciate the opportunity to testify in support of A.B. 333 on behalf of the Vegas Strong Resiliency Center, the Route 91 Family, all of the survivors, and any of those impacted by that horrible tragedy on October 1, 2017.

The Vegas Strong Resiliency Center provides resources for all of the survivors and all of those impacted by Route 91. This gives them the opportunity to get the resources and benefits they need. It is done through navigation of the many resources available. We have a full legal team that provides legal assistance in any aspect that survivors or their families need. The biggest request we get is for help with small financial issues they are facing. The survivors of this tragedy are on a long path of healing. We find they are struggling in their day-to-day activities and making ends meet while they heal.

One family came to us out of California. The husband and wife were both at the event. The husband was shot and severely injured and is no longer able to work. He was a postal worker at the time and has been on leave ever since. The wife is now struggling to take care of four children, herself—with her own trauma—and her husband. She was not aware of the different fundraising opportunities that were held soon after the event and did not take part in them. She depleted all of her resources. One day, her power was shut off. She reached out to the Vegas Strong Resiliency Center. She was behind on her mortgage payments and all of her other bills, and her power was shut off. She needed help. We jumped into action. We got her started with the Nevada Victims of Crime program so she could get benefits. We got her medical insurance and other things covered. We struggled to help her with the power bill. We do not have small financial resources to cover bills so survivors can get on with their healing process and focus on their families and healing instead of worrying about the fact that the power was shut off. We provided a lot for her and got her moving in the right direction. This bill would be able to provide for those kinds of small financial emergencies.

I would like to introduce Robert Gipson, our legal intake advocate at the Center. He focuses all of his energy on providing advocacy on behalf of the survivors.

Robert L. Gipson II, Legal Victim Advocate, Legal Aid Center of Southern Nevada:

I operate from the Vegas Strong Resiliency Center. I am appearing as an advocate who provides legal service for the Route 91 Family, the adopted name for the victims who will benefit directly from A.B. 333.

Today, I would like to provide a series of vignettes, woven together, to display the story of One October. I will start with the wife of a shooting survivor who visited our office only a few hours before an eviction hearing with which she could not burden her husband while he continued to cope with his trauma. Add that to a picture of a United States military veteran from Oregon whose presence at Route 91 exacerbated his combat-related post-traumatic stress disorder (PTSD) and precipitated a suspicious termination with his employer. Or to the image of a mental health professional who, upon the news of recent suicides of victims of the Parkland, Florida, shootings or Newtown shootings of 2012 drove from rural California to the Resiliency Center to share the sensitive details of her life following One October. She is on an unpaid leave of absence. Each of these victims, just 3 examples of the 24,000 on the festival grounds, reveal the financial components we do not often think about when we discuss mass violence.

The story of One October does not end with only sorrow and its consequences. We also see our unity that shone as a beacon on one of the darkest days in our state's history. We were all Las Vegas; we were all Nevadans, standing as one people and asking ourselves how we could help. That piece of the story is inextricably stitched into the fabric of our Nevada community. Assembly Bill 333 is another opportunity to reaffirm our commitment to the spirit of goodwill that flowed through our hearts. It says to the people who were affected by this tragedy that we are there for them beyond cliché platitudes, that Nevada will not forget its survivors in very concrete ways.

As we move forward in time, let us remember the grief and compassion that will forever bind us in memory with the passage of A.B. 333. For the countless survivors who bring similar tales of struggle, it is a matter of their livelihood and a matter of our humanity ([Exhibit H](#)).

Chair Monroe-Moreno:

Thank you for the presentation and for doing this for Assemblywoman Cohen. Are there any questions from the Committee?

Assemblyman Leavitt:

This is a worthwhile endeavor. Section 6 and Section 7 say this will go through the normal process of assigning a license plate for newly created license plates. Will this go through anything outside of the normal process?

Assemblywoman Nguyen:

I do not believe it does.

Chair Monroe-Moreno:

Are there any other questions? [There were none.] Is there anyone present who would like to testify in support of Assembly Bill 333? [There was no one.] Due to today's long agenda, we will ask that all comments in support, opposition, or neutral be limited to two minutes. 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?

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

I am here with Denise Engle. We are here as neutral. We would be happy to answer any questions you may have.

Chair Monroe-Moreno:

Members, do you have any questions? [There were none.]

Assemblyman Yeager:

I wanted to thank the Resiliency Center and the Legal Aid Center of Southern Nevada for all the work done after October 1 and that is ongoing to this day. The work has been vitally important so people can move on and try to put their lives back together.

Chair Monroe-Moreno:

Does the sponsor have any final words?

Assemblywoman Nguyen:

I waive my closing comments.

Chair Monroe-Moreno:

We will close the hearing on Assembly Bill 333 and will move on to Assembly Bill 365.

**Assembly Bill 365: Revises provisions governing certain motor vehicle rentals.
(BDR 43-695)**

Assemblywoman Lesley E. Cohen, Assembly District No. 29:

Assembly Bill 365 is a commonsense reform that will increase access for Nevada's visitors and others to the luxury and exotic vehicles that will give them a very uniquely Nevada experience. There are exotic vehicles you can rent in other states, but there is no other state where you can have the thrill of driving in a convertible on the Strip, at Lake Tahoe, or the Valley of Fire. The goal of A.B. 365 is to:

1. Allow access for visitors to rent luxury vehicles; and
2. To ensure that visitors renting high-end vehicles have access to quality, reliable, and transparent financial protection in the case of a car accident.

At my request, Enterprise Rent-a-Car has offered a friendly amendment ([Exhibit I](#)) that raises the required manufacturer's suggested retail price (MSRP) from \$50,000 to \$60,000. This would more accurately capture the luxury vehicles market. It would avoid potentially including other vehicles such as large-family SUVs. Brian Rothery will cover the details of Assembly Bill 365.

Brian D. Rothery, Vice President, Government and Public Affairs, Enterprise Holdings, LLC:

We thank Assemblywoman Cohen for sponsoring this legislation. A loss damage waiver is also known as a collision damage waiver. It protects rental vehicle customers from damage during the time they are renting a car. Only three states—California, Nevada, and New York—statutorily cap damage waiver prices for car rentals. California has tiers for different vehicle types: a compact vehicle cap and a full-size vehicle cap. There is no regulation above those car classes. Until 2017, Illinois had a similar scheme. At that time, they eliminated caps altogether. Up until then, they had a cap for MSRP at \$50,000.

Nevada law does not draw distinctions like that. Instead, Nevada places a single statutory cap for all vehicle rentals in *Nevada Revised Statutes* (NRS) 482.31565. It was amended in 2007 to cap fees at \$22 a day, which had a Consumer Price Index adjuster. Today it is around \$29 a day. The simple premise behind this bill is to treat high-end vehicles, those with an MSRP of \$60,000 or more, separately so they are not regulated by price. The reason is that a number of our customers who want to rent these vehicles are not in a position to rent them because they do not have coverage that extends to those cars, their credit cards will not cover it, or their insurance policy either cannot be varied or does not cover it. In that scenario, Enterprise does not put the customer or us in a position where we would rent somebody a car that is not covered. If the rental were to occur at a time when the insurance agent's office could not confirm coverage, we would not rent the vehicle. That leaves an opportunity for visitors on the table, so we would like this class of vehicles to be treated separately to allow rental car companies to charge an appropriate amount for the damage waiver for these types of cars.

Many people are not aware that Enterprise has an exotic rental division. We rent cars far and above the typical car you would find at the regular Enterprise lot. In California and Nevada, we rent Ferraris, Maseratis, Porsches, high-end BMWs, and others. That is the class of car we are looking to have treated specially, not the run-of-the-mill minivans, standard SUVs, and full-size cars. It is a different customer that has a different need. We are looking for the freedom to serve those customers in this way.

Chair Monroe-Moreno:

If I wanted to rent a Maserati, what would be the average daily rental rate?

Brian Rothery:

A car like that, with an MSRP of around \$75,000 to \$85,000 might fetch a daily rate of \$350.

Chair Monroe-Moreno:

That is something I would not be able to do on my legislative budget.

Assemblywoman Cohen:

If you return to southern Nevada on weekends and rent a car, you go up the elevator and go out the double doors. If you look to the left, you will see the exotic cars from Enterprise, not that I have rented any of them.

Assemblyman Yeager:

I have walked by the exotic rentals. I have always been a little sad to keep walking to my car. I think up here I will stick with the electric scooters that are in my budget.

Essentially, we are putting a maximum of \$150 per day in statute with this bill. Is that what the rate will be for everyone renting a car with an MSRP of over \$60,000, or is an individual analysis done? Are we putting the rate itself in statute, or will it be a sliding scale of some sort?

Brian Rothery:

We are requesting to put in statute the MSRP of \$60,000, which would create an unregulated category. The \$150 figure I threw out is an example of what we are charging for the damage waiver in other markets. We are not indicating in law the price that is capped; we are just creating a category of rental above a certain MSRP.

Assemblyman Yeager:

I understand the vehicle you will be renting has an MSRP of over \$60,000. The rate of \$150 per full or partial rental for the insurance is in the bill. Is that functionally going to be what the charge is? Or would there be circumstances under which someone would rent a car with a value of \$65,000 and you would charge less than \$150?

Brian Rothery:

The \$150 charge is the maximum; it is not the only amount. If you were to look at the rates that are charged for vehicles in other markets—again, we can only compare to other markets because right now, in Nevada, we are capped at the \$28 figure, so we do not offer these—but in California, there are a number of vehicles that would be above the threshold at MSRP of \$60,000, but the daily damage waiver would be less.

Assemblyman Ellison:

If Chair Monroe-Moreno rented that \$700,000 car for \$350 a day, and Assemblyman Wheeler stole it, would she owe anything, or does the \$350 cover for theft and damages?

Brian Rothery:

Theft is a separate matter. This is about damage and the renter's responsibility for that damage. Theft is treated completely separately. You cannot obtain a waiver for theft. That gets at the heart of what this is—a damage waiver product is an agreement between the company that owns the car and the renter who rents it. At the time we rent it, we simply grant you a waiver to say that if you bring it back in a different condition, we will not hold you accountable for those damages.

Assemblyman Ellison:

Would the renter be responsible if the car were stolen? I have theft insurance on my classic autos. Is that a separate policy someone could buy?

Brian Rothery:

There are companies that sell limited lines insurance policies directly to consumers. I cannot speak to what those policies cover; it is conceivable they could offer an insurance product that relates to theft. Enterprise limits the product we offer to the loss damage waiver that relates to damage to the vehicle.

Assemblywoman Bilbray-Axelrod:

If I am not a legislator, but a lobbyist who owns a \$200,000 car, can I show you proof of my insurance and have the \$150 fee waived?

Brian Rothery:

Yes, this fee applies when we cannot verify that coverage exists. For a vehicle of this price, we are not willing to put either of us in a situation where we cannot verify that you have coverage.

Assemblywoman Bilbray-Axelrod:

Is there a luxury car standard we can see? We would not want the unintended consequence of having a large family renting a Suburban having to pay this fee.

Brian Rothery:

We started with \$50,000, based on the Illinois law that was several years old. It was intended to reach that same threshold. At the suggestion of Assemblywoman Cohen, we looked at the prices of large SUVs to make sure they would not be accidentally swept up. That is why we took the friendly amendment to \$60,000. It is our intention to focus on the high-end vehicles, not rentals for family vacations to the Grand Canyon. This is a separate class of vehicles altogether. The \$60,000 approaches that. I cobbled together a list of MSRPs of the vehicles we intended to address in this legislation. I would be happy to share those with you. They are vehicles you would be impressed by—BMW's, Range Rovers, et cetera.

Assemblyman Leavitt:

My question is a follow-up to Assemblyman Yeager's question. Currently, the rate is \$29 whether you rent a Yugo or a Camry. Is the language in the bill going to match up to the intention that the amount charged will be up to \$150? The way it is written now, the amount looks as if it is binding.

Brian Rothery:

I understand the spirit of your question. Our intention is to allow up to a \$150 rate; it is not a flat amount that it cannot be below. If the Committee believes the language should be adjusted to allow that, Enterprise would certainly accommodate that.

Assemblywoman Cohen:

That would be fine. I would be willing to amend that.

Chair Monroe-Moreno:

Are there any other questions? [There were none.] Is there anyone here in support of Assembly Bill 365? [There was no one.] Is there anyone here to testify in opposition to A.B. 365? [There was no one.] Is there anyone here to testify as neutral? [There was no one.] Are there any closing statements? [There were none.]

We will close the hearing on Assembly Bill 365. We will open the hearing on Assembly Bill 390.

Assembly Bill 390: Revises provisions relating to equipment on motor vehicles. (BDR 43-1059)

Assemblyman Glen Leavitt, Assembly District No. 23:

I am pleased to present Assembly Bill 390 for your consideration. I will start by giving you some background for this bill. When I was a young driver and received a ticket, I actually went to traffic school; I could not take it online. People did not plead out very often. When I was in the eight-hour traffic school, the instructor gave an instruction I will never forget. He said that when you are in a congested area and feel you would have to stop abruptly, you should quickly tap on the brakes three times before hitting the brakes hard. He said drivers could be unaware of their surroundings. By having the brake lights flash, rather than just show solid red, you can snap them out of it.

Rear-end collisions are one of the most common crashes on our roadways. They are often caused by distracted driving or following a car too closely. This measure addresses both issues, seeking to decrease the number of rear-end collisions.

When the third brake light became mandatory nationwide in 1986, the rear-end crash rate decreased, along with the rate of severe injuries resulting from such crashes; however, last year there were still approximately 1.7 million rear-end collisions on U.S. roadways resulting in nearly 500,000 injuries. Assembly Bill 390 improves the safety of our traveling public by improving driver reaction time. Studies show that one extra second of warning for a driver could prevent nearly 90 percent of rear-end collisions. A pulsing brake light would make it easier to get the attention of other drivers, resulting in a decrease in rear-end collisions.

Nevada Revised Statutes (NRS) mandates a high-mounted brake light. Assembly Bill 390 will allow—not require—drivers to replace this light with a light that would pulse for no more than four seconds. This bill does not mandate that all high-mounted brake lights be replaced or have pulsating capabilities; it solely gives the choice to drivers to install such pulsating lights.

Currently, brake lights simply brighten in response to brakes being applied. A pulsating light increases the chance of drivers being alerted ahead of their braking. This bill addresses distracted driving and decreases the likelihood of rear-end collisions. I have provided additional information from the National Highway Traffic Safety Administration (NHTSA) [[\(Exhibit J\)](#) and [\(Exhibit K\)](#)]. John Sande IV will go through the sections of the bill.

John Sande IV, representing Protection Plus:

This is a relatively simple bill. Section 1, subsection 5 adds to NRS 484D.205 to allow use of this device, except to the extent prohibited by federal law. This language was taken directly from California's law passed a few years ago that allows a brake light that pulses up to four times in four seconds. That allows for different ways manufacturers can try to be as attention-grabbing as possible. The Alliance of Automobile Manufacturers has approached me with a proposed amendment. I have looked it over. I do not think my client would have an issue with it. Las Vegas Metropolitan Police Department (Metro) has vehicles with these lights. The current law does not specifically disallow these devices, but it does not specifically allow them either, resulting in some confusion. The devices are being manufactured today. Many vehicles are on the roadways with them today. This just provides clarification and guidance. Metro indicated I could offer their support for this bill, as no one from Metro could be here today.

Chair Monroe-Moreno:

Are there any questions from the Committee?

Assemblyman Yeager:

Is it illegal now to have this device on your car?

Assemblyman Leavitt:

No, it is not illegal. This is a permissive bill to allow for the idea so people know it is not illegal.

John Sande IV:

Because it is a vehicle safety issue, we want potential customers to know it is permissible to use this. If you ask a question about the legality of the device on Reddit, there is tremendous confusion about it.

Assemblywoman Bilbray-Axelrod:

I remember when the third brake light became required. The statistics were amazing about its effectiveness; it has saved many lives. It is curious that it is still legal to drive with one of the three brake lights not functioning. As long as you have two brake lights, it is okay. Would it make more sense to make a law that if you have three brake lights, all of them must be working?

John Sande IV:

You are educating me. I did not know that it is legal to have one of your brake lights out. Law enforcement pulls people over and at least gives them a warning if a light is out. I cannot comment one way or the other about what the law is or should be in that regard. I can say you are correct that once the center-mounted brake light was mandated by federal law, the number of rear-end collisions decreased significantly. Over time, the number of such collisions has risen again. Studies have been done by NHTSA to look at ways we can combat distracted driving because it has become such an issue. They have looked at increasing the intensity of the light to see if that has a significant impact. It moves the needle

slightly, but their studies have shown that if you pulse that light it grabs attention more than increasing the output of the light.

Assemblyman Ellison:

What about motorcycles?

Assemblyman Leavitt:

This applies to vehicles that are required to have third brake lights, including motorcycles.

John Sande IV:

We looked into this. This is a big deal for motorcycles. I have spoken to many people who say they would not get on their motorcycles anymore without a center-mounted flashing light. The term "motor vehicle" is defined to include motorcycles.

Chair Monroe-Moreno:

Are there any other questions from the Committee? [There were none.] We will invite to the table anyone who is here to testify in support of A.B. 390.

Andy MacKay, Executive Director, Nevada Franchised Auto Dealers Association:

We are in support of the bill. Due to the fact there is not explicit statutory language that authorizes the use of these devices, some of my dealers will not facilitate their installation even at the request of their customers. This clarifies that they can, in fact, install them. Two neighboring states, California and Utah, have this language in place.

Chair Monroe-Moreno:

Is there anyone else here 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 has waived closing remarks. We will close the hearing on Assembly Bill 390.

We will now open the hearing on Assembly Bill 395.

Assembly Bill 395: Revises provisions governing motor vehicles and off-highway vehicles. (BDR 43-617)

Assemblyman Chris Edwards, Assembly District No. 19:

Thank you for considering Assembly Bill 395. The bill seeks to accomplish two things. It would enable buyers of vehicles from private sellers to drive the vehicle legally for three weeks until they have had an adequate chance to get to the Department of Motor Vehicles (DMV) to register their vehicles permanently. Second, it would allow off-highway vehicle (OHV) owners to drive on most of the roads in order to facilitate getting between trails.

The first issue arose when I was talking to constituents while going door-to-door. It was surprising to me how often this came up. It is a simple issue, but one that puts all of our

constituents at risk. It also puts newcomers to the state at risk because they do not know Nevada laws concerning registering their vehicles.

Off-road vehicles are a significant part of recreating throughout the whole state of Nevada. In my district, off-roading is a huge deal. One of my constituents, a member of Mesquite's Kokopelli ATV Club, brought this to my attention. So far, surveys and emails have been 33:1 in favor of this bill just in my district. Across the state, it is 22:1 in favor of this bill.

When a person buys a vehicle from a private seller, the buyer is not supposed to drive the vehicle until he or she has a moving permit or has registered the vehicle. That can work out if you know when you go to the private seller that you are actually going to buy the vehicle. Usually, you go, check out the vehicle, and maybe have a mechanic look at it. Then you decide whether you will buy it. If you decide to buy it, you cannot drive it until you have a moving permit. It has to sit at the seller's location. This bill would allow a buyer to go to the private seller, check the vehicle out, buy it, and drive it home. On weekdays, the buyer can go to DMV to register the vehicle without the risk of being pulled over and ticketed for a moving violation because the vehicle is not registered.

[Assemblyman Yeager assumed the Chair.]

The buyer has to have a driver's license and insurance and has to abide by all the laws. This gives them a grace period so they can buy the vehicle, get to DMV, and register it. The limitation is 21 days, which would be adequate even though DMV is constantly swamped.

Section 7 puts a duty on the Commission on Off-Highway Vehicles to conduct ongoing outreach to other states and organizations to see how we can encourage OHV owners to come to Nevada to recreate. This is meant to provide OHV owners in other states reciprocity for things such as accepting their OHV registration in the same way as we would an automobile registration. The ultimate goal is to have more OHV owners recreating and spending their money in Nevada. The constituent who told me about this said there were 14 people in Bullhead City, Arizona, who were going to go to Mesquite to use the trails. When they found out there were complications with local ordinances, they decided to go to Utah instead. Because of this, we lost four days of 14 people recreating in our state, spending their money in our state, being in our state.

Section 8 allows OHV owners to register their OHVs so they can operate on general county roads and minor county roads. It may seem strange that OHV owners want to drive their vehicles on regular roads, but there are established OHV trails that do not directly connect. In that case, drivers have to get to the end of the trail, get their other vehicle, load their OHVs into their other vehicle, get to the next trail, offload the OHVs, and then start up again. It is an inconvenient way to recreate off-road. This would allow them to have their OHVs registered, have license plates, drive on the county road, and get to the next trailhead. It is important to note that this allows the governing bodies of cities with populations of 60,000 or more to add rules, limitations, and prohibitions so we do not have all-terrain vehicles (ATVs) racing around in major population centers. In particular, we have made sure Las Vegas,

North Las Vegas, Henderson, Reno, and Sparks would be able to prohibit the use of off-road vehicles in their cities.

We have a great economic asset in our trails. We are simply not capitalizing on that asset as much as we could. We are losing business because we are not competitive with neighboring states. The goal is to help to make us more competitive so people will come to Nevada, recreate here, spend their money, and we get the tax revenues from it all.

Vice Chair Yeager:

I have a question about the first provision of the bill, giving a 21-day grace period. As it is currently, you have a paper on your newly purchased vehicle that indicates to law enforcement that you are properly operating the vehicle. Under the first part of your bill, would there be something like that, or would the person simply be driving the vehicle without a license plate or paper tag? Could this cause issues with law enforcement's ability to know the vehicle is legally on the road?

Assemblyman Edwards:

It would be nice to have a tag, but this would not require it; however, the owner would have to be able to demonstrate proof of insurance, bill of sale, and title. Under this bill, the owner would be required to have that available for any kind of inspection from the police.

Assemblyman Ellison:

Each county can approve registration of OHVs. Incorporated cities can adopt their own requirements. If you have an OHV, you can license it. You have to add brake lights, seat belts, and mirrors to drive on highways.

Assemblyman Edwards:

Yes, but you do not know where the jurisdictions of local communities are, especially if you are from out of state. One thing OHV drivers run into is they will be going along the trail, but hit a little city or community and the laws change. This ensures that drivers know that if they were traveling on a roadway, they would not be pulled over and cited for driving on that road because state law allows them to do so with the license. This limits other governing bodies from making too many laws so that you do not know what the law is. This is one of the hold-ups for people coming to our state to recreate with their OHVs. They know there are many little communities, but do not know what all the laws are and where they change.

[Assemblywoman Monroe-Moreno reassumed the Chair.]

Assemblyman Ellison:

When we changed the law so OHVs could go on roads, the counties had jurisdiction to say whether they wanted OHVs driving on roads. Some incorporated cities started to accept them, but other counties and cities said no. I do not know how you will get around that. State law says you can drive an OHV on roads, but some counties do not allow it. I agree with you; that is why that law was enacted [Senate Bill 343 of the 77th Session].

Chair Monroe-Moreno:

We will take that discussion offline. Are there any other questions? [There were none.] Is there anyone here in support of Assembly Bill 395? [There was no one.] Is there anyone here to testify in opposition to A.B. 395?

Eric Spratley, Executive Director, Nevada Sheriffs' and Chiefs' Association:

I am here in opposition to A.B. 395. We currently have some good and functioning OHV laws on the books. I am not aware of any public safety issues with the way they are used or enforced. There is mutual respect between responsible OHV drivers and law enforcement in all of our jurisdictions. The Nevada Sheriffs' and Chiefs' Association has a representative on the OHV Commission who reports to our membership. We have heard of no issues with the current system.

[Mr. Spratley held up a smartphone and a computer tablet to compare an OHV to a large OHV.] These are two separate but similar things with separate distinctions.

We oppose section 4 of the bill. I envision that for those three weeks we would see folks drive around without license plates on their cars. This would cause a lot of traffic stops, which would be a waste of time for drivers and law enforcement officers. It would create a public safety risk to both.

The rest of this bill regarding OHVs allows for a dirt bike, a quad bike, a dune buggy, a snowmobile, a monster truck, or a Black Rock Desert land-speed-record-holding-jet-car to drive around the neighborhoods in a majority of our jurisdictions in Nevada. Currently an owner of a large all-terrain vehicle [held up his computer tablet], commonly known as a "side-by-side" because it can seat two people next to each other and can hold up to four people, may register that vehicle to be operated on specific roads in a jurisdiction. Section 8 will get rid of the "large all-terrain" designation and make it so "DMV shall register all off-road vehicles" [held up his smartphone]—dirt bikes, quads, dune buggies, snowmobiles, monster trucks, and all that—"to be driven on the roadways if they have a rearview mirror, horn, and turn signals." Currently *Nevada Revised Statutes* (NRS) 490.110 states that OHVs with a licensed driver can drive for up to two miles on pavement to get to a trailhead.

Section 10 is the worst part of the bill in that the only jurisdictions in the state that would be able to regulate where these vehicles could drive would be Las Vegas, North Las Vegas, Henderson, Reno, and Sparks. If you think about that, the cities of Elko, Fallon, Fernley, and Winnemucca would be open to having OHVs driving right downtown. Incline Village could have folks driving dirt bikes and quads through neighborhoods. The same would be true for Ely, Laughlin, Mesquite, and Boulder City. Maybe these jurisdictions are currently very welcoming to all OHVs on all streets, but to take away their option to regulate is a very bad policy for public safety and for these jurisdictions to have a say in how best to manage the roadways in their towns. The Nevada Sheriffs' and Chiefs' Association ask you not to support passage of A.B. 395.

Assemblywoman Bilbray-Axelrod:

You mentioned the OHV Commission. How often does it meet? Who are its members?

Eric Spratley:

I do not know who the members are or how often they meet. Per statute, we are allowed to have a representative on the Commission. The Nevada Sheriffs and Chiefs meet four times a year. That representative reports to us any significant things going on in the Commission.

Assemblywoman Bilbray-Axelrod:

You referred to a Black Rock Desert land-speed-record-holding-jet-car. What is that?

Eric Spratley:

Current law designates an "off-highway vehicle" as any vehicle that is primarily used off-road. The Black Rock Desert is not on a highway. A motor vehicle that drives on that road could technically be considered an off-highway vehicle. By merging these and having just one designation for all OHVs [held up his smartphone] you would be taking the jet vehicle that set a land speed record on Black Rock Desert and saying that DMV shall issue a registration for it so you could drive it in a neighborhood. I do not envision that happening, but I wanted to point out there are nuances in the OHV law that are currently working very well. We want to keep it that way.

Chair Monroe-Moreno:

Are there any other questions? [There were none.] Seeing no one else here in opposition, is there anyone here to speak as neutral?

Dominique M. Etchegoyhen, Deputy Director, State Department of Conservation and Natural Resources:

I regret to inform you that our off-highway vehicles program manager retired on Friday, so she is not here to answer questions you will have.

We are neutral, but the Department has some concerns. Our primary concern is the fiscal impact. Although it will be borne primarily by DMV, it will affect our off-highway vehicles program. Pursuant to NRS 490.085, the registration fees collected for OHV registrations go into the Revolving Account for the Administration of Off-Highway Vehicle Titling and Registration in the State Highway Fund, operated by DMV, after administrative costs are taken out. When you look at the fiscal note DMV submitted, we believe those dollars would come out of this account. Any amount in excess of \$150,000 quarterly is transferred to the Nevada Department of Conservation and Natural Resources Off-Highway Vehicle Fund. From there, we have our own administrative costs for the Commission and for the program. The remainder is used to put out grants to fund OHV projects to build and maintain trails or to fix impacts on the environment or habitat. We are also working with law enforcement on education and safety. The impact for DMV will be transferred and will mean we have fewer dollars on the ground for our grants. I was going to talk about our health and safety concern, but the opposition testimony covered it very well. There is a distinction between the former

large OHVs and those of today. This bill could potentially have all OHVs out on roads, resulting in accidents and collisions.

Assembly Bill 29 of the 79th Session mandated that the Commission take a survey of the communities, stakeholders, and governmental entities that would look at the presumption that the operation of an OHV on a paved highway is prohibited unless authorized by a governmental entity. In going through that process, we also worked with stakeholders and found there were concerns in communities about OHVs driving on paved roads. Given those safety concerns, the Commission on Off-Highway Vehicles recommended that the Legislature consider implementing a Nevada Interdisciplinary Off-Highway Vehicles Roadway subcommittee to look at this issue. The recommendation was that there be representatives from the Nevada Department of Transportation, the Department of Public Safety or the Nevada Highway Patrol, local government representatives, the Nevada Sheriffs' and Chiefs' Association or local law enforcement agencies, members from the existing Commission on Off-Highway Vehicles, and general OHV users.

The Commission on Off-Highway Vehicles meets quarterly. The members of the Commission are these:

- Kevin Hill from Carson City, representing conservation;
- Phil Fell of Washoe County, representing ATV and motorcycle riders;
- Brian Parks of Douglas County, representing ranchers;
- Edmond Booth of Humboldt County, representing sportsmen;
- Greg McKay of Washoe County, representing snowmobile owners and users;
- Sue Baker of Clark County, who was recommended by the Nevada Association of Counties;
- Kevin Malone of Humboldt County, who was recommended by the Nevada Sheriffs' and Chiefs' Association;
- Michael Gerow of Carson City and Reno, representing OHV dealers; and
- Charlie Cox of Clark County, representing general ATV and OHV riders.

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

We are in neutral. We attached a fiscal note primarily because of the impact the Commission would receive. The pass-through of those funds would be impacted based on a reduction in the number of registrations converting to the license plate.

Section 4 allows for a new operator to drive for not more than 21 days. In fiscal year 2018, we only provided 7,452 titles to OHV owners. It is an optional opportunity for them. Most of these private sales would not include a transfer of title to help law enforcement know that ownership truly exists, as well as the sale date.

Assemblyman Ellison:

We put that in law because hunters and ranchers crossed roads and had been in violation of the law. That is why we made it a county issue. It has worked well. Some large

subdivisions do not want OHVs driving in them so they are exempt. Elko County is getting ready to adopt policies. If there is anything you think they should include, please let me know. The district attorney will implement the request.

Dominique Etchegoyhen:

Our program manager has gone to Elko County and met with them during their county commission meetings to work with the communities that would like to open up their communities to OHV recreation on the streets, to help them through the process. We will continue to do that for any communities that desire to do the same.

Chair Monroe-Moreno:

I will invite the sponsor to provide closing comments.

Assemblyman Edwards:

Regarding the 21-day grace period—I really do not think people will be driving the cars around. I think their focus is going to be to register their cars. This will help them to do it more easily.

Regarding comments made in opposition, we should give credit to the OHV riders and drivers. I do not think they are going to be crazy enough to be driving down the streets creating mayhem. Their interest is in being off-road, on the trails. They are not really interested in driving in the towns.

I appreciate your consideration.

Chair Monroe-Moreno:

With that, we will close the hearing on Assembly Bill 395. We will open the hearing on Assembly Bill 454.

**Assembly Bill 454: Revises provisions relating to advertising vehicles for sale.
(BDR 43-936)**

Sophia Romero, Staff Attorney, Consumer Rights Project, Legal Aid Center of Southern Nevada:

The current legislation is a simple fix to clarify the Legislature's intent behind Assembly Bill 352 of the 76th Session equitable amendments. Section 1 of Assembly Bill 454 adds the definition of "advertising" under *Nevada Revised Statutes* (NRS) 482.351, which already prohibits "bait and switch" and other misleading advertising concerning vehicle sales. And, as NRS 41.600 already allows a consumer to seek equitable relief, section 2, subsection 5, of this bill removes any perceived requirement of actual damages.

One of the most significant expansions of NRS 41.600 occurred in the 2011 Session. The 2011 Legislature added equitable amendments to NRS 41.600, expressly allowing a victim of consumer fraud to seek any appropriate equitable relief for any violation of any of the five enumerated categories of consumer fraud identified in that statute. This already expressly

included deceptive and misleading dealership advertising in violation of NRS 482.351. The primary underlying purpose and objective to these equitable amendments was to allow a consumer fraud claimant to seek purely equitable—declaratory and/or injunctive relief—as a remedy. In fact, the primary example given to the Committee as to why the equitable amendments were needed was due to the widespread nature of deceptive and misleading advertising by vehicle dealerships.

This bill will allow a consumer the ability to seek injunctive and/or equitable relief involving a claim based on a violation of NRS 482.351 for deceptive or misleading dealership advertising. It does this without the necessity of having to show or demonstrate actual monetary loss or damages. Deceptive advertising by dealerships that is specifically calculated to lure consumers into their dealerships harms both the consumer and the business marketplace. In the aggregate, the harm to the community is great. There is no benefit or positive effect that misleading or deceptive advertising bestows on the community.

Additionally, while we appreciate all of the work done by the Office of the Attorney General, the Attorney General does not have the resources to single-handedly police all advertising. Allowing consumers to bring actions for false advertising protects good businesses that do not engage in false advertising practices, as these good actors lose out on business when a consumer is lured into a dealership because of a false ad and consumers are then taken advantage of. This bill essentially helps both good businesses and consumers and works to discourage false advertising to make sure there is a level playing field for all auto dealerships.

With the Chair's permission, I would like to turn it over to our expert on the subject matter, Craig Friedman, a private consumer attorney ([Exhibit L](#)).

Craig B. Friedberg, Attorney, Law Offices of Craig B. Friedberg, Esquire, Las Vegas, Nevada:

I am a solo practitioner. My practice emphasizes consumer protection law including auto fraud and deceptive dealer advertising under the Nevada Deceptive Trade Practices Act. I have been an attorney for 33 years. I thank you for the opportunity to comment regarding this bill. My colleague George West was also scheduled to testify today, but he was called away by a family emergency. I will include my testimony with what he was to say.

As Ms. Romero previously stated, the proffered legislation is being sought to further clarify the Legislature's intent behind the previous passage of equitable amendments to NRS 41.600 that were adopted in 2011 [Assembly Bill 352 of the 76th Session]. The reason and need for this clarifying legislation is due to recent judicial resistance in allowing an NRS 41.600 consumer fraud claimant to seek injunctive relief against a dealership that engaged in dealership advertising in violation of NRS 482.351 whether or not the consumer sustained any economic or monetary loss or damage as a result of the advertisement. It is important to realize that when dealing with a deceptive or misleading advertisement by a dealership, the violation of the rule occurs when the dealership disseminates, publishes, or displays the advertisement to the community whether that be in a circular, television, radio, Internet, or so

on. In other words, the violation itself is complete upon the misleading or false advertising being disseminated, published, or displayed to the community. This bill has nothing to do with that. That is just how NRS 482.351 regarding dealer advertising sets forth false and deceptive dealer advertising. The entire objective behind having this rule is to strictly prohibit dealership deceptive advertising and to prevent the advertisement from being disseminated to our community in the first place. When dealerships disseminate those advertisements to the community, the only effective remedy to stop the continued dissemination is through injunctive relief.

I do not think anyone here believes that deceptive and misleading advertising by vehicle dealerships confers any benefit whatsoever either to the consumer community or upon the business marketplace. Advertising rules are in place not only to protect the community from predatory dealerships, but also to foster fair competition among competitors. If I were a dealership and the dealership down the street or next door used these deceptive advertisements to get the consumer into that shop instead of mine, I would be upset. If the dealership down the street follows the rules and the next dealership does not, it gives the dealership breaking the rules a grossly unfair competitive advantage because that dealership is deceptively and improperly luring consumers. It is detrimental to the dealership market, to businesses—both large and small dealerships—who follow the rules. Dealerships take the position that unless the consumer buys the car or is somehow actually damaged by the deceptive advertisement, an NRS 41.600 claimant cannot seek injunctive relief against them, leaving the dealerships free to continue with their deceptive advertisements to the community.

By leaving this the way it is and not passing this bill, it essentially neuters NRS 482.351 and all the work that was done to put that into place. Those opposing this bill will bring up that recently the Nevada Supreme Court did not follow the legislative intent of NRS 482.351 or its 2011 amendment and ruled that actual pecuniary damages are necessary to have standing to bring a deceptive car dealership before the courts. This would not be the first time the Legislature amended a consumer statute to specify what it was intended to do. For example, when the Nevada Supreme Court a few years ago held that the dealership bond that was originally meant to protect consumers could also be accessed by vehicle lenders, the Legislature responded by amending the bond statute to make it specific to consumer complaints and consumer claims.

In closing, I would like to read the testimony of Dan Wulz, Deputy Executive Director of Legal Aid Center of Southern Nevada who testified at the Assembly Committee on Commerce and Labor in support of A.B. 352 of the 76th Session, the bill that brought in the equitable amendments to NRS 41.600 so that a claimant can seek any appropriate equitable relief for violation of NRS 41.600.

Under existing law, only the Attorney General or District Attorney is given statutory power to stop [deceptive] practices with the remedy of equitable relief, for example, declaratory and injunctive relief. But I do not believe you will find anyone in the Attorney General's Office or any District Attorney who

would say they have the resources to police such activities. As a result, they do not do so. And as a consequence, deceptive advertising exists. How many of us have heard ads guaranteeing to finance anyone?

To that end, I will interrupt because you have a small sampling of some of those deceptive advertisements involving financing terms consisting of previous and current advertisements involving just one violation of the many dealership advertising rules governing the vehicle dealerships [([Exhibit M](#)) and ([Exhibit N](#))].

Chair Monroe-Moreno:

Would you please wrap up?

Craig Friedberg:

Mr. Wulz continued, "Of course that claim just cannot be true. Yet honest businesses no doubt lose customers to businesses making false claims." The other major portion of that testimony talked about a case in which there were no actual damages. "Justice must be served and a court would have more remedies available to it if it could grant equitable relief in the form of declaratory and injunctive relief."

Chair Monroe-Moreno:

There are questions from the Committee.

Assemblywoman Bilbray-Axelrod:

I have a question about section 2, subsection 5 of the bill that states, "A person may bring an action pursuant to paragraph (d) of subsection 1 without proof of any actual monetary or pecuniary loss or damage." If I am reading this correctly, there has to be no loss in order to bring an action. This seems over the top.

Craig Friedberg:

That was the original intent of the equitable amendments in 2011. This is just making it clear. I do not recall reading in the legislative history much opposition to that section of NRS 41.600 being added. If you need the person to go in and buy a vehicle, then the false dealership advertising that brought people into the dealership is not going to be the basis of a claim. They went into the dealership; they bought a vehicle. The only way to get rid of the false dealership advertising as a violation of NRS 482.351 when it is disseminated is to allow the claimant to bring that action upon the dissemination. Does that answer your question?

Assemblywoman Bilbray-Axelrod:

It does, but I am imagining a person on a couch who sees an advertisement and says, "Oh, wow. I can bring a lawsuit." How is this not going to clog up our legal system?

Assemblywoman Backus:

Nevada Revised Statutes 41.600 is to protect from consumer fraud. I am completely baffled by why we would exclude only vehicle dealers by this specialized legislation. You spent much time talking about equitable remedies, such as injunctions, but as I read the proposed

change it is almost like seeking per se damages you would get in an extreme situation—such as defamation per se, where someone is truly injured and the damages cannot be quantified. If I see a car driving down the road with the name of the dealership on it, that could be defined as "advertising." If I like the color of the car and the model, I go to the dealership to look at the vehicle. If they do not have it in that color, is that deceptive advertising? This seems absurd. I am curious about your asking us to do specialized legislation. Why does this give heightened per se damages?

Craig Friedberg:

The Committee should understand that in the more than 30 years the Legislature has grown the consumer protection statutes for Nevada under both NRS Chapter 598 and NRS 41.600, the only specific proscriptions for this type of deceptive advertising are to car dealerships. It has been the focus of the Legislature through the last 30 years to bring in and to put a stop to deceptive advertising from car dealerships in this community that has gone on for decades. That is the reason this is specific to NRS 482.351.

As to your second question, we are not talking about per se damages. If there were no damages, then there would be equitable relief. Someone has to be able to bring a claim against a dealership that has deceived the community in how it advertises its goods and, therefore, harmed other commercial vehicle dealerships that are not breaking the law in order to make them stop. That is what this does. It is not saying there are per se statutory damages. If you are sitting on a couch, that means you are watching television or reading advertisements on your laptop or phone and you are seeing deceptive advertising that is being disseminated specifically for the consumer—often low-income consumers. When they say, "Everybody gets credit," the person with a credit score of 850 is not really going to care.

Assemblywoman Backus:

My hypothetical had to do with how the advertising definition is being drafted in this proposed bill. If I am following behind a car with the name of the dealership on it and it is a color of car I like, would I then be permitted by this law to seek an injunction if this car was not available in that color or if they no longer carried it?

Craig Friedberg:

No, because deceptive advertising is where the dealership is disseminating specific terms. Most of those terms have to do with dealership financing, "Everyone gets credit," and so forth. I do not think this would apply, especially to something that was not an active advertisement, but just a license plate holder that has a dealership's name on it.

Assemblywoman Backus:

If you read section 1, subsection 3, paragraph (a) and section 1, subsection 4 that is the situation you would get with how overly stated subsection 4 is written.

Craig Friedberg:

We can certainly work on the definition.

Assemblyman Roberts:

I would like to follow up on the advertising question. Is the advertising defined anywhere else in NRS? Are there any similar definitions in statutes in other states?

Craig Friedberg:

I think section 1, subsection 4 restricts "advertising" to the types of advertising dealing with deceptive financing advertisements and so forth. With respect to your question about other statutes, I would need to go back to the legislative history from 2011 to answer that with any precision.

Assemblyman Roberts:

Did you model this language from statute in any other state?

Craig Friedberg:

I was not involved in the initial drafting of the 2011 amendments, so I do not have that information.

Assemblyman Wheeler:

This bill seems like the ambulance-chaser full employment act. I could be wrong. Do you have any statistics on how many people in Nevada have been affected by misleading advertising? If you do not have those statistics, could you get them for us and send them to the Committee?

Craig Friedberg:

I think we can get those statistics. Over just the last three or four years, the Federal Trade Commission (FTC) has fined numerous dealerships in Las Vegas for false and deceptive advertisement. It is widespread and has been widespread.

Assemblyman Leavitt:

Several times you mentioned equitable amendments from 2011. Is this bill in alignment with those amendments?

Craig Friedberg:

Nevada Revised Statutes 41.600 as it is written is in section 2 of this bill. The equitable amendment that we are speaking about is section 2, subsection 3, paragraph (b) which was added in 2011: "Any equitable relief that the court deems appropriate."

Assemblyman Leavitt:

Does section 1, subsection 4 align with the bill's intent in 2011? I would like to have an opinion from legal counsel.

Assemblyman Ellison:

What other industry has similar language regarding advertising? Builders, real estate agents, and restaurants advertise everywhere. How do these line up with what you are trying to do with auto sales? Can you explain the difference between the different companies?

Craig Friedberg:

This bill goes to NRS 482.351 because that is what the Legislature was focusing on in 2011 when section 1, subsection 3, paragraph (b) was added to NRS 41.600 regarding equitable relief. There was not only the idea of advertising, but also the idea of where a dealership falsifies a credit application. The consumer may get the car because of that falsified credit application and the dealership will certainly say there was no damage as result; however, what buying that vehicle at that increased interest rate based on a false credit report may do down the line could certainly end up being damage which is not apparent at the very beginning when the consumer may have a viable claim for relief against that dealership.

Assemblyman Ellison:

Does this bill pertain to advertising and bringing customers in? Other industries advertise; do they do the same thing?

Craig Friedberg:

That is specifically why the bill only applies to NRS 41.600, section 2, paragraph (d)—"an act prohibited by NRS 482.351." Subsection 5 of section 2 only applies to dealer advertising; it does not apply to any other type of business advertising. One of the main reasons is because we do not have statutes that state specifically what that other type can and cannot say.

Chair Monroe-Moreno:

Seeing no other questions from the Committee, I will invite up to the table anyone who is here to testify in support of Assembly Bill 454. [There was no one.] Is there anyone here to testify in opposition?

Craig Stevens, Senior Manager, Government and Regulatory Affairs, Cox Communications, Inc.:

We are in opposition to A.B. 454. We simply believe that section 2 is extremely broad; as a result we will have fewer people advertising and getting their message out to the community. We believe this needs to change.

Andy MacKay, Executive Director, Nevada Franchised Auto Dealers Association:

We are in opposition to A.B. 454. There was a lot of discussion on legislative intent. The legislative intent is clear in the statute in that it addresses that you need to be a victim, and if you are a victim, you are entitled to equitable relief. There were questions about other statutes and regulations related to advertising. It is worth pointing out that many violations triggering a deceptive trade practice or violation are punishable with fines of up to \$10,000. Similar statutes can be found in NRS 482.36385, NRS 482.36388, and NRS 482.36395. There are several regulations the DMV passed and enforces that can be found in the Nevada Administrative Code (NAC) 482.100 to NAC 482.250. Simply put, the bill just is not necessary. Mr. Chris Rose down in Las Vegas will be able to shed some light on litigation that has occurred—that the Nevada Supreme Court has affirmed and reinforced—that there is no ambiguity in the law.

John Sande IV, representing Nevada Franchised Auto Dealers Association:

I want to reiterate what Mr. MacKay said about NAC 482.100, et cetera. They grant the DMV administrative and regulatory powers over vehicle dealer advertising. They allow the DMV to go after dealers to the tune of \$10,000 per offense. In addition, the FTC has cracked down on dealers in Las Vegas. The 2011 legislation allows victims who were induced into purchasing by false or misleading advertising to seek remedies. We think that opening this up broadly to anybody who wants to seek damages is just inviting litigation that will tie up the courts.

Jack Stanko, President, Champion Chevrolet, Reno, Nevada:

We are in opposition of this bill for a number of reasons. I have been an auto dealer for 31 years. The DMV enforces advertising regulations extensively. Going back to Mr. Friedberg's statement that deceptive advertising is unfair to other dealers, all dealers have the right to call the DMV to file a complaint. The DMV has done very well in coming out to stop it. The DMV will not allow deceptive advertising to take place by either a franchise dealer or an independent dealer.

The manufacturers also have advertising regulations. They will come down on a dealer for doing misleading advertising. This bill is unnecessary. I spend over \$1 million a year in advertising. If I quit advertising and stopped selling the number of vehicles I do, it would be a loss for the advertising industry, a loss for the auto industry, and a loss of sales taxes for the state of Nevada. Roseville, California, and other areas will advertise in this market to pull customers out of here.

The FTC is involved. This is a book of DMV regulations [he held up the book]. It is available online. It covers deceptive trade, "bait and switch," false advertising of all kinds, and goes into financing. This is the federal guide [he held up the book]. It, too, is online; you can review it. This is the General Motors guidelines for dealers for advertising [he held up the book]. We already have enough regulations in place.

Mitch Fox, President and CEO, Nevada Broadcasters Association:

We appreciate having this opportunity to speak in opposition to A.B. 454. I want to thank the Committee members who met with some of our representatives over the past few days to talk about this bill.

The mission of our association is to promote and advocate for the broadcasters of Nevada while serving the public. We are opposed to this piece of legislation as written, and we remain concerned about the potential loss of advertising revenue for our industry if it is passed. Furthermore, the language is confusing, and there are already laws in place to address misleading or inaccurate advertising. I want to allow my colleague, Chris Way, vice president and general manager of KTNV Channel 13 here in Las Vegas, to comment on the bill.

Chris Way, Vice President and General Manager, KTNV Channel 13, Las Vegas, Nevada:

I share my colleague's concerns with this bill. I will make my testimony brief. There are existing laws in place. As Mr. Friedberg mentioned, the FTC is already active in this area, in addition to what the DMV does.

There is specific language in the bill that appears to single out advertising platforms such as the broadcast industry and digital media platforms. It singles out television, radio, and digital media. I was surprised to learn we have a statute in place that specifically addresses the automotive industry. It seems a bit unfair. Maybe someone will bring forth a bill next session that would make deceptive advertising statutes more general.

Quantifying the impact of this bill on my industry is difficult, but any legislation that would incentivize a group of marketers to hesitate spending their marketing dollars impacts our ability to fund local journalism, much of which is focused on consumer issues, such as taking phone calls from people who feel they have been treated unfairly. We try to advocate for those folks, but this would hinder our advertisers from sustaining their own businesses.

David Dazlich, Director, Government Affairs, Las Vegas Metro Chamber of Commerce:

We are in opposition to this bill. We would like to reiterate for the record that we believe there are already sufficient definitions and stringent punishments in place for bad actors who are violating current Nevada law. We believe that broadening these definitions and opening up broadcasters and auto dealers to this additional litigation will not benefit the consumer and will be detrimental to these industries.

L. Christopher Rose, Partner, Jolley Urga Woodbury Holthus and Rose, Attorneys at Law, Las Vegas, Nevada:

I represent both plaintiffs and defendants, individuals and businesses, in general civil matters. I am also a volunteer with the Children's Attorney Project with the Legal Aid Center of Southern Nevada. I am here to testify in opposition to A.B. 454 for several reasons.

First, A.B. 454 is not necessary because adequate consumer protections already exist and are in place via NRS 41.600 that allow a victim of consumer fraud to bring a claim for any one of the enumerated statutory violations and to recover damages or appropriate injunctive relief and attorneys' fees and costs. That requirement has been in place for 44 years, since 1975.

Assembly Bill 454 seeks to change the statute, not clarify it, by removing the victim requirement as it pertains to actions against vehicle dealers. It allows an action regardless of whether anyone has suffered pecuniary or monetary loss. Those provisions are not necessary because protection is already in place. Those protections apply to anyone who is victimized or needs help or a remedy, including if the person has been victimized or harmed in any way by a deceptive advertisement.

Second, A.B. 454 would allow, in my opinion, the abuse of consumer protection laws by individuals or their attorneys. I believe A.B. 454 is a direct result of a decision of the Nevada Supreme Court late last year. I believe that is the "recent judicial resistance" that was referred to. In that case, the plaintiff claimed that he thought he would be guaranteed financing based on an advertisement over an interest rate. The evidence in that case, contrary to the plaintiff's allegations, shows that:

- The plaintiff did not suffer nor was he aware of anyone who suffered any harm of any kind from the advertisement—monetarily or nonmonetarily.
- The plaintiff had been watching for car dealership advertisements since the early 2000s after an attorney told him to watch for advertisements and bring the ads to his attention so they could decide whether to file suits.
- The plaintiff had already filed six prior class action lawsuits over advertising against vehicle dealers, although the plaintiff had never entered a transaction, never intended to enter a transaction, and was not misled or harmed in any way.
- The plaintiff did not intend to buy a vehicle from the dealer in that most recent case because he had already sued the dealership twice before and did not care for that dealer. He and his wife both testified they were not in a financial position to buy a vehicle.
- He was aware there was no such thing as "guaranteed financing" and that lenders always check credit.
- The plaintiff testified that he was not receiving anything from the lawsuit other than the satisfaction of bringing suit and having the dealer pay the price by spending his time in court.
- The plaintiff did not need and did not benefit from any relief or remedy; he was merely seeking justice as a guardian of the public.

The Nevada Supreme Court reversed the erroneous district court judgment, finding that the plaintiff was not a victim authorized to bring a consumer fraud suit under NRS 41.600. The Court found that this plaintiff knew he would not, knew he could not, and, more importantly, knew he did not suffer any harm at the hands of the defendant dealership. The Court further stated that the plaintiff was not a victim under any sensible definition of that term, which requires some sort of harm or injury under NRS 41.600. As a result of the Nevada Supreme Court's decision, the plaintiff and his attorney lost an award of substantial attorneys' fees and costs, but the plaintiff did not lose any relief or remedy that he needed to protect or compensate him or that otherwise would have benefited him in any way.

If A.B. 454 is passed, it would allow an infinite number of lawsuits like the one just rejected by the Nevada Supreme Court. Assembly Bill 454 would allow a person to file a lawsuit merely because he or she saw an advertisement on television while sitting at home. It would allow a lawsuit by a person who did not intend, and never intended, to enter a transaction or even inquire about a transaction. It would allow a lawsuit by someone who merely pretended to be a consumer and who, like the plaintiff in the case I just described, watched for vehicle dealer advertisements in search of his or her next lawsuit.

We think that Nevada Supreme Court decision was important. In 2011, the equitable remedies were added, not to remove the victim requirement, but to expand the remedies available to someone who is a victim. If the legislative history is reviewed, that is what it will show.

Chair Monroe-Moreno:

Seeing no one else in opposition, we will move to neutral testimony. [There was none.] We will invite the sponsors of the bill to make closing comments.

Sophia Romero:

We have no closing comments.

Chair Monroe-Moreno:

We will close the hearing on Assembly Bill 454.

[Assemblyman Yeager assumed the Chair.]

Vice Chair Yeager:

I will open the hearing on Assembly Bill 467.

Assembly Bill 467: Revises provisions regarding charitable organizations which benefit from special license plates. (BDR 43-396)

Assemblywoman Daniele Monroe-Moreno, Assembly District No. 1:

Joining me at the table is Rocky Cooper. During the interim, I was a member of the Commission on Special License Plates. We are here to present Assembly Bill 467, which exempts a charitable organization from the submission of certain documents to the Commission on Special License Plates. The Commission on Special License Plates is an ongoing statutory commission that makes recommendations to the Department of Motor Vehicles concerning the approval or disapproval of applications for special license plates in Nevada.

Pursuant to *Nevada Revised Statutes* (NRS) 482.38277, charitable organizations that receive fees from a special license plate are required to prepare and file certain financial documents and forms with the Commission on an annual basis. The information includes:

- A balance sheet;
- The budget of the charitable organization;
- Personal information of the individuals responsible for overseeing the operation of the organization; and
- Tax return information.

During the Interim, the Commission received testimony noting that some organizations no longer have special license plates being produced or receive less than \$10,000 in fees

annually. Based upon this information, the Commission considered exempting the organizations from the reporting requirements.

Assembly Bill 467 exempts a charitable organization from submitting the information required pursuant to NRS 482.38277 if the fees collected from the special license plate are:

- In an amount less than \$10,000 in a fiscal year; or
- Are from a special license plate that is no longer in production.

Mr. Vice Chair and Committee members, this concludes my prepared remarks.

Rocky Cooper, Legislative Auditor, Audit Division, Legislative Counsel Bureau:

The main section in this bill is the exemption under section 1, subsection 4. This exemption helps the Audit Division become more efficient by focusing its work on those organizations with special license plates that are still in production and receive \$10,000 annually in special license plate fees.

The Commission on Special License Plates recommends the approval and issuance of certain specialty license plates in Nevada. The number of specialty license plates authorized by the Commission is capped. There are two tiers. The first tier has 30 license plates; these organizations need to maintain active registration of 1,000 license plates. The second tier has five plates; those organizations must maintain an active registration of 3,000 license plates. When active registrations fall below the 1,000- or 3,000-plate threshold, the production of those plates is discontinued. The plates can no longer be purchased by the public; however, the existing plate holders can keep the discontinued plates as long as they pay the fees. In that way, the plate is still out there on the road.

After production of a specialty license plate is discontinued, a new opening becomes available in the tier. The Commission can recommend the approval of the issuance of a new plate design. In essence, each time a plate's production is discontinued, a new plate comes aboard. You end up having more and more specialty plates on the road. Although the Legislature has provided a mechanism to cease production and issuance of the low-demand plates, the Audit Division must continue to monitor the financial activities of these license plate organizations in perpetuity—there is no point identified in law at which we would discontinue audits. It would be until the plates were no longer registered.

This creates an inefficiency in the Audit Division because audit resources are spent monitoring organizations that receive relatively insignificant amounts from special license plates. I have provided a grid ([Exhibit O](#)). I will use the Nevada Carpenters Union plate as an example. The number of active plates is 47. Each year, the number gets smaller. This plate is no longer in production. In 2015, there were 77 plates. For fiscal year 2018, the license revenue generated for the organization was \$962. By statute, the Audit Division has to do quite a bit of work. We request them to prepare a balance sheet. We provide them with a list of 13 items they are required to file with our office ([Exhibit P](#)). The Carpenters Union filed 100 pages of documentation for those 47 plates. By creating a threshold at which we no

longer have to monitor the small plates, it would help the Audit Division tremendously. We could then focus our efforts on those higher dollar resources.

Assemblywoman Monroe-Moreno:

Joining us down south is Mindy Martini, Principal Policy Analyst, Las Vegas Office, Research Division, Legislative Counsel Bureau. We are happy to answer any questions.

Vice Chair Yeager:

Are there questions about Assembly Bill 467?

Assemblyman Ellison:

This is a great bill. I was on that Commission at one time. There are beginning to be so many requests for plates and so many of them stay on. We had some organizations that could not prove their financials, which created a real problem. So, I am glad to see this come up. I hope they keep looking at the financial part because some of the money was not going where it was supposed to go. I hope this is one of the main objectives for keeping these plates. If the audit report shows the money is not going where it is supposed to go, that is unjust and deceives the state.

Assemblywoman Monroe-Moreno:

I agree with you. We will be addressing that.

Chair Yeager:

Are there additional questions? [There were none.] Is there anyone in support of Assembly Bill 467? [There was no one.] Is there anyone opposed? [There was no one.] Is there anyone neutral? [There was no one.] Are there any concluding remarks? [There were none.]

I will now close the hearing on Assembly Bill 467 and open the hearing on Assembly Bill 484.

Assembly Bill 484: Revises provisions governing special license plates which benefit charitable organizations. (BDR 43-395)

Assemblywoman Daniele Monroe-Moreno, Assembly District No. 1:

Joining me are our Legislative Counsel Bureau (LCB) auditor, Rocky Cooper, and the policy analyst, Mindy Martini in southern Nevada. During the interim, I was a member of the Commission on Special License Plates. I am here to present Assembly Bill 484.

If the legislative auditor determines that an organization has committed improper practices of financial administration, filed inadequate or inaccurate forms or records, or failed to ensure

that all money received is expended appropriately, and the Commission concurs with the findings, the Commission is authorized to recommend to the Department of Motor Vehicles (DMV) to:

- Suspend the collection of all additional fees gathered on behalf of the charitable organization; and/or
- Suspend the production of the special license plate.

During the interim, the Commission, for the first time, utilized the provisions of *Nevada Revised Statutes* (NRS) 482.38279 and recommended that the DMV suspend the collection of all additional fees collected on behalf of a charitable organization, Horse Power, and suspend production of its special license plate. The DMV accepted the Commission's recommendations. As a follow-up, the Commission discussed additional recommendations that may be appropriate for situations when an organization does not comply with the provisions of law. Assembly Bill 484 includes the recommendations the Commission felt would be appropriate for future considerations.

Section 7 of AB 484 presents the three revised recommendations that would be available to the Commission when an organization does not comply with the provisions in the law:

1. Terminate production and distribution of the particular design of the special license plate and collection of all additional fees collected on behalf of the charitable organization, and allow any holder of the special license plate to continue to renew the plate without paying the additional fee;
2. Suspend the production and distribution of the particular design of special license plate and collection of all additional fees collected on behalf of the charitable organization and allow any holder of the special license plate to renew the plate without paying the additional fee; or
3. Suspend the distribution of all additional fees collected on behalf of the charitable organization for a specified period and allow the production and distribution of the special license plate and the collection of additional fees to continue for that time period. In this case, allow holders of the special license plates to renew the plate with the payment of the additional fees.

If the third recommendation is chosen, the measure provides that the organization must be informed in writing of the corrective actions that must be taken and in the specified time frame. If, at the completion of the time frame, it is determined that the organization has completed the corrective actions, the suspension may be lifted and any collected fees would

be forwarded to the organization. However, if it is determined that the organization has not completed the corrective actions, the DMV, in consultation with the Commission may:

- Extend the period of suspension one time;
- Terminate production and distribution of the plate and the collection of all fees and allow any holder of the plate to renew without paying a fee. In this case, the DMV, in consultation with the Commission, would determine how to distribute any remaining fees; or
- Continue production and distribution of the plate and distribute all fees collected to another charitable organization that would utilize the fees for a similar purpose. In order for an organization to be considered under this scenario, an application must be submitted to the DMV and the organization must meet all requirements for any organization seeking a special license plate.

The remaining sections of the bill make conforming changes. We are happy to answer any questions you might have.

Vice Chair Yeager:

Are there any questions on Assembly Bill 484 from Committee members?

Assemblyman Wheeler:

Thank you for bringing this bill forward. I have been involved in the Horse Power issue since 2015. We had no idea what to do with the money once we suspended them due to misuse.

Vice Chair Yeager:

Are there any additional questions? [There were none.] Is there testimony in support of Assembly Bill 484? [There was none.] Is there anyone wishing to testify in opposition?

Sally Summers, Executive Director, Horse Power, Washoe Valley, Nevada:

I am the founder of Horse Power. Assembly Bill 484 is proof that the final destination of the train that ran over Horse Power has always had a hidden agenda. Please allow me to explain.

The Wild and Free special license plate that was Horse Power's main source of revenue was suspended on December 31, 2018. On the same date, another special license plate was to be released to Hidden Valley Wild Horse Protection Fund, an organization that was approved through blatant misinformation on its application. Among other things, this organization claimed in its application that it was willing to work with the Nevada Department of Agriculture (NDA) to remove horses the NDA deemed to be a public safety hazard. However, in their newsletter of September 7, 2018, they specifically attacked another local group for doing that very thing—removing horses the NDA deemed a public safety hazard. In the newsletter, Hidden Valley stated that local groups should not assist the NDA to remove horses. This is only one of many statements that represented Hidden Valley in an unrealistic light. In addition, Hidden Valley Wild Horse Protection Fund's president, Shannon Windle, was served a cease and desist order for the use of another nonprofit's name

in that application and elsewhere. The name of that organization is Virginia Range Sanctuary. I have provided the request and her response for members of the Committee.

After a localized campaign of false and frivolous complaints and character assassination orchestrated from behind the scenes, an audit was performed on Horse Power. Recommendations were made by the Commission on Special Plates. Horse Power worked to comply and did comply with them.

Horse Power needed the revenue of a special license plate to protect wild horses and burros and to provide financial assistance through grants to grassroots organizations, groups, and individuals that rescued or gave sanctuary to animals that were the result of roundups or that might be headed to slaughter. The people who complained about not receiving assistance from Horse Power had, in fact, never applied for assistance from Horse Power.

After 17 years of work we have been targeted by an undertow of jealousy and slander. To give Horse Power's funds to another similar charity, one that misrepresented itself so blatantly, is a travesty of justice. We are unique in our charitable funding of grants and have been since 2007.

The Wild and Free special license plate is the in the top percentage of sales and likely No. 1 in personalized plates. With 75 percent or more in southern Nevada, our plates grew almost 10 percent a year, not by accident. People simply loved the design and what it said, although our polls show that they were not aware of the many activities that Horse Power carried out on behalf of wild horses and endangered equines in the state of Nevada.

Many oppose A.B. 484, but were unable to respond due to the short time given, as the language of A.B. 484 was only recently released. Horse Power was denied due process and is requesting full restoration of funding and reissuance of the Wild and Free plate.

Vice Chair Yeager:

For those who were unable to be here to testify, I suggest you weigh in on the bill on the Legislature's website.

Sally Summers:

Many have submitted letters in opposition. [Additional exhibits include letters in opposition to A.B. 484 ([Exhibit Q](#)).]

Vice Chair Yeager:

Is there anyone else here in opposition to Assembly Bill 484? [There was no one.] Is there anyone neutral? [There was no one.] Are there any concluding remarks?

Assemblywoman Monroe-Moreno:

I will make a few clarifying remarks. The Commission on Special License Plates met numerous times during the interim. Those were long, exhaustive meetings. We battled with the thought of taking a special license away from an organization. We worked diligently and

tirelessly with the organization that was mentioned. This was not something we did lightly. It was not an issue that was dealt with in the last interim only, but was dealt with previously. We ask for your support. Passage of this bill gives us the latitude and the language we need for future situations.

Rocky Cooper, Legislative Auditor, Audit Division, Legislative Counsel Bureau:

This bill does not have to do with Horse Power. The Audit Division is neutral on this bill and all bills. This bill simply clarifies the process going forward. I have been involved with special plates since 2007, testifying in various hearings with legislative counsel present. This does not have any bearing on the entity that testified.

Vice Chair Yeager:

I will close the hearing on Assembly Bill 484. At this time, I will open the hearing on Assembly Bill 465.

Assembly Bill 465: Establishes provisions relating to solar energy. (BDR 58-872)

Assemblywoman Daniele Monroe-Moreno, Assembly District No. 1:

Joining me at the table are Judy Stokey, NV Energy, and Rose McKinney-James. Both have been instrumental in drafting the language of this bill. The concept of this bill is not new to the Legislature. Senate Bill 392 of the 79th Session was passed by the Legislature, but later vetoed by Governor Brian Sandoval. Community solar is once again being considered by the Legislature because we believe in the importance of allowing more Nevadans to take advantage of solar energy.

Governor Sandoval noted in his veto message that it was not the intent of S.B. 392 of the 79th Session or the idea of community solar gardens that caused concern, but the timing and framework. He wrote that its passage could disrupt Nevada's energy market at a time when those markets faced uncertainty due to the possibility of voters once again approving Ballot Question No. 3, "The Energy Choice Initiative," at the 2018 General Election; however, in November the voters overwhelmingly opposed Ballot Question No. 3.

Throughout the interim, legislators, stakeholders, and members appointed to the Governor's Committee on Energy Choice (CEC) reviewed community solar gardens and how best to implement a program in Nevada. Additionally, the CEC recommended and encouraged the Legislature to revisit the topic of community solar gardens during the 2019 Legislative Session.

This afternoon, you will hear that Assembly Bill 465 was crafted with input from many stakeholders. As many of you are aware, community solar programs allow those who would not typically be able to invest in distributive generation (DG)—renters, condominium owners, and those with insufficient financial means—to participate in a DG program. Unfortunately, I was not a member of the CEC. I must make it clear that A.B. 465 is not your typical community solar bill. It is an expanded access solar program that provides a method to address many of the goals traditional community solar offers, including

opportunities for low-income residents, disadvantaged business, and those residing in multifamily or rental properties to gain access to the benefits of solar energy. This legislation comes to you after numerous meetings with a variety of stakeholders and concerned citizens. While I have learned a lot about the subject matter, I do not claim to be an expert. There are a number of stakeholders here who can comment and answer any clarifying questions that you may have. There have been a number of revisions, deletions, and rewrites of the legislation you have before you. You will find the final amended version on the Nevada Electronic Legislative Information System (NELIS) ([Exhibit R](#)).

I would like to review the provisions of the bill, which include the proposed amendments. Assembly Bill 465 requires an electric utility to offer expanded solar access to low-income residential customers. On or before April 1, 2020, the Public Utilities Commission of Nevada (PUCN) shall establish regulations for each electric utility to submit a plan for an expanded solar access program. The bill requires the PUCN to review the plan and issue an order approving or denying the plan within 180 days if certain requirements are met. The plan must advance the development of solar energy resources in the state and contain a reasonable mixture of community-based solar resources and utility scale resources.

Community-based solar resource is defined as having a nameplate capacity of not more than 1 megawatt and is owned or operated by the electric utility as a component of its distribution system. A utility scale solar resource is defined as having a nameplate capacity of at least 50 megawatts and is interconnected directly to a substation of the electric utility through a generation step-up transformer, within the service territory. It contains a plan for community participation in the citing and naming of the community-based solar resources, and it provides for programs of solar workforce innovations and opportunity education and workforce training.

The solar Workforce Innovation and Opportunity Act is a workforce education training and job placement program developed by the Department of Employment, Training and Rehabilitation (DETR) through its appropriately sectorized councils in conjunction with potential employers and community stakeholders. It provides for equitably broadened access to solar energy and provides participating low-income, fully bundled, eligible customers with bill stability, predictability, and the opportunity of electric bill savings. It provides that customers are able to participate in the program regardless of whether they own, lease, or rent their premises, and it provides for a compensation mechanism for community-based solar project host sites. It further requires that at least 50 percent of the employees engaged or anticipated to be engaged in the construction of the community-based projects are Nevada residents.

The PUCN will be tasked with establishing regulations for the expanded solar program. A plan submitted by the electric utility to the PUCN must provide for the use of solar resources within each noncontiguous designated geographic area within the service territory of the electric utility and the use of at least one utility scale solar resource within the service territory of the electric utility. The community-based solar resources and utility scale solar resources that the electric utility proposes to use must be a combination of new and any

renewable energy facility solar resources that were not placed into operation before April 1, 2020. The broadened access to solar energy in an equitable manner ensures that at least 25 percent of the customers participating in the program are eligible low-income, fully bundled, residential customers and that 25 percent are nonprofit organizations and/or disadvantaged businesses that are fully bundled, general service customers.

It further ensures that the program provides participating eligible, low-income customers with bill stability and predictability and the opportunity for energy bill savings if the plan eliminates the base tariff energy rate and deferred energy accounting adjustment charged by the electric utility for participating customers. It provides for participating customers to be charged a kilowatt-hour rate that is adjustable in accordance with the Commission's quarterly calculations. Further, the bill implements the expanded solar access program to make no fewer than three but no more than ten new community-based solar resources and at least one utility scale solar resource. Finally, the PUCN is authorized to adopt regulations necessary to carry out the provisions of this bill and shall provide reports on the progress of the rulemaking and the implementation of the expanded solar access program to the Interim Committee on Energy and to this legislative body.

I would like to thank everyone who has played a part in this, the stakeholders, citizens, and our local agencies—the Public Utilities Commission, the Office of Energy of the Office of the Governor, and the Department of Employment, Training and Rehabilitation. It has truly been a community effort to get to this point.

Rose McKinney-James, representing Energy Works, LLC:

I appreciate the opportunity to offer a few comments in support of A.B. 465. I believe that it is important to be informed when we take a moment to look back and understand where we have come from. This body has worked over many years to craft a suite of policies that support and promote the deployment of our vast renewable resources. In 1995 the Legislature established renewables—geothermal, solar, and wind as indigenous resources—as a priority for our economic development. In 1997 we created the first renewable portfolio standard, which we expanded in 2001. It was revised again in 2005, 2007, and 2009. The process has been both incremental and targeted, giving legislators and decision makers the opportunity to test and measure the effectiveness of these revisions. I am here because I either led or worked with the proponents of each of those measures.

For over 25 years Nevada has been focused on these policies designed to leverage our considerable resources. Large-scale systems have been constructed on the expanse of our federal land. Distributive solar systems now dot the rooftops of homes and businesses all over the state, including my own home. We have been gratified to see the cost of the technology decline to become competitive with traditional resources. We have established a new industry, created thousands of jobs, and provided access to solar to thousands of residents. As Assemblywoman Monroe-Moreno mentioned, a measure designed to provide greater access to solar during the 2017 Session was approved, but it was subsequently vetoed. Millions of dollars of commerce have been created because of the state's efforts to capture

and maximize these resources. Early adapters have invested in these resources in an effort to demonstrate support for cleaner energy options.

What we have not been able to do to date is to provide these benefits to all of our citizens. I believe this measure will provide a creative path to partially achieve that goal. Over the period of time I have worked in this area, the utility has frequently asked to be included in efforts to meet the goal. We appreciate the fact that they have been active participants in both developing the language and crafting the initial concept.

The bill targets those who have not yet been provided an opportunity to participate fully in the benefits of all of these resources. The Public Utility Commission will be given the opportunity to convene stakeholders and to conduct a rulemaking proceeding to structure a program.

As mentioned previously, the policy framework in place for advancing these resources began with an emphasis on economic development. The workforce component of this measure will creatively address the opportunity for participants working through DETR to gain important and valuable job training and placement, so they can fully and more equitably participate in the new clean energy economy.

I am grateful to the sponsor of this bill. She has worked extremely hard. I am also grateful to the utility for its willingness to step up. I am grateful to all who have worked to craft this amendment. I believe my colleagues will further flesh out and address a few technical issues, but we are committed to working through all of the remaining issues—including working with the PUCN on the specifics and nuances of the rate design that is captured within this bill. We urge your support.

Judy Stokey, Vice President, Government and Community Strategy, NV Energy:

I would like to echo the comments made by Ms. McKinney-James. We are very happy to be at the table to support a program that will be offered to residents who have not been able to participate in the past. In their power bills, they have been paying every month for these programs. Assemblywoman Monroe-Moreno has been working very hard with many stakeholders. What you have before you is a good compromise.

Vice Chair Yeager:

I want to thank Assemblywoman Monroe-Moreno for her hard work on this issue, knowing how hard she has worked on it. I also want to thank those at the table with her and the others in the room who have been part of those conversations. It is very important we get this right. I am encouraged to see that we have what looks to be a consensus piece of legislation.

Are there questions from the Committee?

Assemblyman Ellison:

Did you say these could go on residences that are not owned by the individuals?

Assemblywoman Daniele Monroe-Moreno:

The community solar project systems would not go on houses. If there were a church or a nonprofit organization that wanted to use its rooftop or parking structure as the host for the community, they could do that.

Vice Chair Yeager:

Are there additional questions? [There were none.] Before I open the meeting to general testimony in support of A.B. 465, I would like to invite representatives to speak from the Nevada Conservation League, Chispa Nevada, the Faith Organizing Alliance, Uplift Foundation, CHR, Inc. [Caring, Helping, and Restoring Lives], and Battle Born Progress.

Kyle J. Davis, representing Nevada Conservation League:

We are happy to be here today in support of A.B. 465. We want to thank Assemblywoman Monroe-Moreno for all of the work she has put into pulling this issue and many stakeholders together in the process. It took us a number of different drafts to get to this point.

When we came into this legislative session, one of our priorities was expanding solar access for those who are not able to access it through traditional rooftop solar. We also wanted to make sure there was a workforce component to it so the people who live in these communities would have the opportunity to be a part of putting together and building solar arrays and benefiting from that energy. Assemblywoman Monroe-Moreno said this is not a traditional community-solar garden model, but it does expand solar access. For that reason, we are here in support of the bill.

You heard a little bit about some technical issues that need to be ironed out. We look forward to working with Assemblywoman Monroe-Moreno and the Public Utilities Commission to make sure that everything we have in here is workable, that it will actually accomplish the goals of the legislation to create a program with an opportunity for bill savings for low-income customers—something that can work within our existing infrastructure—not moving costs outside of where that would be. We appreciate the opportunity to continue to work with the bill's sponsor to make sure those issues are dealt with. In general, this is a program that will result in more solar, which will reduce pollution and provide access to those who have not had access to solar before.

Rudy Zamora, Program Director, Chispa Nevada:

Chispa Nevada is a program of the League of Conservation Voters that is focused specifically on communities of color and low-income families. Chispa Nevada has long supported increasing access to solar energy, especially for low-income families and communities of color. We thank the Committee and Assemblywoman Monroe-Moreno for your interest in addressing this issue and working with us to draft legislation that will expand solar access.

Affordable rooftop solar energy has given thousands of Nevada families, schools, and businesses a way to lower their energy bills and invest in our new energy economy, but rooftop solar simply is not an option for many consumers who want it. Nearly half of United States households cannot get solar panels because they do not have the right rooftops or they do not own their own homes. Many more Nevada families do not meet the financial requirements to invest in solar panels even though federal reports show that low-income households pay about three times more than other households do in their monthly energy bills. That is why we have been advocating for a community-solar model that includes virtual net metering and third-party ownership that would, for the first time, enable tens of thousands of Nevadans like them to go solar and save. Removing these barriers will also grow our economy, support good local jobs, and give our children cleaner air to breathe. As stated in the opening remarks, A.B. 465 is not that model. While we hope to see this model down the road, we believe this bill is heading in the right direction, especially with the technical changes mentioned earlier.

There are two things we are looking for as outcomes in a utility based solar program—reducing rates for low-income families and creating a sustainable program for workforce training and placement within the solar energy industry. These are key provisions that ensure this bill will allow the benefits of Nevada's clean energy economy to reach low-income consumers and Nevadans look for well-paying jobs right in their communities.

We thank Assemblywoman Monroe-Moreno for working on this legislation. We look forward to continuing to work with the Legislature to draft policy that brings community solar to every Nevadan.

Jerry Holliday, President, Uplift Foundation of Nevada:

We are a local 501(c)(3) working with youth and underrepresented and disenfranchised low-income families, primarily in southern Nevada. We want to echo the comments that were previously made. We support this bill. It is a great first step. It is very beneficial to our constituency—people of color and low- to moderate-income individuals. They need this bill that allows them to take advantage of savings, training, and employment. We want to thank you for your support.

Leonard B. Jackson, Director, Faith Organizing Alliance:

I would like to thank Assemblywoman Monroe-Moreno for being so bold and open-minded. We have been working on energy for the state of Nevada for the past several years. We were very disenfranchised when this bill was not signed by Governor Sandoval. This is our challenge to continue to move forward to make a difference within our state. My main concern is with the PUCN and NV Energy. They need to clarify exactly what they mean and what they will do when it comes time to stride forward to be inclusive and involve our entire community, especially our communities of color who have been disenfranchised time and time again. We say to you today to continue to move forward to make a difference. We stand in total support of A.B. 465 because it is heading in the right direction. It may not be

totally inclusive, but it is heading in the right direction. This bill is definitely needed within our state. Faith Organizing Alliance will stand strong with our community and with you to make every positive change that we can within our community to continue to move forward so that all people within our state will feel included and not left out.

Annette Magnus-Marquart, representing Battle Born Progress:

Today I am here in support of the community partners you have heard from and to represent the 20,000-plus subscribers to our Battle Born Progress network statewide. We would like to thank the sponsor of this important bill for continuing to work with us on this legislation. We are here in support of A.B. 465, and we hope we can continue working with Assemblywoman Monroe-Moreno to move this bill forward.

The sun shines on everyone in our state, and everyone in our state should be able to benefit from it. You should not have to own your own home or be able to afford your own solar panels to be able to benefit from the lower power bills solar power offers to families around the state. We know that many low-income individuals and families in Nevada are still struggling to make ends meet and have disproportionately higher energy bills. These are the communities we need to ensure receive the clean energy benefits the most.

I will not go over everything that has already been said; I just want to support our partners who have spoken before me. I want to ensure the outcomes of this policy include lower bills for low-income communities and provide meaningful workforce development. I would also like to note that Dr. Mary House from CHR, who has been working as part of our coalition, could not join us today but is also in support of this bill.

Legislators and the utility have a responsibility to make sure there is solar access and equity, especially since this is not the virtual net metering and third-party model we have been advocating for that was passed last session. This bill is on the right track to help ensure that the benefits of solar power and clean energy are not just a privilege for families who can afford it, but are available to all Nevadans regardless of where they live or their financial status. It will also help bring well-paying jobs that are part of the clean energy economy to communities that, until now, have not been able to take advantage of this economic boom in the same way. We look forward to continuing our work on this bill with the sponsor as we move this bill forward.

Vice Chair Yeager:

Is there anyone here from the Sierra Club to testify? I will also open testimony up to others in support.

Laura Richards, Member, Executive Committee, Toiyabe Chapter, Sierra Club:

On behalf of our 30,000 members and supporters in Nevada, the Sierra Club supports A.B. 465 and the proposed amendments. We are looking forward to working with this Committee to help more residents access affordable solar power. We appreciate the sponsor

for working on this important piece of legislation. This has been a priority for the Sierra Club and many of our partners. This legislation is a positive step forward for all Nevadans to have access to clean, affordable electricity. We appreciate this Committee's efforts to increase the use of renewable energy in Nevada.

Cameron Dyer, representing Western Resource Advocates:

We are a nonprofit organization dedicated to protecting the West's land, air, and water. We support this bill for all the reasons already stated.

Ernest E. Adler, representing International Brotherhood of Electrical Workers Local 1245:

I represent International Brotherhood of Electrical Workers (IBEW) Local 1245 electrical workers for NV Energy. We support this bill. Improvements have been made over Senate Bill 392 of the 79th Session. One of them is that that bill was somewhat modeled after a Minnesota law. What we have seen in Minnesota is that only about 10 percent of the customers are low-income people. This bill ensures that number is going to be much higher. Assemblywoman Monroe-Moreno deserves a lot of credit for helping low-income people in this legislation that IBEW also supports.

Aleta Dupree, Private Citizen, Las Vegas, Nevada:

I come to you as an individual consumer of electricity. I am a renter of modest means and am a disabled U.S. Army veteran of Desert Storm. Because I have never owned a rooftop, I have not been able to participate in this most important resource—renewable energy. This bill, while it is not as much as I would have liked, is much better than the status quo. I want to have my choice to be able to buy into affordable and stable-priced renewable energy so that my roommate and I can have stable, predictable energy prices in our household. We the people, regardless of our means, should have access to this resource; therefore, I stand in full support of this bill. It is my hope that this bill will be the beginning and will lead us to bigger and better things.

Vice Chair Yeager:

Is there anyone else in support of this bill? [There was no one.] Is there anyone in opposition? [There was no one.] Is there neutral testimony?

Jessica Ferrato, representing Solar Energy Industry Association:

The Solar Energy Industry Association represents 1,000 member companies across the United States. We want to thank Assemblywoman Monroe-Moreno for all of her effort on this bill. We have been engaged in this discussion for multiple years. She has done a great job at bringing all the stakeholders together and working on this over a long period of time, taking in a lot of input. We are thankful she included us in that process.

We are still reviewing the amendment. We need a little bit of time to be able to take an official position, which is why I am here as neutral. The Solar Energy Industry Association

supports expanded renewable energy programs and programs that provide solar access for low-income customers, ensure bill savings, and expand workforce development. We prefer community solar programs akin to programs we have seen across the country that provide for developers to participate and offer subscriptions to customers in addition to the utility-offered program. That being said, we are reviewing the amendment and will provide feedback soon. We are looking forward to working with the sponsor.

Jennifer L. Taylor, Deputy Director, Office of Energy, Office of the Governor:

I am here to offer neutral testimony on A.B. 465. We want to thank the Committee and Assemblywoman Monroe-Moreno for all of the hard work on the bill and for the outreach to numerous stakeholders to discuss the creation of this expanded access solar program.

In reviewing the program outlined in A.B. 465 and the amendments, the Governor's Office of Energy looks forward to potential implementation of a program that will bring more solar resources to help meet Nevada's goals as a new member of the U.S. Climate Alliance. The opportunity that A.B. 465 outlines to provide community-based solar resources along with a workforce education and development program provides the type of economic development and clean energy synergy that the Governor's Office of Energy supports in its mission and programs. We appreciate that A.B. 465 looks to Nevada's existing workforce entity, the Department of Employment, Training and Rehabilitation, to shape the workforce program. Its expertise in job training and job placement is well suited to help meet the workforce goals of A.B. 465.

Vice Chair Yeager:

Is there anybody else neutral? [There was no one.] The sponsor has waived concluding remarks. I will now close the hearing on Assembly Bill 465.

[Assemblywoman Monroe-Moreno reassumed the Chair.]

Chair Monroe-Moreno:

I will open the hearing on Assembly Bill 485.

Assembly Bill 485: Enacts provisions relating to electric foot scooters. (BDR 43-1107)

Assemblywoman Sarah Peters, Assembly District No. 24:

We are excited to be here with this bill that fills a gap in retaining authority in local municipalities to address innovative transportation technologies.

Neal Tomlinson, Hyperion Advisors, Carson City, Nevada:

We want to thank Assemblyman Frierson, Assemblywoman Monroe-Moreno, and Assemblywoman Peters for their work and assistance in bringing this bill forward. This bill will make it lawful to operate electric foot scooters and electric scooter-share programs. These are zero-emission vehicles. The bill creates a new vehicle definition for them. The bill also sets a maximum speed of not more than 20 miles per hour for these scooters.

The heart of the bill enables local governments to adopt ordinances to protect the health and safety of the public. That allows the local government to decide where to prohibit the use of electric scooters in certain areas, allows them to establish speed limits for certain areas, and allows them, by ordinance, to regulate the operation of a scooter-share program similar to what Bird Rides, Inc. operates. It also allows local governments to collect a fee for the scooter-share programs. A section requires scooter-share operators to indemnify the local authority for any types of claims. Local governments may designate locations where scooter-share operators may stage the scooters and may identify moving or parking violations specific to electric and shared scooters and assess penalties for that. There are provisions that allow the sharing of trip data with the local government, so they can create a safe environment and understand how the public is using these scooter-share programs. The bill seeks to set operating electric scooters on the same plane as the operation of electric bicycles.

We have had many meetings with stakeholders about concerns, so we have a proposed conceptual amendment which is a result of meetings with local governments and the Nevada Justice Association ([Exhibit S](#)). The amendment is cleanup and clarifying language to ensure that operating electric scooters is consistent with the operation of electric bicycles. We are adding a new section that requires scooter-share operators to maintain minimum insurance coverage, which includes \$1 million for each occurrence, and \$5 million aggregate coverage.

Edward Fu, Legislative and Regulatory Counsel, Bird Rides, Inc.:

I do not think many of us would have thought last session that we would be talking about electric scooters. It was only about a year ago that Bird debuted the world's first shared zero-emissions scooters. We have been to over 100 cities around the world, bringing enormous environmental, economic, and transportation benefits. We would like to ask you to support [Assembly Bill 485](#) so that we can do the same for Nevada.

In the Phoenix metropolitan area, people have ridden 12,000 miles on Bird scooters every day since we started operations there. We take nearly 3,000 car trips off the streets of Phoenix every day. Imagine for yourself what 3,000 car trips looks like, with its impact on congestion, on the environment, and on traffic. We invest \$700,000 a month into the Phoenix community through the people we hire and train to maintain our scooters. We unlock transportation equity by making it easier and more affordable for people to get around. It costs \$1 to start and between 10 to 29 cents a minute to operate a Bird scooter. In doing so in the Phoenix region we have saved people over \$600,000 per month compared to making those trips via Uber, Lyft, or another ride-sharing service. We hope to be able to bring these same benefits to Nevada.

Gary Milliken, representing Lime:

I have with me Jonathan Hopkins from Lime who will make some introductory comments on the bill.

Jonathan Hopkins, Director of Strategic Development NW, Lime:

I handle government affairs for the northwestern United States. We recognize that Nevada tends to be a leader in welcoming new technology in transportation. Unfortunately, Nevada

is one of the few states that does not allow scooters at this time, due to an accident of history and how rules have been written before. This bill allows the state the opportunity to join the handful of states in that category to change laws to allow scooters. Given the transformative impacts these tools can have on congestion, pollution, and people's ability to get around, we hope this Committee and the Assembly will support this bill.

Chair Monroe-Moreno:

Are there questions from members of the Committee?

Assemblywoman Bilbray-Axelrod:

I appreciate the visits people made to my office. I love the idea, but have some concerns. There have been some issues in other states. Bird has addressed the problem of scooters being left out, clogging up sidewalks.

As a mother, I am concerned about helmet use—I do not see that addressed in the bill. Regarding youth access to the scooters, I am concerned parents will swipe their credit cards using the app, then hand over the scooters to children. Would you please address those issues for me?

Edward Fu:

We work diligently with local communities to identify the best ways to ensure that, as this bill provides, only those who are 16 years and older are permitted to operate these devices. The scooter-share programs are a locally oriented product. We look forward to working with Nevada cities to figure out the best way to combat underage use. In order for anyone to take a ride, the rider has to scan his or her driver's license to prove his or her age. This is something we are working to continue to refine and improve.

Helmet use is sort of the same idea. In writing this bill we adopted the same kinds of helmet rules Nevada applies to riders of bicycles and electric bicycles. As a result, because those under 16 years of age are not allowed to operate the devices anyway, we did not include an adult helmet requirement in the same way Nevada does not require helmets on adult riders.

Regarding sidewalk clutter, we work closely with cities to figure out the best way to deal with this. Over time, as this industry has evolved, we have noticed enormous improvement in doing so. Recent studies conducted by cities as to the degree to which these devices are parked correctly indicated that about 2 to 3 percent of them are parked in a manner that obstructs the pedestrian right-of-way. While we continue to work on and improve our technology to combat the issue, we have hired people we call "Bird watchers" who go around looking for these devices and correcting them when they are misparked. I want to reemphasize we are dealing with 2 to 3 percent of scooters that are not parked correctly. This is an issue that extends beyond just scooters, but to transportation as a whole. Sometimes operators do not follow the rules. We look forward to working with Nevada cities to address that.

Assemblywoman Bilbray-Axelrod:

I would like to follow up on an adult transferring a scooter to a youth. You said you have been working on that. I have a 12-year-old daughter who would be dying to get on an electric scooter. I can imagine a parent could give in. I want to see a mechanism in place that would keep youths safe, especially since there is no helmet requirement.

Jonathan Hopkins:

When a parent might be inclined to do that it is because they want their children to come along with them, but our app only allows one person per phone per credit card to check out a scooter. It works to prevent that sort of thing. We are learning a lot of this in collaboration with communities. We have to be able to partner on these things. Sometimes parents might want to let their children have the keys to other vehicles. We think it is important to establish the norms of the community about what is right. Parents do not normally hand over the keys to the car to a 14-year-old. We need to work with the community to establish those norms.

Assemblywoman Bilbray-Axelrod:

It would be a crime for a parent to hand over the keys to a 14-year-old. That is my point.

Assemblyman Roberts:

Section 16, subsection 4, saying cities or local governments may not enact ordinances, is not stricken out. If it is not, could you give me an example of something they could impose that would be unduly restrictive to your operating costs? You put it in for a reason.

Neal Tomlinson:

Section 16, subsection 4, paragraph (a) has been stricken in our proposed amendment.

Assemblyman Ellison:

You mentioned insurance. Can riders purchase extra insurance when they use a scooter?

Neal Tomlinson:

Our proposed amendment would require that scooter-share operators maintain a certain level of insurance; it does not require separate insurance for the riders.

Assemblyman Ellison:

If a rider runs into a car, would the scooter-share program be responsible for damages?

Neal Tomlinson:

The same rules and restrictions as operating an electric bicycle or a bicycle would apply.

Assemblywoman Nguyen:

I appreciate your meeting with me. How do you address property damage to public areas? What happens if a scooter damages a sidewalk or pole?

Jonathan Hopkins:

We have different agreements with local communities about how to handle damaged local property. We usually come to some sort of an arrangement where the costs are covered. The arrangements vary by community.

Assemblyman Leavitt:

We are electrifying everything now. I have seen tricycles. I saw a man with something like a skateboard with one big wheel underneath him. I can see this opening up to big-skateboard-wheel-sharing and tricycle-sharing. Could we open this up to other things now, so that we do not have to come back next session when there is new type of vehicle we want to share? Can we broaden the definition of scooter or electric vehicle sharing so we do not have to revisit this again, as we did with the electric bicycle-sharing program?

Neal Tomlinson:

Yes, we have had some of those discussions. There was a discussion about trying to tweak the definition in this bill. I do not know if we can get as broad as what you are contemplating, but we are open to that. Anytime a new electric vehicle device becomes available, they may be in the same situation the scooter-share program was—they do not really fit under anything we have.

Chair Monroe-Moreno:

We have a question for our Committee counsel: why does this require a two-thirds majority vote?

Jessica Dummer, Committee Counsel:

In section 16 the local government is given the ability to require a scooter-share operator to pay a fee. A two-thirds majority vote is required for anything that generates or increases public revenue, which includes local governments.

Chair Monroe-Moreno:

Thank you for the clarification. Are there any other questions from the Committee? [There were none.] Is there anyone wishing to testify in support?

Aleta Dupree, Private Citizen, Las Vegas, Nevada:

I have used shared electric scooters in Los Angeles, California. I stand in support of this bill. This is a reasonable and well-thought-out option in my toolbox. I live approximately four-tenths of one mile from the nearest bus stop, and many times I go to places that are approximately the same distance from a bus stop. This could be complementary to me as I often use public transportation in Las Vegas, namely the Regional Transportation Commission of Southern Nevada bus system. This is another way to help me get around. When I operate scooters I wear a helmet, and I operate in compliance with all pertinent vehicle and traffic laws of any jurisdiction I operate in. I will not put my Nevada driver's license in good standing at risk. I think it is important to advance this innovative technology. I can share a vehicle, be responsible for it for the time that I use it, and I have the benefit of a company to maintain that vehicle, which I have found that they do. I have several accounts

and all of the companies I have used have been responsive to my questions and concerns. I ask that you support and pass this bill so that I will have this option in my toolbox going forward.

Thomas Walker, representing Bogo Technologies, Las Vegas, Nevada:

We are a local electric scooter company here in Las Vegas. I am here today to ask you to support A.B. 485 and allow electric scooters here in Las Vegas. We are a local business that has been here for over 35 years. We look forward to creating jobs in this city. We would hate to have to relocate and move these job opportunities to a different city or a different state. Please vote yes on A.B. 485.

Mendy Elliot, representing the Reno-Sparks Chamber of Commerce:

We certainly would like to thank Assemblyman Frierson, Assemblywoman Monroe-Moreno, and Assemblywoman Peters for introducing this bill. On behalf of the over 1,600 members of the Reno-Sparks Chamber of Commerce, we are in support of A.B. 485. As the Reno-Sparks area continues to see a new vibrancy and grows, with the University of Nevada, Reno, especially in the downtown corridor, the addition of these scooters is welcome. I, too, have been to Los Angeles and have seen the numbers of these scooters that are all over the place. Frankly, if you have not had a chance to ride one, there is a demonstration of them outside today. They are fun to ride, even for someone seasoned. Small businesses in the downtown area are excited about the possibility of offering parking for the scooters, including The Chamber, outside its doors. We look forward to working with the city councils of the cities of Reno and Sparks, as well as with Washoe County, as they develop ordinances for each of the jurisdictions. We look forward to working with the partners, either Lime or Bird, whichever is successful in securing a contract with the local jurisdictions. More important, I think it is great that as our communities continue to move forward, technology moves forward with it.

Chair Monroe-Moreno:

Is there anyone else in support? [There was no one.] Is there anyone to testify in opposition?

David D. Boehrer, representing Nevada Justice Association:

We appreciate the bill's sponsor, Neal Tomlinson. He has been working with us to add some protection to consumers to this bill. We are not necessarily against this bill. I was just in San Diego where I rode on scooters and had a great time. Our concern is protecting the consumer. They have added insurance to this, for which we are grateful, but there are more things that need to be done. They need to add ways for us to be able to get information on

who is riding these scooters so that if an incident occurs and the rider takes off, we can find out who that person is. We need consumers to know what scooter number they are on—maybe labeling the scooters so the number can be seen from far away. We want to make sure there is no binding arbitration clause in the contract that would leave the consumer with no right to sue for injuries sustained as a result of riding a scooter.

There needs to be more protection for consumers in this bill to make it fair and to make it safe. I know everyone says attorneys only want protection, but that is what we do. We protect people. I think that needs to be included in this bill. This could be a great thing, but the bill needs to address the protection of consumers. It is hard enough to find the driver of a vehicle who hits someone and takes off running; can you imagine trying to find the rider of a scooter who hurts someone and takes off? We are asking that language be added to the bill that would allow us to go to Bird or Lime to find out who was riding their scooter at a particular date and time.

Chair Monroe-Moreno:

Are there any questions? [There were none.] Is there anyone present who would like to testify as neutral to the bill?

Joey Paskey, Deputy Director, Transportation Division Manager, Department of Public Works, City of Las Vegas:

We would like to thank the Committee and the Chair for allowing us to testify today on this bill and the sponsor for considering our comments. We have just seen the most recent amendment and remain neutral, as some other departments need a chance to examine this more closely.

The topic of electric scooters is one that has swept wide and fast throughout major cities in the United States. While providing an innovative alternative transportation mode, the deployment has also brought challenges, particularly related to the safety of the users as well as fellow drivers, cyclists, and pedestrians who share the right-of-way. Studies done to date for electric scooter programs in other cities have shown a significant increase in injuries and emergency room visits, which is of concern to us.

Integration into the city right-of-way without restrictions could create unsafe conditions for pedestrians on our already congested sidewalks. The business model employed by electric scooter vendors encourages pick-up/drop-off at the location the user desires. A concern for us is this could yield a littering of the streetscape with abandoned scooters, creating safety concerns for all road users in trying to avoid the additional obstructions. This is also

unsightly and requires additional resources from the city's maintenance staff to routinely clear the right-of-way for safe conditions for all users.

It would be necessary for the city to develop a detailed policy to provide the city the ability to govern implementation and acceptable operation of the scooter program similar to what other cities in the United States have done. Improvements to our right-of-way would also be necessary to safely accommodate the additional mode of transportation within the roadway and for storage of the vehicles.

At a minimum, some things that would need to be imposed include that scooters should only be permitted to ride in the street at a speed of under 25 miles per hour; and if ridden on sidewalks, they would not be allowed to exceed the pedestrian walking speed.

While the City of Las Vegas Public Works Department continually strives for innovation within our transportation network, we should not do so at the expense of public safety. Having the ability at an agency level to manage the conditions under which electric scooters operate is paramount to the preservation of the distinct characteristics of our city in a manner safest for all modes of travel ([Exhibit T](#)).

Lucia Maloney, Transportation Manager, Public Works Department, Carson City:

Carson City is neutral on A.B. 485. I am here to provide a few additional comments. I will not repeat the comments that have previously been made. We feel there was and is an opportunity to establish Nevada as a leader in this area. We are encouraged by the amendments presented today and want to thank the sponsor of the bill for those. The draft bill narrowly defines electric foot scooter. We would propose a broader definition, perhaps amending the bill to define "micromobility devices." Ultimately, local law enforcement may not care if the device has two wheels, six wheels, three-inch wheels, or four-inch wheels; but they would care if the devices were traveling at a safe speed. For those reasons, a definition of micromobility devices is something we would urge you to consider.

We are also grappling with parking and the desire to avoid clutter. That is something we would work through locally, speaking with the manufacturers and members of the public.

We plan to develop our own rules and regulations for scooters. We appreciate the opportunity to continue to work with you and the bill sponsors on this bill.

Chair Monroe-Moreno:

Seeing no one else to testify as neutral, I will invite the sponsors back to the table for any closing remarks. [There were none.]

[A letter in support of Assembly Bill 485 was submitted by Ron Steinberg, CEO, Bogo Technologies, Inc. ([Exhibit U](#)).]

We will close the hearing on Assembly Bill 485.

That brings us to public comment. Is there anyone here for public comment? [There was no one.] We are only two days away from getting bills out of this Committee. If we are awaiting an amendment for your bill, I need it as soon as possible. Please contact our committee manager, our policy analyst, or me.

We are adjourned [at 4:02 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 344, dated April 9, 2019, submitted by Michelle L. Van Geel, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit D](#) is the Work Session Document for Assembly Bill 377, dated April 9, 2019, submitted by Michelle L. Van Geel, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit E](#) is the Work Session Document for Assembly Bill 407, dated April 9, 2019, submitted by Michelle L. Van Geel, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit F](#) is the Work Session Document for Assembly Bill 476, dated April 9, 2019, submitted by Michelle L. Van Geel, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit G](#) is a mock-up of the Vegas Strong logo, submitted by Assemblywoman Rochelle T. Nguyen, Assembly District No. 10, proposed in Assembly Bill 333.

[Exhibit H](#) is written testimony, dated April 9, 2019, presented by Robert L. Gipson II, Legal Victim Advocate, Legal Aid Center of Southern Nevada, in support of Assembly Bill 333.

[Exhibit I](#) is a proposed amendment to Assembly Bill 365, dated March 20, 2019, presented by Brian D. Rothery, Vice President, Government and Public Affairs, Enterprise Holdings, LLC.

[Exhibit J](#) is a summary of a technical research report, DOT HS 811 330, dated June 2010, titled *Assessing the Attention-Getting Capability of Brake Signals: Evaluation of Candidate Enhanced Braking Signals and Features*, published by Vehicle Safety Research, National Highway Traffic Safety Administration, U.S. Department of Transportation, submitted by Assemblyman Glen Leavitt, Assembly District No. 23.

[Exhibit K](#) is a summary of statistical findings, Traffic Safety Facts Research Note, Report No. DOT HS 812 260, dated April 2016, titled *Distracted Driving 2014*, published by the National Center for Statistics and Analysis, National Highway Traffic Safety Administration, U.S. Department of Transportation, submitted by Assemblyman Glen Leavitt, Assembly District No. 23.

[Exhibit L](#) is written testimony, dated April 9, 2019, presented by Sophia Romero, Staff Attorney, Consumer Rights Project, Legal Aid Center of Southern Nevada, in support of [Assembly Bill 454](#).

[Exhibit M](#) is a sales advertisement, submitted by Craig B. Friedberg, Attorney, Law Offices of Craig B. Friedberg, Esquire, Las Vegas, Nevada, on behalf of George West, Consumer Attorneys against Auto Fraud, in support of [Assembly Bill 454](#).

[Exhibit N](#) is a sales advertisement, submitted by Craig B. Friedberg, Attorney, Law Offices of Craig B. Friedberg, Esquire, Las Vegas, Nevada, on behalf of George West, Consumer Attorneys against Auto Fraud, in support of [Assembly Bill 454](#).

[Exhibit O](#) is a document titled "Special License Plates, Department of Motor Vehicles, Fiscal Year Ended June 30, 2018," presented by Rocky Cooper, Legislative Auditor, Audit Division, Legislative Counsel Bureau, in relation to [Assembly Bill 467](#).

[Exhibit P](#) is a document titled "Charitable Organizations with Special License Plates, Balance Sheet and Instructions," presented by Rocky Cooper, Legislative Auditor, Audit Division, Legislative Counsel Bureau, in relation to [Assembly Bill 467](#).

[Exhibit Q](#) is a packet of letters in opposition to [Assembly Bill 484](#), submitted by Sally Summers, Executive Director, Horse Power, Washoe Valley, Nevada, on behalf of A. Suzanne Robertson, Private Citizen, Reno, Nevada; Susan Kauffmann, Private Citizen, Reno, Nevada; Jeanne Nations, Private Citizen, Reno, Nevada; and Laura and Rick Bell, Private Citizens, Reno, Nevada.

[Exhibit R](#) is a proposed amendment to [Assembly Bill 465](#), dated March 25, 2019, presented by Assemblywoman Daniele Monroe-Moreno, Assembly District No. 1.

[Exhibit S](#) is a proposed amendment to [Assembly Bill 485](#), presented by Neal Tomlinson, Hyperion Advisors, Carson City, Nevada.

[Exhibit T](#) is written neutral testimony regarding [Assembly Bill 485](#), dated April 9, 2019, presented by Joey Paskey, Deputy Director, Transportation Division Manager, Department of Public Works, City of Las Vegas.

[Exhibit U](#) is a letter dated April 9, 2019, to Chair Monroe-Moreno, authored by Ron Steinberg, Chief Executive Officer, Bogo Technologies, Inc., in support of [Assembly Bill 485](#).