

**MINUTES OF THE
SENATE COMMITTEE ON GROWTH AND INFRASTRUCTURE**

**Eightieth Session
February 14, 2019**

The Senate Committee on Growth and Infrastructure was called to order by Chair Yvanna D. Cancela at 1:38 p.m. on Thursday, February 14, 2019, in Room 2135 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to Room 4404B of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Yvanna D. Cancela, Chair
Senator Chris Brooks, Vice Chair
Senator Moises Denis
Senator Kelvin Atkinson
Senator Pat Spearman
Senator Joseph P. Hardy
Senator James A. Settelmeyer
Senator Scott Hammond

GUEST LEGISLATORS PRESENT:

Senator Joyce Woodhouse, Senatorial District No. 5

STAFF MEMBERS PRESENT:

Marjorie Paslov Thomas, Policy Analyst
Darcy Johnson, Committee Counsel
Debbie Shope, Committee Secretary

OTHERS PRESENT:

Cyndie Munoz, Deputy Director, Department of Motor Vehicles
Dawn Lietz, CPM, Administrator, Motor Carrier Division, Department of Motor Vehicles
Tessa Laxalt, Nevada Trucking Association
Adam Page, Captain, Nevada Highway Patrol, Department of Public Safety

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John O'Rourke, Colonel, Nevada Highway Patrol, Department of Public Safety
John Fudenberg, Coroner, Clark County Office of the Coroner/Medical Examiner
Bryan Wachter, Retail Association of Nevada
Will Adler, Silver State Government Relations
Victoria Hauan, Impaired Driving Program Manager, Office of Traffic Safety,
Department of Public Safety
A.J. Delap, Las Vegas Metropolitan Police Department
Corey Solferino, Lieutenant, Washoe County Sheriff's Office
Karyl Brown, Supervising Criminalist, Washoe County Sheriff's Office
Terrie Suffecool, Lab Manager, Las Vegas Metropolitan Police Department
Jennifer Noble, Nevada District Attorney's Association
Chelsea Capurro, Nevada Advanced Practice Nurses Association
Paige Barnes, Nevada Nurses Association
Joan Hall, President, Nevada Rural Hospital Partners Foundation
Catherine O'Mara, Nevada State Medical Association
Paul Moradkhan, Las Vegas Metro Chamber of Commerce
Marty Elzy, Management Analyst, Central Services and Records Division,
Department of Motor Vehicles
Lora E. Myles, Retired and Senior Volunteers Program; Carson and Rural Elder
Law Program

CHAIR CANCELA:

We will start with a presentation from the Department of Motor Vehicles.

CYNDIE MUNOZ (Deputy Director, Department of Motor Vehicles):

I am here to present the Department of Motor Vehicles' (DMV) overview ([Exhibit C](#)). The DMV is comprised of seven operational divisions under the authority of the Director's Office. Our mission is to deliver efficient, innovative and diverse services providing for the identification, licensure and protection of all citizens we serve. There are 18 field offices throughout the State and we have 1,269 full-time employees, making the DMV one of the largest Executive Branch agencies within the State.

Typically, when people think of the DMV they think of drivers' licenses and vehicle registrations; however, the DMV does so much more. Starting at the top of the chart on page 2, [Exhibit C](#), and working clockwise, I will give a brief overview of each division.

The Director's Office establishes policy for the DMV and directs and controls the operations. The Director's Office is responsible for departmental policies, procedures, information security, public information officers, human resources and training.

The Administrative Services Division is our support services to all divisions within the DMV. It includes fiscal, accounting, budgeting, internal and external auditing, travel, payroll, warehousing, inventory, mail, purchasing, contracting, facilities management and telecommunication. These are things which keep the DMV running.

The Compliance Enforcement Division is the regulatory arm of the DMV. This Division provides consumer protection through licensing and regulation of businesses related to the manufacture, transport, sale and disposal of vehicles. This Division has a fraud investigation unit which investigates all complex and criminal complaints filed against licensees. Additionally, the Division has a part in evaluating Nevada's air quality by licensing and regulating emission stations and inspectors and regulating the emissions of heavy duty diesel trucks.

The Field Services Division is the customer section of the DMV where we complete driver's license and vehicle registration services. The Division processes titles for vehicles and collects appropriate fees and taxes imposed on the owners and operators of all the vehicles.

We have the Central Services Division, which is the behind the scenes processes to ensure the accuracy of DMV records and statistics. Programs under this Division are alternate services, which include registration renewal transactions, mailed in vehicle titles, driver's license sanctions and the license plate factory, just to name a few.

Next is the Motor Vehicle Information Technology Division. This is the internal information technology support for the DMV, and works with various divisions to explore and implement solutions as part of our mission.

We have the Motor Carrier Division, which ensures proper collection and distribution of the Nevada Fuel Tax through Nevada cities, counties and at the State level.

We have the Management Services and Programs Division, which provides support for the DMV in areas of research, coordination, regulatory and statutory changes and legislative interaction.

Page 3 of [Exhibit C](#) shows the revenue distribution from revenue collected by the DMV. In fiscal year 2018, we collected over \$1.5 billion in funds for various levels of Nevada government. Approximately 39 percent of the revenue collection is distributed to counties and school districts and 37 percent of the revenue is directed to the Highway Fund that funds the administration, construction, improvement and maintenance of the highways in Nevada.

Page 4 of [Exhibit C](#) shows funding sources. The DMV is mostly funded with Highway Funds and fee funding.

Page 5 of [Exhibit C](#) shows basic statistics. When considering the entire population of the State, which is estimated at 3 million, it means approximately 80 percent of the State population has drivers' licenses or identification (ID) cards issued by the DMV. This positions DMV to be the number one customer facing agency in Nevada government.

I am going to give a brief overview on the Automatic Voter Registration (AVR) initiative which is an important topic. The AVR initiative was approved by voters in November 2018. It requires the DMV to automatically register Nevada citizens for voting, then to transmit the information electronically to the Secretary of State and to the county clerks. The system was established by the Secretary of State, the DMV and each county pursuant to the measure. Voter registration information collected by the DMV will be transmitted to the Secretary of State and the counties for the purpose of registering a person to vote or updating voter registration information.

The DMV is working cooperatively with the Secretary of State, county clerks, the Governor's Office and representatives from the Department of Administration's Division of Enterprise Information Technology Services to establish a government structure. There is an Executive Steering Committee and working groups that are working toward creating the AVR to comply with the requirements of Question 5 from the 2018 General Election.

The Steering Committee and working groups are meeting regularly to discuss the scope and effort, establish the administrative structure and agree on

processes needed by each group to implement Question 5. In addition, the DMV has created an internal working group to ensure the successful implementation.

At the end of January 2019, at the Interim Finance Committee meeting, the DMV was approved for \$84,000 in General Fund contingency funds to hire a contract programmer to program the implementation of DMV needs of the AVR. The funding is through June 30, 2019. We are putting a request in our budget for fiscal year 2020 to continue the contract programmer to ensure that DMV needs are met for the AVR.

Pages 7 through 9 of [Exhibit C](#) are a list of DMV bills. There are six housekeeping bills dealing with several different issues. [Assembly Bill \(A.B.\) 23](#) would create a new chapter within the *Nevada Revised Statutes* (NRS) to allow the DMV to create regulations for automotive technologies in addition to autonomous vehicles.

[ASSEMBLY BILL 23](#): Authorizes Department of Motor Vehicles to adopt regulations relating to certain electronically controlled vehicles and transportation devices. (BDR 43-365)

[Assembly Bill 24](#) is a bill dealing with surety bonds.

[ASSEMBLY BILL 24](#): Revises provisions governing the requirements for posting of security bonds by motor vehicle-related industries and activities. (BDR 43-229)

[Assembly Bill 53](#) is a bill dealing with drivers' licenses, ID cards and commercial drivers' licenses.

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

[Assembly Bill 63](#) deals with different aspects of the DMV businesses including titles, inspections, the license plate factory, fees, special license plates and temporary disability parking placards.

[ASSEMBLY BILL 63](#): Revises provisions governing vehicles. (BDR 43-226)

Senate Bill (S.B.) 22 would align the State's definition of a salvage vehicle with the federal and industry definitions.

SENATE BILL 22: Revises the definition of salvage vehicle. (BDR 43-227)

Senate Bill 71 will be heard in Committee today. This makes various changes to the statutes covering fuel taxes, eliminating obsolete language and clarifying existing language. The DMV has bill draft requests (BDR) that will be heard in the money committees in conjunction with the DMV budgets.

SENATE BILL 71: Revises provisions governing the Motor Carrier Division of the Department of Motor Vehicles. (BDR 43-228)

Pages 10, 11 and 13 of Exhibit C are both our organizational charts and contains contact information.

CHAIR CANCELA:

We will open the hearing for S.B. 71.

DAWN LIETZ, CPM (Administrator, Motor Carrier Division, Department of Motor Vehicles):

I am here to present S.B. 71, which is a DMV bill intended to expand the display of operating credentials to allow electronic display and/or verification, and to clarify various definitions within the motor carrier statutes.

In the bill, section 1 amends NRS 482.255 to provide for registration and other applicable licenses to be displayed as an electronic image, in an electronic format or other technology. It will allow law enforcement to validate credentials without having to rely on paper documents. Current law requires paper images of a vehicle's registration and fuel license to be maintained in the vehicle for law enforcement personnel.

The DMV received feedback from a leasing company after the language had been released for the bill. The request was to change the word "owner" to state "registered owner" or "registrant" in section 1, subsection 2 as leased vehicles are not operated by the owner. The vehicles are operated by the registrant. The change is to correct the entire section as it relates to listing an owner on the credentials who may or may not be the operator of the vehicle. There is an amendment (Exhibit D) with the proposed language.

Section 2 of the bill amends NRS 360A to clarify a responsible person who willfully fails to collect or pay any of the taxes or fees due to the DMV, and have them held jointly and severally liable with any other person who is required to pay the tax or fee. This applies to any person who attests through signature under penalty of perjury that the documents and fees submitted are accurate to the best of their knowledge. It includes an officer or employee of a company or corporation, a member or an employee of a partnership or limited liability company whose job it is to collect, account for or pay the tax.

Sections 3 and 6 amend NRS 365.084 and NRS 366.070 to include exporters of fuel under the definition of a fuel supplier.

Section 5 amends NRS 366 to add a new section to allow the DMV to enter into agreements with special fuel users who are licensed under the International Fuel Tax Agreement (IFTA), and the service providers who provide licensing and registration services to those customers. It would allow them to issue identifying documents, licenses and fuel permits, and register those accounts providing they furnish a bond to the DMV to cover the value of the inventory.

Section 5, subsection 4 allows the DMV to establish the value of the inventory. The DMV intends to disclose the amounts through regulation, but anticipates the value of each license plate to be approximately \$2,500, which is the average cost of a vehicle registration. The cost of each set of IFTA decals would be \$2,025, which is based on an average of 30,000 miles at 4 miles per gallon, multiplied by the Nevada special fuel tax rate of 27 cents per gallon.

Section 7 will amend NRS 366.175 to specifically identify IFTA as the cooperative agreement to which the statute applies. There is only one agreement and we would like to identify it as IFTA so there is no question in the future.

Sections 8, 9 and 10 amend NRS 366.240, NRS 366.265 and NRS 366.270 to apply the bonding rules, the ways to obtain the identifying devices and corresponding licenses and the reason for surrendering such credentials to the special fuel users and the service providers that are identified in section 5 of the bill. This will ensure the requirements are the same as those who have the authority to do the credentials.

Section 9 also allows the license associated with the identifying device, which is an IFTA decal affixed to the cab of the qualified vehicle, required under IFTA to be presented to law enforcement in an electronic format authorized by the DMV. It is similar to section 1, which is for the registration; section 9 is for the decal.

Section 11 amends NRS 366.395 to correct the fees for delinquent filing to correspond with the amounts identified in the IFTA agreement. The amount should be \$50 or a 10 percent penalty, whichever is greater, but Nevada law currently states the amount is a \$50 penalty plus 10 percent of the tax owed.

Section 12 amends NRS 706.826 to add the definition of "plan" to identify the International Registration Plan (IRP). This is similar to section 7 where we identified IFTA as the cooperative agreement.

Section 13 is withdrawn in the proposed amendment, [Exhibit D](#). On further review, we discovered the dealers as a whole need to be removed from the law. The reason is we no longer have dealers under the motor fuel chapter of NRS 365. Dealers are specific to jet and aviation fuel. Anyone selling jet and aviation fuel have been consolidated under the general supplier's license. We will submit a separate request to completely remove all of the dealer language from NRS 365.

DARCY JOHNSON (Committee Counsel):

In section 1, subsection 2 of the proposed amendment, you clarified it is not just the owner; it is the registered owner. Is the intent to be the lessee, if there is a lessee, or is it intended to be the actual owner of the vehicle?

Ms. LIETZ:

It is intended to be the registered owner. A lessee would be a registered owner. The definition of owner is specific in law to the owner of the vehicle, which could be a lienholder. A registered owner is the person most likely to display the credentials to law enforcement.

Ms. JOHNSON:

In section 1, subsection 2, what is the intent with registrant? Is that potentially someone different?

Ms. LIETZ:

It is the same concept and is the terminology used in the IRP. They are referred to as a registrant in the IRP. Section 1, subsection 2 is specific to motor carrier customers. We want the language to be consistent with what it is written in the IRP.

SENATOR SETTELMAYER:

Is there any reason we cannot make the corrections now to NRS 365 and save a BDR in the future?

Ms. LIETZ:

There are about 100 areas in NRS 365 where dealer is referenced. We can work up a proposed amendment. We will work with legal counsel to get the sections identified and removed, rather than repealing just one section.

CHAIR CANCELA:

We would appreciate you working with legal counsel to make the necessary changes to the sections.

SENATOR DENIS:

The portion regarding the electronic image in section 1, is it similar to the changes made with the proof of insurance with the vehicle registration?

Ms. LIETZ:

Yes, it is similar. The technology is changing rapidly. For commercial vehicles there are radio frequency identifiers, cell phones, tablets and technology with companies such as PrePass. PrePass readers are similar to license plate readers or U.S. Department of Transportation number readers. It is able to validate the information by utilizing technology, rather than having the driver present paper records. If the information can be verified without requiring paper to be produced, we would accept the validation of their operating credentials.

CHAIR CANCELA:

Are there other multistate agreements besides IFTA that we could potentially enter into in the future or is IFTA the only one?

Ms. LIETZ:

The IFTA is the only one. It has been in place since 1991, and we do not have any other cooperative agreements. It would have to be specific to fuel tax.

CHAIR CANCELA:

Putting the language into statute do you feel there is little to no risk it will at some point become obsolete due to another agreement?

MS. LIETZ:

Correct. At this point I see nothing on the horizon that would change it.

TESSA LAXALT (Nevada Trucking Association):

I am here to state we are in favor of S.B. 71 and the proposed amendment. A large portion of the trucking industry leases their vehicles. The change from owner to registrant or registered owner is a better reflection of the trucking companies who lease their vehicles instead of owning them. In terms of electronic credentials, the trucking industry appreciates implementing electronic credentials, making it easier for the driver and the companies to keep track of required documents and information to ensure compliance.

CHAIR CANCELA:

We will close the hearing on S.B. 71. We will open the hearing on S.B. 23.

SENATE BILL 23: Revises provisions relating to testing of blood samples under certain circumstances. (BDR 43-345)

ADAM PAGE, CAPTAIN (Nevada Highway Patrol, Department of Public Safety):

I am currently the Nevada Highway Patrol (NHP) representative on the new Nevada Ignition Interlock Law, which was S.B. No. 259 of the 79th Session, and went into effect on October 1, 2018.

The Governor put together a task force to talk about the regulation and taxation of recreational marijuana, which was necessitated by Question 2 in the November 2016 ballot. I have a presentation ([Exhibit E](#)) of the efforts of the task force. There were five separate actions that were recommended.

One of those five actions was driving under the influence (DUI) of drugs. It was discovered not all forensic laboratories in Nevada test all blood samples for narcotics when a person is arrested for driving under the influence, once a level of alcohol is determined. This means when an officer arrests a person for a DUI, that person has a certain unknown level of alcohol in their blood. The officer may believe the person is also under the influence of narcotics. The blood that is drawn will be submitted to a forensic laboratory. Once the lab determines a

certain threshold of alcohol is met, that lab may not test for narcotics. Not all labs are testing for narcotics. Nevada is missing data in terms of how many people are driving under the influence of narcotics.

Law enforcement uses three forensic laboratories for confirmation testing of blood when a person is arrested for driving under the influence. The three labs are the Las Vegas Metropolitan Police Department (Metro), the Washoe County Sheriff's Office and the City of Henderson Police Department. It is important to note NRS 484C.110 does not differentiate between DUI alcohol and DUI drugs. For criminal prosecution it does not matter if they are impaired through alcohol or impaired through drugs; they only need to be impaired for one.

The objective of S.B. 23 is to amend NRS 484C.160 to include, on the request of the arresting officer, a sample of blood pursuant to this section to be tested for the presence and quantity of any controlled substance.

There are changes to narcotics on a daily basis. The drug culture seems to have the ability to regularly change synthetic drugs. It is important to add the language in this bill for the labs, to be any controlled substance offered by the laboratories performing the testing which are licensed to perform this function.

Section 2, subsection 3 shows the analyses of the presence and concentration of alcohol and the presence and quantity of any controlled substance.

On May 30, 2017, a recommendation was sent to Governor Sandoval regarding forensic testing. A policy change was requested to require the forensic laboratories ensure blood samples are tested for controlled substances in all cases where drug impairment is suspected. At the time it was thought the policy change would only be internal and we did not foresee a statutory or regulation change.

There will be a proposed amendment that will be presented at a later date. It concerns the bill with limiting the language to any controlled substance as it would be difficult, if not impossible, for labs to perform.

Page 6 of [Exhibit E](#) gives a quick background prior to May 30, 2017. This shows how the three labs in Nevada tested. An officer from The City of Henderson Police Department requests a person have blood drawn to be tested for alcohol and drugs. Henderson would test for alcohol and drugs. Metro would

first test that blood only for alcohol, and if the content was 0.139, it would not submit the blood for drug testing. In Washoe County, if it is determined there was a blood alcohol content of 0.09, the blood would not be submitted for drug testing.

We asked for the fiscal impact for these departments to test for both alcohol and drugs. Metro stated it would cost an estimated \$160,000 to start testing for both alcohol and drugs. Washoe County estimated \$500,000 for testing for alcohol and drugs.

After May 30, 2017, the task force submitted the report to the Governor, and positive changes were made. The City of Henderson Police Department is testing all blood all the time, even if there is no drug impairment suspected. The policy change for them went into effect October 1, 2017.

Effective July 1, 2017, Metro started testing for both alcohol and drugs on the officer's request. Washoe County continues to test for alcohol first, and if there is 0.09 alcohol content, it will not test for narcotics.

Washoe County submitted an increase to their fiscal impact of an additional \$750,000 a year.

Why is this legislation important? It is for data collection. Nevada does not have substantial data or a pool to determine the impact of drug impaired driving. The data collection will allow for better traffic safety.

Nevada has made some fantastic strides in trying to curb impaired driving. Mandatory ignition interlock went into effect October 1, 2018. However, the ignition interlock only works for alcohol, not for drugs.

Prosecutors and judges have a reduction in evidence to pursue appropriate sentencing recommendations. If a person is arrested for DUI and has a drug addiction, the courts are unable to refer them to the proper treatment if it is something the person may need.

When it comes to drug-impaired driving data, documentation and reports at all levels of government and private entities is lacking. The National Highway Traffic Safety Administration (NHTSA) is concerned with states that do not distinguish between drug-impaired driving and alcohol-impaired driving. In the

arrest or disposition data, it limits the NHTSA's ability to evaluate the impacts of counter measures and to make clear references about the scope of the national drug-impaired driving problem.

The Marijuana-Impaired Driving report ([Exhibit F](#)) was submitted to Congress by NHTSA. It has a recommendation to increase data collection regarding the prevalence and effects of marijuana-impaired driving. The report encourages states to collect data with the prevalence among those arrested for impaired driving.

A report by the Foundation for Traffic Safety through the American Automobile Association ([Exhibit G](#)) has recommendations specific to Nevada. It proposes the State reporting systems distinguish between DUI alcohol and DUI drugs.

The State of Washington wrote a comprehensive report ([Exhibit H](#)) on impaired driving. The determination was that driving impaired due to alcohol and or drugs is the number one contributing factor in Washington fatal crashes. It is involved in nearly half of all traffic fatalities. Polydrug drivers, which is a combination of alcohol and drugs or multiple drugs, is the most common type of impairment among drivers in fatal crashes.

Impaired driving is an international problem. Page 13 of [Exhibit E](#) shows a roadside assessment performed in England. More than half of the motorists screened during a summer crackdown on drug-impaired driving failed their road test. Figures show an average of 37 drivers per day, or 57 percent of those tested, were caught driving under the influence of banned substances.

The NHTSA had a call to action in March 2018. The one-day event was to start a dialog around the issues to initiate action of what is known, to gain an understanding of the challenge. The experts and sponsors brought together worked collaboratively to raise awareness, share best practices and look toward collecting consistent data with testing and measuring driving impaired levels.

Page 15 of [Exhibit E](#) shows some statistics from other states. The percentage of DUI cases relating to people driving high, increased significantly since legalizing marijuana in Washington. In Colorado, traffic fatalities where operators tested positive for marijuana are significant. The overall number of traffic deaths related to marijuana has risen.

The statistics on page 16 of [Exhibit E](#) have been collected in Colorado. In Nevada there is no comparable data as to the impact of the legalization of marijuana on impaired driving. Nevada has no data collected prior to legalization.

On October 1, 2018, Nevada implemented the mandatory ignition interlock law under NRS 484C.450 through NRS 484C.480. Preventing reoccurring drug-impaired driving will require additional testing.

The City of Henderson Municipal Court has established a program to monitor repeat offenders at the municipal level. It is the ABC Court, which is Assistance in Breaking the Cycle. If a person is determined to have alcohol-and drug-impaired driving, the courts test those persons for both alcohol and drugs during the time they are under court oversight.

Without data, prosecutors and judges have a reduction in evidence to pursue appropriate sentencing recommendations. Nevada DUI law does not distinguish between driving under the influence of alcohol or drugs. It does, however, differentiate between the levels of impairment when it comes to alcohol. Under NRS 484C.350, it specifically gives a difference between a person whose concentration level is 0.08 and a person whose level is 0.18. When the levels of impairment are higher, the justice system are specifics they can do.

If a person is using alcohol and drugs, the early science shows they are impaired. Therefore, Nevada should look at the need for legislation to potentially increase penalties for people who are impaired by alcohol and drugs at the same time, after the data is collected.

Marijuana has been illegal, and still is through the federal government. There is not a lot of impairment science available and not enough documentation on the levels of impairment for Marijuana.

The National Library of Medicine just received a grant. They are testing and making a hypothesis that alcohol and marijuana combined will lead to greater impairment in simulated driving tests.

An article released in 2017 shows Nevada's methamphetamine death rate is the highest in the Nation. Nevada's heroin-related deaths increased in 2017. Nevada ranks in the top 10 states for drug and alcohol abuse. I am not convinced the statistics are 100 percent accurate, as the articles were released by treatment

facilities. It seems the studies were trying to point out Nevada's horrific drug problems; and we do have some issues with drug addiction.

Driving under the influence is a misdemeanor for the first and second offense. It would be advantageous to the State to identify people with addictions and refer them for treatment before they got into the justice and district court systems.

The fiscal issues from Washoe County is a negative impact. Another negative is the increase in testing may cause delays in the evidence needed for prosecution. There may be a cost to law enforcement agencies depending on their contracts with the forensic labs.

SENATOR BROOKS:

Looking at the traffic fatalities and DUI data provided from Colorado, there is a spike starting in 2012. The fatalities trend upward, but not as abruptly. Is there a change in their testing protocols, not just to the legalization? Are they adopting full blood tests after 2012 which are catching people who are driving high on marijuana?

CAPTAIN PAGE:

I do not know the answer to those questions, but it lends credibility to what we are trying to achieve with S.B. 23. We do not know their testing protocol.

There is controversy over what is being tested and what metabolites are being tested. Nevada changed what is tested and has no control over it. If this law passes, Nevada would start gathering data and know what is being measured to give those answers.

SENATOR SPEARMAN:

One of the things which makes Nevada unique among other states is we have a high tourism rate, particularly in southern Nevada. I would like to know the data you have presented with impaired driving under the influence of marijuana. Was there any consideration for tourists versus people who live in the State?

CAPTAIN PAGE:

We do not have any data for Nevada. The data presented was for the states of Washington and Colorado. Those states have been pulling this data for some time and have had legalization of marijuana longer than Nevada. Those states realize people are going to be asking for this data. Whether they have an idea if

it is residents or tourists, I do not know the answer to the question. In Nevada we do not have any system in place for me to be able to tell you how many people are being arrested for drug DUI. That is a concern, about people living here, people on vacation here or coming through. It is data we could collect.

SENATOR SPEARMAN:

Recognizing there is no data for DUI marijuana, can it be looked at with consideration to DUI alcohol, if there is a similarity, versus trying to get information for substance abuse?

Looking through the bill I do not see anything which deals with the opioids issue that is at epidemic rates. It can mask itself not as opioid abuse, but as something else in a blood collection. Would that be included in this or not?

CAPTAIN PAGE:

The answer is this bill is intended to determine all narcotics a forensic lab is able to test. This is not a bill to determine marijuana impairment, it is for all impairing substances. It is the need to know how many people on our highways are using opioids, marijuana, methamphetamine and so on. It is important for the NHP because we need to know how to address it. We need to know the demographics, to know where to target our resources to try to help and to get to the component about drug treatment.

There is a significant opioid and methamphetamine addiction all over, and it is a big problem in Nevada. If we collected this data, we would be able to start these conversations about how we need to curb the problem of people driving under the influence.

CHAIR CANCELA:

Under section 1, which is not changed by the bill, in the event an officer wants to request a blood sample they would have to identify the person. They would have to reasonably believe the person is under the influence of a controlled substance, is that correct?

CAPTAIN PAGE:

You are correct.

CHAIR CANCELA:

Would there be training for officers to be able to identify the difference between substances in the event the officer is requesting a blood test for a controlled substance? My concern is the broad application of blood tests could overburden our local labs already doing their own lab testing. How do we create a balance where officers are trained and requested blood tests are being performed when necessary?

CAPTAIN PAGE:

Nevada has two different programs to train officers to identify drug impairment. The first is the Drug Recognition Expert (DRE) program which is designed to try to identify the specific narcotic of which a person is under the influence. In Nevada, we have just over 100 law enforcement personnel trained in DRE. It is a labor intensive program; it would be fantastic if everyone could be trained.

The second program, in which all of NHP is trained, is Advanced Roadside Impaired Driving Enforcement (ARIDE). It teaches the troopers a person is impaired, but with something more than alcohol. It does not break it down as to what narcotic it might be.

The labs first perform a panel. The panel shows if the person is or is not under the influence. Then there is a screening process the labs perform to determine what kind of drug type the person might be using. Once the lab runs the series, a confirmation test is performed. This keeps labs from running confirmation testing on every single narcotic they are able to test. The lab is able to focus their resources for what narcotic the person is believed positive.

CHAIR CANCELA:

The NHP does not have their own lab; do they rely on local testing through the list provided?

CAPTAIN PAGE:

Correct. All other law enforcement agencies that do not have labs contract with one of the three labs. For instance, NHP in the south contracts with Metro, and in the north it is contracted with the Washoe County Sheriff's Office.

SENATOR HAMMOND:

I noticed there is going to be a proposed amendment from the Coroner's Office. One of the things they are objecting to is the 8 hours in section 2, subsection 1.

If you strike the language, is it possible to get good results from the test if it is later than eight hours? Was the eight-hour timeline because of necessity of testing within eight hours?

CAPTAIN PAGE:

The eight hours is in statute now. I spoke with the Clark County Coroner today and do not believe they have any concerns about the changes in language as written. The Coroner wants to make a change since the particular statute is being considered for an amendment.

SENATOR HAMMOND:

My question is, could we still get a good positive result if it goes beyond eight hours?

CAPTAIN PAGE:

I do not know the answer and I believe the coroner will be able to answer your question.

JOHN O'ROURKE, COLONEL (Nevada Highway Patrol, Department of Public Safety):
In Nevada, we do very well with testing when someone dies on the roadways with what is in their system. We do not do a good job for testing everything else that is on the roadways. We do not know what the problem is. This bill helps to understand Nevada's problem.

CAPTAIN PAGE:

Since the City of Henderson Police Department's lab started testing all blood requested, it has found people being arrested for DUI alcohol and finding drugs in their system is about 60 percent.

COLONEL O'ROURKE:

It is important for us to understand Nevada's problem. Our officers at NHP are all ARIDE certified, which means they know how to detect if someone is under the influence of something else besides alcohol. The DRE program Captain Page talked about, although a good program, is an extensive and tough program to get through. Making all officers DRE certified is not a possibility. It is for troopers who love that part of the job, who want to be a drug recognition expert, and that is why there are so few certified. One test could take a couple of hours for an officer to perform out in the field.

JOHN FUDENBERG (Coroner, Office of the Coroner/Medical Examiner, Clark County):

We support the concept of the bill. The reason I did not come up in support is because we have a proposed amendment ([Exhibit I](#)).

To answer Senator Hammond's earlier question, when someone dies, they stop metabolizing the drug. The importance in the levels will be very insignificant. It should not affect it. The reason we would like to strike out the eight hour requirement is because we are not meeting that statute in current practice.

At times we will not receive the body in our office within eight hours. When someone dies in a motor vehicle crash, it could take eight to ten hours to process the scene. With some of the bigger traffic fatality scenes, the body will not arrive within 8 hours. If it does, we do not have staff drawing fluids 24 hours a day. Time is irrelevant when they die; it is significant when they are alive.

Regarding page 3, section 2, subsection 1, we would like to add "biological sample" after the blood draw. The reason is we are not always able to draw blood from a decedent. There are times we use other biological samples to get toxicology tests.

Metro has some changes in reference to "quantity of any controlled substance." I also spoke with Adam Page and he supports this change. They want to limit it to what is currently being tested. We test for over 350 controlled substances, but do not want to put "any" controlled substance, because it leaves it wide open.

CHAIR CANCELA:

To make it clear for our legal section, what is it you would like the language to read, if it is not "any" controlled substance?

MR. FUDENBERG:

I believe the wording from Metro will be to the effect for what the forensic labs have the capability to test. Our lab is testing for everything on these types of cases.

SENATOR SETTELMAYER:

When testing marijuana, do you test just for marijuana or delta-9, delta-11, what level of testing are you doing? Do they currently test in Henderson for every aspect of marijuana or just for the general presence thereof?

MR. FUDENBERG:

We test for everything when someone dies.

SENATOR SETTELMAYER:

You stated the City of Henderson's forensic lab has data showing what is being tested?

MR. FUDENBERG:

We test for everything that can possibly be tested. We use a contracted forensic lab. Those contracted labs have additional capabilities. Those labs test approximately 98 percent of the cases when processing a post-mortem examination.

BRYAN WACHTER (Retail Association of Nevada):

We have concerns on how large the category of control substance. Looking to narrow it, the controlled substance list is broken into schedules; narcotics is certainly the most famous. Many substances fall into this category. We urge the Committee to take into account we may be grabbing substances you do not want tested.

WILL ADLER (Silver State Government Relations):

I believe Steve Yeager sponsored bill A.B. No. 135 of the 79th Session and it was for a blood test for marijuana instead of a urine test for a DUI. My question is, are you testing for the levels of sobriety or the cannabinoid itself or the carboxylate version which can last up to two weeks in the system? Are we identifying sobriety or just past marijuana usages? I am not for or against this bill; I just want to clarify it.

VICTORIA HAUN (Impaired Driving Program Manager, Office of Traffic Safety, Department of Public Safety):

I am testifying as neutral and would like to give data as far as DUI arrests. In the last 3 years, there has been a total of over 11,000 DUI arrests. There is no way to determine whether these arrests are alcohol or a type of drug impairment. With the DUI arrests, many impaired drivers have been removed

from our roadways to protect the driving public. This includes our residents and tourists. Every driver, passenger, pedestrian and bicyclist has the expectation to arrive safely to their destinations and homes.

The Office of Traffic Safety and the Nevada Department of Transportation work jointly with partners to develop Nevada's Strategic Highway Safety Plan. Those offices identify and fund evidence-based data programs to change dangerous and risky driving behaviors. Knowing the substance of those impaired drivers can be critical to identifying the problem and determine the best way to reach a particular demographic or target audience. We need to know the facts whether it is opioids, methamphetamines or marijuana. When these people go to the courts, judges need the information as well. There are differences in assessments and treatments whether it is drug or alcohol impairment. Knowing the type of resources, equipment and personnel needed for the courts, parole and probation, law enforcement and even the laboratories is vital.

All of Nevada can benefit from this information. The consistency in DUI arrests and fatalities over the last three years tells us we need to know more.

A.J. DELAP (Las Vegas Metropolitan Police Department):

We are here in opposition to the bill. It is because of the current language. We have had conversations with Captain Page at NHP. We stand behind the purpose of this bill and are interested in the information as well. Through our conversations, we need to make this a bill one we can support.

COREY SOLFERINO, LIEUTENANT (Washoe County Sheriff's Office):

We are in opposition to S.B. 23 for a host of reasons, but we believe philosophically in the approach of the bill. All law enforcement would like to get to the root cause of crime.

This language puts a large financial strain on our agency. The Washoe County Sheriff's Office has an annual operating budget of approximately \$119 million; 86 percent of the budget is dedicated to salary and benefits of personnel. The Forensic Science Division is approximately \$4.6 million of that budget.

The Washoe County Sheriff's Office provides forensic laboratory services to 13 counties and approximately 72 user agencies in northern Nevada. Our annual operating budget for toxicology, which S.B. 23 specifically targets, is \$1.2 million. This includes salary and benefit packages for our four criminalists

in the toxicology section. We have three criminalists that are currently performing the work with one learning the job.

Our laboratory is not opposed to the passage of this bill, but we do not have the resources to provide the increase in requested testing that would result from the passage of S.B. 23. I have had conversations with Colonel O'Rourke and Captain Page. While I sympathize with their position, we cannot move forward without a large fiscal impact attached to this bill.

Over 80 percent of the services our Forensic Science Division provides are for outside agencies. These are within Washoe County and within the 12 northern and central Nevada agencies we contract with. Only 20 percent of our workload is for our own office. I believe Captain Page indicated the fiscal impact as originally presented was approximately \$700,000. When contacting our business analyst with Washoe County, our fiscal impact would be \$1.5 million. This includes an additional 6 criminalist salaries, benefits and consumables.

The bill will provide data to improve officer training and drug identification. We agree we do not know what we do not know. We do not have a good baseline outside of the fatalities in Nevada to see what our impaired driving represents. Data for statistics on polydrug use and ways law enforcement can combat it to increase public safety is paramount. Costs will be shouldered by the submitting agency requesting additional drug testing. It will increase turnaround times to the District Attorney's Office for delays in prosecution in impaired driving cases.

During the Great Recession of 2008, we had a budgetary shortfall in Washoe County. We instituted an internal policy indicating what would be tested with samples. When an alcohol result of 0.090 or higher is detected in non-felony cases, no additional testing for drugs was performed. The District Attorney's Office could request additional testing. Drug testing results in a per se violation; no additional testing will be performed unless requested by the District Attorney. For all felony cases and all cases represented by the District Attorney's Office where they want drug testing, that is and will still be our policy.

SENATOR SETTELMAYER:

When there is a fatality in Nevada we do test for as many things as possible to come to a conclusion why someone passed away. The entities here today may do more expansive testing than just alcohol. When it comes to marijuana are

you testing for delta-9 and delta-11? Do you test for the presence of marijuana which could be from weeks ago, or are you testing for current intoxication levels?

KARYL BROWN (Supervising Criminalist, Washoe County Sheriff's Office):
At the Washoe County Sheriff's Office, Forensic Science Division, we currently test for 3 components of marijuana: 11-Nor-9-carboxy-delta-THC, 11-Hydroxy-THC and Delta-9-THC.

TERRIE SUFFECOOL (Lab Manager, Las Vegas Metropolitan Police Department):
In Las Vegas, we look for 11-Hydroxy-THC, THC-Carboxyl Acid and Delta-9-THC.

SENATOR HARDY:
Looking at the quantity of "any" controlled substances, Lyrica is used for neurologic pain and Estratest is used for menopausal treatments. Are you looking for those controlled substances in any of the laboratory tests?

MS. BROWN:
In our laboratory, those components would not be tested.

SENATOR HARDY:
So when we say "any" that is a problem for you?

MS. BROWN:
Yes, you are correct.

MR. DELAP:
The "any" is difficult and virtually impossible. We have a workaround that will be sent to you at a later time which is comfortable to us, and believe the rest of the jurisdictions are comfortable with it as well.

JENNIFER NOBLE (Nevada District Attorney's Association):
I am a Chief Deputy District Attorney in the Washoe County District Attorney's Office. Prior to my current assignment, I spent four years prosecuting DUI cases. In Washoe County, our forensic lab is challenged with testing 13 out of the 17 counties in Nevada lab requests. In Washoe we are waiting for lab results from toxicology requests for eight to nine weeks. The problem for prosecutors is it impacts speedy trial rights. This means cases are being

continued, cases are being moved to dismiss without prejudice and refiled. This is the concern.

With funding and/or resources to complete this type of testing, we are for gathering this type of information. It is important for Nevada. With existing resources, it would provide even more of a challenge. We are in opposition to the bill.

CHAIR CANCELA:

I would encourage you, Captain Page, to work with everyone who testified in opposition today to get to a better place.

CAPTAIN PAGE:

I have spoken with all of the people concerned with the language and have a workaround.

CHAIR CANCELA:

We will close the hearing on S.B. 23. We will open the hearing on S.B. 134.

SENATE BILL 134: Makes various changes relating to advanced practice registered nurses. (BDR 43-63)

SENATOR JOYCE WOODHOUSE (Senatorial District No. 5):

I am here today to introduce S.B. 134. This bill authorizes an advanced practice registered nurse (APRN) to make certain certifications, diagnoses and determinations, in lieu of a physician or other healthcare provider.

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

I sponsored S.B. No. 227 of the 79th Session, which authorized a qualified APRN to sign, certify, stamp, verify or endorse certain documents when a physician is not available. The Senate passed this measure unanimously and the

Assembly passed it with 41 yeas and 1 excused vote. The Governor signed the bill into law.

The provisions in S.B. No. 227 of the 79th Session improves health care access and delivery by preventing delays of a physician's signature. It could involve another doctor's visit resulting in additional costs. Eliminating the delay by requiring a physician's signature maximizes the efficiency of the healthcare system.

Often after a bill goes into effect, other issues come up that need to be addressed. Senate Bill 134 builds on S.B. No. 227 of the 79th Session. Senate Bill 134 recognizes the value the APRN workforce can play in providing health care to our residents. In an effort to provide increased availability of healthcare providers, I am sponsoring S.B. 134 and would like to highlight key provisions of the bill.

Sections 1 through 7 authorize an APRN to assign certain statements and forms for submission to the Department of Motor Vehicles for specific designations on a person's driver's license.

Sections 8, 16 and 17 authorize an APRN to sign a statement attesting to a person's inability to wear a safety belt or child restraint system for medical or physical reasons.

Sections 38 and 39 authorize an APRN to sign a statement verifying a physical or mental disability for the purpose of making the person eligible for free or reduced rates for certain modes of public transportation.

Section 9 expands the list of persons who are authorized to determine whether a person has hemophilia or a heart condition requiring the use of an anticoagulant. This would exempt them from a blood test intended to measure the concentration of alcohol in his or her blood.

Section 15 authorizes an APRN to certify whether a person is exempt due to an inability to provide a deep lung breath sample from a breath test intended to measure the concentration of alcohol in his or her breath.

Sections 10 through 14 authorizes an APRN who is certified by the State Board of Nursing to evaluate certain offenders to determine if the offender is an abuser

of alcohol or drugs and whether the offender can be treated successfully. The State Board of Nursing must adopt regulations for the psychiatric training and experience necessary for an APRN to make such an evaluation.

Additionally, this measure authorizes an APRN to make certain determinations and certifications regarding guardianships in sections 18 through 27. Power of attorney is in sections 28 through 34 and custodial trust is in section 35.

CHELSEA CAPURRO (Nevada Advanced Practice Nurses Association):

There are concerns with sections 18 through 24 related to guardianship. We would like to have those sections removed as these are new sections in statute. This is not the right time to address those sections.

We support this bill for the most part, and are happy this will fix the issues experienced in implementation in the Interim.

PAIGE BARNES (Nevada Nurses Association):

The Nevada Nurses Association represents APRNs and registered nurses across the State. I concur with the comments of my colleagues, Senator Woodhouse and Ms. Cappuro, as S.B. 134 is a bill which provides APRNs signing authority within their scope of practice. This bill will enable APRNs to provide critical services for their patients. This is important for our rural populations where often APRNs are the only provider in a community.

We are here in support of S.B. 134 with the removal of sections 18 through 24.

SENATOR WOODHOUSE:

After S.B. No. 227 of the 79th Session had passed, I received an e-mail from Joan Hall identifying the major issue of signatures which were needed on DMV forms.

JOAN HALL (President, Nevada Rural Hospital Partners Foundation):

I represent 12 Critical Access Hospitals serving rural and frontier Nevada and their 16 rural health clinics. It is in the clinic setting we discovered this issue. There are eight APRNs which practice in the smallest places in Nevada, such as Kingston, Alamo, Yerington and Winnemucca. When they would perform their DMV physicals they could not sign the form because it specified physician.

This happened with the application for disability placards also. Elderly patients would drive to see their nurse practitioner because the physician was not in that day but the APRN could not sign the form. In some of these areas, the physician is not available for a week. It put a burden on the patient and the APRNs. Nevada Rural Hospitals appreciates this bill and realizes there will be more areas we will also find which will need to be changed.

CATHERINE O'MARA (Nevada State Medical Association):

The Nevada State Medical Association supports S.B. 134. There are references to the State Board of Nursing adopting some regulations on training criteria. Some members, particularly psychiatrists, had some comments as to what the appropriate criteria should be. We have spoken with the Board and will participate in the regulatory process, but find no reason to hold up the bill.

PAUL MORADKHAN (Las Vegas Metro Chamber of Commerce):

The Chamber is engaged with healthcare issues, as a lot of our members fall under this bill. We are in support of this bill based on the many comments you have heard today.

SENATOR HARDY:

The line that indicates physician on the form, can it be crossed out and write out APRN with your name with a signature?

MARTY ELZY (Management Analyst, Central Services and Records Division, Department of Motor Vehicles):

In answer to Senator Hardy's question, the DMV keeps the majority of those forms online which are a print on demand option, as opposed to any stock on hand being wasted.

SENATOR HARDY:

Would it be simple for your department to change all the forms?

MS. ELZY:

Yes, obviously there are hundreds of forms the Department maintains. It would take some time to do all the locations on the forms and replace the signature line.

SENATOR HARDY:

Is it \$5 million or is it \$50 to do all of those changes?

Ms.ELZY:

I do not know the exact amount, but can get the information for you. The DMV updates our forms frequently for these types of changes. They are Word documents.

SENATOR HARDY:

I think the Board of Nursing has an issue, more than the DMV does. You are not opposed to an APRN signing the form? The Board of Nursing knows they cannot sign the form because it reads "physicians signature." If the form stated "physician and/or APRN" then would everyone be content?

MS. ELZY:

My personal opinion would be to word it to read "medical official", or something which is all inclusive.

LORA E. MYLES (Retired and Senior Volunteers Program; Carson and Rural Elder Law Program):

I heard that the wording for the guardianships was being removed. I had put together a recommendation if the language was left in the bill it would not be an "APRN" but a "Psychiatric Advanced Nurse Practitioner." Most APRNs are not trained to do competency evaluations, but Psychiatric Nurse Practitioners are. However, if it has been removed, we have no opposition to the bill.

SENATOR WOODHOUSE:

We will get together with the other individuals who testified today and get the proposed amendment to you so this bill can be processed.

CHAIR CANCELA:

We will close the hearing on S.B. 134.

I will accept a motion from the Committee to delete sections 18 through 24 and pass the bill.

SENATOR SPEARMAN MOVED TO AMEND AND DO PASS AS AMENDED S.B. 134 WITH SECTIONS 18 THROUGH 24 DELETED.

SENATOR SETTELMAYER SECONDED THE MOTION.

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THE MOTION CARRIED. (SENATOR BROOKS WAS ABSENT FOR
THE VOTE.)

* * * * *

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There being no further business, the meeting is adjourned at 3:12 p.m.

RESPECTFULLY SUBMITTED:

Debbie Shope,
Committee Secretary

APPROVED BY:

Senator Yvanna D. Cancela, Chair

DATE: _____

EXHIBIT SUMMARY				
Bill	Exhibit / # of pages		Witness / Entity	Description
	A	1		Agenda
	B	5		Attendance Roster
	C	24	Cyndie Munoz / Department of Motor Vehicles	Overview
S.B. 71	D	2	Dawn Lietz / Department of Motor Vehicles	Proposed Amendment
S.B. 23	E	24	Adam W. Page / Nevada Highway Patrol, Department of Public Safety	Presentation
S.B. 23	F	8	Adam W. Page / Nevada Highway Patrol, Department of Public Safety	Marijuana-Impaired Driving
S.B. 23	G	3	Adam W. Page / Nevada Highway Patrol, Department of Public Safety	Advancing Drugged Driving
S.B. 23	H	2	Adam W. Page / Nevada Highway Patrol, Department of Public Safety	Washington Traffic Safety Commission
S.B. 23	I	2	John Fudenberg / Office of the Coroner, Clark County	Proposed Amendment