

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

**Eighty-first Session
May 5, 2021**

The Senate Committee on Growth and Infrastructure was called to order by Chair Dallas Harris at 3:35 p.m. on Wednesday, May 5, 2021, Online and in Room 2144 of the Legislative Building, Carson City, Nevada. [Exhibit A](#) is the Agenda. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Dallas Harris, Chair
Senator Chris Brooks, Vice Chair
Senator Pat Spearman
Senator Scott Hammond
Senator Keith F. Pickard

GUEST LEGISLATORS PRESENT:

Assemblyman C.H. Miller, Assembly District No. 7

STAFF MEMBERS PRESENT:

Susan Scholley, Policy Analyst
Eileen O'Grady, Counsel
Debbie Shope, Committee Secretary

OTHERS PRESENT:

Melissa A. Saragosa, Las Vegas Township, Department 4, Clark County
Maggie O'Flaherty, Tow Operators of Northern Nevada
Sophia Romero, Legal Aid Center of Southern Nevada, Inc.
Paul Enos, Nevada Trucking Association
Matthew Walker, Enterprise Holdings
Keith Duffy, Enterprise Rent-A-Car
Andrew MacKay, Nevada Franchised Auto Dealers Association
Nicholas Shepack, American Civil Liberties Union of Nevada
George Assad, Commissioner, Nevada Transportation Authority
Cyrus Hojjaty

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Debrea Terwilliger, Senior Attorney, Public Utilities Commission of Nevada
Brian Mitchell, Director, Office of Science, Innovation and Technology, Office of
the Governor
Barry Gold, AARP Nevada
Arielle Edwards, City of North Las Vegas
Barbara Paulsen, Nevadans for the Common Good
Brian Wachter, Retail Association of Nevada
Randy Brown, AT&T
David Dazlich, Vegas Chamber
Amber Stidham, Henderson Chamber of Commerce

CHAIR HARRIS:

We will open the hearing on Assembly Bill (A.B.) 32.

ASSEMBLY BILL 32 (1st Reprint): Revises provisions relating to the towing or immobilization of a motor vehicle. (BDR 43-387)

MELISSA A. SARAGOSA (Las Vegas Township, Department 4, Clark County):
The Las Vegas Justice Court proposed this bill to the Nevada Supreme Court.
The bill is procedural clarity in handling unlawful vehicle tow cases.

These cases come before the justice courts in an expedited fashion when people consider their vehicles were unlawfully towed or immobilized through a boot mechanism. The court determines if vehicles were lawfully towed or immobilized. The expedited nature is for the court to ensure we can gain a quick decision on how each vehicle was towed and whether it was appropriate. In circumstances of unlawful tows, owners can retrieve their vehicles quickly, so they do not experience a complete disruption of their lives to drive to work, school and other places.

A second consideration at hearings is determining the amount of money due for any vehicle storage and which party owes the fee; sometimes, a party is not liable for the storage costs.

Section 1 provides clarity that the remedy is for the court to decide whether the storage company has to return the vehicle to the vehicle owner. It is only an expedited remedy of a possession for that vehicle. It is not intended as a substitute for any civil actions to gain monetary damages.

It means the vehicle owner is not barred from seeking money damages later, if warranted, based on the limited scope of this action. At times, we see complaints from vehicle owners who want to have a discussion over the negligence of the tow company in towing the vehicle or maybe damage done to the vehicle during the tow. They are unaware of any damage until they get the vehicle back. We want it clear they are not barred from bringing that type of action in a subsequent matter, but this action is only about the possession.

Additionally, section 1 adds clarification to the timing of the complaint and naming the proper defendants, which is a constant issue we see in the justice courts. One issue we see is cases being filed when the vehicle owner has already recovered the vehicle. The owner is usually filing a claim for loss of use of the vehicle or other matters which need a full-scale civil action case. This particular expedited remedy is not the place for it. Section 1 clarifies he or she can still bring an action at a later point, but not in these proceedings because of its expedited nature.

We see cases where individuals wait months to file this type of complaint. Because this is an expedited process, it is disruptive to the court's endeavor to set a date for a case in such a quick fashion to have the parties arrive and find out the vehicle was at the storage facility for months. In most situations, a storage lien was placed on the vehicle, and the vehicle has already been auctioned by the storage facility.

The court does not possess the ability to determine whether the vehicle was lawfully or unlawfully towed to order its return. The court cannot provide a remedy for the person who waits to file a complaint. The owner might have an action for civil damages as stated previously, but the expedited hearing can never result in the court issuing an order for someone to return the vehicle if it has been sold.

The bill clarifies the complaint should be filed within 21 calendar days. The timeline was designed to ensure a complaint can be filed before a lien or auction occurs.

Section 1, subsection 2 clarifies the parties necessary to resolve the complaint. It is essential for the court to have both the property owner who authorized the tow of the vehicle from the property and the tow company who towed the vehicle to resolve the complaint. We usually see the vehicle owners only sue the

tow company, and the tow company is not the one who authorized the tow. We end up with one part of the story and vice versa. If we only see the property owner, such as in an apartment complex without the tow company that towed the vehicle, we are left with an inadequate amount of information.

We want to resolve the case in the first hearing. We do not want to continue the case for another four, six, seven days to resolve it. It leaves the vehicle owner without the vehicle for a longer period of time should we determine it was unlawfully towed. We want it clear up front who the vehicle owner should name in the complaint.

We are required to continue these cases because the appropriate parties are not named in the complaint approximately 90 percent of the time. It provides much-needed clarity.

Section 1, subsection 3 gives the court the authority to dismiss complaints that do not meet the requirements. We are not forced to have a hearing to tell the parties, "I am sorry we cannot take any action." For example, law enforcement has a vehicle towed; it is not the kind of case subject to the jurisdiction under *Nevada Revised Statutes* 487. It is a different action. We receive those periodically when law enforcement has a vehicle towed as a result of an arrest or an investigation.

Section 1, subsection 4 has no substantive changes but aligns the setting of a case to seven calendar days versus working days to align and be consistent with the *Nevada Rules of Civil Procedure*.

Section 1, subsection 5 clarifies language that the court order declares who is liable for the cost of storage and whether the vehicle was lawfully towed rather than a monetary judgement which is not the result of this type of action.

Upon prevailing in this type of action, section 1, subsection 6 requires the vehicle owner to present a certified copy of the order to the storage facility holding their vehicle. In working through these issues, we received feedback from tow companies that if they do not receive a certified copy from the court, they require extra time to verify the court order. At times, the tow company will contact the court for verification, and it can delay the return of the vehicle to the owner. That is not what we are trying to accomplish.

The certified copy of the court's order can be provided to the litigant at the time of the hearing. The person can leave the courtroom with a certified copy to take to the storage company. It should result in no delay in retrieving the vehicle when warranted.

Section 1, subsection 7 of the bill was not part of the courts' initial language but was amended in the Assembly by Assemblyman C.H. Miller. It was the intent at the time to have the registered owner of the vehicle noticed of the tow within a short period of time. However, I learned of issues with tow companies' ability to access the information on the registered owner from the Department of Motor Vehicles (DMV) within the allotted time frame.

We kept the portion of section 1, subsection 7 that the storage company must post and display information about services from a program for legal aid or the Civil Law Self-Help Center to help individuals file their claims. I have no objection to the amendment being offered. They will talk about their conversations with Assemblyman Miller. It is my understanding he had no objection to striking that language and accepting the amendment.

CHAIR HARRIS:

Regarding dismissing the complaint in section 1, subsection 3 states the court "must" dismiss the complaint. Is there a reason why it is "must" as opposed to "may" dismiss the complaint? It seems it excludes the ability for someone to file an amended complaint to cure any deficiencies?

JUDGE SARAGOSA:

I am unaware of a particular reason for that language. I am unsure we thought about deficiencies. For example, if it is more than 21 days after the tow, it is not something which can be cured by an amended complaint if the proper people were not noticed.

You are correct, it could be amended to add the correct litigants. The thought process was if the complaint names Las Vegas Metropolitan Police Department as the defendant, it is not a proper case for this type of action. If the timeline is more than 21 days, then we will dismiss the case. I have no objection to it stating "may," and the court could always exercise its discretion in situations where the vehicle owner may have named the property owner but not the tow company in the complaint. We can alert them to the issue, and they can amend the complaint.

MAGGIE O'FLAHERTY (Tow Operators of Northern Nevada):

The amendment ([Exhibit B](#)) discussed strikes the language which was amended in the work session in the Assembly. It is replaced with language fulfilling the intent to ensure those who are wrongfully towed or in need of resources have the means available to find that information. It is to conspicuously display a statement regarding the availability of assistance from a program for a legal aid self-help center operated or overseen by a court or other similar program in the city or county in which the facility is located.

It fulfills the intent but removes the 24-hour requirement which was the issue. The tow operators or tow companies rely on DMV to provide the contact information through registration records. The turnaround time is 3 to 10 days for those records, so the 24-hour requirement was essentially unfeasible.

SENATOR PICKARD:

[Exhibit B](#) is striking out language the Assembly put in. If we undo what it amended, is there any expectation the Assembly will concur on this amendment?

MS. O'FLAHERTY:

The amendment was added on the Assembly side. It was brought forward by Assemblyman Miller, and we worked with him throughout the process. He has been collaborative with us in reaching a middle ground.

CHAIR HARRIS:

I see Assemblyman Miller does approve of this amendment. How do you envision satisfying the notice requirement? Is there any effort to find uniform disclosure which could be shared among tow operators?

MS. O'FLAHERTY:

There are a number of notifications tow operators and tow companies need to fulfill. Typically, it is done through a uniform system via the Nevada Transportation Authority (NTA). While it is not delineated in the language, we are open to discussing something which is uniform across the board and most often refers to the NTA.

SOPHIA ROMERO (Legal Aid Center of Southern Nevada, Inc.):

The Legal Aid Center of Southern Nevada, Inc. is in full support of this bill.

PAUL ENOS (Nevada Trucking Association):

The Nevada Trucking Association supports A.B. 32. This is a streamlined process for both the tow operator and the property owner who places a request for a tow before it is completed. Having everyone involved is beneficial and it simplifies the process. Individuals can quickly obtain their vehicles.

JUDGE SARAGOSA:

Looking closer at the bill, the one thing I will point out is section 1, subsection 3 which you were questioning; although it is a "must" dismiss, it is without prejudice against the complainant to refile. I realize it does not address the amended issue, but it does allow that party to refile if necessary.

CHAIR HARRIS:

We will close the hearing on A.B. 32. We will open the hearing on A.B. 281.

ASSEMBLY BILL 281 (1st Reprint): Revises provisions governing the retention of certain records by short-term lessors, brokers and dealers of vehicles. (BDR 43-794)

MATTHEW WALKER (Enterprise Holdings):

Assembly Bill 281 enables short-term lessors and car dealers to store data in digital records while ensuring timely access to the records by regulators and providing greater protections for consumers of that data. If the bill passes, it increases security for consumers and businesses by not having the physical records stored at each rental or vehicle sale location.

A company can secure, centralize and digitize the records. Additionally, it increases efficiency for regulators at DMV, the Department of Taxation and local governments by allowing them to request the records digitally, when not making an in-person visit.

Section 1, subsections 1 and 2 of A.B. 281 allow for short-term rental records to be maintained electronically and ensure regulators have timely access to those records. Section 2 similarly allows for vehicle dealers to store records electronically. I will note the dealerships are not required to store records in this manner, it is simply enabling legislation. It allows the Department of Taxation, businesses and other regulators to follow best practices for data security and increase efficiency when reviewing licensee records. If a dealership in Ely prefers paper files, nothing in this bill requires it to transition.

In Las Vegas, Keith Duffy is the risk manager for Enterprise Rent-A-Car for Nevada. He works in risk management not only for Enterprise rental car locations but also for the network of used vehicle dealerships that Enterprise maintains in Nevada. He has experience with how this bill might manifest itself and be more efficient for Enterprise.

KEITH DUFFY (Enterprise Rent-A-Car):

In the past, we looked at this to ensure we can store our records without having large rooms at our locations, while being able to quickly access the records without having to go through many file cabinets. Online storage of records will have more data security versus a physical location where someone can break in and obtain those records.

The goal is to simplify the process and secure it rather than have paper files in one location and an overflow of documents in our buildings.

SENATOR HARRIS:

What is the record retention policy, and does this bill affect it? The law requires you maintain a record in paper for seven years; theoretically, is the timeline the same, or will it be adjusted?

MR. DUFFY:

There are no changes in the timelines. It has been seven and ten years, depending on how long the documents need storage. If we have seven years of vehicle records or files needing storage, it can become a file-handling issue. This is no change in the time of retention, more about the way it is done.

MR. WALKER:

The records retention timeline for dealerships is slightly different, set at three years but no change to the timelines with this bill.

ANDREW MACKAY (Nevada Franchised Auto Dealers Association):

This is much-needed and welcomed legislation. We have a paper-intensive industry. We continue to advance and have everything electronic or digitized. This bill compels it to happen.

It is optional, but I do not know of one dealership that will not take advantage of this.

SENATOR HARRIS:

We will close the hearing on A.B. 281. We will open the hearing on A.B. 301.

ASSEMBLY BILL 301 (1st Reprint): Revises provisions governing the towing of motor vehicles. (BDR 58-696)

ASSEMBLYMAN C.H. MILLER (Assembly District No. 7):

As you are aware, the Covid-19 pandemic created a sharp blow to our State's ability to conduct the business of government as normal. Agencies were required to cease in-person transactions and move to remote work environments with little notice as a matter of public health and safety.

While Nevada quickly authorized and exhausted the Rainy Day Fund to stabilize the operation of State government, the federal government moved swiftly to get financial assistance to Americans to help keep our families afloat. In many cases, households which were already struggling due to strained budgets now had no option but to operate with less. We, as Legislators, know too well how the Department of Employment, Training and Rehabilitation struggled to secure unemployment benefits to eligible people in need.

Many Americans and a significant number of Nevadans found themselves in lines at various food banks, retrieving boxes of food they could no longer afford to purchase. It was almost a requirement to own a vehicle to pick up needed food. Imagine if they found their vehicles towed during the early morning hours on the day they were to collect their 25-pound boxes of food,

Operations at DMV were no exception to the pandemic disruption. Staff from DMV described the challenges the Department faced during the past year—challenges which DMV has since adapted to and overcome.

There were issues with vehicle registration decals. Vehicle registrations are denoted by a license plate decal or more commonly referred to as a sticker. The decals display the month and year a vehicle is registered.

However, due to the pandemic many of the decals were not mailed out or received by vehicle owners in a timely manner. Vehicles were registered but did not have the decal to display. These vehicles which do not display a current decal on the license plate were being towed. The reason for the tow was the decal and the registration appeared not be current.

It became such an issue that the NTA issued a letter notifying tow car operators of the practice of towing what appeared as unregistered vehicles and issued the following directive: "To ensure vehicles being towed as unregistered are unregistered, the NTA is requesting tow companies verify the registration status of the vehicle in question via the DMV's website prior to towing a vehicle as unregistered." They can use the link before they tow to ensure the vehicle is not registered at the time of the tow.

Assembly Bill 301 codifies this directive in statute and requires tow car operators to release a vehicle without charge to the owner, if the owner can provide proof the vehicle was indeed registered at the time of the tow.

Mistakes happen, and when they do, vehicle owners have to take a portion out of their day and incur additional transportation expenses to travel to the tow yard to retrieve their vehicle. The bill requires the tow operator to release the vehicle immediately if it is the case.

The bill extends the time from notification until actual towing if the vehicle is parked in a designated parking space. The time changes from 48 hours to 5 days. If the vehicle is towed, it does not allow a storage charge until the vehicle has been on the tow yard for 48 hours instead of 24 hours.

If your vehicle is towed and you do not have the money to retrieve it, it may be difficult to find the funds to have it released immediately. Giving the additional time for Nevadans who are having a hard time financially provides extra time to remedy their situation and properly find the funds.

Sophia Romero will walk through the bill. The tow operators have been helpful in assisting me to find solutions and suggesting language to have the bill work for everyone while providing additional protections for those who are financially strained.

MS. ROMERO:

This is a much-needed addition to Nevada law and solves a problem we often see. We are subject to having our vehicle towed whether it be by our homeowners' association, apartment complex or even parking in the wrong spot at the wrong time.

When this occurs, it is a minor inconvenience and a bad day for people. However, it can send others into extreme financial hardship. Not having a vehicle to get to work can result in the loss of employment or turning to alternate methods such as pay-day loans to obtain emergency funds.

Working at Legal Aid I have become accustomed to having an unusual caseload. We are often people's last resort. The week before A.B. 301 was introduced, an applicant called seeking assistance because his vehicle had been towed for lack of registration. It happened in spite of the fact his registration was up to date. He filed a complaint for unlawful tow in court, showed his proof of registration at the hearing and still lost his case. It was because his decal was not current despite the directive of the NTA.

Unfortunately, without any knowledge of the November 2020 NTA directive or pending legislation, we were forced to decline representing him in an appeal. It is extremely rare that we decline representation, but even I felt hopeless when presented with his situation. It is because of this case that I was excited when I read A.B. 301 and why the Legal Aid Center of Southern Nevada was eager to reach out to Assemblyman Miller and ask if we could help support his bill.

Section 1, subsection 2 states if a vehicle owner or agent provides proof the vehicle was registered in Nevada or another state at the time of the tow to an operator of a tow car, the vehicle must be released to that person without charge. The proof of registration can be either physical or in an electronic format.

Section 2, subsection 2, paragraph (a), subparagraph (3) states the owner of the real property must notify the vehicle owner of the tow at least five days before the tow by placing a sticker on the window of the vehicle. The sticker must provide the date and time after which the vehicle may be towed. The real property owner is required to attempt to notify the vehicle owner via telephone or email, if available, and shall affix a notice to the door of the residential unit when the vehicle is in an assigned or designated parking space.

The exception to the notice requirements is if a notice was already given for the same or similar reason, or if the vehicle has been towed more than three times within the preceding six months.

Section 2, subsection 4 requires tow car operators to independently verify the registration status of a vehicle by using the DMV's website before towing a vehicle and keeping evidence of the verification for one year. Any tow car operator who fails to comply with this requirement is responsible for the vehicle's removal and storage costs.

Section 2, subsection 8 states a tow operator shall not charge storage fees unless the vehicle has been on the property for 48-hours, and the time period begins during regular business hours. If a vehicle is towed in the middle of the night, the 48-hour period will not begin until business hours the next morning to allow the vehicle owner an actual 48 hours of real time to take care of the situation.

Section 2, subsection 9 states if the registered owner does not provide proof the vehicle was registered at the time of the tow and is incapable of paying the normal rate for removal and storage of the vehicle, then the owner shall pay a hardship tariff for the cost. The hardship tariff shall be established by the NTA, which has authority to adopt regulations to carry out these provisions.

SENATOR HAMMOND:

Section 2, subsection 2, paragraph (a), subparagraph (3), sub-subparagraphs (I) and (II) state "for the same or a similar reason within the same residential complex, three or more times during the immediately preceding six months." Is this being monitored by the NTA, and can it see that the person has been cited before?

ASSEMBLYMAN MILLER:

I will obtain information on whether the NTA is tracking this and have it sent out to the Committee. My understanding is for tow companies to cause the initial tow, it requires the green light be given by the property owner. I assume a record is being kept each time they authorize a tow, whether it is the property owner or the tow company.

SENATOR HAMMOND:

You do not want to overburden someone, but if it is something the entity performs, it should have a record.

SENATOR SPEARMAN:

I hope they are keeping records. Is there any way we can verify they are keeping a record? If so, what does the record contain?

ASSEMBLYMAN MILLER:

I will confirm what records are being kept and get the information to the Committee.

SENATOR SPEARMAN:

It is important because I heard from several constituents during the pandemic when DMV was closed. It was recognized that there was a grace period for people having to renew their vehicle registration, and they were not to be given a ticket. However, tow companies were going into apartment complexes and towing vehicles. One person I heard from had to borrow \$2,000 to retrieve the vehicle and they had been laid off from work.

I am concerned where the tow operators are going for tows. I am requesting to know the information by zip code and also to find out what kind of record they are keeping with the average cost of towing and storage. During the pandemic when people were unemployed or had their hours reduced, I am astounded as to why anyone would take someone's vehicle and then charge them \$2,000 to get it back.

Is it possible to add an amendment requiring them to keep a record and that record require the cost of towing, along with the zip code from where the vehicle was towed, the cost of storage, and how much the person had to pay to get the vehicle back? I hope you see this as a friendly amendment.

ASSEMBLYMAN MILLER:

I am open to exploring it with the tow operators and the NTA to see what data we can collect and how we can arrange it to happen.

SENATOR SPEARMAN:

Many times when asking for this type of information, the first thing people say is it is onerous or we cannot do it. We do not have the same system in place as Bob Cratchit had sitting over a tablet with a stubby pencil or Fred Flintstone trying to carve it into a rock. We have technology now and we are talking about adding columns to the data collection they already have.

It is important because we need to know where the vehicles are being towed from and the social-economic status of the people whose vehicles are being towed. It should be something easily accomplished. If their record keeper cannot accomplish it, then we need to add something to the legislation advising them where they can get computer software which processes the information in less than 3.5 seconds.

Ms. O'FLAHERTY:

The area of towing and immobilization of vehicles can be complicated at times and exacerbated by the pandemic with the hardships it brought. The Tow Operators of Northern Nevada are in support because we appreciate the intent behind this legislation and because of the work Assemblyman Miller has done to meet us in the middle, addressing our concerns and getting the bill to a place where it can be supported.

Senator Spearman, we hear your concerns and will work with you and Assemblyman Miller to do what we can to get the answers you are looking for. We will continue to work in the Interim and over the next sessions to address the concerns.

NICHOLAS SHEPACK (American Civil Liberties Union of Nevada):

The American Civil Liberties Union of Nevada (ACLU) supports A.B. 301. The ACLU will go so far as to say we should end the towing of vehicles completely for lack of registration. We have too many laws on the books in this State, as we have learned well this Session, which state if you are poor, then you will be punished with the inability to get to your job.

That is what towing these vehicles does if they cannot pay the tow fee. We do not have cities with the best public transportation, especially in the rural counties. We have seen it with traffic tickets, we see it with driver's license suspensions and now we see towing.

Senator Spearman is correct when we talk about who is most likely to be towed; it is those in communities of color and lower-income communities. That is where we see these vehicles being towed, and it is extremely difficult to pay. In the bill, extending the time limit from 24 to 48 hours before you have pay will help alleviate the pain. It allows people to collect money.

It is still a difficult issue that we should continue to work on. This bill is a first great step and something we can build on in the future, but we need to look at how towing impacts people. It is not the same if you live in Glenbrook at Lake Tahoe or by the airport in Reno. A tow means different things to different people. These changes are modest, but they have a significant impact on individuals.

MR. ENOS:

The Nevada Trucking Association is in favor of A.B. 301. It is about finding a balance between the property owner and the vehicle owner, and the tow operator is the agent trying to ensure the balance exists. Property owners do not want abandoned vehicles on their property, but it tends to happen. Many times, the vehicles are not registered.

We keep moving in directions to achieve more balance. We have done this over the 15 years I have been with the Nevada Trucking Association. Having a wet signature from a property owner before the vehicle is towed ensures there was a specific request that the vehicle was towed.

The information Senator Spearman requested does exist. We do keep records on where the vehicle was towed from, when it arrives at the lot and the cost of the storage. It is regulated by a tariff at the NTA. How difficult it is to obtain it from them, is a question to ask the NTA.

GEORGE ASSAD (Commissioner, Nevada Transportation Authority):

The NTA is in support of A.B. 301. It will be a benefit to the traveling public. It helps the tow industry avoid issues. As for the recordkeeping, the records are kept with the tow company, and the records should be kept with the property owner or legal representative of the property owner. The only time the NTA gets involved in any type of recordkeeping issue is when a complaint is brought to us by the owner of the vehicle.

CYRUS HOJJATY:

This situation is important. I have experienced many similar instances with towing. Unfortunately, I have not read the bill entirely but am grateful this issue is being brought forward.

CHAIR HARRIS:

We will close the hearing on A.B. 301. We will open the hearing on A.B. 388.

ASSEMBLY BILL 388 (1st Reprint): Revises provisions governing access to broadband services. (BDR 58-790)

ASSEMBLYMAN C.H. MILLER (Assembly District No. 7):

I am here to present A.B. 388. As you are aware, Covid-19 brought many issues to the forefront. It brought greater clarity to begin changes between different sectors of Nevada society. The disparities in broadband access service provided a magnifying lens into those serious differences.

Last year when schools had to work strictly online, the pandemic showed us how large the digital divide is in our State. The term can be defined as the gulf between those who have ready access to computers and the internet and those who do not.

In the information age we live in today, which is also referred to as the digital age, the access to reliable high-speed internet service is no longer optional. It is as essential as any other utility we use such as water, electricity, natural gas and now the internet. Furthermore, households that do not have ready access to reliable internet may suffer economic and educational setbacks as highlighted throughout the pandemic.

Communities without proper infrastructure to accommodate high-speed internet may be economically left behind. As our State creates bold moves to advance our standing as a leader in technological advancements, we need to do our best to ensure no Nevadan is left behind due to a lack of adequate internet accessibility. This is true for our youth whose future is increasingly dependent upon reliable high-speed, high-quality internet in their homes and at their fingertips.

It is a problem for students who are negatively impacted by these issues. Many individuals working from home create a schedule for who uses the internet and when. It is similar to back in the day when people had only one television. It forces families who may have poor broadband service to schedule time to not see interruptions or lag times when needing to access telehealth services, safely attend worship services remotely, or socialize with family and friends. Inadequate internet keeps people from fully participating in remote activities that are routine for people with decent internet connectivity. It is seen in historically low-wealth neighborhoods where infrastructure does not always support the best broadband service available.

In Nevada's more rural areas, the infrastructure for broadband simply may not be available at this time or requires a large capital investment to purchase right-of-way and dig trenches for the installation of lines.

Nevada has made progress as it relates to infrastructure and broadband access. We had approximately one in four students not being connected to the internet to confirming all Nevada students were connected in January. It is progress, but we still have a way to go. We hope what comes from the federal government in the near future gets us closer to a continually connected Nevada, but we cannot wait on them.

Our time to act is now, and we Nevadans have to ensure we have our own mechanism in place. It is forward-thinking; we can build on what we have done and further supplement what we expect to receive with a goal of keeping and closing the digital divide.

Assembly Bill 388 in its first reprint seeks to invite Nevadans to take care of our own and ensure equitable reliable internet access is available to every Nevadan regardless of zip code, neighborhood or proximity to a population center.

How do we do this? We know that beginning May 12, the federal government will begin accepting applications for the Emergency Broadband Benefit Program which provides disadvantaged households access to broadband services with \$50 per month benefits to cover the cost. It partially solves the problem in paying for broadband. As mentioned, we have the issue of the service being of an adequate quality that it is usable. It requires infrastructure projects to not merely catch up but keep going.

It requires the Public Utilities Commission of Nevada (PUCN) to enact regulations establishing a program enabling providers of broadband or radio service, also known as wireless providers, to participate in a voluntary contribution program for broadband infrastructure. The program enables customers to opt in and round up their monthly bills for voluntary contributions, and those funds will be distributed to the Office of Science, Innovation and Technology (OSIT).

Second, it requires OSIT to establish and administer a grant program where providers can apply for funds for the deployment of infrastructure projects

which go toward installation and upgrades in low-wealth neighborhoods and rural communities.

Third, it requires on a biennial basis the director of OSIT to: collect and map data concerning broadband access speed in each county and prepare and submit a report concerning the availability of broadband service in Nevada to the Governor and the Legislature.

Fourth, it requires OSIT to establish a broadband-ready community certification program to advance the expansion of broadband infrastructure to underserved communities and set forth provisions for the program.

I have worked with our broadband and wireless providers, the PUCN and OSIT, in the development of the bill in its first reprint. As you are aware, bills almost remain a work in progress. A friendly amendment proposed by the PUCN and OSIT has been accepted.

The amendment eliminates the use of a third-party administrator and eliminates the fiscal note. I will turn the presentation of the amendment over to Debrea Terwilliger from the PUCN and Director Brian Mitchell from OSIT.

DEBREA TERWILLIGER (Senior Attorney, Public Utilities Commission of Nevada):
The PUCN proposes to delete the new definition of broadband service on page 3, section 2 in our proposed amendment to Amendment No. 377 ([Exhibit C](#)). We have a concern on the PUCN's behalf about defining broadband service in legislation. It is almost stale the moment you put it in. We are proposing to remove it for now. You will see it in a later portion. We are returning the old definition of broadband service in *Nevada Revised Statutes* 704 because it relates to our jurisdiction.

Our proposed amendment to Amendment No. 377 in section 3 on pages 3 and 4 of [Exhibit C](#) changes how the Commission collects funds acquired by the voluntary contribution program. The amended bill has the funds be administered by an independent administrator for the Nevada Universal Service Fund. We have concerns that if the independent administrator managed the funds, it might add to the cost and reduce the amount of money available to flow to OSIT.

The Commission determined through its own processes we could handle the money we receive from the providers who are voluntarily participating in the program. We can receipt and immediately deposit monies with the State Treasurer. Funds do not have to go through an independent administrator.

It is the same in section 3.5 on page 5 of [Exhibit C](#) that states the Commission shall deposit any money with the State Treasurer, and the State Treasurer allocates the money to OSIT.

Section 4.5 is a remnant from the original bill, that sought to rename the fund to maintain the availability of telecommunications service which is the Nevada Universal Service Fund. We do not need to rename it. This came out of the separation of [A.B. 388](#) from [A.B. 377](#). It is why we are proposing to amend it on page 5, [Exhibit C](#). *Nevada Revised Statutes* 704.013 will stay as is without the amendment to that section.

[ASSEMBLY BILL 377](#): Revises provisions governing access to broadband services. (BDR 58-208)

On page 7, [Exhibit C](#), we return the old definition of broadband service to section 6, paragraph 4. I recognize this definition of "not less than 200 kilobits per second" is out of date and stale. This section of the statute does relate to our jurisdiction, and we put the definition back in so it does not change our jurisdiction at this point in terms of policy and service.

It is obvious [A.B. 388](#) does adjust the PUCN's jurisdiction a bit to the extent that a broadband provider participates in a voluntary contribution program. The changes in our jurisdiction are limited to this program.

BRIAN MITCHELL (Director, Office of Science, Innovation and Technology, Office of the Governor):

I will summarize the changes we are making. Many changes make our task simpler. It means more money goes to infrastructure projects in the community.

Sections 7.3 and 7.5 on page 8, [Exhibit C](#), are being eliminated in part due to the change Ms. Terwilliger mentioned, removing the updated definition of broadband service. It compels the ease of transferring of funds for the State, and no money will be caught up in administrative costs.

Section 7.6, subsection 1, paragraphs (b) and (c) were eliminated as they are out of date and is no longer necessary with regard to how we are approaching the bill at this point. The OSIT will prepare a report with a summary of the availability of broadband services throughout the State. It requires recommendations for the deployment of infrastructure to underserved communities and to submit a report to the Governor and the Legislature. The language as it reads now is cleaner rather than inserting information about collecting and mapping speed levels.

Congress recently authorized the Federal Communications Commission (FCC) to undertake a nationwide mapping program which is the source we will use for the information to prepare a report. The report will be useful to the State to highlight areas where we have good service and where we do not and what can be done to improve in our goal for universal coverage.

BARRY GOLD (AARP Nevada):

We honor someone who is still in our memories and a friend to everyone, the late Assemblyman Tyrone Thompson. Access to high-speed internet broadband was an important issue to him.

Today high-speed internet access, commonly referred to as broadband, is essential. It enables older adults to benefit from technology that improves quality of life and allows them to age in place. It includes online applications which help people receive telehealth services, connect with friends and family, shop for groceries and other items, work from home, stream entertainment options, engage in lifelong learning activities and more.

Communities need the infrastructure to offer high-speed internet access, yet availability is lacking in many parts of the Country, particularly in many lower-income and rural areas. Further, the service requires the capacity to support present and future needs. The provisions of this bill enable the PUCN and the Governor's OSIT to address the problem. It provides incentives through grants for infrastructure specifically for low-income rural areas and looks at broadband availability and speed across the State.

Addressing the digital divide requires a commitment to digital equity. Everyone—regardless of factors such as age, race, ethnicity, income level and geography—should have access to affordable, reliable high-speed internet service. The AARP of Nevada supports A.B. 388 and urges the Committee to

pass this legislation to improve broadband services for Nevada families across our State.

ARIELLE EDWARDS (City of North Las Vegas):

Quality broadband is essential and provides communities with access to health care, employment opportunities, education and more. It was unfortunate to see many children in North Las Vegas during the pandemic attend school outside on the sidewalk next to a bus that provided high-speed internet.

Assembly Bill 388 is much-needed to ensure the infrastructure is built to increase accessibility to broadband in communities. Therefore, we are in support of A.B. 388.

BARBARA PAULSEN (Nevadans for the Common Good):

During the pandemic you have heard that applying for a job, renting a place to live, filling out a loan application, trying to get rental assistance or unemployment insurance depends on the internet. Over the last several months, Nevadans for the Common Good have talked with numerous parents and our Hispanic community whose children are attempting to participate in online education.

The broadband infrastructure in their neighborhood is often insufficient to support two or more students online simultaneously. Parents are receiving truancy notices from the school district. It is not because their children are skipping school but because they cannot get online or are having to divide the day among several children in the household to receive their education.

It means many residents in older, dense urban areas or rural areas of the State often lose video and audio connections while conducting necessary business because they have difficulty securing stable and reliable internet access.

We are pleased the bill has a component where we can collect data so we can see what our need is and how it is changing over time. Nevadans for the Common Good is in support of this bill.

BRIAN WACHTER (Retail Association of Nevada):

We thank Assemblyman Miller for bringing the bill forward and the much-needed attention to broadband infrastructure and access in Nevada. We are in

opposition to the bill. While well-intentioned, A.B. 388 is unnecessary for several reasons.

The federal government through Congress and President Joe Biden has provided \$5 trillion to help the economy in direct economic stimulus payments. The intent is for those who received this to engage in existing market conditions without the need for government intervention.

The federal government has allocated \$4 billion to Nevada specifically for broadband deployment in the State. Next week, the FCC will begin taking applications for the Emergency Broadband Benefit Program, a \$3.2 billion program in which 40 broadband providers in Nevada have signed up to participate.

Many of our broadband providers in Nevada already offer products as low as \$5 to \$10 per month to qualifying households. These are not taxpayer or government subsidies. We have concerns that the contribution program contemplated may cost more to administer than the program generates. The federal government's recently authorized study will give the information we need to combat this problem as a State.

We applaud the goal and look forward to watching as the federal government programs wind their way to Nevada and provide these services to our citizens so they can participate in everyday activities. We urge you to vote no on A.B. 388.

MR. HOJJATY:

It is important to increase broadband access. Many people are in need. Better or additional ideas can be added to the bill.

When I lived in California, I was receiving low-cost internet service from AT&T for \$10 per month. When I moved to Las Vegas, I found a low-cost internet option was not available. Why does Las Vegas not have the service?

Another missing element not talked about on the bill is unlimited low-cost or free-data service on the phone. As you know, such activities do not need a computer, they can be done outside. Maybe people have errands they do or they want to multitask, they want unlimited data. It can be used as a mobile hot

spot in case they cannot get internet or their internet connection has been shut off.

With these two considerations in mind, I hope you can produce revisions to the bill.

RANDY BROWN (AT&T):

We are neutral on this bill and appreciate Assemblyman Miller working with us. He has been collaborative and willing to consider many viewpoints. As mentioned by Ms. Terwilliger at the PUCN, this bill does provide for oversight, audit and complaint adjudication by the PUCN where none exists today—in essence, creating disincentive for broadband providers to participate. Broadband is an interstate service under the jurisdiction of the FCC rather than individual states.

We spoke with the bill sponsor and the Director of OCIT relating to the mapping components in the measure. As mentioned, the FCC is undertaking a comprehensive nationwide mapping effort which will produce accurate and uniform maps depicting broadband coverage at every business and living unit in the Country.

We appreciate the recognition of using precious State resources and intend to use the FCC maps and alleviate duplicating FCC rather than creating our own.

DAVID DAZLICH (Vegas Chamber):

The Vegas Chamber is in a neutral position on A.B. 388. We look forward to working with the bill sponsors to get the bill correct. As you have heard from other callers, the concerns regarding duplication of efforts and the amount of money already being allocated to these broadband projects is why we are neutral.

AMBER STIDHAM (Henderson Chamber of Commerce):

The Henderson Chamber of Commerce is neutral on this bill, and we are reviewing the proposed amendment to Amendment No. 377. We appreciate the intent of the bill, although it is our understanding from previous callers that these companies have these programs in place today with federal funding. We are puzzled on the PUCN's potential involvement in oversight as these businesses are already regulated by the federal government.

ASSEMBLYMAN MILLER:

I acknowledge the mention of the late Assemblyman Tyrone Thompson from Mr. Gold of AARP. Assemblyman Thompson first brought legislation which deals with the digital divide in 2017 with A.B. No. 111 of the 79th Session. If his forward-thinking idea at the time would have passed, we might not have found ourselves with such an issue during the pandemic. More families would have had access to the internet through subsidized payments for the services.

The idea that we will have a large amount of money coming in from the federal government to support broadband is true. But, the federal government will end the funds at a point, and the \$4 billion will be expended. We need to continue to invest in our State and our broadband infrastructure to ensure we are always totally connected and no Nevadan is ever left behind due to lack of internet connectivity.

The bill is a forward-thinking piece of legislation, puts money in our fund for our future and allows us to build and go beyond what the federal government will do. It allows Nevadans to pitch in at their will, knowing their donations will help other Nevadans have broadband access so none of our links are weak. We are only as strong as our weakest link.

I encourage the support from the Committee and remind everyone the participation from the providers is voluntary. We work closely with the PUCN to ensure its jurisdiction remains as limited as possible, only focusing on the funds coming through this program and going no further.

SENATOR HARRIS:

I want to place my position on the record that broadband is definitely a utility, and I will not be opposed to trying to get more regulation.

We will close the hearing on A.B. 388.

MR. HOJJATY:

Many of our issues have to do with high levels of car dependency and the car culture when it comes to insurance, towing and other similar factors. I hope in the remainder of this Session we introduce bills delivering alternatives or change the urban planning system. Urban planning issues are the No. 1 concern in my opinion, as I live in the Las Vegas Valley. We can learn much from our older cities whether Carson City or downtown Las Vegas.

There are many issues as to why Las Vegas is car-dependent. Las Vegas is the fifth-densest urban area in the Country behind New York and denser than Chicago and Boston. However, folks take transit and walk more often in those cities than we do in our cities. The urban planning problems of Las Vegas can be described as large-scale, single-use zoning filled with maze-like streets and cul-de-sacs that feed into large collector roads which gather most of the traffic.

This system is heavily unsafe and creates many crashes. It is costly to public and private budgets. Therefore, we should institute policy similar to what Minnesota and Oregon implemented which allows more flexible land usage. Roundabouts can effect a difference as well. We need redistribution of traffic flow; we have to talk about transit use. We want to preserve the high rate of single-family homes and free-flowing traffic. More important is getting rid of the codes and regulations encouraging this kind of development.

Please let us have more discussions on this topic. If we can begin addressing the issue, many other problems will be solved. It is disproportionately affecting elderly, young and low-income people.

Remainder of page intentionally left blank; signature page to follow.

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CHAIR HARRIS:

Seeing no further business to come before the Committee, the meeting is adjourned at 5:19 p.m.

RESPECTFULLY SUBMITTED:

Debbie Shope,
Committee Secretary

APPROVED BY:

Senator Dallas Harris, Chair

DATE: _____

EXHIBIT SUMMARY				
Bill	Exhibit Letter	Begins on Page	Witness / Entity	Description
	A	1		Agenda
A.B. 32	B	2	Maggie O'Flaherty / Tow Operators of Northern Nevada	Proposed Amendment
A.B. 388	C	3	Debrea Terwilliger / Public Utilities Commission of Nevada	Proposed Amendment PUCN and OSIT