

**MINUTES OF THE
SENATE COMMITTEE ON JUDICIARY**

**Seventy-ninth Session
March 9, 2017**

The Senate Committee on Judiciary was called to order by Chair Tick Segerblom at 1:34 p.m. on Thursday, March 9, 2017, in Room 2134 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to Room 4412 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 Tick Segerblom, Chair
Senator Nicole J. Cannizzaro, Vice Chair
Senator Moises Denis
Senator Aaron D. Ford
Senator Don Gustavson
Senator Michael Roberson
Senator Becky Harris

STAFF MEMBERS PRESENT:

Patrick Guinan, Policy Analyst
Nick Anthony, Counsel
Pat Devereux, Committee Secretary

OTHERS PRESENT:

Lynn Hettrick, Deputy Director, Division of Administration, Department of Agriculture
Jacqueline Holloway, Director, Department of Business License, Clark County
Brannon Zimbelman, Chief Executive Officer, The Travel Joint
Wendy Stolyarov, Libertarian Party of Nevada
Joe Dice
Cole Azure, Mainstream Marijuana Association
Vicki Higgins
Michael McAuliffe, Wellness Education Cannabis Advocates of Nevada
Rianna Durrett, Executive Director, Nevada Dispensary Association

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Neal Tomlinson, Nevada Dispensary Association
Chuck Callaway, Las Vegas Metropolitan Police Department
Corey Solferino, Washoe County Sheriff's Office
Robert Roshak, Executive Director, Nevada Sheriffs' and Chiefs' Association
Austin Osborne, Administrative Officer/Planning Director, Storey County
Denny Dotson, Director of Tourism, City of Virginia City
Laurel Stadler, Rural Coordinator, Northern Nevada DUI Task Force
Christine Adams, Administrator, Victim Impact Panel Manager, Northern Nevada
DUI Task Force
Grace Crosley, Nevadans for Informed Marijuana Regulation
Wes Henderson, Executive Director, Nevada League of Cities and Municipalities
Michael Hackett, Nevada Public Health Association; Nevada Tobacco Prevention
Coalition
Cindy Brown, MJ Freeway; Patient to Patient

CHAIR SEGERBLOM:

We will begin with a presentation on the industrial hemp industry in Nevada.

LYNN HETRICK (Deputy Director, Division of Administration, Department of Agriculture):

The plant *Cannabis sativa* L., which is the hemp and marijuana family, was banned under the Marijuana Tax Act of 1937. The Act legitimized use of the term "marijuana" to include hemp, cannabis and products made from hemp. Despite a congressional ban on hemp during World War II, there was enough demand for fiber that the U.S. Department of Agriculture urged Filipino farmers to grow hemp. Four-hundred thousand acres of hemp were planted in the Philippines during the War.

In 1969, the Act was found to be self-incriminating because to apply and pay the tax, people had to admit they possessed an illegal product. The Act was judged unconstitutional. Congress passed the Comprehensive Drug Abuse Prevention and Control Act of 1970, commonly called the Controlled Substances Act (CSA). For several decades, hemp advocates have pressed Congress to remove hemp from inclusion in the CSA and allow its cultivation in the United States.

Section 7606 of the 2014 Farm Bill states—and I paraphrase—

Notwithstanding the Controlled Substances Act, ... the Safe and Drug-Free Schools and Communities Act ... or any other Federal law—and I emphasize "any other Federal law"—an institution of higher education or a State department of agriculture may grow industrial hemp to study growth, cultivation or marketing of industrial hemp.

However, hemp remains a controlled substance under federal law. The U.S. Drug Enforcement Agency (DEA) requires permits to export hemp seeds nationally and internationally. Those federal laws are contradictory and impede research into growing hemp and the possible uses and effectiveness of products made from it.

The Seventy-eighth Legislative Session passed S.B. No. 305 of the 78th Session, adopting the 2014 Farm Bill language to allow Nevadans to conduct research trials on the viability of industrial hemp. The Nevada Department of Agriculture (NDA) certified 260 acres of legal hemp research and production during the 2016 growing season. All trials of hemp must be certified by the NDA or a university.

CHAIR SEGERBLOM:

How many separate growers worked those 260 acres?

MR. HETTRICK:

I believe it was nine. Industrial hemp is probably best known for its unique fiber content. It was spun into usable fiber 10,000 years ago. Industrial hemp, although a member of the Cannabis sativa L. family, is low in tetrahydrocannabinol (THC), the psychoactive component of marijuana. Hemp has no psychotropic properties. Federal law defines industrial hemp as Cannabis sativa L. producing not more than 0.3 percent of THC when dried.

Annually, one acre of hemp produces as much fiber as two to three acres of cotton. Hemp fiber is stronger, softer, lasts twice as long as cotton and does not mildew. Cotton grows only in moderate climates and requires more water than hemp. Hemp is frost-tolerant, requires moderate water and can be grown in all 50 U.S. states. Cotton requires large quantities of pesticides and herbicides. Hemp requires no pesticides or herbicides and only moderate fertilizer and water. It is hardy and fast-growing.

Annually, one acre of hemp produces as much paper as two to four acres of trees. All types of paper products can be produced from hemp. Other products include textiles, clothing, biodegradable plastics, paint, insulation, biofuel, food for humans and animals, and cannabidiol (CBD) oil.

Cannabidiol oil is controversial, often touted for its medicinal properties. It is purported to be effective in reducing some types of seizures, and research indicates it has potential value in mitigating diabetes, fibromyalgia, post-traumatic stress disorder, schizophrenia, Crohn's disease, multiple sclerosis and insomnia. At the federal level, research on hemp and CBD oil is illegal, as it is considered a schedule I drug.

In December 2016, the DEA acknowledged the potential medical benefits of cannabinoids and published a rule characterizing marijuana extracts like CBD oil as schedule I drugs. The hemp industry and lawyers specializing in cannabis law widely believe the DEA overstepped its authority, and that rule is being challenged in multiple appellate courts.

The value of CBD oil is proven, fetching \$20,000 to \$40,000 per kilo, or \$500 to \$1,000 per ounce. With its potential to generate significant profits, CBD oil is the primary motivation behind the expanding interest in growing hemp. The NDA's position is, it is eager to authorize industrial hemp trials because it believes hemp may provide another avenue for a diverse and sustainable agriculture industry in Nevada. The NDA is creating a certified hemp seed program so growers can grow their own seeds. Low-THC varieties of hemp are being grown in NDA greenhouses. Under federal law, before it can be harvested, the varieties must test at less than 0.3 percent THC. When the statewide research trials are over, the NDA will publish the results on its Website. Nevada is in the forefront of the Western hemp industry.

CHAIR SEGERBLOM:

What can this Committee do to help this effort? Industrial hemp growers have told me they have no market for it. They would like to access the State medical marijuana program.

MR. HETTRICK:

The issue is whether CBD oil will be controlled as if it were medical marijuana or a product containing THC. Under federal law, you can cultivate, market and do research on hemp, so I believe CBD is legal. As long as it is grown here, CBD oil

should be legal to market to Nevada's dispensaries and other places. You can buy CBD oil from Amazon.com and many other online retailers. It is nonsensical to say that someone who grows hemp in this State must have a license and submit to many regulations to sell what can be bought on Amazon.com and shipped to a home. There are questions about whether CBD oil can be shipped across state lines based on the recent DEA ruling that it is a schedule 1 drug. That will probably have to be resolved at the federal level.

CHAIR SEGERBLOM:

Could Legislators add to our statutes that CBD oil from hemp grown in the State could be used in our medical marijuana system?

MR. HETTRICK:

It would be good to allow CBD oil to be marketed without sales taxes through State dispensaries.

CHAIR SEGERBLOM:

We will open the hearing on Senate Bill (S.B.) 236.

SENATE BILL 236: Requires a license or permit issued by a local government to operate certain businesses in which the use of marijuana is allowed or to allow the use of marijuana at certain events. (BDR 20-43)

SENATOR TICK SEGERBLOM (Senatorial District No. 3):

I have a presentation ([Exhibit C](#)) on S.B. 236. The bill addresses what will be an increasing problem in Nevada. On the November 2016 ballot, 55 percent of voters approved Question No. 2, legalizing recreational marijuana. However, there is no place tourists can use marijuana. Nevada residents can buy marijuana and use it at home, but it cannot be used anywhere else. Tourists will want to buy marijuana, but with nowhere to use it, they may smoke it while walking down The Strip or in downtown Reno. No one wants that.

Nevada is known for its legal vices and pleasure, which is why many people come here. We allow some things other states do not, things everyone may not condone but are nonetheless going on within a couple of miles of this building. We license and supervise such activities, now and historically. A large part of our tax base is gaming. Historically, when the State's revenues dipped, we authorized things like gambling, which no other state allowed. Nevada was known for divorces, cheap cigarettes and alcohol. Will marijuana become

another taxed and regulated tourist vice or pleasure, or will we put our heads in the sand? Senate Bill 236 addresses that question.

Forty-six million tourists come to Nevada annually to have fun. When the recreational dispensaries open, some of them will buy marijuana. What will they do with it? Will they take it back to their hotel rooms or walk up and down the streets smoking? We do not know. Rather than creating a headache for law enforcement and a hazard for other people, let us provide a proper venue. We do not want tourists using marijuana in parks near your kids or walking down The Strip. They have legally bought a product we have taxed and are making money off of, so we need to find a place where they can use it.

The bill does not instruct local governments to authorize public use of marijuana. The bill simply says, if local governments want to enact ordinances to provide for venues, social clubs, bars, concerts, festivals or hotels, marijuana smoking will be regulated. People have come to me seeking to have marijuana-related weddings, buggy rides, resorts, outdoor cafes, streets dedicated to it like in Amsterdam—the ideas are off the charts. The Legislators' job is to give authority to the cities of Las Vegas and Reno, Clark County and Carson City to address public use of marijuana. If these entities want to do test project concerts or festivals, that would be up to them.

SENATOR FORD:

How does S.B. 236 comport with the regulation of public consumption of alcohol and tobacco?

SENATOR SEGERBLOM:

Question No. 2 mandated that marijuana would be treated like alcohol. Marijuana is not allowed to be consumed anywhere gaming is taking place, pursuant to Nevada Gaming Commission regulations. If a bar has slot machines, it could not allow marijuana. However, if a standalone bar wanted to allow it, the bill provides for that. A special license would be issued allowing both alcohol and marijuana use for people aged 21 and over.

SENATOR FORD:

Explain why the bill is necessary. Do not counties already have the ability to regulate the public consumption of alcohol and tobacco?

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SENATOR SEGERBLOM:

Yes, but they lack the authority to do so for marijuana.

SENATOR FORD:

Is that because it is a violation of State law?

SENATOR SEGERBLOM:

Correct. It is illegal to use marijuana anyplace but your home. By definition, tourists do not have local homes and cannot use marijuana in their hotel rooms, casinos, walking on The Strip or even out in the desert.

SENATOR FORD:

There are places where cigarette smoking and things of that sort are disallowed under county ordinances. Is that right?

SENATOR SEGERBLOM:

Correct, but Nevada is the only state that lacks a clean air act prohibiting indoor smoking. In bars, you cannot smoke, but in restaurants limited to aged 21 and over, there is smoking. Bars and restaurants can ban smoking, but the law allows it.

SENATOR FORD:

Under the bill, for example, could White Pine County prohibit the consumption of marijuana under any public circumstances or in any venue?

SENATOR SEGERBLOM:

Yes, other than in someone's home. The bill does not dictate to local governments that public marijuana use must be allowed. I view the problem as the elephant in the room that needs to be looked at.

SENATOR FORD:

How have other states with legalized recreational marijuana dealt with this issue at the county or municipal level?

SENATOR SEGERBLOM:

Colorado is starting to create ordinances allowing members-only marijuana social clubs similar to bars. No other state has enacted anything like S.B. 236.

SENATOR FORD:

How do tourists in Portland, Oregon, which does not have a similar statute or ordinance, consume marijuana in public? What is being done in other states to address the issue the bill attempts to address?

SENATOR SEGERBLOM:

They are putting their heads in the sand. People in Denver, Colorado, complain it smells like marijuana. Police will tell you they cannot arrest everyone walking down the street who smells like marijuana. Senate Bill 236 would give them that power if people smoke outside of designated venues. There will be a lot of worldwide advertisements directed at tourists saying, "Come to Nevada and smoke pot." So, we must provide a place to do so.

SENATOR HARRIS:

Under the bill's section 2, subsection 3, paragraph (a), public marijuana use is not allowed " ... within 1,000 feet of a public or private school or community facility." Charter schools are not listed. Do you intend to apply the restriction to them?

SENATOR SEGERBLOM:

I am unsure if charter schools are considered public schools. That language was taken from Question No. 2.

SENATOR HARRIS:

Sometimes charter schools are allowed under the public school system, and sometimes they have independent charters.

SENATOR SEGERBLOM:

We can make that distinction in the bill.

SENATOR HARRIS:

The list in section 2, subsection 3 is about prohibitions, but there is no corresponding violations penalty. If organizers of an event or businesses violate the 1,000-foot perimeter or allow people under the age of 21 to enter the event or business, do you envision a penalty provision?

SENATOR SEGERBLOM:

I assume the organizers or business owners would lose their license issued by the local government. There would also be a State criminal penalty.

NICK ANTHONY (Counsel):

The penalty would be under the provisions of Question No. 2. I believe it is a misdemeanor.

SENATOR HARRIS:

Would violators then lose their license or permits, or simply pay the corresponding fine?

MR. ANTHONY:

The bill authorizes local governments to enact ordinances to allow businesses and public events to include marijuana use. It does not provide for penalties because it allows local governments to enact their own ordinances. If people violate those ordinances, they would be subject to criminal penalties.

SENATOR SEGERBLOM:

In their ordinances, local governments could include civil penalties and revocations of licenses.

SENATOR HARRIS:

Are we looking at the possibility that penalty schemes could be different in every county, or would there be some statewide uniformity?

SENATOR SEGERBLOM:

Yes, under S.B. 236, penalties would be different in every county and city. However, we can talk about uniformity.

SENATOR GUSTAVSON:

Question No. 2 passed with 55 percent of the votes. Why was what the bill seeks to rectify not included in the ballot question?

SENATOR SEGERBLOM:

I did not write the initiative and am not sure it followed the single-subject rule. Every time you add something to an initiative, it becomes more problematic. Someone had to have anticipated the problem addressed in the bill.

SENATOR GUSTAVSON:

Have you asked county representatives if they would be willing to go along with the bill's proposals?

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SENATOR SEGERBLOM:
Yes.

JACQUELINE HOLLOWAY (Director, Department of Business License, Clark County):
The Department of Business License, Clark County, supports S.B. 236 and has a proposed amendment ([Exhibit D](#)). In section 1, subsection 4, paragraph (c), we want to allow county governments to impose certain conditions, limitations and restrictions on the licenses or permits of events or businesses.

We also want local governments to be allowed to limit the number of licenses or permits under section 1, subsection 5. We would like to add language to section 1, subsection 6 clearly identifying the 3 types of people who would be exempt from State prosecution. We would like to add definitions of "delivery," "production," "special event" and "unreasonably impractical."

BRANNON ZIMBELMAN (Chief Executive Officer, The Travel Joint):
The Travel Joint Website ([Exhibit E](#)) has operated four years, during which time Colorado, Oregon, Washington, California and Nevada have legalized recreational marijuana. Moving forward, other states will look at what is happening in Nevada, which is the new standard for regulation.

The Travel Joint is a cannabis-related travel site on which users can book flights and hotels, shop dispensaries, browse 420 properties and learn about upcoming events. The site also includes educational information about where to go, events and brands of marijuana. Dispensaries advertise on the site.

The Travel Joint is Nevada-based because we knew when recreational marijuana was legalized here, as the international adult playground, Las Vegas was built for it. The site has 1.5 million viewers per month, with "Nevada" the second-most popular item searched for, closely behind "Colorado."

All we are talking about here is smoking. There is cigarette and cigar smoke, and there is cannabis smoke. People are already enjoying cannabis in the open in Las Vegas. Fifty percent of the market is edibles, so, no one knows when someone is walking down The Strip eating a marijuana-infused candy bar. Edibles, concentrates, aka vaping, and flower are the three divisions. Vaping of concentrated oils is indistinguishable between cannabis and tobacco. When all vapers exhale, it smells like terpenes, the flavor profiles of cannabis. I would rather sit next to someone smoking cannabis than a cigar or cigarette.

The Travel Joint would like to see S.B. 236 mandate permanent and temporary licenses. Permanent venues would be establishments like restaurants, that would create decks where people can smoke cannabis then enjoy a meal, or yoga studios. The goal is to give people a comfortable place to enjoy marijuana where they are not being pushed into an archaic "don't ask, don't tell" environment. Temporary permits would be for things like concerts and festivals. We are not asking that the entire venue be marijuana-friendly. The Life is Beautiful Festival in Las Vegas could apply for a temporary license for a 420-denier tent in which participants could enjoy cannabis.

People smoking cannabis like to be around like smokers. Most smokers I know do not drink alcohol. Cannabis smokers lead healthier lifestyles than do drinkers. People do not need to be able to smoke weed and drink whisky at the same venue.

Because gaming cannot happen anywhere near marijuana use, as per federal regulations, when tourists come to Las Vegas, S.B. 236 will aid businesses outside of The Strip. People will spend money and create tax revenue in ancillary businesses with permanent licenses.

VICE CHAIR CANNIZZARO:

Your Travel Joint media kit, [Exhibit E](#), indicates your offerings will develop around the Nevada market.

MR. ZIMBELMAN:

In Colorado, there is a dude ranch at which people enjoy a weekend of smoking cannabis, eating marijuana-infused dishes, horseback riding and fly-fishing. At culinary events, 30 to 40 participants take over a restaurant for a cannabis-infused dinner. Individual strains are paired with wines and used in the entrees and appetizers. We want to do that in Las Vegas under a temporary license.

SENATOR HARRIS:

As per your Life Is Beautiful temporary permit scenario in which a tent is erected for people to partake of cannabis, the bill would prohibit anyone under the age of 21 to attend the event. Can you clarify how the bill would impact temporary licenses? Say, a concert applies for a temporary special-use permit and no one under the age of 21 is allowed. How would that impact the event's revenues?

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SENATOR SEGERBLOM:

Perhaps local governments could license a tent within Life is Beautiful where people must show identification proving they are aged 21 or over to go inside.

SENATOR DENIS:

A high school in my downtown Las Vegas Senatorial District is within 1,000 feet of the Life Is Beautiful venue. How would that work?

SENATOR SEGERBLOM:

I do not know because, according to Question No. 2, that restriction distance cannot be changed for 3 years.

WENDY STOLYAROV (Libertarian Party of Nevada):

After Nevada's legalization of recreational marijuana, the State must look ahead to the practical results of that vote, including an increase in use of marijuana at special events and outside of homes. The Libertarian Party of Nevada believes S.B. 236 is an excellent step toward creating a formal process for marijuana-friendly businesses and events, providing customers and attendees with clear direction and legal protections. We see much potential for trade and tourism. The High Times Cannabis Cup trade show in California draws thousands of people. Marijuana-friendly areas in casinos could be a lucrative draw for our State.

We have two concerns with the bill. We are concerned the restrictions surrounding public and private schools could lead to problems for homeschooling parents. Also, we would like the bill to include a cap on permitting fees to prevent punitive cost increases for businesses and event organizers. While the Libertarian Party of Nevada would prefer marijuana to be as freely legal as cigarettes, S.B. 236 is an important step in the right direction for State policy.

JOE DICE:

In November 2016, Denver voters approved Initiative 300, which authorizes creation of a 4-year pilot program to allow businesses to seek city-issued permits to create marijuana "consumption areas." I have owned several Colorado marijuana dispensaries in which consumers could use the product. When the law allowing that was reversed, many problems developed. You cannot tell if vaping steam is from tobacco or marijuana. The law enforcement costs mounted, with police trying to determine if people were smoking nicotine

or cannabis oil. If an illegal substance is being consumed, the ticketing process and court system is counterproductive. We were left swimming upstream after selling tourists marijuana who came to our dispensary to recreate. They are not at home, so the only place to smoke marijuana is in a parking garage or dark alley, where bad things could happen to them. Tourists were endangered because they had nowhere to consume a legal product.

Many events include beer gardens that you cannot enter without an identification check or special wristband. Initiative 300 will create a similar situation. The 1,000-foot perimeter around schools would be considered before licenses would be issued for marijuana facilities, so that violation would not occur. Colorado reversed course and will allow limited public consumption because of the issues outlined by Senator Segerblom.

SENATOR GUSTAVSON:

Mr. Dice, you mentioned tourist safety. I am more concerned about average citizens who are driving under the influence of cannabis.

MR. DICE:

That is another good reason to consume marijuana in a controlled environment. Recreational marijuana is legal, and people are using it. In Colorado, you cannot tell what is in the vapor pen, and bars are smoky anyway. With further regulation, everyone is better protected, not just cannabis-smoking tourists.

People smoking in a beer garden setting do not want to sit next to people who do not smoke cannabis. It is an awkward feeling for the smoker, as if you are violating someone's space. Even in a dark concert, most people smoking joints duck down because they do not want to offend others. If I were to smoke at a public event, I would be pleased to have a separate place where it was socially acceptable. I would not like to turn around with my vapor pipe and see a family staring at me.

COLE AZURE (Mainstream Marijuana Association):

The Mainstream Marijuana Association and Joey Gilbert Law, of Las Vegas, support S.B. 236.

VICKI HIGGINS:

I am a medical cannabis advocate in Las Vegas. We have been fighting for a bill like S.B. 236 for a long time, recognizing the need for people to go to places

with others who hold similar beliefs about marijuana. As with what we discovered when establishing medical marijuana dispensaries, many small churches are in strip malls, and dispensaries will run into zoning clusters with the 1,000-foot restriction. At recreational marijuana dispensaries and areas where smokers may gather, we will need more flexibility. If we can relieve zoning clusters, we will not have facilities clustered all in one place.

In Las Vegas, there are balloons, bubbles, enticements to gamble and ladies flaunting their things. That is not a terrible, corrupting environment. Parents just need to teach children that marijuana use is acceptable. We need uniformity across the State with recreational marijuana regulations.

MICHAEL MCAULIFFE (Wellness Education Cannabis Advocates of Nevada):

The Wellness Education Cannabis Advocates of Nevada is the State's largest homegrown cannabis education advocacy nonprofit, with chapters in Nye, Clark and Washoe Counties. We support S.B. 236. Section 1, subsection 3, states "The board of county commissioners shall not issue a license" within 1,000 feet of certain facilities. If Senator Segerblom wanted to open a hash bar but I did not like that, all I would have to do is move into a facility or rent a home within 1,000 feet of his bar and turn it into a religious retreat or something like that. When the bar came up for relicensing, it would be denied. Entrepreneurs could spend a lot of money and then be thwarted by community activists wanting to throw a wrench in marijuana use. Perhaps an ounce of prevention now will be worth a pound of cure later.

When I was growing up, my mother worked for the New York City Board of Education and my father's family owned a neighborhood tavern. It was a workingman's bar with liquor and cigarettes. Every day after school, I went to the bar because afterschool childcare was unavailable in the 1960s. It would have been a great financial hardship for my parents to place me in a facility. I grew up working in the bar's kitchen. Since then, I never smoked and have been merely a moderate social drinker. The blanket 1,000-foot prohibition on marijuana establishments may have unintended consequences. I believe just a small percentage of people under the age of 21 do not know what cannabis is and where to get it.

I do not support driving under the influence of any mind-altering substance. From Britain to New Zealand, scientific studies have been done on people DUI of

marijuana. It is far safer than DUI of alcohol or while using a cell phone because cannabis users are aware of their impairment and tend to slow down.

RIANNA DURRETT (Executive Director, Nevada Dispensary Association):

The Nevada Dispensary Association's members include more than 80 percent of the dispensaries statewide, including 90 percent of those in southern Nevada. Most members are vertically integrated with cultivation and production licenses. The Association supports S.B. 236 because it allows local governments to decide if they want to allow consumption lounges and other private uses of marijuana. Those governments can receive input and assess the needs of facilities' neighbors and local law enforcement and businesses. Colorado has struggled with the issues in S.B. 236 for years, and Nevada can learn from its experiences and be proactive and avoid similar struggles. Colorado businesses began charging membership fees for patrons to use marijuana. This made enforcement of marijuana regulations difficult because that is not what the businesses were licensed to do.

In November 2016, the City and County of Denver passed Initiative 300, a pilot program that provided for a limited number of businesses to allow marijuana consumption on their property. Nevada can look learn from Colorado's pitfalls. It took Colorado four years to even begin to enact laws regulating legal public marijuana consumption. The language of Initiative 300 is clear: regulate marijuana like alcohol.

The Nevada Dispensary Association asks that S.B. 236's distance requirement from community facilities be reduced to 300 feet. This is the requirement in Initiative 300. The 1,000-foot requirement could create a lot of problems, limiting the number of properties available at that distance. The definition of a church is variable, and there is no specific process to become a licensed church.

NEAL TOMLINSON (Nevada Dispensary Association):

I am a 20-year Nevada regulatory attorney. Whenever a bill seeks to change the regulatory environment in the marijuana industry, I look at federal guidance. The 2013 Cole Memo issued by the U.S. Department of Justice (DOJ) outlines 8 criteria or enforcement priorities the federal government is concerned about after states began legalizing marijuana. We support S.B. 236 because it will tightly regulate consumption, as required under the Cole Memo.

Jurisdictions in other states ran into trouble because they allowed marijuana to be consumed anywhere. The Memo suggests states license, permit and regulate that consumption. Senate Bill 236 allows counties and cities to do so where consumption takes place. The regulatory climate created by the bill will satisfy the Memo's eight enforcement priorities. The most important one is preventing distribution and sale of marijuana to minors, which the bill satisfies by limiting consumption to people aged 21 and over.

We need to address the issue of DUI of marijuana, which is one of the Memo's guiding principles. We must prevent adverse public health consequences associated with DUI of marijuana. Any business permitted or licensed for marijuana use should ensure its patrons may access public transportation.

SENATOR ROBERSON:

What will your client do if the new presidential administration takes a different position than the Memo's guidance? U.S. Attorney Jeffrey Sessions is not a big fan of your industry. What if the State passes S.B. 236 and then the administration declares its provisions illegal under federal law?

MR. TOMLINSON:

Yes, that is a concern for the marijuana industry, which is monitoring the situation extremely closely. Our only guidance is the Cole Memo, which is still in effect. If there is a change in DOJ policy, we will comply with any new guidance.

SENATOR ROBERSON:

Many people in this room are hoping to make a lot of money and have invested a lot of money in this industry. We need to have our eyes wide open about what could happen if we pass S.B. 236, businesses begin operating all over the State and the feds decide to pull the plug.

MR. TOMLINSON:

Anything is possible. Until something happens, the Memo remains our guiding principle.

SENATOR ROBERSON:

Will you just continue to roll the dice and hope the administration does not change the policy?

MR. TOMLINSON:

Everyone involved in the marijuana industry must weigh perceived risks, take precautions and do what is best for their self-interest as long as the industry follows the Memo's guidance; if that changes, we must all reassess our positions. We cannot stop moving the industry forward based on what may happen. We must be cautious, but the best way to do that is regulate. It is a mistake to not do anything in this space. We are allowing the industry to be unregulated, which is a violation of our initial guiding principle.

SENATOR FORD:

I agree with Senator Roberson's concern. I appreciate your statement that the best response is regulation. Caveat emptor should be the byword of the marijuana industry. People are pursuing it at their own risk. At the end of the day, if new federal guidance comes forth that is contrary to our State's position, caveat emptor will kick in, and the industry will have to address the new interpretations responsibly.

MS. DURRETT:

We are optimistic Attorney General Sessions will not override the will of Nevada's people and what the State has chosen to do.

CHUCK CALLAWAY (Las Vegas Metropolitan Police Department):

The Las Vegas Metropolitan Police Department (LVMPD) opposes S.B. 236. It is premature to start legalizing and regulating marijuana-friendly businesses when the industry itself is improperly regulated. I am a member of the Governor's Task Force on the Implementation of Ballot Question 2, the Regulation and Taxation of Marijuana Act, which has met just once. While many regulations are in place with the medical marijuana industry, that is not true for recreational. To leap forward and consider businesses allowing marijuana consumption at the local level is putting the cart before the horse.

I understand the valid concern of tourists purchasing marijuana products and then having nowhere to consume them. However, the bill's section 1, subsection 6, and section 2, subsection 6, contain major public safety threats. Owners of marijuana-friendly businesses are exempt from State prosecution for "Possession, delivery or production of marijuana," "Possession or delivery of paraphernalia" and "Aiding and abetting another in the possession, delivery or production of marijuana." Why would the language exempt business owners who are potentially involved in illegal activities from prosecution under the law?

If people are following legal guidelines, there is no need for exemption language. The medical marijuana statute has exemptions for caregivers out of fear they could be arrested or prosecuted.

I envision a scenario in which people are licensed to have consumption of marijuana on their properties, open a hookah lounge next to a legitimate business and then customers come in with their own product. Question No. 2 says you can transport the proceeds of home-grown product. The LVMPD narcotics detectives tell me each plant yields a pound of bud, so if I transport six pounds into the hookah lounge, I have not broken any laws. Now, I am handing out marijuana or potentially illegally selling it, creating a black market in the lounge. However, under the bill, the lounge owner is exempt from prosecution.

There may be an avenue to create areas within legitimate businesses for tourists to use marijuana once the facilities are up and running and regulated. I have a marginal comfort level that local governments will put in proper restrictions should S.B. 236 pass. In 2016, LVMPD had more than 58 calls to service hookah lounges for crimes as serious as attempted murder, assault with a deadly weapon, battery and fights. The bill will allow marijuana use in a multitude of businesses. I could get a license for a pet-grooming business and allow patrons to smoke while waiting for their dogs to be groomed.

SENATOR FORD:

As for your comment about the bill putting the cart before the horse, Senate Bill 236 is enabling language that does not require local governments to do anything. Why would we not enable them to have the power, when the industry is properly regulated, to immediately enact marijuana-use policies?

MR. CALLAWAY:

It is reasonable to do that simultaneously with industry regulation. However, I fear enacting the bill if retail establishments are not up and running and we have not finalized their regulation. The Governor has a time line to do so, and an early-start program effort is under way. But, depending on how fast the Legislature moves, the bill could pass and local governments could set up policies before the retail business regulations are even finalized.

SENATOR FORD:

Would it not be prudent for counties to take that approach? It is conceivable the marijuana industry will not be regulated appropriately until the Session is finished. There will be two years before counties are enabled to address regulation. Why not go ahead and do this now, anticipating counties will be prudent and make decisions based on the industry regulations?

COREY SOLFERINO (Washoe County Sheriff's Office):

The Washoe County Sheriff's Office does not support S.B. 236, agreeing with Mr. Callaway's comments.

SENATOR HARRIS:

With regard to the exemptions from prosecution for business owners in the bill's section 2, subsection 6, paragraph (f), would other criminal offenses, including money laundering, be exempted?

MR. CALLAWAY:

I agree. I do not see the need for prosecution exemptions if businesses are licensed and following the law. The bill's language is broad and may be interpreted to involve other criminal activity related to marijuana.

ROBERT ROSHAK (Executive Director, Nevada Sheriffs' and Chiefs' Association):

Mr. Callaway's concerns echo those of the members of the Nevada Sheriffs' and Chiefs' Association. We feel this is moving too quickly without formal regulations in place. We share the concern about the broad nature of the exemptions from prosecution.

AUSTIN OSBORNE (Administrative Officer/Planning Director, Storey County):

Storey County recognizes S.B. 236 is enabling legislation, but the language may potentially prove vague enough to not be enabling. It could perhaps open the door to future legislation changing "enabling" to "mandating." No fees could be collected by a county if it approved marijuana-friendly businesses to cover costs of enforcing and addressing other issues marijuana establishments typically have. These include money laundering and related activities. If a county were to approve these businesses, there is no language enabling it to enact a special-use permit process or other planning restrictions in an effort to mitigate potential adverse impacts. We would like to see language to allow local authorities to prohibit marijuana use in their zoning.

We must remember marijuana is a federally prohibited substance. Counties have no legal authority to create local legislation to allow its use. In Storey County, we have the 1,000-population tourism community of Virginia City. Its tourism is solely dependent on family-type events and uses. If the federal government were to change its stance and there were raids and things like that, our reputation would be at risk. We would forfeit any event profits and be stuck with the resulting liability. It is our duty to protect the public safety and welfare of our County, citizens, businesses, stakeholders and visitors, according to our master plan and the *Nevada Revised Statutes* (NRS). I spent 18 months updating our zoning ordinance with citizens, stakeholders and businesses, and it was very clear they do not want marijuana-friendly businesses in Virginia City or the County. The ordinance was approved by the Storey County Planning Commission and the County Board of Commissioners. Our zoning prohibits the public use of marijuana, citing the federal prohibitions.

SENATOR FORD:

Storey County has determined what it wants in regard to recreational marijuana. The bill does not require the County to enact ordinances, but it does allow the County to declare it does not want public consumption of marijuana. What is the opposition to the enabling language since your community has enacted an ordinance against it?

MR. OSBORNE:

The County is concerned about the precedent the bill would set for potential future legislation that would mandate or prohibit local governments to allow the public use of marijuana. The bill's language is weak on this.

SENATOR FORD:

The bill does not set precedent, which is not needed. It does not open the door to a mandate.

DENNY DOTSON (Director of Tourism, City of Virginia City):

Virginia City is a local treasure and national landmark. We have worked hard over the last 150 years to create a family-oriented atmosphere where folks can step back in time. Rural Nevada means something to a lot of people, including overseas tourists. We present a lot of unique, fun family events. We need to protect against vendors and shops that could drastically change that environment.

When I issue permits for special events, I work with the Nevada Public Agency Insurance Pool and Public Agency Compensation Trust and local insurance agents. The bill may have adverse effects on special-events insurance, which could get very expensive.

LAUREL STADLER (Rural Coordinator, Northern Nevada DUI Task Force):

I am a 27-year advocate for preventing DUI and assisting its victims. I oppose S.B. 236. By definition, public consumption of marijuana and in venues outside of private homes means users have to drive to and from those locations. Even if alternative transportation is available, that does not ensure users will take advantage of those other, safer options.

There has been a lot said today about how marijuana compares to alcohol and how Nevada should look at Colorado's regulation of public consumption of marijuana. The information in my handout, "Projected Fatalities in Nevada From Marijuana-Related Crashes" ([Exhibit F](#)), is from the National Highway Traffic Safety Administration, Fatality Analysis Reporting System, Rocky Mountain High Intensity Drug Trafficking Area and Centers for Disease Control. Alcohol-related traffic fatalities are overrepresented in Nevada, as compared to Colorado. Nevada has just 53 percent of the population of Colorado yet 64 percent of Colorado's alcohol-related traffic fatality rate. In 2015, Colorado had 151 alcohol-related fatalities, and Nevada had 97.

In 2013, the first year after recreational marijuana was legalized in Colorado, there were 71 marijuana-related and 140 alcohol-related traffic fatalities. In 2014, 59 percent of traffic fatalities were marijuana-related, and in 2015, it was 76 percent. If Nevada maintains the 97 alcohol-related fatalities it had in 2015, based on Colorado's statistics, we can expect to have 49 and 57 marijuana-related fatalities over the next biennium. The Colorado statistics are not "what ifs?" but real numbers.

Nevada's Legislators and Governor are on track to authorize another 106 victims of marijuana-related traffic crashes over the next biennium. The Centers for Disease Control estimated each Nevada traffic fatality costs \$1.3 million in 2013 dollars, or \$138 million for the 106 projected fatalities. The Governor's estimate of \$108 million in tax revenue generated over the next biennium by recreational marijuana pales in comparison.

Victims have not been mentioned today. You may hope there will be no more traffic fatalities since recreational marijuana was legalized. The Committee needs to consider future victims and the cost to the State. The Northern Nevada DUI Task Force has always advocated we would rather have the crime of DUI not committed than have to sanction offenders and console victims when it does. To enact legislation that is known to produce victims is unconscionable.

CHRISTINE ADAMS (Administrator, Victim Impact Panel Manager, Northern Nevada DUI Task Force):

I have worked for 11 years in alcohol-harm reduction in Reno. I also spent 17 years in the alcohol service industry as a bartender and in marketing for bars and restaurants. I oppose S.B. 236 from a traffic-safety standpoint.

When we talk about age-21-and-over venues, that is not always who are in those establishments. For the last few years, I have worked on a grant for the Downtown Reno Corridor concerning large drinking events. In 2013, there was just 60 percent of compliance from age-21-and-over establishments in not allowing minors. The 2016 compliance figure is 82 percent, which while an improvement, still means minors can access 1 in 5 establishments. The Corridor has about 70 venues with liquor licenses, which mean 14 could theoretically be accessed by minors. Underage drinking enforcement is done by local law enforcement, typically using grant money.

Nevada law requires alcohol servers in populous counties to complete an alcohol server training program. Participants learn how to identify minors, the clinical effects of alcohol on the human body, signs of impairment and how to stop serving intoxicated patrons.

Senate Bill 236 changes that if alcohol is served in establishments that allow consumption of marijuana. Purveyors of marijuana will not have the same training as alcohol servers on how to spot dual impairment. Community safety is directly correlated to those who dispense impairment substances. Alcohol servers would prefer to be part of the solution instead of part of the problem, so they need tools and resources. The bill should add how to spot dual impairment to alcohol servers' required training curriculum.

SENATOR FORD:

A bill this Session will require all alcohol servers in the State to learn to recognize impairment. I do not know if that would be part of Mr. Callaway's

regulation of the recreational marijuana industry. Section 1, subsection 6 of S.B. 236 talks about license holders' immunity from prosecution, so learning to spot impairment could be part of that discussion.

GRACE CROSLY (Nevadans for Informed Marijuana Regulation):

I voted against Question No. 2, which prohibited public consumption of marijuana. Testifiers have said they are confused by provisions in S.B. 236 that exempt from prosecution business owners who allow consumption of marijuana. That is the legal mechanism by which we are getting around the fact that the terms of Question No. 2 may not be altered for 3 years. It is legal trickery to circumvent what voters approved.

Mr. McAuliffe said DUI of marijuana is not as bad as driving while on a cell phone because smokers know they are impaired. Hopes were expressed the State will earn a lot of tourism money through recreational marijuana. Mr. Zimbelman said other states will look to Nevada for how to regulate marijuana. If an increasing number of states legalize recreational marijuana, why would tourists come here to use it?

Chair Segerblom said if the bill passes, there will be no issue with people walking down The Strip smoking marijuana, and since it will not be allowed in casinos, it will not interfere with gaming revenue derived from tourists. He said he was concerned about keeping marijuana users off the streets. In a February 17 interview in the *Reno Gazette-Journal*, Chair Segerblom said,

Of course it happens now. They are [using marijuana] in the hotel rooms, they are doing it on the casino floor, they are doing it in restaurants, bars. Very few people actually do marijuana with some kind of smoke. There are vapes, there are edibles, there are all kinds of ways. It is going on and it has been going on for years.

Later in the interview, when discussing where public consumption would be allowed, he said, "It could be a social club. It could be a bar, it could be a street—like a little Amsterdam street. It could be a concert, it could be a park, it could be a one-time event like Electric Daisy Carnival."

It is wishful thinking that the State will earn a lot of tax revenue from marijuana and that it will not affect anything else. A *Denver Post* article states only

4 percent of tourists come to Colorado to buy legal marijuana. And yet, people know to go to Colorado, not Nevada, for recreational pot tourism.

There is a big difference between alcohol and marijuana. I am sitting next to you when you are drinking, you are enjoying it by yourself. If you are smoking marijuana, whether you are outside or just off the street in a business, I get to "enjoy" that smoke, too. Marijuana smoke contains more toxic chemicals than does secondhand tobacco smoke. Its long-term effects have not been studied because of its illegal status.

WES HENDERSON (Executive Director, Nevada League of Cities and Municipalities):

The Nevada League of Cities and Municipalities is neutral on S.B. 236. We support the concept, especially that individual cities could adopt ordinances to control or prohibit public use of marijuana.

MICHAEL HACKETT (Nevada Public Health Association; Nevada Tobacco Prevention Coalition):

The Nevada Public Health Association and the Nevada Tobacco Prevention Coalition are neutral on S.B. 236. For the record, I want to clarify where smoking tobacco is still allowed in the State. There are five exemptions to prohibition on public smoking areas: gaming areas of casinos, retail tobacco shops, brothels, tobacco-related trade shows and age-restricted, standalone bars, taverns and saloons. There is no exemption for age-restricted restaurants. Would the bill allow marijuana smoking where tobacco smoking is prohibited? That would weaken Nevada's clean indoor air laws.

CINDY BROWN (MJ Freeway; Patient to Patient):

MJ Freeway and Patient to Patient are neutral on S.B. 236. I would like to see a zoning exemption if a church or community facility wants to allow a nearby marijuana-friendly business.

VICE CHAIR CANNIZZARO:

We will close the hearing on S.B. 236.

CHAIR SEGERBLOM:

We will open the work session on S.B. 114.

SENATE BILL 114: Revises provisions relating to common-interest communities.
(BDR 18-681)

PATRICK GUINAN (Policy Analyst):

Senate Bill 114 as addressed in the work session document ([Exhibit G](#)) moves the Office of the Ombudsman for Common-Interest Communities from the Real Estate Division, Department of Business and Industry, to the Office of the Attorney General. It also makes conforming changes to NRS to ensure the continued operation of the Ombudsman's Office. The bill provides the Attorney General will appoint the Ombudsman while the current Ombudsman may remain in office when that initial transfer is made.

The bill's sponsor, Senator Joyce Woodhouse, Senatorial District No. 5, notes the bill will need to be rereferred to the Senate Committee on Finance for consideration. She asks that it be passed by the Committee without amendment.

SENATOR ROBERSON:

I will vote no because the bill's sponsors want to force the changes on the Office of the Attorney General, which does not want that.

SENATOR GUSTAVSON:

I agree with Senator Roberson.

SENATOR FORD MOVED TO DO PASS AND REREFER S.B. 114 TO THE SENATE COMMITTEE ON FINANCE.

SENATOR DENIS SECONDED THE MOTION.

SENATOR HARRIS:

It is a good idea for the Ombudsman's Office to be stronger, but I would prefer it remain at the Real Estate Division level. For three years, the Office of the Attorney General has been adamant that if there is a conflict of interest, it cannot appropriately shield other areas of the Office operating under real estate issues. Until we can resolve this ethical concern and there are fewer conflicts of interest, I will vote no.

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THE MOTION PASSED. (SENATORS GUSTAVSON, HARRIS AND
ROBERSON VOTED NO.)

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CHAIR SEGERBLOM:

We will close the work session on S.B. 114. Seeing no more business before the Senate Committee on Judiciary, we will adjourn at 3:26 p.m.

RESPECTFULLY SUBMITTED:

Pat Devereux,
Committee Secretary

APPROVED BY:

Senator Tick Segerblom, Chair

DATE: _____

EXHIBIT SUMMARY				
Bill	Exhibit / # of pages		Witness / Entity	Description
	A	2		Agenda
	B	6		Attendance Roster
S.B. 236	C	10	Senator Tick Segerblom	Presentation
S.B. 236	D	10	Jacqueline Holloway/ Clark County	Proposed amendment
S.B. 236	E	25	Brannon Zimbelman/The Travel Joint	Media Kit "The Travel Joint"
S.B. 236	F	2	Laurel Stadler/Northern Nevada DUI Task Force	"Projected Fatalities In Nevada From Marijuana-related Crashes"
S.B. 114	G	1	Patrick Guinan	Work Session Document