

**MINUTES OF THE MEETING  
OF THE  
ASSEMBLY COMMITTEE ON JUDICIARY**

**Seventy-Seventh Session  
April 5, 2013**

The Committee on Judiciary was called to order by Chairman Jason Frierson at 8:14 a.m. on Friday, April 5, 2013, in Room 4100 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4401 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at [nelis.leg.state.nv.us/77th2013](http://nelis.leg.state.nv.us/77th2013). In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (email: [publications@lcb.state.nv.us](mailto:publications@lcb.state.nv.us); telephone: 775-684-6835).

**COMMITTEE MEMBERS PRESENT:**

Assemblyman Jason Frierson, Chairman  
Assemblyman James Ohrenschall, Vice Chairman  
Assemblyman Richard Carrillo  
Assemblywoman Lesley E. Cohen  
Assemblywoman Olivia Diaz  
Assemblywoman Marilyn Dondero Loop  
Assemblywoman Michele Fiore  
Assemblyman Ira Hansen  
Assemblyman Andrew Martin  
Assemblywoman Ellen B. Spiegel  
Assemblyman Jim Wheeler

**COMMITTEE MEMBERS ABSENT:**

Assemblyman Wesley Duncan (excused)

**GUEST LEGISLATORS PRESENT:**

Senator Patricia (Pat) Spearman, Clark County Senatorial District No. 1  
Assemblyman Joseph Hogan, Clark County Assembly District No. 10



**STAFF MEMBERS PRESENT:**

Dave Ziegler, Committee Policy Analyst  
Brad Wilkinson, Committee Counsel  
Dianne Harvey, Committee Secretary  
Colter Thomas, Committee Assistant

**OTHERS PRESENT:**

James "Greg" Cox, Director, Department of Corrections  
Robert P. Dickerson, Attorney, Las Vegas, Nevada  
Melissa Attanasio, CFP, Divorce Strategies Group, Las Vegas, Nevada  
Christine Kramar, Private Citizen, Las Vegas, Nevada  
Stephen Frye, M.D., Private Citizen, Reno, Nevada  
Bill Carns, Private Citizen, Pahrump, Nevada  
Pat Lynch, Private Citizen, Reno, Nevada  
Juanita Cox, representing Citizens in Action  
Karen O'Keefe, Director of State Policies, Marijuana Policy Project,  
West Hollywood, California  
Cynthia Kennedy, Private Citizen, Virginia City, Nevada  
S. Rowan Wilson, Member, Americans for Safe Access, Northern Nevada  
Chapter, Reno, Nevada  
Vanessa Spinazola, representing the American Civil Liberties Union of  
Nevada  
Jesse Holder, Private Citizen, Reno, Nevada  
Terry Hubert, representing the Vietnam Veterans of America  
Craig A. Rodgers, Private Citizen, Las Vegas, Nevada  
Cindy Brown, Private Citizen, Las Vegas, Nevada  
Chuck Callaway, representing Las Vegas Metropolitan Police Department  
Eric Spratley, Lieutenant, Legislative Services, Washoe County Sheriff's  
Office  
Bryan Wachter, representing Retail Association of Nevada  
Kristin Erickson, Chief Deputy District Attorney, Washoe County District  
Attorney; representing Nevada District Attorneys Association  
Jim Sallee, Private Citizen, Las Vegas, Nevada  
Tim Bedwell, Director of Intergovernmental Services, City of North Las  
Vegas  
Robert Roshak, representing Nevada Sheriffs' and Chiefs' Association  
Tom Clark, representing Black Rock City, LLC  
Geoffrey Lawrence, representing Nevada Policy Research Institute  
Jennifer Solas, Private Citizen, Las Vegas, Nevada  
Damone Williams, Private Citizen, Las Vegas, Nevada

David Doddridge, representing Law Enforcement Against Prohibition,  
Medford, Massachusetts  
Vicki Higgins, Private Citizen, Las Vegas, Nevada  
Timothy Addo, Private Citizen, Las Vegas, Nevada

**Chairman Frierson:**

[Roll was taken. Committee protocol was reviewed.] We have a heavy agenda today. We have three items on the agenda, but we are going to conduct the work session first. We have six measures on the work session for today. I will refer to Mr. Ziegler at this time for an explanation regarding our work session documents.

**Dave Ziegler, Committee Policy Analyst:**

Thank you, Mr. Chairman. I am not advocating for or against any legislation. Members, there is a work session packet on the Nevada Electronic Information System (NELIS). Audience, there is a work session packet on the NELIS system and some paper copies available by the secretary's desk.

The first bill on today's work session is Assembly Bill 174 ([Exhibit C](#)).

**Assembly Bill 174: Revises provisions governing proceedings relating to the abuse or neglect of a child. (BDR 38-991)**

The bill was sponsored by this Committee and heard on March 6, 2013. Assembly Bill 174 concerns the protection of children and hearings on protective custody. If a child welfare agency fails to file a petition alleging a child is in need of protection within ten days of the hearing on protective custody, the bill requires the agency either to recommend against further action, or file a motion asking the court to determine whether the child should be returned to the person responsible for the child's welfare pending further action in court. If the child welfare agency does file a motion, it must give notice to the parent or other responsible person by personal service, or an alternative method set forth in the bill. The bill requires the court to hold a hearing on such a motion and authorizes the court to decide whether to return the child to the person responsible for the child's welfare, in the best interest of the child.

On the day of the hearing, the Nevada District Attorneys Association proposed an amendment, which is attached. Right around the date of the hearing, the staff did mock up their proposed amendment so we could see it more clearly, and that is also attached. The two amendments that are attached are the same; they are just in a different format. Thank you, Mr. Chairman.

**Chairman Frierson:**

Thank you, Mr. Ziegler. With respect to A.B. 174, I recall that there was significant testimony, and I think there has been a great deal of work on behalf of the Nevada District Attorneys Association to work with some stakeholders to come up with language that would be functional. Also in concept was a willingness to discuss how it would be put into practice in ways that did not necessarily have to be in statute. They are ready to go forward with this proposed language that was designed to make sure in the event that there was a late petition, a child's safety is still paramount, and there is a mechanism in place to discuss placement of the child without risk of a child being returned to a harmful environment.

Are there any questions on the bill?

ASSEMBLYMAN WHEELER MOVED TO AMEND AND DO PASS  
ASSEMBLY BILL 174.

ASSEMBLYWOMAN SPIEGEL SECONDED THE MOTION.

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

**Chairman Frierson:**

I will handle the floor statement.

Mr. Ziegler, next we have Assembly Bill 195 ([Exhibit D](#)).

**Assembly Bill 195: Revises provisions governing applications for the renewal of permits to carry concealed firearms. (BDR 15-446)**

**Dave Ziegler, Committee Policy Analyst:**

Assembly Bill 195 was sponsored by Assemblyman Ellison. It was heard in this Committee on April 3, 2013. Assembly Bill 195 relates to permits to carry a concealed firearm. The bill authorizes the holder of a permit issued on or before June 30, 2011, who has not already renewed the permit, to submit an application for renewal at any time before the permit expires. This bill is effective upon passage and approval and expires by limitation on June 30, 2016.

On the day of the hearing there was an amendment submitted by the Nevada Sheriffs' and Chiefs' Association. It is a friendly amendment, and is attached, as well as a brief letter from the Nevada Sheriffs' and Chiefs' Association on the intent.

**Chairman Frierson:**

Is there any discussion on the bill? I see none. I seek a motion to amend and do pass.

ASSEMBLYMAN WHEELER MOVED TO AMEND AND DO PASS  
ASSEMBLY BILL 195.

ASSEMBLYMAN MARTIN SECONDED THE MOTION.

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

Mr. Ellison will handle the floor statement. Mr. Wheeler can be a backup on behalf of the Committee.

Next on our work session document is Assembly Bill 300 ([Exhibit E](#)).

**Assembly Bill 300: Revises provisions governing real property. (BDR 9-961)**

**Dave Ziegler, Committee Policy Analyst:**

Assembly Bill 300, sponsored by the Chairman, was heard in this Committee on March 27, 2013. Assembly Bill 300 relates to the exercise of the power of sale on a deed of trust. The bill modifies the information that must be included in the affidavit of authority to exercise the power of sale. The information must be based upon the direct personal knowledge of the affiant, or personal knowledge acquired by review of the business records of the beneficiary, the beneficiary's successor in interest, or the servicer of the obligations or debts secured by the deed of trust.

Members, in the interest of time, I will not read the rest of the statement. I think that the gist of it is that the affidavit that is required in order to exercise the power of sale on a deed of trust has been clarified and incorporates the business records rule.

There is an amendment. The sponsor proposes three amendments. First is to add Senator Roberson to the bill as a primary sponsor. The second is to make the measure effective upon passage and approval. Third is to amend the last section of the bill to read as follows: "The amendatory provisions of this act apply only to a notice of default and election to sell which is recorded pursuant to NRS 107.080, as amended by this act, on or after the effective date."

**Chairman Frierson:**

Thank you, Mr. Ziegler. I think the Committee will remember A.B. 300 reflected a significant amount of work on behalf of lenders, title companies, real estate agents, and advocates for homeowners, the Legal Aid Center of Southern Nevada, as well as Washoe Legal Services to try to address some of the provisions of Assembly Bill No. 284 of the 76th Session that were perceived as having an impact on the real estate market and foreclosures. The language that was drafted by those stakeholders and brought together by the Attorney General represented language that was believed by the stakeholders to address the perceived problems with A.B. No. 284 of the 76th Session and help us to move forward. I thank those stakeholders that came together with a significant amount of work. Senator Roberson and I worked for months with those groups to try to get some language that we thought would be sufficient, and I believe we have come up with that.

Are there any questions regarding the bill or the proposed amendments to the bill? I see none and seek a motion to amend and do pass.

ASSEMBLYWOMAN DIAZ MOVED TO AMEND AND DO PASS  
ASSEMBLY BILL 300.

ASSEMBLYWOMAN SPIEGEL SECONDED THE MOTION.

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

**Chairman Frierson:**

I will handle this one myself.

Next, we have Assembly Bill 377 ([Exhibit F](#)).

**Assembly Bill 377: Revises provisions governing the crime of sexual conduct between certain school employees or volunteers at a school and pupils. (BDR 15-514)**

**Dave Ziegler, Committee Policy Analyst:**

Assembly Bill 377, sponsored by Assemblywoman Dondero Loop, was heard in this Committee on April 2, 2013. This bill relates to crimes against public decency and amends the statutes on sexual conduct with pupils and students. The bill provides that a person who has sexual conduct with a pupil with whom the person has had contact in the course of performing his or her duties as an employee or a volunteer at a school is guilty of a category B or C felony, depending on the age of the pupil.

There are some simple amendments that the sponsor and the Chairman of this Committee propose which are attached. The amendment adds the Chairman as a primary sponsor and in lines 4 and 14 on the mock-up adds the words "or was."

**Chairman Frierson:**

Are there any questions or discussion on the bill and the amendment? I see none. I seek a motion to amend and do pass Assembly Bill 377.

ASSEMBLYMAN OHRENSCHALL MOVED TO AMEND AND DO PASS ASSEMBLY BILL 377.

ASSEMBLYWOMAN DIAZ SECONDED THE MOTION.

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

**Chairman Frierson:**

Ms. Dondero Loop, thank you for your accommodation. I think it is a way for us to move forward, and the floor statement will be yours.

[Assembly Bill 389](#): Revises provisions governing parentage. (BDR 11-922)

We will need to remove Assembly Bill 389 ([Exhibit G](#)) today to resolve some minor adjustment. We will put it on as soon as possible next week.

We will now move to Senate Bill 139 (1st Reprint) ([Exhibit H](#)).

[Senate Bill 139 \(1st Reprint\)](#): Expands provisions governing criminal and civil liability for certain crimes to include crimes motivated by the victim's gender identity or expression. (BDR 15-703)

**Dave Ziegler, Committee Policy Analyst:**

Senate Bill 139 (1st Reprint), sponsored by Senator Spearman, was heard in this Committee on March 27, 2013. This bill relates to crimes and punishments. The bill imposes enhanced penalties on an offender who commits certain crimes because of actual or perceived gender identity or expression of the victim. It subjects an offender to an additional penalty of 1 to 20 years in state prison if the offender willfully commits certain felonies and provide an offender is guilty of a gross misdemeanor for willfully committing certain crimes that otherwise would be misdemeanors.

Senate Bill 139 (1st Reprint) also authorizes a person to bring a civil action for recovery of actual or punitive damages if the person suffered injury as the proximate result of any of these crimes by a perpetrator who was motivated by the injured person's gender identity or expression.

Finally, the bill adds crimes committed on the basis of gender identity or expression to the crimes covered by the Program for Reporting Crimes in the Central Repository of Criminal Records which compiles statistical data on crimes that manifest evidence of prejudice.

As amended, the bill also expands Nevada's existing hate crime laws to include crimes included in the Federal Bureau of Investigation's (FBI) Uniform Crime Reports for hate crime statistics. The FBI collects data for the following types of crimes: murder, manslaughter, forcible rape, aggravated assault, simple assault, intimidation, robbery, burglary, larceny, motor vehicle theft, arson, and destruction, damage, or vandalism of property.

There are no amendments.

**Chairman Frierson:**

Is there any discussion on the bill?

**Assemblyman Wheeler:**

I do not think we will ever have a color-blind society until we stop singling out special groups for special treatment. In that vein, I would like to offer an amendment to this bill, if the author is willing to include the words, "any person," in section 3, "so that any person who is a victim of a hate crime gets these special penalties, regardless of race, color, creed, sexual orientation . . . ." Would you be willing to add those words in there?

**Chairman Frierson:**

Thank you, Mr. Wheeler, and thank you, Senator, for being here. We do not ordinarily allow testimony during work session, but when the sponsor is here and there is a question of the Committee providing insight, we can accommodate that. Any insight you have, Senator Spearman, regarding Mr. Wheeler's proposal is welcome.

**Senator Patricia (Pat) Spearman, Clark County Senatorial District No. 1:**

This particular bill does not establish new law. It simply adds another category to existing hate crimes. The language as it is written includes anyone who is a member of the protected group. By definition, protected group really means that there are people who have been otherwise overlooked. I appreciate the



offer for the amendment, but in my humble opinion, I do not think it is necessary.

**Chairman Frierson:**

Are there any further questions? I see none. I will take liberty as the Chairman. In speaking with Mr. Wheeler about this matter, I believe that his suggestion was covered in the bill by virtue of all races, not necessarily specifically minority races, being covered. I believe, and Mr. Wheeler can correct me if I am wrong, his concern, and philosophically plenty of people can disagree on hate crime legislation, but it was Mr. Wheeler's question rather than it be based on race, if it was any "person," it could be based on height, or on hair color. He was essentially saying if you were going to target a group whether or not they are a protected class, he would be in support. I do not say that to reissue the question. I think Ms. Spearman understood it just fine. I do want to clarify that Mr. Wheeler and I discussed that, and I believe that was his point and certainly a position of some people with respect to hate crimes.

Are there any other questions of the Senator?

**Assemblyman Wheeler:**

I would vote for this bill in a second if it were for everybody.

**Senator Spearman:**

I appreciate your depth of thought and your honesty. Thank you.

**Assemblyman Hansen:**

The Fourteenth Amendment says that no state shall "deny to any person within its jurisdiction equal protection of the laws." We just heard this is designed for a specific protected group. Just on the constitutional principle alone, as I stated during the hearings, I do not believe we should have any hate crime legislation precisely because we break everybody out into different categories.

We have historically punished people for actions. What we are really doing here is punishing people for thoughts that we find repugnant, not just the action, but also the thought that motivated the action. Historically in America, even the left-leaning people would say, "Ira, I disagree completely with what you say, but you have the right to say it." When things are shifted to action, we have always punished improper actions. What we are doing is creating another special protected group that is not going to have equal protection; they are going to have special additional protections in the law, which clearly violates the equality principle that we are supposed to be promoting in the country.

I will be voting no on this. I am very sympathetic to the people that testified and the horrible experiences they have had in their lives, but we need to recognize that the laws are to be applied equally to all classes of citizens. We should punish the actions. If the same exact action is done to me and the motivation is greed because they want to steal my wallet, or the exact same action is done to me because they perceive I am a homosexual, the action is what should be punished. We are going to add additional penalties for thought that we find repugnant; it is repugnant in and of itself to me because it violates some very central American principles of the right of people to be able to think and express those things freely, even things we do not like or find absolutely repugnant. We have crossed that line with this whole hate crimes thing that started in the mid-'90s. I have been an opponent ever since because we are surely, but slowly creating a whole series of protected groups which mean the unprotected groups are not subject to the equal protection of the laws. I wanted to get that on record.

**Chairman Frierson:**

Thank you, Mr. Hansen. To quote you, "You have a right to your opinion, and I disagree." I will say first that I do not believe this bill is designed to provide anybody with greater protection. I believe this bill is designed to punish people for their behavior and for their actions. I do not believe that this bill deviates from established law with respect to considering motive and intent and thought. I think we have aggravators and mitigators in death penalty cases that we consider, and we have legislation this session to consider just that. Criminal intent has always been a part of criminal jurisprudence, and I believe that legislation such as this focuses on the behavior because when you narrow your intent to specific people, you increase the risk of harm by virtue of narrowing your target group.

I think that despite Mr. Hansen's interpretation of the Fourteenth Amendment, this is adopting federal law. This is adopting classes that are adopted, described, and protected in federal law. While it is adopting it from federal protection, and they call it protected classes, that is simply a definition that this legislation and similar pieces of legislation adopted in order to describe the groups that are traditionally targeted. This includes every person on the planet who is a member of one of these groups in some way or another. It is my opinion when you target certain groups, whether it is an ethnic minority or not, you are increasing the danger and the level of harm by virtue of that narrowing. For that reason, I do not personally believe that this effort violates any constitutional provision. As a matter of fact, I believe it has been constitutionally upheld. I certainly understand those that disagree with hate crime legislation on principle. I think that we have these bills so we have that discussion and it is a valid discussion to have, with valid viewpoints. This is

one of those where I think that we as a community can agree to disagree on the kind of behavior that we believe warrants heightened criminal punishment.

**Assemblyman Martin:**

I have to say that was very eloquent and a very impressive way to talk about this issue. I was going to bring up much of what you said. To me, this is more about what kind of society we want to live in. What kind of society statements do we want to make? This is in accordance with federal law and that, in and of itself, gives us reason to do this. The transgender community suffers from extreme discrimination. I have seen it firsthand in my CPA practice, with my friends, and within the community as a whole. I believe my friends in the loyal opposition do not understand the depth of it. In this Committee, we talk about aggravating factors all the time. I believe this is in that class. I am wholeheartedly in support of this bill and I urge everyone here to do the same. Thank you.

**Chairman Frierson:**

Are there any other comments on the bill? I see none.

I seek a motion to do pass.

ASSEMBLYWOMAN DIAZ MOVED TO DO PASS  
SENATE BILL 139 (1ST REPRINT).

ASSEMBLYMAN MARTIN SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMEN HANSEN AND  
WHEELER VOTED NO. ASSEMBLYMAN DUNCAN WAS ABSENT  
FOR THE VOTE.)

**Chairman Frierson:**

The floor statement will be assigned to Mr. Martin.

That concludes our work session. We will now enter our scheduled agenda and go out of order. I open the hearing on Assembly Bill 422.

**Assembly Bill 422:** Requires an autopsy under certain circumstances when an offender in the custody of the Department of Corrections dies.  
(BDR 16-1143)

**James "Greg" Cox, Director, Department of Corrections:**

I am here to present Assembly Bill 422. I will be glad to answer any questions from the Committee in regard to it.

**Chairman Frierson:**

Good morning, Director Cox. Could you describe the intent of the bill so we could put it in context to any questions?

**Greg Cox:**

The intent of the bill is to require the Director of the Department, in consultation with the Office of the Inspector General and the medical director of the Department of Corrections, to authorize and conduct an autopsy on an offender who dies in the custody of the Department. Most departments across the country have this type of process; we historically have not. The coroner here in our state would indicate if an autopsy is required. In a correctional setting with the double celling and other things that we have, the inmate who is living with that other offender who dies is subject to investigation and is normally placed in administrative segregation pending the outcome of the autopsy. As a measure, not only for the inmates in the facility, but our staff, and also the family members of the inmate that has passed away, I certainly think this is the right thing to do.

**Chairman Frierson:**

Thank you, Director Cox. Do I have any questions of Director Cox from the Committee?

**Assemblywoman Spiegel:**

In some religions, there are general prohibitions against autopsies except in very limited circumstances. Is there a way for someone, especially if he does not have a next of kin, to predesignate he does not want to have an autopsy?

**Greg Cox:**

Yes, there would be a way to do that. We have processes where an inmate can do a "do not resuscitate" (DNR) order, so yes, this could be included.

**Assemblywoman Cohen:**

Earlier in this session, the Committee toured the prison that has the elderly population. If you have an ill, 80-year-old prisoner, will he still receive an autopsy upon death?

**Greg Cox:**

There would be consultation with the Inspector General's office or the medical director. Normally what happens in a correctional setting is if anyone dies inside our facilities, we request an autopsy. This would require outside medical care. Historically in corrections across the country, if a person is in a community hospital or that type of setting, we normally do not require an autopsy because it has usually gone through the coroner from the county or

the hospital who will request it if there is evidence or anything else that might suggest that something else happened.

**Chairman Frierson:**

Are there any other questions?

**Assemblyman Ohrenschall:**

Right now when an inmate passes away, is there an attempt to reach the next of kin? Is an autopsy customarily performed?

**Greg Cox:**

There is a requirement in our policy that we contact the next of kin. We go through extraordinary measures to contact them. Most of the time there is a next of kin notification in our intake process where we ask the inmate population to provide us with an emergency contact. We go through visiting lists and other things to notify people and family members of the death of one of their family.

**Assemblyman Ohrenschall:**

Is that usually by phone, email, or snail mail?

**Greg Cox:**

It is by phone. We will contact that person. We had a death in one of our facilities and we tried to contact a family member up until nine o'clock at night when we finally reached them. Our chaplains normally do it and our psychologists come in the event that an inmate passes away. We have a substantial amount of information on these individuals, and they are historically good at providing us with emergency contact and next of kin information.

**Assemblyman Ohrenschall:**

My concern, Director, is with the 72 hours. I know many of my constituents do not have landline phones; they have pay-as-you-go cell phones. They keep them charged up when they can afford to, and when they run low on money, many times, they do not recharge them and they do not work until the next week or next paycheck when they can recharge them. I wonder if 72 hours is enough time to be able to reach the next of kin to get that answer on the autopsy.

**Greg Cox:**

As the Director, in those incidences, I have asked our staff to go to the residence of the contact person if they did not have a phone. We have done that in Las Vegas several times.

**Chairman Frierson:**

Are there any other questions for Director Cox? I see none. Thank you, Director Cox. I invite anyone who is in Carson City or in Las Vegas that wishes to offer testimony in support, to please come forward. [There was no one.] Is there anyone in opposition either here in Carson City or Las Vegas? [There was no one.] Is there anyone wishing to offer testimony in the neutral position? Now is the time to come forward. [There was no one.]

Unless anyone has any follow-up, there were no additional points to raise in addition to the presentation. Thank you again, Director Cox. I now close the hearing on Assembly Bill 422 and open the hearing on Assembly Bill 378.

**Assembly Bill 378: Revises provisions governing spendthrift trusts. (BDR 13-656)**

Ms. Dondero Loop will now introduce her bill.

**Assemblywoman Marilyn Dondero Loop, Clark County Assembly District No. 5:**  
Thank you, Mr. Chairman, and members of the Committee. I am here today to present Assembly Bill 378. This bill is relating to spendthrift trusts.

I am here with Bob Dickerson of Dickerson Law Group who practices divorce and family law. During his distinguished career of more than 30 years in this area, Mr. Dickerson is not only well respected, but has received numerous awards for his pro bono work. I also have with me, Melissa Attanasio, who is a certified forensic financial analyst and a certified financial planner.

Mr. Chairman, before I turn it over to these two experts, I would like to give you some basic information and walk you through the bill.

Generally, a spendthrift trust is a trust that restrains the voluntary or involuntary transfer of the beneficiary's interest. A beneficiary of a spendthrift trust cannot voluntarily transfer his or her interest in the spendthrift trust to another person and a creditor of a beneficiary cannot reach the beneficiary's interest in the spendthrift trust to satisfy a debt of the beneficiary.

A self-settled spendthrift trust is a spendthrift trust of which the settlor of the trust is a beneficiary. Thus, a settlor's beneficiary interest in a self-settled spendthrift trust is beyond the reach of a settlor's child, spouse or domestic partner, or former spouse or domestic partner.

This bill is intended to prevent self-settled spendthrift trusts from causing financial harm to the settlor's children, spouse, or domestic partner or former

spouse or domestic partner. [Ms. Dondero Loop continued to read from prepared testimony ([Exhibit I](#)).

The proposed amendment in the mock-up ([Exhibit J](#)) addresses situations in which a self-settled spendthrift trust may cause financial harm to a settlor's child, spouse, or domestic partner or former spouse or domestic partner. [Ms. Dondero Loop continued to read from prepared testimony.]

That concludes my presentation, and I would like to turn it over to Mr. Dickerson and Ms. Attanasio. Thank you.

**Robert P. Dickerson, Attorney, Las Vegas, Nevada:**

I want to make a full disclosure. Miss Attanasio and I were involved in an ongoing case that the judge still has to decide. The case has been going on close to five years. The trial itself extended over 15 days over a two-and-a-half year period. In the middle of the trial the spendthrift trust intervened, which caused serious complications. I do not believe this legislation will affect that particular case, so I wanted to make this disclosure. In the case we are litigating, the validity of the trust, and we are seeking to have that trust set aside based on an alter-ego theory, the husband in the case is operating that trust essentially as his alter ego.

Nevada is one of 14 of the 50 states that have this type of legislation. Nevada is the only one up until recently, prior to the legislative session in South Dakota, that did not allow an exemption for spouses, children, child support, or maintenance. As I mentioned, it is my understanding that the legislature in South Dakota just recently changed their exemption where they did have an exemption for alimony and child support. They are going more in line with what the Nevada statute is right now. I believe that was just recently signed by the governor in South Dakota.

As Ms. Dondero Loop indicated, the primary concern is to address the issue of what you do in a situation where you have money set aside in a trust for the benefit of one spouse. At the time of divorce, the position taken is that this is an irrevocable trust; all the assets of the community have been transferred to the trust, so the court no longer has jurisdiction over any of the assets that are in the trust. The court can then impose a child support obligation upon the settlor of the trust. We are talking about the husband or father, but it can go either way; it can be a wife or mother situation. In the case that we were dealing with, the settlor of the trust was the husband. The court can impose a child support obligation and an alimony obligation. The position being taken is the court cannot compel that to be paid from the trust. In this situation, the husband's argument is you can impose any type of obligation on me whether it

is child support or alimony, but if I do not have the money, and the money is not mine, I can have this trust continue to pay my house bills, a car bill, all of my expenses. The argument is that it cannot be paid from the trust. This particular legislation takes care of that situation and allows the court to be able to order the trust to make payments to the spouse or the children for support.

I got Miss Attanasio involved in this litigation. She is not only a divorce and financial planner, but also a certified forensic financial analyst. She does lifestyle analysis, and, in this particular case I had her do a lifestyle analysis to show what this family, and in our case the wife and the children, were expending on a monthly basis over the course of the last five years of the marriage. I also asked, because she is a forensic financial analyst, to trace what was happening to assets that were at one point in time supposed to be going to the wife, but were taken away from her and put into this trust. Assembly Bill 378, particularly with the provisions of section 3, would prevent that from occurring—one spouse taking assets and putting them into the self-settled spendthrift trust. The only way that could ever occur is if the other spouse expressly in writing waived his or her community property rights to those assets.

I would like to ask Miss Attanasio to give an example, please.

**Melissa Attanasio, CFP, Divorce Strategies Group, Las Vegas, Nevada:**

We think this happens a number of times in many different cases; we are just highlighting one of these. The situation was these parties had been married 30 years. The wife was in college when they got married, but she gave that up when they began having children. At the time, they had a great relationship. The husband decided he was going to work and build their financial wealth while she stayed home to raise the five children. In this particular situation, about 15 years had passed when the husband came home one day and said, "We should protect our assets from creditors and establish spendthrift trusts." They did so. She agreed to that in a trusting manner because that was what their relationship was at the time. As we fast-forward another 15 years and they go through this divorce process, what we realize and found was the parties' assets were not equalized in the different trusts that they had. She ended up with the home where the family had resided and their second property, which was a cabin. Neither one of them were income-producing properties.

Through these cases we see that there is not necessarily an income coming to one of these individuals and the other party can say that they have all this in a trust, I do not own it, I have given those assets up to protect them from



creditors. The concern we have is that when the trusts were originally set up, the parties were not educated on what they were signing and the rights they were potentially giving up. The way it is right now, this party needs approximately \$25,000 a month in the analysis that we did, but there is not a way to provide that for her for child support or alimony, even though their net worth is probably close to \$20 million.

This is what we are trying to address. Even though there is a relationship of trust when you are doing these and the parties are with each other in the relationship, when that changes, that certainly impacts whether these assets have been equally divided, or put aside in a trust. Thank you.

**Chairman Frierson:**

Thank you very much for your presentation and my refresher on wills and trusts. Do I have any questions from the Committee?

**Assemblywoman Spiegel:**

I do have one question, which is in the part that is in the original bill in section 1, subsection 2, paragraph (b) where there is a list of the persons who may not be a distribution trustee. Subparagraph (6) on that list is, "A business entity in which the settlor holds at least 30 percent of the total voting power of all interests entitled to vote." I was wondering if it might not make sense for that to be at least 30 percent of anyone who is on the list prior, because presumably the other people are there because they might tend to represent one interest.

**Robert Dickerson:**

That section is attempting to prevent certain individuals from being put in. In a self-settled spendthrift trust, you have the settlors. Let us say I decide I want to set one of these up. I would be called the investment trustee. I still would have full control over all of my assets with respect to investing. I would put them in this irrevocable trust so technically I have given away title. I could then appoint my brother to be the distribution trustee, I could appoint my secretary, or somebody that is close to me who is never going to tell me no when I need or want money. The purpose of this is to prevent that from occurring, having people that you can influence serving as distribution trustee. Section 6 is talking about if I was the owner of a business entity in which I held 30 percent. Let us say that I had a limited liability company (LLC) that I could appoint as a trustee and I own 30 percent of that LLC. That would prevent me from appointing that particular LLC to serve as the distribution trustee. I could not appoint my brother, a child of mine, any relative, or somebody that is an employee of mine. That is an important section because in this particular case we have, that is exactly what this man did.

He appointed his sister as the distribution trustee, and then when his sister had to resign, he appointed an employee who works directly under him whom he pays.

**Assemblywoman Spiegel:**

That gets to the point of my question. Let us say that he realizes he cannot appoint his sister, but his sister owns an LLC in which she had 90 or 100 percent of the stock of that LLC. As I am reading this, under section 1, subsection 2, paragraph (b), subparagraph (6), the sister's LLC could still be appointed.

**Robert Dickerson:**

That is an excellent point. I totally missed that. You are right. What we are really looking at is all of these subparagraphs.

**Assemblywoman Spiegel:**

A business entity where any of the people listed in subparagraphs (1) through (5) above . . .

**Robert Dickerson:**

Absolutely, and it should be done that way.

**Assemblywoman Spiegel:**

Okay, thank you.

**Assemblyman Wheeler:**

I think Assemblywoman Spiegel's question answered most of my thoughts on it. The way this is being presented looks as if you are doing this for one client. To me, I think a trust is set up to save your assets. That is the whole idea. Saving them from your wife may not be the right thing to do, but I think that is up to a judge. Can you assuage those fears for me?

**Robert Dickerson:**

Mr. Wheeler, that is why I wanted to make the full disclosure. This is not for one client. This legislation itself is not going to help my client. The judge is going to be making his decision on April 24. The judge indicated that he would have his decision by the end of November, but it has been six months now and he has indicated that he wants the parties to come in on April 24. I fully expect the judge is going to agree with the position of the settlor in that case. The trusts were his alter ego and he is going to set aside those trusts and divide the property. The concern that I had as I saw this, as you go through the statute, and technically the argument is correct, when you place your assets into an irrevocable trust, you no longer own them. The argument made

to the family court judge and divorce judges in this state is that they have no jurisdiction over any of these assets, so you cannot tell me what to do with them. Go ahead and impose a child support obligation, impose an alimony obligation; I have no money myself, I cannot pay it. Yet, as a settlor I can direct, in this case my brother Bill, to pay my car bill, my mortgage on my home, and to pay all these other things so that individual maintains the same standard of living, and as Ms. Attanasio noted, this family over the history of five years in doing her financial analysis, was spending \$25,000 a month. This is their lifestyle. The husband walks away, he is going to continue to have that \$25,000-a-month lifestyle, the wife and the children are not. That is where with these particular amendments being made to Chapter 166 of *Nevada Revised Statutes* (NRS) would authorize the court. It says, fine, you may make your argument that I do not have jurisdiction over those assets, but I am still going to impose an alimony and child support obligation. Pursuant to this statute now with the revisions, I can direct the distribution trustee to start making distributions to the wife, or for the benefit of the children to satisfy the support obligation.

Please do not think that this is being suggested for one case; it is not. I am confident with respect to the direction that particular case is going to go. Granted, I will admit, if by chance, I lose the case and the judge says, "No, I have no jurisdiction over these assets, but I am going to impose a child support and alimony obligation," with these revisions, my client would be able to argue, "Judge, let us have an order then directing the distribution trustee to start making child support and alimony payments." To that extent, if I lose on the argument of this being the alter ego, yes, this could. It is far beyond that; this is becoming very popular.

I am not here to debate the morality of wealthy individuals with \$20 million being able to avoid paying legitimate creditors, but what we are looking for here is in a situation when you have a family that needs to be protected, this legislation does that. It protects the disadvantaged spouse and the children and it will allow them to continue a lifestyle similar to the one they led when the family was intact.

**Assemblyman Martin:**

This is an incredibly complex area for both tax and law combined. Obviously, trusts are used to protect wealthier people's assets. We all acknowledge that. Nevada is a community property state, and we have registered domestic partnerships in the state which require the registered domestic partners to file split returns with the federal government. Will these proposed changes enable more protections to those people in that category for those kinds of trusts given the community property laws of the state? What if you have a registered

domestic partnership or a marriage of same-sex couples from out of state, but they are not registered in Nevada? The concern when setting up the trust is that it is not pierced. Between the community property laws and the registered domestic partnership laws in the state and the other items I mentioned, is this affording the people in the trust, both the beneficiary and the settlor, more protection, or possibly exposing them to more liability?

**Robert Dickerson:**

We are not dealing with a married situation; we are dealing with a domestic partnership. In a domestic partnership, you would register and you could end up determining your property rights by contract. If you do not determine your rights by contract and you are registered, then it will be similar to the Nevada community property laws that would apply if that domestic partnership broke up at some point in time. Let us say we have a 30-year domestic partnership. During this 30-year period, one of the partners established the trust and put all of the assets that were being accumulated during this relationship into the trust. You have the exact same situation I have addressed with respect to a married couple. I do not know if that answers your question.

**Assemblyman Martin:**

I think we are getting there. The concern is Nevada is a community property state, which has its own nuances. I was using the domestic partnership as an example of where the community property laws could greatly affect. It is not just same sex couples, it is heterosexual couples that live together but are not married. The community property laws are very aggressive in terms of piercing through different trusts and other ways of structuring funds. Is this increasing the protections to the beneficiaries of the trust, or was it considered, or is it relevant?

**Robert Dickerson:**

I do not think that it is relevant to this particular issue because what we are dealing with is the split-up of a domestic partnership, or the split-up of a marriage. You are right; Nevada is a community property state. Community property is taxed differently and you talk about the split return versus many other states that have marital property. On the list of the 13 other states, the vast majority are marital property states, which is the same for all practical purposes. It is an equitable distribution of property which determines either you are entitled to 50 percent of the assets, or equitable distribution. Nevada is a community property state that requires 50 percent distribution of the community property. I do not think it makes a difference if it is a community property state or a marital property state. You raised the issue of the taxes and you are absolutely correct as to how community property is treated.

**Chairman Frierson:**

Are there any other questions of the Committee? I see none. I ask all of you to stay for any follow-up that may occur as the result of any other testimony. I thank you for the informative presentation.

I invite those here to offer testimony in support of Assembly Bill 378 both here in Carson City and in Las Vegas to come forward, please. I see no one. I invite those in opposition both here or in Las Vegas to come forward. [There was no one.] Anyone in the neutral position here either in Carson City or in Las Vegas on A.B. 378? I see no one.

Ms. Dondero Loop, do you have anything in closing?

**Assemblywoman Dondero Loop:**

I thank the Committee for hearing this. I know that it is a complex issue, but a very important one when it comes to determining fairness in court procedures during this kind of issue. I urge your support.

**Chairman Frierson:**

I saw someone in Las Vegas. We do have an audio delay, so I did not want to deprive someone of the chance to be heard.

**Christine Kramar, Private Citizen, Las Vegas, Nevada:**

I worked in a family law office. The attorney testified to the fact that in trial the judge could set aside any of the trusts. This reminds me of the case of Darren Mack that we had in Reno several years ago. Judge Weller in that case had set aside his trusts so a mechanism does exist in Nevada law for a judge to thoughtfully consider the evidence and take apart a trust. I think this is an important right to protect in our community. That was my comment. Thank you.

**Chairman Frierson:**

Thank you. I am unclear, what was your position on the bill?

**Christine Kramar:**

My position is neutral. I would like to investigate the bill more. I actually came here to testify on another bill. My concern is this really seems like a "give me" to family law attorneys rather than take the process to trial. You can go to the settlement conference and say it is a given that your trusts will be broken up when I think whether to break up a trust is an issue to be carefully contemplated based on evidence by a qualified family court judge. In Nevada, we separately elect family court judges for their specialty and their knowledge

about trusts. I believe that our judges are qualified to make that decision as to whether to break up this financial instrument.

**Chairman Frierson:**

Thank you very much. I do not know if Ms. Dondero Loop will have anything to say in response, but I would encourage you, if you have a question, to contact Ms. Dondero Loop and she can pass on any questions you may have. If we have a response to it now, it would be more than appropriate.

**Robert Dickerson:**

The young lady is right. A judge can set aside a trust, but in the case I am referring to, the litigation has been going on five years. The case started in trial approximately three years ago. It went through 15 days of trial approximately three years ago. These parties spent hundreds of thousands of dollars litigating issues dealing with an effort to set aside the trust. This legislation is not talking about setting aside the trust, it is saying let us assume the trust is entirely valid. It allows the family court judges, the divorce judges in this state, to be able to enforce its orders with respect to child support and alimony by directing the distribution trustee of the self-settled spendthrift trust to distribute money to the spouse in title of the alimony, or for the benefit of the children. We are talking apples and oranges. This particular statute has nothing to do with an attempt to set aside any trust.

**Assemblyman Hansen:**

Why are we deleting the following language in NRS 166.045: "An agreement or understanding, express or implied, between the settlor and the trustee that attempts to grant or permit the retention of greater rights or authority than is stated in the trust instrument is void?" Why is that out and the new language in? What they are deleting already covers a great deal of that. Why is there a need to remove that completely from the law?

**Assemblywoman Dondero Loop:**

Would you like Mr. Dickerson to come back up and answer those questions?

**Chairman Frierson:**

Yes.

**Robert Dickerson:**

I have the same question. I do not know why that was put in there. I think it was someone from the Legislative Counsel Bureau (LCB) who suggested that. Yesterday I contacted Ms. Dondero Loop and inquired why that was being stricken because I did not understand it either. I think the purpose is it talks about the fact that the settlor of a spendthrift trust has only those powers and

rights that are conferred to the settlor by the trust agreement. "An agreement or understanding, express or implied, between the settlor and the trustee that attempts to grant or permit the retention of greater rights or authority than stated in the trust instrument is void." I am guessing, but I think the intent was instead of saying just that particular provision is void, it would be a basis if the settlor was attempting to obtain more rights than he is entitled to under NRS Chapter 166. If he is attempting to obtain and retain more rights, it could affect the validity of the entire trust, and not just that provision that would allow the settlor to do that. That is my guess.

**Assemblywoman Dondero Loop:**

I would have to defer to Ms. Erdoes in the Legal Division of LCB to answer that question. We worked extensively creating the language for this bill and the amendment, but we will need to get with her and find an answer unless Mr. Wilkinson has one now.

**Brad Wilkinson, Committee Counsel:**

Actually, I was just looking into that now. That was included as part of the original request that we drafted. I am not entirely certain other than we were asked to include that.

**Assemblyman Hansen:**

I would like to get an answer on that if we could.

**Assemblywoman Dondero Loop:**

We will make sure that happens. Thank you.

**Chairman Frierson:**

Thank you very much. I will close the hearing on Assembly Bill 378 and will recess briefly [at 9:27 a.m.].

Assembly Judiciary Committee is called back to order [at 9:39 a.m.]. I will open the hearing on Assembly Bill 402. Please proceed, Mr. Hogan.

**Assembly Bill 402: Provides for the legalization and taxation of marijuana.  
(BDR 15-1069)**

**Assemblyman Joseph Hogan, Clark County Assembly District No. 10:**

Good morning. I am here this morning to testify regarding Assembly Bill 402, previously BDR 15-1069.

By way of introduction, I would like to say that this is not a bill about smoking marijuana, nor is this a bill about getting high. Assembly Bill 402 is a bill about

coming to terms with reality and, borrowing from a recent speech by Congressman Stephen Horsford, showing some courage and refusing to loiter in these halls. The prohibition against the use of marijuana failed and created a black market that hangs like a cancer alongside our underfunded education system for no other reason than a policy of villainous misinformation. In Nevada, we tax gaming, we tax tobacco, and we tax alcohol; each of those has harmful effects that exist alongside their use. Marijuana in many ways pales to the problems of alcohol addiction, tobacco addiction, or the addiction to gambling.

Thus we propose to establish a system in which a product grown in Nevada, processed in Nevada, and sold in Nevada for personal use will be taxed by Nevada and used to help fund education for the children of Nevada. [Assemblyman Hogan continued reading from written testimony ([Exhibit K](#)).]

This is A.B. 402 and I am proud to be the sponsor of it. My esteemed colleague and cosponsor, Andrew Martin, will now go into the financial details.

**Assemblyman Martin:**

Recognizing this is not a money committee, I am not going to dwell on the piles of statistics that I have compiled for this that would give Russ Guindon in Fiscal Analysis Division a big smile on his face. There is a lot of money involved; this is huge. The reality is whether we legalize this or not, that market still exists. Literally, if you pardon the pun, the money goes up in smoke in terms of our tax revenues and collections. Currently, you are dealing with a black market situation where the product has to be purchased illegally, and it is a dangerous product. We are talking about making this safe, responsible, and realistic. Assembly Bill 402 levies three separate 25 percent excise taxes. This is going to be a tax that nobody is going to mind paying. You can make all the jokes you want about why they will not mind. The 25 percent is consistent with other states. We are modeling this after Washington State, but it is going to tax the grower. It is going to be grown within Nevada. There are all kinds of laws relating to transport between states, so this is a local economy issue, which is also very good. There will be a 25 percent excise tax on the grower. There will also be a 25 percent excise tax on the manufacturer and processor of so called pills and edibles.

**Assemblywoman Fiore:**

Thank you, Assemblymen Martin and Hogan, for bringing this bill forth. I know that you are an expert in numbers because you are our CPA. I see that we have 3,500 medical marijuana cards today in Nevada. How does it equate?



**Assemblyman Martin:**

I am going to get into some of the numbers respecting the fact this is not a money committee. I want to talk about the impact from a policy standpoint. We are looking at a rough order of magnitude in the expected case of about \$470 million of tax revenues. The excise tax would be on the grower, the manufacturer—that is the pills and edibles—and the retailers. I could bore you with the numbers, but the assumptions are drawn from the Washington state fiscal analysis. They are actually a much smaller population in terms of the potential purchasers and users of legal marijuana. My model of roughly \$500 million does not consider the multiplier effect of money, which most economists will tell you is about 3.2 percent. This means that you can take that base number and multiply it by 3.2, so you are into a billion and a half.

You can also make the argument that there is going to be an expansion of the tourist industry because people are going to come to seek out Nevada. Perhaps the Strip casinos will have a new feature to offer. Why not? I will make it very clear for the record I do not use marijuana, nor do I intend to. This is about the money and the impact on our state. We talk about people in this world that view marijuana as wine connoisseurs view different kinds of wine. It is not out of the realm of possibility that the casinos could set up age-appropriate, casino-oriented, consumer marketing-friendly shops. It would be very controlled. This is not about a wild, rampant situation.

Now, about the money. I could get you to a billion and a half dollars very quickly; that is a billion with a "B." This is not even taking into account what happens when the tourists come here. Everybody likes to laugh when people smoke marijuana; they get hungry. This will affect our restaurant industry. There will be more sales tax revenue. You are also talking about job expansion. I can get into the billions of dollars very quickly, but it is almost irrelevant to what we are talking about because we all know the effect on our \$5.7 billion biennial budget will be greatly enhanced.

What are we going to do with all of this money? We want the money collected from these taxes to be for a very good purpose. As Mr. Hogan stated, we want to talk about creating an effective Nevada educational enhancement trust fund. This would supplement funding for early childhood education, reading literacy, and would address the top priorities of our educational agenda in this state. Right now, even though the marijuana market exists and we have closed our eyes to it just like people used to close their eyes to gambling, or alcohol, tobacco, or brothels, we would be putting this money towards a good purpose. This money would not be going into the General Fund. Statistics show us if we invest in early childhood education, we see returns from that investment ranging from 7- to 17-to-1.

In closing, this is a game changer for this state. Other states are starting to come on board with legalization of marijuana, and, as I said previously, it is an odd position for me to be arguing in favor of something that I will never use, but that is my choice. Likewise, it should be the choice of anyone visiting, anyone locally, subject to being 21 years of age or older. This is about money, about our tourist industry, and being competitive with other states. There will also be a side benefit because it will reduce law enforcement costs. Think of how many people are arrested on minor marijuana charges. It will reduce our jail and prison costs. I could go on, but I think I have made the point. I urge your support. Thank you.

**Assemblyman Hansen:**

Being a state's rights person all the way, I do not have a problem with this ultimately being brought here. Has federal law changed? My understanding is that it is still against the law on the federal level to do this. While there are all kinds of efforts to sneak it in by calling it medical marijuana, I have a hang-up along that line. If this bill was a petition for our federal delegation to ask the states to become 50 independent laboratories and try to come up with drug laws that actually work because current laws do not work, I could support that. I have a real hang-up with ignoring the federal law and trying to pretend it is legal, even though we know that others are doing this illegally.

**Assemblyman Hogan:**

It is beyond our powers to change the policies of the federal government on short notice. Just as we have legalized medical marijuana, other states are in the process of doing what we are hopefully going to be doing. We will have to work those issues out with the federal government. There is some friction with medical marijuana, as we know there are some serious limitations that have been caused by research into the use of medical marijuana, which could have brought us tremendous benefits, but it interfered with the research. These things will have to be worked out, but within the state, we have the authority to make it legal for people to use marijuana. We will try to assure that the federal government respects the rights of this state as we anticipate the wealth in other states. It is currently such a strong, fast-moving trend that, while we cannot reach in and make them do what we might want them to do, I think it is extremely likely that the general swing in public opinion, the swing in the number of states actively pursuing this, will make it necessary for the federal authorities to essentially keep enforcing against other types of materials, but recognize change has come. It has come to Nevada, and I think we will have surprisingly little difficulty in ironing out behaviors that will meet the needs of the federal enforcement people to enforce against larger-scale drug problems while we take care of the needs of the children of Nevada by marketing and taxing the product.

**Assemblyman Hansen:**

Is this legalization of the recreational use of marijuana in conflict with federal law? I see an irony in this in that our Millennium Scholarship program funding has been going down because we have been actively trying to prevent people from smoking tobacco, which is a legal product. Now we have a movement to legalize smoking of marijuana, which, as far as I know, is still illegal. It sounds wonderful, but there are always many unintended consequences. While I am interested in this, first of all I have to find out if it is legal federally and address the whole irony of why are we working so hard to stop everyone from smoking tobacco while at the same time we are going to fund education through everybody smoking marijuana.

**Assemblyman Hogan:**

Let me ask my colleague to respond to that.

**Assemblyman Martin:**

It is not the intention of this bill to encourage people to smoke. They are doing it anyway. Whether they choose to do it or not is their own choice. To the question about states' rights, one of the witnesses who will come up later is going to go through the list of all the states that are making marijuana legal for recreational as well as medical purposes. I touched upon an earlier point in respect to federal law being one of the reasons we are going to need to grow for transport within the state so that we do not get involved in crossing state lines, especially with states that do not have medical marijuana laws. I am not encouraging anyone to smoke marijuana or cigarettes. I barely even drink. This is really about our economy. Other states are doing this—Colorado, Hawaii, and Washington State. I do think there is precedent for what we are trying to do. We need to be a leader, not a follower.

**Assemblyman Hogan:**

In the interest of time, if you approve, we would like to bring our final witness who brings a wealth of knowledge of the medical aspects of marijuana and is a national expert, a psychiatrist, a professor of medicine. I am speaking of Dr. Steven Frye. With your permission, I would like to ask Dr. Frye to join us. He can illuminate a number of the questions that have come up. [Assemblyman Hogan submitted a written introduction of Dr. Frye ([Exhibit L](#)).].

**Chairman Frierson:**

I will have Dr. Frye come up. I did have a question from Mr. Wheeler before we go on to additional testimony.

**Assemblyman Wheeler:**

I see that you have the Retail Association of Nevada poll that I assume you will pass out. Polls can sometimes be wrong; just ask my opponent. We had a vote on this at one time. The electorate overwhelmingly disapproved it. Why do you want this body to act on something that the people have said no to? Why will you not take this back as an initiative petition if you think minds have changed and see what the people say now, instead of being based on a poll?

**Assemblyman Hogan:**

Initially, we have been impressed by the sweeping changes in public opinion broadly across the nation. We have been very impressed by the harm that has been done to young people by being imprisoned for possession of small amounts of marijuana and think that the benefits of acting promptly are overwhelming. In addition, when we hear from Dr. Frye, I think he will make clear the medical benefits are demanding to be acknowledged and to be enjoyed by the people of the state. We think it is urgent to move as quickly as we possibly can to achieve this. I am not familiar with the details of the earlier polling, with the extent of it, and with the level of participation. I do think that the poll taken by the Retail Association of Nevada ([Exhibit M](#)) appears to have a good basis and is a bit more current.

**Assemblyman Wheeler:**

I am not talking about the poll. What I am saying is there was an actual vote of the people, and they said, "No." Why do we have the right to overturn that vote of the people without going back to them and asking them again?

**Stephen Frye, M.D., Private Citizen, Reno, Nevada:**

Assemblyman Wheeler, let me answer your question before I go into my presentation. The vote of the people in this state in 1998 and 2000 was overwhelming; 2-to-1 to create medical marijuana. We sit here in 2013 and this building has not authorized one medical marijuana dispensary. If you really want to go to the vote of the people, the people spoke 13 years ago and we still do not have one medical marijuana dispensary. Times have changed dramatically. On Election Day when Colorado and Washington by a 55 percent to 45 percent landslide margin in both states created legal marijuana for all of the adult citizens; that was a game changer. Since that time, we have nine other states. This bill is before this body today because I have been pushing this forever. This is my tenth year as a drug reformer. I have taken three years out of my practice to research and write my book *Monumental Fiasco! Our Drug War*. We do not have one victory. Legalization is the answer. Someone mentioned previously if we had any examples of countries or places where drug legalization works. We absolutely do. The Netherlands has

40 years of extraordinary success with tax and control. Ten years ago, Portugal was fed up with the AIDS and the crime.

**Chairman Frierson:**

Dr. Frye, you are going to give a presentation, so you have answered the question.

**Stephen Frye:**

Have I answered your question, sir?

**Assemblyman Wheeler:**

No.

**Stephen Frye:**

This poll is a recent poll done one month ago by much-respected people. If you want to know what the people of this state feel today, sir, this poll shows it. It is a 14-point margin, 56 percent to 42 percent, but in our tourist group, ages 18 to 34, it is a 75 percent, 3-to-1 margin. The people have spoken.

**Assemblyman Wheeler:**

The polls were wrong when they showed my opponent was going to win, too, so I am not real big on polls. What I have seen is a vote of the people. I am wondering why you do not take it back to the people.

**Stephen Frye:**

That is a good question. The reason we do not take it back to the people is because it costs millions of dollars, and none of the national organizations are willing to put that into Nevada because Nevada has stonewalled medical marijuana for 13 years.

**Assemblyman Wheeler:**

Well, when you are legal you are going to make billions, are you not?

**Stephen Frye:**

I am not going to make anything. I am here for the students for the state of Nevada. I have no skin in this game. I am a nonpaid activist. I am here on behalf of the medical and tax benefits of this provision. This is a public health, safety, and medical benefit issue. That is why I am here as a medical doctor and former professor at the University of Nevada School of Medicine.

**Assemblywoman Fiore:**

Thank you for being here. Just for the record, in 1998 and 2000, the vote of the people was for medical marijuana. Polls are definitely different.

**Stephen Frye:**

Yes, I appreciate that. Allen F. St. Pierre, the Executive Director of the National Organization for the Reform of Marijuana Laws (NORML) is a friend of mine. We have met many times at national drug reform meetings, the NORML meetings, the Students for Sensible Drug meetings, and the Drug Policy Alliance meetings. When I called him and said that I was pushing to get this bill introduced and could he help me, his answer was, "You know Doc, I love you and I have been supportive all of the way, but Nevada has been a wasteland. Now that things are progressing so rapidly nationally, we cannot devote our limited resources to Nevada." I said that I understood completely and we will do the best we can without your support. An initiative takes millions of dollars and a year, two, or three to get all of the signatures. There are nine other states now that have this bill pending, plus two already in process. We can again be behind the curve, or we can be part of this game-changing, exciting benefit. I would like to hear one legitimate argument against legal marijuana from a medical or law enforcement stance. It is incredible in the places where it is legal.

**Assemblywoman Fiore:**

The biggest argument with medical marijuana is that the feds can come in and take all of the billions you are talking about, seize the accounts, banks will not deal with them, and banks will not let you put the medical marijuana money in them. There are many issues with it. That is a big argument. Just because we want to be our own bosses in each of our states and ignore the feds, the bottom line is the feds can still come in and wipe us out.

**Stephen Frye:**

That is a distinct possibility. The more states that pass it, the less likely it is that the feds are going to go after it. That is the view of many of us, and with ten states pending and two already passed since November, there has not been any federal action against Colorado and Washington. It is apparently de facto becoming a states' rights issue. I do not know what will finally wash out. All I know is that the drug war is a catastrophic failure. We all agree on that, and therefore, we need to do something to move things in the right direction.

**Chairman Frierson:**

Being mindful of time, please get to your presentation.

**Stephen Frye:**

I am Dr. Stephen Frye, former Green Beret veteran, and as has been indicated, a medical doctor and professor. My primary interest is in the health and well-being of our citizens, especially teens, children, and seniors. That is why I am here. The financial benefits have been a Johnny-come-lately in this issue.

I want to thank Assemblymen Hogan and Martin for sponsoring a bill that I initiated, and Assemblymen Aizley and Swank for their strong support. I really wish this bill was being heard before a "joint" committee as I am trying to take Nevada to a "higher" ground. [Steven Frye continued reading from prepared testimony ([Exhibit N](#)).]

Six months ago, a conscientious mother brought me her 13-year-old son. She heard that I was familiar with marijuana. She was cleaning his dresser drawer and found a small plastic baggie of marijuana. She panicked and brought him in to see me. I asked her where he got the money for the marijuana. She told me that she did not give it to him. I told her that I knew that or she would not have brought him here. I asked the youngster where he got the money for the marijuana. He told me that the dealer gave him free marijuana and \$5 for every new customer he brought him. Please, let us not fool ourselves that the drug war is helping our kids; we can never beat that.

Another interesting story is about a veteran who was on my radio show. This veteran suffered from extraordinary post-traumatic stress disorder (PTSD) and traumatic brain injury, was homeless, arrested repeatedly for violent outbursts, and repeatedly sent to the psychiatric unit for depression and suicidal thinking. Another street person gave him some marijuana. It straightened out his life. When he was a guest on my show, he was dressed as I am dressed today; he was well-groomed, married, and working. We are talking about incredible, miraculous medication; we are not talking about a dangerous, addictive drug. [Stephen Frye continued reading from prepared testimony ([Exhibit N](#)).]

Thank you very much for the hearing, and I am happy to answer any questions.

**Chairman Frierson:**

Are there any questions from the Committee?

**Assemblyman Hansen:**

I am not sure if this is a question for Dr. Frye or for Legal. He said there has never been a situation where anybody has been picked up driving high in Nevada. I understand there have been many cases of people being high in Nevada, and you are suggesting that we criminalize drinking orange juice before you drive, too.

**Stephen Frye:**

There is a difference between association and causation. If we did a blood aspirin level on everybody admitted to the Clark County jail, we would find many people had aspirin in their blood. Does that mean the aspirin caused the

crime? No, it does not. It means many people are using aspirin. Likewise, many people use marijuana, so if there is a fender bender and someone is using marijuana, that does not mean that the marijuana caused it. Studies by the United States Highway Traffic Safety Commission and New Zealand, using both emergency run data and flight simulators like the airline pilots use, demonstrated no increase in accidents. Even if there is a tiny increase in accidents, it will be dramatically less than alcohol, which is the party drug of choice now which is an immensely dangerous drug.

**Assemblyman Hansen:**

I have no dispute on the alcohol. I am concerned that the situations we will have are like an additional layer of alcohol. I will leave it up to the police officers who I am sure will testify on the offenses. Officially, Burning Man says there is no drug use.

**Stephen Frye:**

That may be official, but I attended eight years ago and I will tell you unofficially there is a whole lot of safe partying going on there.

**Assemblyman Hansen:**

I just want to get that on the record.

**Stephen Frye:**

I appreciate that.

**Chairman Frierson:**

We happen to have two extremely enthusiastic and assertive personalities, but our staff cannot record what you are saying when you are talking over each other, so you can take it one at a time so that we can keep the record clear.

**Stephen Frye:**

The other thing is most police officers will tell you they spend about half of their day in alcohol-related problems whether it is domestic violence, child abuse, vehicular accidents, et cetera. Aside from taking someone in for possession of marijuana, it is extraordinarily rare that under the marijuana they were causing problems.

**Assemblyman Hansen:**

Thank you. I look forward to hearing the law officers' take on it because if we are going to go on the basis of their experience with alcohol, then obviously their experience with marijuana is going to be interesting for our Committee.



**Chairman Frierson:**

Are there any other questions from the Committee? I see none. Thank you very much.

**Stephen Frye:**

One other quick comment. I purchased these three bottles of aspirin, Tylenol, and Ibuprofen in the dollar store last week for \$1 each. I asked the clerk if a child had to provide any identification to buy these. She told me, "No, only the cough medicine." Each of these causes hundreds of deaths a year. Marijuana does not. Thank you.

**Assemblyman Hogan:**

Thank you, Mr. Chairman. I appreciate your indulgence and will try not to use any additional time. I want to make the comment that this is one of the most important bills I have introduced in my ten years in the Legislature. I would urge you to fast-track this, if possible, so that Nevada becomes the first state to legalize marijuana. Thank you.

**Chairman Frierson:**

Thank you, Mr. Hogan. I now invite those here to testify in support of Assembly Bill 402 to come forward. I remind you before we get into this that we need to get through this and get the Committee down to the floor. Please do not read to the Committee. If you have written testimony, please provide that to our staff and it will be circulated. You may summarize your comments provided on written testimony. Understand that I will try to redirect this and make sure that I accommodate everybody. If we are unable to do this, we will have to end testimony in a certain position and move on. For those who were not able to provide testimony, they will have to submit it in writing. That is something I have to be consistent with to provide both sides the opportunity to be heard. Please proceed, be mindful of time, and try not to repeat anything that anyone else has said before you. It is perfectly okay to simply indicate you agree with what has been said before you.

**Bill Carns, Private Citizen, Pahrump, Nevada:**

I am the chairman of the Nye County Republican Party and a former category I Nevada peace officer. I worked swing shift in some of the more dangerous areas back in the mid-'90s.

Although the doctor has some excellent points, some things might be a little sensationalized. I never spent half of my day working with alcohol. However, I did spend far more of my time as a police officer with alcohol than I ever did with marijuana. We have history in this country. We have a 70-year prohibition on marijuana now; we only had 13 years when it came to alcohol.

We realized that was a mistake. Crime was rampant and all sorts of studies over many years show that marijuana does not have the same destructive qualities as alcohol. For the record, I have never smoked marijuana or anything else classified as a Schedule I narcotic by the federal government.

I would like to address Mr. Hansen's comment on the federal government. The federal government has 17 defined authorities in which they are allowed to legislate. If you read it, narcotics do not seem to be one of them. Additionally, if they do, by the entire *Constitution* and the amendments thereof, that should only affect federal land and federal territories. It would be up to the county sheriffs to actually let the federal government know they are not going to allow them to enforce these specific federal regulations within their county as they are the only elected law enforcement officials in the county, and they have that authority to do so.

I would advise anyone to check that out with some of the various writings and understandings of Sheriff Richard Mack. On top of that, when it comes to taxing marijuana in three different ways, I would say that the authority to tax is the authority to destroy. I would suggest that someone introduce an amendment to where it just simply goes to the purchaser to pay a 50 percent or 100 percent tax just to make it simple. You are not overburdening the growers and the manufacturers when it comes to this.

When it comes to providing for any lawful marijuana use, I believe this Legislature does have the authority to pass law on it. That is why you are here. Of course, the tax revenue is something you are looking at. When it comes to the taxes going into funding for education, I might suggest you more narrowly focus specifically on what that tax fund will do as just to provide it to education. It could do such things as inflate the figureheads and administration rather than directing it to the school rooms, adding technology that does not necessarily help teach, but adding it to better educate our children.

**Chairman Frierson:**

Does the Committee have any questions? [There were none.]

**Pat Lynch, Private Citizen, Reno, Nevada:**

I am the founder, CEO, and editor-in-chief of WomensRadio that is produced by my company, Women's Online Media and Education Network. I am speaking on behalf of women and children in the state of Nevada and the hardships they encounter especially at the hands of people that are making rules and laws that affect their lives severely.

In almost all cases, the hardships that the women and children are bearing are due to drugs, alcohol, firearms, and abuse. We wonder why it goes on. We think that sometimes that is just their lives. We do not feel like we are personally responsible for that or that our lack of action in many cases has caused the situation. It is spiraling. Dr. Stephen Frye is one of the experts in the country on all the information regarding the use of marijuana and alcohol and its effect on people.

I want to tell you a story about Jane Smith. As a young girl, Jane lived with her single mom who struggled with two and three jobs. She had several partners. Jane's fourth father came in drunk one night, beat her and sexually assaulted her, and then beat and killed her mother. Jane was still underage, so they put her in a foster home. Again, she was treated poorly, sexually abused, and began to use marijuana and other drugs. She was in bad company and was sent to juvenile hall. She continued to get drugs there. How did she get drugs there—from her jailers. She could not pay for them, how did she get them? She had already had sex, so she used sex. When she got out, she had had no good mentoring, no good inspiration, and she returned to the streets. Now her life was damaged. Later it would be ruined through the same system. It continued, she got pregnant and was afraid to go in and get prenatal checks so she had an undernourished baby that had problems and would have them for life. They were placed in foster homes and the situation continues. This does not happen just one time, but repeatedly. It happens in our backyard.

Frankly, in the state of Nevada alcohol abuse and lethal abuse of women and children because of alcohol abuse, among other things, is the highest in the nation. We have the biggest problem. We have the responsibility to come up with the best solution. How many times in the life of a legislator do you have the opportunity to do what is right, to solve a problem, and at the same time generate tax money that can actually help to cure more problems, particularly education? I want to urge everyone to put on their big girl pants and their big boy pants, step up, and show the nation that Nevadans are leaders. I believe the people in the state of Nevada have chosen, have voted, as they could vote to put things forward. The best information we have is to act now. I urge you all to act now on this bill.

**Assemblyman Hansen:**

You are telling me if we legalize marijuana when a father comes home instead of popping a beer, getting drunk, and beating his kids or abusing his wife, if we legalize marijuana, that is going to decline. We will have less abuse? We have less abuse if people are smoking pot instead of drinking beer at home and Mom and Dad are going to get along better, and children are going to do better.

**Pat Lynch:**

Thank you, Mr. Hansen, you have made a great point.

**Assemblyman Hansen:**

I am highly skeptical of that.

**Pat Lynch:**

Would you be open to good information about it?

**Assemblyman Hansen:**

I have lived in this real world for a long time. I have a hard time believing where drugs have been legalized, you actually have a substantial decline in problems in homes.

**Pat Lynch:**

There is so much statistical evidence all over the world and the person who has the most and best information is Dr. Stephen Frye. I would encourage you to read his book and read the information that I am sure he will be providing to you today.

**Chairman Frierson:**

Thank you very much. Dr. Frye was not shy about the multitude of exhibits he submitted. I am sure it is contained in one of the many. Are there any questions from the Committee? [There were none.]

I have a great number of people who signed in support. A small number signed in opposition. I am providing some leeway because of that. If there is someone who plans on opposing and has not signed in, the only way I can know how to apportion the time is if you sign in. Please do that. That is partially how I am going to know how to dictate how much time I provide. Ten or more have signed in support so I ask that you keep it brief. Otherwise, I will have to move on and ask people to submit their testimony in writing.

**Juanita Cox, representing Citizens in Action:**

For the record, I am a '60s kid. I did not voluntarily, but I did involuntarily benefit from breathing or eating this product during those times. I will not be using marijuana unless I get cancer. I witnessed my husband's death from cancer last year. If he had had a legal source for the oil which we just found out is beneficial to cancer and probably kills cancer cells, then perhaps he would be sitting here today touting the benefits of marijuana.

The question came up about why we could go over federal law. It is called nullification. Nullification can take place under the Tenth Amendment by and

through the states. Why? We the people created our local government and they can keep federal people out of their county in protecting their citizenry. We created the states and the states created the federal government. It is about who created who. I think that has to be a thought not only in this Committee on this bill, but many other bills. We created our governments and we the people can certainly complain through a nullification process that there are abusive federal laws that need to be overturned. This is one when the multiple states rise up and say, "No more."

I am here to speak for freedom; freedom for adults to make their own life decisions; freedom for Nevada's economic benefits of tourism and through funding of early education. We need to show the world that Nevada believes in freedom for their adult population. I hope that you support this bill and I will take any questions if you have any.

**Chairman Frierson:**

Are there any questions of the Committee? [There were none.]

**Karen O'Keefe, Director of State Policies, Marijuana Policy Project, West Hollywood, California:**

I am an attorney and the director of state policies of the Marijuana Policy Project, which is a nonprofit that is dedicated to reforming our marijuana laws. Like 56 percent of Nevadans and the majority of Americans, we believe that it is time for a new approach to marijuana and that the sensible, humane, and fiscally sound response is to regulate marijuana similarly to alcohol.

I will not repeat the materials I submitted in writing ([Exhibit O](#)), ([Exhibit P](#)), ([Exhibit Q](#)), and ([Exhibit R](#)). Instead I will talk about the federal law issues that have come up. The two main questions regarding the federal government are: Will the federal government sue to try to overturn a law like Assembly Bill 402, and, if so, could they win? And secondly, will the federal government enforce its own marijuana laws in Nevada, Colorado, and Washington where they have made marijuana legal for adults?

On the first issue, it is important to note that states absolutely have the right to remove their own criminal penalties from anything. It would be commandeering for the federal government to require a state to criminalize something, and that is something they cannot do. The question comes up whether the federal government might sue to prevent the state from implementing some kind of regulatory structure to regulate the sale and taxation of marijuana. I believe that they would not do so and that if they did, they would lose. Notably, the federal government has never argued in court that state medical marijuana laws are preempted by federal law, including

states that have distribution and taxation structures similar to A.B. 402, but are just about medical marijuana. The Controlled Substances Act, which is the federal law that prohibits marijuana specifically, has very strong preemption language. It says that unless a state law positively conflicts with federal law, it would not be preempted. In other words, if the state of Nevada was to say, "You are required to grow marijuana," to a state worker, the state could not do that because it would be requiring someone to break federal law, but they can remove their own criminal penalties from people voluntarily engaging in those actions, and they can also set up regulatory structures. There have been a few preemption cases that have been litigated on the issue of medical marijuana, and they have generally found just that.

The other major federal question is whether the federal government would enforce federal laws against people who sell marijuana in Washington and Colorado and, if A.B. 402 passes, here in Nevada. Attorney General Holder has not yet said what the federal government will do regarding Washington and Colorado, which is probably a good sign, but in any case, 99 percent of all marijuana arrests are at the state and local, not the federal, level. Already the federal government has better things to do than arrest people for growing or possessing small amounts of marijuana, and as the President said, they have bigger fish to fry than people who use marijuana in states that allow it. In addition, in those states that have strict regulatory structures and licensing for medical marijuana dispensaries, there have not been federal raids or prosecutions against those people complying with state law. Yesterday a Pew Research Center poll found that 60 percent of Americans do not want the federal government to enforce federal marijuana laws in states where marijuana is legal. That included 57 percent of Republicans and 64 percent of Independents. My hope and expectation is that the federal government will find better things to do with their limited resources than to hand over the marijuana market to drug cartels in those states that opt for a more sensible path. Whatever course the federal government charts, it is up to the Nevada Legislature, not the United States Congress, to write Nevada law. With only 10 percent of burglaries in the state resulting in arrests and only about 24 percent of reported rapes being solved, local police have much better things to do with their time than to arrest and prosecute 10,000 people a year for marijuana, a substance that is less toxic and less addictive than alcohol. Unlike alcohol, it does not cause violence.

States' new laws to regulate marijuana are not the first times states have chartered a different course than the federal government about prohibition. Several states removed their own enforcement laws on alcohol prohibition before the federal prohibition was repealed. Once again, it is time for bold leadership from the states to end prohibition nationwide. I urge you to support

A.B. 402 to bring the marijuana market out of the underground and to tax and control it. Thank you for your consideration and your public service. I will be happy to answer any questions you may have.

**Assemblywoman Fiore:**

Thank you for being here and thank you for your testimony. It was very well done.

**Assemblywoman Spiegel:**

Ms. O'Keefe, would you please speak to some of the differences between medical marijuana and how it is produced and dispensed versus what is being proposed in this bill?

**Karen O'Keefe:**

There are 18 different states that have medical marijuana laws, and there are 18 different ways marijuana is produced and dispensed. Here in Nevada, as Dr. Frye mentioned, there are no legal state dispensaries, so it is often sold by people just as illegal marijuana. Colorado has a regulatory structure that is very similar for medical marijuana to what this bill would set up. This leaves a lot of discretion to the department, but it sets up a four-tier system, too. You have producers, infused product manufacturers that make things like edibles, laboratories that test the marijuana, and retailers called medical marijuana centers. This would be very similar in some ways to what is allowed in Colorado.

Both of the cases would allow localities to choose whether they want to allow retailers in this case and dispensaries in that case. You will see other states that have very different courses. California is probably the best known for medical marijuana. The state has absolutely no state regulation of medical marijuana. Some cities have some very good regulation; some cities have done nothing, so you have many dispensaries with no regulation. That is not what is envisioned under A.B. 402 and not what we have seen in Colorado and the other states that have good, controlled regulatory structures. In the states with good regulatory structures, we have not seen federal raids. You have seen them in California where there is a gray zone. At one point, the federal government had a memo that said they would not target those in clear and unambiguous compliance with state laws. It is hard to be in clear and unambiguous compliance with something which is in itself ambiguous, like the California law. Does that answer your question?

**Assemblywoman Spiegel:**

It answers most of my question.

**Chairman Frierson:**

Are there any other questions? [There were none.]

**Cynthia Kennedy, Private Citizen, Virginia City, Nevada:**

I have comments on some remarks made today. I believe Burning Man is the largest gathering of its type in the world. People commonly joke about the use of drugs there, but actually I think it is also an example of where you have thousands of people who are probably consuming marijuana and all of them are getting along in a rather peaceful nature. Normally if you had that many people who were drunk, there would be a lot of violence and fights. If you have ever been there on the Black Rock Desert . . .

**Chairman Frierson:**

I need to redirect you. We are not here to talk about Burning Man. I do not think that Burning Man would necessarily advocate for characterizing their event as embracing drugs, and I do not want to go too far about mischaracterizing an event, especially without them being here.

**Cynthia Kennedy:**

It is just that you were talking about violence and Mr. Hansen did not think it would be that usual that someone would come home and smoke a joint and beat up his wife. That would not happen that often in real life.

**Chairman Frierson:**

I understand your point.

**Cynthia Kennedy:**

That is a great example of thousands of people under harsh conditions where people could be very short-tempered and easily go off, but because some of them are self-medicating with marijuana, they are a rather peaceful lot.

**Chairman Frierson:**

Please speak to the bill.

**Cynthia Kennedy:**

The other comment that Mr. Hansen made was that this bill might promote smoking. Some of you may not be aware that marijuana is consumed in many other forms besides smoking—cookies, candies, beverages, vapors, cooking oils, et cetera. Many people do not like to smoke, but they can still consume marijuana and enjoy its benefits.

You were elected to serve the people and that lies at the root of this bill. By supporting it, you are truly considering the health and quality of life for your



constituents as well as finding a new tax that will help fund education. This is a win/win for the people of Nevada. Thank you.

**Chairman Frierson:**

Thank you very much. Are there any questions from the Committee? I see none.

**S. Rowan Wilson, Member, Americans for Safe Access, Northern Nevada Chapter, Reno, Nevada:**

I thought about opening a medical marijuana dispensary. There is a difference between medical to actual recreation.

I am here to speak about Assembly Bill 402 today. I will put my MBA hat on and talk numbers. Let us talk dollars. First, I will give a quote from *Marijuana Business Fact Book 2013*, available from <mmjbusinessdaily.com> which was published last week. "If cannabis were entirely legal, we estimate it would be a \$46 billion a year industry compared to beer at \$96 billion, or coffee and tea at \$11 billion. Some people have estimated the illegal market by comparison to be \$200 billion. In 2014, Washington and Colorado will legalize retail stores."

On the fiscal impact: 15 percent of the revenues come from those businesses under \$100,000; 27 percent \$100,000 to \$250,000; 15 percent \$250,000 to \$500,000 revenue; 15 percent \$500,000 to \$1,000,000; and 27 percent of the businesses more than \$1,000,000. These are just dispensaries. Just as many dispensaries are making money at the \$100,000 to \$250,000 level as the \$1 million level. Eighty-three percent of these businesses break even to having a profit within one year. The only ones that are not are in cultivation, and that is 17 percent.

Going back to other points that have been brought up, Maine has not been bothered. The marijuana fact book also recommends Maine as being the most stable of the states. California also has a state study showing that medical marijuana when it was legalized in 1996, DUIs dropped by almost 10 percent. I urge you to please think about the fiscal impact on the state and how we are going to miss out if we do not legalize, if not now, in the future. Thank you.

**Vanessa Spinazola, representing the American Civil Liberties Union of Nevada:**

We support Assembly Bill 402, based on our belief that there is mass overincarceration in our society and there are great racial disparities on the arrest rates between whites and blacks for possession of marijuana. Eighty percent of marijuana arrests are for possession across the country. This has risen steadily from 2001 to 2010. Nevada is one of the states with the greatest increase in marijuana arrests—we have increased marijuana

possession arrests 96 percent in that time. Extreme racial disparities in marijuana possession exist across the country. Unfortunately, Nevada is one of the highest states with arrest rates that are disproportionately affecting our black communities as opposed to our white communities. Despite all of this, there is no clear correlation between arrests for marijuana possession and a decrease in crime. As a policy issue, we encourage the Committee to look at this and if we want to continue these trends of disproportionately affecting our communities of color in the way that we arrest for marijuana possession. Thank you.

**Assemblywoman Fiore:**

Thank you for being here. I listened to your statistics, which are national. Do you have any of our state statistics? When I look at our state statistics, I look at our incarceration, and I look at all of the numbers you just gave, it is significantly different.

**Chairman Frierson:**

Ms. Spinazola, could you provide that to the Committee outside of testimony?

**Vanessa Spinazola:**

Yes, most certainly. Actually, you reminded me of an important point. The American Civil Liberties Union (ACLU) has a massive report coming out. I only have a draft right now; it will be out at the beginning of May. I will give those figures to you.

**Jesse Holder, Private Citizen, Reno, Nevada:**

I am speaking as a concerned citizen on my own behalf. I think that one of the most important things we have to ask ourselves about legalizing marijuana is whether it is a detriment to society. I have heard many of the testimonies here today and there are all kinds of facts and figures, and I am going to base my opinion in support of legalizing marijuana on what I call life experience field studies.

One concern I thought about is that we might have more young people becoming addicted to marijuana. My experience has been people either like it, or they do not. I have a brother who is one year older than I am who has probably smoked marijuana every day of his life since the time we were 16. He has not been a detriment to society; he is a good, law-abiding citizen as far as work, and never in trouble. I have tried it a couple of times, and I do not like it. I think it is so prevalent in our society that anybody can get it if he wants whether it is legal or not. I do not think that legalizing marijuana will increase the amount in society that is smoking marijuana. There are people

who either like it, or they do not. By legalizing it, we will not be criminalizing people who enjoy marijuana.

**Terry Hubert, representing the Vietnam Veterans of America:**

I am speaking for the Vietnam Veterans of America, the only veterans service organization that is ready to deal with this type of issue. I like to tell people back in 1968, I joined the Marine Corps. The two things that most affected me was what the Marine Corps taught me to do quite well—how to shoot and how to twist one. Ever since I came back, I cannot do either. It gets me in trouble, but many veterans have. Sometimes I find myself apologizing to my fellow Americans because we came back from one war to another that has dramatically affected veterans. There are over a quarter million veterans in the prison system in the United States. Most of them are there for issues relating to post-traumatic stress disorder (PTSD). As Dr. Frye said, marijuana seems to help alleviate those types of mental health issues. One of the things they did for the Vietnam veterans in 1984 was the National Vietnam Veterans Readjustment Study. They found out that only 36 percent of veterans returning from Vietnam encountered the justice system. Out of that 36 percent, only 11 percent of them have sustained felony convictions. If you crunch the numbers, that is a lot of veterans.

**Chairman Frierson:**

Mr. Hubert, I appreciate your perspective, we have had testimony on the impact of the criminal justice system.

**Terry Hubert:**

I am also a retired prison employee. I have been involved in the criminal justice system since I returned from Vietnam.

**Chairman Frierson:**

I appreciate that, it is just that our time is limited and we have some people in Las Vegas that we need to address. We still need to get to the opposition as well. I want to make sure with a limited amount of time we give our due to the opposition as well.

**Terry Hubert:**

I will give you one statistic that comes from former Attorney General Edwin Meese. He says the real issue is that we overcriminalize all kinds of behaviors. There are 4,474 laws that can put you in prison in the United States. That was two years ago. One of them that they use quite effectively is marijuana.

**Chairman Frierson:**

I just gave the gentleman before you one minute. You could make any comments that you want to expand upon based on your experience. It sounds like you have tons of applicable experience to this issue. I would ask that you consider submitting it in writing, but I need you to sum it up so that I can go to Las Vegas.

**Terry Hubert:**

I will sum it up. I am also a criminal justice professor and I would urge one of the requirements to become a legislator is to take a basic criminal justice class because that lays out the issue here. We have mass incarceration; we lock up way too many people, including people who are not dangerous. This is one of the laws that would help that.

**Chairman Frierson:**

Las Vegas, if you could be extremely brief; otherwise, I will have to ask the remaining people to submit their testimony in writing.

**Craig A. Rodgers, Private Citizen, Las Vegas, Nevada:**

I have the worst brain tumor that you can possibly have. I am also the vice president of the Cannabis Science Research Foundation. It is legal here in Nevada, and we are going on and on talking about . . . are we not in the way to the dispensaries right now?

**Chairman Frierson:**

We have to ask the questions so please provide your testimony.

**Craig A. Rodgers:**

I am going to go very rapidly so these people can speak as well. I was just saying I have the worst brain tumor you can possibly have. I was supposed to be dead seven years ago and I am still here. I can go to the pharmacy right now and get any type of pill on planet earth. I take 20 separate pills, and take 80 pills a day. I can go get that anywhere. I take about any pill you can possibly take. I am lost right now and I am going to let these people go next.

**Christine Kramar, Private Citizen, Las Vegas, Nevada:**

I have been a caregiver to cancer patients. I give this testimony in memory of my grandfather, Melvyn Wartella and my brother-in-law, David Kramar.

Legalization will allow those of us who are caregivers to simply stop by and pick up our relative's medication on the way home. We will not have to worry if there are legal consequences or if we will lose our license. My mother is a schoolteacher and my sister is battling Ewing's sarcoma, which is usually a

fatal bone cancer. My mom has to worry if she goes and picks up medication. She is not sophisticated enough and would probably be caught picking up illegal marijuana for my sister. Her other option is to watch her suffer. This bill will bring an ounce of humanity to our families as we watch our loved ones lose their grip here and pass away so we will not spend our time on the logistics of how we get it, or worry that we will lose our livelihoods because we are doing what is sane, safe, and humane.

I am asking my Legislature to please give our families that ounce of dignity and humanity. Lower income families will be busted for bringing marijuana in to save their loved ones. We should all have an opportunity to give our loved ones that ounce of dignity and that ability not to worry you will lose everything by doing what is right for your family member. I give this final testimony in solidarity with my sister that I hope she survives. I hope that we have the common core of humanity not to make it a crime for my mother to pick up the medicine that she needs. Thank you very much.

**Cindy Brown, Private Citizen, Las Vegas, Nevada:**

I am part of a group in Las Vegas called W.E.C.A.N. We have been working towards legislation for quite some time. I would like to discuss the bill.

**Chairman Frierson:**

Just so you know in Las Vegas, Ms. Brown will be the last person allowed to provide testimony in support of A.B. 402. I ask everybody else to submit something in writing so that the Committee can consider it. Unfortunately, the people that came before you took a disproportionate amount of time and we have to provide for testimony in opposition. Ms. Brown, please proceed.

**Cindy Brown:**

On page 2, section 2, subsection 1, you want to charge a 25 percent sales tax on the wholesaler, then you want to charge another 25 percent tax on the retailer in subsection 3. To me, this is pure and simple gouging.

**Chairman Frierson:**

Are you in support of the bill?

**Cindy Brown:**

I am in support of the bill.

**Chairman Frierson:**

I explained earlier that if you are in support of the bill that you support it as it is. If you have some concerns, that would be opposition. If you support the bill only with certain changes, then that would be in opposition.

**Cindy Brown:**

Okay. Then I will wait for opposition.

**Chairman Frierson:**

We are going to opposition and returning to Carson City. I invite those in Carson City that are here to speak in opposition to please come forward now.

**Chuck Callaway, representing Las Vegas Metropolitan Police Department:**

We are here today in opposition to Assembly Bill 402. Personally, I have worked as a police officer for over 20 years, and the majority of my career was working the streets of Las Vegas. I have seen firsthand the destructive impact drug addiction and drug abuse has on individuals and families. We believe that if this bill passes, it will contribute to that. We are not here to debate the value of medicinal marijuana. That is legal in the state; it is voter approved. The constitutional issues are a separate issue. We believe this bill goes beyond that.

Section 1 of the bill would make forging of a registry identification card a misdemeanor offense. That would be forging of a state document, which would be a misdemeanor offense. Currently forging a prescription is a felony. Forging of any other document is a felony, so I do not know why we would want to make forging of this state document a misdemeanor.

In addition, the bill put the burden on the Department of Taxation to develop regulations and recommend how facilities that would distribute and cultivate marijuana would be set up. I know the Department of Taxation has very limited resources from working with them on law enforcement issues. The bill would also put a significant time restraint on how they would have to implement that. If they were unable to implement it by that timeline, it would be pushed further down to the county and local government level to implement how these regulations would be put forward.

A significant amount of discussion has been had on the Senate side as regards to medical marijuana dispensaries and the proper regulation, security, and public safety surrounding those. I think this bill circumvents all of the work that has been done on that side. I ask that be considered when looking at this. Finally, I believe the way the bill is written and structured, it takes away from the legitimacy from the current medical marijuana law in the state.

**Chairman Frierson:**

Are there any questions for Mr. Callaway? I see none.

**Eric Spratley, Lieutenant, Legislative Services, Washoe County Sheriff's Office:**  
I ask the Chairman's indulgence while I read two paragraphs to refute some fraudulent testimony heard earlier.

Officer Michael Scofield was killed in a motorcycle accident while responding to an accident with injuries on September 26, 2002, at 1200 hours. Officer Scofield and his partner were traveling down Mill Street with their emergency equipment activated when another vehicle pulled out of a parking lot causing a collision. His partner, who was behind Officer Scofield, was able to stop. Officer Scofield was transported to a local hospital where he succumbed to his injuries 45 minutes later. The driver of the vehicle was arrested and charged with driving while having an illegal amount of prohibited substance in her blood, after it was determined she had smoked marijuana before the incident. She was convicted of the charges in March 2004, and sentenced to two years in prison.

Officer Scofield had been employed with the Reno Police Department for 25 years. He had been in law enforcement for 30 years. He was planning to retire within a year. His wife and four children survive him. As a motorcycle cop, I rode in his funeral procession. I refute what Dr. Frye says about driving; we want reaction times to be as quick as they can when operating a motor vehicle in this state. We do not want slow drivers and slow reaction times. This is the reason why.

I do represent the Washoe County Sheriff's Office and am here in opposition to A.B. 402 in its entirety. I do need to get on the record that the Washoe County Sheriff's Office supports the *Nevada Constitution* and the voice of the citizens of the state of Nevada regarding medical marijuana. This bill does not support that; I would say that it actually hinders that topic. We also support the *United States Constitution*, federal laws currently in force, and the fact that marijuana is classified as a Schedule I controlled substance under the Federal Controlled Substances Act. We appreciate the effort that is being taken to bring this bill forward while it tries to address two topics, marijuana and tax revenue to the State of Nevada, but its "buds for books" approach fails across the board to address basic issues to the communities in which we live and the constituents for whom we have been chosen to serve. That is my testimony, and I will take any questions.

**Chairman Frierson:**

Thank you. Are there any questions from the Committee?

**Assemblyman Hansen:**

I just looked up a study from the *British Medical Journal* of 10,748 drivers. They said driving after smoking even a small amount of marijuana almost doubles the risk of a fatal highway accident. The reason I bring this up is earlier testimony suggested that in fact it was safer driving after smoking. Is there any evidence in your experience, or any studies that you are aware of, where people who have smoked even small amounts of marijuana are better drivers? Do the studies indicate that there is an increased level of problems when people smoke and drive?

**Eric Spratley:**

I am not aware of these studies. I would just point to the card up here that says, "It is unlawful to misrepresent any fact knowingly when testifying or otherwise communicating to a legislator." I guess people can do studies for anything. If marijuana slows you down, it is slowing down your reaction time. What I just put on the record regarding Officer Scofield is proof of that, and this person was convicted in a court of law for having that in her system. I would say she might have had normal reaction time and have been able to stop her vehicle, and we would have a law enforcement officer who is retired and enjoying his grandkids today because of that.

**Chairman Frierson:**

Are there any other questions from the Committee? I see none, thank you.

**Bryan Wachter, representing Retail Association of Nevada:**

We are neutral on all parts of the bill, but we do oppose section 2, subsection 3, paragraph (c), "Must be considered part of the total retail price to which general state and local sales and use taxes apply." We are not sure if that means the excise tax of 25 percent as applied to the price of the product, and in Clark County the 8.1 percent of the sales tax would then be applied to the total cost of the product, plus the excise tax, or if it would be the total cost of the product minus the excise tax. We are concerned about that.

We also have very strong opposition to section 2, subsection 4, "All revenues collected from the marijuana excise taxes imposed pursuant to subsections 1, 2 and 3 must be paid over as collected to the State Treasurer to be deposited to the credit of the State Distributive School Account in the State General Fund." It has always been our policy to oppose taxes that are earmarked for specific purposes. We do not have an opinion whether you should enact the rest of the bill, but if you do, the taxes should be General Fund, and not be earmarked to a specific account of the state.



**Kristin Erickson, Chief Deputy District Attorney, Washoe County District Attorney; representing Nevada District Attorneys Association:**

The district attorneys of this state cannot support Assembly Bill 402 mainly because they have seen the destruction of drug abuse in individuals, families, and society. Is marijuana a gateway drug? I do not know, but the majority of hard-core drug abusers have used marijuana. Will taxing it create a positive revenue stream? It might, but it will most certainly not eliminate the black market of sellers and drug dealers that will continue to sell a drug that is not taxed at a price set below what it is legally being sold. Finally, a group of medical professionals has deemed marijuana a Schedule I controlled substance. That is the most serious schedule of controlled substances. It is based on its dangerousness and its proclivity for abuse. Other Schedule I controlled substances are heroin, cocaine, and methamphetamine. As a result, the Nevada District Attorneys Association cannot support A.B. 402 and opposes it.

**Chairman Frierson:**

Thank you, Ms. Erickson. If two men smoke marijuana, right now they have an illegal option. If the law was passed and it became a legal option, why would they go black market if they could get it legally? You do not think that making it legal would subside the illegal market?

**Kristin Erickson:**

I do not because the purpose of the black market is to undercut the legal sellers, and they would sell it at a cheaper price. They may also resort to force or violence in selling their drug. I absolutely cannot believe it would eliminate the black market.

**Jim Sallee, Private Citizen, Las Vegas, Nevada:**

I am 74 years old and probably old school for the young people that are here. I do not understand why to legalize marijuana, adding it to an already legalized list of drugs that are mind altering such as Paxil, Ritalin, Zoloft, and a long list of others. James Holmes, the Colorado movie shooter was on Zoloft. Eric Harris of Columbine was on Zoloft. We should find the root cause of these problems and not add more drugs to the long list that is already out there. They say that it will pay for education; I find that ludicrous how, after sitting in the hearing the other day on the bill about carrying a concealed weapon on campus, that the school people would love to get money from drugs, and yet be opposed to people carrying a legal concealed weapon on campus. Thank you.

**Tim Bedwell, Director of Intergovernmental Services, City of North Las Vegas:**

I have been a police officer since 1994. I served in both Arizona and Nevada continuously since that time. My city and my police department oppose

A.B. 402. I echo some of the comments that were already made, and I will only make a couple of others. I do so because the anecdotal opinion that has been given by some of the supporters and masked as research cannot go unchallenged. I want to put a little balance to the outlandish claims that have been made. Some of those have already been challenged, for example, the slowing down and how that could not possibly affect driving, is ludicrous and there is research to support that it is detrimental to a driver's ability to drive.

I would also like to talk specifically about the black market. There is a continuing, ongoing black market in Xanax, Oxycontin, and other already regulated legal prescription medications. Supported by the evidence that is occurring right now, that would continue with marijuana. It would certainly continue in areas where a market exists where it would remain illegal, and that is with children. Children would still be a target for black marketers. There is certainly a market there; it is being exploited right now and there is no evidence that it would not continue to be exploited.

I think the fact that has been brought up about the number of marijuana arrests and how they are specifically associated with other criminal behavior is an issue that, if I was in your seats, I would be very concerned about. The fact is, I can tell you that the police officers I work with and I generally do not arrest people or even have contact with people who have marijuana unless there are other associated criminal behaviors going on at that time. I am not going to sit here and make an absolute statement that the marijuana was what caused them to have that behavior, but I am going to tell you that it is an association that has been commented upon by the people who support this bill.

Lastly, what I would advise everyone is look to the research a little more than the emotional and very specific things that give absolute statements on something. This will not happen because, or this will happen because, is not appropriate in the argument that we are looking at right now. That is my statement and I will answer any questions that I can.

**Assemblywoman Fiore:**

Thank you, Mr. Bedwell, for being here. I am not reading in the bill where it permits people under the influence of marijuana to drive. I am thinking that responsible smokers would probably not smoke and drive like they do not drink and drive. Why is marijuana a class 1 felony? Why is an organic plant or natural substance classified as such a high criminal drug?

**Tim Bedwell:**

With regard to the issue of the use of marijuana and driving, I know that is not contained in this bill. As the proponents of the bill have made statements

with regard to marijuana not affecting drivers, I think that needs to be refuted. That is the reason that came up. Lieutenant Spratley addressed it more than me.

Regarding the schedule for marijuana, the federal government sets up schedules, and it has classified marijuana as a class 1. In my opinion, and I am not an expert on drug law, I believe it is because it does not have a medical use in the opinion of the people who created that schedule.

**Robert Roshak, representing Nevada Sheriffs' and Chiefs' Association:**

We are in opposition to this bill. Almost everything we were going to say has been covered. Colorado was talked about in testimony, about how they are moving forward and it is progressive, yet they have a bill working through their legislature right now with regard to driving under the influence of marijuana. In regard to Ms. Fiore's question pertaining to organic substances, marijuana is one; so are poppies.

**Chairman Frierson:**

Thank you, Mr. Roshak.

**S. Rowan Wilson:**

Americans for Safe Access has refiled the lawsuit to reschedule marijuana from a Schedule I drug. It is a plant.

**Chairman Frierson:**

I think that you offered testimony in opposition earlier. Could you point out the sections that you oppose?

**S. Rowan Wilson:**

Thank you, I simply wish to correct the record.

**Cindy Brown:**

I have a couple of issues with the bill. Generally, I am happy with it, but it does have a couple of problems. Before I mention those, I would like to mention there was trooper here in Las Vegas, a police officer who was high and plowed down a bunch of citizens. He got off. Driving under the influence.

**Chairman Frierson:**

Please speak to the bill. We are out of time and that had nothing to do with the bill itself. We need to address the bill and the portions you oppose.

**Cindy Brown:**

I will get to the bill. In section 2, subsection 1, you want to charge a 25 percent tax to the wholesaler, and then another 25 percent tax to the retailer. That is gouging. You want to add another general sales tax, so let us do the math. At \$200 wholesale, tax on one ounce of marijuana would be \$50. It probably sells for around \$400 an ounce at the retailer, which ends up being \$100 more in tax, plus the 8.1 percent which makes an ounce \$532, which is excessively high. If you want to compare it to alcohol, those excise taxes are \$3.60 per gallon.

**Chairman Frierson:**

Ms. Brown, I think you have made the point that you believe it is gouging. We have to move on.

**Cindy Brown:**

You were comparing it to alcohol earlier, so we need to compare the taxes.

**Chairman Frierson:**

I am going to ask that you submit the rest of your testimony in writing because we have to move on. I am not going to have my Committee get into trouble for missing the floor.

**Cindy Brown:**

You always want to rush us. On page 3, you are talking about undercutting illegal markets. You cannot do that on a 50 percent tax. You also talk about controlled substances with a \$1,000 tax per gram.

**Chairman Frierson:**

Okay. We are going to wrap it up. I ask that the remaining witnesses submit their testimony in writing. We will return to Carson City for testimony in neutral.

**Cindy Brown:**

Carson City is so important. You are not letting Las Vegas say much and we are bigger.

**Chairman Frierson:**

I am trying very hard not to pull the mic, but we need to move on. Time is not limitless and so, unfortunately, some people took up too much time and we have to move on and get to the floor.

**Tom Clark, representing Black Rock City, LLC:**

You have heard the term Burning Man that has bounced around. Black Rock City is the organization that puts on Burning Man. We do not condone the use of illegal drugs at any level. We are neutral on this particular piece of legislation and I want to make sure we have that on the record today. Thank you, Mr. Chairman.

**Geoffrey Lawrence, representing Nevada Policy Research Institute:**

As you can see, I have sent several exhibits representing my research from various aspects ([Exhibit S](#)), ([Exhibit T](#)), ([Exhibit U](#)) and ([Exhibit V](#)). I planned to make a lengthy comment, but in the interest of time, I will type that out and submit that if you will agree to read it.

**Chairman Frierson:**

I will read it, thank you, Mr. Lawrence.

We have about nine minutes before we physically have to be on the floor. If there is anybody in Las Vegas wishing to offer testimony in neutral position, I will allow a couple of minutes for that before I bring Mr. Hogan back to close.

**Jennifer Solas, Private Citizen, Las Vegas, Nevada:**

I am from W.E.C.A.N., Wellness Education Cannabis Advocates of Nevada. We are here to observe these proceedings and spread the message to the rest of our audience, which is over 12,000. We would like you to consider this bill as a way to get control of the black market. To undercut the black market, you need to have prices that are comparable or less. Thank you.

**Damone Williams, Private Citizen, Las Vegas, Nevada:**

I vehemently support the decriminalization of marijuana because it disproportionately affects the African-American community. I would like to see an amendment to put some of the revenue towards drug prevention and education. That is my comment, thank you.

**Chairman Frierson:**

Thank you, Mr. Williams. Is there any other neutral testimony to be offered? I see none.

**David Doddridge, representing Law Enforcement Against Prohibition, Medford, Massachusetts:**

Will you allow one in support?

**Chairman Frierson:**

I ask that you submit it in writing. Did you say would I allow testimony in support?

**David Doddridge:**

In support.

**Chairman Frierson:**

I ask at this time you submit it in writing and we will make it available to the Committee.

**David Doddridge:**

It has been faxed to you. It is from Law Enforcement Against Prohibition ([Exhibit W](#)).

**Chairman Frierson:**

Thank you. I will post that on NELIS and make it an exhibit.

**David Doddridge:**

Okay.

**Vicki Higgins, Private Citizen, Las Vegas, Nevada:**

I want to make a suggestion. I am in the middle of the road with this bill. I do feel that with the taxes they are imposing they should be equal to any other product sold in Nevada and these taxes earmarked for education should include the police department and the medical board of Nevada.

**Timothy Addo, Private Citizen, Las Vegas, Nevada:**

I stand neutral on this bill because I have read it and it does not state anything about patients. Everybody has been represented as far as business and taxes, but the patient has not been represented in this bill. Please take some time and acknowledge that patients do have medical conditions and that the state Health Division needs to come in place, so that we can all make this a better bill. We are not being represented in this bill. Thank you.

**Chairman Frierson:**

Mr. Hogan and Mr. Martin, would you like to offer some closing remarks?

**Assemblyman Hogan:**

I appreciate your conduct at this hearing. There was a lot of testimony on both sides as there always should be. I respect all of those who have testified to the reservations they may have concerning the bill. We will have time to

address questions that we believe we could take care of readily and easily. I think most of the testimony was in favor.

Testimony related to the medical value of marijuana brought my attention to this bill and my desire to advance the bill as best I can. At the risk of sounding like there could be a conflict of interest, within the last few months I found myself to be suffering from a couple of conditions that often affect people my age, and so I do intend to take advantage of the availability of marijuana in the future. I hope we will legalize marijuana so that all of the people of Nevada can take advantage of those opportunities to improve their health in such a wide variety of ways. I would like to defer to my colleague for his concluding remarks.

**Assemblyman Martin:**

Thank you to everyone on both sides and to the neutral people who testified today. One of the reasons I ran for office was to try to do the right thing. It has been an extremely educational experience and will continue to be. The colorful stories aside and the comments about driving under the influence, I want to make it perfectly clear we are not changing the laws on that. If you are driving under the influence of anything, you will be prosecuted to the full extent of the law. This is a controlled substance.

We are not talking about a morality issue; this is a financial issue. This economy exists, above board or below board. We need to capture that money and make good use of it. I appreciate the tax lesson from several of the people. It was meant as an example, not as an absolute. We can have that discussion and come up with an appropriate tax structure. I would love to have that conversation. I disagree emphatically that the money should go into the General Fund. I do like the concept of specific funding for specific purposes, but again, we can have that conversation.

I want to close this by saying Nevada allows legalized gambling. You can walk a block or two from here and lose your life savings in a matter of minutes. Do not talk about morality issues without bringing that up. We allow it because people have a choice. You can go gamble, it helps our economy, and we are providing it. Not all states allow gambling, so I do not know how much different this is than the legalization of marijuana. We allow alcohol. Do you remember when they tried to get rid of alcohol—prohibition? Alcohol and tobacco are legal. Do the right thing, make marijuana legal.

**Assemblywoman Fiore:**

I just want to thank you, and to the Las Vegas constituents, Ms. Brown, and all of the people out there, I want you to know that we are hearing your voice, as

well as those up here at the Legislature. If you did not get to speak, please know that we did hear you.

[Exhibits submitted but not discussed include: ([Exhibit X](#)), ([Exhibit Y](#)), ([Exhibit Z](#)), ([Exhibit AA](#)), ([Exhibit BB](#)), ([Exhibit CC](#)), ([Exhibit DD](#)), ([Exhibit EE](#)), ([Exhibit FF](#)), and ([Exhibit GG](#)).]

**Chairman Frierson:**

Thank you very much. With that, I will close the hearing on Assembly Bill 402. The Assembly Judiciary meeting is now adjourned [at 11:30 a.m.].

RESPECTFULLY SUBMITTED:

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Dianne Harvey  
Committee Secretary

APPROVED BY:

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Assemblyman Jason Frierson, Chairman

DATE: \_\_\_\_\_



## EXHIBITS

**Committee Name:** Committee on Judiciary

**Date:** April 5, 2013

**Time of Meeting:** 8:14 a.m.

<b>Bill</b>	<b>Exhibit</b>	<b>Witness / Agency</b>	<b>Description</b>
	A		Agenda
	B		Attendance Roster
A.B. 174	C	Dave Ziegler	Work Session Document
A.B. 195	D	Dave Ziegler	Work Session Document
A.B. 300	E	Dave Ziegler	Work Session Document
A.B. 377	F	Dave Ziegler	Work Session Document
A.B. 389	G	Dave Ziegler	Work Session Document
S.B. 139 (R1)	H	Dave Ziegler	Work Session Document
A.B. 378	I	Assemblywoman Dondero Loop	Testimony
A.B. 378	J	Assemblywoman Dondero Loop	Mock-Up Amendment
A.B. 402	K	Assemblyman Hogan	Testimony
A.B. 402	L	Assemblyman Hogan	Introductory Remarks for Dr. Frye
A.B. 402	M	Assemblyman Hogan	RAN Survey
A.B. 402	N	Stephen Frye, M.D.	Testimony
A.B. 402	O	Karen O'Keefe	Testimony
A.B. 402	P	Karen O'Keefe	Is Marijuana a "Gateway Drug?"
A.B. 402	Q	Karen O'Keefe	Marijuana Safer than Alcohol

A.B. 402	R	Karen O'Keefe	Regulation Works
A.B. 402	S	Geoffrey Lawrence	Impact of Prohibition
A.B. 402	T	Geoffrey Lawrence	Greenwald Whitepaper
A.B. 402	U	Geoffrey Lawrence	Drug Prohibition Whitepaper
A.B. 402	V	Geoffrey Lawrence	Testimony
A.B. 402	W	David Doddridge	Testimony in Support from Law Enforcement Against Prohibition
A.B. 402	X	Stephen Frye, M.D.	Cannabis Cures Cancer
A.B. 402	Y	Stephen Frye, M.D.	Marijuana vs. Alcohol
A.B. 402	Z	Stephen Frye, M.D.	Marijuana's Astonishing Benefits
A.B. 402	AA	Stephen Frye, M.D.	Nevada Policy Research Institute: End Drug Prohibition
A.B. 402	BB	Stephen Frye, M.D.	Marijuana, A Powerful Democratic Issue
A.B. 402	CC	Stephen Frye, M.D.	Presidents, Newspapers, Organizations
A.B. 402	DD	Stephen Frye, M.D.	Global Commission on Drug Policy
A.B. 402	EE	Assemblyman Hogan	2012 Florida Statutes
A.B. 402	FF	Assemblyman Hogan	School Funding Memo
A.B. 402	GG	Assemblyman Hogan	Marijuana NV Revenue Forecasts