MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON WAYS AND MEANS

Seventy-Seventh Session
May 27, 2013

The Committee on Ways and Means was called to order by Chair Maggie Carlton at 9:10 a.m. on Monday, May 27, 2013, in Room 3137 of the Legislative Building, 401 South Carson Street, Carson City, 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. In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (email: publications@lcb.state.nv.us; telephone: 775-684-6835).

COMMITTEE MEMBERS PRESENT:

Assemblywoman Maggie Carlton, Chair
Assemblyman William C. Horne, Vice Chair
Assemblyman Paul Aizley
Assemblyman David P. Bobzien
Assemblyman Andy Eisen
Assemblywoman Lucy Flores
Assemblyman Tom Grady
Assemblyman John Hambrick
Assemblyman Cresent Hardy
Assemblyman Pat Hickey
Assemblyman Joseph M. Hogan
Assemblywoman Marilyn K. Kirkpatrick
Assemblyman Randy Kirner
Assemblyman Michael Sprinkle

COMMITTEE MEMBERS EXCUSED:

Assemblyman Paul Anderson

GUEST LEGISLATORS PRESENT:

Assemblywoman Dina Neal, Clark County Assembly District No. 7

STAFF MEMBERS PRESENT:

Cindy Jones, Assembly Fiscal Analyst
Michael J. Chapman, Principal Deputy Fiscal Analyst
Anne Bowen, Committee Secretary
Cynthia Wyett, Committee Assistant

Chair Carlton opened the hearing on Senate Bill 466 (1st Reprint).

Senate Bill 466 (1st Reprint): Transfers authority over programs of nutrition from the Department of Education to the Director of the State Department of Agriculture. (BDR 34-1146)

Jim R. Barbee, Director, State Department of Agriculture, said Senate Bill 466 (R1) simply transferred the authority for the United States Department of Agriculture (USDA) child nutrition programs from the Department of Education to the State Department of Agriculture.

Chair Carlton commented that this was the legislation that went along with the budget decisions that had been made. She said the bill was one of those cleanup measures that needed to be done.

Hearing no response to her request for testimony in support of or in opposition to the bill, Chair Carlton called for public testimony. There being no public testimony, she closed the hearing on S.B. 466 (R1) and requested a motion.

ASSEMBLYMAN EISEN MOVED TO DO PASS SENATE BILL 466 (1ST REPRINT).

ASSEMBLYMAN KIRNER SECONDED THE MOTION.

THE MOTION PASSED. (Assemblymen Anderson and Horne were not present for the vote.)

Chair Carlton opened the hearing on Senate Bill 469.

Senate Bill 469: Transfers the State Dairy Commission from the Department of Business and Industry to the State Department of Agriculture. (BDR 51-1145)

Jim R. Barbee, Director, State Department of Agriculture, stated that Senate Bill 469 transferred the State Dairy Commission, along with the workload, from the Department of Business and Industry to the State Department of Agriculture.

Chair Carlton remarked that there were no proposed amendments concerning S.B. 469, and the bill aligned with the budget closings and designated the Manager of Operations as the ex officio Executive Director and Secretary of the State Dairy Commission.

Hearing no response to her request for testimony in support of or in opposition to the bill, Chair Carlton called for public testimony. There being no public testimony, she closed the hearing on S.B. 469 and requested a motion.

ASSEMBLYMAN GRADY MOVED TO DO PASS SENATE BILL 469.

ASSEMBLYMAN EISEN SECONDED THE MOTION.

THE MOTION PASSED. (Assemblymen Anderson and Horne were not present for the vote.)

Chair Carlton opened the hearing on Assembly Bill 425 (1st Reprint).

Assembly Bill 425 (1st Reprint): Revises the Nevada Insurance Code. (BDR 57-1156)

Chair Carlton opened the hearing on Assembly Bill 425 (1st Reprint) and noted a proposed amendment had been submitted.

Josh Griffin, representing the Nevada Health CO-OP, testified in support of Assembly Bill 425 (R1) and presented a proposed amendment, Exhibit C. Mr. Griffin stated that the only 501(c)(29) organization [created pursuant to the Internal Revenue Code] in Nevada was a Nevada cooperative health insurance company. The cooperative was very new and was restricted from owning a building because of the sizeable federal grant it had received. Mr. Griffin stated that as there was only one 501(c)(29) in the state governed by Nevadans, with a board consisting of only Nevada residents, he believed the company met the intent of *Nevada Revised Statutes* (NRS) 680B.050, and recognizing that fact was the purpose of the proposed amendment.

Chair Carlton commented that it was her understanding that the amendment addressed the catch-22 created by the Affordable Care Act (ACA) and the new 501(c)(29) that was being authorized by the ACA.

Mr. Griffin commented that every day there were more elements being discovered regarding the ACA, and Chair Carlton's assessment was correct.

Chair Carlton requested that Adam Plain from the Division of Insurance address the insurance technicalities for the Committee.

Adam Plain, Insurance Regulation Liaison, Division of Insurance, Department of Business and Industry, explained that *Nevada Revised Statutes* (NRS) 680B.050 was a home office tax credit against the insurance premium tax for insurers that owned and occupied their property. Mr. Plain said it was difficult to say with any certainty what the original intent had been: the bill was passed in 1971 and the Legislative Counsel Bureau Research Division had indicated that the minutes from the Committee on Ways and Means from 1971 no longer existed. He explained that it appeared to be a tax credit for bringing white collar jobs to the state, and for some reason it had also been tied to the ownership of real property.

Because the Nevada CO-OP was restricted from owning property because of its federal loan agreement, Mr. Griffin said it had approached the Division of Insurance for assistance in formulating verbiage that would allow it to qualify for the credit by bringing jobs to the state without violating the federal loan agreement. He believed the language being proposed in Exhibit C met that intent.

Cindy Jones, Assembly Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau, said an amendment was also submitted by the Division of Insurance that made some other adjustments to Assembly Bill 425 (1st Reprint) when it was heard on May 8, 2013, and Fiscal Analysis Division staff needed clarification whether those amendments needed to be incorporated in the final bill.

Mr. Plain said that those amendments should be incorporated into the bill.

Chair Carlton said the intent had been to amend the bill all at once and have it go to the floor in one package. Part of the delay had been getting verification on some of the documents.

Ms. Jones stated Assembly Bill 425 (1st Reprint) revised the Nevada Insurance Code and was originally heard on May 8, 2013. The bill had two purposes in its

original drafting. One purpose was housekeeping in nature, changing the statute based on federal legislation. The second purpose was to establish the procedure and fees for the certification of exchange enrollment facilitators for the Silver State Health Insurance Exchange (SSHIX). Ms. Jones said there was a fiscal note attached to the bill that projected revenue that would be earned through the new certification by the Division of Insurance; however, the agency did not anticipate any increased expenditures as a result of the new activity. If the bill was approved, the Division would process a work program for the upcoming biennium to accept those fees. Should that portion of the bill not be approved, the SSHIX would be required to create its own certification process.

An amendment, as previously mentioned, had been submitted by the Division of Insurance on May 8, 2013.

Hearing no response to her request for testimony in support of or in opposition to the bill, Chair Carlton called for public testimony. There being no public testimony, she closed the hearing on Assembly Bill 425 (1st Reprint) and requested a motion.

> ASSEMBLYMAN BOBZIEN MOVED TO AMEND AND DO PASS ASSEMBLY BILL 425 (1ST REPRINT).
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> ASSEMBLYMAN SPRINKLE SECONDED THE MOTION.
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> THE MOTION PASSED. (Assemblymen Anderson and Horne were not present for the vote.)

Chair Carlton opened the hearing on Assembly Bill 501.

Assembly Bill 501: Authorizes the issuance of state general obligations for certain capital projects of the Nevada System of Higher Education. (BDR 41-1225)

Assemblywoman Marilyn K. Kirkpatrick, Clark County Assembly District No. 1, stated she was testifying in support of Assembly Bill 501, which allowed for the slot tax currently in statute to be bonded out for revenue for capital improvement projects. Assemblywoman Kirkpatrick noted that the slot tax had been used that way for many years and this bill allowed for that use to continue.

Assemblywoman Kirkpatrick had been working with the Nevada System of Higher Education (NSHE), and it had been determined that the Thomas & Mack Center at the University of Nevada, Las Vegas (UNLV) was

in dire need of renovations. Assemblywoman Kirkpatrick said Assembly Bill 501 would allow about $57 million in needed renovations, such as adhering to new building codes, complying with Americans with Disabilities Act (ADA) requirements, and refurbishing the sound system. The bill also provided for other projects within NSHE.

Chair Carlton indicated there had been a proposed amendment, Exhibit D, to Assembly Bill 501.

Assemblywoman Kirkpatrick stated at this time she would withdraw the proposed amendment (Exhibit D) and put it with Assembly Bill 335, where she believed it properly belonged.

Chair Carlton agreed.

Vic Redding, Vice Chancellor for Finance and Administration, Nevada System of Higher Education (NSHE) testified in support of Assembly Bill 501.

Mr. Redding said that in discussion with the Office of the State Treasurer, the issuance of general obligation bonds would probably begin early in 2014. The same debt stream was servicing the current set of bonds, which would mature in August 2016. Mr. Redding said moving forward with this new series of bonds a couple of years before the old ones matured would take advantage of the historically low bond market interest rates and lower construction costs, which now seemed to be moving up.

Assemblywoman Kirkpatrick said that the complete list of the projects was contained in Exhibit E.

Chair Carlton inquired as to whether the renovation project for the Thomas & Mack Center would affect contracts for its use in the future: for instance, the National Finals Rodeo (NFR).

Mr. Redding said it was his understanding that the projects would not be completed all at once, but in phases around the existing contracts. The renovation work would begin as soon as the financing was in place.

In response to a question from Chair Carlton about how many jobs might be generated from the project, Assemblywoman Kirkpatrick said there was no clear estimate. She noted that the smallest projects would employ 250 persons, but she believed there would be many worker hours based on the list of projects she had received.

Assemblyman Hickey asked whether this was a continuation of the current bonding from the existing slot tax and whether this funding conflicted with any other current payment streams.

Assemblywoman Kirkpatrick replied that the Thomas & Mack Center was built over 30 years ago through slot tax bonding. The present bonding was going to mature, and this was the time to issue new bonds. Assemblywoman Kirkpatrick maintained that the state was fortunate because it had always been in the forefront for its maintenance projects.

Assemblyman Hardy asked whether there was a specific list of things that were going to be fixed.

Assemblywoman Kirkpatrick said there was a specific list in Exhibit E, but she related the improvements as follows:

- Refurbish existing locker rooms.
- Replace existing arena sound system.
- Replace, refurbish, and/or upgrade 30-year-old original mechanical, electrical, plumbing and low voltage systems.
- Replace remainder of original 30-year-old roofing.
- Replace original 30-year-old seating.
- Add direct access from events rooms to arena seating.
- Update 15-year-old concourse finishes and signage.
- Improve concourse layout, movement, and service to improve building access.
- Provide additional access to secondary Thomas & Mack Center entries to distribute building access, improve movement/circulation and relieve concourse of patron congestion.
- Improve fire, life safety, and smoke control systems to meet current codes.
- Improve concourse restroom facilities to meet current codes and demands.
- Provide building and site improvements to meet current ADA requirements.

Hearing no response to her request for testimony in support of or in opposition to the bill, Chair Carlton called for public testimony. There being no public testimony, she closed the hearing on Assembly Bill 501 and opened the hearing on Assembly Bill 500.

Assembly Bill 500: Enacts the Nevada New Markets Jobs Act. (BDR 57-1229)

Assemblywoman Dina Neal, Clark County Assembly District No. 7, presented Assembly Bill 500.

Assemblywoman Neal said Assembly Bill 500 was a new markets tax credit bill that would be used to engage private sector development in low-income communities.

Assemblywoman Neal stated there were key definitions and terms to understand relating to Assembly Bill 500 as follows:

- A "qualified active low-income community business" was considered to be a corporation, nonprofit, or partnership where there was at least 50 percent of the total gross income derived from the low-income community; or a substantial portion of the use of the tangible property owned or leased was within a low-income community; or a substantial portion of the services performed for such an entity was performed by its employees in a low-income community.

- A "qualified community development entity" (CDE) was a domestic corporation whose primary mission was to serve or provide investment capital for low-income communities or low-income persons. It was also an entity that maintained accountability to residents of low-income communities through representation on any governing board or any advisory board.

- A "qualified low-income community investment" meant any capital or equity investment in, or loaned to, any qualified active low-income community business, or the purchase from another qualified CDE of any loan made by such entity which was a qualified low-income community investment or any equity investment.

- A "qualified equity investment" meant when an owner either invests his assets that are applicable to the operation of the business and/or cash that can be used to acquire assets. The value of the invested assets should be substantiated by invoices or appraisal for the start-up business or current financial statements of an existing business.

Assemblywoman Neal said there had to be a quality equity investment or a long-term debt security issued by a CDE. There had to be at least 85 percent of the cash purchase price of an equity investment, used by the issuer, to make a qualified low-income community investment in an active low-income

community business located in the state by the first anniversary date. Assemblywoman Neal explained that the credit allowance date as defined in section 6 of Assembly Bill 500 was (1) the date on which the investment was originally made; and (2) each of the six anniversary dates immediately following the date on which the investment was initially made.

Assemblywoman Neal said at least 85 percent of the purchase price of the equity investment had to be issued by the anniversary date of the initial credit allowance date and could not exceed $50 million.

According to Assemblywoman Neal, a business, for the purposes of Assembly Bill 500, was an active low-income community business for the duration of the equity investment of the CDE. She further stated that there were certain businesses that a CDE could not use for investment, such as a business engaged in banking or lending or a tanning salon among others.

In response to a question from Assemblyman Hambrick, Assemblywoman Neal said the limitations on the types of businesses that could be invested in was taken from federal language, which was the national standard for eligibility for the new market tax credit.

Assemblyman Sprinkle asked how the CDEs derived the monies that were being invested and whether it was private funding.

Assemblywoman Neal responded that in Assembly Bill 500, the invested money came from the insurance premium tax as a way to leverage investment dollars. A company was certified as a CDE under the federal government and attempted to become eligible for the dollars that the federal government offered to invest in certain communities around the nation. The Nevada Governor's Office of Economic Development (GOED) would be the organization that checked CDE credentials, and an insurance company that paid the insurance premium tax would be the connection between the CDE and the insurance premium tax. The CDE would receive an allocation from the forgone tax revenue and must use that allocation to invest in the designated low-income neighborhood businesses.

Assemblywoman Neal continued with the presentation and referred to section 18 on page 5 of Assembly Bill 500. Paragraphs (a) and (b) of subsection 1 stated the party which had liability for the insurance premium tax could not be a CDE and could not control a qualified CDE.

Subsection 3 of section 18 stated that an entity described in subsection 1 was not precluded from exercising legal rights or remedies, including the interim

management of a CDE, with respect to a qualified CDE that was in default of statutory contractual obligations.

Assemblywoman Neal referred to section 19 which stated that an entity that made a qualified equity investment earned a vested right to credit against the entity's liability for the insurance premium tax on a premium tax report.

Subsection 1 of section 19 explained that, on each credit allowance date of the qualified equity investment, the entity or subsequent holder of the qualified equity investment was entitled to use a portion of credit during the taxable year.

Subsection 2 of section 19 explained that the credit amount was equal to the applicable percentage for the credit allowance date multiplied by the purchase price. Assemblywoman Neal noted that for the first two years the investor received nothing and in the third year received 12 percent.

Subsection 3 of section 19 said, except as otherwise provided in subsection 4, the amount of the credit claimed by the entity must not exceed the amount of the entity's liability for insurance premium tax.

Subsection 4 of section 19 said if the insurance premium tax was eliminated or reduced below the level that was in effect on the first credit allowance date, the entity was entitled to a credit against any other taxes paid to the Department of Taxation in an amount equal to the difference between the amount the entity would have been able to claim if it would not have been eliminated or reduced and the amount the entity was actually able to claim, if any. Assemblywoman Neal explained that in section 20 it said that no tax credit claimed under this chapter could be refunded or sold on an open market, and tax credits earned by a partnership or limited liability company, or S corporation, or other similar pass-through entity may be allocated to the partners, members, or shareholders.

Section 21 stated that any offering material involving the sale of the securities of a CDE must include the statement identified in this section.

Section 22 indicated that a CDE that sought to have an equity investment or long-term debt security designated as a qualified equity investment and be eligible for tax credits must apply to the GOED for that designation.

Section 22, subsection 1, paragraphs (a) through (g) explained everything that GOED needed to be provided by the CDE, which included the allocation agreement; a certificate executed by the executive officer of the applicant; the

entity that was going to use the tax credits if known at the time; and a nonrefundable application fee of $5,000.

Assemblywoman Neal explained that the total amount that GOED would certify was $250 million, but each CDE could receive an investment of up to $50 million, which meant at least five eligible CDEs could participate. Assemblywoman Neal noted that GOED could also certify that a portion be invested and a CDE would not have to invest the full $50 million.

Chair Carlton said she believed it would be helpful to understand exactly what the process would be for a small business attempting to procure an investment.

Matt Walker, Assembly Leadership staff, provided an overview of the process. He explained that the federal New Markets Tax Credit Program was a market-driven way of attracting capital investment to areas of distress. Several states around the country, because of the success of the federal New Markets Tax Credit Program, had initiated programs of their own to help leverage those dollars and help attract even more federal, state, and private investment dollars to low-income areas. Mr. Walker stated that most states were giving tax credits based on personal income or corporate income taxes. Nevada did not have those taxes, so this program was modeled after the Texas Certified Capital Company Program (CAPCO) and some other similar investment schemes. Nevada would provide tax credits based on the insurance premium tax. He explained that entities that purchased insurance would make investments as a qualified community development entity (CDE), and over five years [starting in the third year] would receive insurance premium tax credits that were a portion of their investments. While the program worked over the course of seven years, in the last five years of the seven years, investors would recover those funds.

A small business in a severely distressed census tract could apply to a CDE and receive financing. Mr. Walker said the idea was that those businesses could not apply to a traditional financial institution and receive financing because of the geographic area and the size of the business. This program would help with the initial investment needed to get a business started, and often that could be leveraged many times over in traditional financing. Mr. Walker explained that was how a small business would get started in a severely distressed area.

Assemblywoman Neal explained that a CDE could only select a business in which to invest by criteria defined under section 45D of the Internal Revenue Code of 1986. The CDE would pick a business that had (1) at least 50 percent of the total gross income derived from the low-income community, or (2) a substantial portion of the use of its tangible property owned or leased in

connection with any low-income community, or (3) a substantial portion of the services performed by its employees or the entity itself in the low-income community.

Assemblyman Hardy referred to page 2 in Exhibit F and asked what the orange line indicated.

Mr. Walker replied that line enclosed the severely distressed census tracts that had 150 percent of the national unemployment rate.

Assemblywoman Kirkpatrick requested that someone who worked with new market credits explain how the program worked in other states.

Ryan M. Brennan, Managing Director, Advantage Capital Partners, stated that Advantage Capital Partners was one of the CDEs interested in the Nevada program. Advantage Capital Partners was one of 300 CDEs across the country that had applied and qualified for the federal New Markets Tax Credit program. Mr. Brennan said the federal program created in 2000 had been bipartisan since it was created. Jack Kemp, Newt Gingrich, Tip O'Neill, and Bill Clinton, together, had wanted to find a way to harvest and harness the power of the private market to invest in low-income areas, both urban and rural. The program had been expanded at the federal level several times, each time with bipartisan support. The years 2013 and 2014 represented the last two allocations of the federal program. Mr. Brennan stated that the program at the federal level had been recognized as a top 25 innovation in government by the Harvard Kennedy School Ash Center for Democratic Governance and Innovation. It was in the National Urban League's planks of prosperity. It had been successful: the challenge had been that the money was not allocated evenly to all states.

According to Mr. Brennan, Nevada was 50th out of 50 states in getting federal New Markets Tax Credit allocation. He said that one of the core purposes of Assembly Bill 500 was to leverage the model that the U.S. Department of the Treasury operated where groups competed every year, turned in 70-page applications, and had to demonstrate the benefit to communities in which CDEs invested.

Mr. Brennan said 12 other states currently used a program virtually identical to Assembly Bill 500 to attract federal program dollars. Missouri and Florida were two of the first to do so in 2007 and 2008, respectively. Missouri had renewed its program twice, seen the results, and added money. The first program from 2007 just ended, and Missouri reviewed the program and found that for

every $1 the state put in the program, approximately $1.53 in new tax revenue was generated.

Missouri had seen a 25 percent to 27 percent increase in manufacturing and 5,161 jobs in the first four years of the program. Mr. Brennan said each state participating in the program had seen very similar results.

Assemblywoman Kirkpatrick referred to section 22, subsection 5 of Assembly Bill 500 and said that she understood that any single qualified entity could not take more than $50 million. With a $250 million limit on total investments, only five businesses could be helped. She asked why the amount had to be so large, because $250 million could go a long way and help many more businesses. Also, she said, nowhere in the bill was there a restriction against "double-dipping," and she objected to that.

Assemblywoman Kirkpatrick referred to section 23, regarding applications and asked who paid the application fee and whether that money went back to the state. She said her concern was whether the state would see a monetary return as opposed to just creating the jobs.

Mr. Brennan explained there were two stages to the program. In the first stage, interested CDEs would apply to the GOED to participate in the state program. To do so, they would have to show that they could bring in qualified equity investment on day one. Mr. Brennan said that was the $250 million in private capital. All of that money then had to be invested in small businesses in Nevada within 12 months.

In the second step, if a CDE raised $50 million, it then had 12 months to locate small businesses in which to invest. All of the money needed to be loaned or none of the credits could be redeemed. It was not until year three of the seven-year program that the first insurance premium tax credit could be used. Mr. Brennan said the program was back-loaded on purpose so that the small business growth benefits could accrue up front and new tax revenues could be collected before the first tax credit could be redeemed. He noted that if at any time within that seven-year period the company repaid the loan to the CDE, moved, or otherwise violated the terms of the program, all the credits could be recaptured by the state. Compliance for all seven years of the program was mandatory.

In response to Assemblywoman Kirkpatrick's question regarding payback to the state, Mr. Brennan said the application fee was paid by the CDE applying to be in the program and was generally designed to offset the start-up costs of the program. The return on investment was not a cash payment back to the state,

but instead was the double benefit of job growth and new tax revenue. He said that was how each of the other 12 states and the federal program operated.

Mr. Brennan referred to Assemblywoman Kirkpatrick's comment about double-dipping and said as a hopeful applicant, his company would welcome any language that would ensure a small business using an investment through the Nevada New Markets Jobs program would not be eligible to participate in any other state program.

Assemblyman Sprinkle noted that Nevada ranked 50th out of 50 states in per capita investment. He asked whether Mr. Brennan had any idea why Nevada did not attract federal new markets investments and whether there were studies of other states using the program that could demonstrate the benefits.

Mr. Brennan responded that there was no clear answer to why some states were successful with the federal program and others were not. Some states were new markets-rich; for instance, North Carolina had a bank concentration, and in Louisiana, Alabama, and Mississippi, it had been one way to drive assistance post-Hurricane Katrina. He said California had received quite a bit, but the contrast was stark: Nevada received about $2.41 per capita, and California received $143 per capita. Mr. Brennan referred to a map that showed the relative disparity (Exhibit G). What had occurred was that when state programs were put in place, the numbers skyrocketed. Florida was up 350 percent from its program levels prior to the state program as shown in Exhibit H.

Mr. Brennan had provided a study from Missouri (Exhibit I) and a study from Florida (Exhibit J), both states with seven years of experience, and a prospective study for Nevada (Exhibit K). Mr. Brennan said there were not many tax schemes like Nevada's, and the study for Nevada showed that the investment program would pay for itself with approximately $1.20 in new revenue for each $1 spent in tax credits.

Assemblyman Grady said that most of the states that Mr. Brennan had described were hit with some kind of disaster during the last few years. He asked whether the new markets investment was because of the federal aid that went to those states.

Mr. Brennan replied that he had not experienced any direct or indirect connection to a postdisaster investment philosophy. Because the program had been around for 13 years, it had been removed from point-in-time incidents. Mr. Brennan said the theory was that the investments, urban and rural, were in

areas that were ready to grow. In the past five or six years, banks appeared to have had less money to lend or tighter restrictions on lending, and the new markets program had filled a gap. Mr. Brennan said that was what had led to the growth in the program.

Chair Carlton asked about the fiscal effect in future biennia. Because there would be no effect in the first two years, she wondered whether Mr. Brennan had any idea what would happen in the third year of the program.

Mr. Brennan said what was known from the track record in the participating 12 states since 2007 had been very consistent. It was not until the money was invested that the clock started and the credits could be redeemed. If the money was not invested, and the CDE was back two years from now, those credits could not be used. Because the money went out quickly, it needed to be reinvested, so there was a positive result for a seven-year period. Mr. Brennan said the track record Assembly Bill 500 was built on was the vetting at the federal level and the consistent performance across the states.

Chair Carlton requested that a representative from the Department of Taxation testify.

Sumiko Maser, Deputy Director, Department of Taxation, stated the Department had not submitted its fiscal note on this bill; however, in a similar bill presently in the Senate, the Department submitted a fiscal note on the expense side. She said the Department had submitted costs of approximately $153,000 to make updates to the unified tax system and develop new forms to implement and administer the credit.

Ms. Maser discussed the bill's effects on insurance premium tax revenue. She noted there were many variables that were unknown such as how much of the total $250 million maximum credit would be authorized in each year. In addition, the annual credit for a qualified community development entity making an investment would be limited to the insurance premium tax liability portion of its insurance coverage, which might be less than its allowable credit. [The bill provided that any credit that the entity was prohibited from claiming because its credit exceeded its insurance premium tax liability might be carried forward for use in a subsequent year.]

Ms. Maser pointed out that if the $250 million maximum combined credit was authorized in the first year, and if that credit was fully applied against the entities' insurance premium tax liability, the maximum revenue reduction would be $30 million in year three, which was feasible only if all of the qualified entities were very large. The Department of Taxation, however, had no way

to estimate the size of the companies that would be qualified for the credit. [The Department's fiscal note, which was posted after Assembly Bill 500 was heard, estimated a revenue reduction of $29.32 million in fiscal years 2016 and 2017 combined. However, the analysis did "not include the implied economic growth and fiscal impacts of that growth on the State of Nevada."]

Chair Carlton said the Committee would like to see a lowball estimate on a couple of companies participating the first year: something a little more in the middle of what might be possible. She said if the Department of Taxation could use the Missouri figures in the Department's formula, she believed it would provide a better analysis of what Nevada would experience.

Ms. Maser said the Department of Taxation would be happy to provide those figures.

Chair Carlton requested that the Division of Insurance comment regarding the insurance premium tax credit.

Adam Plain, Insurance Regulation Liaison, Division of Insurance, Department of Business and Industry, said the Division had the opportunity to look at Assembly Bill 500 because it was similar to the bill in the Senate. He said he wanted to address a comment that alluded to the perception that insurance premium tax collections would be increasing in the future, probably as a result of healthcare reform, and that some of those increases could be used for programs such as this. Mr. Plain said he had presented on this matter before the Economic Forum on May 1, 2013, and it was important to note that any projected increase in the insurance premium tax had already been accounted for in the budget allocations. Mr. Plain emphasized there was no "surprise" money that had been projected and not allocated.

Mr. Plain explained that should the entirety of the $250 million of allocable investments be made over the course of the seven year period, it would result in $145 million of tax credits available to the insurance industry, split over years three through seven. The insurance premium tax for traditional noncaptive insurers went 100 percent to the General Fund. He said if the large traditional insurers, such as AIG, State Farm, Aetna, and United HealthCare received those tax credits, it would affect the General Fund directly.

The Division of Insurance was an enterprise fund, but its enterprise funding came through fees levied against the industry and the captive insurance tax. Mr. Plain said the captive insurance tax flowed back through to the General Fund as well, so the Division was almost completely fee-funded

and the new markets program would not have a direct effect on Division funding.

Mr. Plain stated that the Senate bill had a fiscal note for an indeterminate amount, and the Division would be mirroring that on this bill. The Division was neutral on the policy, but a technical concern was that because this was being proposed to be applied to the insurance premium tax, the new language as provided in section 1 was being proposed to be placed into Title 57 of the *Nevada Revised Statutes* (NRS), commonly known as the Nevada Insurance Code. Chapter 679B of NRS mandated that the Commissioner of Insurance enforce the provisions of the Nevada Insurance Code. Mr. Plain said that while the bill stated that the Governor's Office of Economic Development (GOED) and the Department of Taxation would be overseeing this program, because it was in Title 57, the Commissioner of Insurance would have vicarious liability to actually enforce many of the provisions.

Mr. Plain said a specific example of that technicality would be if a loan was repaid prior to the seven-year period, the state would be able to recoup all of the credits that were already claimed. The Department of Taxation only had a three-year "look back" for auditing, while the Division of Insurance had a seven-year look back for auditing which was being used pursuant to Assembly Bill No. 6 of the 26th Special Session (2010). If an insurer was to have the loan repaid, the Division of Insurance would probably be called upon to enforce these provisions, which was something the Division could not quantify or anticipate.

Additionally, the Division was concerned with trying to eliminate unintended consequences. Mr. Plain said one of the potential unintended consequences was that the Nevada insurance premium tax did not have a defined order of operations. He explained that there were half a dozen or so credits against the insurance premium tax without a statutory order of operation. Some of those credits could be carried forward, but some of them could not; some were limited to a certain amount of liability in each year. For instance, the home office credit was limited to 80 percent of the tax liability, others were not.

Mr. Plain said with a new credit without a mathematical order of operations, one of the unintended consequences could be that the Judicial Branch would set the order in which credits could be taken. Depending on the order in which a credit could be taken, because some of them could be carried forward and some of them could not, the amount of credits or revenue would be drastically altered. He said, for example, that if the new markets credit was to be taken ahead the home office credit, the home office credit would be effectively

nullified and the state might get more tax revenue than anticipated. If that order was reversed, the home office credit would eliminate the insurer's liabilities starting at 50 percent of tax liability, then the new markets credit would kick in, which could be carried forward, and the state would lose revenue in the long run.

Chair Carlton remarked that it was going to be difficult to tie a number to something three to seven years out when it was unknown what businesses would be participating in the program.

Chair Carlton said she wanted to revisit something that Assemblywoman Kirkpatrick mentioned earlier about multiple tax credits. She said that when she heard that question, she thought about the business that was being helped and she had not applied that to multiple tax credits that the insurance company could receive. Chair Carlton said she did not want to make insurance companies choose between one credit and another, which would be a disincentive to investment, and she was not sure how that problem should be addressed.

Assemblywoman Kirkpatrick commented that she did not want the business that was getting the help to get new markets program money as well as redevelopment dollars, tourism improvement district funding, and city-waived permitting fees, because then nothing had been done to generate money back into the state.

Chair Carlton said she was happy to see federal dollars go into small businesses because in the long run that was a good thing. It was being able to come up with a number for three years from now when the Legislature was in session again that was the problem.

Mr. Plain said he agreed that a projection for three years in the future was probably questionable for the Division to make. There was no way of knowing about the participation, how that participation was going to split out, what the technical implementation was going to be, or how it would fiscally affect the state. He said that Nevada's current tax structure might be limited as to the ability to actively recoup some of the investments and to know what it would look like in two years when the credits would take effect.

Chair Carlton said she had many questions, but not for today. She believed everyone had to be cognizant that while the bill could possibly do some good, there had to be a plan for the third and fourth years.

Bryan Wachter, representing the Retail Association of Nevada, testified as neutral on Assembly Bill 500. Mr. Wachter said one of the concerns was the actual incentive or investment that the small business was receiving, other than the potential new investor. It was Mr. Wachter's opinion that if a business was eligible for something like a special district incentive that it should not be excluded because it had chosen to go with an investor that was receiving economic development dollars versus an investor that was not. Mr. Wachter agreed with the Division of Insurance's assessment that because the ACA had already been incorporated into the economic forecast, it was unlikely that with the Economic Forum insurance premium tax projections growing by 4.6 percent in fiscal year (FY) 2013, by 6 percent in FY 2014, and by 8.5 percent in FY 2015, the state would realize another potential increase of that size going into FY 2016, when the Nevada New Markets Jobs program would take effect.

Chair Carlton asked what percentage of the Retail Association of Nevada membership would be eligible to apply for the program.

Mr. Wachter stated the membership of the Retail Association of Nevada was about 90 percent small business and 10 percent large business. The Association had many businesses in low-income communities. Mr. Wachter anticipated the Retail Association of Nevada would have a percentage of members that would be interested in exploring the program.

Mr. Wachter also wanted to note that the Retail Association did not believe that small business was really getting an incentive from the state: it was the insurance company receiving the incentive.

Hearing no response to her request for testimony in support of or in opposition to Assembly Bill 500, Chair Carlton called for public testimony. There being no public testimony, Chair Carlton closed the hearing on Assembly Bill 500 and opened the hearing on Assembly Bill 360 (1st Reprint).

Assembly Bill 360 (1st Reprint): Revises provisions relating to gaming. (BDR 41-24)

Assemblyman William C. Horne, Clark County Assembly District No. 34, presented Assembly Bill 360 (1st Reprint) and read the following statement into the record:

> The purpose of Assembly Bill 360 (1st Reprint) is to address a lack of clarity in the law between restricted and nonrestricted gaming licenses, as well as expand Nevada's role in interactive gaming to other governments, as Assembly Bill 114 did in a narrower field.

As a result of new technology, we have witnessed an evolution in gaming that even ten years ago would have seemed inconceivable. We, as a legislative body, have a duty to amend and update our laws in accordance with these changing times. This bill will update our existing law and help us prepare for the future of gaming. In regard to the fiscal note, the bill, as amended by Committee, requires restricted gaming establishments that possess over 500 slot machines in the aggregate to pay the gross gaming tax like a nonrestrictive licensee would. In conversations I have had with other legislators, as well as representatives in the gaming industry, I have come to the conclusion that more time and effort is needed to research the impact of restricted gaming licensees on our state. For this reason I have brought an amendment before you today that will strike provisions establishing the new tax and will replace it with a number of ways our state can study and prepare for the impact of new gaming technologies (Exhibit L, "Proposed Amendment 9207 to Assembly Bill No. 360 (1st Reprint)").

With the Chair's indulgence, I would like to walk the Committee through the amendment (Exhibit L) as there are major policy changes that I think need to be on the record.

Section 1.1 has a requirement that the Nevada Gaming Commission hold an open meeting before the Commission adopts regulations governing substantially new technology. In conversation with the State Gaming Control Board, we found that this language may be problematic, so we will be striking this section from the amendment.

Section 1.3 clarifies that interactive gaming is not a lottery.

Section 1.5 through section 2.3 and section 5.1 through section 5.5 are provisions contained in another bill, Senate Bill 9, and I believe the provisions in that bill are necessary to carry out the goals of this bill and Assembly Bill 114. For this reason, I felt it was important to incorporate these provisions in this bill.

These sections revise the definitions of terms such as cashless wagering system, gaming employee, gross revenue, and wagering credit, for the purposes of statutory provisions governing the licensing and control of gaming. It clarifies the definition of

gross revenue to specify that in poker tournaments held by interactive gaming licensees, any compensation received would be defined as a net profit and therefore, would be taxed. The concern is, if this section is not clarified, licensed interactive operators would host poker tournaments only and avoid paying taxes.

In addition to these provisions, it (Exhibit L) transfers the responsibility for determining the annual adjustment to financial reporting thresholds for nonrestricted licensees from the Gaming Commission to the Gaming Control Board.

The proposed amendment (Exhibit L) requires that persons seeking to hold a 5 percent or less interest in certain gaming establishments register with the Board before obtaining that interest and extends the requirement of registration to additional persons that own, operate, or have significant involvement with an independent testing laboratory.

Section 5.7 expands Assembly Bill 114 to allow the state to enter into agreements with other governments so that our state may be an interactive gaming hub. In conversations with the Governor, I believe this expands our state's opportunities to lead in the world of online gaming.

Section 5.9 creates a committee to conduct an interim study concerning the impact of technology upon the regulation of gaming and upon the distinction between restricted and nonrestricted gaming licenses. The committee must be composed of six voting members and seven nonvoting members: three voting members from the Senate and three voting members from the Assembly. The five nonvoting members will consist of one member representing each of the following: manufacturers or developers of gaming technology; entities engaged in the business of interactive gaming; restricted gaming licensees; nonrestricted gaming licensees; and operators of race books and sports pools. The Chair of the Nevada Gaming Commission and the Chair of the State Gaming Control Board will serve ex officio as nonvoting members of the committee. The committee shall study, without limitation, the impact of modern and evolving technology on gaming and the regulation of gaming and interactive gaming in Nevada and other jurisdictions, and any proposed or enacted federal legislation in this area; the regulatory distinction between restricted and nonrestricted licensure, and the impact of technology

upon this distinction; the determination of whether the operation of slot machines is incidental to the primary business of a restricted gaming licensee and the minimum requirements that are, or should be, imposed on such businesses; the effect of expanding capability of personal and portable electronic devices upon gaming and the regulation of gaming; the potential effects and consequences of authorizing the acceptance of race book and sports pool wagers made by an entity; and the effect of legislation approved by the 77th Session of the Legislature (2013) with regard to gaming and the regulation of gaming.

With the passage of Assembly Bill 114 and evolving gaming technology, it is important for our state to conduct a thorough analysis of all current and developing technologies and practices.

Section 6 clarifies that only new establishments must comply with the provisions of section 4, which are the new tavern requirements. This is to ensure that places that have been in business for a number of years would not have to make any renovations should they sell their establishments to a new licensee.

And finally, section 7 establishes effective dates for the new provisions.

Assemblyman Horne commented that the important part of the amendment was that the original fiscal note that was added because the provision about the 500 slot machines had been deleted.

Chair Carlton said that if she understood correctly, section 1.1 of Exhibit L, was going to be deleted from the amendment, and all the other sections would stay intact.

Assemblyman Horne pointed out that that with the passage of Senate Bill 416 (2nd Reprint), which was almost identical to this bill, sections 4, 5, and 6 and, therefore, the effective date provision in section 6 would also be deleted.

Chair Carlton noted that on page 9 of Exhibit L, line 37 through line 41 would be deleted.

Assemblyman Hickey asked Assemblyman Horne, for the benefit of those who were not in the policy hearings, to address a concern regarding competition against some of the restricted license holders.

Assemblyman Horne said he assumed Assemblyman Hickey's question was alluding to the kiosks and whether they belonged in a restricted gaming property and if so, for how long. Assemblyman Horne said it was a competition issue and a policy issue. The Nevada Legislature made policy decisions and historically race and sports books had been operated in nonrestricted gaming properties. The kiosks placed a race and sports book in a restricted gaming property. He said there were those who did not believe that kiosks defined a race and sports book, but he believed that was exactly what they were, in every sense of the word. The kiosks were in locations where above each one was a lighted sign that said "live race sports book." Assemblyman Horne said if according to policy there was a difference between a restricted and a nonrestricted property: he asked what would that difference would be. He said investments were put at risk if clear rules were not put in place governing what could be done at each type of property.

Assemblyman Horne said, as the gaming industry and technology had evolved, those lines had blurred. Currently, there were kiosks sitting in some restricted properties which had been permitted during the interim when the Legislature was not in session. There had been a two-year window and Assemblyman Horne was of the opinion that the two-year window was put in so that when the Legislature reconvened, a decision could be made whether or not this was a policy that was going to continue. He suggested with Assembly Bill 360 (1st Reprint) that it not be continued. But he also suggested with this bill, that the Legislature look at not only that issue, but all other issues that related to gaming in Nevada and the state's competiveness within the United States and the world.

Chair Carlton called for anyone wanting to testify in support of Assembly Bill 360 (1st Reprint).

Pete Ernaut, representing the Nevada Resort Association, testified in support of Assembly Bill 360 (1st Reprint).

Michael Alonso, representing Caesars Entertainment and IGT (International Game Technology), testified in support of the proposed amendment to Assembly Bill 360 (1st Reprint).

Lesley Pittman, representing Station Casinos, testified in support of the proposed amendment to Assembly Bill 360 (1st Reprint).

Chair Carlton called for anyone wanting to testify as neutral to Assembly Bill 360 (1st Reprint).

A. G. Burnett, Chair, State Gaming Control Board, testified as neutral to Assembly Bill 360 (1st Reprint).

Assemblyman Hickey referred to the decisions that were made during the interim that allowed for kiosks and asked Mr. Burnett whether he had expected them to be temporary and whether he defended those actions by the Gaming Control Board. He said he realized Mr. Burnett was neutral about the bill, but he was trying to understand how Mr. Burnett felt about the action.

Mr. Burnett said he was happy to answer the question, defended the prior Chair of the Gaming Control Board, and felt that defense was not necessarily a disagreement with Assemblyman Horne. He explained that kiosks, when they were administratively approved by the Chair of the State Gaming Control Board, were quite appropriately deemed as being "associated equipment" and not a gaming device. Associated equipment, in general terms, was something that was used in conjunction with a game or gambling game, but was not a game or gambling game, in and of itself. For example, an associated device did not allow the playing of baccarat or poker, and did not have an random number generator (RNG). Another example of associated equipment was a deck shuffler or card shuffler.

However, Mr. Burnett said with technology that was always increasing, changing, and improving, kiosks were reaching the point where they might appropriately be deemed to be a sports book. Technically and legally, the administrative approvals granted by the previous Chair of the State Gaming Control Board were for kiosks that were associated equipment and not sports books. Mr. Burnett said that was what he believed Assemblyman Horne was attempting to address, and to have the Legislature weigh-in as to whether the kiosks were appropriate in a restricted location.

Assemblyman Aizley said he was not familiar with the kiosks and he was curious about how the money flowed when used in kiosks. Referring to ATM machines, he said they existed in several different places and he did not think of the ATM as belonging to the 7-Eleven or the Circle K or wherever else it happened to be. Comparing the ATM to the kiosk, Assemblyman Aizley asked who owned the kiosk and how the money transferred through it.

Mr. Burnett explained that ATMs would also fall within the associated equipment category and were found in all kinds of casinos and locales throughout the state. The Gaming Commission licensed and approved what were called cash access service providers (ATMs) for those purposes. A kiosk was somewhat different because a kiosk could be utilized to access a sports

wagering account where the customer would be able to play or place wagers related to sports bets: with an ATM there was no such function.

Assemblyman Aizley said Mr. Burnett's explanation did not really tell him about the cash flow. He asked whether the kiosk was renting the spot where it was located, or whether it belonged to the establishment that housed the kiosk.

Mr. Burnett said there could be several types of arrangements for a kiosk in a restricted location. Theoretically, the cash flow should be back to the sports book to which it was tied. The restricted location might receive some percentage of revenue from the kiosk; however, that entity would have to have a license for that approval if the money came from gaming revenue.

Chair Carlton asked whether there were any other questions from Committee members or any other testimony in support of or neutral to the bill. Seeing none, she asked for testimony in opposition to the bill and noted she was calling for opposition to the bill as proposed by the amendment submitted today.

Sean T. Higgins, representing the Nevada Restricted Gaming Association and Golden Gaming, Inc., stated his comments would be limited to the kiosk issue before the Committee today. He said his organization was in support of Assemblyman Horne's proposed interim committee.

Chair Carlton asked what section of the proposed amendment (Exhibit L) Mr. Higgins objected to, and Mr. Higgins referred to section 3, subsection 5, and section 5, subsections 2, 3, 4, and 6.

Chair Carlton asked Mr. Higgins to state the objection.

Mr. Higgins said that, obviously, Assemblyman Horne was proposing an interim legislative committee to study technology issues in the gaming area. Golden Gaming, Inc. and William Hill had placed kiosks in locations pursuant to law. What Mr. Higgins and his clients were requesting was that during the period of the study, the kiosks currently in place remained in place and in operation so the interim committee could actually study the operation of those kiosks and determine what, if any, of those functions should, or could be removed.

Mr. Higgins said that for the Legislature to simply outlaw this specific type of communications device without examining it or the technology included in it would be unfair. He emphasized that that his clients had followed the laws that were in place at the time the kiosks were installed.

Chair Carlton requested clarification that when William Hill and Golden Gaming, Inc. received permission to install the kiosks, it was for a two-year period.

Mr. Higgins stated that was incorrect. There was an agreement between Golden Gaming, Inc. and William Hill, to share in revenue from the kiosks. That was the only issue before the Gaming Commission, which placed a two-year time limit on the sharing of revenue, not on the functioning of the kiosks. Mr. Higgins said the Gaming Commission did not comment and the time period for the kiosks was not part of their decision. In July 2013, all that would occur was the revenue sharing agreement between Golden Gaming, Inc. and William Hill would cease. Mr. Higgins explained that what could occur, per the Gaming Control Board, was a flat fee or any other type of arrangement, which was not a direct sharing of revenue. According to Mr. Higgins, the Gaming Control Board did not stipulate that in July 2013 the kiosks would have to be removed.

Chair Carlton stated she had not understood that the kiosk operations were going to stop while the study was going on and if that was true, it would need to be clarified by Assemblyman Horne. Chair Carlton asked Mr. Higgins to point out that language in the proposed amendment (Exhibit L).

Mr. Higgins referred to page 11, section 6, subsection 2, of Exhibit L, which said, "[T]he amendatory provisions of sections 2, 3, and 5 of this act apply to all race books, sports pools and associated equipment in existence on January 1, 2014." Mr. Higgins said that section would limit the kiosks during the interim period. He referred to his proposed amendment (Exhibit M) which would add language to revise the effective date to July 1, 2015. Mr. Higgins said his proposed revision would take the kiosks through the interim committee and the next legislative session.

Keith Lee, representing American Wagering, Inc. doing business as William Hill, said American Wagering was the operator, provider, and developer of the kiosks that were currently in 83 locations. He said he supported the amendment submitted by Sean Higgins (Exhibit M) that would grandfather in the current 83 locations and would not permit any additional ones to operate pending the study. Mr. Lee introduced Jeff Siri, the chief operating officer at William Hill.

Jeff Siri, Chief Operating Officer, American Wagering, Inc. doing business as William Hill, read the following statement into the record:

Chair Carlton, members of the Committee, my name is Jeff Siri. I am the chief operating officer of American Wagering, Inc., which does business in Nevada as William Hill.

William Hill operates approximately 100 sports books in nonrestricted locations here in Nevada and 83 kiosks in restricted locations. We may be the company that will be hurt the most by the antikiosk legislation you are considering today. But we are not the only ones that will be hurt, as numerous small businesses will be hurt and jobs and tax revenue to the state will be lost. And, importantly, the integrity of gaming regulation in this state will suffer if you change the rules after we and others have relied on them.

I think it is important to give you some facts about these kiosks. First, kiosks have been in bars and taverns since 2004, when they were first placed by a member of the Nevada Resort Association (NRA). Subsequent to that time, members of the NRA supported regulations that permitted wagering accounts to be opened away from the casino.

So this notion that the Gaming Control Board went rogue when it approved our kiosks in Golden Gaming's taverns is totally false. It is simply not true. These kiosks are clearly permitted under the gaming regulations—the same regulations that the members of the NRA wanted enacted. That is why the Gaming Control Board approved the kiosks after it fully vetted the concept and the technology.

The sunset on the revenue sharing agreement that the Gaming Commission put in place is entirely different than our authority under the existing regulations to do exactly what we are doing with the kiosks. Even if we cannot share revenue with Golden Gaming, Inc., we have the legal right to operate these kiosks in the manner we are so doing—unless you change the rules.

We might have to restructure our agreement with Golden Gaming, Inc., but we can still operate these kiosks.

What is going on here is that the NRA is asking you to change the rules after the fact—and after we and our partners have made

substantial capital investments in reliance on those gaming regulations.

That is not fair, and we have serious doubts that it is constitutionally permissible. I respectfully submit that you cannot change the rules after we and others have relied on them, just because the NRA members have changed their minds and no longer like the very regulations they wanted enacted. Rather than having to turn to the courts, we would ask that you study the matter closely before making such a drastic change that will have significant negative impact upon William Hill, Golden Gaming, Inc., numerous small businesses, and the integrity of gaming regulation in Nevada.

We also have concerns about the change in the requirements regarding predicate licenses. Now that we are already licensed to operate a race book and sports pool, we believe that subsection 3 of *Nevada Revised Statutes* (NRS) 463.245 applies to any new race book or sports pool license for which we might apply. However, the changes to subsection 2 of NRS 463.245 in section 5 of the proposed amendment create confusion. We do not believe that this bill is intended to put American Wagering out of business or to stop it from opening new race books and sports pools in casinos, but we are concerned that our competitors may try to read it that way, so we would appreciate clarification with regard to that issue.

Additionally, you should know that we have been contacted by customers concerned that, if the kiosks are removed from the bars, they will no longer be able to fund their mobile sports betting accounts there. Many customers use the convenience of the kiosks to fund mobile accounts. The funding option will go away with this bill. Our mobile business will be hurt by this and tax revenue to the state will be lost. That is one more negative consequence of this bill, perhaps unintended, but really hurtful nonetheless.

I cannot think of one single policy reason that justifies enactment of this bill. Not one. This bill is not going to make life better for the NRA members who support it. They will still have to compete in a challenging marketplace. This is not a silver bullet for them. However, it will be a real problem for us.

> The bill will also serve to chill investments in the gaming industry in Nevada. If the rules can be changed at the whim of the NRA, how can anyone comfortably invest capital into the state, without any assurance that their investment will be protected by a predictable body of regulation. Think about it—we and others invested a lot of money in Nevada in reliance upon existing regulations. Now the NRA wants you to overturn those regulations. That will create uncertainty in the marketplace and make others worry that the same thing will happen to them.
>
> Rolling up the trucks and taking out the kiosks will make people pause before investing and innovating in this state. Technology and business need to move forward. Removing the kiosks will be going backwards.
>
> Indeed, the only reason to vote for this bill is to give the NRA and their lobbyists a political victory, regardless of the policy implications of it. Before that happens, we think these issues should be studied carefully. There is no reason to not just freeze the status quo until these issues can be thoughtfully addressed.
>
> So our request to you is that you freeze the status quo—the current kiosks stay where they are and these matters are carefully studied and the matter revisited during the next legislative session. To do otherwise will be to unfairly punish William Hill, after we have invested heavily in reliance on the existing regulations.

Mr. Siri continued and said that the biggest issue arising from testimony was whether or not a kiosk was a race and sports book. He maintained a kiosk was completely different from a race and sports book that was located in a nonrestricted location. To make a wager in a kiosk, a patron had to establish a wagering account: in a sports book in a nonrestricted location, a person could walk up to the counter and place a $5 bet on a sporting event. A customer did not have to give name, address, and telephone number or any other information.

According to Mr. Siri, in a restricted location, a wagering account had to be established with name, address, telephone number, social security number, and other personal information. The customer could then put money on deposit in that account and wager against the funds in the account. The customer did not pay money to make each wager, but put the money on deposit and made wagers off of the balance. The current nonrestricted locations allowed telephone wagers where a customer could phone a call center and make a wager. Mr. Siri said their customers could also make a bet on the Internet and

there were other forms of wagering that could be done off-premises: this was just another one of those forms.

Mr. Siri said it was also important to note that the kiosks did not just come about in the past two years: the first kiosk was placed in use in 2004 by a member of the Nevada Resort Association. The kiosks had been around for some time, technology had gotten better, and Mr. Siri believed technology would continue to get better.

Mr. Siri requested that the Legislature allow the kiosks to continue operating for the next biennium while performing the interim study that was proposed by the bill. At the end of the two-year study, a decision could be made whether to allow for the expansion or contraction of kiosks.

Chair Carlton said there were a number of questions from members of the Committee, but she wanted to get a couple of items on the record.

With the discussion of all the different ways to bet, Chair Carlton said she was curious about how much business the kiosks performed in comparison to betting on the phone or betting on the Internet. She said she would like to understand the portion of business that the kiosks represented, because she considered the kiosks as just another avenue of betting.

Mr. Siri explained that at the present time, kiosks were the smallest amount of revenue generated from any other form of wagering. Over-the-counter betting at the nonrestricted locations was number one, which was well over 50 percent of total wagers taken from the nonrestricted locations. Mr. Siri said that was followed by mobile wagering, which was probably exceeding kiosk wagering tenfold.

Assemblyman Hardy asked how large of a wager a customer could make with the kiosks; what kind of a payout occurred; and how much money had to be kept on site in comparison to a regular race and sports book.

Mr. Siri responded that, first, to perform kiosk wagering, a customer had to establish an account and deposit money in that account. The amount of money a customer could wager was limited to the amount of money on deposit and the same betting limits applied at a kiosk that applied to any other form of wagering.

Regarding payout practices, Mr. Siri said, that at the restricted locations, standard practice was to give each location an imprest bank of $1,000 and that imprest bank was only used when someone wanted to do a withdrawal from

their account. He explained that if a customer put money in his account and decided not to wager anymore and still had money in his account, he could generate a withdrawal of those funds. Mr. Siri reiterated that each individual location had only a $1,000 bank to pay out patrons: if the customer needed more than $1,000 withdrawal, they would have to go to a nonrestricted location.

Assemblyman Hardy asked whether the restricted locations had the ability and the wherewithal to have an onsite location for payouts.

Mr. Siri replied that immediately upon winning, funds were placed in the winner's account. William Hill had to meet all the bankroll requirements established by the Nevada Gaming Control Board. Mr. Siri said William Hill had to have, in a restricted account, enough money to cover all the liabilities for wagering account deposits, for unclaimed winning tickets, and for future wagers. He noted that a customer might not be able to go to the restricted location where he had opened his account to withdraw those funds, because that location might not have enough there immediately, but a customer could go to any one of the nonrestricted locations and withdraw funds.

In response to a question Assemblyman Aizley asked about changes to the kiosks while the study was in progress, Mr. Siri said he believed the agreement was for no further expansion of kiosks to additional locations throughout the state. He added that should technology change, William Hill would want to be able to enhance the technology available in existing kiosks. Much of that technology had to do with improving communications so that the kiosks stayed active for longer periods of time, and there might be a new type of bet the company would want to offer.

Mr. Higgins commented that the functionality of the devices would not change; however, there were upgrades to software.

Assemblyman Aizley said he believed the agreement should be that the kinds and number of bets should not change. He said changing those items would affect the results of the study.

Mr. Siri replied that it might be difficult to limit those types of changes. He said the problem could be worked on because the different items that could be wagered on changed all the time. For instance, there might be a certain proposition bet not made this year on the Super Bowl that might be added to next year's list of proposition bets. Mr. Siri said to accomplish what Assemblyman Aizley was requesting, the changes would have to be fairly specific to be in compliance with the law.

Assemblyman Aizley commented that the specifications of the study should be agreed to before the study began.

Assemblyman Sprinkle remarked that he had never used a kiosk, but in betting on any kind of sporting event, odds were constantly changing. He asked how a kiosk kept up with the changing odds.

Mr. Siri explained the way it worked throughout all of the sports books was through a hub location that established all the different wagering and the different types of wagers a customer could bet on. The hub was located in Golden Gaming's central offices in Las Vegas. If the point spread changed at the hub it would automatically change in the kiosk and if the point spread changed in the middle of the wager, the kiosk would kick it back and notify the customer of the change.

Assemblyman Sprinkle inquired as to whether the hub location was required to have a gaming license and if so, whether it was restricted or nonrestricted.

Mr. Siri said each of the 100 William Hill locations throughout the state had a nonrestricted gaming license held at each location. The kiosk locations were tied to one of the nonrestricted locations as far as reporting was concerned. In this case, the wager went through a location called Golden Gaming, Inc. in Las Vegas and all the wagers theoretically flowed through the Golden Gaming, Inc. license.

Chair Carlton commented that this was the crux of the issue: there was a nonrestricted activity being active in a restricted spot.

Assemblyman Hickey said that he thought the concerns that Mr. Siri and Mr. Higgins had voiced over the effect of Assembly Bill 360 (1st Reprint) on business were legitimate, and anyone on that side of the issue would have the same concerns. He said his question was, if Assemblyman Horne's proposed amendment (Exhibit L) passed and a study occurred, whether the kiosk advocates would be willing to acknowledge that it might not go their way after that two-year period.

Mr. Higgins said, obviously his opinion was that the kiosks were appropriate going forward, but at the very least they should be grandfathered at the current locations. However, he also understood that Assemblyman Horne had asked for the study, and part of that study would consider technology. What was in Assembly Bill 360 (1st Reprint) were specific words and requirements, so the question was if all or some of those requirements were appropriate going forward. Mr. Siri said it was his personal opinion that the interim committee

would find that the kiosk was nothing more than another communication device. If the interim committee said kiosks were illegal, then by the terms of the proposed amendment (Exhibit M), on July 1, 2015, they would be shut down.

Chair Carlton referred to Mr. Higgins' proposed amendment (Exhibit M) and said she saw it as anticompetitive. William Hill and Golden Gaming, Inc. were guaranteed a business for two years that no one else could participate in, with the amendment eliminating any competition through legislation.

Mr. Higgins said he and his client had discussed the possibility and they welcomed competition. When the kiosks were originally installed, William Hill and Golden Gaming, Inc. had done everything the Gaming Control Board had asked. Mr. Higgins noted that Assemblyman Horne's bill would eliminate all kiosks as of July 1, 2013, so the kiosks would be shut down and then there would be a study of a technology which was no longer being used. Mr. Higgins said his client was trying to continue with its investment and continue to talk with the interim legislature study committee on the technology for the kiosks, but not to preclude others if they wanted to get into the business.

Keith Lee, representing American Wagering, Inc., stated he agreed with Mr. Higgins' statement and also welcomed competition.

In response to a question from Assemblywoman Kirkpatrick, Mr. Higgins concurred with Assemblyman Horne's opinion that a legislative committee should be appointed to examine the technology. The legislative committee would then present recommendations to the 2015 Legislature. Mr. Higgins believed there would be certain recommendations and potentially certain legislation passed. If the 2015 Legislature decided to take no action whatsoever on the kiosks, by the terms of his proposed amendment (Exhibit M), the kiosks would have to be removed and shut down as of July 1, 2015.

Assemblywoman Kirkpatrick said she had understood the kiosks were small items that sat on the bar, but recently she had encountered one and they looked more like jukeboxes and said "sports book live." She said she was trying to understand what the goal was with the kiosks: if they were supposed to be a live sports book, there needed to be discussion during the study. Assemblywoman Kirkpatrick commented that her main concern had always been the loss of jobs to technology.

Mr. Higgins said that through William Hill, the operator of the kiosks, a customer could get an app for an iPad, open an account, and while sitting at a tavern, open that iPad, and make a wager. A customer could also walk up to the kiosk

and place a wager. The kiosk looked very similar to an ATM, but it was not a mobile device: it was a stationary device. Mr. Higgins said that other than the fact that it was stationary, the kiosk was a computer and communication device just like a mobile phone or an iPad.

Assemblywoman Kirkpatrick said the technology changed so fast she worried that in two years the involved parties would not be on the same page, and it would be ugly for many people because the Committee had not performed due diligence in this study and gathered all the information that was needed.

Mr. Higgins stated that if Assembly Bill 360 (1st Reprint) passed in its present form, a customer would still be able to use an iPad or an iPhone to make a wager at any location, but the kiosk would have to be removed and placed in a warehouse. Mr. Higgins said the kiosks were being singled out and the other types of devices that could place a wager were not.

In response to a question from Assemblywoman Kirkpatrick, Mr. Lee stated that from the year 2011 to 2012, the net sports wagering win increased by $30 million. In that same period, the kiosk win was $600,000. That was the perspective of the relative value of the kiosk versus what was happening in the sports wagering world.

Assemblywoman Flores said she had never used one of the kiosks, which seemed self-service, so if a customer won, she asked whether he would go to the bartender for a payout. She also requested an idea about what type of effect the kiosks were having regarding jobs, and requested examples of the types of jobs that were associated with the maintenance of the kiosks.

Mr. Siri said, from William Hill's perspective, the company had employees who developed the technology, and had two teams that were working on software development all the time. The company also had people who installed and maintained the kiosks. The company had staff that accounted for the revenues in the kiosks, and it had one person whose job was the administration part of the kiosks. Mr. Siri said William Hill had a number of people on staff who were assigned to making sure the kiosks were functioning properly and handling customer service.

Mr. Higgins said that at certain tavern locations, it had been discovered that food and beverage sales might go up during sporting events. This was noted during the NCAA basketball tournament, when people would make a wager, stay to watch the game, and have food and beverage. Waitstaff increased during those periods of time. The same thing happened on Sundays during football season.

Chair Carlton said time was very short and she wanted to give Assemblyman Horne an opportunity to put his final thoughts on the record.

Assemblyman Horne said it had been noted that the proposed amendment from Mr. Higgins (Exhibit M) would create a monopoly, and for the next two years, basically one company would be operating the kiosks. He did not believe more businesses should be allowed to operate during this two-year period of data collection and study by the interim committee. However, if no other businesses were allowed to participate, the original business would testify next session that they had been doing this for four years and despite having notice that there was going to be a sunset, it should not apply anymore, because the business had relied upon it.

Assemblyman Horne noted that Mr. Higgins had hedged on Assemblyman Hickey's earlier question about whether he would accept the Committee's recommendation at the end of the study. Assemblyman Horne said the purpose of the study was to determine whether or not this type of activity was to be allowed in restricted gaming locations.

According to Assemblyman Horne, neither the Gaming Control Board nor any other regulatory body should have the authority to make changes in the interim that would be binding upon a policymaking body.

Chair Carlton closed the hearing on Assembly Bill 360 (1st Reprint).

Chair Carlton called for public testimony and hearing none, adjourned the meeting at 12:14 p.m.

RESPECTFULLY SUBMITTED:

_____
Anne Bowen
Committee Secretary

APPROVED BY:

_____
Assemblywoman Maggie Carlton, Chair

DATE: _____

EXHIBITS

Committee Name: Committee on Ways and Means

Date: May 27, 2013 **Time of Meeting: 9:10 a.m.**

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
A.B. 425 (R1)	C	Josh Griffin, Nevada Health CO-OP	Proposed Amendment
A.B. 501	D	Assemblywoman Marilyn K. Kirkpatrick	Proposed Amendment
A.B. 501	E	Nevada System of Higher Education	Project List
A.B. 500	F	Assemblywoman Dina Neal	New Market Tax Credit Presentation
A.B. 500	G	Ryan M. Brennan, Managing Director, Advantage Capital Partners	"Nevada New Markets Jobs Act"
A.B. 500	H	Ryan M. Brennan, Managing Director, Advantage Capital Partners	"Federal New Markets Investment Attraction"
A.B. 500	I	Ryan M. Brennan, Managing Director, Advantage Capital Partners	"Missouri New Markets Development Program: Associated Economic and Fiscal Impacts"
A.B. 500	J	Ryan M. Brennan, Managing Director, Advantage Capital Partners	"An Examination and Analysis of the Economic Benefits Realized from the Florida New Markets Tax Credits Program"
A.B. 500	K	Ryan M. Brennan, Managing Director, Advantage Capital Partners	"Nevada New Markets Jobs Act: Assessing the Economic and Fiscal Impacts"
A.B. 360 (R1)	L	Assemblyman William G. Horne	Proposed Amendment 9207

A.B. 360 (R1)	M	Sean T. Higgins, representing the Nevada Restricted Gaming Association, and Golden Gaming, Inc.	Proposed Amendment