THE ONE HUNDRED AND EIGHTEENTH DAY

CARSON CITY (Saturday), May 30, 2015

Assembly called to order at 10:39 a.m.

Mr. Speaker presiding.

Roll called.

All present except Assemblywoman Dooling, who was excused.

Prayer by the Chaplain, Reverend Richard Snyder.

Creator God, we give You thanks for this new day and for new opportunities to be in service for You. You are the source of life, of liberty, and of justice; be with us and guide us this day. Help us to be the very best we can. And may Your spirit refresh and renew us this day and always.

AMEN.

Pledge of allegiance to the Flag.

Assemblyman Paul Anderson moved that further reading of the Journal be dispensed with and the Speaker and Chief Clerk be authorized to make the necessary corrections and additions.

Motion carried.

REPORTS OF COMMITTEES

Mr. Speaker:

Your Committee on Legislative Operations and Elections, to which was referred Senate Bill No. 421, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

LYNN D. STEWART, *Chair*

Mr. Speaker:

Your Committee on Ways and Means, to which was referred Assembly Bill No. 478, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

PAUL ANDERSON, *Chair*

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, May 29, 2015

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day passed Assembly Bills Nos. 161, 199, 234, 470, 477.

Also, I have the honor to inform your honorable body that the Senate amended, and on this day passed, as amended, Assembly Bill No. 167, Amendments Nos. 786, 1008, and respectfully requests your honorable body to concur in said amendments.

Also, I have the honor to inform your honorable body that the Senate on this day respectfully refused to recede from its action on Assembly Bill No. 169, Senate Amendment No. 767, and requests a conference, and appointed Senators Lipparelli, Hardy and Woodhouse as a Conference Committee to meet with a like committee of the Assembly.

Also, I have the honor to inform your honorable body that the Senate on this day passed, as amended, Senate Bills Nos. 99, 107, 460, 488.

Also, I have the honor to inform your honorable body that the Senate on this day concurred in Assembly Amendment No. 815 to Senate Bill No. 170.

Also, I have the honor to inform your honorable body that the Senate on this day concurred in Assembly Amendments Nos. 782, 952 to Senate Bill No. 481.

Also, I have the honor to inform your honorable body that the Senate on this day appointed Senators Brower, Roberson and Parks as a Conference Committee concerning Senate Bill No. 95.

SHERRY RODRIGUEZ
Assistant Secretary of the Senate

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Paul Anderson moved that Senate Bills Nos. 128 and 432 be taken from their positions on the General File and placed at the top of the General File.

Motion carried.

Assemblyman Paul Anderson moved that Assembly Bill No. 484 be taken from the Chief Clerk's desk and placed on the General File.

Motion carried.

Assemblyman Paul Anderson moved that Senate Bill No. 483 be taken from the General File and placed on the Chief Clerk's desk.

Motion carried.

INTRODUCTION, FIRST READING AND REFERENCE

By the Committee on Ways and Means:

Assembly Bill No. 489—AN ACT relating to public employees; establishing the maximum allowed salaries for certain employees in the classified and unclassified service of the State; making appropriations from the State General Fund and State Highway Fund for increases in the salaries of certain employees of the State; and providing other matters properly relating thereto.

Assemblyman Paul Anderson moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

By the Committee on Ways and Means:

Assembly Bill No. 490—AN ACT relating to state financial administration; authorizing expenditures by various officers, departments, boards, agencies, commissions and institutions of the State Government for the 2015-2017 biennium; authorizing the collection of certain amounts from the counties for the use of the services of the State Public Defender; requiring repayment of certain advances to state agencies; and providing other matters properly relating thereto.

Assemblyman Paul Anderson moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

By the Committee on Ways and Means:

Assembly Bill No. 491—AN ACT relating to projects of capital improvement; authorizing certain expenditures by the State Public Works

Division of the Department of Administration; levying a property tax to support the Consolidated Bond Interest and Redemption Fund; making appropriations; and providing other matters properly relating thereto.

Assemblyman Paul Anderson moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

By the Committee on Government Affairs:

Assembly Bill No. 492—AN ACT relating to administrative regulations; revising provisions governing statements relating to the effect of a regulation on small business submitted with adopted permanent regulations; clarifying the time by which proposed regulations must be returned to state agencies; revising provisions relating to the review of regulations by the Legislative Committee on Health Care; and providing other matters properly relating thereto.

Assemblyman Paul Anderson moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

Senate Bill No. 99.

Assemblyman Paul Anderson moved that the bill be referred to the Committee on Judiciary.

Motion carried.

Senate Bill No. 107.

Assemblyman Paul Anderson moved that the bill be referred to the Committee on Health and Human Services.

Motion carried.

Senate Bill No. 460.

Assemblyman Paul Anderson moved that the bill be referred to the Committee on Education.

Motion carried.

Senate Bill No. 488.

Assemblyman Paul Anderson moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Paul Anderson moved that Assembly Bill No. 478; Senate Bill No. 421, just reported out of committee, be placed on the Second Reading file.

Motion carried.

SECOND READING AND AMENDMENT

Senate Bill No. 296.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 1006.

AN ACT relating to damages; prohibiting the assertion of claims for punitive or exemplary damages in certain pleadings in civil actions; revising provisions relating to exemplary or punitive damages in certain civil actions; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill prohibits a party from including a claim for punitive or exemplary damages in certain pleadings at the commencement of a civil action and establishes a process by which a party may request leave to amend its pleadings to include such a claim.

Existing law establishes certain limitations on the amount of exemplary or punitive damages that may be assessed against a defendant in certain actions. Existing law further exempts certain persons, including manufacturers, distributors and sellers of a defective product, from those limitations. (NRS 42.005) **Section 3** of this bill sets forth circumstances under which a manufacturer, distributor or seller of a product is not liable for exemplary or punitive damages.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 42 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Upon commencement of any civil action, a complaint or answer or other responsive pleading may not include a claim for exemplary or punitive damages.

2. The party commencing the action may conduct discovery of facts supporting a claim of fraud, malice or oppression. The discovery must comply with the provisions of the Nevada Rules of Civil Procedure. After the parties to an action have conducted discovery, a party may move the court for leave to amend the party's pleadings to claim exemplary or punitive damages. Such a motion must:

(a) Comply with the requirements and limitations of NRS 42.005; and

(b) Be supported with admissible evidence.

3. A party opposing a motion filed pursuant to subsection 2 may respond to the motion with affidavits, testimony taken by deposition or other admissible evidence.

4. If the court determines that there is prima facie evidence supporting a claim for punitive or exemplary damages, the court shall grant the moving party leave to amend the party's pleadings to include such a claim.

5. A party may not conduct discovery on issues of financial condition for the purposes of subsection 4 of NRS 42.005 before the party has filed with the court and served on all parties pleadings that have been amended with leave of the court pursuant to subsection 4.

6. As used in this section, "prima facie evidence" means evidence to permit a court to find that a party has acted with oppression, fraud or malice, express or implied.

Sec. 2. (Deleted by amendment.)

Sec. 3. NRS 42.005 is hereby amended to read as follows:

42.005 1. Except as otherwise provided in NRS 42.007, in an action for the breach of an obligation not arising from contract, where it is proven by clear and convincing evidence that the defendant has been guilty of oppression, fraud or malice, express or implied, the plaintiff, in addition to the compensatory damages, may recover damages for the sake of example and by way of punishing the defendant. Except as otherwise provided in this section or by specific statute, an award of exemplary or punitive damages made pursuant to this section may not exceed:

(a) Three times the amount of compensatory damages awarded to the plaintiff if the amount of compensatory damages is $100,000 or more; or

(b) Three hundred thousand dollars if the amount of compensatory damages awarded to the plaintiff is less than $100,000.

2. The limitations on the amount of an award of exemplary or punitive damages prescribed in subsection 1 do not apply to an action brought against:

(a) A manufacturer, distributor or seller of a defective product ~~[:]~~ ***if:***

(1) The manufacturer, distributor or seller sold the product after the effective date of a governmental agency's final order to:

(I) Remove the product from the market;

(II) Withdraw the governmental agency's approval of the product; or

(III) Substantially alter the governmental agency's terms of approval of the product in a manner that would have avoided the plaintiff's alleged injury and the product did not meet the agency's altered terms of approval when sold;

(2) A governmental agency or court determined that the manufacturer, distributor or seller made an unlawful payment to an official or employee of a governmental agency for the purpose of securing or maintaining approval of the product;

(3) The manufacturer, distributor or seller intentionally, and in violation of any applicable laws or regulations, as determined by the responsible governmental agency, withheld from or misrepresented to a governmental agency information material to the approval of the product and that information is material and relevant to the harm that the plaintiff allegedly suffered; or

(4) After the product was sold, a governmental agency found that the manufacturer, distributor or seller knowingly violated any applicable laws or regulations by failing ~~[timely]~~ to report risks of harm to that governmental

agency and the information which was not reported was material and relevant to the harm that the plaintiff allegedly suffered;

(b) An insurer who acts in bad faith regarding its obligations to provide insurance coverage;

(c) A person for violating a state or federal law prohibiting discriminatory housing practices, if the law provides for a remedy of exemplary or punitive damages in excess of the limitations prescribed in subsection 1;

(d) A person for damages or an injury caused by the emission, disposal or spilling of a toxic, radioactive or hazardous material or waste; or

(e) A person for defamation.

3. If punitive damages are claimed pursuant to this section, the trier of fact shall make a finding of whether such damages will be assessed. If such damages are to be assessed, a subsequent proceeding must be conducted before the same trier of fact to determine the amount of such damages to be assessed. The trier of fact shall make a finding of the amount to be assessed according to the provisions of this section. The findings required by this section, if made by a jury, must be made by special verdict along with any other required findings. The jury must not be instructed, or otherwise advised, of the limitations on the amount of an award of punitive damages prescribed in subsection 1.

4. Evidence of the financial condition of the defendant is not admissible for the purpose of determining the amount of punitive damages to be assessed until the commencement of the subsequent proceeding to determine the amount of exemplary or punitive damages to be assessed.

5. For the purposes of an action brought against an insurer who acts in bad faith regarding its obligations to provide insurance coverage, the definitions set forth in NRS 42.001 are not applicable and the corresponding provisions of the common law apply.

Assemblyman Hansen moved the adoption of the amendment.

Remarks by Assemblyman Hansen.

ASSEMBLYMAN HANSEN:

Amendment 1006 says that limits in the amount of an award do not apply if a responsible government agency determines that the manufacturer, distributor, or seller intentionally and in violation of any applicable laws or regulations withheld or misrepresented information material to the approval of the product. A manufacturer, distributor, or seller of a product is liable for exemplary or punitive damages if a government agency found that after the product was sold, the manufacturer, distributor, or seller knowingly violated any applicable laws or regulations by failing to report risks of harm.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Mr. Speaker announced if there were no objections, the Assembly would recess subject to the call of the Chair.

Assembly in recess at 10:52 a.m.

ASSEMBLY IN SESSION

At 10:56 a.m.
Mr. Speaker presiding.
Quorum present.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Hansen moved that, upon return from the printer, Senate Bill No. 296 be placed on the Chief Clerk's desk.
Motion carried.

SECOND READING AND AMENDMENT

Assembly Bill No. 478.
Bill read second time.
The following amendment was proposed by the Committee on Ways and Means:
Amendment No. 1004.
AN ACT relating to real property; revising certain fees collected by the Real Estate Division of the Department of Business and Industry and imposing certain new fees to be collected by the Division; **revising provisions relating to the disposition of such fees;** and providing other matters properly relating thereto.
Legislative Counsel's Digest:
Existing law sets forth provisions relating to the sale of subdivided land **[.** ~~(Chapter)~~ **] and time shares. (Chapters** 119 **and 119A** of NRS) This bill increases the various fees relating to the sale of subdivided land **and time shares** which the Real Estate Division of the Department of Business and Industry may charge and collect and imposes certain new fees. **This bill specifically provides for the disposition of such fees.**

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. **NRS 119.118 is hereby amended to read as follows:**
119.118 ~~[All]~~ ***Except as otherwise provided in paragraph (b) of subsection 1 of NRS 119.320, all*** fees and charges received by the Division shall be deposited in the General Fund in the State Treasury. Funds for the support of the Division shall be provided by direct legislative appropriation, and shall be paid out on claims as other claims against the State are paid.
~~[Section 1.]~~ ***Sec. 2.*** NRS 119.320 is hereby amended to read as follows:
119.320 1. Subject to the provisions of this chapter, the Division shall collect the following fees at such times and upon such conditions as it may provide by regulation:
(a) For deposit in the State General Fund:

For each annual registered representative's license to represent a developer..... $85
For each transfer of a registered representative's license to represent a developer..... $30
For each penalty for a late renewal of a registered representative's license 40
~~[For each application for a developer's request for an exemption from any provision of this chapter .....275~~ ***~~550~~***
~~For each application for renewal of an exemption from any provision of this chapter .....275~~ ***~~550~~***~~]~~
For each developer's permit per subdivision..... 500
For each developer's temporary permit for each subdivision 275
For each renewal of a developer's permit 500
~~[For each penalty for a late renewal of a developer's permit.....125]~~
For each developer's partial registration pursuant to NRS 119.121..... 275

(b) For deposit for use by the Division in carrying out the provisions of this chapter:

For each application for a developer's request for an exemption from any provision of this chapter.....$500
For each application for renewal of an exemption from any provision of this chapter..... 500
For each penalty for a late renewal of a developer's permit..... 125
For each amendment to a developer's permit.....~~[150]~~ ***300***
For each penalty for the untimely filing of an amendment to a developer's permit 125
For each filing of a Project Registration Form 649 - Statement of Project Broker..... 25
For each project request for processing within 5 days after a complete filing is made 1,000

The $500 fee for a developer's permit per subdivision does not apply to any subdivision having 34 or fewer lots, parcels, interests or units.

2. At the time of the original filing, each developer shall pay an additional $5 for each lot, parcel, interest or unit in any one subdivision in excess of 50, but not exceeding 250 such lots, parcels, interests or units; $4 for 251 through 500 lots, parcels, interests or units in any one subdivision; $3 for 501 through 750 lots, parcels, interests or units in any one subdivision; and $2.50 for all lots, parcels, interests or units in excess of 750 in any one subdivision. The

developer may designate lots, parcels, interests or units it intends to offer for sale or lease in this state out of the subdivision, and the fee per lot, parcel, interest or unit is only applicable to those lots, parcels, interests or units. The units must be designated in groupings of no less than 5 contiguous units in each group, except that the Division may accept fewer upon request of the developer. If the developer determines to offer additional lots, parcels, interests or units, it shall so certify to the Division and pay the additional fee therefor.

3. With the exception of the fees for a registered representative's license or transfer, the fees enumerated in this section must be reduced by the Administrator at such times as, in his or her judgment, the Administrator considers a reduction equitable in relation to the necessary costs of carrying out the administration and enforcement of the provisions of this chapter.

Sec. 3. **NRS 119A.220 is hereby amended to read as follows:**

119A.220 1. A sales agent may work for only one project broker at any one time at the location designated in the license.

2. A project broker shall give written notice to the Division of a change of association of any sales agent associated with the project broker within 10 days after that change.

3. The project broker, upon the termination of the employment of any sales agent associated with the project broker, shall submit that agent's license to the Division.

4. If a sales agent changes his or her association with any project broker or changes his or her location designated in the license, the sales agent must apply to the Division for the reissuance of his or her license for its unexpired term. The application must be accompanied by a fee of ~~[$10.]~~ ***$25.***

5. A sales agent may only become associated with a project broker who certifies to the sales agent's honesty, trustworthiness and good reputation.

Sec. 4. **NRS 119A.360 is hereby amended to read as follows:**

119A.360 1. The Division shall collect the following fees at the time of filing:

For each application for the registration of a representative	$100
For each renewal of the registration of a representative	100
For each transfer of the registration of a representative to a different developer	25
For each penalty for a late renewal of the registration of a representative	75
For each preliminary permit to sell time shares	400
For each initial permit to sell time shares	1,500
For each amendment to a statement of record after the issuance of the permit to sell time shares, where no new component sites are added	200
For each amendment to a statement of record after the issuance of the permit to sell time shares, where one	

or more new component sites are added, not including the addition of units to a component site previously permitted 500
For each annual renewal of a permit to sell time shares with only one component site 750
For each annual renewal of a permit to sell time shares with more than one component site 1,500
For each initial registration of a time-share resale broker 300
For each renewal of the registration of a time-share resale broker 150
For each original and annual registration of a manager 100
For each application for an original license as a sales agent 200
For each renewal of a license as a sales agent 200
For each penalty for a late renewal of a license as a sales agent 100
For each registration of a time share exchange company 500
For each conversion to an abbreviated registration 7,500
For each change of name or address of a licensee or status of a license 25
For each duplicate license, permit or registration where the original is lost or destroyed, and an affidavit is made thereof 25
For each annual approval of a course of instruction offered in preparation for an original license or permit 150
For each original accreditation of a course of continuing education 150
For each renewal of accreditation of a course of continuing education 75

2. Within 10 days after receipt of written notification from the Administrator of the approval of the application for a permit to sell time shares and before the issuance of the permit to sell time shares, or within 10 days after an amendment that adds time shares to the time-share plan is approved or deemed approved, each developer shall, for each time share that the developer includes in the initial time-share plan or adds to the time-share plan by amendment, pay a one-time fee of:

(a) For each such time share up to and including 1,499 time shares, $3.

(b) For each such time share over 1,499 time shares, $1.50.

➥ For the purposes of calculating the amount of the fee payable under this subsection, "time share" means the right to use and occupy a unit for 7 days or more per calendar year.

3. ***All fees collected by the Division pursuant to this section must be deposited for use by the Division in carrying out the provisions of this chapter.***

4. Except for the fees relating to the registration of a representative, the Administrator may reduce the fees established by this section if the reduction is equitable in relation to the costs of carrying out the provisions of this chapter.

~~[4.]~~ ***5.*** The Division shall adopt regulations which establish the fees to be charged and collected by the Division to pay the costs of:

(a) Any examination for a license, including any costs which are necessary for the administration of such an examination.

(b) Any investigation of a person's background.

~~[Sec. 2.]~~ ***Sec. 5.*** This act becomes effective on July 1, 2015.

Assemblywoman Carlton moved the adoption of the amendment.

Remarks by Assemblywoman Carlton.

ASSEMBLYWOMAN CARLTON:

Assembly Bill 478, as we are amending it, increases certain developer application and renewal fees and establishes expedited filing fees and late penalty fees. The bill also establishes time share exchange company registration and abbreviated conversion fees. It also increases the fee for sales agents, association change, or license location change. The bill, as amended, clarifies where the developer and time share fees collected by the Real Estate Division outlined in the bill are to be deposited.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 421.

Bill read second time.

The following amendment was proposed by the Committee on Legislative Operations and Elections:

Amendment No. 1012.

SUMMARY—Makes various changes relating to ~~[statewide]~~ **political parties and presidential preference** primary elections. (BDR 24-1148)

AN ACT relating to elections; **making various changes relating to political parties and presidential preference primary elections; revising provisions governing the organization and operation of major political parties;** providing in certain circumstances for a presidential preference primary election to be held ~~[in conjunction with the statewide primary election; revising the date of the statewide primary election to the last Tuesday in February of each even-numbered year; making corresponding changes to various pre-election deadlines;]~~ **for each major political party;** establishing **certain** requirements **and procedures** for ~~[participation by major political parties and candidates in]~~ **conducting** a presidential preference primary election; **requiring delegates to a national party convention to vote according to the results of the state party's presidential preference process in certain circumstances; providing penalties;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, a major political party must: (1) hold precinct meetings in each county; (2) select delegates to the county, state and national party conventions; (3) provide certain types of notice regarding its meetings and conventions; and (4) follow certain procedural requirements when conducting its affairs. (NRS 293.130-293.163) Sections 3.5-6 of this bill revise various aspects of the organization and operation of major political parties.

Sections 3.5 and 4 authorize major political parties to adopt rules for providing notice of meetings and conventions through an Internet website or other social media. Section 4 also provides that precinct meetings may be consolidated or held for the county at large. Section 5 allows delegates to be selected through a nomination process instead of being selected at precinct meetings and permits the county central committee to provide for forms to be prepared and delivered electronically. Section 6 provides that until the end of the first ballot at the national party convention, the state party's delegates are bound to vote at each stage of the presidential nomination process according to the results of the state party's presidential preference process.

Sections ~~[1, 2, 18-21 and 32-38]~~ **1-2.5, 31.1-38 and 42** of this bill provide **, with certain exceptions,** for a statewide presidential preference primary election to be held ~~[in conjunction with the statewide primary election]~~ **for each major political party on the last Tuesday** in February of a presidential election year. **Section 32** provides that a presidential preference primary election is generally governed by the same statutory provisions applicable to the existing statewide primary ~~[.]~~ **, except that the specific provisions of sections 31.1-38 and any regulations adopted by the Secretary of State to carry out those provisions take precedence and control if there is any conflict.** Pursuant to **section 33**, **a major political party may opt out of** a presidential preference primary election **. Such an election** must be held for a major political party if: (1) the chair of the national committee of that party ~~[fails]~~ **does not** timely ~~[to]~~ notify the Secretary of State that the party ~~[does not desire]~~ **wants** to ~~[participate in]~~ **opt out of** the election; and (2) two or more ~~[presidential]~~ **qualified** candidates of that party timely file declarations of candidacy **for the election** with the Secretary of State.

~~[Under existing law, the election of delegates at precinct meetings scheduled by the state central committee of each major political party, commonly known as "party caucuses," may be a part of expressing preferences for candidates for the party's nomination for President of the United States. (NRS 293.137) In any year in which a presidential preference primary election is held for the party, section 4 of this bill requires that the precinct meetings not be held until after the presidential preference primary election has been conducted and the results of the election have been certified by the Secretary of State. Sections 5 and 6 of this bill further require that any rule of a party governing the election of delegates at a precinct meeting, the selection of delegates and alternates to~~

~~a national party convention, or the voting of delegates at the national convention, must reasonably reflect the results of the presidential preference primary election, if one has been held for the party.~~

~~— Section 7 of this bill changes the date of the statewide primary election from the second Tuesday in June of each even-numbered year to the last Tuesday in February of each even-numbered year. To provide an example, if the provisions of this bill had been in effect in 2014, the primary election would have been held on February 25, 2014, instead of June 10, 2014. As a result of changing the date of the statewide primary election, sections 3, 8-13, 17, 22 and 23 of this bill amend various other dates relating to elections, such as the date for filing a declaration of candidacy.~~

~~— Sections 16 and 24 of this bill delete certain existing but obsolete statutory references to the presidential preference primary election.~~**]**

Sections 35-38 establish certain requirements and procedures for conducting a presidential preference primary election. In particular, section 35 specifies which registered voters are entitled to cast a ballot at the election, and section 36 states that local election officials: (1) shall not distribute sample ballots or conduct early voting for the election; (2) shall permit voting by absent ballot and military-overseas ballot for the election; and (3) shall establish polling places for the election that must be open from 7 a.m. until 7 p.m. on the day of the election. Section 36 also provides that a registered voter in the county who is entitled to cast a ballot at the election may do so at any polling place in the county on the day of the election. Finally, sections 37 and 42 ~~[of this bill]~~ provide that the cost of any presidential preference primary election is a charge against the State and must be paid from the Reserve for Statutory Contingency Account in the State General Fund.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 293 of NRS is hereby amended by adding thereto a new section to read as follows:

"Presidential preference primary election" means an election held in a presidential election ~~*[years]*~~ ***year pursuant to sections*** ~~*[32]*~~ ***31.1 to 38, inclusive, of this act*** ~~*[.]*~~ ***to determine the preferences of the registered voters of a major political party regarding the party's nominee for President of the United States.***

Sec. 2. NRS 293.010 is hereby amended to read as follows:

293.010 As used in this title, unless the context otherwise requires, the words and terms defined in NRS 293.013 to 293.121, inclusive, ***and section 1 of this act*** have the meanings ascribed to them in those sections.

Sec. 2.5. **NRS 293.080 is hereby amended to read as follows:**

293.080 ***1.*** **"**Primary election" means the election held pursuant to NRS 293.175.

2. Except as otherwise provided in sections 31.1 to 38, inclusive, of this act, the term includes a presidential preference primary election.

Sec. 3. ~~[NRS 293.128 is hereby amended to read as follows:~~

~~293.128 1. To qualify as a major political party, any organization must, under a common name:~~

~~(a) On [January 1] *September 1 of the year* preceding any primary election, have been designated as a political party on the applications to register to vote of at least 10 percent of the total number of registered voters in this State; or~~

~~(b) File a petition with the Secretary of State not later than the last Friday in [February before] *October of the year preceding* any primary election signed by a number of registered voters equal to or more than 10 percent of the total number of votes cast at the last preceding general election for the offices of Representative in Congress.~~

~~2. If a petition is filed pursuant to paragraph (b) of subsection 1, the names of the voters need not all be on one document, but each document of the petition must be verified by the circulator thereof to the effect that the signers are registered voters of this State according to the circulator's best information and belief and that the signatures are genuine and were signed in the circulator's presence. Each document of the petition must bear the name of a county, and only registered voters of that county may sign the document. The documents which are circulated for signature must then be submitted for verification pursuant to NRS 293.1276 to 293.1279, inclusive, not later than 25 working days before the last Friday in [February] *October of the year* preceding a primary election.~~

~~3. In addition to the requirements set forth in subsection 1, each organization which wishes to qualify as a political party must file with the Secretary of State a certificate of existence which includes the:~~

~~(a) Name of the political party;~~

~~(b) Names and addresses of its officers;~~

~~(c) Names of the members of its executive committee; and~~

~~(d) Name of the person who is authorized by the party to act as registered agent in this State.~~

~~4. A political party shall file with the Secretary of State an amended certificate of existence within 5 days after any change in the information contained in the certificate.]~~ **(Deleted by amendment.)**

Sec. 3.5. **NRS 293.130 is hereby amended to read as follows:**

293.130 1. On the dates set by the respective state central committees in each year in which a general election is to be held, a county convention of each major political party must be held at the county seat of each county or at such other place in the county as the county central committee designates.

2. The county central committee of each major political party shall cause notice of the holding of the county convention of its party to be ~~[published]~~ **:**

(a) Published in one or more newspapers, if any, published in the county ~~[.]~~ ***; or***

(b) If consistent with the rules of the party, posted on an Internet website or other social media.

3. The notice must be in substantially the following form:

NOTICE OF.....(NAME OF PARTY).....CONVENTION

Notice is hereby given that the county Convention of the ..... Party for ..... County will be held at ..... in ....., on the ……..day of the month of …… of the year ……; that at the convention delegates to the ..... State Convention will be elected, a county central committee to serve for the ensuing 2 years will be chosen, and other party affairs may be considered; that delegates to such county convention will be chosen at .....(name of party)..... precinct meetings to be held in each voting precinct in the county on or before the ..... day of the month of …… of the year ……..; and that a voting precinct is entitled to a number of delegates in proportion to the number of registered voters of the ..... Party residing in the precinct as set forth in NRS 293.133.

County Central Committee of ..... County, Nevada
By ..... (Its Chair)
And ..... (Its Secretary)

Sec. 4. NRS 293.135 is hereby amended to read as follows:

293.135 1. ~~[The]~~ ***Except as otherwise provided in this subsection ~~[,]~~ and subsection 3 of NRS 293.137, the*** county central committee of each major political party in each county shall have a precinct meeting of the registered voters of the party residing in each voting precinct entitled to delegates in the county convention called and held on the dates set for the precinct meeting by the respective state central committees in each year in which a general election is held. ***If consistent with the rules of the party, the county central committee may have precinct meetings consisting of two or more precincts or may have a precinct meeting for the county at large. In any year in which a presidential preference primary election is held for the party, the precinct ~~[meeting must]~~ meetings may not be held until after the results of that election are certified by the Secretary of State pursuant to ~~[subsection 5 of NRS 293.387.]~~ sections 31.1 to 38, inclusive, of this act.***

2. ~~[The]~~ ***Each*** meeting ***regarding one or more precincts*** must be held in one of the following places in the following order of preference:

(a) Any public building within the precinct if the meeting is for a single precinct, or any public building which is in reasonable proximity to the precincts and will accommodate a meeting of two or more precincts; or

(b) Any private building within the precinct or one of the precincts.

3. ~~[The]~~ ***On the date set by the respective state central committees for giving notice of the precinct meetings, the*** county central committee shall give notice of ~~[the]~~ ***each*** meeting by:

(a) Posting in a conspicuous place outside the building where the meeting is to be held; and

(b) Publishing in one or more newspapers of general circulation in the precinct, published in the county, if any are so published,

~~[, on the date set for giving notice of the meeting by the respective state central committees.]~~ ***or, if consistent with the rules of the party, posting on an Internet website or other social media.***

4. The notice must be ~~[printed]~~ ***prepared*** in conspicuous display advertising format of not less than 10 column inches, and must include the following language, or words of similar import:

Notice to All Voters Registered
IN THE (STATE NAME OF MAJOR POLITICAL PARTY)

Nevada state law requires each major political party, in every year during which a general election is held, to have ~~[a]~~ precinct ~~[meeting held for each precinct.]~~ ***meetings.*** All persons registered in the party and residing in ~~[the]~~ ***your*** precinct are entitled to attend the ~~[precinct meeting.]~~ ***meeting regarding your precinct.*** Delegates to your party's county convention will be elected at the meeting ***regarding your precinct*** by those in attendance. Set forth below are the time and place at which ***the meeting regarding*** your precinct ~~[meeting]~~ will be held, together with the number of delegates to be elected from each precinct. If you wish to participate in the organization of your party for the coming 2 years, attend ***the meeting regarding*** your precinct ***.*** ~~[meeting.]~~

5. The notice must specify:

(a) The date, time and place of the meeting; ~~[and]~~

(b) The number of delegates to the county convention to be chosen at the meeting ~~[.]~~ ***; and***

(c) Any fees which may be charged to attend the county or state convention.

Sec. 5. NRS 293.137 is hereby amended to read as follows:

293.137 1. ~~[Promptly]~~ ***Except as otherwise provided in subsection 3, promptly*** at the time and place appointed therefor, the ~~[mass]~~ meeting ***regarding one or more precincts*** must be convened and organized ***.*** ~~[for each precinct.]~~ If access to the premises appointed for any such meeting is not available, the meeting may be convened at an accessible place immediately adjacent thereto. The meeting must be conducted openly and publicly and in such a manner that it is freely accessible to any registered voter of the party calling the meeting who resides in ***one of*** the ~~[precinct]~~ ***precincts*** and is desirous of attending the meeting, until the meeting is adjourned. At the meeting, the delegates to which the members of the party residing in ***one of*** the ~~[precinct]~~ ***precincts*** are entitled in the party's county convention must be elected pursuant to the rules of the state central committee of ~~[that]~~ ***the*** party. In presidential election years ~~[,]~~ ***in which a presidential preference primary***

election is not held for the party, the election of delegates may be a part of expressing preferences for candidates for the party's nomination for President of the United States if the rules of the party permit such conduct. ***[rules of the state central committee must reasonably reflect the results of the presidential preference primary election, if one has been held for the party.]*** The result of the election must be certified to the county convention of the party by the chair and the secretary of the meeting upon the forms specified in subsection ~~[3.]~~ ***5.***

2. ~~[At]~~ ***Except as otherwise provided in subsection 3, at*** the precinct meetings, the delegates and alternates to the party's convention must be elected. If a meeting is not held for a particular precinct at the location specified, that precinct must be without representation at the county convention unless the meeting was scheduled, with proper notice, and no registered voter of the party appeared. In that case, the meeting shall be deemed to have been held and the position of delegate is vacant. If a position of delegate is vacant, it must be filled by the designated alternate, if any. If there is no designated alternate, the vacancy must be filled pursuant to the rules of the party, if the rules of the party so provide, or, if the rules of the party do not so provide, the county central committee shall appoint a delegate from among the qualified members of the party residing in the precinct in which the vacancy occurred, and the secretary of the county central committee shall certify the appointed delegate to the county convention.

3. ***If consistent with the rules of the party, the delegates and alternates to the party's convention may be elected through a nomination process and may be chosen by precinct or at large. The number of delegates elected may not exceed the number authorized pursuant to NRS 293.133. In presidential election years in which a presidential preference primary election is held for the party, the rules must reasonably reflect the results of the presidential preference primary election. The results of the nomination process must be certified to the county convention of the party by the chair and the secretary overseeing the process upon the forms specified in subsection 5.***

4. If the county central committee elects to nominate delegates and alternates to the party's convention pursuant to subsection 3, the county central committee shall give notice of the nomination process. The notice:

(a) May be given, without limitation, by:

(1) Publishing in one or more newspapers of general circulation published in the precinct or county, if any; or

(2) If consistent with the rules of the party, posting on an Internet website or other social media.

(b) Must include, without limitation:

(1) The name of the party;

(2) The purpose of the nomination process;

(3) The process that will be used to elect delegates and alternates;

(4) Any relevant dates, times or locations for the process;

(5) The number of delegates to be chosen; and

(6) Any fees which may be charged to attend the county or state convention.

5. The county central committee shall prepare and number serially a number of certificate forms equal to the total number of delegates to be elected throughout the county, and deliver the appropriate number to ~~[each precinct meeting.]~~ ***the precinct meetings.*** Each certificate must be in duplicate. The original must be given to the elected delegate, and the duplicate transmitted to the county central committee. ***The county central committee may provide for such forms to be prepared and delivered electronically pursuant to the rules of the party.***

~~[4.]~~ ***6.*** All duplicates must be delivered to the chair of the preliminary credentials committee of the county convention. Every delegate who presents a certificate matching one of the duplicates must be seated without dispute.

~~[5.]~~ ***7.*** Each state central committee shall adopt written rules governing, but not limited to, the following procedures:

(a) The selection, rights and duties of committees of a convention;

(b) Challenges to credentials of delegates; and

(c) Majority and minority reports of committees.

Sec. 5.5. **NRS 293.143 is hereby amended to read as follows:**

293.143 1. The county central committee of a major political party to be elected by the county convention of the party must consist of such number of members as may be determined by the convention, but each voting precinct, entitled to one or more delegates in the convention, is entitled to have at least one committeeman or committeewoman and no precinct may have more committeemen or committeewomen than its authorized number of delegates to the county convention.

2. After the county convention of the party, the composition of the county central committee may be changed ***, and during a presidential election year, must be changed,*** by the county central committee to reflect changes in the organization of precincts and in the number of registered voters of the party, using the same standards adopted by the party to elect delegates to the county convention.

Sec. 6. NRS 293.163 is hereby amended to read as follows:

293.163 1. In presidential election years, on the call of a national party convention, but one set of party conventions and but one state convention shall be held on such respective dates and at such places as the state central committee of the party shall designate. If no earlier dates are fixed, the state convention shall be held 30 days before the date set for the national convention and the county conventions shall be held 60 days before the date set for the national convention.

2. Delegates to such conventions shall be selected in the same manner as prescribed in NRS 293.130 to 293.160, inclusive, and each convention shall have and exercise all of the power granted it under NRS 293.130 to 293.160, inclusive. In addition to such powers granted it, the state convention shall select the necessary delegates and alternates to the national convention of the

party and, if consistent with the rules ~~[and regulations]~~ of the party, shall select the national committeeman and committeewoman of the party from the State of Nevada. ***Any ~~[rule or regulation]~~ rules of the party governing the election of delegates and alternates to the national convention of the party, or directing the votes of delegates at the national convention, must reasonably reflect the results of ~~[the]~~ any presidential preference primary election ~~[, if one has been]~~ held for the party.***

3. Until the end of the first ballot at the national convention of the party, a delegate or alternate to the national convention of the party is bound to vote at each stage of the presidential nomination process at the national convention in accordance with:

(a) The preference expressed by the members of the state party through any presidential preference process prescribed by NRS 293.130 to 293.160, inclusive, or any presidential preference primary election held for the party; and

(b) Any rules of the party adopted pursuant to subsection 4.

4. The state central committee of the party shall adopt rules of the party to govern whether the delegates or alternates to the national convention of the party are bound to vote:

(a) For the presidential candidate receiving the highest percentage of votes during the presidential candidate selection process; or

(b) In a proportional manner in relation to the presidential preferences expressed during the presidential candidate selection process.

5. If a delegate violates the provisions of subsection 3, the delegate and the state party:

(a) Shall each pay to the candidate for whom the vote of the delegate was bound, an amount equal to the fee paid by the candidate to file with the state party; or

(b) If the candidate did not pay a fee to file with the state party, shall each pay a civil penalty in an amount not to exceed $1,000 for each violation. This penalty must be recovered in a civil action brought in the name of the State of Nevada by the Attorney General in a court of competent jurisdiction. Any civil penalty collected pursuant to this section must be deposited by the Attorney General for credit to the State General Fund in the bank designated by the State Treasurer.

Sec. 7. ~~[NRS 293.175 is hereby amended to read as follows:~~

~~293.175 1. The primary election must be held on the [second Tuesday in June] *last Tuesday in February* of each even-numbered year.~~

~~2. [Candidates] *Except as otherwise provided in this subsection, candidates* for partisan office of a major political party and candidates for nonpartisan office must be nominated at the primary election. *The provisions of this subsection do not apply to candidates for nomination for President of the United States.*~~

~~3. Candidates for partisan office of a minor political party must be nominated in the manner prescribed pursuant to NRS 293.171 to 293.174, inclusive.~~

~~4. Independent candidates for partisan office must be nominated in the manner provided in NRS 293.200.~~

~~5. The provisions of NRS 293.175 to 293.203, inclusive:~~

~~(a) Apply to a special election to fill a vacancy, except to the extent that compliance with the provisions is not possible because of the time at which the vacancy occurred.~~

~~(b) Do not apply to the nomination of the officers of incorporated cities.~~

~~(c) Do not apply to the nomination of district officers whose nomination is otherwise provided for by statute.~~**] (Deleted by amendment.)**

Sec. 8. ~~[NRS 293.176 is hereby amended to read as follows:~~

~~293.176 1. Except as otherwise provided in subsection 2, no person may be a candidate of a major political party for partisan office in any election if the person has changed:~~

~~(a) The designation of his or her political party affiliation; or~~

~~(b) His or her designation of political party from nonpartisan to a designation of a political party affiliation,~~

~~➥ on an application to register to vote in the State of Nevada or in any other state during the time beginning on~~ **[**~~December~~**]** ***August*** ~~31 preceding the closing filing date for that election and ending on the date of that election whether or not the person's previous registration was still effective at the time of the change in party designation.~~

~~2. The provisions of subsection 1 do not apply to any person who is a candidate of a political party that is not organized pursuant to NRS 293.171 on the~~ **[**~~December~~**]** ***August*** ~~31 next preceding the closing filing date for the election.~~**] (Deleted by amendment.)**

Sec. 9. ~~[NRS 293.177 is hereby amended to read as follows:~~

~~293.177 1. Except as otherwise provided in NRS 293.165,~~ ~~*and section 34 of this act,*~~ ~~a name may not be printed on a ballot to be used at a primary election unless the person named has filed a declaration of candidacy or an acceptance of candidacy, and has paid the fee required by NRS 293.193 not earlier than:~~

~~(a) For a candidate for judicial office, the first Monday in~~ **[**~~January of the year in which the election is to be held~~**]** ***September*** ~~nor later than 5 p.m. on the second Friday after the first Monday in~~ **[**~~January;~~**]** ~~*September of the year preceding the primary election;*~~ ~~and~~

~~(b) For all other candidates, the first Monday in~~ **[**~~March of the year in which the election is to be held~~**]** ***November*** ~~nor later than 5 p.m. on the second Friday after the first Monday in~~ **[**~~March.~~**]** ~~*November of the year preceding the primary election.*~~

~~2. A declaration of candidacy or an acceptance of candidacy required to be filed by this section must be in substantially the following form:~~

~~(a) For partisan office:~~

~~DECLARATION OF CANDIDACY OF ..... FOR THE OFFICE OF .....~~

~~State of Nevada~~

~~County of –~~

~~For the purpose of having my name placed on the official ballot as a candidate for the ..... Party nomination for the office of ……, I, the undersigned ……., do swear or affirm under penalty of perjury that I actually, as opposed to constructively, reside at ……., in the City or Town of ……., County of ……., State of Nevada; that my actual, as opposed to constructive, residence in the State, district, county, township, city or other area prescribed by law to which the office pertains began on a date at least 30 days immediately preceding the date of the close of filing of declarations of candidacy for this office; that my telephone number is ....., and the address at which I receive mail, if different than my residence, is .....; that I am registered as a member of the ..... Party; that I am a qualified elector pursuant to Section 1 of Article 2 of the Constitution of the State of Nevada; that if I have ever been convicted of treason or a felony, my civil rights have been restored by a court of competent jurisdiction; that I have not, in violation of the provisions of NRS 293.176, changed the designation of my political party or political party affiliation on an official application to register to vote in any state since [December] *August* 31 before the closing filing date for this election; that I generally believe in and intend to support the concepts found in the principles and policies of that political party in the coming election; that if nominated as a candidate of the ..... Party at the ensuing election, I will accept that nomination and not withdraw; that I will not knowingly violate any election law or any law defining and prohibiting corrupt and fraudulent practices in campaigns and elections in this State; that I will qualify for the office if elected thereto, including, but not limited to, complying with any limitation prescribed by the Constitution and laws of this State concerning the number of years or terms for which a person may hold the office; and that I understand that my name will appear on all ballots as designated in this declaration.~~

~~.....~~
~~(Designation of name)~~

~~.....~~
~~(Signature of candidate for office)~~

~~Subscribed and sworn to before me~~
~~this ..... day of the month of ..... of the year .....~~

~~.....~~

~~Notary Public or other person~~
~~authorized to administer an oath~~

~~(b) For nonpartisan office:~~

~~DECLARATION OF CANDIDACY OF ..... FOR THE OFFICE OF .....~~

~~State of Nevada~~

~~County of .....~~

~~For the purpose of having my name placed on the official ballot as a candidate for the office of ....., I, the undersigned ....., do swear or affirm under penalty of perjury that I actually, as opposed to constructively, reside at ……, in the City or Town of ……., County of ……., State of Nevada; that my actual, as opposed to constructive, residence in the State, district, county, township, city or other area prescribed by law to which the office pertains began on a date at least 30 days immediately preceding the date of the close of filing of declarations of candidacy for this office; that my telephone number is ....., and the address at which I receive mail, if different than my residence, is .....; that I am a qualified elector pursuant to Section 1 of Article 2 of the Constitution of the State of Nevada; that if I have ever been convicted of treason or a felony, my civil rights have been restored by a court of competent jurisdiction; that if nominated as a nonpartisan candidate at the ensuing election, I will accept the nomination and not withdraw; that I will not knowingly violate any election law or any law defining and prohibiting corrupt and fraudulent practices in campaigns and elections in this State; that I will qualify for the office if elected thereto, including, but not limited to, complying with any limitation prescribed by the Constitution and laws of this State concerning the number of years or terms for which a person may hold the office; and my name will appear on all ballots as designated in this declaration.~~

~~.....~~
~~(Designation of name)~~

~~.....~~
~~(Signature of candidate for office)~~

~~Subscribed and sworn to before me~~
~~this ..... day of the month of ..... of the year .....~~

~~.....~~
~~Notary Public or an oath~~

~~3. The address of a candidate which must be included in the declaration of candidacy or acceptance of candidacy pursuant to subsection 2 must be the street address of the residence where the candidate actually, as opposed to~~

~~constructively, resides in accordance with NRS 281.050, if one has been assigned. The declaration or acceptance of candidacy must not be accepted for filing if:~~

~~(a) The candidate's address is listed as a post office box unless a street address has not been assigned to his or her residence; or~~

~~(b) The candidate does not present to the filing officer:~~

~~(1) A valid driver's license or identification card issued by a governmental agency that contains a photograph of the candidate and the candidate's residential address; or~~

~~(2) A current utility bill, bank statement, paycheck, or document issued by a governmental entity, including a check which indicates the candidate's name and residential address, but not including a voter registration card issued pursuant to NRS 293.517.~~

~~4. The filing officer shall retain a copy of the proof of identity and residency provided by the candidate pursuant to paragraph (b) of subsection 3. Such a copy:~~

~~(a) May not be withheld from the public; and~~

~~(b) Must not contain the social security number or driver's license or identification card number of the candidate.~~

~~5. By filing the declaration or acceptance of candidacy, the candidate shall be deemed to have appointed the filing officer for the office as his or her agent for service of process for the purposes of a proceeding pursuant to NRS 293.182. Service of such process must first be attempted at the appropriate address as specified by the candidate in the declaration or acceptance of candidacy. If the candidate cannot be served at that address, service must be made by personally delivering to and leaving with the filing officer duplicate copies of the process. The filing officer shall immediately send, by registered or certified mail, one of the copies to the candidate at the specified address, unless the candidate has designated in writing to the filing officer a different address for that purpose, in which case the filing officer shall mail the copy to the last address so designated.~~

~~6. If the filing officer receives credible evidence indicating that a candidate has been convicted of a felony and has not had his or her civil rights restored by a court of competent jurisdiction, the filing officer:~~

~~(a) May conduct an investigation to determine whether the candidate has been convicted of a felony and, if so, whether the candidate has had his or her civil rights restored by a court of competent jurisdiction; and~~

~~(b) Shall transmit the credible evidence and the findings from such investigation to the Attorney General, if the filing officer is the Secretary of State, or to the district attorney, if the filing officer is a person other than the Secretary of State.~~

~~7. The receipt of information by the Attorney General or district attorney pursuant to subsection 6 must be treated as a challenge of a candidate pursuant to subsections 4 and 5 of NRS 293.182. If the ballots are printed before a court of competent jurisdiction makes a determination that a candidate has been~~

~~convicted of a felony and has not had his or her civil rights restored by a court of competent jurisdiction, the filing officer must post a notice at each polling place where the candidate's name will appear on the ballot informing the voters that the candidate is disqualified from entering upon the duties of the office for which the candidate filed the declaration of candidacy or acceptance of candidacy.~~**]** **(Deleted by amendment.)**

Sec. 10. ~~**[**NRS 293.180 is hereby amended to read as follows:~~

~~"293.180 1. Ten or more registered voters may file a certificate of candidacy designating any registered voter as a candidate for:~~

~~(a) Their major political party's nomination for any partisan elective office~~ **~~[,]~~** ~~***other than President of the United States,*** or as a candidate for nomination for any nonpartisan office other than a judicial office, not earlier than the first Monday in~~ **~~[~~**~~February of the year in which the election is to be held~~**~~]~~** ~~***October*** nor later than 5 p.m. on the first Friday in~~ **~~[~~**~~March;~~**~~]~~** ~~***November of the year preceding the year in which the election is to be held;*** or~~

~~(b) Nomination for a judicial office, not earlier than the first Monday in~~ **~~[~~**~~December of the year immediately preceding the year in which the election is to be held~~**~~]~~** ~~***August*** nor later than 5 p.m. on the first Friday in~~ **~~[~~**~~January~~**~~]~~** ~~***September*** of the year ***preceding the year*** in which the election is to be held.~~

~~2. When the certificate has been filed, the officer in whose office it is filed shall notify the person named in the certificate. If the person named in the certificate files an acceptance of candidacy and pays the required fee, as provided by law, he or she is a candidate in the primary election in like manner as if he or she had filed a declaration of candidacy.~~

~~3. If a certificate of candidacy relates to a partisan office, all of the signers must be of the same major political party as the candidate designated.~~**]** **(Deleted by amendment.)**

Sec. 11. ~~**[**NRS 293.205 is hereby amended to read as follows:~~

~~"293.205 1. Except as otherwise provided in NRS 293.208, on or before the third Wednesday in~~ **~~[~~**~~March of every even-numbered~~**~~]~~** ~~***November of each odd-numbered*** year, the county clerk shall establish election precincts, define the boundaries thereof, abolish, alter, consolidate and designate precincts as public convenience, necessity and economy may require.~~

~~2. The boundaries of each election precinct must follow visible ground features or extensions of visible ground features, except where the boundary coincides with the official boundary of the State or a county or city.~~

~~3. Election precincts must be composed only of contiguous territory.~~

~~4. As used in this section, "visible ground feature" includes a street, road, highway, river, stream, shoreline, drainage ditch, railroad right-of-way or any other physical feature which is clearly visible from the ground.~~**]** **(Deleted by amendment.)**

Sec. 12. ~~**[**NRS 293.206 is hereby amended to read as follows:~~

~~"293.206 1. On or before the last day in~~ **~~[~~**~~March of every even-numbered~~**~~]~~** ~~***November of each odd-numbered*** year, the county clerk shall provide the Secretary of State and the Director of the Legislative Counsel Bureau with a~~

~~copy or electronic file of a map showing the boundaries of all election precincts in the county.~~

~~2. If the Secretary of State determines that the boundaries of an election precinct do not comply with the provisions of NRS 293.205, the Secretary of State must provide the county clerk with a written statement of noncompliance setting forth the reasons the precinct is not in compliance. Within 15 days after receiving the notice of noncompliance, the county clerk shall make any adjustments to the boundaries of the precinct which are required to bring the precinct into compliance with the provisions of NRS 293.205 and shall submit a corrected copy or electronic file of the precinct map to the Secretary of State and the Director of the Legislative Counsel Bureau.~~

~~3. If the initial or corrected election precinct map is not filed as required pursuant to this section or the county clerk fails to make the necessary changes to the boundaries of an election precinct pursuant to subsection 2, the Secretary of State may establish appropriate precinct boundaries in compliance with the provisions of NRS 293.205 to 293.213, inclusive. If the Secretary of State revises the map pursuant to this subsection, the Secretary of State shall submit a copy or electronic file of the revised map to the Director of the Legislative Counsel Bureau and the appropriate county clerk.~~

~~4. As used in this section, "electronic file" includes, without limitation, an electronic data file of a geographic information system.~~**] (Deleted by amendment.)**

Sec. 13. **[**~~NRS 293.208 is hereby amended to read as follows:~~

~~293.208 1. Except as otherwise provided in subsections 2, 3 and 5 and in NRS 293.206, no election precinct may be created, divided, abolished or consolidated, or the boundaries thereof changed, during the period between the third Wednesday in~~ **[**~~March~~**]** ***November*** ~~of any year whose last digit is~~ **[**~~6~~**]** ***5*** ~~and the time when the Legislature has been redistricted in a year whose last digit is 1, unless the creation, division, abolishment or consolidation of the precinct, or the change in boundaries thereof, is:~~

~~(a) Ordered by a court of competent jurisdiction;~~

~~(b) Required to meet objections to a precinct by the Attorney General of the United States pursuant to the Voting Rights Act of 1965, 42 U.S.C. §§ 1971 and 1973 et seq., and any amendments thereto;~~

~~(c) Required to comply with subsection 2 of NRS 293.205;~~

~~(d) Required by the incorporation of a new city; or~~

~~(e) Required by the creation of or change in the boundaries of a special district.~~

~~2. As used in this subsection, "special district" means any general improvement district or any other quasi-municipal corporation organized under the local improvement and service district laws of this State as enumerated in title 25 of NRS which is required by law to hold elections or any fire protection district which is required by law to hold elections.~~

~~2. If a city annexes an unincorporated area located in the same county as the city and adjacent to the corporate boundary, the annexed area may be included in an election precinct immediately adjacent to it.~~

~~3. A new election precinct may be established at any time if it lies entirely within the boundaries of any existing precinct.~~

~~4. If a change in the boundaries of an election precinct is made pursuant to this section during the time specified in subsection 1, the county clerk must:~~

~~(a) Within 15 days after the change to the boundary of a precinct is established by the county clerk or ordered by a court, send to the Director of the Legislative Counsel Bureau and the Secretary of State a copy or electronic file of a map showing the new boundaries of the precinct; and~~

~~(b) Maintain in his or her office an index providing the name of the precinct and describing all changes which were made, including any change in the name of the precinct and the name of any new precinct created within the boundaries of an existing precinct.~~

~~5. Cities of population categories two and three are exempt from the provisions of subsection 1.~~

~~6. As used in this section, "electronic file" includes, without limitation, an electronic data file of a geographic information system.~~**]** **(Deleted by amendment.)**

Sec. 14. ~~**[**NRS 293.209 is hereby amended to read as follows:~~

~~293.209 A political subdivision of this State shall not create, divide, change the boundaries of, abolish or consolidate an election district~~ **[**~~after~~**]** ~~***at any time during the period between*** the first day of filing by candidates **[**~~during any year in which a~~**]** ~~***and the date of the*** general election or city general election **[**~~is held~~**]** ~~for that election district. This section does not prohibit a political subdivision from annexing territory~~ **[**~~in a year in which a general election or city general election is held for that election district.~~**]** ~~***during that period.]***~~ **(Deleted by amendment.)**

Sec. 15. ~~**[**NRS 293.260 is hereby amended to read as follows:~~

~~293.260 1. ***Except as otherwise provided in subsection 2:***~~

~~***(a)*** Where there is no contest of election for nomination to a particular office, neither the title of the office nor the name of the candidate may appear on the ballot.~~

~~**[**2.**]** ***(b)*** If more than one major political party has candidates for a particular office, the persons who receive the highest number of votes at the primary elections must be declared the nominees of those parties for the office.~~

~~**[**3.**]** ***(c)*** If only one major political party has candidates for a particular office and a minor political party has nominated a candidate for the office or an independent candidate has filed for the office, the candidate who receives the highest number of votes in the primary election of the major political party must be declared the nominee of that party and his or her name must be placed on the general election ballot with the name of the nominee of the minor political party for the office and the name of the independent candidate who has filed for the office.~~

~~[4.] *(d)* If only one major political party has candidates for a particular office and no minor political party has nominated a candidate for the office and no independent candidate has filed for the office:~~

~~[(a)] *(1)* If there are more candidates than twice the number to be elected to the office, the names of the candidates must appear on the ballot for a primary election. Except as otherwise provided in this [paragraph,] *subparagraph,* the candidates of that party who receive the highest number of votes in the primary election, not to exceed twice the number to be elected to that office at the general election, must be declared the nominees for the office. If only one candidate is to be elected to the office and a candidate receives a majority of the votes in the primary election for that office, that candidate must be declared the nominee for that office and his or her name must be placed on the ballot for the general election.~~

~~[(b)] *(2)* If there are no more than twice the number of candidates to be elected to the office, the candidates must, without a primary election, be declared the nominees for the office.~~

~~[5.] *(e)* Where no more than the number of candidates to be elected have filed for nomination for:~~

~~[(a)] *(1)* Any partisan office, the office of judge of the Court of Appeals or the office of justice of the Supreme Court, the names of those candidates must be omitted from all ballots for a primary election and placed on all ballots for a general election;~~

~~[(b)] *(2)* Any nonpartisan office, other than the office of justice of the Supreme Court, office of judge of the Court of Appeals or the office of member of a town advisory board, the names of those candidates must appear on the ballot for a primary election unless the candidates were nominated pursuant to subsection 2 of NRS 293.165. If a candidate receives one or more votes at the primary election, the candidate must be declared elected to the office and his or her name must not be placed on the ballot for the general election. If a candidate does not receive one or more votes at the primary election, his or her name must be placed on the ballot for the general election; and~~

~~[(c)] *(3)* The office of member of a town advisory board, the candidate must be declared elected to the office and no election must be held for that office.~~

~~[6.] *(f)* If there are more candidates than twice the number to be elected to a nonpartisan office, the names of the candidates must appear on the ballot for a primary election. Those candidates who receive the highest number of votes at that election, not to exceed twice the number to be elected, must be declared nominees for the office.~~

~~*2. The provisions of subsection 1 do not apply to candidates for nomination for President of the United States.]~~ **(Deleted by amendment.)**

Sec. 16. ~~[~~NRS 293.3604 is hereby amended to read as follows:

~~293.3604 If ballots which are voted on a mechanical recording device which directly records the votes electronically are used during the period for~~

~~early voting by personal appearance in an election : [other than a presidential preference primary election:]~~

~~1. At the close of each voting day, the election board shall:~~

~~(a) Prepare and sign a statement for the polling place. The statement must include:~~

~~(1) The title of the election;~~

~~(2) The number of the precinct or voting district;~~

~~(3) The number which identifies the mechanical recording device and the storage device required pursuant to NRS 293B.084;~~

~~(4) The number of ballots voted on the mechanical recording device for that day; and~~

~~(5) The number of signatures in the roster for early voting for that day.~~

~~(b) Secure:~~

~~(1) The ballots pursuant to the plan for security required by NRS 293.3594; and~~

~~(2) Each mechanical voting device in the manner prescribed by the Secretary of State pursuant to NRS 293.3594.~~

~~2. At the close of the last voting day, the county clerk shall deliver to the ballot board for early voting:~~

~~(a) The statements for all polling places for early voting;~~

~~(b) The voting rosters used for early voting;~~

~~(c) The storage device required pursuant to NRS 293B.084 from each mechanical recording device used during the period for early voting; and~~

~~(d) Any other items as determined by the county clerk.~~

~~3. Upon receipt of the items set forth in subsection 2 at the close of the last voting day, the ballot board for early voting shall:~~

~~(a) Sort the items by precinct or voting district;~~

~~(b) Count the number of ballots voted by precinct or voting district;~~

~~(c) Account for all ballots on an official statement of ballots; and~~

~~(d) Place the items in the container provided to transport those items to the central counting place and seal the container with a numbered seal. The official statement of ballots must accompany the items to the central counting place.]~~

(Deleted by amendment.)

Sec. 17. ~~[NRS 293.368 is hereby amended to read as follows:~~

~~293.368 1. Except as otherwise provided in subsection 4 of NRS 293.165, if a candidate on the ballot at a primary election dies after 5 p.m. of the second Tuesday in~~ **[**~~April,~~**]** ***December of the year preceding the election,*** ~~the deceased candidate's name must remain on the ballot and the votes cast for the deceased candidate must be counted in determining the nomination for the office for which the decedent was a candidate.~~

~~2. If the deceased candidate on the ballot at the primary election receives the number of votes required to receive the nomination to the office for which he or she was a candidate, except as otherwise provided in subsection 2 of NRS 293.165, the deceased candidate shall be deemed nominated and the vacancy in the nomination must be filled as provided in NRS 293.165 or~~

~~293.166. If the deceased person was a candidate for a nonpartisan office, the nomination must be filled pursuant to subsection 2 of NRS 293.165.~~

~~3. Whenever a candidate whose name appears upon the ballot at a general election dies after 5 p.m. on the fourth Friday in June of the year in which the general election is held, the votes cast for the deceased candidate must be counted in determining the results of the election for the office for which the decedent was a candidate.~~

~~4. If the deceased candidate on the ballot at the general election receives the majority of the votes cast for the office, the deceased candidate shall be deemed elected and the office to which he or she was elected shall be deemed vacant at the beginning of the term for which he or she was elected. The vacancy thus created must be filled in the same manner as if the candidate had died after taking office for that term.~~**]** **(Deleted by amendment.)**

Sec. 18. ~~[NRS 293.387 is hereby amended to read as follows:~~

~~293.387 1. As soon as the returns from all the precincts and districts in any county have been received by the board of county commissioners, the board shall meet and canvass the returns. The canvass must be completed on or before the sixth working day following the election.~~

~~2. In making its canvass, the board shall:~~

~~(a) Note separately any clerical errors discovered; and~~

~~(b) Take account of the changes resulting from the discovery, so that the result declared represents the true vote cast.~~

~~3. The county clerk shall, as soon as the result is declared, enter upon the records of the board an abstract of the result, which must contain the number of votes cast for each candidate. The board, after making the abstract, shall cause the county clerk to certify the abstract and, by an order made and entered in the minutes of its proceedings, to make:~~

~~(a) A copy of the certified abstract; and~~

~~(b) A mechanized report of the abstract in compliance with regulations adopted by the Secretary of State,~~

~~→ and transmit them to the Secretary of State not more than 7 working days after the election.~~

~~4. The Secretary of State shall, immediately after any primary election, compile the returns for all candidates voted for in more than one county. The Secretary of State shall make out and file in his or her office an abstract thereof, and shall certify to the county clerk of each county the name of each person nominated, and the name of the office for which the person is nominated.~~

~~*5. The Secretary of State shall, immediately after any presidential preference primary election, compile the returns for all the candidates. The Secretary of State shall make out and file in his or her office an abstract thereof, and shall certify to the state central committee and, if necessary to comply with the rules and regulations of the party, to the national committee of each major political party for which a presidential preference primary election was held, the number of votes received by each candidate.]*~~ **(Deleted by amendment.)**

Sec. 19. ~~[NRS 293.400 is hereby amended to read as follows:~~

~~293.400 1. If, after the completion of the canvass of the returns of any election, two or more persons receive an equal number of votes, which is sufficient for the election of one or more but fewer than all of them to the office, the person or persons elected must be determined as follows:~~

~~(a) In a general election for a United States Senator, Representative in Congress, state officer who is elected statewide or by district, district judge, or district officer whose district includes area in more than one county, the Legislature shall, by joint vote of both houses, elect one of those persons to fill the office.~~

~~(b) In a primary election for a United States Senator, Representative in Congress, state officer who is elected statewide or by district, district judge, or district officer whose district includes area in more than one county, the Secretary of State shall summon the candidates~~ ***, or in the case of a presidential preference primary election, the candidates or their representatives,*** ~~who have received the tie votes to appear before the Secretary of State at a time and place designated by the Secretary of State and the Secretary of State shall determine the tie by lot. If the tie vote is for the office of Secretary of State, the Governor shall perform these duties.~~

~~(c) For any office of a county, township, incorporated city, city organized under a special charter where the charter is silent as to determination of a tie vote, or district which is wholly located within one county, the county clerk shall summon the candidates who have received the tie votes to appear before the county clerk at a time and place designated by the county clerk and determine the tie by lot. If the tie vote is for the office of county clerk, the board of county commissioners shall perform these duties.~~

~~2. The summons mentioned in this section must be mailed to the address of the candidate as it appears upon the candidate's declaration of candidacy at least 5 days before the day fixed for the determination of the tie vote and must contain the time and place where the determination will take place.~~

~~3. The right to a recount extends to all candidates in case of a tie.]~~ **(Deleted by amendment.)**

Sec. 20. ~~[NRS 293.407 is hereby amended to read as follows:~~

~~293.407 1. A candidate at any election, or any registered voter of the appropriate political subdivision, may contest the election of any candidate, except for the office of United States Senator or Representative in Congress.~~

~~2. Except where the contest involves the general election for the office of Governor, Lieutenant Governor, Assemblyman, Assemblywoman, State Senator, justice of the Supreme Court or judge of the Court of Appeals, a candidate or voter who wishes to contest an election, including~~ ***a presidential preference primary election or an*** ~~election to the office of presidential elector, must, within the time prescribed in NRS 293.413, file with the clerk of the district court a written statement of contest, setting forth:~~

~~(a) The name of the contestant and~~ ***, unless the contestant is a candidate in a presidential preference primary election,*** ~~that the contestant is a registered~~

~~voter of the political subdivision in which the election to be contested or part of it was held;~~

~~(b) The name of the defendant;~~

~~(c) The office to which the defendant was declared elected;~~

~~(d) The particular grounds of contest and the section of Nevada Revised Statutes pursuant to which the statement is filed; and~~

~~(e) The date of the declaration of the result of the election and the body or board which canvassed the returns thereof.~~

~~3. The contestant shall verify the statement of contest in the manner provided for the verification of pleadings in civil actions.~~

~~4. All material regarding a contest filed by a contestant with the clerk of the district court must be filed in triplicate.~~**]** **(Deleted by amendment.)**

Sec. 21. **[**~~NRS 293.417 is hereby amended to read as follows:~~

~~293.417 1. If, in any contest, the court finds from the evidence that a person other than the defendant received the greatest number of legal votes, the court, as a part of the judgment, shall declare that person elected or nominated.~~

~~2. The person declared nominated or elected by the court is entitled to a certificate of nomination or election. If a certificate has not been issued to that person, the county clerk, city clerk or Secretary of State shall execute and deliver to the person a certificate of election or a certificate of nomination.~~

~~3. If a certificate of election or nomination to the same office has been issued to any person other than the one declared elected by the court, that certificate must be annulled by the judgment of the court.~~

~~4. Whenever an election is annulled or set aside by the court, and the court does not declare some candidate elected, the certificate of election or the commission, if any has been issued, is void and the office is vacant.~~

~~*5. In a contest over a presidential preference primary election, the Secretary of State shall correct, in accordance with the judgment of the court, any certification previously issued pursuant to subsection 5 of NRS 293.387. If such a certification has not been issued, the Secretary of State shall issue the certification in accordance with the judgment.*~~**]** **(Deleted by amendment.)**

Sec. 22. **[**~~NRS 293.481 is hereby amended to read as follows:~~

~~293.481 1. Except as otherwise provided in subsection 3, every governing body of a political subdivision, public or quasi-public corporation, or other local agency authorized by law to submit questions to the qualified electors or registered voters of a designated territory, when the governing body decides to submit a question:~~

~~(a) At a general election, shall provide to each county clerk within the designated territory on or before the third Monday in July preceding the election:~~

~~(1) A copy of the question, including an explanation of the question; and~~

~~(2) A description of the anticipated financial effect on the local government which, if the question is an advisory question that proposes a~~

~~bond, tax, fee or expense, must be prepared in accordance with subsection 4 of NRS 295.230.~~

~~(b) At a primary election, shall provide to each county clerk within the designated territory on or before the second Friday after the first Monday in [March] *November of the year* preceding the election:~~

~~(1) A copy of the question, including an explanation of the question; and~~

~~(2) A description of the anticipated financial effect on the local government which, if the question is an advisory question that proposes a bond, tax, fee or expense, must be prepared in accordance with subsection 4 of NRS 295.230.~~

~~(c) At any election other than a primary or general election at which the county clerk gives notice of the election or otherwise performs duties in connection therewith other than the registration of electors and the making of records of registered voters available for the election, shall provide to each county clerk at least 60 days before the election:~~

~~(1) A copy of the question, including an explanation of the question; and~~

~~(2) A description of the anticipated financial effect on the local government which, if the question is an advisory question that proposes a bond, tax, fee or expense, must be prepared in accordance with subsection 4 of NRS 295.230.~~

~~(d) At any city election at which the city clerk gives notice of the election or otherwise performs duties in connection therewith, shall provide to the city clerk at least 60 days before the election:~~

~~(1) A copy of the question, including an explanation of the question; and~~

~~(2) A description of the anticipated financial effect on the local government which, if the question is an advisory question that proposes a bond, tax, fee or expense, must be prepared in accordance with subsection 4 of NRS 295.230.~~

~~2. An explanation of a question required to be provided to a county clerk pursuant to subsection 1 must be written in easily understood language and include a digest. The digest must include a concise and clear summary of any existing laws directly related to the measure proposed by the question and a summary of how the measure proposed by the question adds to, changes or repeals such existing laws. For a measure that creates, generates, increases or decreases any public revenue in any form, the first paragraph of the digest must include a statement that the measure creates, generates, increases or decreases, as applicable, public revenue.~~

~~3. A question may be submitted after the dates specified in subsection 1 if the question is expressly privileged or required to be submitted pursuant to the provisions of Article 19 of the Constitution of the State of Nevada, or pursuant to the provisions of chapter 295 of NRS or any other statute except NRS 295.230, 354.59817, 354.5982, 387.3285 or 387.3287 or any statute that authorizes the governing body to issue bonds upon the approval of the voters.~~

~~4. A question that is submitted pursuant to subsection 1 may be withdrawn if the governing body provides notification to each of the county or city clerks~~

~~within the designated territory of its decision to withdraw the particular question on or before the same dates specified for submission pursuant to paragraph (a), (b), (c) or (d) of subsection 1, as appropriate.~~

~~5. A county or city clerk:~~

~~(a) Shall assign a unique identification number to a question submitted pursuant to this section; and~~

~~(b) May charge any political subdivision, public or quasi public corporation, or other local agency which submits a question a reasonable fee sufficient to pay for the increased costs incurred in including the question, explanation, arguments and description of the anticipated financial effect on the ballot.~~**] (Deleted by amendment.)**

Sec. 23. **[**~~NRS 293B.354 is hereby amended to read as follows:~~

~~293B.354 1. The county clerk shall, not later than~~ **[**~~April~~**]** ***December*** ~~15 of~~ **[**~~each~~**]** ***the*** ~~year~~ ***preceding the year*** ~~in which a general election is held, submit to the Secretary of State for approval a written plan for the accommodation of members of the general public who observe the delivery, counting, handling and processing of ballots at a polling place, receiving center or central counting place.~~

~~2. The city clerk shall, not later than January 1 of each year in which a general city election is held, submit to the Secretary of State for approval a written plan for the accommodation of members of the general public who observe the delivery, counting, handling and processing of the ballots at a polling place, receiving center or central counting place.~~

~~3. Each plan must include:~~

~~(a) The location of the central counting place and of each polling place and receiving center;~~

~~(b) A procedure for the establishment of areas within each polling place and receiving center and the central counting place from which members of the general public may observe the activities set forth in subsections 1 and 2;~~

~~(c) The requirements concerning the conduct of the members of the general public who observe the activities set forth in subsections 1 and 2; and~~

~~(d) Any other provisions relating to the accommodation of members of the general public who observe the activities set forth in subsections 1 and 2 which the county or city clerk considers appropriate.~~**] (Deleted by amendment.)**

Sec. 24. **[**~~NRS 293C.3604 is hereby amended to read as follows:~~

~~293C.3604 If ballots which are voted on a mechanical recording device which directly records the votes electronically are used during the period for early voting by personal appearance in an election :~~ **[**~~other than a presidential preference primary election:~~**]**

~~1. At the close of each voting day, the election board shall:~~

~~(a) Prepare and sign a statement for the polling place. The statement must include:~~

~~(1) The title of the election;~~

~~(2) The number of the precinct or voting district;~~

~~(3) The number which identifies the mechanical recording device and the storage device required pursuant to NRS 293B.084;~~

~~(4) The number of ballots voted on the mechanical recording device for that day; and~~

~~(5) The number of signatures in the roster for early voting for that day.~~

~~(b) Secure:~~

~~(1) The ballots pursuant to the plan for security required by NRS 293C.3594; and~~

~~(2) Each mechanical voting device in the manner prescribed by the Secretary of State pursuant to NRS 293C.3594.~~

~~2. At the close of the last voting day, the city clerk shall deliver to the ballot board for early voting:~~

~~(a) The statements for all polling places for early voting;~~

~~(b) The voting rosters used for early voting;~~

~~(c) The storage device required pursuant to NRS 293B.084 from each mechanical recording device used during the period for early voting; and~~

~~(d) Any other items as determined by the city clerk.~~

~~3. Upon receipt of the items set forth in subsection 2 at the close of the last voting day, the ballot board for early voting shall:~~

~~(a) Sort the items by precinct or voting district;~~

~~(b) Count the number of ballots voted by precinct or voting district;~~

~~(c) Account for all ballots on an official statement of ballots; and~~

~~(d) Place the items in the container provided to transport those items to the central counting place and seal the container with a number seal. The official statement of ballots must accompany the items to the central counting place.~~**]**

(Deleted by amendment.)

Sec. 25. (Deleted by amendment.)

Sec. 26. (Deleted by amendment.)

Sec. 27. (Deleted by amendment.)

Sec. 28. (Deleted by amendment.)

Sec. 29. (Deleted by amendment.)

Sec. 30. (Deleted by amendment.)

Sec. 31. Chapter 298 of NRS is hereby amended by adding thereto the provisions set forth as sections **[**~~32~~**]** **31.1** to 38, inclusive, of this act.

Sec. 31.1. ***As used in sections 31.1 to 38, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 31.2 to 31.6, inclusive, of this act have the meanings ascribed to them in those sections.***

Sec. 31.2. ***"Military-overseas ballot" has the meaning ascribed to it in NRS 293D.050.***

Sec. 31.3. ***"National committee" means the national committee of a party.***

Sec. 31.4. ***"Party" means a major political party.***

Sec. 31.5. ***"Qualified candidate" means a person who is qualified to be a party's nominee for President of the United States pursuant to the Constitution and laws of the United States and the rules of the party.***

Sec. 31.6. ***"State central committee" means the state central committee of a party.***

Sec. 32. ***[Except as otherwise provided in]***

1. The Secretary of State may adopt regulations to carry out the provisions of sections [32] 31.1 to 38, inclusive, of this act . [or other specific statute,]

2. To the extent possible, the provisions of chapters 293 , [and] 293B and 293D of NRS [relating to] governing the conduct of a primary election also govern the conduct of a presidential preference primary election [.] and must be given effect to the extent that the provisions of chapters 293, 293B and 293D of NRS do not conflict with the provisions of sections 31.1 to 38, inclusive, of this act and the regulations adopted by the Secretary of State to carry out those provisions.

3. If there is a conflict between the provisions of chapters 293, 293B and 293D of NRS and the provisions of 31.1 to 38, inclusive, of this act and the regulations adopted by the Secretary of State to carry out those provisions, the provisions of sections 31.1 to 38, inclusive, of this act and the regulations adopted by the Secretary of State to carry out those provisions control.

Sec. 33. ***1. Except as otherwise provided in this section, a presidential preference primary election for each party must be held on the last Tuesday in February of a presidential election year to determine the preferences of the registered voters of the party regarding the party's nominee for President of the United States.***

2. If a [major political] party [does not desire] wants to [participate in] opt out of a presidential preference primary election, the chair of the national committee of the party must so notify the Secretary of State in writing. Except as otherwise provided in this subsection, the notice must be given by certified mail and must be received by the Secretary of State not later than 5 p.m. on October 25 of the year immediately preceding [a] the presidential election year. If October 25 is not a business day, the notice must be received by the Secretary of State not later than 5 p.m. of the last business day immediately preceding October 25. Any such notice may be rescinded by a contrary notice given in the manner required by this subsection and more than one notice may be given, but the notice last received by the Secretary of State before the deadline established by this subsection shall be deemed to be the operative notice for the purposes of this section.

[2.] 3. If [the Secretary of State] a party does not [receive a timely notice pursuant to] opt out of a presidential preference primary election in the manner required by subsection [1 that a major political party does not desire to participate in a presidential preference primary election] 2 and:

(a) More than one qualified candidate of [that] the party files a declaration of candidacy pursuant to section 34 of this act, a presidential

preference primary election for ~~[that]~~ the party must be held ~~[in conjunction with the primary election held]~~ pursuant to ~~[NRS 293.175.]~~ the provisions of sections 31.1 to 38, inclusive, of this act.

(b) Only one qualified candidate or no qualified candidate of ~~[that]~~ the party files a declaration of candidacy pursuant to section 34 of this act, a presidential preference primary election for ~~[that]~~ the party must not be held . ~~[and that candidate must be certified by]~~ If only one qualified candidate of the party files a declaration of candidacy, the Secretary of State ~~[in the manner provided in subsection 5 of NRS 293.387.]~~ shall certify the name of the qualified candidate to:

(1) The state central committee; and

(2) The national committee if necessary to comply with the rules of the party.

Sec. 34. *1. ~~[A]~~ If a person who ~~[wishes to be]~~ is a qualified candidate ~~[for nomination]~~ to be a party's nominee for President of the United States ~~[for a major political party]~~ wants to appear on the ballot for a presidential preference primary election that is held for the party, the person must, not earlier than November 1 and not later than 5 p.m. on November 15 of the year immediately preceding ~~[a]~~ the presidential election year, file with the Secretary of State a declaration of candidacy in the form prescribed by the Secretary of State.*

2. A person who files a declaration of candidacy pursuant to this section is not required to file a declaration of candidacy or an acceptance of candidacy pursuant to NRS 293.177.

Sec. 35. ~~*[The]*~~

1. If a presidential preference primary election is held for a party, the Secretary of State shall ~~[include in the certified list forwarded]~~ forward to each county clerk ~~[pursuant to NRS 293.187]~~ the name and mailing address of each ~~[person]~~ qualified candidate of the party whose name must appear on the ~~[primary]~~ ballot for the presidential preference primary election ~~[.]~~ for the party pursuant to sections 33 and 34 of this act.

2. A registered voter may cast a ballot at a presidential preference primary election for a party only if the registered voter designated on his or her application to register to vote an affiliation with the party. Such a registered voter may vote for only one qualified candidate on the ballot for the party as the voter's preference to be the nominee for President of the United States for the party.

3. If a person who is not such a registered voter wants to become a registered voter who may cast a ballot at a presidential preference primary election for a party, the person must register to vote and designate on his or her application to register to vote an affiliation with the party in the manner and within the time required by chapters 293 and 293D of NRS for a primary election.

Sec. 36. *1. ~~[The names of the candidates for nomination for President of the United States for each major political party for which a presidential~~*

~~*preference primary election is held must be printed on the primary ballot for the election.*~~

~~*2. Each voter registered with a party for which]*~~ *In conducting a presidential preference primary election that is held ~~[may vote for one person to be the nominee for President of the United States]~~ for ~~[that]~~ a party ~~[.]~~ , the county clerk:*

(a) Shall not distribute sample ballots for the presidential preference primary election.

(b) Shall not establish any polling places for early voting by personal appearance for the presidential preference primary election, and no registered voter of the party may request to vote early for the presidential preference primary election.

(c) Shall permit voting by registered voters of the party by absent ballot and military-overseas ballot for the presidential preference primary election in the manner and within the time required by chapters 293 and 293D of NRS for voting by absent ballot and military-overseas ballot for a primary election.

(d) Shall establish polling places for voting by registered voters of the party on the day of the presidential preference primary election. The polling places must open at 7 a.m. and close at 7 p.m. on the day of the presidential preference primary election.

2. A registered voter of the party who is a registered voter in the county and who is entitled to cast a ballot at the presidential preference primary election for the party may do so at any polling place in the county on the day of the presidential preference primary election.

Sec. 37. *If a presidential preference primary election is held ~~[pursuant to sections 32 to 38, inclusive, of this act,]~~ for one or more parties, the cost of the presidential preference primary election is a charge against the State and must be paid from the Reserve for Statutory Contingency Account upon recommendation by the Secretary of State and approval by the State Board of Examiners.*

Sec. 38. ~~*[The]*~~

1. Immediately after a presidential preference primary election is held for a party, the Secretary of State ~~[may adopt regulations to carry out the provisions of sections 32 to 38, inclusive, of this act.]~~ shall compile the returns for each qualified candidate of the party whose name appeared on the ballot for the party.

2. The Secretary of State shall make out and file in his or her office an abstract of the returns and shall certify the number of votes received by each qualified candidate of the party to:

(a) The state central committee; and

(b) The national committee if necessary to comply with the rules of the party.

Sec. 39. ~~[NRS 218A.635 is hereby amended to read as follows:~~

~~218A.635 1. Except as otherwise provided in subsections 2 and 4, for each day or portion of a day during which a Legislator attends a presession orientation conference, a training session conducted pursuant to NRS 218A.285 or a conference, meeting, seminar or other gathering at which the Legislator officially represents the State of Nevada or its Legislature, the Legislator is entitled to receive:~~

~~(a) The compensation provided for a majority of the Legislators during the first 60 days of the preceding regular session;~~

~~(b) The per diem allowance provided for state officers and employees generally; and~~

~~(c) The travel expenses provided pursuant to NRS 218A.655.~~

~~2. A nonreturning Legislator must not be paid the compensation or per diem allowance and travel expenses provided in subsection 1 for attendance at a conference, meeting, seminar or other gathering unless:~~

~~(a) It is conducted by a statutory committee or a legislative committee and the Legislator is a member of that committee; or~~

~~(b) The Majority Leader of the Senate or Speaker of the Assembly designates the Legislator to attend because of the Legislator's knowledge or expertise.~~

~~3. For the purposes of this section, "nonreturning Legislator" means a Legislator who~~ **:** **[**~~, in the year that the Legislator's term of office expires:~~**]**

~~(a)~~ ***In the year preceding the year in which his or her term expires:***

~~***(1)*** Has not filed a declaration or an acceptance of candidacy within the time allowed for filing for election as a member of the Senate or the Assembly;~~ ***or***

~~***(2) Has withdrawn as a candidate for the Senate or the Assembly; or***~~

~~(b)~~ **[**~~Has~~**]** ***In the year in which his or her term expires, has*** ~~failed to win nomination as a candidate for the Senate or the Assembly at the primary election.~~ **[**~~; or~~

~~(c) Has withdrawn as a candidate for the Senate or the Assembly.~~**]**

~~4. This section does not apply:~~

~~(a) During a regular or special session; or~~

~~(b) To any Legislator who is otherwise entitled to receive a salary and the per diem allowance and travel expenses.~~**]** **(Deleted by amendment.)**

Sec. 40. **[**~~NRS 218D.150 is hereby amended to read as follows:~~

~~218D.150 1. Except as otherwise provided in this section, each:~~

~~(a) Incumbent member of the Assembly may request the drafting of:~~

~~(1) Not more than 4 legislative measures submitted to the Legislative Counsel on or before August 1 preceding a regular session;~~

~~(2) Not more than 5 legislative measures submitted to the Legislative Counsel after August 1 but on or before December 10 preceding a regular session; and~~

~~(3) Not more than 1 legislative measure submitted to the Legislative Counsel after a regular session has convened but on or before the eighth day of the regular session at 5 p.m.~~

~~(b) Incumbent member of the Senate may request the drafting of:~~

~~(1) Not more than 8 legislative measures submitted to the Legislative Counsel on or before August 1 preceding a regular session;~~

~~(2) Not more than 10 legislative measures submitted to the Legislative Counsel after August 1 but on or before December 10 preceding a regular session; and~~

~~(3) Not more than 2 legislative measures submitted to the Legislative Counsel after a regular session has convened but on or before the eighth day of the regular session at 5 p.m.~~

~~(c) Newly elected member of the Assembly may request the drafting of:~~

~~(1) Not more than 5 legislative measures submitted to the Legislative Counsel on or before December 10 preceding a regular session; and~~

~~(2) Not more than 1 legislative measure submitted to the Legislative Counsel after a regular session has convened but on or before the eighth day of the regular session at 5 p.m.~~

~~(d) Newly elected member of the Senate may request the drafting of:~~

~~(1) Not more than 10 legislative measures submitted to the Legislative Counsel on or before December 10 preceding a regular session; and~~

~~(2) Not more than 2 legislative measures submitted to the Legislative Counsel after a regular session has convened but on or before the eighth day of the regular session at 5 p.m.~~

~~2. A Legislator may not request the drafting of a legislative measure pursuant to subsection 1 on or after the date on which the Legislator becomes a nonreturning Legislator. For the purposes of this subsection, "nonreturning Legislator" means a Legislator who~~ **:** **[**~~, in the year that the Legislator's term of office expires:~~**]**

~~(a)~~ ***In the year preceding the year in which his or her term expires:***

~~***(1)*** Has not filed a declaration or an acceptance of candidacy within the time allowed for filing for election as a member of the Senate or the Assembly;~~ ***or***

~~***(2) Has withdrawn as a candidate for the Senate or the Assembly; or***~~

~~(b)~~ **[**~~Has~~**]** ***In the year in which his or her term expires, has*** ~~failed to win nomination as a candidate for the Senate or the Assembly at the primary election~~ **.** **[**~~; or~~

~~(c) Has withdrawn as a candidate for the Senate or the Assembly.~~**]**

~~3. A Legislator may not request the drafting of a legislative measure pursuant to paragraph (a) or (b) of subsection 1 on or after the date on which the Legislator files a declaration or an acceptance of candidacy for election to the House in which he or she is not currently a member. If the Legislator is elected to the other House, any request that he or she submitted pursuant to paragraph (a) or (b) of subsection 1 before filing his or her declaration or acceptance of candidacy for election counts against the applicable limitation set forth in paragraph (c) or (d) of subsection 1 for the House in which the Legislator is a newly elected member.~~

~~4. If a request made pursuant to subsection 1 is submitted:~~

~~(a) On or before August 1 preceding a regular session, sufficient detail to allow complete drafting of the legislative measure must be submitted on or before November 1 preceding the regular session.~~

~~(b) After August 1 but on or before December 10 preceding a regular session, sufficient detail to allow complete drafting of the legislative measure must be submitted on or before January 1 preceding the regular session.~~

~~(c) After a regular session has convened but on or before the 8th day of the regular session at 5 p.m., sufficient detail to allow complete drafting of the legislative measure must be submitted on or before the 15th day of the regular session.~~

~~5. In addition to the number of requests authorized pursuant to subsection 1:~~

~~(a) The chair of each standing committee of the immediately preceding regular session, or a person designated in the place of the chair by the Speaker of the Assembly or the Majority Leader of the Senate, may request before the date of the general election preceding a regular session the drafting of not more than 1 legislative measure for introduction by the committee in a subject within the jurisdiction of the committee for every 18 legislative measures that were referred to the respective standing committee during the immediately preceding regular session.~~

~~(b) A person designated after the general election as a chair of a standing committee for the next regular session, or a person designated in the place of a chair by the person designated as the Speaker of the Assembly or the Majority Leader of the Senate for the next regular session, may request on or before December 10 preceding that regular session the drafting of the remaining number of the legislative measures allowed for the respective standing committee that were not requested by the previous chair or designee.~~

~~6. If a request made pursuant to subsection 5 is submitted:~~

~~(a) Before the date of the general election preceding a regular session, sufficient detail to allow complete drafting of the legislative measure must be submitted on or before December 10 preceding the regular session.~~

~~(b) After the date of the general election but on or before December 10 preceding a regular session, sufficient detail to allow complete drafting of the legislative measure must be submitted on or before January 1 preceding the regular session.~~

~~7. Each request made pursuant to this section must be on a form prescribed by the Legislative Counsel.~~**]** **(Deleted by amendment.)**

Sec. 41. **[**~~NRS 281.561 is hereby amended to read as follows:~~

~~281.561 1. Except as otherwise provided in subsections 2 and 3 and NRS 281.572, each candidate for public office who will be entitled to receive annual compensation of $6,000 or more for serving in the office that the candidate is seeking, each candidate for the office of Legislator and, except as otherwise provided in subsection 3, each public officer who was elected to the office for which the public officer is serving shall file electronically with the Secretary of State a statement of financial disclosure, as follows:~~

(a) **[**A**]** ***Except as otherwise provided in paragraph (b), a*** candidate for nomination, election or reelection to public office shall file a statement of financial disclosure no later than the 10th day after the last day to qualify as a candidate for the office. The statement must disclose the required information for the full calendar year immediately preceding the date of filing and for the period between January 1 of the year in which the election for the office will be held and the last day to qualify as a candidate for the office. The filing of a statement of financial disclosure for a portion of a calendar year pursuant to this paragraph does not relieve the candidate of the requirement of filing a statement of financial disclosure for the full calendar year pursuant to paragraph **[**(b)**]** ***(c)*** in the immediately succeeding year, if the candidate is elected to the office.

(b) ***If the last day to qualify as a candidate for nomination, election or reelection to public office is established by NRS 293.177 for a candidate, the candidate shall file a statement of financial disclosure on or after January 1 and on or before January 15 of the year in which the election for the office will be held. The statement must disclose the required information for the full calendar year immediately preceding the date of filing.***

(c) Each public officer shall file a statement of financial disclosure on or before January 15 of:

(1) Each year of the term, including the year in which the public officer leaves office; and

(2) The year immediately following the year in which the public officer leaves office, unless the public officer leaves office before January 15 in the prior year.

➥ The statement must disclose the required information for the full calendar year immediately preceding the date of filing.

2. Except as otherwise provided in this subsection, if a candidate for public office is serving in a public office for which the candidate is required to file a statement pursuant to paragraph **[**(b)**]** ***(c)*** of subsection 1 or subsection 1 of NRS 281.559, the candidate need not file the statement required by subsection 1 for the full calendar year for which the candidate previously filed a statement. The provisions of this subsection do not relieve the candidate of the requirement pursuant to paragraph (a) of subsection 1 to file a statement of financial disclosure for the period between January 1 of the year in which the election for the office will be held and the last day to qualify as a candidate for the office.

3. A person elected pursuant to NRS 548.285 to the office of supervisor of a conservation district is not required to file a statement of financial disclosure relative to that office pursuant to subsection 1.

4. A candidate for judicial office or a judicial officer shall file a statement of financial disclosure pursuant to the requirements **[**of Canon 4I**]** of the Nevada Code of Judicial Conduct. Such a statement of financial disclosure must include, without limitation, all information required to be included in a statement of financial disclosure pursuant to NRS 281.571.

~~5. A statement of financial disclosure shall be deemed to be filed on the date that it was received by the Secretary of State.~~

~~6. Except as otherwise provided in NRS 281.572, the Secretary of State shall provide access through a secure website to the statement of financial disclosure to each person who is required to file the statement with the Secretary of State pursuant to this section.~~

~~7. The Secretary of State may adopt regulations necessary to carry out the provisions of this section.~~] **(Deleted by amendment.)**

Sec. 42. NRS 353.264 is hereby amended to read as follows:

353.264 1. The Reserve for Statutory Contingency Account is hereby created in the State General Fund.

2. The State Board of Examiners shall administer the Reserve for Statutory Contingency Account. The money in the Account must be expended only for:

(a) The payment of claims which are obligations of the State pursuant to NRS 41.03435, 41.0347, 62I.025, 176.485, 179.310, 212.040, 212.050, 212.070, 281.174, 282.290, 282.315, 288.203, 293.253, 293.405, 353.120, 353.262, 412.154 and 475.235 ~~[,]~~ ***and section 37 of this act;***

(b) The payment of claims which are obligations of the State pursuant to:

(1) Chapter 472 of NRS arising from operations of the Division of Forestry of the State Department of Conservation and Natural Resources directly involving the protection of life and property; and

(2) NRS 7.155, 34.750, 176A.640, 179.225 and 213.153,

➥ except that claims may be approved for the respective purposes listed in this paragraph only when the money otherwise appropriated for those purposes has been exhausted;

(c) The payment of claims which are obligations of the State pursuant to NRS 41.0349 and 41.037, but only to the extent that the money in the Fund for Insurance Premiums is insufficient to pay the claims; and

(d) The payment of claims which are obligations of the State pursuant to NRS 535.030 arising from remedial actions taken by the State Engineer when the condition of a dam becomes dangerous to the safety of life or property.

3. The State Board of Examiners may authorize its Clerk or a person designated by the Clerk, under such circumstances as it deems appropriate, to approve, on behalf of the Board, the payment of claims from the Reserve for Statutory Contingency Account. For the purpose of exercising any authority granted to the Clerk of the State Board of Examiners or to the person designated by the Clerk pursuant to this subsection, any statutory reference to the State Board of Examiners relating to such a claim shall be deemed to refer to the Clerk of the Board or the person designated by the Clerk.

Sec. 43. ~~[Section 1.060 of the Charter of Carson City, being chapter 213, Statutes of Nevada 1969, as last amended by chapter 313, Statutes of Nevada 1983, at page 756, is hereby amended to read as follows:~~

~~Sec. 1.060 Wards: Creation; boundaries.~~

~~1. Carson City must be divided into four wards, which must be as nearly equal in population as can be conveniently provided, and the territory comprising each ward must be contiguous.~~

~~2. The boundaries of wards must be established and realigned, if necessary, by ordinance, passed by a vote of at least three-fifths of the Board of Supervisors.~~

~~3. The Board shall realign any such boundaries on or before [January 1] *October 31 of the year* preceding the next general election at which Supervisors are to be elected, if reliable evidence indicates that the population in any ward exceeds the population in any other ward by more than 5 percent. In any case, the Board shall reconsider the boundaries of the wards upon the receipt of the necessary information from the preceding national decennial census conducted by the Bureau of the Census of the United States Department of Commerce.]~~ **(Deleted by amendment.)**

Sec. 44. The Secretary of State shall adopt such regulations and prescribe such forms as are required by or necessary to carry out the provisions of ~~[:~~

~~1. Paragraph (b) of subsection 1 of NRS 293.180, as amended by section 10 of this act, so that the regulations and forms are effective and available for distribution and use on or before August 1, 2015.~~

~~2. NRS 293.177, as amended by section 9 of this act, so that the regulations and forms are effective and available for distribution and use on or before September 1, 2015.~~

~~3. Paragraph (a) of subsection 1 of NRS 293.180, as amended by section 10 of this act, so that the regulations and forms are effective and available for distribution and use on or before October 1, 2015.~~

~~4. Sections 1 to 8, inclusive, 11 to 30, inclusive, and 41 of this act so that the regulations and forms are effective and available for distribution and use on or before November 1, 2015.~~

~~5. Sections 32]~~ **sections 31.1** to 38, inclusive, of this act so that the regulations and forms are effective and available for distribution and use ~~[on or before July 1, 2017.]~~ **as soon as practicable before the next presidential election year.**

Sec. 45. This act becomes effective ~~[:~~

~~1. Upon passage and approval for the purpose of adopting regulations and prescribing forms; and~~

~~2. On]~~ **on** July 1, 2015 **.** ~~[, for all other purposes.]~~

Assemblyman Stewart moved the adoption of the amendment.

Remarks by Assemblyman Stewart.

ASSEMBLYMAN STEWART:

The amendment does several things. It has procedures for a presidential preference primary election in February of a presidential election year. The chair of the national committee must notify the Secretary of State if a major party does not wish to participate in a primary election. The cost of the presidential preference primary is a charge to the state. County clerks shall not provide sample ballots or early voting sites. County clerks shall establish voting centers and shall

provide absent ballots and military-overseas ballots. The Secretary of State shall compile the returns and notify the state central committee and the national committee, pursuant to its rules. Revisions are made to county conventions and precinct meetings. Delegates to national conventions are bound to vote in accordance with the preference results until the end of the first ballot. Finally, and most important to me, provisions moving the statewide primary election from June to February are deleted from the bill.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

GENERAL FILE AND THIRD READING

Senate Bill No. 128.

Bill read third time.

Remarks by Assemblyman Gardner.

ASSEMBLYMAN GARDNER:

Senate Bill 128 increases from 6 to 9 the number of credit hours in which a Millennium scholar must enroll if attending a community college. The bill also increases from 12 to 15 the number of semester credit hours that may be funded on behalf of a Millennium scholar enrolled in a community college.

Roll call on Senate Bill No. 128:

YEAS—41.

NAYS—None.

EXCUSED—Dooling.

Senate Bill No. 128 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 432.

Bill read third time.

Remarks by Assemblymen Diaz and Jones.

ASSEMBLYWOMAN DIAZ:

Senate Bill 432 provides for the distribution of funding for the 2015-2017 Biennium from the Account for Programs for Innovation and the Prevention of Remediation to public schools annually designated as Victory schools because they have a high percentage of students living in poverty and they are underperforming academically.

Designated schools are required to conduct a needs assessment and submit a comprehensive plan or letter of intent and comprehensive plan for approval by the Department of Education. A school district board of trustees or charter school governing body is required to submit a report concerning the programs and services provided by a Victory school.

The bill further outlines the instruction, programs, and services that shall or may be provided by a Victory school and requires the Department to contract with an independent evaluator to evaluate the effectiveness of programs and services provided pursuant to this bill. The State Board of Education must also require a Victory school demonstrating unsatisfactory student achievement and school performance to take corrective action and direct the Department to withhold funding if such performance continues.

The Legislative Committee on Education shall consider the Victory school reports and the evaluations of the independent auditor and advise the State Board regarding any action the Committee determines appropriate. The Committee shall also make any recommendations it deems appropriate concerning Victory schools to the next regular session of the Legislature. This bill is effective upon passage and approval.

This appropriation in the bill is also included in the Governor's *Executive Budget*. Victory schools essentially function like Zoom schools for low-income children by bringing targeted instructional resources and wraparound supports to the lowest-performing, lowest-income schools. Income levels will be determined using federal poverty level, not free and reduced-price lunch participation. It is estimated there will be approximately 35 Victory schools statewide: 26 elementary schools, 5 middle schools, and 4 high schools. All will be one- or two-star-rated, and they are expected to be located in Clark, Elko, Humboldt, Nye, and Washoe Counties.

ASSEMBLYMAN JONES:

Unfortunately, I must rise again in opposition to this bill in that we are approving spending prior to us determining the exact amount we will have available for our budget. It is unfortunate because I believe this would be a good program. I think we are putting the cart before the horse when we are approving spending prior to actually knowing how much we can spend.

Roll call on Senate Bill No. 432:

YEAS—33.

NAYS—Dickman, Fiore, Hansen, Jones, Moore, Shelton, Titus, Wheeler—8.

EXCUSED—Dooling.

Senate Bill No. 432 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 77.

Bill read third time.

Remarks by Assemblywomen Titus, Spiegel, and Carlton.

ASSEMBLYWOMAN TITUS:

Assembly Bill 77, as amended, makes various changes related to the Department of Agriculture. Specifically, the bill revises provisions governing the composition of members for district boards of agriculture; authorizes the Department of Agriculture to operate a state fair or regional fair in the state; renames the Nevada Fair of Mineral Industries as the Nevada Mineral Exhibition and eliminates the requirement that this exhibition be held in Ely; authorizes the Department of Agriculture to control all matters pertaining to the apiary industry in the state; requires sellers of certain farm products to register as produce vendors with the Department of Agriculture; authorizes the State Sealer of Consumer Equitability to conduct random tests of point-of-sale systems and cash registers to determine the accuracy of prices without charging and collecting a fee; transfers provisions governing the cleanup of discharged petroleum from Chapter 590 to Chapter 445C of the *Nevada Revised Statutes* without substantive changes; authorizes the Department of Agriculture to issue licenses for the sale of antifreeze in the state; and replaces criminal penalties related to the control of weeds and use of pesticides with civil penalties. The bill is effective upon passage and approval.

ASSEMBLYWOMAN SPIEGEL:

I have a question on this bill. In several places in the bill, it speaks about unwholesome food and unwholesome poultry. For example, section 150 says, "No person shall bring, expose or offer for sale, or sell within this state for human food any unsound, diseased or unwholesome poultry." My question relates to the word "unwholesome." I looked it up in *Black's Law Dictionary*, and it seemed to indicate any food that could be dangerous for humans. My question is, as it becomes apparent that poultry that is fed GMOs [genetically modified organisms] or food that has hormones in it could be unsafe for humans, would that then ban the sale of poultry that was fed that feed?

ASSEMBLYWOMAN TITUS:

Thank you for the question, my noble Assemblywoman from the south. I appreciate that. "Unwholesome," at this point, as you have already described the definition, will be left up to what the Department of Agriculture determines. Whether or not there are hormones—I do not think there have been any national studies that will absolutely say what the FDA [Food and Drug

Administration] will call out on those products. I think they will follow the role of what the FDA gives them.

ASSEMBLYWOMAN CARLTON:

I do rise in support of Assembly Bill 77. I want to share the same concerns that I shared with my committee members. The original version of this bill did have fees in it. They were asked for by the industry. They needed the money to do predator control. Because of a vocal minority, the fees were removed. We are not truly addressing the issues that this industry has because of crossing the line on fees.

I support this industry. You have a girl from the south supporting the Department of Agriculture. That has to tell you something. I find it disingenuous that we are maneuvering legislation and policy to get around this. If the industry wanted this and they need it, what are they going to do in the next 18 months? They are going to have to figure out a way around this. This is a rural issue; this is not a southern Nevada issue. There are not too many sheep in my neighborhood, but I drive by them every day up here.

I just want to put on the record that I am going to support this. But if there comes a time when the industry needs something, we need to have the guts to vote for it because they need it.

Roll call on Assembly Bill No. 77:

YEAS—41.

NAYS—None.

EXCUSED—Dooling.

Assembly Bill No. 77 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 135.

Bill read third time.

Remarks by Assemblywoman Bustamante Adams.

ASSEMBLYWOMAN BUSTAMANTE ADAMS:

Assembly Bill 135 relates to official state records. It allows the Division of State Library and Archives to conduct a program of training concerning the retention of official state records only to the extent that resources are available. The Department of Administration shall determine which state agencies must comply with the training for their employees.

Roll call on Assembly Bill No. 135:

YEAS—40.

NAYS—None.

EXCUSED—Dooling, Edwards—2.

Assembly Bill No. 135 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 332.

Bill read third time.

Remarks by Assemblywoman Kirkpatrick.

ASSEMBLYWOMAN KIRKPATRICK:

Assembly Bill 332 prohibits any public body, including the state, its local governments, school districts, or any public agency that sponsors or finances a public work, from entering into a contract, expressed or implied, for a public work that provides that any construction materials or goods to be used on the public work be purchased or otherwise supplied by the public body, a contractor who is a constituent part of the public body, or a contractor who is not a constituent part of the public body acting on behalf of the public body. A public body may, however, enter

into such a contract for a public work provided that the contract requires the payment of any state or local taxes that would otherwise have been due for the purchase and use of such construction materials or goods if they had been purchased and used by an entity not exempted from the payment of such taxes.

The bill also exempts certain purchases related to emergencies, items needed on a reoccurring basis to protect health and safety, and specialized project-specific components. The bill exempts a building of the Nevada System of Higher Education from certain provisions requiring that a public body use the services of the State Public Works Division if less than 25 percent of the costs of the building are paid from money appropriated by this state or federal money.

I want to clarify that this only applies to construction projects.

Roll call on Assembly Bill No. 332:

YEAS—32.

NAYS—Dickman, Fiore, Moore, Nelson, Oscarson, Seaman, Shelton, Titus, Wheeler—9.

EXCUSED—Dooling.

Assembly Bill No. 332 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 475.

Bill read third time.

Remarks by Assemblyman Paul Anderson.

ASSEMBLYMAN PAUL ANDERSON:

Assembly Bill 475, as amended, revises provisions governing the financial administration of the Real Estate Division. The bill changes the real estate licensing terms for real estate brokers and salespersons from two years to one year for the initial licensure and from four years to two years for subsequent licensure. The legislation also reduces the licensing fees outlined in the bill to align with the new licensing renewal period and provides that existing licenses issued by the Real Estate Division before July 1, 2015, do not require renewal until the expiration date indicated on the license.

Roll call on Assembly Bill No. 475:

YEAS—31.

NAYS—Ellison, Fiore, Jones, Moore, Nelson, Seaman, Shelton, Titus, Trowbridge, Wheeler—10.

EXCUSED—Dooling.

Assembly Bill No. 475 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 480.

Bill read third time.

Remarks by Assemblywoman Carlton.

ASSEMBLYWOMAN CARLTON:

Assembly Bill 480, as amended, provides for licensure and regulation of an out-of-state wholesale lender as a mortgage broker or mortgage banker and requires the Commissioner of Mortgage Lending to prescribe by regulation the requirements for licensing, regulation, and discipline of mortgage servicers. The bill also makes various changes to the regulation of escrow agents and escrow agencies and increases mortgage broker and mortgage banker branch office original application and issuance license fees and mortgage agent change in association fees. The bill allows thrift companies to contract for the insurance of deposits issued by a private insurer

and provides for the Commissioner of the Division of Financial Institutions under the Department of Business and Industry to adopt regulations prescribing the contract requirements.

The bill becomes effective upon passage and approval for the purpose of adopting regulations and performing other preparatory administrative tasks that are necessary to carry out the provisions of the bill; upon passage and approval for sections 101.3 and 101.7; and on January 1, 2016 for all other sections.

Roll call on Assembly Bill No. 480:

YEAS—32.

NAYS—Dickman, Ellison, Fiore, Jones, Moore, Seaman, Shelton, Titus, Wheeler—9.

EXCUSED—Dooling.

Assembly Bill No. 480 having received a two-thirds majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 488.

Bill read third time.

Remarks by Assemblyman Jones.

ASSEMBLYMAN JONES:

Assembly Bill 488 makes technical corrections to two measures passed during the 78th Legislative Session. The bill removes the requirement in Senate Bill 175 that the Nevada Sheriffs' and Chiefs' Association must agree with the Department of Public Safety's inclusion of a state in the list of states that have certain provisions concerning permits to carry concealed firearms. It also resolves potential conflicts between Senate Bill 175 and Senate Bill 240 involving effective dates. I urge its passage.

Roll call on Assembly Bill No. 488:

YEAS—39.

NAYS—Diaz, Swank—2.

EXCUSED—Dooling.

Assembly Bill No. 488 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 69.

Bill read third time.

Remarks by Assemblyman Hickey.

ASSEMBLYMAN HICKEY:

I am rising in support of Senate Bill 69. Existing law requires at least a six-month retirement period after the effective date of the retirement of a justice or judge for which he or she may accept reemployment. Senate Bill 69, as amended, reduces the minimum required period before the acceptance of employment from six months to 90 days after the effective date of the retirement of the justice or judge. Currently, a justice or judge who accepts employment as a justice or judge in the Nevada court system forfeits all retirement allowances for the duration of that employment. Senate Bill 69 exempts a retired employee who accepts employment or an independent contract as a senior justice, senior judge, senior justice of the peace, or senior municipal judge from the disqualification of receiving retirement allowances under certain circumstances.

Additionally, S.B. 69 removes a sunset provision for a retired justice or judge who is reemployed and commissioned as a senior justice, senior judge, senior justice of the peace, or senior municipal court judge to receive a retirement allowance in addition to compensation for his or her service and is entitled to receive additional service credit for actual time served if he or she is reenrolled in a retirement plan and makes the provision permanent.

Roll call on Senate Bill No. 69:

YEAS—41.

NAYS—None.

EXCUSED—Dooling.

Senate Bill No. 69 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 103.

Bill read third time.

Remarks by Assemblyman Hickey.

ASSEMBLYMAN HICKEY:

Senate Bill 103 changes the definition of "financial institution," for the purposes of the modified business tax on financial institutions pursuant to Chapter 363A of *Nevada Revised Statutes* [NRS], by excluding from that definition a person who is primarily engaged in the sale, solicitation, or negotiation of insurance, therefore making such a person subject to the modified business tax [MBT] applicable to general businesses or nonfinancial institutions pursuant to Chapter 363B of NRS.

This bill represents the work of many members and constituents of all of ours that we heard from who were unfairly paying the MBT. This eliminates that misinterpretation and allows them to operate as insurance agents and not members of a financial institution. They will certainly appreciate our vote on this one.

Roll call on Senate Bill No. 103:

YEAS—41.

NAYS—None.

EXCUSED—Dooling.

Senate Bill No. 103 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 195.

Bill read third time.

Remarks by Assemblyman Paul Anderson.

ASSEMBLYMAN PAUL ANDERSON:

Senate Bill 195, as amended, creates the Office of the Western Regional Higher Education Compact within the Office of the Governor. The bill will transfer the Nevada Office of the Western Interstate Commission for Higher Education and its employees from the Nevada System of Higher Education to the new Office of the Western Regional Higher Education Compact. As amended, the employees of the Office of the Western Regional Higher Education Compact would be in the unclassified and classified services of the state.

Roll call on Senate Bill No. 195:

YEAS—41.

NAYS—None.

EXCUSED—Dooling.

Senate Bill No. 195 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Paul Anderson moved that Senate Bill No. 291 be taken from the General File and placed on the Chief Clerk's desk.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 292.

Bill read third time.

Remarks by Assemblyman O'Neill.

ASSEMBLYMAN O'NEILL:

Senate Bill 292 revises the statutory definition of the term "professional negligence" to include medical malpractice and dental malpractice. The bill also revises the definition of "provider of health care" to include a broader range of practitioners. The bill provides that the total noneconomic damages that can be awarded to the injured plaintiff in a civil action brought against a provider of health care claiming injury or death for professional negligence is $350,000, regardless of the number of plaintiffs, defendants, or theories upon which liability may be based.

Two items are added to the list of elements in an affidavit, the absence of which will require a district court to dismiss without prejudice an action for professional negligence. First, the supporting affidavit must identify by name or describe by conduct each provider of health care who is alleged to be negligent. Second, the affidavit must set forth in concise and direct terms the specific act or acts of alleged negligence committed by each defendant. The bill provides that a rebuttable presumption of professional negligence does not apply in an action where the plaintiff submits an affidavit or otherwise provides for an expert witness or expert testimony to establish the claim of negligence.

Finally, S.B. 292 provides to a school board of trustees or governing body of a charter school immunity from a civil action arising from an alleged act or omission committed by an employee or volunteer of a school-based health center.

Roll call on Senate Bill No. 292:

YEAS—23.

NAYS—Elliot Anderson, Araujo, Benitez-Thompson, Bustamante Adams, Carlton, Carrillo, Diaz, Flores, Joiner, Kirkpatrick, Munford, Neal, Ohrenschall, Shelton, Spiegel, Sprinkle, Swank, Thompson—18.

EXCUSED—Dooling.

Senate Bill No. 292 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 324.

Bill read third time.

Remarks by Assemblymen O'Neill and Oscarson.

ASSEMBLYMAN O'NEILL:

Senate Bill 324 prohibits a person from discharging a pollutant onto any state highway, right-of-way, or drainage unless the person has a valid permit. In the event of unpermitted discharge, the person must, upon receipt of an order of compliance, either abate, remove, or remediate the discharge in a timely manner. If a person fails to comply, Senate Bill 324 provides various enforcement powers to the Director of Nevada's Department of Transportation [NDOT]. Specifically, the Director may enter and inspect premises to investigate the source of a discharge, issue orders for compliance to enforce discharge laws, seek injunctive relief to remedy unpermitted discharge, impose administrative and civil penalties, and request criminal prosecution by the Attorney General for violations.

Senate Bill 324 also authorizes the Director to appoint a third Deputy Director to implement, oversee, and enforce NDOT's environmental programs. The Deputy Director must coordinate the implementation of the storm water program with appropriate personnel at the State Department of Conservation and Natural Resources [DCNR]. The bill also removes provisions requiring the Director of NDOT to be a licensed professional engineer in the state of Nevada.

Finally, Senate Bill 324 creates the Advisory Committee on Transportational Storm Water Management to work with the Division of Environmental Protection and DCNR regarding the implementation of the storm water program. The Committee must report at least quarterly to NDOT regarding its activities, and NDOT must report at least quarterly to the Interim Finance Committee on the status of the implementation of the storm water program.

ASSEMBLYMAN OSCARSON:

I rise in support of Senate Bill 324. This bill will grant the Nevada Department of Transportation the necessary authority to implement key components of their storm water program; permit NDOT to remediate any illegal discharges or dumping of pollutants onto its rights-of-way; and allow NDOT to recoup any costs of cleanup where a polluter fails or refuses to take corrective action.

Under the federal Clean Water Act, the EPA [Environmental Protection Agency] issues every state a National Pollution Discharge and Elimination System [NPDES] permit. The purpose of the permit is to improve water quality by requiring every department of transportation to administer a storm water program to reduce the discharge of pollutants associated with storm water runoff into drainage systems that serve highways and transportation-related properties, facilities, and activities. The pollutants found in storm water runoff can eventually find their way into our rivers and lakes and compromise our water quality. The United States EPA also requires that every state department of transportation have the authority to enforce the terms of its NPDES permit. This bill will enable NDOT to comply with that requirement and to be more proactive in managing its storm water program.

By granting NDOT the statutory authority to enforce the terms and conditions of its NPDES permit as well as any encroachment permits, this bill will allow NDOT to address and remediate any illegal or unpermitted dumping onto its highways and transportation facilities. In addition, this bill will give NDOT the ability to recoup the cost of any cleanup where a polluter either fails or refuses to stop their illegal dumping activities.

Each one of us needs to take seriously the responsibility for improving our water quality. This bill will play an important role in achieving that goal. For that reason, I support this bill.

Roll call on Senate Bill No. 324:

YEAS—40.

NAYS—Fiore.

EXCUSED—Dooling.

Senate Bill No. 324 having received a two-thirds majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 338.

Bill read third time.

Remarks by Assemblywoman Swank.

ASSEMBLYWOMAN SWANK:

Senate Bill 338 requires the establishment of the Safe-to-Tell Program within the Office for a Safe and Respectful Learning Environment in Nevada's Department of Education. The program must enable any person to anonymously report dangerous, violent, or unlawful activity being conducted or threatened at a school, a school activity, or on a school bus. This bill provides that any information received by the program is confidential and requires program procedures to ensure information received is promptly reported to the appropriate entities and that the identity of a person reporting information is not disclosed.

The bill also creates the Safe-to-Tell Program Advisory Committee within the Office for a Safe and Respectful Learning Environment. The Director of the Office for a Safe and Respectful Learning Environment is required to provide training to school officials and individuals involved with the program, post program information on the Internet, and provide educational materials to public schools.

Confidential information received by the program, excluding the identity of anyone providing the information, may be disclosed in response to a motion filed by a defendant in a criminal action if the information could be exculpatory for the defendant or used to impeach the testimony of a witness. Any person knowingly disclosing program information, other than as authorized, is guilty of a misdemeanor.

Roll call on Senate Bill No. 338:

YEAS—35.

NAYS—Fiore, Jones, Moore, Seaman, Shelton, Trowbridge—6.

EXCUSED—Dooling.

Senate Bill No. 338 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 360.

Bill read third time.

Remarks by Assemblyman Thompson.

ASSEMBLYMAN THOMPSON:

Senate Bill 360 directs the Legislative Committee on Energy to study the viability of establishing green banks and similar entities to help finance the use and harnessing of clean energy projects in Nevada. If the Committee determines that a green bank or similar entity is needed in this state, it must provide recommendations regarding the legal steps required to create such an entity; the capital resources that can be used to pay for the entity; the structure and organization of the entity; the markets that such an entity should serve; and the types of financing activities the entity should undertake.

Senate Bill 360 also directs the Committee to study the development, viability, expansion, and implementation of energy efficiency programs in Nevada, including programs for businesses and industries, energy efficiency resource standards, and other energy efficiency incentives.

Roll call on Senate Bill No. 360:

YEAS—32.

NAYS—Dickman, Ellison, Fiore, Jones, Moore, O'Neill, Seaman, Shelton, Titus—9.

EXCUSED—Dooling.

Senate Bill No. 360 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 489.

Bill read third time.

Remarks by Assemblymen Sprinkle, Nelson, and Benitez-Thompson.

ASSEMBLYMAN SPRINKLE:

Senate Bill 489 adds the term "peer support recovery organization" to the definition of a "facility for the dependent," thereby requiring such an organization to obtain a license from the Division of Public and Behavioral Health. A person licensed as a facility for the dependent or as a medical facility that employs a person to provide peer support services does not have to obtain an additional license as a peer support recovery organization. Certain employees of a peer support

recovery organization are immune from civil liability under certain circumstances and are subject to certain mandatory reporting requirements.

ASSEMBLYMAN NELSON:

I would like to ask a question to my colleague from the north. I read the various versions of the bill and there was one proposed amendment. What about someone who is in a volunteer position, say a church counselor or someone like that? Would they need to be licensed?

ASSEMBLYMAN SPRINKLE:

If I recall correctly, the answer to that is yes, but I would certainly defer to the committee chair if I am incorrect.

ASSEMBLYWOMAN BENITEZ-THOMPSON:

For clarification, the amendment we adopted yesterday added the word "compensation" to clarify that it was services provided for a fee and not voluntary services. Groups like Alcoholics Anonymous that are volunteer-based and do not require fees from participants are excluded.

Roll call on Senate Bill No. 489:

YEAS—28.

NAYS—Dickman, Edwards, Ellison, Fiore, Gardner, Hansen, Jones, Moore, Seaman, Shelton, Titus, Trowbridge, Wheeler—13.

EXCUSED—Dooling.

Senate Bill No. 489 having received a two-thirds majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 491.

Bill read third time.

Remarks by Assemblyman Hickey.

ASSEMBLYMAN HICKEY:

Senate Bill 491, as amended, requires the Department of Administration, in consultation with the Department of Education and the State Public Charter School Authority, to develop a request for proposals for a nonprofit organization incorporated in Nevada to recruit persons and charter management organizations to assume leadership roles in the formation and operation of high-quality charter schools to serve pupils who live in poverty. The bill, as amended, also requires a nonprofit organization that responds to the request for proposals to include evidence that the nonprofit organization has sufficient money to match a grant of up to $5 million per year for Fiscal Years 2015-2016 and 2016-2017.

Senate Bill 491, as amended, requires the Department of Administration to appoint a committee including one representative from the Department of Education and one representative from the State Public Charter School Authority to evaluate the responses to the request for proposals and recommend an applicant to the State Board of Examiners who shall make the final decision on whether to award a grant of money.

Roll call on Senate Bill No. 491:

YEAS—40.

NAYS—Munford.

EXCUSED—Dooling.

Senate Bill No. 491 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 498.

Bill read third time.

Remarks by Assemblywoman Joiner.

ASSEMBLYWOMAN JOINER:

Senate Bill 498 adds the term "community health worker pools" to the definition of a "facility for the dependent," thereby requiring such a pool to obtain a license from the Division of Public and Behavioral Health. A person licensed as a facility for the dependent or as a medical facility that employs a community health worker does not have to obtain an additional license as a community health worker pool. Certain employees of a community health worker pool are immune from civil liability under certain circumstances and are subject to certain mandatory reporting requirements.

Roll call on Senate Bill No. 498:

YEAS—28.

NAYS—Dickman, Edwards, Ellison, Fiore, Gardner, Hansen, Jones, Moore, Nelson, Seaman, Shelton, Titus, Wheeler—13.

EXCUSED—Dooling.

Senate Bill No. 498 having received a two-thirds majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 507.

Bill read third time.

Remarks by Assemblyman Nelson.

ASSEMBLYMAN NELSON:

Senate Bill 507 authorizes the Board of Economic Development and the Executive Director of the Office of Economic Development to approve and issue transferable tax credits to new or expanding businesses in Nevada to promote the economic development of this state. A business that intends to locate or expand in Nevada may apply to the Office for transferable tax credits in accordance with procedures established by the Executive Director in consultation with the Board. The Board and the Executive Director may not approve applications for transferable tax credits that exceed $500,000 for Fiscal Year 2016; $2,000,000 for Fiscal Year 2017; and $5,000,000 for each fiscal year thereafter.

The bill also permits a county or an incorporated city whose application for a grant or loan from the Catalyst Account was approved before the effective date of this bill to surrender the grant or loan, or any portion thereof, in exchange for the issuance of transferable tax credits upon such terms and conditions as agreed to by the Executive Director and the parties to any contracts involving the grant or loan.

Roll call on Senate Bill No. 507:

YEAS—30.

NAYS—Dickman, Ellison, Fiore, Hansen, Jones, Moore, Neal, Shelton, Titus, Trowbridge, Wheeler—11.

EXCUSED—Dooling.

Senate Bill No. 507 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Assembly Bill No. 484.

Bill read third time.

Remarks by Assemblymen Hickey, Fiore, Wheeler, Paul Anderson, Shelton, and Jones.

ASSEMBLYMAN HICKEY:

Assembly Bill 484, as amended, revises Chapter 482 of the *Nevada Revised Statutes* [NRS] to require the Department of Motor Vehicles [DMV] to reissue a license plate or plates issued by the Department every eight years. Assembly Bill 484, as amended, allows for the reissuance of a license plate for a trailer with a three-year registration period at the first renewal of registration that occurs after the existing license plate has been issued for eight years. Assembly Bill 484, as amended, also requires the Department of Motor Vehicles, at the time when a license plate or plates are to be reissued, to include with the notification of registration renewal the amount of any fee to be charged for the reissuance of the license plate or plates.

ASSEMBLYWOMAN FIORE:

I rise in opposition to Assembly Bill 484. There are a lot of us who keep our cars and plates intact and in good condition and I do not think it is fair to force us to get new plates every eight years and on our trailers every three years. We defeated this bill. It is a violation of the pledge and now we are bringing it back to see who switched over. I do not think it is okay. I do not think it is fair. I urge everyone who voted no the first time around to vote no the second time around.

ASSEMBLYMAN WHEELER:

We voted on this bill yesterday and of course it failed. It failed for a reason. It does not make sense to me, especially as the Chair of the Transportation Committee, to force people to turn in a perfectly good plate and have the revenue for that come from the state or have the cost to the plate owner. We already have a program in effect where if something happens to your plate, it can be reissued. There is no reason to force people to do it. As I said yesterday, and I will reiterate, had this come to my committee, I do not think you ever would have seen it on the floor.

ASSEMBLYMAN PAUL ANDERSON:

I rise in support of Assembly Bill 484. I can think of nothing else I would rather do on my Saturday than debate license plates. However, I stand in support and just want to clarify a couple pieces of it.

There are federal regulations which regulate reflectivity on license plates. The parts that we use and the reflectivity that we use now is guaranteed for five years. Every plate that goes to that eight-year period is generally out of warranty and begins to degrade. This is also part of implementing new license plates. They are going to change the way we do license plates to try and get extra years out of those, so we can get to that eight-year mark. Initially, this effects about 25 percent of the plates out there and will take many, many years before we will get to the point where anyone will be affected. It is a minimal fee. You can do it by mail and get it done very easily. I would urge support of A.B. 484.

ASSEMBLYWOMAN SHELTON:

I used to own a DMV business where we did this probably eight or ten years ago and everybody had to change plates. I will tell you that if we pass this, the general public is not going to be in favor of this because they did not like it when we did it before and they are not going to like it now.

I do have one quick question in regard to the bill. I know before when it was done, if you did not change your plates and you were caught with the old-style plate, there was a fine a person could be penalized with. I did not see that addressed in this bill, so I do not know how that would affect these plates being issued at this point.

ASSEMBLYMAN PAUL ANDERSON:

Thank you for the question. I would imagine that the same NRS that would be related there would apply here as well, but I do not have an answer for you directly. I apologize.

ASSEMBLYMAN JONES:

I also rise in opposition to Assembly Bill 484, which was defeated yesterday. This is another indirect tax on our people. Our economy is still struggling and to continue to burden our public and our businesses with more fees and regulations is excessive. We need to get regulation out of

our lives so we can have a full recovery and get our state back to proper levels of productivity. This is just another burden that is going to be put on us, so I urge you to please not vote for this.

Roll call on Assembly Bill No. 484:

YEAS—28.

NAYS—Dickman, Ellison, Fiore, Hansen, Jones, Moore, Nelson, O'Neill, Seaman, Shelton, Stewart, Titus, Wheeler—13.

EXCUSED—Dooling.

Assembly Bill No. 484 having received a two-thirds majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

REPORTS OF COMMITTEES

Mr. Speaker:

Your Committee on Government Affairs, to which was referred Senate Bill No. 185, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

JOHN C. ELLISON, *Chair*

Mr. Speaker:

Your Committee on Ways and Means, to which was rereferred Assembly Bill No. 481, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass, as amended.

PAUL ANDERSON, *Chair*

UNFINISHED BUSINESS

SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the Speaker and Chief Clerk signed Senate Bills Nos. 56, 137, 307, 341, 395, 406, 411, 447, 463; Senate Joint Resolution No. 17

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Paul Anderson moved that Senate Bill No. 185, just reported out of committee, be placed on the Second Reading file.

Motion carried.

SECOND READING AND AMENDMENT

Senate Bill No. 185.

Bill read second time.

The following amendment was proposed by the Committee on Government Affairs:

Amendment No. 1025.

AN ACT relating to suppression of fires; temporarily requiring the entity that is responsible for the closest emergency fire-fighting vehicle to respond to and suppress certain fires in certain counties; **exempting an airport authority located in certain counties from this requirement; requiring certain entities to negotiate an automatic aid agreement concerning certain matters;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the municipalities of this State to provide fire protection services. (NRS 268.730) Existing law also authorizes the creation of districts for a fire department by boards of county commissioners and the creation of fire protection districts and county fire protection districts. (NRS 244.2961, 473.034, 474.110, 474.460) **Section 1** of this bill requires, in a county whose population is 100,000 or more but less than 700,000 (currently Washoe County), the entity that is responsible for the emergency fire-fighting vehicle located closest to a structure or brush fire to respond to and take all actions necessary to suppress the fire regardless of whether the location of the fire falls within the territory served by the entity. **Section 1 exempts an airport authority in such a county and any vehicle or firefighter of such an airport authority from this requirement. Section 1 additionally: (1) requires each entity, other than an airport authority which maintains an emergency fire-fighting vehicle in such a county, to negotiate an automatic aid agreement with each other such entity which addresses the reimbursement of costs, geographic areas of coverage or any other relevant issue or any combination thereof; and (2) provides that a failure to reach an automatic aid agreement does not exempt an entity from complying with the requirement to respond to a fire if it is responsible for the emergency fire-fighting vehicle located closest to the fire. Section 2** of this bill provides that the provisions of **section 1** expire by limitation on June 30, 2017.

WHEREAS, The provision of fire protection and related emergency services is fundamental to what the people of this State expect from their local governments; and

WHEREAS, Providing such services in a timely, effective and efficient manner is critical to the protection of life and property; and

WHEREAS, The infighting that has continuously occurred for several years between the entities that provide fire protection and related emergency services in Washoe County threatens the lives and property of the people of this State who reside in that county; and

WHEREAS, The failure of the local governments in Washoe County to resolve this dispute in a timely manner now requires the Nevada Legislature to intervene and ensure that the lives and property of the people of this State who reside in Washoe County are no longer put at risk by the reluctance of these entities to find an agreement that protects their residents; now, therefore,

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 475 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Notwithstanding any provision of law to the contrary, in a county whose population is 100,000 or more but less than 700,000, the entity that is

responsible for the emergency fire-fighting vehicle located closest to a structure or brush fire , unless that entity is described in subsection 4, shall respond to and take all actions necessary to suppress the fire regardless of whether the fire occurs within the territory served by the entity.

2. Each entity, other than an airport authority which maintains an emergency fire-fighting vehicle in a county whose population is 100,000 or more but less than 700,000, shall negotiate an automatic aid agreement with each other such entity to address:

(a) The reimbursement of costs for actions to suppress fires pursuant to subsection 1;

(b) Geographic areas to be covered by each entity, except that any such geographic areas must be established so that, at a minimum, the entity responsible for the emergency fire-fighting vehicle located closest to a structure or brush fire is required to respond to the fire as described in subsection 1; or

(c) Any other issues relating to the requirements of subsection 1 identified by the entities.

3. The failure of an entity to enter into an automatic aid agreement pursuant to subsection 2 does not exempt the entity from the requirements imposed by subsection 1.

4. The provisions of subsection 1 do not apply to an airport authority or to any emergency fire-fighting vehicle or firefighter of an airport authority.

Sec. 2. This act expires by limitation on June 30, 2017.

Assemblyman Ellison moved the adoption of the amendment.

Remarks by Assemblyman Ellison.

ASSEMBLYMAN ELLISON:

Amendment 1025 to Senate Bill 185 requires each entity to negotiate an automatic aid agreement with each other addressing reimbursement costs and coverage areas. The coverage areas must be established so that, at a minimum, the entity closest to a structure or brush fire is required to respond to the fire. Finally, the provisions of this bill do not apply to any emergency fire-fighting vehicle or firefighter of an airport authority.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Mr. Speaker announced if there were no objections, the Assembly would recess subject to the call of the Chair.

Assembly in recess at 12:04 p.m.

ASSEMBLY IN SESSION

At 12:45 p.m.

Mr. Speaker presiding.

Quorum present.

Assemblyman Paul Anderson moved that the Assembly resolve itself into a Committee of the Whole for the purpose of considering a proposed amendment to the Nevada Revenue Plan.

Motion carried.

Mr. Speaker designated Assemblyman Armstrong to chair the Committee of the Whole.

IN COMMITTEE OF THE WHOLE

At 12:47 p.m.

Chairman Armstrong presiding.

Quorum present.

Proposed Nevada Revenue Plan considered.

CHAIR ARMSTRONG:

The Committee will come to order. We will now consider the proposed amendment to the Nevada Revenue Plan.

Before we start, I want to set some of the ground rules for how the Committee will be conducted. This hearing will last three hours. The time now is 12:50 p.m., so this will last until 3:50 p.m. The body does not have possession of the actual bill, Assembly Bill 464. It is still in Ways and Means. We will not be accepting any amendments, and there will be no action taken on the plan. This hearing is limited to the Nevada Revenue Plan and the proposed amendment. The presentation by the presenters will last about 30 minutes, followed by a period for questions and answers by the body. We will take a short break, then we will move to testimony.

With that, Mr. Aguero and Mr. Willden, whenever you are ready.

MIKE WILLDEN, CHIEF OF STAFF, OFFICE OF THE GOVERNOR:

For the record, I am Mike Willden. I serve as the Chief of Staff to Governor Sandoval, here today to present the Nevada Revenue Plan. I would like to start first by thanking the leadership of the Assembly—Mr. Anderson, Ms. Kirkpatrick, and Mr. Armstrong—for continuing to work with us to improve this plan. I also would like to thank members of the Assembly for the significant amount of input and critique we have received over the last several weeks and months. I would also like to express our appreciation to your LCB [Legislative Counsel Bureau] fiscal and legal staff for helping us through and along this process.

For those of you who have not been in the money committees and have not heard the two or three hearings we have had on the revenue plan, I would like to indicate that our general desire in this process is to fundamentally restructure taxes that we receive, primarily to support the education initiative; develop a plan that works in harmony with one another; broaden the base of taxpayers; ensure it is a stable plan that can grow with our economy; and ensure that it is fair. Finally, I would also note that one of the legs of the stool helps in capturing out-of-state companies who do business directly or indirectly in Nevada.

I would note as we move through the plan that this is part of the overall picture of revenue. Largely, the budgets are closed. I think you will be seeing your appropriations and authorizations acts soon. I believe the authorization act is already out. The revenue plan is three pieces: those numbers that we received from the Economic Forum in the first week of May; the sunset bill that is still being heard and debated, which also includes the cigarette tax; and this new revenue plan is the third leg.

Mr. Chairman, I will briefly run through, for the members and the audience, what the plan is, then Mr. Aguero will go through some of the most recent changes.

ASSEMBLYMAN HANSEN:
Mr. Chairman, just a quick question: Are we talking about proposed Amendment 7779 to Assembly Bill 464?

CHAIR ARMSTRONG:
Mr. Hansen, that is correct.

MIKE WILLDEN:
The Nevada Revenue Plan includes five basic pieces that I will run through. The first piece in the Nevada Revenue Plan is the business license fee component. In the first version of the business license fee, the proposal was that we would increase the existing $200 license fee to $300 for noncorporations and to $500 for corporations. Today, we are proposing an amendment that should be posted—Amendment 7773 versus Amendment 7779—so that the business license fee component change from what I just said, $300 for the noncorporations and $500 for the corporations, back to $200 for noncorporation filers and continue with the $500 for the corporations. It also incorporates a new component of the business license fee where there would be a $25 increase in the cost of the annual listings. That component, Mr. Chairman, is designed to generate about $40 million or $41 million in annual yield.

The second component of the Nevada Revenue Plan is the modified business tax [MBT] component. In this area, the modified business tax would be increased from the current 1.17 percent up to either 1.475 percent or 2 percent, depending on the type of business. The 1.475 percent would apply to nonfinancial institutions and also to those businesses that are not part of the net proceeds on minerals or mining component. Again, it is 1.475 percent for general business and a 2 percent tax rate for financial and mining businesses.

The modified business tax would also change the amount of the exemption. The exemption is currently $85,000 per quarter or $340,000 per year, and that would change to $50,000 per quarter or $200,000 per year. In the MBT component, we would continue to allow a health care deduction. Finally, we would allow a 50 percent credit to the MBT for any commerce tax paid in the previous year.

That leads me to the third component, the commerce tax. We are proposing a commerce tax that would be based on a business's revenue. The first $4 million of Nevada revenue would be exempt from the tax, so this is targeted toward large business. We have designed the plan to exempt most small businesses. Again, the exemption would be at $4 million. The commerce tax would be paid on revenue of the business minus the $4 million. We still are talking the use of NAICS [North American Industry Classification System] code categories that businesses now use through their Department of Employment, Training and Rehabilitation business and other entities. They would look up their NAICS code in their chart and, based on their taxable revenue, would pay the tax based on the scheduled tax rate. As I said earlier, 50 percent of the paid commerce tax can be allowed as a modified business tax deduction.

Mr. Chairman, one of the last two things I will talk about before turning the time over to Mr. Aguero is that included in this bill is what we call the MBT buydown. How the buydown basically works is that we calculate the revenue generated from both the MBT and the commerce tax and add those together. If they perform better than 4 percent higher than what the Economic Forum numbers were for those two taxes for the year, then that excess over the 104 percent would be used to reduce, or buy down, the MBT rate for both nonfinancial businesses and the financial/mining businesses. There would be a buydown not to go below the 1.17 percent current tax rate. The buydown would not be effective until FY [Fiscal Year] 2018, so during the next biennium, FY 2016 and FY 2017, we are basically looking at first-year revenue and making a decision in the first half of the second year of the biennium as to whether there is overperformance, underperformance, or performance right on target. If there is overperformance over the 4 percent trigger, then the buydown would be effective on July 1 of the next biennium.

The last thing I will highlight as part of the plan is that we had talked in earlier versions that we included in the sunset bill the general services tax coming to the General Fund. In earlier versions of the Nevada Revenue Plan, we were making a decision to send the general services tax [GST] back to either the Highway Fund or as a reduction to the taxpayer who pays his vehicle registration. We are now proposing that the appreciation portion of the GST continue to come to the General Fund in FY 2016. That is about a $63 million or $64 million revenue stream, and then

we stop that process of the general services tax coming to the General Fund. In FY 2017 and beyond, it would go back to the Highway Fund.

Mr. Chairman, I will stop there and turn it over to Mr. Aguero, who will go through some more of the details of the changes we have made in the proposed amendment and then stand for questions.

JEREMY AGUERO, PRINCIPAL ANALYST, APPLIED ANALYSIS:

I am also thankful for the opportunity to be before this body today. I was asked by Mr. Willden and the Governor's staff to walk through some of the general policy underpinnings that underlie the Nevada Revenue Plan and then talk about some of the technical changes that have been made recently. Of course, the original plan that was drafted from the Governor's Office took the form of Senate Bill 252, sometimes referred to as the Governor's BLF [business license fee]. There are certainly components of that, but as was the instruction, we listened to what was provided in the various hearings—information from both the public sector, the private sector, this body, and businesses that provided additional information—and then tried to build upon the ideas that had been provided. I will try to walk through how we have done that in all three of the elements that Mr. Willden just laid out.

First and foremost is the business license fee itself. The business license fee is widely regarded as the broadest of the taxes that we have in the state of Nevada. The business license fee applies currently to an excess of 330,000 entities in the state of Nevada, having more taxpayers than any other business that we have. There have been a number of alternatives, but I think most of the major revenue plans that have come forward have utilized the business license fee in one way or another, largely due to the fact that it has a relatively broad base upon which we can apply. Generally speaking, when we are thinking about things like stability, equity, and those types of things, we certainly like the idea of having the broadest base possible, which brings us to that specific revenue source.

In the plan as it was originally proposed, there were different rates, and some of the other plans also have had different rates. Nonetheless, the one that is brought forward to you today would increase the rate on corporations from the existing level of $200 to $300 and would leave noncorporate filers at the same $200 that they are at today. Again, the goal is to try and broaden it and at the same time generate some revenue from the corporate filers, which have the tendency to be somewhat larger businesses.

The second component part is our payroll tax, which is technically referred to as the modified business tax in the state of Nevada. As Mr. Willden alluded to, that tax is currently imposed at 1.175 percent of taxable payroll in excess of about $340,000 per year. By lowering that standard exemption from $340,000 to $200,000, we bring more businesses into that fold. There has been some criticism in the past relative to how many businesses that are there. Holding that to the side for a moment, those 5,000 to 6,000 businesses will expand the base of our payroll tax today by somewhere between 40 percent and 50 percent. It is a material expansion to the number of taxpayers included under our existing payroll tax.

That component part also has a second element to it. Financial institutions today pay a similar tax at a rate of 2 percent. The proposal is that mining companies that are subject to the net proceeds tax would also pay that 2 percent. There is a reason for that. I am going to talk for a moment about the commerce tax, how it works, and how it is structured, but there are specific reasons why companies that are subject to the net proceeds tax in the state of Nevada and financial institutions will pay substantially less than other businesses under the commerce tax. Principally, mines have a constitutional limitation relative to how they can be taxed. As such, the commerce tax will apply to them in a very limited way. In the same general thinking, most interest earned by financial institutions is exempt from the commerce tax. Of course, financial institutions generate a substantial amount of their revenue from interest earnings and would therefore have very limited commerce tax, which is why those two industries bear a higher payroll tax under the plan that we are here to discuss today.

There is also a credit mechanism that is applied against a taxpayer's MBT, or payroll tax. That is a 50 percent credit for paid commerce tax, and I will talk more about that in just a moment.

The third component part is the commerce tax. This is a commerce tax that is based on total Nevada revenue of a business. Very broadly defined, it includes almost all business types. We can

certainly talk about some of those definitions and what is included in that. All of that being what it is, there are industry-specific rates that are applied to that Nevada-based revenue, generating roughly $119 million or $120 million a year for the state of Nevada. There has been some discussion about the rates, how the rates got set, why we have multiple rates, and those types of things, so I would like to take one moment and talk about the policy discussion that went into having multiple rates for different industries.

When we first had a conversation about implementing a tax like the commerce tax, there was some discussion about having a single rate. If you applied a single rate to every industry in the state of Nevada, the challenge would be that there are some entities that have very high volumes and very low margins and, frankly, not every industry is constructed in the same way. Because those industries are not always constructed in the same way, there was some desire to recognize the different structure of different businesses. There are really two ways we could do that. One is the way that is used in the state of Texas today and essentially says that you are going to take all of your revenue and then we are going to allow you to deduct some of the revenue from your total. We will either allow you to deduct your cost of goods sold, your cost of labor, or some type of standard deduction. We will allow you to do one of those things to ultimately get to a margined revenue. That is one way you could go about doing this.

The other way, and the way that we chose, was to essentially build those different structures into the rates. The reason some rates are lower than others is because the industries in those sectors have a tendency to have higher or lower costs of goods sold, costs of labor, or would have a different standard deduction. The way the mathematics works is relatively straightforward. We went to the state of Texas where they had information at the industry level. We looked at each industry as to whether or not it took the cost of goods sold, the cost of labor, or the standard deduction and then we essentially created margin-adjusted rates for each and every industry, upon which we applied Nevada's gross productivity, or total Nevada sales if you want to think about it that way.

All of that having been said, once that piece is constructed, it allows us to do something that the other two pieces do not. As Mr. Willden alluded to, one of the important components of the commerce tax as it currently exists is that it starts with a standard exemption of $4 million. Now, what does that mean? There has been a lot of talk, both prior to this session and during this session, about the concept of a fiscal cliff or many cliffs, as they sometimes have been referred to in discussion. A $4 million standard exemption takes away any of the problems that were created before in terms of a fiscal cliff. Every business has the opportunity to subtract their first $4 million worth of revenue. Every single one. In doing that, they only pay on anything in excess of that $4 million. Why? Why did we go through that exercise? Because in almost every hearing that I have been involved in and had the opportunity to listen to, there was a lot of concern about protecting small businesses. There was a great deal of concern about that. Having heard that concern and trying to build that in, the $4 million standard exemption exempts the vast majority of businesses in the state of Nevada. In doing so, it does not prevent us from capturing those businesses that the commerce tax was originally designed to capture. Those are businesses that benefit substantially from Nevada's economy by selling goods in our state, by trucking goods into our state, by taking advantage of our court system and other things, but who have very few employees in the state of Nevada. Because the way we choose to tax businesses today is largely through whether or not they have payroll here, those businesses today, in an absence of the commerce tax as currently constructed, would essentially be able to escape taxation. Importantly, businesses in the state of Nevada will bear a higher relative tax because businesses that have a relatively small presence here will pay less. That was something we wanted to avoid.

The last thing I wanted to mention, relative to the general structure of what is provided in the plan in all three of its parts, is the idea of the credit. Essentially what the credit says is that if a company pays the commerce tax, it can take 50 percent of that and use it against its payroll tax liability. Now, why would we do that? The reason is that the payroll tax, as it currently exists, is probably going to generate on the order of about $500 million a year. It is substantial in the state of Nevada. As Mr. Willden alluded to, it is our primary source of business tax today. The commerce tax, however, will generate only about $120 million a year. That means that labor-intensive firms in the state of Nevada will still bear a higher proportionate burden of the taxes than a capital-intensive firm that would be captured more so under the commerce tax. In doing that,

the credit provides some effort to balance the burden currently imposed and imposed in the future on a capital-intensive firm versus a labor-intensive firm.

Mr. Willden alluded to the buydowns. I will not talk through that again. We can certainly talk about some of the distributions relative to how our tax system will be shifted, and I am happy to go through those. But, Mr. Chairman, what I would like to do is talk through a few of the technical changes that are also included in the amendment from the last time it was discussed. I do so offering thanks to the legislators who offered some very meaningful changes from a technical standpoint. I would also like to extend my thanks to the Nevada Taxpayers Association. Ms. Vilardo submitted a number of questions and comments that have been reflected and, I think, add to the quality of the legislation. I would also like to extend my thanks to the Nevada Bankers Association, who spent a substantial amount of time providing some additional provisions as well. With that, I will walk through these and point them out because they are different than what was included previously.

In section 4, something that was left out previously was the concept of a limited liability partnership and a limited liability company under the definition of a business. This is one that clearly should have been included; it has now been included. In addition to that, there was previously the inclusion of an entity referred to as a combined group. This was an error. That has been removed from this draft and I think makes it much easier to administer and understand.

There are a few other sections that are here. I can walk through these in more specificity, but one of the things that the folks both from the Nevada Taxpayers Association and some of the technical folks from banking walked through was a need to provide some additional definitions in the bill. So we do define what a credit sale is; we define specifically what a loan is; we define what a pass-through entity is; we define what securities are. Some of these are technical definitions, but all of them merely solidify the intent as it was originally drafted.

Section 8 of the bill does make some notable changes. Section 8 of the bill specifically defines gross revenue. It talks about amounts realized. What is revenue that we are going to use for the state of Nevada? Some clarifications were provided relative to some things that could have been considered revenue but were never intended to be—things like giving money to a charity and getting a tax credit for that; reducing an expense and having to take something; doing a 1031 like-kind property exchange; or some other type of revenue that was not specifically considered revenue by generally accepted accounting procedures. The language has been added to section 8 to ensure that none of that indirect revenue would be included.

Section 14, which includes this concept of a passive entity, includes a limited liability company. In section 14, subsection 1, paragraph (b), we are talking about passive revenue. The concept of a limited liability company has been added to this definition. That is there. Of course, Mr. Willden talked about sections 20 and 23 through 48. In every one of those sections, the standard exemption has been increased from $3.5 million to $4 million.

There was some conversation in the last meeting we had regarding section 21, subsection 1, paragraph (e). It was brought up relative to carving out revenue that was subject to the liquor tax in the state of Nevada. That language has also been changed. It was pointed out that my understanding of what was being requested versus what was actually showing up in the bill was incorrect; therefore, it has been changed so that all that is being subtracted now is the actual amount paid in that liquor tax. Thus, instead of saying a company has $100 million in revenue and essentially all of that is exempt because they pay liquor tax on that, this now says that if the company generates $100 million worth of liquor sales and pays $10 million worth of liquor tax, they would then pay the tax on the $90 million. This is a material increase in what is included overall.

Section 21, subsection 1, paragraph (p) further defines—again, this is a purely technical revision—how dividends are handled and clarifies some of the questions relative to what is and what is not received revenue. Thank you to the bankers for providing that level of clarification.

Section 22 provides the definitions relative to how Nevada revenue is defined. How is it situsedin Nevada? There was some additional language that was offered to clarify that definition to simply say that if it is in Nevada, or the proportion of the service that is provided is in Nevada, it will be considered Nevada revenue. None of that changed the intent of what was provided, but I think it does provide clarity.

One of the bigger questions that came up as part of our discussion was section 50 of the bill. Section 50 of the bill essentially determines what type or form of accounting a taxpayer would use. There was some discussion early on that this should allow maximum flexibility to the taxpayer. They should be able to choose whatever form of accounting they wanted to reasonably choose—whatever made it easier on the taxpayer. Some of the discussion that came up was, that is fine, but realistically speaking, a taxpayer should be using whatever form of accounting they are using for their federal income tax purposes. If they are using the accrual method for federal income tax, they should be using that for tax payments in the state of Nevada. If they are using the cash basis, they should use that for the state of Nevada. Instead of allowing a taxpayer to appeal to the Department of Taxation for a change once every three years, they should only be able to make a change in the state of Nevada if they have made a similar change for their tax payments to the federal government.

Section 62—the buydown for overpayment in the event that we generate more revenue than we expect, as Mr. Willden alluded to—was changed such that it would include not only a buydown of the payroll tax as it is applied to all businesses generally, but also the payroll tax that is paid by financial institutions and is proposed to be paid by mines subject to the net proceeds tax.

Sections 71 and 73 are relatively straightforward in that they simply change the tax, as it is imposed through the business license fee, to the $500 and $200 that we talked about before. Then there are a number of new sections, 72.5 going all the way to 73.8, that merely make the adjustment for the annual filing fees that Mr. Willden talked about previously.

Those are the changes that are physically included in the document. I did commit to Ms. Vilardo to make a couple of clarifications on the record. I certainly do not speak for the Nevada Taxpayers Association or Ms. Vilardo, but just following up on my commitment, we agreed that the language was accurate but that clarification on the record would be helpful. The first one was a question about a foreign entity that had no activities in Nevada but had a managing member here. That is to say, they had a managing member that was perhaps providing some services but was providing those services to a business in Singapore, Toronto, or Mexico City, for that matter. Two things: number one, if the business had no activities and they were merely a presence here, they would have no tax liability as a result of the fact that they were not doing anything physically and they were not actively engaged. Secondly, if there is a service that is provided to someone outside of the state of Nevada, it would not be included as Nevada revenue anyway. I want to ensure that that is clear on the record.

In section 14, subsection 3, paragraph (a), subparagraph (1), there was a question about if a person were to perform management services but did not do anything else other than provide some type of management function for a company, would they be subject to the commerce tax? The brief answer to that question is yes. If they are in the business of providing that management service and they are generating more than $4 million a year from doing that, then they would be thought of as being in the business of providing that type of management service and therefore would be subject to the tax. However, one of the clarifications that we talked about and we thought was important to be made on the record is that section 14, subsection 3, paragraph (d) specifically notes that simply being on a board of directors does not constitute an active trade or business. Someone actually has to be in the business of doing those management services in order for that to arise.

With that, I would summarize by saying the Nevada Revenue Plan as it is brought before you was designed to provide the revenue necessary to fund the budget as it has been outlined and discussed and, in doing so, to provide a broader tax base for the state of Nevada, to provide increased equity among all taxpayers, and to bring in entities that might not otherwise be bearing a proportionate share relative to the economic opportunity that they have in the state of Nevada. I am very thankful both to the Legislature and to the number of businesses that have reached out in an effort to try and improve what was first proposed. I am very thankful to the legislators who brought forward plans of their own and for their thought and input as well. With that, Mr. Chairman, I am appreciative for the opportunity to be here, and I am happy to answer any questions that the Committee may have.

CHAIR ARMSTRONG:

Thank you, Mr. Aguero. At this point, we are going to open it up to the members for questions. I would ask the members to press their speak buttons and then I will call on them in the order in which I receive those. I would also remind the members that we are talking about the proposed amendment. I will give some latitude, but if you stray too far away from the amendment, then I will ask you to rephrase your question.

ASSEMBLYMAN HICKEY:

My questions would be to Mr. Aguero. I have two. I was quite uncomfortable with the commerce portion of the bill and the proposed tax but was pleased with the $4 million ceiling because that does protect a number of our small businesses like mine and, of course, many others in the state. My first question is, Approximately what percentage of existing businesses in this state do you think are below that $4 million ceiling?

JEREMY AGUERO:

The brief answer to your question is that it is in excess of 90 percent of the businesses that will fall under that threshold. I want to make sure that I am clear about this. There are two types of businesses in the state of Nevada, and this has created some concern as we have had this conversation. I think it is important that we are clear. There are businesses that are employer businesses; these are businesses that have employees and they pay wages, salaries, and those types of things. We also have about 200,000 businesses in the state of Nevada that are not employer-based businesses. If we think about it in the totality, really, I would estimate that in excess of 90 percent of employer and non-employer businesses would be under that $4 million standard exemption threshold.

ASSEMBLYMAN HICKEY:

The MBT [modified business tax] such as we are paying now is a fairly simple tax for employers to pay and to calculate. I have heard that one of the reasons we have had to move beyond that is because it is employee-based. Looking forward, why does that present a particular challenge to the economy that we enjoy now and the one that we are growing into? What is the rationale that brought us to the conclusion that the MBT simply cannot be enough of a vehicle to fund our needs for schools and other things in Nevada?

JEREMY AGUERO:

That is an excellent question. The modified business tax is stable and has been a consistent form of revenue for us in the state of Nevada. The challenge that we deal with in regard to the payroll tax is largely, as I think you alluded to in your question, by its very nature, it disparately impacts an industry that employs and sells labor while it does not do that for an industry that employs and sells capital. I want to be clear: The plan as it is in front of you does not eliminate that and does not get rid of the fact that it has been stable for us and is a good starting point relative to our revenue. What it does is recognize that it is probably not the whole package. In addition to that, if we think about major companies that are selling goods into the state of Nevada—shipping them across our roads and selling those things here—but do not have employees here, we are essentially disadvantaging Nevada-based companies that have chosen to put their employees in our state and, therefore, have wages and salaries.

In addition to that, the only other thing I would offer is that we are rapidly becoming an economy that is striving to diversify. Part of that diversification means that we are going to get into more and more entities that deploy technology and deploy capital and those types of things, which means that as that evolution occurs, we are going to want to have a tax base that is, frankly, as broad as possible. We have a very broad tax base among businesses that have employees or sell labor. It is much narrower on the other side. This allows us to bring in businesses that either avoid the tax as it is currently structured or do not pay it at all because they are simply selling their goods into our state.

ASSEMBLYMAN WHEELER:

I have two concerns I would like to address. I believe Mr. Aguero or Mr. Willden could answer these. On the commerce tax portion of it, I was very interested in Mr. Aguero's opening statements when he compared it against the margin tax in Texas. When I see this, and I have listened to most

of the hearings here, is the commerce tax not still a margin tax? Is it not based on the margins that authors of this have chosen for each type of business and the deductions that the authors have decided are acceptable and not acceptable, and then the tax is based on that particular margin afterwards? Then I do have a follow-up question.

JEREMY AGUERO:

In my opening statement, I alluded to the various forms of calculation in terms of trying to reflect that different businesses look differently and may need to have some adjustment relative to how we are going to include them. I do not want to leave this body or this Legislature with the impression that my reference to the state of Texas would suggest that this is the same thing as what currently exists in Texas as the Texas franchise tax. As a matter of fact, I recall a meeting we had early on, in October or November, where the charge was provided by the Governor's Office to look at all the different alternatives that were out there. You will notice that while there are elements from the Texas franchise tax, there are also elements from the state of Ohio's activity tax. There are also elements from the state of Washington. Frankly, there are elements that are simply unique to the state of Nevada. As was instructed, we have done everything we can to try and take the lessons learned from those states and apply them here in a construction that will work uniquely for the state of Nevada.

With that, the more specific question was, Did we, as the authors, work to simply construct something that is almost the same thing as the margin tax as it exists in Texas or—and I may be reading too much into your question—Question 3 that was defeated last November? I want to be clear in terms of my response here. In terms of Question 3, the tax rate is different; the tax base is different; the process in which we apply the tax is different; the yield is about a fourth of what it was under that tax; and in almost every meaningful way, it is different. The challenge that I commonly get when I give that answer is, Your starting point is the gross revenue line; therefore, it must be the same thing. My response to that is if I were to take total revenue and I were to deduct everything, every expense the business has, that would be a net income tax. I started with total revenue just like we do on our federal tax returns, and I subtract everything out of that. That is a net income tax. If I took gross revenue, the top line, my total Nevada revenue, and I did not subtract anything from it at all, I just left it alone, I just applied a single rate across the board to that, that would be a traditional gross receipts tax. We can point to other states that have something very similar to what was proposed by the Governor's Task Force on Tax Policy in Nevada back in 2003. If we start with that top line, that total revenue, and we subtract some of the things, we get what is referred to as a margin tax. The idea that all margin taxes are created equal is just—it is important to understand that everything from the definition to the process to the rates matters.

With regard to the question about whether or not the rates themselves were sort of chosen in terms of what would or would not be included in costs of goods sold, what would or would not be included in the cost of labor—again, we borrowed from the experience of the state of Texas who has gone through hurdles, legislative sessions, and lawsuits trying to better define what is cost of goods sold, what is cost of labor. Our understanding from talking to tax folks in that state and in other states is that this was a source of angst, a source of challenge, a source that made it very difficult for taxpayers to comply, having to go through the exercise of being able to always account and make sure they had it right. Exactly what is the cost of goods sold? We benefited from the state of Texas having information on various industries, and by industries I mean manufacturing, retail, wholesale, health care. Every single industry had an accounting for how much it had in revenue and how much it had subtracted in cost of goods sold or cost of labor or the standard exemption.

ASSEMBLYMAN HANSEN:

Mr. Chairman, I object. We all want to ask questions. There are 42 of us, and so far it has taken almost 15 minutes to answer the very first question. I would like to request that Mr. Aguero focus the answers to what our questions are actually trying to get to.

CHAIR ARMSTRONG:

Mr. Aguero, if you could be more concise with your answers, then we will get through more questions.

JEREMY AGUERO:

My apologies to the group and to you, Mr. Chairman. I will be more concise.

The immediate answer to the crux of the question is that we utilized information from other states in order to develop a set of margined rates that were based on knowledge of how individual industries had margins themselves.

ASSEMBLYMAN WHEELER:

You mentioned in your answer about federal tax returns. One of the things we have been talking about a lot in this session, especially on the education side of things, is data collection. As I look at sections 16 through 20 of this amendment, I see all the data collection that is going to be required. We could go through it, but I am sure everyone has a lot of questions so I will just ask you a yes or no. Will this be the largest data collection for business ever in the history of Nevada?

JEREMY AGUERO:

I do not know that I can answer that question in terms of whether it will be the greatest in the state of Nevada. I will be brief in my response in only saying that the revisions that have been brought to you today are designed such that whatever the standard records are that a business would normally keep for federal tax reporting purposes or any other is what we would request them to have here. If your question is more along the lines of whether we are asking all taxpayers to essentially submit a tax return, yes, that would be significant. I do expect that it will be relatively similar in terms of size and magnitude, in terms of number of filers, as we have under the business license fee today.

MIKE WILLDEN:

I would note that we can have taxation folks come forward if we need to. I understand those sections, 16 and 17, are standard language in other tax collection processes.

ASSEMBLYMAN THOMPSON:

Mr. Aguero, could you clarify section 15 for us? I want to be clear. Is it basically saying that if you have multiple businesses with various business categories that are specified in sections 24 through 49, only the top gross revenue-generating business pays the hybrid of taxes? Explain that better so that I am not misunderstanding it.

JEREMY AGUERO:

I think it is close to what you just said, just a little bit different. If I have a business and within my business I have multiple lines of that business that fall into various categories, the rate that I am going to choose in order to pay is going to be whichever category generates the most Nevada revenue.

ASSEMBLYMAN THOMPSON:

On accounting practices in section 17, subsection 1, paragraph (b), where you talk about preserving those records for four years, is that a standard accounting practice? Should we be holding on to those records longer than that before we purge them in the event that we need future audits?

JEREMY AGUERO:

It is my understanding, sir, that that is the standard language that is used most often in our tax statutes, so we are trying to be consistent with that.

ASSEMBLYWOMAN TITUS:

I am curious. It is no secret in this building that I am vehemently opposed to abatements because I think it creates winners and losers here in our state. Earlier this week, Steve Hill testified on S.B. 507 that providing subsidies to companies through the Catalyst Account was the most effective economic development tool Nevada had. So why does Nevada need to give subsidies to some businesses to get them to come here but somehow raising taxes on the rest of the companies in the state is not a problem?

JEREMY AGUERO:

I do not know that I have a response to that other than to say that at least as we have designed the proposal that is in front of you, I think that it aligns with our economic development goals without requiring additional abatements. I think your broader question is one along the lines of why we are raising taxes on one side only to give them away on the other. I wish I had a better answer for you other than to say I do not have an answer.

ASSEMBLYMAN OHRENSCHALL:

Section 71 of the amendment is the increase in the filing fee for foreign corporations. If this passes, I wonder how that is going to put us in comparison to our competitors like South Dakota, Wyoming, and Delaware. What do you forecast as the loss in corporations that we are going to suffer versus the gain in revenue?

JEREMY AGUERO:

We have attempted to take that into account based on some of the information that was provided by the Nevada Registered Agent Association. They were nice enough to give me a copy of the report, and I tried to review that. I also ran our estimates past your fiscal staff, and we tried to come up with an estimate. Right now, we are expecting a reduction in overall filings of about 12.5 percent in order to reflect that difference in terms of that increase.

ASSEMBLYMAN JONES:

Section 18 sets up the ability to basically audit a company—to go in and review their records. My colleague from the north talked about record keeping. Of course, we have to keep IRS [Internal Revenue Service] records, but is this in essence going to be creating our own mini IRS for the state of Nevada? In order to audit these records, what is the budget going to be for this new entity and group of auditors, and how many auditors do you anticipate it will take to go into our Nevada businesses and shuffle through their records?

MIKE WILLDEN:

The fiscal note that is currently prepared to attach with the Nevada Revenue Plan is approximately $2.2 million a year, $4.4 million over the next biennium. Most of that is start-up and IT [information technology] costs in the first biennium. It is my understanding that that cost would grow into the second biennium, so $4.4 million in the first biennium and it would grow to approximately $4.9 million in the second biennium. There are 23, I believe, staff associated in that fiscal note for this piece. I do not think that is a mini IRS. I would also note that according to previous testimony by the Director of Taxation and Mr. Nielsen, who was the previous Director of Taxation, the Department of Taxation already has auditors deployed throughout the nation and we would leverage that. There will be some additional staff, but we still believe that is a small administrative cost based on the revenue stream it will generate.

ASSEMBLYMAN SILBERKRAUS:

A concern I have is that health care providers, particularly doctors and hospitals, are concerned about low reimbursement rates for Medicaid and Medicare. Additional tax burdens may cause more difficulty in providing services to those individuals. Is there more that we can do to help providers meet their costs associated with providing services to low-income individuals?

MIKE WILLDEN:

Our suggestion is that there is a tax rate for the health care services, and we could have discussion about lowering that tax rate or trying to help that industry. There is some help for health care institutions in the commerce tax as proposed: 50 percent of their Medicaid/Medicare revenue is not counted in the revenue stream, and for other health care providers, all of their Medicaid/Medicare revenue is not counted in that revenue stream.

More to the point, we believe if there is additional investment needed, we should invest in rate increases to providers. If you followed the closing of the Medicaid budgets over the last months, there were rate increases to a number of providers such as laboratories and radiology. We did increase primary care physicians two years ago, and we will continue that rate increase. The budget was closed at a 2.5 percent increase going forward for hospitals in the two coming years. If you are going to invest money to help health care, we believe we should invest it where we can

leverage federal participation in that system. What I mean by that is there is a thing we call FMAP [Federal Medicaid Assistance Percentage]. Every Nevada General Fund dollar you invest to help a health care provider, you get roughly three or four federal dollars in match. So if you invest $5 million or $10 million, you can either turn that into $20 million or $40 million, and we think that is a better use of the dollars than reducing the tax load on that industry. It basically quadruples the effect of the dollar.

ASSEMBLYMAN HANSEN:

When the business license fee first came about in 1991, it was $25 and it was a one-time fee. Now we are up to $500, and I heard Mr. Aguero testify in the Senate on Senate Bill 252 that it was all the way up into the millions of dollars. While we are talking now about that $4 million exemption, when you look at the policy that has been conducted over time, we see that these have evolved to where more and more smaller businesses are quickly enveloped into these types of tax systems. I am wondering, while I understand why it is a good selling point right now, why should we not anticipate this commerce tax to follow the trend that the business license fee has followed where more and more businesses are incorporated into the payment of those things? Then I have a follow-up question.

JEREMY AGUERO:

First and foremost, I would certainly agree with your position. Over time, any tax system is going to evolve. The only specific response that I would have relative to the protection of the taxpayers is the buydown provisions that are included. To the extent that the revenue has come in more than 104 percent over expectations, that is not excess revenue but rather gets put back into the business tax and would buy down the existing payroll tax rate. I am not familiar with that being in any other provisions that I have worked on in the state of Nevada, and I think it does provide some degree of protection from your concern to the taxpayer. On a go-forward basis, this tax, like any other, will be part of the discussion we have. It is merely another tool in our toolbox.

ASSEMBLYMAN HANSEN:

The *Constitution* clearly says, "The Legislature shall provide by law for a uniform and equal rate of assessment and taxation . . ." yet this tax has 27 different rates in it currently. How does that jibe with our constitutional mandate?

JEREMY AGUERO:

With regard to the *Constitution* as it exists, I am certainly not going to substitute my judgement for your legal counsel's judgment relative to what Section 1 [Article 10, Section 1 of the *Nevada Constitution*] applies to. I would only point out that the provision of uniform and equal, at least in my mind, traditionally goes toward property taxes. We have different property tax rates even at that level almost everywhere in the entire state. If you live on one side of a border versus another side of the border, you pay a different property tax rate. We have different sales tax rates in this state. We currently have different MBT [modified business tax] and LET [live entertainment tax] rates. The idea of uniform and equal application of the tax in terms of property is what that is going to. But there are all kinds of examples where rates may be different to achieve a certain purpose. I would argue here that what we are actually doing in the different rates is not to create a disparate impact; it is to create more of an equitable impact between industries.

ASSEMBLYMAN HANSEN:

In section 9—I want to make sure I have this straight—it says, "'Nevada gross revenue' means the gross revenue of a business entity . . . ." So this is a gross revenue tax. It does not matter what your profit margin is. If you have $10 million in gross revenue and you have $10,100,000 in actual costs, you still pay on the gross revenue. Is that correct?

MIKE WILLDEN:

Yes, sir.

ASSEMBLYWOMAN SEAMAN:

I want to know if this commerce tax creates tax pyramiding issues.

JEREMY AGUERO:

Like all taxes, there is going to be some degree of pyramiding, not unlike our payroll tax today, the business license fee, sales tax, or property taxes. Those taxes are going to be built in at every layer of production, distribution, and retail sales in the state of Nevada. There will be some of that with regard to the commerce tax, just like there would be with any other business. We have, in the bill as it is currently constructed, taken a number of steps to try and avoid as much of the pyramiding as possible. If, for example, a retailer sells $100 worth of goods and collects $108 because they have to impose the sales tax, that sales tax is not included as Nevada revenue. It is not as though you are going to pay a tax on a tax on a tax.

In addition to that, there has been specific language to think about the relationship between a general contractor and associated contractors to make sure that we are not double counting revenue. There have been provisions in there to make sure that a broker or a real estate agent, for example, is not a double counting of revenue. There is also a concept of an affiliated group so that a company that owns multiple companies and provides services to them is also not double counted. While we are always concerned about pyramiding in our tax system, I think we have taken steps to limit it to the degree possible.

ASSEMBLYMAN EDWARDS:

I would like you to address two aspects of the tax, one being the discussion about it being broad-based. It has been stated that you want to broaden the base of the taxes; however, you also indicated that by putting the $4 million floor into the commerce tax, you eliminate over 90 percent of the businesses from paying. The logical consequence of that seems to be that you would have to lower that floor piece by piece until you are down to perhaps a million dollars in order to broaden that base. That, sir, puts us back at a margin tax, which the voters just rejected by almost 80 to 20. That is one of my major concerns because every precinct in my district voted almost 80 to 20 against the margin tax.

The other issue I would like you to address is the stability. You said that the MBT had proven to be a very stable source of income and that it has worked for us for years. However, in the committee meeting, you also talked about some of the risks involved in the commerce tax. In particular, the fact that we only collect it once a year means there are 12 months of not collecting any tax. If you add to that the MBT buydown, we could end up in a situation where you exceed the 104 percent of growth of the revenues, you therefore buy down the MBT rate, which will reduce your revenues for the following two years. If a recession were to hit a month or two after that buydown, we then have 22 months of reduced resources of revenues coupled with the fact that businesses will go out of business and not pay it. So we could end up with a huge budget hole. I would like to know how would you possibly address that and all the risks that would be involved?

JEREMY AGUERO:

With regard to the first portion of the question in terms of it being broad-based, the $4 million standard exemption, and the number of businesses that are paying—perhaps I was not clear in my original overview. I will try to provide some degree of clarity here.

If we take each one of the elements of the Nevada Revenue Plan by itself, we just look at them as though they are stand-alone, there are going to be shortcomings with each one of them. If we think about them as a broad structure, a strategy in order to deploy a tax in Nevada, I think that is where we get the stability. Each one of those component parts plays an important role. The business license fee allows us to hit a broad base of businesses, but it has the disadvantage of hitting all businesses evenly. The MBT is a payroll tax, so it disparately impacts labor-intensive businesses, but we are expanding it by lowering the base and bringing more folks in. Importantly, with regard to that MBT, I believe there was also testimony from the Legislative Counsel Bureau that something like 60 percent of the revenue is paid by only a fraction of the businesses—1 or 2 percent, something along those lines. This brings me to the commerce tax. The commerce tax is not designed currently to hit every business. It is designed to be part of a business revenue package that hits businesses that are not subject to the tax today and therefore will broaden our tax base by allowing us to have access to some base that we do not have today, either under the BLF [business license fee] as it currently exists or under the payroll tax as it currently exists. Combined, I think it stabilizes and increases the equity of our tax base.

With regard to the second portion of your question, which is more focused on the question of stability and the risks associated with that, my comments to this Legislature will focus on the concerns that were brought up by legislators. To your question, the concern is not that a tax that is like the commerce tax, that is essentially as broad as the economy can be, is in any way going to be unstable. As a matter of fact, we would believe that the tax with the broadest possible base and the lowest possible rate would have a tendency to be among the most stable. I will argue that should this go forward, it will likely be the most stable source of revenue we would have in the state of Nevada. In addition to that, the reason that we put on the credit between the commerce tax and the payroll tax was, in part, to ensure that we had some insulation against that specific risk. That is to say, if the commerce tax generates no revenue—I missed it altogether—there would be no credit against the payroll tax. It allows us to only have one be lower if the other one generates more money.

With regard to the timing issue, you are right, I do have some concerns about making it an annual tax, but what we heard overwhelmingly from both taxpayers and legislators is that we needed to lower the administrative burden on the Department of Taxation and the compliance burden on the taxpayer. Having it be paid only once each year as opposed to having it be paid four times a year goes directly to that. Essentially, we have lowered the number of taxpayers, or the tax that would need to be processed by the Department of Taxation, by 75 percent, I would argue, in going through that exercise.

The final portion of your question I believe was, Okay, I understand what happens if revenues come in over expectations, but what happens if we buy down that rate and then all of a sudden revenues come in under expectations? Again, the idea that the commerce tax is going to somehow lead to increased instability in our tax system is contrary to the structure of the option that is being considered here. That is to say, if we think about it in terms of hitting the broadest possible base in terms of business activity, it is much like that 1 percent of taxpayers that are paying 60 percent of the MBT. These are the right taxpayers that will generate substantial amounts of revenue and are likely to weather an economic downturn much more so than the smaller businesses that would otherwise be affected by a different option.

ASSEMBLYMAN EDWARDS:

I understand the desire to collect the additional tax and so on, but we are currently talking about netting about $60 million a year, which is, I believe, less than 1 percent of the overall budget. I do not understand how we could possibly leverage stability on 1 percent of the budget. I do not understand how that really creates the kind of stability of revenue that you say we are seeking. I think the MBT also offers you a much better opportunity to have a broader base simply by lowering the floor $5,000 or $10,000 rather than lowering the commerce tax from $4 million to $2 million to $1 million, and then we end up with our people saying, Well, it is nothing but a margin tax, which we have rejected. I do not understand how that $60 million is going to be leveraged so well.

JEREMY AGUERO:

Sure. In terms of response, your concerns are fair. Again, I think the reason why I would argue that it will stabilize our tax base and help increase the equity of our tax base is that we look at it as a plan in its totality—the business license fee, the payroll tax, and the commerce tax working together to provide us a broader and more stable tax base. You and I may disagree. You are correct from the standpoint that the net new revenue that comes between the two is going to be roughly $60 million, but the other side of that coin, of course, is that the commerce tax itself will generate $120 million. The reason for the net is that we are buying down existing payroll tax liability and in buying down that payroll tax liability, we are accomplishing the task of creating the equity.

With regard to the question of if the threshold were to be reduced from $4 million down to $1 million, would this relegate it to exactly the type of margin tax that was considered and rejected by the voters in November 2014, I would submit to you that the bases are different, the rates are different, and the yields are different. Yes, while it may have a gross element as some portion of the calculation, these are very different revenue-generating mechanisms.

ASSEMBLYWOMAN FIORE:

As a small-business person, and as I look at Amendment 7779, I basically see S.B. 252 being put into A.B. 464. With all due respect to the both of you sitting at that table, as you are asking the small business communities to write bigger checks to MBT and pay bigger licensing fees—one of the reasons I got involved with politics is because I was kind of tired of politicians that do not sign the front of the checks making these laws that affect people like myself. So I am wondering if either one of you, with all due respect, sign the front of checks for MBTs or business licensing or everything you are asking the small business communities to do. Do either one of you that are trying to sell me this program—

CHAIR ARMSTRONG:

I am going to stop you because I do not think that is an appropriate question for the amendment. I think that is a statement. If you would like to rephrase it as a question to the amendment, then I will allow it.

ASSEMBLYWOMAN FIORE:

Okay. I will rephrase the question. As you are proposing this to the body, do either one of you personally understand the effects of what it will do to a small business?

JEREMY AGUERO:

Yes. With your permission, Mr. Chairman, I would be more than happy to answer the first portion of the question. I am a small-business owner. I have been a small-business owner for 17 years here in the state of Nevada, and this tax will affect me and my business in the same way that it will any other business that is in the same category.

ASSEMBLYWOMAN FIORE:

Could you be a little bit more specific because I am not really fond of these broad things?

JEREMY AGUERO:

Sure. I have a company in the state of Nevada called Applied Analysis. We are a professional services firm. As a professional services firm, we will bear the increase of a business license fee. We also pay payroll taxes and because we are a relatively small business, we will be disparately impacted by the increase going down from $340,000 to $200,000. So, yes, we will bear the increase. In addition, the rate increase on general businesses overall going from 1.17 percent to 1.475 percent will mean a 26 percent increase in our payroll tax as a company.

ASSEMBLYMAN ELLISON:

I have a couple of small questions. I am trying to go through this as much as I can. I am hoping that both of you gentlemen will be available for questions as we go because trying to read all this and trying to get it all soaked in is very complicated.

I am looking through here and you talked about the 2 percent of the net proceeds of mines. How is that formula going to come off? Is that going to come off as a total of the net proceeds? Because how the net proceeds of mining works is, a portion goes to the counties and a portion goes to the state. Could you hit on that? That is number one.

The other question, if you could, is in regard to the LLC [limited liability company] versus corporation, which you do have in here. I do not know if that is in section 25, by the way, on the net proceeds. Under section 4 when you talk about LLCs, are the LLCs going to be the same as corporations in your formulas? I think that is important because an LLC is a small business. Corporations are usually larger. So could you answer those two questions, please?

JEREMY AGUERO:

Thank you for the questions. With regard to the mining portion first, forgive me if I was not clear before. I will try to clarify now. This is not an increase on the net proceeds or the gross receipts of a mine like we have today under the net proceeds. The 2 percent is an increase in the payroll tax portion where mining companies are currently paying 1.17 percent. Instead of paying 1.17 percent and going to 1.475 percent like businesses generally, they will go from 1.17 percent to 2 percent, putting them essentially on the same level as financial institutions are today. So it is completely separate from that other piece.

With regard to LLCs and corporations—with regard to the business license fee, corporations are treated differently than any other business entity and by that I mean partnerships or LLCs. There are, of course, many of those corporate forms that exist out there. Corporations will see their annual business license fee increase from $200 to $500, as you alluded to. Some of the discussion that went on was that those have a tendency to be bigger businesses overall. With regard to the LLCs or the partnerships and even some of the sole proprietorships, their business license fees will be unchanged. They are at $200.

The second portion of your question was big businesses versus small businesses, so let us imagine a corporation or an LLC that has payroll in excess of $200,000. That would be a bigger business as opposed to something like a non-employer business—a real estate agent or something along those lines. You would have a larger business that would then become subject to the payroll tax to the extent they had taxable payroll in excess of $200,000 a year at a maximum. In that case, any corporate form—whether it is a corporation, an LLC, or anything else—is captured by that payroll tax so long as they actually have payroll.

The third piece would be the commerce tax. It does not matter if it is a corporation, an LLC, or some type of partnership formation. If they have more than $4 million, as a very large business they would be subject to that level. The distinction really between a corporation and a noncorporate entity only happens on that business license fee level.

ASSEMBLYMAN ELLISON:

Thank you, and I think you answered them very well. If you have a corporation or an LLC or partnership that is under $4 million, would they still be subject to audit?

JEREMY AGUERO:

I will defer to the Department of Taxation relative to audit questions. I understand that they would be subject to audit just like any other business would be, both in terms of the payroll tax—maybe your question is more specific to the commerce tax. Certainly, one of the reasons we want businesses to report is to have a sense of where they fall in the revenue stream. If they are just under the $4 million or just over the $4 million, we would want to know whether they are either in or out.

ASSEMBLYMAN STEWART:

In regard to the commerce tax and those entities from out of state that are paying little or no tax at the present time, do you have any idea how many of those would come under this? How much revenue would be raised from those who are not paying any or very little tax at the present time?

JEREMY AGUERO:

Unfortunately, I do not. When we see total demand for services and total economic activity in the state, it is all blended together. The ability to be able to specifically carve out a business that is out of the state and shipping goods in versus one that is physically located here and is selling those goods to people inside the state of Nevada—from the data that we have, it is almost impossible to distinguish.

The second half of your question is very difficult to answer because it is not as though it is a bright line. It is not as though companies have no employees or have all of their employees here. There could be companies that are shipping substantial amounts of goods into the state of Nevada and only maybe have one or two employees here. They may only have 30 or 40 employees here, somewhere along that spectrum, as opposed to the same company that is actually based in Nevada having 200 or 300 employees here. The second half of your question is equally difficult to answer because of that spectrum nature of how businesses are allocated.

ASSEMBLYMAN GARDNER:

You were talking about capital-intensive businesses being the ones that would be brought under this tax. Could you give us some examples of those? That was the first question.

The second question is, I want to find out all the effects this bill will have on small businesses. I know that they are kind of taken out with that $4 million, but is there going to be reporting or something like that they will have to do? What prevents a business from changing their NAICS [North American Industry Classification System] number? As far as I know, that is just something you tell the IRS. As far as I know, the state is not involved in that process.

The final thing is, in my understanding, the whole point of all these taxes is that we are trying to fix our educational system. What happens if that does not happen? What if we do these taxes and our educational system is not fixed?

JEREMY AGUERO:

Would you mind restating the first question? I got the other three. I could not hear you very well on the first one.

ASSEMBLYMAN GARDNER:

For the first one, which businesses would be brought under the commerce tax? I know they are going to be the capital-intensive ones, but are there examples of what kind of capital-intensive businesses we are talking about? Can you give us some examples, please?

JEREMY AGUERO:

When we think about a capital-intensive business versus a labor-intensive business and we think about larger enterprises, what are the largest capital-intensive businesses that we have in the state of Nevada? Things like wholesale trade, retail trade, transportation, real estate-related activities where essentially they are deploying some degree of capital. In addition to that, if you want to think about it in terms of out-of-state companies, as I have said in other hearings, I would certainly refer you to the Fortune 500 to look at all of the businesses that are out there. Let us look at pharmaceutical companies like Novartis and Pfizer that are selling goods in this state. Let us look at food companies that are shipping substantial food products into the state of Nevada and auto manufacturers that are shipping substantial amounts into the state of Nevada. Let us look at telecommunications companies that are generating substantial revenue from service fees from people in the state of Nevada and may only have a relatively small footprint. I do not want to leave you with the impression that there is only one kind of business because I can tell you that some of the most significant taxpayers in the state of Nevada are also going to be some of the service-related companies, but I do not want to leave you with the impression that there has not been some effort to try and create that equity. There absolutely is, and that is why I pointed out the ones that I did.

With regard to the second portion of your question, you asked the question about all the potential effects on small business. Of course, that is a very difficult question to answer as we like to think about things in terms of direct and indirect and induce the facts. But if we are thinking about it just in terms of businesses generally, under the business license fee, if a small business—and we can probably debate the definition of that—is a corporation, they are going to see a higher business license fee. If they are an LLC, a partnership, or something along those lines, they will not be affected by that.

Under the payroll tax, if that small business had payroll between $200,000 and $340,000, they are now going to be brought into the payroll tax base, so there will be an effect on them. They would pay essentially the 1.475 percent on that portion of their payroll, which they are not today because that threshold is higher.

Under the commerce tax, I have had people bring me examples of a partnership that generates $20 million a year because they sell some very expensive goods or something along those lines. I would have a tendency of saying that any business that generates more than $4 million a year probably is not that small. There are probably some businesses that will fall into that category that are maybe small in the nature that they do not have a lot of employees. I guess some of them will be captured, but the entire intent of the commerce tax and that standard exemption is to take out some of those businesses.

ASSEMBLYMAN GARDNER:

I am wondering about the companies that are under the $4 million and under the $200,000 in payroll. Obviously, they would have the state business license fee increase. I am wondering mostly about reporting or other things we may not have gone over. I apologize for not being more clear. I am just wondering, what about those businesses? I want to make sure that they do not have a huge reporting burden on them or something that is not being fully vetted here.

JEREMY AGUERO:

I apologize for answering the wrong question. With regard to the business license fee, they will do nothing different than they do with the business license fee today. Under the payroll tax, they will do nothing different than they do today. Remember that even some of those businesses that are employer businesses still have to report their payroll tax even if their amount of the payment is zero. Under the commerce tax, yes, they will have to file a commerce tax return once a year with their revenue and what rate they would be and essentially show that they have no revenue. You had a fourth question.

CHAIR ARMSTRONG:

Mr. Aguero, I will answer the fourth part because I think that is an important part of the equation that is not part of this amendment. A lot of the education spending that we are doing is categorical spending, so when that money is spent and they come back and they have to approve of those metrics or we approve as a body that those metrics are working and those programs are working, then we can decide whether or not to continue those programs.

ASSEMBLYMAN GARDNER:

What prevents a company from changing their NAICS code? As far as I know, the state is not involved in that decision.

JEREMY AGUERO:

I missed that question. I should have answered it. With regard to the NAICS codes, a taxpayer will have the ability, upon their initial filing, to identify the NAICS code that they think most closely associates their business. That should be relatively straightforward and alleviate some of the concern that has come up that somehow the Department of Taxation or someone else was going to assign it for them.

Of course, one of our concerns—and it has come up many times—is the potential for NAICS code shopping. They change or they just decide there is a lower rate over here, so I want to be that. The primary way we are going to avoid that is, number one, companies report that on things like their federal income tax returns. Importantly, the Nevada Department of Employment, Training and Rehabilitation already has NAICS codes assigned to the vast majority of major employer businesses in the state of Nevada. I believe it is a database in excess of 70,000 businesses. Again, all of the larger ones that have employees are included in there. This will give us an excellent basis to at least start to make sure that businesses are not rate shopping, if you will.

ASSEMBLYMAN O'NEILL:

I have two questions that I think will be fairly short. We have been talking about small businesses and big businesses in relationship to the business license fee. What is the definition of a big business and what are the percentages of the overall of big versus small within the BLF?

JEREMY AGUERO:

The definition of what is big versus what is small depends on where you look. The Small Business Administration provides some definition for that, but it really depends on which industry you are in. They will classify you differently. If we think about it in terms of the business license fee itself and if we think about the total number of employer businesses that there are in the state of Nevada, let us say there are about 70,000 of them. Again, not all of those are big and not all of those are small, but they are all going to be captured by that. There are roughly 180,000 non-employer businesses in the state of Nevada that should, at least theoretically, also be captured by that. The problem is that there is also a third category of business, and that is one that is essentially a paper company that is filing and has a business license fee with the state of Nevada. If we add up all three of those categories, they come to more than 330,000. Being able to gauge it exactly, relative to how many of those are small, is pretty tough to do, but I would certainly guess it is roughly half of them that would be in that small business category.

ASSEMBLYMAN O'NEILL:

Do you have any idea how many of those will be under the $500 business license fee and the percentage changes that you are proposing?

JEREMY AGUERO:
Do we know how many small businesses would fall under the corporation—

ASSEMBLYMAN O'NEILL:
Small and big. How many of the businesses now—

CHAIR ARMSTRONG:
Mr. Aguero, I will step in because this was one of the parts to A.B. 464 in its original form. When I was coming up with that consideration, I was trying to make a distinction between sole proprietors, partnerships, LLCs, and S corporations versus C corporations because, in my opinion, C corporations were generally larger corporations. Now under this, with the distinction between corporations and noncorporations, there is some overlap for S corporations because some start as LLCs and file S elections with the IRS. They would be treated under this plan at $200 for their annual fee. Some C corporations that file an S election would be treated at $500 as an annual fee under this plan. So the distinction between big and small was really a difference between C corporations and every other business entity.

ASSEMBLYMAN HANSEN:
Mr. Chairman, I have a quick question. We started at ten to one, and we are at the halfway point. I am hoping that we will have equal time for the opponents of the bill.

CHAIR ARMSTRONG:
We will. We will be taking a break in about ten minutes.

ASSEMBLYMAN O'NEILL:
I was looking at the rates. Help me understand—if I see the trucking industry has a very low profit in their businesses, but they are one of the highest taxed and would suffer a very high impact on their commerce tax, could you explain how that comes about? Why trucking, which has a very low profitability, is paying a much higher percentage?

JEREMY AGUERO:
With regard to the first portion of your question as it relates to profitability, every tax that we have in the state of Nevada—whether it is property taxes, payroll taxes, or sales taxes—is paid by businesses irrespective of profitability. The commerce tax operates the same way. With regard to why the rate is higher, much like real estate, the trucking industry and some others are going to be somewhat capital-intensive. That is to say, they deploy capital as an asset. They have an asset and then they generate revenue from it. They are going to have less cost of goods sold as a result of that. They are also going to have relatively modest labor because of the mix of how their business works. That is also why they pay a little bit less under the payroll tax that we have today. The reason that the rate is a little bit higher is solely determined by the fact that the cost of goods sold, that cost of labor, that standard deduction is just simply smaller in that particular industry than it would be in another.

ASSEMBLYMAN NELSON:
I have about ten questions, but I will limit it to two. My first one is, under the business license fee, as I understand it, LLCs will pay $200 per year and corporations will pay $500. Have you considered the fact that under *Nevada Revised Statutes* 92A.105, corporations can easily convert into LLCs and some may be doing this to escape their $500 tax? I understand that for a C corporation, that would be really difficult because they would have to sell their assets and things like that, but for a subchapter S corporation, that would be pretty simple. Have you factored that into your calculations?

JEREMY AGUERO:
No, sir, we have not.

ASSEMBLYMAN NELSON:
Okay. My second question is, I have heard varying opinions as to how this will affect economic development. Some have said this will be bad for economic development because it is higher taxes. Others have said it will be wonderful because it will provide more stability and also

strengthen our education system and the overall budget. If either one of you would like to address that, I would appreciate it.

MIKE WILLDEN:

I will repeat what I heard at previous hearings from the economic development folks, specifically Steve Hill from the Governor's Office of Economic Development, and I think EDAWN [Economic Development Authority of Western Nevada] was the other one testifying. They believe that there would be very little impact with this tax plan. They testified that what they hear most from businesses wanting to relocate here was that the problem with locating here was not tax-related; it was the poor education system that caused them not to come. So the testimony from those folks was that our efforts should be in improving our education system primarily.

ASSEMBLYMAN CARRILLO:

My question is regarding section 20. I want to find out how the $4 million was determined to be the amount versus a higher or lower number. Is it just an arbitrary number?

JEREMY AGUERO:

I certainly would not call it arbitrary. At the end of the day, there was a revenue target that we needed to hit. We wanted to balance the interest of trying to eliminate small businesses while at the same time generating the revenue that was necessary to fund the budget.

ASSEMBLYMAN CARRILLO:

In the same section, it talks about the businesses. My example would be that there are multiple Starbucks and multiple Walmarts—none of them are franchised, so they would be a conglomerate. Would they be all taxed as one, or would they be considered individual stores?

JEREMY AGUERO:

This is an excellent question. We ran into that exact problem as the business license fee exists today, and the brief answer to your question is that a business will have the ability to report in whichever way it currently operates as its corporate form. That is to say that if it operates as a number of units that rolls up to a single entity, of course we are eliminating that affiliated revenue associated with that, or if it just reports as a set of single outlets, we are only taxing that revenue one time. The goal was to try and structure it such that we are not asking a business to restructure how they currently exist today in the state of Nevada.

ASSEMBLYWOMAN SHELTON:

I wanted to get some clarification on the commerce tax. Let us hypothetically say that I own a hotel-casino. From your testimony before, it sounded like you were saying I would be able to pick what my tax rate is going to be for the lodging and what my tax rate is going to be for retail. How is that going to play out?

JEREMY AGUERO:

The way that it would work for a hotel-casino would be the same way that it would work for any other business. I guess it is a little different because they would be able to exempt their gaming revenue, which I want to be clear on. They would then be classified under the accommodations business category. The vast majority of them, I would assume, would fall under that particular category because that is where their revenue is, that is how they are classified by the Nevada Department of Employment, Training and Rehabilitation. I think your question is, Gosh, they do a lot of different things, right? They have restaurants. They have entertainment. They have all of those things, but they are going to report as a single taxpayer. Wherever they get the majority of their revenue, that is what they are going to be required to report as for the purposes of the commerce tax, not 26 different categories for that single business. It will be one category for each business based on where the majority of its Nevada revenue comes from.

ASSEMBLYWOMAN SHELTON:

So do they get to pick which tax? You lump that all together and then you get to pick which tax rate you want?

JEREMY AGUERO:
The brief answer to your question is yes, but I would only object to the word "pick." They will have to utilize whichever tax rate is consistent with where they generate the most revenue. You do not get to say, Well, I do these seven things; this one only represents 1 percent of my business but it has a lower rate, therefore I am just going to apply it. Whatever brings in the most revenue becomes what you are for purposes of commerce tax reporting.

ASSEMBLYWOMAN CARLTON:
Within our hotel-casino industry, we have a lot of subcontracted restaurants. So for those restaurants—or entities in a mall or whatever—even though they are associated with the hotel, they would still pay their own because they are not in with the hotel. That was my original understanding.

JEREMY AGUERO:
That is exactly right.

ASSEMBLYWOMAN CARLTON:
One of the things that came up in some of the discussions is that we have a lot of employee and citizen training programs out there. Some of them are nonprofits, so they are not going to be included. Some of them are small. Then we do have some for-profit educational opportunities out there for our citizens, and those will be taxed wherever their NAICS code falls. I do not know if it has come up in the Committee on Taxation or anyplace else, but it seems as though we are going to be taxing an educational opportunity to help pay for the state and education. I am not sure how many of those fall above the $4 million threshold, but I would be interested if anybody would know where those folks fall and what the impact on that would be because that will be borne by students. I would hate to limit opportunities. I do not think it will, but I think it is something we should look at.

JEREMY AGUERO:
Unfortunately, I do not have that level of specificity where I could tell you how many for-profit education enterprises would be in excess of $4 million. My intuition and yours, I think, would be the same, that there would be a limited amount. But I am sure that there will be some that are large and will fall above that threshold and they would be subject.

ASSEMBLYWOMAN DICKMAN:
Mr. Aguero, you seem somewhat unclear as to whether a business can be audited even if they fall under the $4 million cap. Yet section 18, subsection 1 says, "To verify the accuracy of any return filed or, if no return is filed by a business entity, to determine the amount of the commerce tax required to be paid pursuant to this chapter, the Department, or any person authorized in writing by the Department, may examine the books, papers and records of any person who may be liable for the commerce tax." Is that not an audit? Who determines whether they may be liable?

JEREMY AGUERO:
Thank you for the question. In order to clarify, my intent was to say early on that I would defer to the Department of Taxation relative to questions as they relate to audit. I will continue to do that, as they are the professionals who do that. The only thing I would tell you is that is the standard language that exists for our tax statutes in Nevada. As I attempted to say in my answer to the other question, perhaps not as clearly as I should have, that would be no different for all of the taxpayers that would be subject to the commerce tax.

ASSEMBLYWOMAN DICKMAN:
Basically, if you are a very small business, you probably will not be subject to the tax but you will be subject to the filing burden. Correct?

JEREMY AGUERO:
Yes.

CHAIR ARMSTRONG:

With that, the time is 2:32 p.m. We are going to take a five-minute break and then open it up for testimony after that. I am going to divide up the testimony. The time will be restricted for those who want to speak in support, opposition, or neutral. The time limit will be three minutes, and I would ask the speakers to be concise and make sure that it is in reference to the amendment itself. Thank you very much, Mr. Aguero and Mr. Willden.

Without objection, the Committee of the Whole recessed at 2:32 p.m.

IN COMMITTEE OF THE WHOLE

At 2:38 p.m.
Chair Armstrong presiding.
Quorum present.

CHAIR ARMSTRONG:

We are going to start. I want to explain how the testimony is going to work. We have 70 minutes. I only have two people signed in for neutral. I have a timer at my desk, so I will be timing three minutes for each person. We are going to do 30 minutes of support, 30 minutes of opposition, and then 10 minutes of neutral. The Sergeant at Arms will bring three people down at a time to testify at the table, and then each person will be allotted their time.

At this point, we are going to open it up for those who want to testify in support of the amendment. Would anyone like to come forward to speak in support of the amendment? [There was no one.] We will move to opposition. If anyone would like to speak in opposition to the amendment, please come forward.

RAY BACON, REPRESENTING NEVADA MANUFACTURERS ASSOCIATION:

For the record, Ray Bacon, Nevada Manufacturers Association. I think I will start by giving some clarity on some of the issues that impact the manufacturing sector a little bit and some of the complexity that we see as far as complying with this as it is written.

First of all, as a nation it has been fairly common that we are moving from a goods-based economy to a service-based economy. That has been widely touted in the press now for probably 20 years. A large portion of our goods economy has a tendency to be imported goods. At this stage of the game, I know of no mechanism where the state of Nevada could impose taxes on the companies that are under a free trade agreement. Our largest two trading partners in this country, and large trading partners in this state, are both Canada and Mexico. The North American Free Trade Agreement would not allow those corporations to be charged the tax, as I see it. We also have a free trade agreement with Korea; we will probably have one with Japan before this comes in place. What this effectively is doing, regardless of where the goods come from, is shifting that tax to U.S.-based companies. That is a point that I think is not addressed in this in any way, shape, or form.

Mr. Aguero talked about the pyramiding issue. In this country, as a general rule in the manufacturing sector, raw materials are not taxed for sales tax purposes or any other general basis, but then the finished good is subject to tax. That has been the common practice. That does not eliminate pyramiding, but it drastically reduces that. This will violate that principle. The way we do that in the face of residential housing and most construction is, we tax the materials and then we do not have a sales tax or any direct tax on the sale of the house. That was a change that we actually made in this state back in the 1950s. We started off with sales tax applying to the sale of homes, as well, and we took one look and said, That does not feel good, because all of a sudden that sales tax price, even at 2 percent, was a dramatic number. There will be pyramiding in this thing, and there is no way around that.

Assemblyman Edwards' point on the $60 million leverage number, if you take a look—and Mr. Aguero in previous testimony implied that the long-term goal is to increase the commerce tax and decrease the MBT [modified business tax]—if you do that, that $60 million roughly through the $600 million that we are going to be bringing in, means you would have to take this commerce tax, which right now is [allotted time was exceeded].

VICTOR JOECKS, EXECUTIVE VICE PRESIDENT, NEVADA POLICY RESEARCH INSTITUTE:

Thank you, Mr. Chairman. For the record, Victor Joecks with the Nevada Policy Research Institute, opposed to Assembly Bill 464. Regardless of how much the gross receipts tax brings in, there are inherent structural problems with that type of tax. First, it raises taxes on businesses that are losing money, which may put many of them out of business. As Mr. Bacon said, it creates tax pyramiding problems. These are some of the reasons that Texas has moved, just this week actually, to cut its margin tax by 25 percent. As Jeremy Aguero has noted, the commerce tax rates are based on the Texas margin tax. These were some of the same problems voters had with the recently defeated margin tax.

We have heard a lot of discussion today on the 27 different tax rates under the commerce tax and how and why each of those rates was selected. That discussion highlights why the commerce tax, as currently structured, flies in the face of Article 10, Section 1 of the *Nevada Constitution*, which says, "The Legislature shall provide by law for a uniform and equal rate of assessment and taxation . . . ." Now, it is important to point out, as has been noted, that the commerce tax will collect just $60 million in the next biennium, which will make it the twelfth-largest tax source behind the sales tax, sales tax commission, MBT on nonfinancial institutions, insurance premium tax, real property transfer tax, live entertainment tax, business license fee, cigarette tax, liquor tax, Secretary of State revenues, and short-term car rental fees.

Assemblyman Edwards made an excellent point. Unless you intend to increase the commerce tax in future biennia, how does a revenue source that is less than 1 percent of the budget create stability? It does not. I think what you are voting on with this bill is not just a $60 million tax, but knowing there are folks who want to expand it in the future.

Lastly, I think it is important to discuss the motivation for this tax increase. We have heard talk about the need to fund Governor Sandoval's education plans. There has been discussion about how this time there will be accountability for the education funding. In the last 30 years, according to LCB, we have nearly doubled inflation-adjusted per-pupil spending. So before we trust that there will be accountability for future spending, where is the accountability for the spending that we have already had? If you go back and look at the last big tax increase in 2003, then you look at what Governor Guinn said after the tax increase, he promised that he would create a commission to ensure accountability for the additional education dollars. Yet here we are, 12 years later, having the exact same discussions with the promises that this time there will be accountability. I think there has been this idea that somehow this will be the fix or this will be what is necessary to improve it. But if you look at Senate Bill 508, which is currently in Ways and Means, the Legislature is looking at spending an additional $1.5 billion in educational funding, and that is what they say will finally be the improvement. Of the $700 million in new spending this time, only $25 million is going toward [allotted time was exceeded].

PAUL ENOS, CHIEF EXECUTIVE OFFICER, NEVADA TRUCKING ASSOCIATION:

Good afternoon, Mr. Chairman, members of the Committee. For the record, I am Paul Enos. I am the CEO [Chief Executive Officer] of the Nevada Trucking Association. We are here today to support two-thirds of the revenue package. I think we made some good changes to the BLF [business license fee]. We do support an increase in the modified business tax; however, we do oppose the amendment that includes the commerce tax. The trucking industry, which in the state of Nevada moves 94 percent of the freight, would have a rate of 0.202 percent. Now, when you take a look at that, you go, That is not bad; that is going to hit the big trucking companies. When you look at the situs—I heard Mr. Aguero talking today about wanting to get those out-of-state guys that are not paying when they come in here and use roads. One thing I can tell you is that every truck—does not matter where it is plated, does not matter where it is buying its fuel—is paying registration and fuel tax in the state of Nevada if it is a commercial motor vehicle. The way that this amendment would treat the trucking industry would mean that all of our intrastate movements are exempted. That is the situs portion that is in section 22, subsection 1, paragraph (e) of the bill. It says we are only going to tax those movements that have an origin and a destination in the state of Nevada. So our big companies that are doing interstate movement, that are going outside the state—and most of our movement is interstate in Nevada. We do not make a lot here. We do not move a lot here. What we do move—we move ore, we move agriculture, we move food from distribution centers and warehouses into our casinos and restaurants, and we

move construction equipment. Those are the guys that we are going to be hitting here. With an average profit margin of 1.65 percent for our industry, a rate of 0.202 would give us an effective income tax rate of 12.24 percent. That is 27.8 times higher than the income tax rate in the state of California. So we can talk about economic diversification. We can say that this is okay for business. For the trucking business, this puts us at a rate 27.8 percent higher than California. We do have problems with pyramiding. We do think that is an issue.

I just want to say one quick thing. We are absolutely a capital-intensive business. Those trucks cost a lot of money. We are also a labor-intensive business. We need drivers to move those trucks. We are subjected to volatile prices in commodities that we need, such as fuel, that are traded on world markets that really do have an impact on our profitability. That is one of the reasons why our profitability is down. That is one of the number one reasons why we are here opposing that commerce tax, because even our companies that are losing money would have to pay it. We are opposed to the commerce tax. I would ask you not to do this, not to hurt these businesses. Thank you very much.

BRYAN WACHTER, SENIOR VICE PRESIDENT, RETAIL ASSOCIATION OF NEVADA:

Thank you, Mr. Chairman of the Assembly Committee of the Whole. My name is Bryan Wachter. I serve as the Senior Vice President of the Retail Association of Nevada. We are the second-largest industry in Nevada in terms of employment, representing roughly over $23.5 billion in state economic spending. We were a large partner in the fight against Question 3 in November. I want to clarify some points or provide a different perspective.

Mr. Aguero walked through a couple of reasons why he felt that the margin tax on the ballot was different than the question before you. The rate certainly is different, but the rate in this case is not elective as it was in the margin tax. This rate is based on a year's worth of data comparing the Texas economy to the Nevada economy, and Mr. Aguero has chosen what your profit margin will be for you. There are massive pyramiding problems when you tax at every rate of production. You are going to increase product prices at every single level.

Lastly, profitability—you heard testimony earlier from Mr. Aguero saying that profitability applies to all taxes. Well, with my property tax, I at least have an asset that I am able to utilize against that property tax. My modified business tax—it is very unlikely as a business that I will be losing money and will continue to be able to afford employees. After my revenue, my income, has fallen, I will be forced to let go of employees so it is unlikely that I will still have employees and still be paying the modified business tax. What is likely is after the July through June fiscal cycle of this particular tax, I will owe money and it will be more than what I was projecting in profits throughout the year. That is a bad reason to tax. Bad taxes are those that force you to make an economic decision you otherwise would not have made, and that seems to be the definition of this tax.

We were told during the hearing that there is a 25 percent chance that this revenue will not be realized. The modified business tax is your most stable, predictable tax that we have. The Economic Forum spent two minutes predicting it on May 1. We need to rely on the taxes that we know are going to produce and can produce, especially when they are funding important things—education, mental health, IT [information technology], pre-K. We have to go with what we know works. A net $60 million additional tax that attempts to tax people that are not here in the state, that we do not know if we can actually get, is the wrong message and it is the wrong way to stabilize our revenue system. Thank you, Mr. Chairman.

JOHN EPPOLITO, PRIVATE CITIZEN, INCLINE VILLAGE, NEVADA:

My name is John Eppolito. I am a former K-12 teacher. I am a parent with four kids in the public schools. I am not a paid lobbyist. My comments will not take three minutes. However, I did just email all the Assembly members my full comments, which would probably take you about two or three minutes to read. I am going to go with the shorter version right now.

I do agree that Nevada spends way too little on public education, but I am opposed to A.B. 464 because of what the money will be spent on. One thing it will be spent on is to implement Common Core. It has already failed in other states; it will fail here, too. It is just a matter of time and how many children get harmed before we stop it. Two, the inappropriate and harmful SBAC [Smarter Balanced Assessment Consortium] testing and teacher punishment related to the same. Third, the most insidious aspect of all—and over $9 million in the budget and nine new positions at the

Nevada Department of Education—is to collect, store, and share personal information on our children with almost anyone who asks. This is a bad bill. We need to discuss what the money is going to be spent on. Thank you very much.

WAYNE FREDIANI, EXECUTIVE DIRECTOR, NEVADA FRANCHISE AUTO DEALERS ASSOCIATION:

For the record, Wayne Frediani, Executive Director of the Nevada Franchise Auto Dealers Association. I represent 106 franchised new car and truck dealers that employ about 11,000 people. We have been in support of the education reform initially. We have no problem with the business license fee. We have no problem with the modified business tax. But we have a problem with the commerce tax.

We are an industry whose operating margin is very similar to the trucking industry—about 1.8 to 2.4 percent. Our numbers are big. They are large. But our costs of goods sold are large as well. From a net profitability standpoint, it affects dealers. I have a dealer who has run this number—and granted, it is a large operation. He will pay $802,000 under this formula. He is not going to pay $802,000 out of his bottom line. He is going to lay some people off to be able to cover that. That is the bottom line.

We are not anti-education. I do not like the policy. I think there were some better ideas that could have happened. I know for a fact that this will be harmful to economic development. In September of this year, the Governor asked me if we would support a modification of the franchise act to allow Tesla to come into Nevada because of economic development. We gave up dealer rights to do that because we felt it was important. Tesla's business model is very questionable whether they will even make it. Will the battery plant make it? Yes, I think the battery plant will make it. But we gave up some rights there for economic development. I just have a really hard time understanding how this is not going to impact economic development if this is passed. I would urge you not to pass the commerce tax as part of this bill. Thank you.

CHAIR ARMSTRONG:

Thank you, Mr. Frediani. Would anyone else like to come down and speak in opposition to this amendment? While those people come down, I believe we have someone down south in Las Vegas who was signed in for opposition. If that person is there, we can take his testimony while these people are coming up. Please state your name for the record. You have three minutes.

ED UEHLING, PRIVATE CITIZEN, LAS VEGAS, NEVADA:

My name is Ed Uehling, from here in Las Vegas. When this session started back in February, you had the choice of either doing things that would stimulate economic development or would discourage economic development and destroy the economy. Everything you do does one of these two things. Economic development means creating jobs, creating higher incomes, creating wealth, having fewer controls over people, having fewer taxes, and having a more efficient government. You have decided not to look at the actions of the government and rather to go to the public because you have decided that the government budgets are more important than our budgets—than our household budgets, than our business budgets, than the budgets in the private sector. You have decided to tax. There are two ways of getting taxes. You can either enlarge the pie that we have or you can impose higher rates and create new tax categories.

CHAIR ARMSTRONG:

Mr. Uehling, do you have comments to the amendment?

ED UEHLING:

Yes, I oppose it. I am against this amendment and these new tax categories because they are going to discourage economic development in this state. It was stated in the answer to one of the questions, What will happen if the education system continues to decline? And the answer given was, We will look at the metrics and we will do something about it. That is totally false. The Legislature, the government of the state of Nevada, none of the county agencies, none of the cities—governments do not look at metrics. They do not look at the outputs that they are giving. They are only interested in the inputs. I have had a couple of unique experiences. I moved here with my family in 1943 at the age of three, and I moved into a society that had very low taxes and actually functioned, to a large degree, better than the government does today. For example, the

output of the schools was better when I graduated in 1958 than it is today and yet we spend a lot more money today [allotted time was exceeded].

CHAIR ARMSTRONG:
Mr. Uehling, thank you. Your time is up. We will come back up to Carson.

BRIAN REEDER, GOVERNMENT AFFAIRS COORDINATOR, NEVADA CHAPTER OF ASSOCIATED GENERAL CONTRACTORS:
Thank you, Mr. Chairman. For the record, Brian Reeder with the Nevada Chapter of the Associated General Contractors of America. We are opposed to Assembly Bill 464 with Amendment 7779 because it implements a commerce tax. The construction industry is the backbone of a growing economy, and we all know that construction was hit very hard during the recession. Two out of every three construction workers lost their jobs, so we have seen what a recession can do. It is recovering right now, we are happy to say. But that recovery is still fragile, and the commerce tax makes the construction industry very, very nervous.

Briefly to the issue with pyramiding, it appears that the language we have here in this amendment is the same as Senate Bill 252. I know the proponents, the drafters, attempted to address pyramiding, but we think that there are still some problems. Specifically, if you are a contractor and a supplier, you will, with construction materials, pay the tax based on the same revenue. Another problem with the materials is, if I am a general contractor and my subcontractor payments can be pass-through revenue, why would I ever buy my own materials again if the materials are not pass-through revenue? We think that is a problem.

For those reasons, the AGC [Associated General Contractors] does not support the bill with this amendment. Thank you.

TERRY GRAVES, REPRESENTING SCRAP METAL PROCESSING GROUP AND NEVADA COGENERATION ASSOCIATES:
For the record, Terry Graves, representing Nevada Cogeneration Associates and Scrap Metal Processing Group. I love Mr. Aguero and I appreciate his ability to present this third plan and make it sound like a different plan, but our problem is, you cannot fix our objection to the plan in that it is a gross receipts tax plan. It is basically the same conceptual plan that was presented in Senate Bill 252. I will not repeat the technical problems we see with it; they have already been stated by previous folks who opposed it. I would just like to point out that my scrap metal processing folks, who are barometers of the economy, are not enjoying a good economy right now. One of them has laid off a third of his crew in the last six months. There is simply not much scrap metal being produced. The scrap metal comes from construction, it comes from renovation, it comes from personal residences replacing appliances, and so on. That is just not happening now because the economy really is not in a full-bore recovery.

I want to make that point to the Committee of the Whole here, Mr. Chairman. I appreciate the opportunity, and I appreciate the Committee considering these comments from both myself and the others who were in opposition.

CHAIR ARMSTRONG:
Thank you, Mr. Graves. Would anyone else like to speak in opposition to the amendment? Seeing none, we will go back around to those in support. If you are in support, we will take you three at a time. Just a reminder that testimony is limited to three minutes.

SAMUEL P. MCMULLEN, REPRESENTING NEVADA BANKERS ASSOCIATION:
For the record, my name is Samuel P. McMullen. I am here representing the Nevada Bankers Association in support of this amendment. The Bankers Association, of course, had to review this like anybody else does as a business and, frankly, decided that they were going to pay their fair share in whatever way you guys decided, even to the extent that there is a 2 percent MBT for financial institutions included in this. They are going to basically step over that. They may try to do something about it in future sessions, but they believe that this actually works. It works for them, so they wanted us to be in support of it, and we are today.

We also wanted to thank you for considering in this amendment some of the amendments that we proposed that were of a technical and correcting nature. I would say, Mr. Chairman, to you and through you to the members of the body because I know some of them will ask, there is

nothing in these amendments that reduces the tax burden on banking. We did not ask for any of that and, frankly, I want that to be said. We clearly support this and wanted you to know that. Thank you very much.

STEPHANIE TYLER, REPRESENTING THE WIRELESS ASSOCIATION, AT&T NEVADA, AND EDAWN:

Thank you, Mr. Chairman. For the record, Stephanie Tyler, representing AT&T. I am actually wearing a couple of different hats today. First of all, on behalf of CTIA – The Wireless Association, made up of the four major wireless companies; we are all very fierce competitors, and this is a very competitive marketplace. We invest more in infrastructure and advertising than I think just about any industry in the United States today. We do not agree on a lot of things, but our four companies did come together, looked at this tax proposal, and considered it. After a number of our concerns were addressed, we are here in support of this measure.

Now I would like to shift to my AT&T hat. On behalf of our over 1,000 employees in this state, as well as our millions of customers, we believe that the tax structure is way beyond its time for being broadened in terms of spreading the load as far across the board as we can. As a major taxpayer under this proposal, we are here in support of this because of the need to address the educational system as we see it today.

Lastly, as a member of the EDAWN [Economic Development Authority of Western Nevada] Board of Directors, Mike Kazmierski was here during the original hearing and testified in favor. He was unable to be here today, but I would like to convey, on behalf of the Economic Development Authority of Western Nevada, their support for this measure as well.

JOHN GRIFFIN, REPRESENTING SPRINT, DIRECT TV, AND DISH:

Mr. Chairman and members of the Committee, John Griffin here today on behalf of three companies: Sprint, DIRECTV, and DISH. Collectively, the three companies provide services to over half a million Nevadans. All three companies would pay all three aspects of this plan; they would pay MBT, business license fee, and the commerce tax. For all three companies—Sprint, DIRECTV, and DISH—this plan before you today represents a tax increase to their operations, and they are here in support of it. Thank you.

JAMES WADHAMS, REPRESENTING LAS VEGAS METRO CHAMBER OF COMMERCE:

For the record, my name is Jim Wadhams. I apologize in advance if my voice is a little raspy. I think I have the cold that seems to be going around the room. I am here today on behalf of the Las Vegas Metro Chamber of Commerce. We appeared in support of the amendment that the Governor offered to Assembly Bill 464 and are appearing today again in support of the refinements that were offered today in Amendment 7779. We think this is an important element of moving this state forward.

The Chamber, as many of you know, has supported several of the major components of education improvement and reform. As always, when we need to make improvements, we have to pay for them. You have heard from the questions and answers that there are problems with all forms of taxation. These are no different. We feel like this is a good compromise and highly recommend that the state continue to monitor, go forward with, and support this amendment. Thank you.

DANA BENNETT, PRESIDENT, NEVADA MINING ASSOCIATION:

For the record, I am Dana Bennett. I am President of the Nevada Mining Association. The Nevada Mining Association represents Nevada's statewide mining industry in every aspect, from exploration and construction to operation and vendors. We are here today in support of the amendment that you are reviewing. We have been encouraged by the educational reforms that have been considered. We are Nevada's oldest and most enduring STEM [science, technology, engineering, and mathematics] industry, and we are the first ones who are affected when we cannot find graduates who are skilled in science, technology, engineering, and math. We believe that Nevada's educational system should be the most excellent system, and we think that this is an important way to get there.

The Nevada Mining Association has consistently supported the development and application of a broad-based business tax, and we think that this amendment provides that compromise.

Nevada's economy is becoming more diversified—it is more diversified—and it is time for our tax system to be more diversified. Thank you.

BILLY VASSILIADIS, REPRESENTING NEVADA RESORT ASSOCIATION:

Thank you, Mr. Chairman. Billy Vassiliadis, representing the Nevada Resort Association. First, let me say that my friend and colleague Paul Enos is in favor of two-thirds of the bill and we are in favor of one-third of the bill, so together we have a compromise that I think you can pass.

We appreciate the concerns of our business colleagues, as we have concerns about the MBT. As the largest employer having the largest payroll, it is a concern to us. However, we also know that the education system in this state is sorely in need of support and of being fixed. I have heard a lot about economic development and the good or bad that this will do for economic development. We have represented economic development agencies around the country. When we look at the surveys done of relocation managers, the top two things that come out are a trained workforce and a quality of life. Not taxes, but a trained workforce and a quality of life. I would say that this is the first step toward achieving those two goals.

Lastly, I would like to say—and I said this in committee several times—we need to continue this discussion. I do not know that this is a perfect tax bill. I do not know that there is a perfect tax bill. I think sometimes bills are better when everybody is a little bit upset, as we all are now. But at the end of the day, the discussion needs to continue. Looking at the broadening of the sales tax, looking at some stabilization of our property taxes, there are a lot of avenues that we need to look at to create as broad and stable of a tax base as we can and one that does not unfairly burden any one sector of our economy. Thank you, Mr. Chairman.

JOSH GRIFFIN, REPRESENTING BARRICK GOLD OF NORTH AMERICA, MGM RESORTS INTERNATIONAL, AND NEVADA SUBCONTRACTORS ASSOCIATION:

Josh Griffin, here on behalf of three pretty different companies. First, I am here to support the bill and the amendment presented here for Barrick Gold of North America, which is the largest gold mining company in the state. I am also here to testify on behalf of MGM Resorts, the largest employer and the largest taxpayer in the state. Then, finally in support is the Nevada Subcontractors Association, which is an association of small businesses that are part of the residential construction industry. These are three very different companies who agree with a lot of the testimony that has been given. It is not perfect, but it is good. I know there is an expression, Let us not make the perfect the enemy of the good. I just appreciate being able to be in front of you today to support this important piece of legislation.

BILL WELCH, PRESIDENT, NEVADA HOSPITAL ASSOCIATION:

For the record, Bill Welch with the Nevada Hospital Association, representing 95 percent of all hospital beds in the state of Nevada, regardless of the type of hospital. We have analyzed the various tax proposals that have come through, and each of them has impacted our industry in a different manner. This proposal impacts us probably to the greatest extent of the tax proposals that were out there. Having said that, we have looked at the options, we understand that we are in the last two and a half days of the legislative process, and we also understand the importance of adequately funding our essential services. Education and the health care services of this state need this package passed. We are here today to support the proposed amendment as it has been presented to you today, and we encourage your support. Thank you.

BILL NOONAN, SENIOR VICE PRESIDENT, BOYD GAMING CORPORATION:

I apologize up front. I got Jim Wadhams' cold. I am Bill Noonan, Senior Vice President of Boyd Gaming Corporation, based in Las Vegas. I am here on behalf of our 10,000 southern Nevada employees who feel that the education system is in need of definite improvements. The improvements outlined in the Governor's plan, we believe, address a lot of the concerns that we have heard from our workforce.

Boyd Gaming, as most of you know, is a Nevada-based and Nevada-born company. We are proud of our heritage and our roots in southern Nevada. We are here because we believe in the decency of this tax package. While there is no perfect tax package, we believe this one comes closer to meeting the needs of the education reforms that were outlined by the Governor. So, on behalf of Boyd Gaming, we totally endorse the amendment and the bill as drafted. Thank you.

KARLOS LASANE, REGIONAL VICE PRESIDENT, CAESARS ENTERTAINMENT:

My name is Karlos LaSane. I am the Regional Vice President of Caesars Entertainment. On behalf of Caesars Entertainment, the third-largest taxpayer in the state, and on behalf of our 33,000-plus employees, Caesars supports this amendment wholeheartedly. It is time to make sacrifices, lawmakers. It is the time right now to dig down—we are all making sacrifices. I would appreciate your support on this bill. Thank you.

SEAN T. HIGGINS, REPRESENTING GOLDEN GAMING, INC.:

Sean Higgins, here representing Golden Gaming. Much like Mr. Noonan said, Golden Gaming is a homegrown company. The owner of the company is a proud product of Nevada education, K through 12 and UNLV [University of Nevada, Las Vegas]. When the Governor came out with his education plan, Mr. Sartini came out in full support of that plan. He is also in support of the amendment to Assembly Bill 464. Golden Gaming is both a capital- and employee-intensive business. This is a tax that will have a direct and significant effect on Golden Gaming. However, as a Nevada company, we felt it incumbent to support the Governor and this tax plan, and we fully support the amendment to Assembly Bill 464.

STEVE HILL, EXECUTIVE DIRECTOR, GOVERNOR'S OFFICE OF ECONOMIC DEVELOPMENT:

My name is Steve Hill. I am the Executive Director of the Governor's Office of Economic Development. It is a pleasure to be before you again. As you have heard, I am here on behalf of our office as well as economic development entities across the state, including the Las Vegas Global Economic Alliance, EDAWN here in northern Nevada, and the Northern Nevada Development Authority.

I would first like to put to rest the idea that this compromise proposal before you today as amended will have a negative impact on economic development. That is not the case. As a point to exhibit that, and in particular with the commerce tax portion of this amendment and compromise tax program, there will not be abatements that will be necessary for that commerce tax. I think that is an important point to make. The policy that this body has made over the years to provide the opportunity for abatements is to mitigate the negative economic development consequences that come with standard tax policy. In this particular case, because of the alignment the commerce tax has with economic development, those abatements will not be necessary.

The other important point that I need to make is that the commerce tax portion allows the distribution of tax revenue to be generated not only from Nevada employers but from out-of-state employers. It is the only component in our tax system that does that. That means that current and future Nevada employers who are competing for business in our state with companies from out of state will be on a level playing field and will pay less taxes as a result of that. An estimate has been made that about 25 percent of the commerce tax will be paid by companies that have operations out of state and do business in this state. That is a significant savings for Nevada employers, and it is one of the reasons that this will be in alignment with economic development.

CHAIR ARMSTRONG:

Thank you, Mr. Hill. Would anyone else like to speak in support of this amendment? [There was no one.] Seeing no one, we will move to neutral. Would anyone like to speak neutral to this amendment?

SCOTT ANDERSON, CHIEF DEPUTY SECRETARY OF STATE ON BEHALF OF SECRETARY OF STATE, BARBARA CEGAVSKE:

For the record, Scott Anderson, Chief Deputy Secretary of State on behalf of Secretary of State Barbara Cegavske. The reason that we are here in neutral is that we are just addressing the amendment and the parts affecting our office and our ability to maintain and attract businesses to our state. We appreciate and support the reduction of the business license fee on LLCs [limited liability companies] and other entities to $200, but we cannot support the $500 increase on corporations. We have to realize that corporations include large corporations, small corporations, S corporations, mom-and-pop corporations—every size corporation. This fee will apply to all of them, regardless of their size and regardless of their revenue stream. We are concerned because of the flight that this could cause. The majority of the entities that file with our office have no

nexus in our state; they can go to other states, they can stay in their home jurisdiction, and they do not have to come here. So we are very concerned. There is a significant risk of flight.

I apologize because I know we are short on time here. We also have a concern because of the fact that we are uncertain that we could implement this. We are already past the time of implementation. We sent out our renewals for July last month, and August will go out on Monday. Those companies can pay their business license fees 90 days in advance. Additionally, it will take us a while to ramp up and get our systems changed so that we can effectively have any change in business licensing.

With that, I urge this Committee to adopt a flat business license. Keep it at the $200 and consider having perhaps a modest increase in the annual list fees. We think that would help fill that void in changing from the $200 to the $500. We would be happy to work with all parties involved to come up with a resolution and a solution to this. I am aways open to questions.

MATTHEW TAYLOR, PRESIDENT, NEVADA REGISTERED AGENTS ASSOCIATION:

For the record, my name is Matthew Taylor. I am the President of the Nevada Registered Agents Association. We are here in neutral but specifically to address one concern we have regarding the even application of this $300 increase that is applied only to corporations. Currently, there are 307,000 entities on file with the Secretary of State's Office. Forty-six percent of those, or 140,000 businesses, are corporations. Small Business Administration statistics show that 99 percent of all businesses are classified as small businesses. Corporations are not bigger than LLCs, S corporations, small businesses. There are a number of reasons people choose corporations; size is not the main factor for that. We are concerned that this penalizes those same small businesses that we are trying to protect by reducing LLC fees. By applying this fee only to corporations, we are affecting those same businesses that happen to choose corporation as a structure.

Again, we would also urge this body to maintain a level business license of $200 and would agree with the suggestion that a modest increase in the list fees is probably a more effective and more acceptable plan for us. We look forward to working with this body and the Secretary of State's Office to find a solution to this concern.

MARCUS CONKLIN, REPRESENTING UNIVERSITY OF PHOENIX:

My name is Marcus Conklin, here today representing University of Phoenix and testifying in the neutral position on Amendment 7779 to Assembly Bill 464. I testified earlier on A.B. 464 regarding the specific impact the proposed tax structure would have on the private education community. As you make your final determinations on the specifics of this bill, I hope you will keep in mind the importance and value of these nonpublic schools to our education system and to our continued economic recovery. In this classification, we find not only private universities like the one I represent but also trade schools, such as beauty and cosmetology schools, schools training students for jobs in the gaming and hospitality industry, schools in car repair and mechanical skills, and even some private K through 12 schools.

Not every student has the ability to attend a public college or university. These institutions fulfill a real need in our state: online courses, coursework offered in the evenings, education that accommodates those students who work a full-time or part-time job or perhaps have child care responsibilities they have to work around. These schools are also important to the students who live in areas not readily served by public colleges or universities. These education opportunities are particularly critical in our still recovering economy where we have so many workers needing to retrain because they have lost their jobs or there are simply no jobs available in their previous line of work. It is because these education institutions are so critically important to so many students who want to continue their education that I believe we need to ensure their continued availability and success.

I hope you will seriously consider reclassifying these schools, not to erase but to mitigate their future tax burden and potential cost to students. Mr. Chairman, when appropriate, I hope you would consider reclassifying nonpublic education institutions. This is easily done by deleting section 43 of the bill. In effect, this would move providers of education services from one of the highest tax sections to the unclassified business section in section 49. Thank you, and I would be happy to answer any questions.

CHAIR ARMSTRONG:

Thank you, Mr. Conklin. Would anyone else like to come up in neutral to this amendment? Welcome, Ms. Vilardo. I am sorry I have to use a timer. Whenever you are ready.

CAROLE VILARDO, NEVADA TAXPAYERS ASSOCIATION:

For the record, Carole Vilardo, Nevada Taxpayers Association. I will be very brief. I came up not as much in neutral but to thank Jeremy Aguero and the Governor's staff because I know I drove them crazy relative to getting amendments and putting forth the issues that we had. I do appreciate that they tried to accommodate as much as possible everything that was there. I did forget one thing, and I spoke to Mr. Aguero about it and I have spoken to Ms. Kirkpatrick about it, and that was to put a provision in that we had put in Senate Bill 252. It is section 161. What it does is, unless there is a willful mischaracterization of revenue, if there is an audit the first year, there are no penalties and interest attached unless it is a willful violation of the statute. There is going to be a learning curve on this.

I would like to echo that there will be unintended consequences. It happens with every tax. I think we tried as much as possible, whether you like this bill or you do not, to get the issues resolved that could be identified at this time. One was just mentioned by the Secretary of State's Office, and that is the fact on the subchapter S corporations. So you see that this is going to be ongoing. You will be back next year if you pass this. As good as it might be when you pass it, as many unintended consequences as you think you have captured, I hate to tell you, that is impossible with a tax bill. But I thank everybody for their courtesy to me and listening to what my objections were and trying to resolve them. Thank you.

ANGIE SULLIVAN, PRIVATE CITIZEN, LAS VEGAS, NEVADA:

My name is Angie Sullivan, and I am a Clark County School District teacher. I want to testify in neutral because the need for this money is great. I appreciate all the people that I have seen say very frankly that this is going to affect us and we have decided to step up because it is something our community and the state of Nevada needs. There is a realization that education is in crisis, and I understand no one wants to pay. I saw some very bold moves by some leadership today. Thank you for your leadership, for doing what the kids in this state have waited for for a long time. The teachers try hard, the kids try hard, but the bottom line is that we have to have the things we need to be able to make progress.

So I wanted to testify in neutral. I have been watching the hearing and making notes of who is for kids and who is not. Thank you for all those people who are courageous in doing this work because I know it has been a heavy lift and might come at great personal cost or maybe at the cost of your business. But the truth of the matter is, the kids who cannot speak at this microphone are the people who will benefit from this and from the work of your hands. Thank you very much.

CHAIR ARMSTRONG:

Is there anyone else down in Vegas? [There was no one.]

ASSEMBLYMAN STEWART:

Can I make a comment to end the public comment? This might be the last time that Carole Vilardo has to share her wisdom with us. I personally, and I am sure the rest of the body, would like to express our appreciation for her years of sharing wisdom and knowledge of the tax program in Nevada.

CHAIR ARMSTRONG:

Thank you, Mr. Stewart, and I hope that even though she is retiring, we see her in this body for many years to come. With that, the Chairman will accept a motion.

ASSEMBLYMAN PAUL ANDERSON:

Thank you, Mr. Chairman, and I congratulate you on a well-run committee today. Mr. Chairman, I move that the Committee rise and report back to the Assembly.

On motion of Assemblyman Paul Anderson, the committee did rise and report back to the Assembly.

ASSEMBLY IN SESSION

At 3:32 p.m.
Mr. Speaker presiding.
Quorum present.

REPORTS OF COMMITTEES

Mr. Speaker:

Your Committee of the Whole has considered a proposed amendment to the Nevada Revenue Plan.

DEREK ARMSTRONG, *Chair*

MOTIONS, RESOLUTIONS AND NOTICES

WAIVER OF JOINT STANDING RULES

A Waiver requested by Senator Roberson.
For: Assembly Bill No. 258.
To Waive:

Subsection 3 of Joint Standing Rule No. 14.3 (out of final committee of 2nd house by 103rd day).

Subsection 4 of Joint Standing Rule No. 14.3 (out of 2nd house by 110th day).

Has been granted effective: May 30, 2015.

SENATOR MICHAEL ROBERSON
Senate Majority Leader

ASSEMBLYMAN JOHN HAMBRICK
Speaker of the Assembly

GUESTS EXTENDED PRIVILEGE OF ASSEMBLY FLOOR

On request of Assemblywoman Joiner, the privilege of the floor of the Assembly Chamber for this day was extended to Antonio Ernesto Gonzalez.

Assemblyman Paul Anderson moved that the Assembly adjourn until Sunday, May 31, 2015, at 2 p.m.

Motion carried.

Assembly adjourned at 3:39 p.m.

Approved:

JOHN HAMBRICK
Speaker of the Assembly

Attest: SUSAN FURLONG
Chief Clerk of the Assembly