

**MINUTES OF THE JOINT MEETING
OF THE
ASSEMBLY COMMITTEE ON TAXATION
AND THE
SENATE COMMITTEE ON REVENUE AND ECONOMIC DEVELOPMENT**

**Seventy-Eighth Session
March 18, 2015**

The joint meeting of the Assembly Committee on Taxation and the Senate Committee on Revenue and Economic Development was called to order by Chair Michael Roberson at 1:09 p.m. on Wednesday, March 18, 2015, in Room 1214 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4412 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at www.leg.state.nv.us/App/NELIS/REL/78th2015. In addition, copies of the audio or video of the meeting may be purchased, for personal use only, through the Legislative Counsel Bureau's Publications Office (email: publications@lcb.state.nv.us; telephone: 775-684-6835).

SENATE COMMITTEE MEMBERS PRESENT:

Senator Michael Roberson, Chair
Senator Greg Brower, Vice Chair
Senator Joe P. Hardy
Senator Ben Kieckhefer
Senator Ruben J. Kihuen
Senator Aaron D. Ford
Senator Pat Spearman

ASSEMBLY COMMITTEE MEMBERS PRESENT:

Assemblyman Derek Armstrong, Chairman
Assemblyman Randy Kirner, Vice Chairman
Assemblywoman Teresa Benitez-Thompson
Assemblywoman Irene Bustamante Adams
Assemblywoman Olivia Diaz
Assemblywoman Jill Dickman
Assemblyman John Hambrick
Assemblyman Pat Hickey



Assemblywoman Marilyn K. Kirkpatrick
Assemblywoman Dina Neal
Assemblyman Erven T. Nelson
Assemblyman Glenn E. Trowbridge

COMMITTEE MEMBERS ABSENT:

None

GUEST LEGISLATORS PRESENT:

None

STAFF MEMBERS PRESENT:

Russell Guindon, Principal Deputy Fiscal Analyst
Michael Nakamoto, Deputy Fiscal Analyst
Joe Reel, Deputy Fiscal Analyst
Mike Wiley, Committee Manager
Gayle Rankin, Committee Secretary
Gina Hall, Committee Secretary

OTHERS PRESENT:

Brian Sandoval, Governor
Robert List, Private Citizen, Las Vegas, Nevada
Richard Bryan, Private Citizen, Las Vegas, Nevada
Bob Miller, Private Citizen, Henderson, Nevada
Christopher G. Nielsen, Deputy Chief of Staff, Office of the Governor
Jeremy Aguero, Principal Analyst, Applied Analysis
Deonne E. Contine, Executive Director, Department of Taxation
Steve Hill, Executive Director, Office of Economic Development, Office of the Governor
Rob C. Hooper, Executive Director, Northern Nevada Development Authority
Mike Kazmierski, President and Chief Executive Officer, Economic Development Authority of Western Nevada
Glenn Christenson, Chairman Emeritus, Las Vegas Global Economic Alliance
Tom Skancke, President and Chief Executive Officer, Las Vegas Global Economic Alliance

Missy Young, Executive Vice President of Colocation, Switch, Las Vegas, Nevada
Jack McNeill, Senior Vice President, Global Government Affairs, Scientific Games
Elaine Wynn, President, State Board of Education
Phil Satre, Chairman of the Board, International Game Technology
Ruben Murillo, Jr., President, Nevada State Education Association
Jovan Agee, Senior Legislative Advocate, Nevada State Education Association
John Vellardita, Executive Director, Clark County Education Association
Jesse Haw, President, Nevada Home Builders Association
Josh Griffin, representing Nevada Subcontractors Association
Bill Welch, President and Chief Executive Officer, Nevada Hospital Association
Virginia Valentine, President, Nevada Resort Association
William Vassiliadis, representing Nevada Resort Association
Tracey Woods, Senior Director, Government Relations, Anthem Blue Cross and Blue Shield of Nevada
Barbara Smith Campbell, Principal, The Ferraro Group
Brent Bell, President, Whittlesea Bell Transportation, Las Vegas, Nevada
Jonathan Schwartz, Director, Yellow Checker Star Transportation, Las Vegas, Nevada
Jim Eckstaedt, representing Frias Transportation Management, Las Vegas, Nevada
David Goldwater, representing Desert Cab, Inc. , Las Vegas, Nevada
Dan Chia, Director, Policy and Electricity Markets, SolarCity, San Mateo, California
Maureen Schafer, Executive Director, Council for a Better Nevada
Tom Kaplan, Senior Managing Partner, Wolfgang Puck Fine Dining Group, and Director, Council for a Better Nevada
Rudy Manthei, M.D., Private Citizen, Las Vegas, Nevada
Otto Mérida, President and Chief Executive Officer, Latin Chamber of Commerce, Las Vegas, Nevada
Kenneth C. Evans, President and Chief Executive Officer, Urban Chamber of Commerce, Las Vegas, Nevada
Peter Guzman, President and Chief Executive Officer, Valley Center Opportunity Zone, Las Vegas, Nevada
Melody Chutter, Private Citizen, Sparks, Nevada
Linda Sanders, Private Citizen, North Las Vegas, Nevada
Knight Allen, Private Citizen, Las Vegas, Nevada
Alisa Bistrek, Private Citizen, North Las Vegas, Nevada

Carole Vilardo, President, Nevada Taxpayers Association
Paul J. Enos, Chief Executive Officer, Nevada Trucking Association
Samuel P. McMullen, representing Las Vegas Global Economic Alliance
Susanne Trimbath, Chief Executive Officer and Chief Economist,
STP Advisory Services, LLC, Bellevue, Nebraska
Ray Bacon, representing Nevada Manufacturers Association
Matthew Taylor, President, Nevada Registered Agent Association, Inc.
Bryan Wachter, Senior Vice President, Retail Association of Nevada
Janine Hansen, State President, Nevada Eagle Forum
Wayne Frediani, Executive Director, Nevada Franchised Auto Dealers
Association
Victor Joecks, Executive Vice President, Nevada Policy Research Institute
Terry Graves, representing Western Metals Recycling, and Nevada
Cogeneration Association
Paul J. Moradkhan, Vice President, Government Affairs, Las Vegas Metro
Chamber of Commerce
Dana Bennett, President, Nevada Mining Association
Ryan Sheltra, General Manager, Bonanza Casino, Reno, Nevada
Matthew Griffin, representing Satellite Broadcasting and Communications
Association
Michael Harris, Board Member, Nevadans for the Common Good

Chair Roberson:

[Roll was taken.] We are here to consider Senate Bill 252. We thank the members of the Legislature who are in attendance today. This important hearing will take approximately four to six hours. This is an extraordinary and historic day.

During his State of the State Address in January, Governor Sandoval said, "With our spirit of perseverance and courage, we must dare to write the next chapter of the Nevada story, a story that Nevadans in 2064 will look back on and say, 'They did it right.' I ask us all to rise above that which seems easy. I ask us to lead. I ask us to lead, so that the New Nevada can lead."

That is what today's special historic joint committee hearing is all about. We are grateful for Governor Sandoval's leadership and we are honored by his presence today. With that, Governor Sandoval, welcome, and please proceed when you are ready.

**Senate Bill 252: Revises provisions governing the state business license fee.
(BDR 32-1185)**

Brian Sandoval, Governor:

Thank you, Chairman Roberson, Chairman Armstrong, members of the Committee, members of the Legislature, and everyone who is in attendance. It really is a privilege to be able to present to all of you today.

Mr. Chairman, as you mentioned, when I delivered my State of the State Address, I spoke of the building of a foundation for the generations to come—the children of our state. In January, I also gave a speech on the steps of the Capitol during my inauguration, and I talked about the fact that we needed to modernize and transform Nevada, to prepare our state for the next 50 years through investment and reform. Today is the day, as I alluded to in both of those speeches. This is the time and place where the most difficult decisions await us, where the real debate begins. I thank everyone who is here today and is going to testify and their willingness to be heard, especially the former governors, whose experience, wisdom, and perspective are invaluable to the consideration of this bill.

We were chatting immediately before this hearing, and we do not believe that at any time in our proud 150 years of Nevada history three governors, along with the serving governor, have participated in the presentation of a bill. I ask that you give them an appropriate welcome. [Applause.] As you can see, Governor List and Senator Bryan are with us here in Carson City, and Governor Miller is with us in Las Vegas.

As I prepared my remarks I thought it appropriate to reflect for just a moment. In 2011, we worked together to navigate the Silver State out of the worst economic storm of our time. We faced 14 percent unemployment, a \$2 billion budget deficit, a reeling economy, and a worst-in-the-nation education performance. There was great debate and differences, but in the end we made the difficult decisions and came together as Nevadans to keep our fragile state afloat. It was a time of resiliency. In 2013, unemployment was down. The economy was improving and it was diversifying. We began to see a light at the end of the tunnel. We began to make modest investments in our education system and our infrastructure. It was a time of recovery.

Today, as I mentioned in my State of the State Address, I believe that we stand at a new threshold. Some good news: over the last year we had the sixth strongest decline in unemployment in the nation. Our 3.6 percent gain in

jobs over the past three years is third strongest in the nation. We are in the top ten in many other important economic indicators, and we are the third fastest growing state in population. It is a time of resurgence.

On the education front, I sadly reported a few weeks ago that Nevada is last in the nation in its high school graduation rate. But, again, there is some good news. The day before yesterday I had the opportunity to speak with the U.S. Secretary of Education, Arne Duncan, regarding our students' improving graduation rates. I am proud to report that our rate of improvement for graduation rates from 2011 to 2013 is among the top gains in the nation, up almost 9 percent, and almost four times the national average. The rate of improvement for African-American students is 12.8 percent, again one of the top in the nation. For Hispanic students the rate is 10.95 percent, again one of the top in the nation. However, even with these gains, our graduation rates continue to lag behind.

I know all of you, like me, visit the schools. Nevada Reading Month began March 1, 2015, and we have all taken the time to read at the schools. As you see those kids, with their legs crossed as they listen to you, I think you see what I see, which is unlimited potential in every child who lives in our state. They are the ones who will inherit the Nevada we build for them today. Our greatest investments and most strategic reforms must be made in the ways we educate our children. It is their minds, hearts, and dreams on which the future of our state relies. It will do no good to bring innovative and breakthrough industries to our state if we cannot provide the educated workforce to fill the employment opportunities they bring. One can only estimate the economic loss and opportunity lost due to companies that simply choose not to come to Nevada due to our education system.

Most of all, we must regain the confidence that when Nevada families' sons and daughters leave for school, we have done right by them through adequate investment, reform, and accountability. Our schools and their demographics are simply different than they were 50 years ago. In Clark County, 71 percent of the children enrolled are minorities; 60.39 percent of them qualify for free or reduced-price lunch. For the rest of the state, 45 percent are minorities, and 44 percent qualify for free or reduced-price lunch.

I appreciate the hard work of your committees. You have heard the budget proposals that will increase investments in prekindergarten; kindergarten; Read by Three [Act]; English language learners (ELL); Victory schools; technology; career and technical schools; gifted and talented programs; science,

technology, engineering, and mathematics (STEM) education; special education; charter schools; Jobs for America's Graduates (JAG); professional development for teachers and administrators; and merit pay, and will begin the process of modernizing the way we fund our education system. I have assured the business community that all of these proposals come with accountability and performance measures, to ensure all of the dollars invested go only to where they are intended.

Most encouraging for me, in my over 100 meetings with business leaders, legislators, industry representatives, and other stakeholders, is the almost universal agreement that we have to invest in our children and in our schools. They understand that when they do that, they also invest in their own economic well-being and their employees. The biggest disagreement comes in how we fund education while also building a revenue structure that meets the demands of a growing state.

As I considered this business license fee (BLF), we learned lessons from 2003 in the proposed gross receipts proposal, the 2011 margins tax proposal, and Question No. 3, which was rejected substantially by the voters last November. Senate Bill 252 is not those proposals. It has lower rates, distinguishes between business, and is easy to administer and comply.

We also considered increasing the modified business tax (MBT); however, we soon learned, like you, that currently less than 3 percent of Nevada businesses pay it. We also had to accept this hard reality, which I think you are all learning as well, that our current revenue structure, even in an improving economy, left a \$150 million hole in our current budget. Our current tax structure simply does not keep up with growth or reflect our changing economy.

As I went into this endeavor, three guiding principles formed my efforts as we pursued the best possible revenue structure for our state. I know you have all heard me say this over and over again, but it had to be broad-based, it had to be simple to enact and comply with, and it had to be fair. The BLF, as proposed, is broad-based because it will apply to all Nevada businesses. The BLF is fair because it allows for a 15 percent growth factor so that businesses can grow before incurring a greater tax liability. It also differentiates between business types. Businesses have different costs of labor and goods, and the BLF recognizes that. Construction is not the same as a retailer, and a retailer is not the same as a resort hotel. The BLF is simple because it takes advantage of an existing revenue collection structure and can be enacted immediately.

I am aware you have already conducted hearings on the MBT and services taxes. I also understand that Senator Spearman, as well as members of the Republican Assembly, are considering proposals of their own. I commend you for that. It takes a lot of courage and it takes a lot of hard work. As you have worked on this, I think you have come to the same conclusion I did, and what I talked about in the State of the State Address. There is no perfect tax. As I said before, I remain open and willing to meet and talk with you and work with you, and invite that debate to work together so we fix a tax system that is antiquated and unprepared for the challenges ahead. It is simply not 1960 anymore.

Most importantly, in all of these meeting that have taken place, what has been most heartening for me is that we all agree that any revenue proposal must be adequate to reach the revenue targets that will build a strong education system for the New Nevada.

In closing, I truly believe that we are living in a moment that demands vision, craves leadership, and requires teamwork. We have a golden opportunity to bring our state from the depths of the recession to the position of a vibrant national leader that can lead the nation in education, jobs, and innovation. We have a duty to take this challenge on now, rather than leaving it for future legislators, future governors, and the next generation of Nevadans. Indeed, it is my heartfelt belief that we have a once in a lifetime chance to define who we are and what Nevada will be. We have weathered the recession, we fought for recovery, and now I ask you to join me in setting the course for our resurgence in the New Nevada.

After you hear the many testifiers today, and for the next few days, I would respectfully ask for your support of S.B. 252. As I sit here as a Nevadan, this is one of the proudest moments of my life, for us to come together as Nevadans from every corner of this state, to work on a policy that is truly going to chart the course for every man, woman, and child now, and, as you said Mr. Chairman, for that group of Nevadans in 2064 who are going to look back and see how we acted and what we did.

Ladies and gentlemen, members of the Committee, Mr. Chairman, I would like to invite the former governors to join me at the table. We have Governor Miller in Las Vegas and Senator Bryan and Governor List here in Carson City.

Chair Roberson:

Thank you, Governor Sandoval. Welcome, Governor List and Senator Bryan.

Robert List, Private Citizen, Las Vegas, Nevada:

Thank you for this opportunity to address this very important topic and for tackling this very controversial and challenging subject we call tax policy. I use the word challenging because I know how hard it is to work from the policy standpoint, and it takes big time courage from a political standpoint on the part of elected officials to make these decisions and choices.

Many of you know I had the distinct privilege of serving as governor of Nevada, and in the past 150 years there have only been 39 persons who have been granted the honor of serving as governor of Nevada. I am proud to join three of Nevada's finest before you today, as we remember our past while planning and advocating for our future.

I was elected 37 years ago, which is ancient history to some of you. We had our share of issues during my time in office: the devastating MGM fire that killed 85 people, the MX missile deployment proposal from the federal government, the cleaning out of the mob in the casino industry, the preservation of Lake Tahoe through amendments to the Tahoe Regional Planning Agency, and, of course, tax policy. Tax policy was really on the top of the agenda the day I was sworn in. While I was Governor, a native son of Nevada was born, who serves as Chairman of the Assembly Committee on Taxation, Assemblyman Derek Armstrong.

I bring up this nearly forgotten past to highlight the reality of the present, that while our world and our state have changed dramatically since my administration, Nevada's tax structure has not. Our revenue sources remain heavily dependent on sales, gaming, and mining, but they no longer deliver a revenue stream that matches our dynamic, changing population growth and our economy, which has dramatically moved as our tax structure has grown obsolete.

Governor Sandoval's bold vision for our state began when he committed his first term to diversifying our economy. We have all watched the results of that effort come to fruition within our communities because of the hard work of the private and public sectors to rebuild Nevada out of a great recession, but if we are committed to taking the next step from recession to resurgence, we must modernize our tax structure to meet the needs of a growing population and to match the dynamics of its changing economy. It is not easy to step out with a bold plan. It takes real courage and it takes a certain amount of dedication and willingness to overlook some of the political consequences on many occasions.

Our Governor has done that. The plan he proposes reflects an enormous amount of research and analysis. We all know that this Governor would not approach such a challenging task any other way than with great conscientiousness. The Governor has come here today to testify for a plan that he believes in, a plan he is fighting for, and a plan he is willing to put his name on the line for. It is a plan that was not structured in a month, or in a backroom with special interests. We find ourselves in a time when our oldest industries are facing new and significant problems. As you all may know, mining and gaming both have gone through some significantly negative changes during the past 30 to 40 years, highlighting the challenges of having a negative effect on our state revenue stream in this modern economy. Thanks to Governor Sandoval's successful, continuing focus on diversification of the economy we now have a broader base to help shoulder the load.

I well remember the enormous controversy surrounding my tax plan. We reduced property taxes and increased the sales tax. We also took the sales tax off of food for home consumption, groceries, and took it off of prescription drugs. One of the features was that the tourists would pay a substantial portion of the sales tax. I called it a "tax shift"; my opponents called it a "tax shaft." The heat was quite hot. Everyone's political life was on the line. It passed with bipartisan support, and while the opposition promised to immediately reverse it when they gained control and it has since been tweaked a bit, it has never been substantially changed in the intervening 36 years since 1979.

The tax structure needs remodeling to meet the modern times, to meet our drastic and crying need to fix our broken education system. I am embarrassed to say that our Nevada schools kindergarten through Grade 12 (K-12) are an embarrassment to our state; despite the gains that have been made, we need much more improvement. Our kids deserve better, and they are depending upon you and your colleagues to find the solution to raise those revenues.

I am not here to say that Governor Sandoval's proposal is necessarily the only or the best approach. If you do not like it, what would you suggest we do? It is your job to step up and show the same kind of courage that Governor Sandoval has shown. You and your colleagues are much more than simply the winners of your elections in your individual districts around the state. You were sent here to lead, not to just represent a small component of the overall state. We have all heard the phrase "lead, follow, or get out of the way," and I really think that is applicable in this situation. I challenge you to step up and make the hard decisions. This is not about your next election.

This is about the future of the next generation of Nevadans—hundreds of thousands of kids, from Denio to Laughlin, from Carson City to Wendover, and their individual preparation to make a success of their lives. I will say it again. It is about them; it is not about you.

It takes courage to lead. Some have said, "No new taxes, never. I will not vote for any new taxes." I suggest to you that is a rather arbitrary and stubborn attitude. Some say, and I would say, that it would have been very easy for Governor Sandoval to coast during his second term. He is a popular guy; everyone likes him. He could have coasted. Many say he might still move on to significantly higher office in some capacity, but he is not satisfied to just live with the status quo, because he knows what we need in our state. He has embraced this controversy, and he has taken it in his heart to do something for our kids. People respect that. He is still just as popular as he was before he proposed this controversial program. The polls show that. I think that each of you can take a lesson from that. This is your time to show what you and your colleagues are made of. If you do not like S.B. 252, then settle on an alternative means of revenue generation. Work toward a consensus, find a reasonable compromise, and with all respect, that is your duty, your responsibility, but it is also your privilege to make a contribution to this state, to do something of lasting significance. I hope and I believe that you will do that.

Thank you, Governor Sandoval, for the opportunity to appear with you today. I salute you, your courage, and your willingness to stand up for the people of Nevada and put your reputation on the line. I look forward to seeing this Legislature do the same.

Richard Bryan, Private Citizen, Las Vegas, Nevada:

I appear here today before you as a private citizen, not on behalf of the law firm that I am a member of, Fennemore Craig, nor any of our clients. My remarks today are mine and mine alone.

I am a product of the public school system of this state. In September 1942 I came to the now historic Fifth Street School in Las Vegas and met Doris Hancock. She was a legendary teacher. She had an insight that as a youngster I did not fully comprehend. I had trouble coloring within the assigned parameters, and she pinned to my collar a little note to my mother which read something like this: "Richard has trouble staying within the lines." I did not realize how prophetic she was.

Twelve years later I graduated from Las Vegas High School. In my senior year, my English teacher was Sally Riggs. She assigned some of the great literary figures in the history of the English language. One of those she assigned for us to read was Alexander Pope. What he said about education at that time has stayed with me over the years. I would like to share it: "'Tis education forms the common mind; just as the twig is bent, the tree's inclined." I think that is very true.

With the exception of my loving parents and my supportive wife, no one has had a greater impact on my life than the educators who taught me. My dreams became a reality, as they have for hundreds of thousands of other Nevadans, based upon the public education system of this state. Thirty-eight years ago I had the privilege of serving as the Chairman of the Senate Committee on Taxation. I sat where Senator Roberson sits today. I appreciate the opportunity to be here today, to join with those who I highly respect for their public service, Governor Sandoval, Governor List, and Governor Miller. I am pleased to be here to support the Governor's funding level for K-12 education. It is, in my opinion, courageous, bold, visionary, and necessary. It moves the educational ball into the end zone.

For too long Nevada has languished at or near the bottom of the educational system of K-12. There are consequences to that. We shortchange the children of our state and we handicap our leaders in attracting the kind of business we all want for the future—well-paying jobs, jobs that recognize the technology of the future. The Governor's plan will require additional revenue. I am not unmindful of the criticism that he has received. It will cause great damage, we are told, and Nevada's reputation as a tax-friendly state will be destroyed as a result. I respectfully disagree. For too long we have pursued the holy grail of lower taxes in our efforts to expand our economic base. Although it is fair to say that a confiscatory tax structure will certainly deter businesses coming into our state, there will be others who will follow me here this afternoon, who will tell you that, far too often, education is a top priority for businesses considering relocating in our state, and that we as Nevadans have lost out, not because our taxes were lower, but because our educational system was inadequate. Those states that may have a higher tax rate have supported their education more wisely, and carried the day.

I will not comment on the specifics of the Governor's proposal, but suffice it to say I believe it generates the kind of revenue we need to reverse that trend, and to adequately fund K-12 education. I think Governor Sandoval has wisely indicated there may be other proposals, and there may be modifications that get

us there, but the important thing is that we generate the revenue that is sufficient to enable our educational system to move forward, out of the doldrums, and to provide our leaders with the opportunities they need to help to transform our state.

This Committee and this Legislature, has a rendezvous with destiny. It awaits all of you. Sixty years ago our educational system was in crisis, as it is today. Sixty years ago a proposal was advanced before the 47th Session of the Nevada Legislature, in 1955. Then, as now, it was advanced by a Republican governor, Charles Russell. Then, as now, the critics said this will destroy our state as a haven for new business opportunities. Then, as now, the critics were everywhere.

Let me respectfully suggest that, for you, this is a perfect carpe diem moment: seize the opportunity. We have studied this issue and we have studied the alternatives. The time is now and it requires action. It will take considerable courage. All of us are aware of the fact that anytime you increase the revenues there are those who are critical. This is something that I urge you to do for the children of our state, for us to develop the kind of economy that is part of the twenty-first century. The tax structure that served us well in the previous century no longer generates the revenue that is adequate for us to provide the kind of opportunities we need for Nevadans in all walks of life.

I urge this Committee to take action to develop a legislative program that is enacted this year and which provides the revenue that we need to do the job. It has been my great privilege to be here and join my fellow colleagues and the members of the Legislature.

Bob Miller, Private Citizen, Henderson, Nevada:

First of all I would like to thank Governor Sandoval for inviting me here today to address this important meeting, and to join with Governors List and Bryan to discuss it. It is always difficult to follow Governor Bryan. That is a plight that seemed to plague my years as Governor. It is a privilege to be here with all of them.

For decades, I, along with many of the people in this room, have been fighting to modernize our education system through both reforms and the creation of a stable, broad-based funding source. This session is the best opportunity we will likely ever have to reach this goal.

In the 1990s, my and the Legislature's focus was on class-size reduction and early childhood programs like family-to-family and family resource centers, enhancing technology in our classrooms, and a study on standards, assessments, and accountability. Here we are today and, as most of you know, the statistics about our state's education system are depressing. We have the lowest percentage of students enrolled in an early childhood program of any state in the country. We have thousands of students each year reading below grade level. Thirty percent of our students are not graduating from high school. We have hundreds of teacher vacancies in our state. Our universities are not graduating a majority of students because too many of them are not prepared for the rigors of college. This situation is totally unacceptable. Without an additional stable funding source to improve our state's education system we will be back here in Carson City in the next session, and in future sessions, arguing over the same issues, while we continue to fail to provide an excellent public education for every student in this state.

With advanced industries finally entering this state, it is our obligation to produce a workforce that can actually ensure that our state is a great place to live and to prosper. We need all available revenues to go toward improving public schools and our universities. I recall some five years ago sitting in a room with Senator Bryan and the late Governor Guinn, addressing the board of directors of the Economic Development Authority of Western Nevada (EDAWN). We were discussing the fiscal policy of the state at that time. All three of us concurred that we were not adequately funding our educational system, and that some form of broad-based revenue was needed, even then. I still believe that some broad-based revenue addition is the appropriate action for this Legislature, and it is the appropriate solution for quality education in this state. As we addressed EDAWN, and representatives of the Nevada Development Authority on a separate occasion, just as Senator Bryan has pointed out today, we were informed by those seeking to broaden our diversification that our education system was an obstacle. It was a primary obstacle in attracting other businesses. I do not believe that we can, as a state, allow that to continue. All of you have the opportunity to step up to the plate and hit it out of the park.

I appreciate and I applaud Governor Sandoval for bringing this issue forward and I appreciate the hard work in front of you legislators. I look forward to a game-winning solution.

Chair Roberson:

I want to say again how extraordinary it is to have four Nevada governors here today. I want to thank Governors List, Bryan, and Miller so much for taking time out of your lives to be here to testify in support of this important issue.

Governor Sandoval, thank you again for your courageous leadership on this issue for our state. With that, I know you have a state to lead, so you are excused from the hearing whenever you need to go, as are you Governor List, Governor Bryan, and Governor Miller. Thank you so much.

We are going to take a short recess and we are going to bring testifiers to the table to talk about S.B. 252. That portion of the hearing will probably take between 1 1/2 to 2 hours. They will go through the mechanics of the bill and will take questions from the Committee members. We are in recess [at 1:49 p.m.].

[The meeting was reconvened at 2:01 p.m.] I would like to give a little more detail about how the rest of this day/night will go. The next three testifiers will discuss in detail S.B. 252. I expect their presentation will take 45 minutes between the three of them, maybe longer, and then we will take questions. I would ideally like to be able to move on to the next portion of the hearing by 3:30 p.m. We have about 50 testifiers who will be coming to the table today in support of S.B. 252. We will hear a portion of those testifiers. Once they have testified, we will transition to testimony in opposition and neutral, and then we will come back to some additional testifiers in support of the bill. We may go until 6 p.m. or 7 p.m. tonight. It depends on how long the testifiers talk. I am sure the testifiers who do talk will be succinct in their comments.

With that, I would like to welcome Deonne Contine from the Department of Taxation, Chris Nielsen from the Office of the Governor, and Jeremy Aguero from Applied Analysis.

Christopher G. Nielsen, Deputy Chief of Staff, Office of the Governor:

Nearly a year ago the Governor's Office began looking at different revenue options from other states, as well as reviewing our current revenue sources. We recognized that our existing revenue sources were not only not keeping up with the needs of the state, but they were also cyclical in nature in many cases. Many of our existing taxes were industry specific, and others were not broad-based. We recognized that if a new revenue source were to be put into place, we needed one that, as Governor Sandoval stated, would be

broad-based, simple, and fair. We also believed it needed to be friendly to economic development, able to grow with the economy, and able to be implemented quickly.

We looked at increasing sales tax, property tax, and the MBT. We looked at imposing a corporate income tax, a services tax, a margins tax, and a gross receipts tax (GRT). For various reasons, all of these solutions lacked the tenets of being broad-based, fair, and simple. For example, a true GRT does not recognize that each sector of the economy is different. It also taxes each dollar of revenue, and it does not mitigate the so-called pyramiding issue. A services tax would take more than a year to implement, and likely would have to include a tax on such services as commercial real estate leases, health care, and small things such as haircuts. Consumers would directly bear the burden of that tax. A corporate income tax not only would take more than a year to implement, but would necessarily create a mini Internal Revenue Service (IRS) agency here in the state of Nevada. More importantly, it is the least stable and least predictable revenue option available. As Governor Sandoval mentioned, we also looked at raising the MBT; however, as we are all aware, only a small portion of businesses actually pay this tax. Even if a small business exemption is removed, this would still not be broad-based, and labor-intensive businesses would continue to bear a higher burden of the overall tax base.

In the end, we developed a unique plan that is fair, simple, and broad. It is fair because it takes into account not just ranges of revenue, but the uniqueness of each industry. It is less complicated because it eliminates calculating complex deductions, and its broad-based fees apply to all businesses. As designed, the anticipated yield over the biennium is \$438 million, a number that equates to the Governor's proposed new categorical K-12 education spending. Finally, some of you may see S.B. 252 as complicated, just by its sheer length, as it is 130 pages long. The guts of it are, however, only 14 pages long, with 20 pages being the rate tables and the balance being the administrative shift between the Secretary of State's Office and the Department of Taxation.

I am now going to turn the presentation over to Jeremy Aguero to discuss in depth how the BLF was modeled, how the fee structure was created, and how it works. Then, Deonne Contine with the Department of Taxation will walk you through the bill and provide real-world examples that illustrate not only how the rate tables work, but how some of other concepts of the bill operate.

Jeremy Aguero, Principal Analyst, Applied Analysis:

I was asked to talk a little bit about how we got to where we are now. I will begin at the end. We have been down this road before as a state. We have had these types of discussions. I will argue that what we will present to you today is the culmination of many of those discussions, taking many of the lessons we have learned as a state, taking lessons that other states have learned, and trying to develop an alternative that is elegant in its design and uniquely fitted for a state like Nevada.

With that, I think one of the easiest ways to talk about how we ended up where we are is to really start with all of the history—the conversation that Mr. Nielsen alluded to—beginning almost a year ago, talking about different potential revenue alternatives. Like all of those conversations, it starts with a white board with all kinds of different options. When we start to talk about business taxes, it almost always starts at the same place: let us have a conversation about a corporate income tax. I have even heard from some folks that what the Governor has proposed is some type of a corporate income tax. With corporate income tax, we think about a business. There are only so many ways to tax a business. You can tax at the top of the income statement; you can tax at the bottom of the income statement. Roughly 45 states have some form of corporate income tax, or some derivative thereof. Corporate income tax is nearly the quickest one, in almost every one of these conversations that I have had, to be disposed of because it is also among the least stable sources of revenue that we can have from a business perspective. Some folks like it from the standpoint that they will say that "I am required to pay any other tax even if I do not make any money." I hear that all the time. That is true for businesses like mine, and like others. We pay the property tax, we pay sales tax, we pay the MBT, and we pay everything else that is out there, irrespective of whether we make a profit or not.

As Mr. Nielsen alluded to, there are other problems with a corporate net income tax, corporate business tax, whatever you would like to call it. Those problems are stability and, in some cases, administration, depending on how they are structured. What we often hear is that the creation of a mini IRS in Nevada is something we are opposed to doing. We look at the IRS code, how thick it is and how complicated it is, and that is something we have often tried to avoid. I will be honest with you, and tell you that over the past 15 years we have been studying these types of alternatives. That is one that seems to come and go. What is proposed here has almost no features of a net income tax.

As soon as we have the conversation about the net income tax, the thing to do is almost always to go to the exact opposite. If we are not going to go to the bottom of a company's income statement, let us take ourselves directly to the top of the income statement. Revenues come in and that is the most stable source of revenue we could likely have as a state. Take it right from total gross revenue, sometimes referred to as gross receipts. Those conversations, since 2003, have had a tendency to be relatively brief.

I had the honor to serve as the chairman for the technical working group for the Governor's Task Force on Tax Policy in Nevada, and authored a report with Guy Hobbs. That group came forward with a GRT as part of a broader tax package. We know what the challenges are of a GRT. It treats every business exactly the same. Sometimes that is good, but not when you have high volume, low margin businesses; the ones I recall most notably from that debate in 2003 are people like petroleum distributors and grocery store operators, who operate on very high volumes and very low margins. If you treat them exactly how you treat everyone else, what you are left with is inequity.

At the same time, those GRT taxes also struggle with something that I am sure you have heard often—pyramiding, paying a tax, on a tax, on a tax. Without a doubt, that is one of the challenges that comes from a GRT. We knew it. We believed we worked around it from the standpoint of having the broadest possible base and the lowest possible rate but, nonetheless, that is a challenge and one that we were not able to overcome. If being at the bottom of the income statement is a nonstarter, as the Governor's staff told me one time, we do not need any more revenue instability in the state of Nevada, and being at the top of the income statement is a nonstarter, because a GRT is oftentimes a nonstarter for conversations here in Nevada, so we are forced to be somewhere in the middle.

Every alternative that is between a GRT and a net income tax is some form of tax on margin, or tax on some expense. It will always be a margin, somewhere between the top line and the bottom line. That is why we refer to it as a margin. Many folks have talked about what is being proposed here today as being a margin tax, or a tax that was similar to Question No. 3 on the ballot in November 2015. I will touch on that in just a moment as we continue to make our way through. I think what we do have today is somewhere in between the top and the bottom. We have chosen an expense line. We have chosen payroll—payroll, less an exemption for \$340,000 a year, less the cost of

employer paid health care, times a rate of 1.17 percent, unless you are a financial institution or one other industry that has some degree of special treatment. Folks have said that is easy, and they are right. That is what it was designed to be.

In the 2011 Session, then Speaker of the Assembly John Oceguera and Senate Majority Leader Steven Horsford empaneled a group of business folks to get together in a room, and I know there have been conversations about it, that it was a secret backroom kind of conversation. I assure you, that is not what it was. I had the opportunity to staff that on their behalf, and they sat in a room, not unlike many of the meetings we have here, and they thought about all of the things in our tax system. They talked about our sales tax and our property tax, and they spent a great deal of time—that group of business folks and a few lawmakers—sitting in that room and talking about all of the possible alternatives. In 2010 our unemployment rate was 14.5 percent. Our state was struggling, as the Governor outlined. They came to the conclusion that having a tax based on payroll—how many people you hire and how much you pay them—was just bad tax policy. In a state that had lost one out of every six private-sector employees—in the construction industry that number was two out of every three—having a tax that disparately impacted, or created any level of disincentive for hiring people or paying them more, was just bad tax policy. This is probably not too far away from most of our memories, and some of us are still feeling the realities of that today. They also believed that as we went through model after model, looking at different things that different states have done—Texas and Ohio, the business and occupation tax in Washington, income taxes from Florida to Utah and Arizona—how they worked, what was good about them, and what was bad about them.

What came from that conversation was a series of models that looked at what the tax incidence was of the payroll tax the state of Nevada has today. We all know what that is. That incidence is that if you are a labor-intensive business, if you pay people to do something, if you have employees and that is what you sell, if you are in leisure and hospitality, if you are in health care, if you are in professional services, and you sell labor, you are going to be disparately impacted by that alternative. That is exactly what it is designed to do. You will pay a higher tax as a result of that and to the benefit of capital intensive businesses. If I sell a good instead of selling labor, my tax liability is going to be lower. There are no surprises; that is what it was designed to do. If I build an office building and then rent it out, I deploy capital instead of deploying labor and I am going to generate less tax liability in the state of Nevada.

This group of business folks and legislators looked all around the United States. They ultimately settled on a tax in the state of Texas as being what they thought was a good alternative. This is the Texas Franchise Tax. We have come to know it in the state of Nevada as the margins tax. This group of folks did not come with the idea of raising additional revenue from that particular alternative. As a matter of fact, they talked about a rate of 0.8 percent, at the time a sufficient amount of revenue, not to raise additional money for the state of Nevada, but rather to replace the existing payroll tax that we had in the state. Why? For exactly the reason I just told you. There was a general belief that we wanted to have the broadest possible base, the lowest possible rate, and that we wanted businesses that were similarly situated to be treated the same. That is what that group wanted. That plan had other elements, not unlike the Governor's task force, but it ultimately morphed into what became the Horsford-Oceguera tax plan of 2011.

Fast forward from there to the teachers education initiative, often referred to as Question No. 3. I have heard from time to time that what is being proposed is similar, the same as what voters just turned down. Again, this could not be further from the truth. If you think about what Question No. 3 did and did not do, or the margin tax as it was proposed and considered by the voters, there were all kinds of structural problems relative to how it was drafted. First and foremost, it employed a rate of 2 percent, somewhere between two and four times higher than the rate currently imposed in the state of Texas. It would have taken us from the middle of the pack to among the highest business tax states in the United States. They left out provisions that exist in the state of Texas to deal with revenues upon which taxes are already paid, pass-through revenues, affiliated groups, all of these types of things were left out. It made that alternative structurally unsound, which was the basis for its defeat.

While there was certainly conversation about it on any number of levels, the differential between what is being proposed, a tax that will generate roughly \$250 million a year, in comparison to one that would have generated more than \$800 million a year, is dramatically different in and of itself relative to order of magnitude, and I would also argue in terms of tax incidence, in terms of the way it was structured, and in terms of the way that a business would comply with it and the state would be able to administer it.

What is also somewhat left off of the conversation from time to time is that was not the only reason that group brought that forward; it was not just because they wanted to have some additional equity. There were other

advantages to looking at a tax like what existed in Texas. One, we can learn from what other states have done. The Governor's Office has challenged us over and over again to not look at one state, to look at what various states are doing and try to take the best of each one. You will notice that perhaps the most important element of this tax bill is the definition of revenue, not taking from the state of Texas or borrowed from the state of Ohio, which I will submit, found a better way to do it. I will talk more about the details as we go through, but this is a hybrid, again learning from our history, both here as a state, and learning from the best practices from states that have gone through this exercise before and, frankly, including places like Texas that have gotten it wrong. There are things included in this bill, including the treatment of apportionment, including some of the definitions, including the way the rates were calculated, that when we talked to folks in Texas they tell us these are the biggest challenges they had—defining what is the cost of goods sold, defining what is the cost of labor. We have eliminated that. We streamlined it. We have learned from what they did right and what they did wrong, and we have made it better.

The third thing the group of business folks really liked, and seems to be oddly left out of the conversation, is the fact that a fairly substantial portion of Texas's margin tax is exported. It is borne by businesses that do activity, that engage in business in the state of Texas, but are not necessarily located there. As a matter of fact, they estimate that some 30 percent of the revenue they generate is exported to businesses that are availing themselves of the economy and the business climate in the state of Texas, but are not located there. They have nexus. There is a linkage, but they are not physically located there. What have we done in the state of Nevada? We have chosen a payroll tax that says we are going to let all of those other businesses, that may not have their employees here, sell goods and services in our state. They would pay nothing, while businesses here would be taxed. That is something that they considered to be particularly problematic.

Now we fast forward to a year ago, and how these discussions started. The Governor said: widest possible base, lowest possible rate. It has to look like our economy, it has to be stable, it has to be equitable, it has to be transparent, it has to meet all of these things that you have heard from everyone who has come up and discussed it with you about what is sound tax policy. Respecting the fact that we were not going to do some of the things that were out there before, what was the widest tax base that we had?

You heard testimony in this very room that the number of entities paying the payroll tax currently is roughly 12,200. The number of businesses that are paying the BLF currently is 330,000. The widest possible base, how does everyone participate—that is why it became our starting point.

We started by saying we needed to have a certain amount of money. We will use \$250 million, although I will tell you that has been something of a moving target, as the Governor and his staff moved to reduce the size of the budget that was ultimately brought forward. We looked at the BLF and what is the simplest way to generate revenue from the BLF? You take every single business and determine how much you have to charge them; let us call it \$1,000 per business you would have to charge them. How much would that generate? This lasted about 30 seconds in our conversation. Why? Because that would mean that a real estate agent or mom and pop operating a restaurant would pay the same amount as a hospital, or a hotel casino, or a major transportation company. The Governor's staff said that is a nonstarter. Where do we go from here?

Bigger businesses need to pay more, fair enough. What do we do? We start to create some ranges. We say, we are going to create a range from 0 to 500,000, from 500,001 to 1,000,000, from 1,000,001 to 5,000,000, from 5,000,001 to 10,000,000, et cetera. I think we had 10 to 15 ranges; there was a number of iterations to that. We then allow the amount that the businesses pay in each one of those categories to increase. We found a whole new problem. You will recall that one of the most fundamental problems with Question No. 3 was that everyone liked to talk about the fiscal cliff; if you make just under \$1 million you pay nothing, if you make just over \$1 million you are bearing the full boat. What we had done, in that particular alternative, was built in a number of fiscal cliffs. As a matter of fact, if we took a business that fell between the \$1 million and the \$5 million threshold and said, that business is going to pay \$25,000 a year, the effective tax rate on the business that is earning \$1 million is about five times what the tax rate would be on the business earning \$5 million. We said, that is not right, we cannot do that, that is a problem. What do we do?

We did a couple of things. First we said we need to have a rational basis for determining what the rate is going to be for each threshold. Let us take a midpoint between \$1 million and \$5 million, for example, and use that as our starting point to determine it. Ten discreet revenue ranges are not going to be enough. They said we have to have more, I do not know how many we have to have, but we know we need more because I cannot build in a fiscal cliff,

I cannot build ten fiscal cliffs in here, or have this inequity between these individual brackets. What we did was we created any number of alternatives. We created them going from zero to some number, all the way up to \$1.3 billion. We ran some that had 200 to 300 ranges, and it got to be ridiculous. I realized it was hard enough to draft with the numbers we had in here, and get those all in. I cannot even imagine if we had gone with the ones that had 300 distinct ranges. Ultimately, we settled on distinct ranges that had a range of 15 percent. That is to say that no business would be higher or lower within each of those ranges than 15 percent. We then picked the midpoint of each one of those ranges and determined what the rate would have to be in order to generate \$250 million a year.

I will be honest with you. It started to seem like we had something that was pretty good. It was simple, it was equitable, it worked in a number of ways. It was clean. There were things we could work through and it kind of made sense, until we started to vet. We found that we had essentially backed into the same problems that exist in a GRT. Because we were treating every industry exactly the same—that same petroleum distributor, that same grocery store company that would have been in the same discreet range—would have paid the same thing as that retailer, utility company, or construction company. That was a problem.

The Governor and his staff challenged us to think harder, to do better. What we realized is that we had to find a way to treat different industries differently. To take that lightly, what we were trying to do is build equity in, to think about it. We looked at states like Washington, Ohio, and Texas, trying to build on what they had. We had a competitive advantage from a state like Texas that does a remarkable amount of research relative to the tax incidence of its own revenue. As a matter of fact, one of the tables they provide has every one of the major industries we are talking about here today and how much those industries generate in terms of gross state product (GSP), how much they generate in terms of revenue, and how much they pay in taxes. Of course, in Texas there are many calculations before they ever get to that tax calculation. They deduct the cost of goods sold, the cost of labor, or a 30 percent standard deduction.

What we have essentially done is said, we can look at how each one of these sectors is structured differently. How is construction different from health care? How is health care different from hospitality and different from manufacturing? How are they different in terms of what they would have taken out of that calculation in order to be treated at a more equitable level?

We then built that into our tax rate. We essentially said, if I take the total amount of construction revenue and I needed to generate X amount from that, what would the effective tax rate have to have been? We can call this a margin adjusted tax rate if we want. You can call it a rate that is applied to gross. Any of those is actually fine by me, because at the end of the day what we did is take that individual rate and adjust it for how much revenue we need to have in the state of Nevada. There is a different rate that was used for construction versus manufacturing versus retail. It was applied to the midpoint in each one of those discreet ranges, and that table that has gone around, that has all of the industries across the top, and all of the discreet ranges down the left side, is nothing more than the outcome of that. Realizing that if we are going to have the widest possible base, if we are going to have stability in a tax system, we need to embrace those, but at the same time we need to find a way to have the equity that would not otherwise be present from a traditional GRT. This is how we would do it.

Again, I began at the end; I will conclude the same way. I would submit to you the process has been thoughtful; the analytics are sound. The Governor's tax proposal is elegant in its solution to what we had strived to do in 2003 from the Governor's Task Force, to 2011 from Horsford-Oceguera, and in all the conversations, at least the ones I have been able to watch relative to good tax policy that have come out of committee hearings in this very room.

Thank you very much for the opportunity to be here, and I will turn it over to Deonne Contine.

Deonne E. Contine, Executive Director, Department of Taxation:

I am going to walk you through the bill. I am not going to go through it line by line, but I am going to touch on the main concepts in the bill.

First of all, sections 3 through 13 of the bill have some definitional provisions, including the definition of business, fiscal year, gross revenue, and Nevada gross revenue. It has the definition of the North American Industrial Classification System (NAICS), which is the code for the industries, and the definition of pass-through revenue and what a state business license is. The main definition in section 3, for businesses, is the carryover from the current business license. That includes any person, except a natural person, who performs services or engages in a trade for profit. It includes a natural person who is required to file a Schedule C, so a sole proprietor, or a Schedule E, which is a natural person who is required to file for federal income tax purposes on rental income, royalties, or some other funds they are

required to pay on, and then the Schedule F, which is the farming component. The final entity that is required to obtain a Nevada business license is any entity that is organized pursuant to Title 7 of *Nevada Revised Statutes* (NRS), our state incorporation title, which includes corporations, partnerships, limited liability companies (LLC), and other legal corporate entities. A business cannot conduct business until it receives a business license.

Senator Ford:

I have a question about your definition of business. I know that shortly you will be going to your exceptions of what is or is not a business. I would be interested in understanding, as you go through these examples of what businesses are not, an actual example of a business that would fit the definition of those things that are businesses. Some of these I understand, but I think for the edification of all of us, please give me examples of businesses that fall within the definitions, and then as you get to the exceptions what businesses are not.

Deonne Contine:

A business that operates in Nevada—performs a service, or engages in a trade—would be any business that is not a sole proprietor or one of the other natural persons under this statute, or a business that is not an incorporated entity. This is meant to include all businesses, no matter what type of structure they create. If you are just a business owner, and you do not incorporate, but you operate in Nevada and you sell things or provide services, you get a business license. If you are a sole proprietor, you file a Schedule E, or you are a farmer, you get a business license. If you are an incorporated entity in Nevada, and you may be an incorporated entity who also operates in Nevada, provides services, sells things in Nevada, you could be in both categories. This is meant to address all of those different types of entities.

Senator Ford:

I cut you off before you got to the section of the bill where you will talk about businesses that are exceptions. I would like to hear examples of what the term does not include as well. Giving us the names of companies would make it more realistic for me. I would appreciate that.

Chair Roberson:

We will take Senator Ford's question, but we should really wait until Ms. Contine has finished her testimony, then everyone can ask questions.

Deonne Contine:

There is further clarification in section 13 about what would be deemed a business. Again, that would be the Title 7 entities. It is if they have an office or other base of operation in the state, if they have a registered agent in the state, or if they pay wages to persons who perform duties or services in Nevada.

Moving on to the excluded businesses in section 3, these entities do not have to apply for, file, or pay the quarterly BLF. They include:

- Governmental entities.
- 501(c)s—those with a 501(c) status from the federal government.
- A home business that earns less than $66 \frac{2}{3}$ of the average annual wage. If you operate a business out of your home, currently the average annual wage is about \$45,000, and the current wage for the exemption is about \$28,000 a year.
- A person who rents four or fewer dwellings.

All of those provisions are carryovers from the current law. I am not quite sure why "four or fewer" is in there. I could try to figure out why it was put in the law, and do some legislative history, but we just pulled that over from the current law.

- Chapter 84 nonprofit businesses are specifically excluded because they are Title 7 corporations, but they are nonprofits that are under Title 7, so they are pulled out from that.
- It is my understanding that credit unions are prohibited. There is federal law that prohibits them from being taxed by the state as long as they have their charter under Chapter 678 of *Nevada Revised Statutes* (NRS), or the Federal Credit Union Act. It is my understanding they are not subject to federal income tax, so that is the same idea as the 501(c).

- A series of trusts are excluded. Those different types of trusts are organized pursuant to federal tax law, and their revenue is not taxable as federal income tax. I cannot give you an example of every one right now, but I can get that information for you. The idea behind those entities is that same idea that when their income is exempt from federal income tax purposes, we are going to treat them like a 501(c). That goes all the way up to the 401(a) trusts.
- A passive entity is generally an entity that is set up as an investment mechanism. A business might be a board member, or they might have some interest in a passive entity, but someone else manages the assets of the business and is not actively involved in the management of that revenue, so we would not count that entity. I could go through the requirements if you want, but there is a definition of a passive entity that has a federal gross income that consists of at least 90 percent of the following income: dividends, interest, and investment revenue, and it is basically set up as a separate investment entity.

Calculating gross revenue is how you would determine the measure of the fee payment. The broad definitions are in sections 5 and 6. Gross revenue is broadly defined to include the total amount earned from conducting a business in this state without deduction for any costs of goods sold or expenses. It includes revenue from the sale of business property, from the performance of services, and from another's possession of your business property or capital. Nevada gross revenue is the revenue you gain from conducting those businesses and those activities in Nevada.

Next are businesses that are subject to the BLF but can deduct certain amounts from their revenue calculations. We have the general ones: the revenue prohibited from taxation under the state or federal constitution, bond or security interest, and specific industry exemptions for revenue calculations based on the fact that some industries already pay a revenue-based tax.

First of those is the revenue used to determine the license fee pursuant to *Nevada Revised Statutes* (NRS) 463.370, which is the gross of gaming revenue license fee calculation, and the revenue for the net proceeds of mineral tax, which is in Chapter 362 of NRS.

Chair Roberson:

What section of the bill are you in?

Deonne Contine:

Section 20. The next one is the insurance premium tax under Chapter 680B of NRS. The insurer pays 3.5 percent of the net direct premiums written. If they are paying on that revenue they can subtract it from the BLF calculation.

Next is the health care provider or health care facility subtraction. A health care provider can subtract from its revenue calculation, at 100 percent, payments from Medicaid, Medicare, the Children's Health Insurance Program (CHIP), the Fund for Hospital Care to Indigent Persons, services for workers' compensation claims, and any uncompensated care. Anytime they provide care, and they do not receive the value of their service, they do not have to count that as revenue. That is 100 percent for health care providers and 50 percent for facilities. Facilities are actually defined in the statute and are hospitals and different types of surgery centers and facilities that offer health care.

Employee leasing companies can subtract from their BLF revenue calculation the payments they receive for wages, payroll taxes, employee benefits, and workers' comp benefits for the employees leased by the client company. It is like the pass-through revenue, where they are getting the direct pay from their clients and are paying it on to someone else.

Pass-through revenue is another subtraction from gross revenue, which is defined in section 8. The concept of subtracting out pass-through revenue is to prevent pyramiding, or subjecting the same revenue to different levels of taxation. The pass-through revenue included in the definition is: revenue required to be distributed to another person or government entity; taxes collected from a third party and remitted to a taxing authority; reimbursements for advances that are made but not related to sales of goods or services; amounts mandated by contract to be paid to another for sales commissions or for subcontracting agreements; amounts that lawyers hold in their trust accounts, or amounts they gain in revenue that they pay to a lawyer who is not a part of their firm; and affiliated group revenue transfers. So, if their affiliated group has two or more businesses controlled by one or more common owners or members of the group, the transfer of the revenue there is pass-through revenue, and it would not be counted in the revenue calculation.

There are several other types of revenue that you would not use in calculating your revenue. Some of them have the same concept that we have already talked about, and some of them are carryovers from other statutes, such as bad debts, returns, or refunds—those are from sales and use tax—and discounts to customers. You do not have to include amounts attributable to those in the

revenue calculations. Also, revenue attributed to principal or loan payments would not be calculated. The idea is that the revenue you are gaining is your interest, and not the principal that you are being paid back.

The next section I will talk about is 21. Again, when I am done, I will have about eight or nine hypotheticals to demonstrate some of these concepts with actual numbers, and where you would go to find your fee payment from the bill.

Section 21 is determining gross revenue. The determination of Nevada gross revenue is going to be your sales and services that take place in Nevada. For instance, if you are located in Nevada and you are providing a service to a resident outside of Nevada, you would not include that in your Nevada gross revenue. It is the same for manufacturing exports. If you make something in Nevada and ship it out of state, it is not going to be used in Nevada, and you are not selling it in Nevada, so it would not be included.

Next are sections 22 through 49. Those are sections that address the actual fee payments. For each industry and for each revenue section for your industry, which would be determined by your NAICS code, you go to those sections and find your fee payments.

Sections 14 through 18 of the bill have some administrative provisions related to the BLF. It says that the Department will administer and enforce the BLF payments, and the money will be deposited into the State General Fund. It requires businesses to keep records and allows for the Department to review those records. It allows the Department to be reimbursed for costs that it acquires in auditing or reviewing records out of the state of Nevada.

Also, in section 18 there is the provision to actually apply for the license, and that the license is applied for in a way similar to applying for a sales tax permit. You would request that the license be issued and your payments would be due on the next calendar quarter after receiving your business license. If you apply for your license on February 10, your first license fee payment would be due April 30, at the close of the quarter, and would include the revenue from when you obtained your business license through March 31.

Section 19 also states the business must designate their NAICS code when they make their first return fee payment, and that they would need to use that NAICS code every time they filed their fee payment, unless they request that the Department review their NAICS classification, asking for some type of

determination that they were not primarily engaged in the business that they had originally signed up as. Section 19 also allows the fee payer to apply for a 30-day extension to file and pay, and it allows for amended returns.

Section 50 of the bill basically states that you have to use the same method you use for accounting for federal income tax purposes, either the cash basis or the accrual basis, for calculating your revenue under the BLF. If you change, you must change for the BLF as well.

Sections 51 through 62 also are additional administrative provisions. Some of these are the same administrative provisions we have in other chapters we administer, allowing for interest, for a request for a refund, for interest on a refund, for the Department to sue if they make an erroneous refund, or prohibiting a payer from enjoining the collection of a fee. These are all pretty standard administrative provisions that we have within Title 32 of NRS.

The sections from 63 to 159 are confirming language, changing from the Secretary of State to the Department of Taxation, and making those other changes. Any place that it occurs in statute will be changed. Section 160 provides that existing businesses must obtain a new business license by September 30, 2015, and their existing license is good until then, or when it expires, whichever is earlier.

Section 161 is an important provision as we transition over. It essentially allows the taxpayer some leeway if they are attempting to comply with the new provisions and there is some confusion. If they are using all the care they have and they are just not getting it quite right, and there is no willful attempt to evade or not pay the new fee under the quarterly schedule, this prohibits the assessment of penalty and interest up until September 1, 2016, in those cases.

Finally, section 162 is basically that the regulations the Secretary of State has adopted, with respect to the BLF, will remain in effect until the Department amends those regulations.

I will now go through the hypotheticals, going from basic to a little complicated as we proceed. I am going to be referencing section 29 in the bill, where the fee tables are.

The first one is a retailer who has a NAICS code of 44 or 45 and has revenue from the sale of clothing in Nevada. If they have revenue of \$500,000, they would find that in the table and they would pay \$578.

The second example is a manufacturer with a NAICS code of 31, 32, or 33. They sell \$1 million worth of goods, and they export goods totaling revenue of \$400,000. They would look at the table and calculate their revenue in Nevada at \$600,000, and they would pay \$627.

The next couple of examples demonstrate businesses that may do different things within their business, or have an entity that may have different businesses under the same business entity. An auto body shop has a NAICS code of 81. If you go to the NAICS website and type in auto body, you will come up with their NAICS code beginning at 81, with numbers after that. We would say they are primarily engaged in the business of providing the service of car repair. As you know, when you go to get your car repaired, they sometimes have to sell you parts. Those parts are sold at retail, and they collect and remit sales tax from the retail sales. You would have revenue from the services and you would have revenue from your sales. You would use your NAICS code 81, because that is your primary business, and you would add your total revenue together, find your revenue in the fee table, and you would pay on that total revenue. For example, if you have revenue from parts sold at \$200,000 and revenue from services provided of \$500,000, your total revenue for purposes of calculating the BLF would be \$700,000, and under NAICS code 81 you would pay \$1,125.

The next one is a business entity, and I know this seems a little silly, but it is not silly if you know how people are operating and some of the questions we receive. If you have two unrelated businesses under the same entity, say a laundromat and a pizza parlor, the laundromat has a NAICS code of 81, it is a service entity, and the pizza parlor has a NAICS code of 722. You should use the category where the majority of the revenue is generated. If you have \$150,000 in revenue from the pizza parlor and \$50,000 from the laundromat, you would combine the two businesses, and because the pizza parlor generates most of the revenue you would use the NAICS code 722. You would have \$200,000 in revenue and your fee payment would be \$437.

A hospital has \$2 million in revenue and \$700,000 is generated by payments from Medicare, Medicaid, and CHIP. Under the revenue subtractions, the hospital is entitled to subtract half of that \$700,000 from its revenue calculation. The hospital would subtract \$350,000 from the \$2 million for purposes of calculating the BLF. The revenue would be \$1,650,000 and the fee payment would be \$3,490.

The next one is a hotel casino and they earn \$10 million in revenue; \$5 million is subject to the gaming license calculation under NRS 463.370. They would have \$5 million in revenue for purposes of calculating the BLF. The hotel casino would pay \$11,209 on that \$5 million in revenue.

Next is general contractor A, who has a contract to pave roads in Nevada for \$10 million. The general contractor enters into a variety of subcontracts for services related to the paving. The subcontractor payments are a total of \$8 million. The payments to that subcontractor are considered pass-through revenue and are subtracted from the revenue calculation. The revenue for calculating the BLF for contractor A is \$2 million, and they would pay \$1,759 under NAICS code 23.

The next one is a services example—a lawyer who lives and works in Nevada and has clients in both Nevada and Utah. He has total revenue of \$110,000. His revenue for services to Nevada clients is \$100,000. His revenue for services he has provided to clients in Utah is \$10,000. The lawyer would use the \$100,000 for his revenue calculation for the BLF, and would pay \$203. He would not include the service he has provided to the Utah clients.

The final one has to do with an affiliated company, so entertainment company A has a total revenue of \$1.5 million, which includes a wholly owned subsidiary that has revenue of \$500,000. The combined revenue for calculating the BLF is \$1.5 million, as revenue from the wholly owned subsidiary is pass-through revenue because it is part of an affiliated group. In that case the fee payment would be \$3,824 under the entertainment NAICS category.

Chair Roberson:

Thank you for taking the time to go through the bill. At this point we will entertain questions from the Committee until 4 p.m. I want to remind everyone that tomorrow we have a three-hour Committee of the Whole hearing to continue vetting this bill and taking questions from the same panelists we have here. Assembly members are invited to attend and listen to that hearing. For the purposes of today's hearing, if Assembly members have questions, I would like you to ask them. Given our time constraints please try to be concise and ask questions at a fairly high level, given that in the coming days we will be getting deeper and deeper into these questions.

Assemblyman Hickey:

Regarding the Texas experience that we borrowed from and you referenced, you mentioned that as much as 30 percent of taxes collected under the Texas margins tax could be exported out of the state. Could you give me some examples of the kind of business where there is a nexus for that in Nevada? Secondly, can you comment on some of the problems with the Texas margins tax? As you know, during the Question No. 3 debate we referred to it not always in such glowing terms, and we also heard about problems of litigation and amendments to improve or remedy problems with it throughout its history. Finally, talk about the tables themselves. In Texas and Ohio, has there been a lot of resetting going on? I know we have not passed this yet, so we cannot calculate what might happen in subsequent sessions, but stability being important, as you noted and you attribute to this tax, what are the safeguards to not endlessly trying to expand, contrast, or make it a lobbyist's haven for changes going forward, if we were to enact this?

Jeremy Aguero:

Your first question was relative to the Texas experience and the 30 percent export. Let me give you some examples. Texas has a major auto manufacturer that pays the same amount of taxes as an auto manufacturer that is importing cars into Texas. As a matter of fact, they are very close to being the same.

You have major corporations, everyone from General Motors to Nestle, that would essentially be corporations that are outside of the state of Texas, but are putting their goods on a truck and moving them in and across the state, and availing themselves of both the market—selling it to the people who are there—and the court systems and protections that are associated with that, and everything that goes along with it.

If you were to ask me what I think the export level is, I will tell you it will probably be somewhere between 15 and 25 percent based on the other changes that we have made. The other side of that, however, I would suggest that might be low from the standpoint that we have a competitive advantage over Texas in this particular regard. That is, we tend to import a great deal of what we consume in the state of Nevada. We are a relatively small state, roughly one-tenth the size of the state of Texas, so our economic base, while there have been incredible efforts to diversify, will benefit from more people selling things into our state that continue to have a nexus here. I am happy to walk through additional examples of that, if it would be helpful.

Your second question was in regard to problems with Texas. There are any number of them. People like a tax or do not like a tax; there are always going to be concerns. I will tell you, at least in my experience, that the principal problems they have run into are definitional. What is revenue? What is Texas revenue? How do I apportion my revenue in the state? What are my revenues all over the United States versus Texas and how do I do that? In addition to that are questions largely about what is cost of goods sold. Am I properly including that? We even went through some of the exercises when we were analyzing some of the other ones. What is cost of labor, for example? How do I bring that into cost of goods sold? You remember all of the debate we had relative to Question No. 3: Is it the same as the federal definition? Is it not the same as the federal definition? However, those are the things we have specifically taken out of what is being proposed in this specific bill.

In addition, I would point to things like intangibles, which can be wildly complicated. How do I apportion an intangible into a state? That has been difficult for Texas and they will tell you the same thing. Again, we eliminated that by choosing a definition that we believe is more streamlined. The other side I mentioned has to do with the apportionment. What is the proper apportionment of my revenue into the state of Texas? These types of things are always a challenge. Essentially the way we avoid that problem is by just defining what is Nevada revenue. That is what we are going to charge on, not an apportionment associated with that, but what is Nevada revenue. There are certainly others, but I would say those are the two largest.

Regarding the tables themselves and infinite expansion on those types of things, any tax is going to have to be adjusted over time. The long history of the state of Nevada is that we have evolved our sales tax from a 2 percent rate to what it is today. Our property taxes evolved with the partial abatement caps we have today. Governor List talked about the tax shift and the reallocation of those funds. I would not want to leave you with any other impression than that is inevitable. It is in terms of our payroll tax, in terms of our property tax, and our sales tax. Frankly, that is less about the choice of revenue and more about the fact that the world around us is changing rapidly and we will try to keep pace.

All of that having been said, if the crux of your question is whether what the Governor is proposing relevant to the BLF is a more stable, long-term solution, my answer would be absolutely yes.

Chairman Armstrong:

Your answer alluded to my next question. This is not a policy question, but more of how we are getting to the revenue number of \$438 million. Because this is a new tax, I am wondering how reliable is the actual data that we are using? To my knowledge we have a very limited amount of information as related to gross revenues of businesses in this state. How did you estimate how many businesses are in the different tiers to come up with the \$438 million revenue?

Next, because we are using several states as models for this, such as Texas, Ohio, and Washington, I am wondering what considerations or factors played in for Nevada businesses being different from business in those states, and how that affected your rates? Finally, since this bill came out, do you expect these rates will have to go up or go down based on the number we will need for that budget number?

Jeremy Aguero:

I will try to answer your first question, then come back to the idea of what needs to be adjusted relative to the estimates themselves. We have spent a lot of time, over the better part of the past decade, looking at different revenue alternatives, everything from the Governor's gross receipts tax in 2003 to where we are today in terms of the BLF as it is currently proposed. Each one of those taxes is different, but the tax bases have a tendency to be the same. That is because a lot of what we have borrowed from is really the research both from 2011 with the margins tax as it was proposed, and then the extensive analysis that was done on Question No. 3, which was a little different but at least provided the same general base.

Your question was, how do you know what the base is? Essentially, how we started is we took the state of Texas, and the state of Texas reports all of its gross state product (GSP) for each individual industry. We know how much their GSP is in construction, manufacturing, and all of those types of industries. As I alluded to, they also provide very detailed information relative to what the total revenues are and what the receipts are in the state of Texas for each one of those revenue categories. Some of those are going to be higher and some are going to be lower but, nonetheless, the state of Texas—in terms of its GSP, its revenues, its employees, and its personal income—is roughly ten times the size of the state of Nevada. If I have their GSP and their revenue and I can look at them by industry, I can then take a look at Nevada's GSP and say, what does our GSP look like? It is different; the structure of Texas's economy is different from the structure of Nevada's economy, but I can look at the relationship

between the revenues that are produced and the structure of the economy there and the structure of our economy to ultimately get what revenues would be produced.

There are other things that we can test that against. We can use models like the impact analysis for planning (IMPLAN) model that will look at the output and input of individual states. This is sometimes accurate, sometimes not. We can look at the Economic Census that is produced, with data that is relatively old, but at least it gives us a base. We can start there, and essentially what that does is give us a gauge for the aggregate size of the economy.

Your question was much more insightful than that. You said, that is all fine and well, I realize the economy is X billions of dollars in size, but this is applying to various industries. This is applying to a specific company. How do you know how many companies fall into each one of these categories on this master grid that you have provided? The brief answer is we have to do the very best we can to estimate it. We started with the data from a company such as Dun and Bradstreet or Hoover's Inc., which report on all of the businesses that operate in the state of Nevada. We can get somewhat similar data in terms of employer businesses from the Nevada Department of Employment, Training and Rehabilitation (DETR). We can get nonemployer businesses from the Economic Census, the Small Business Administration, and the like, which will provide us a framework in terms of the total number of businesses. Ultimately, the end game for me was the number of Title 7 and non-Title 7 businesses that are registering with the state of Nevada. That is 330,000 businesses. That gives me an idea relative to the framework of the total number of businesses that are paying the BLF as it currently exists, and the total base that would be out there.

Chairman Armstrong:

Based on what you are saying, we are still estimating or forecasting this number. How do we come up with a budget, almost down to the penny? We should really be generating estimates with a top and bottom range of what this will produce the first year, rather than saying it is a concrete \$438 million.

Jeremy Aguero:

That is absolutely accurate. Going through that exercise, essentially what we did was we looked at all of those businesses. We looked at both those that were domiciled here and those not domiciled here, and asked what would the total have to be? At the end of the day, we would go back to the total size of the economy and the total number of businesses to try and get as close as we can to an estimate. You are absolutely right, it is an estimate. It is our best

estimate based on what we have looked at. It gives me some degree of confidence that other analysts went through the same exercise and came in slightly above or below what our revenue is in terms of the aggregate size of the economy. The fact that we are in the middle makes me feel okay. Some folks in the state of Texas who are very knowledgeable looked at our estimates and said, "If I was going to do it, I would do it the same way. Maybe they are a little low, but I would do it the same way."

To answer you, they are estimates. The level of precision that I can provide is based on the availability of information. The reason it is to the penny for the purposes of our conversation is that I had to ultimately get to a rate and a schedule we thought would get to a specific number. Essentially, we back-solved by reducing the tax rates that we otherwise calculated to get there.

Chairman Armstrong:

I would like to know what your confidence level is on this, from 0 to 100 percent, that we are going to get to the revenue we have, so we do not have to come back during a special session to make up for revenue. My understanding is the first time Texas proposed this they ended up with a \$40 million shortfall.

Jeremy Aguero:

Could I give you a level of confidence between 0 and 100 percent? As an analyst that makes me very nervous to do, but if I was going to sit here and tell you something, I believe there is a 75 percent chance that it comes in over expectation, and a 25 percent chance that it comes in under expectation based on my knowledge and what I know today.

Assemblywoman Kirkpatrick:

I want to talk about logistics. Section 164 talks about when this all takes place. It talks about the regulation process and logistics. I want to know logistically, what is the expectation for businesses, and when this would take effect, because it says "passage upon approval." What is the date they would start paying this?

The last line of section 164 talks about the tax credits: "Section 69 of this act expires by limitation on June 30, 2036." I want to know what happens if there is other stuff that is out there. Why does that go away? We should probably be very careful about any tax credits based on that date.

Deonne Contine:

In terms of the effective date, the effective date of the new way we do the BLF in the bill is July 1, 2015. November 15, 2015, is when the first return would be due, and that would be based on the revenue from the first three months of the fiscal year.

Assemblywoman Kirkpatrick:

I want to understand how we get through regulations and how we get the staff on board. In the past when we have passed revenue, we have given businesses a window so they knew how to put it all together. I want people to understand what that process may look like. There is the regulation process, the open meeting law, needing more staff, all of those things. I just want to understand how all of that works.

Deonne Contine:

We are already trying to get a head start in my office. Normally we wait and see if things happen, but we are having discussions along the way about things we can be doing now to implement some of the changes, both in technology and some resources that we can pull from other places to help deal with some staffing at this point. We do have a budget request for about \$4 million for IT costs and additional staff.

As you know, the regulation part is a challenge. I think there is enough in here, and enough for us to do. I already have staff going through and doing some drafts of regulations. My chief deputy is doing that, considering other clarifications we would need even before this is passed. I feel confident. We have had multiple meetings. We have had some meetings with the Secretary of State about getting data from them. We are already hooked up through the SilverFlume business portal. As you know, businesses can register through the portal, and if they are a seller, their information comes to the Department. We are having those conversations about how we transition that data. I think that we would be ready for accepting the first returns in November.

Regarding the second question you had about section 69, I think the change is one of those conforming changes. It is just changing the Secretary of State to the Department. Because the change has to do with the credit program, I think current law says that the credit program expires on June 30, 2036. They are just clarifying that nothing is going to change about the expiration of the law; they are just changing the small provision now. They just want to ensure everyone knows that it is still going to expire by limitation in 2036.

Assemblywoman Neal:

My questions are coming from sections 12 and 20, and the two coming together. In section 12, subsection 1 you list the portfolio income of the dividends and interest. In section 12, subsection 1, paragraph (b) you say it is considered passive using the 90 percent of the following income. In section 20, subsection 1, paragraph (m), you have the subtraction of the revenue that relates to the dividends and distributions from a corporation.

My question is, does paragraph (m) somehow dilute the activity where we end up with less dividends that will now be considered active or passive? The language says, "proportionate shares of receipts and income from a pass-through entity." I am wondering if paragraph (m) dilutes the 90 percent, where now someone can say, "I actually am now not active, but passive"

Jeremy Aguero:

The only difference that you are looking at is the difference between a passive and an active entity. The treatment in section 12 deals specifically with what the definition is of a passive entity, where 90 percent of that revenue would have to be there for me to say, "I am passive. I am not acting on this at all." The other piece is only for if you are in an active activity and how that revenue would be treated. Your question is, does the active entity have the ability to, in your terms, dilute or reduce revenue, or how they treat it specifically based on the definition that you just used? The answer to that is going to be yes; however, those are two wholly separate entities—one active and one passive.

Assemblywoman Neal:

My second question is still in section 20, subsection 1, paragraph (o), and it relates to lines 27 through 30 (page 12). Beginning on line 27 it says, "For the purposes of this paragraph, receipts from the actual transfer of title of real or tangible personal property to another business are not receipts from a hedging transaction...."

In a hedge transaction, a selling member and a buying member are treated differently. They can be treated as separate entities for some purposes, but for others they can be treated as a division of a single corporation. If they can be treated as a division under a single corporation and there is an actual receipt or movement of real property between the two in an intercompany situation, is this excluding that money?

Jeremy Aguero:

Yes. You could think of it as belt and suspenders. You will notice in the other provision, where we specifically exempt out anything under Internal Revenue Code, 26 U.S.C. § 1221 or 1231, which are the capital assets that I just disposed of as a business. If you sell your business, that is not really a business receipt because you are not in the business of selling your own business. Here, what you are talking about is a hedge transaction where there would either be an affiliated group or a special purpose vehicle that was created to undertake that.

Assemblywoman Neal:

When it is an intercompany transaction, if group A sells to group B inside the company, it could be an actual gain, where they have to treat it as taxable income and not a tax liability, correct?

Jeremy Aguero:

Yes, but then I think we have to go back to the fact that those two entities would be an affiliated group that is controlled by the same people. Again, belt and suspenders. We are excluding it here and we are excluding it there, under the definition of an affiliated group being passed through.

The whole idea of all of these provisions is to try to limit pyramiding. Regarding the idea that you would have a transaction between group A and group B, they could be the exact same company; it is just that you have set up a special purpose vehicle to undertake this purpose. We do not want to double tax anyone as a result of that.

Assemblyman Trowbridge:

I have a multifaceted question. In section 5 on gross revenue it specifies the total amount realized by a person conducting business in this state, and it says the "Amounts realized from a business's performance of services," and it is pretty clear. Could you explain to me why in other sections the revenue from insurance companies, which would include premiums, and the revenue from casinos are excluded from determining gross revenues?

There is another section that talks about the 15 percent cushion that exists within the brackets. Those cushions seem to have been thought out to accommodate for when a business increases. Do those same cushions apply when the business decreases?

Have we done any real thinking or provided for any safeguards for whenever the inevitable happens? I say the inevitable because you have got multiheaded businesses that are all operating under the same business, having a laundromat and a pizza shop, those types of things. We are going to experience some creative accounting that is going to occur, trying to manipulate the gross receipts so it fits in the category where the fees will be the least. Do we have any safeguards to prohibit the creative accounting that will inevitably occur?

Jeremy Aguero:

With regard to the revenue exclusions that are out there, you picked two of the largest sources of revenue in the state of Nevada that are currently subject to gross receipts tax (GRT). Gross gaming revenue, which is exempt from this, is subject to as much as a 6.75 percent tax. The effective tax rate of this particular tax works out to something on the order of 0.16 percent, so it is much lower in comparison, but there is a very substantial share overall of the revenue from major gaming operations—major hotel casinos, resorts, however we should classify them—that is already subject to and generating in excess of \$700 million itself by a revenue source. That is sort of twofold: it is already subject to a tax, and even after this tax comes out, that industry continues to bear something on the order of 55 to 56 percent, probably even a little higher, of all of the business taxes in the state, including the BLF we are talking about today, the payroll tax that will continue to exist—\$400 million—and then industry specific taxes such as mining and gaming that you just referenced.

The second element you brought up is insurance premiums. These are also subject to the insurance premium tax in the state of Nevada. Other states, including the state of Texas which we borrowed from heavily here, exempt out those that are already subject to insurance premium taxes. That rate is much higher than what is being applied here. Insurance companies pay other taxes, but in this particular case, unless they had revenues that are other than revenue that would already be subject to this tax, it would be exempt because they are already paying.

With regard to the concept of the cushion, this is nothing more than trying to structurally create a range that does not create the disparate impact, the fiscal cliffs we have discussed before in each one of those categories.

I think your question was, do those ranges have to be adjusted over time? We know there will be normal increases. Inflation is going to happen. We have every expectation that we are going to continue to bring in new companies and they will be structured. How will those ranges adapt? At its most basic,

the vast majority of businesses are going to be in the top end of the ranges. The system itself will organically allow companies to normally move through the ranges. As they grow they will pay a little bit more, but they will always be within 15 percent of every competitor within their industry that is generating the same amount of revenue. That is the reason for that 15 percent, to level the playing field within each one of those industries.

Assemblyman Trowbridge:

You addressed the range, so that applies to increases in revenue and decreases in revenue, to stay within that block, and that is what determines it?

Jeremy Aguero:

That is exactly right. If I am in one block and suddenly in the next year I make \$500,000 less, I am going to move up the range. If I make \$500,000 more, I am going to move down the range.

Deonne Contine:

Regarding the enforcement of the provision, there are two things we think about with something like this—the education of taxpayers and also making sure they are compliant after they have been educated. We do that at the Department with all programs we administer.

As I explained earlier, as we are thinking through the transition, at this point our main thought within our agency is what is the best way we can get information out there? What is the best way to get the notice of the change out to the payers?

The top part is the education. That is our priority at this point. If it comes to us and we are administering it, as we already audit businesses, even if there is not a complete ramp-up with compliance right away, as a business is audited for other reasons, either sales and use tax or the MBT, there is some possibility for education there as well. I think for the taxpayers, within the bill there is a provision that allows a waiver of penalty and interest if they are attempting to comply, are using ordinary care and just not getting it right, or there is some confusion.

The second thing is there have been a lot of questions about NAICS shopping, and whether entities will attempt to move from one NAICS to another to get a lower rate. We already have close to 200,000 taxpayers in our system.

When you register at the Department or online for your business license, you include your NAICS. With respect to the existing businesses, your NAICS is what your NAICS is as you operate. In the provision in the bill that attempts to address some of that if for some reason you want to change your NAICS, then there will be a process to do that. You would need to come to the Department and tell us why you are not primarily engaged in the business that you registered as being primarily engaged in. There may be some instances where, like the example I mentioned of an entity with multiple businesses, maybe they are doing one model and then they change the model. All they have to do is come and say I am not doing the pizza parlor anymore; I am doing the laundromat. I think there are some protections in there in terms of compliance and trying to ensure that. I think we have a good handle and some good tools within the statute to deal with some of those things.

Chris Nielsen:

There are currently three databases that house NAICS codes. It is not just the Department of Taxation but also the Secretary of State's Office and the Employment Security Division. There are three state agencies that already have NAICS codes for every single business in the state. I am sure there are a few that are erroneous, but we have that infrastructure in place right now. Once this program comes online, it is not like a business from out of the blue would apply for a NAICS code that happened to have a lower rate. We have that information already.

Deonne Contine:

Just for some additional information, currently, if a taxpayer registers and they say what type of business they have, and they put in a NAICS code that does not seem to match, we do have processes in place where we would question that. We would contact the taxpayer and try to figure that out. We do have those resources and we do deal with that issue currently.

Assemblywoman Dickman:

You gave some examples from the tables earlier. I think there was a manufacturing one whose tax would be \$600. Is that quarterly or annually?

Deonne Contine:

All of the examples were meant to be quarterly.

Assemblywoman Dickman:

I have a lot of friends who are physicians. As I understand it, most of the time they collect maybe one-third of their billed fees. What would happen with them? It takes a while to write off bad debt. Would they have to pay on their billed fees?

Jeremy Aguero:

There is a specific provision in here for health care providers. We hear that a lot about Medicaid and Medicare and reimbursement rates. For those governmental programs for the health care provider there is a rate schedule that they are provided. They have the ability to deduct that. It is subtracted from their revenue, so they are not going to pay the BLF on that. In addition, any care where it is truly uncompensated, where they did not generate any revenue, is also that way.

Let us give an example of the health care provider. An extreme example would be that they are only collecting on 30 percent, so they provide 70 percent of uncompensated care. Of that 30 percent, none was in any of those government programs, so they would only pay on the 30 percent. If 20 percent of the 30 percent was in government programs, they would only pay on the 10 percent.

Assemblywoman Dickman:

That sounds like some complicated record keeping for them.

Jeremy Aguero:

I think the vast majority of health care professionals have a pretty good understanding of who is paying them and whether they are collecting. All they would be required to do is subtract out the people who are not paying them and who they are collecting on from a government program.

Assemblywoman Dickman:

I agree. I am just afraid if they were audited they would have to have some pretty extensive records to show.

Jeremy Aguero:

I will defer to the folks who do the audits, but my guess is they would go to their invoices. Those invoices will exist for everyone, whether it is a small business like mine, or a health care business. You are right, there is some degree of knowledge that is going to have to be there but, nonetheless, I believe it is relatively straightforward.

Assemblyman Nelson:

Pursuant to the bill, we are shifting things from the Secretary of State's Office to the Department of Taxation, but regarding the annual fees, for example an LLC, the initial filing fee, the initial list, the annual list, will those still stay with the Secretary of State? If a company wants to organize as a new LLC, it goes through the Secretary of State's Office as is, and then pays its quarterly tax later to the Department of Taxation. Is that correct?

Chris Nielsen:

That is correct. Those incorporation fees, annual filing fees, and director fees will still reside with the Secretary of State's Office. The business fee, however, will shift from the Secretary of State's Office to the Department of Taxation, but the existing portal where all of these things can currently be paid will remain in place and will still be made available to taxpayers to pay their BLF. It is just that the money for that will be pushed over to the Department of Taxation, as will the compliance fees.

Assemblyman Nelson:

In looking at sections 5 and 13 regarding conducting business in this state and the definitions of revenue, I am thinking about foreign corporations, such as a company from California that comes into Nevada and may or may not have a registered agent, and may or may not register as a formal corporation. I presume we are still going to try to tax them for the portion of things that are attributable to Nevada and not the work they are doing in California. You obviously are not trying to do a unitary tax, like they tried to do in California when I first started practicing law, and the U.S. Supreme Court struck them down. Is that correct?

Jeremy Aguero:

You are absolutely correct. You gave a number of examples at the front end of your question when you talked about a paper corporation, for example, that is just filing in Nevada for purposes of its formation. You will notice also in the bill, to the extent an entity has no employees, and they are simply incorporating here merely for domicile purposes, they pay the minimum amount of \$400.

We know we have a lot of those in the state of Nevada. For obvious reasons we are a very probusiness state, for both the businesses that operate here traditionally and those that may not. The idea was that those businesses should not pay any less than the minimum amount applied to every business that actually has employees and is making an investment there. That seems relatively reasonable.

The second part of your question where they do not have a business license and they are operating here, is a little more complicated. Let us just imagine they do have nexus with the state. In that case, the absolute intent here would be that they should have a business license here already. If they do not, and in that case they are a national or multinational corporation that for whatever reason does not have its business license here, they will be required to pay on their Nevada revenue just like any other business that is operating here, doing business here, or availing itself either of our market or the protections of the state of Nevada.

Assemblywoman Diaz:

To expand first and foremost on Chairman Armstrong's questions regarding the data underlying the \$438 million projected under this plan, I do not know if he asked for the actual copies of how we arrived at that number, but I would like to do so. Since I am not a tax attorney, I apologize if this question has been answered, but I need it clarified for myself. Does the BLF correlate with the general profitability of the industry in our state, or does it look at the contribution of the industry to Nevada's gross domestic product (GDP)? Last, is the allocation of revenues generated by the BLF toward our K-12 education system made explicit in S.B. 252? I know that sometimes things happen, monies have to be spread, and I want to see if we are saying this money is for education and it is going to go there.

Jeremy Aguero:

I will try to answer the first two questions, and will defer on the budget question relative to the allocation of funds. With regard to our data, we tried to work as much as we could with your staff, and we will share with you whatever it is you would like to see, open book. You are welcome to take a look at the analysis we did.

With regard to the broader question relative to the allocation, yes, we are looking at the margin of the business, somewhere between the top line, the gross revenue, and not a net income tax at the bottom. One of the analyses we did was to take data from the IRS for corporations and for partnerships, for something like 250 different industries, to see the potential impacts on them. We went through that exercise to see where the proper location would be and how we might calculate that, for say someone who sells pool tables or is in the construction industry. The reason we did that is we wanted to make sure we understood what the tax incidence looked like. It also provided us a way of looking at the profitability associated with that business.

That is where it starts to get tricky. If we tried to get all the way down, there are some industries that have no profitability in one year and are very profitable in the next. Even if we looked at five-year averages, there are some that are underneath that mark and above. As a matter of fact, if we look at the gaming abstract, for example, our gaming industry, our biggest industry in the state of Nevada, I think has essentially had seven years in which it reported negative income. That would mean if we did go to where we brought it all the way down to that bottom line, that industry would essentially pay zero under that, and again we would get to that instability.

There is another element to it. I was concerned that if we went all the way to that bottom line, besides the instability, if we start talking about making it as broad as possible—I am talking about everyone from sole proprietors, to general partnerships, to the biggest corporations that we know—and we really start talking about bringing something that would be on the profitability of a sole proprietor, for example, that gets dangerously close to being personal income tax, which is specifically prohibited in the *Nevada Constitution*. Again, the bottom line being net income, the top being gross receipts, looking for a place somewhere in the middle is exactly how it is defined.

Chris Nielsen:

This BLF, S.B. 252, is the money generator that does go to the General Fund; however, how the Governor's budget has been built is there are separate categorical programs. This is the \$438 million worth of new categorical K-12 funding that is in separate budget accounts, that is in the Governor's budget. So these are non-State Distributive School Account programs that are essentially being dealt with through the budget process. The intent here for this tax type is to raise \$178 million in Year 1 and \$250 million in Year 2.

Going back to Assemblywoman Kirkpatrick's comments earlier, there are some timing issues that have come up with respect to when payments are posted. We may be submitting an amendment tomorrow, or sometime next week, to move back the effective date by a quarter. The reason being is that certain payments post at a certain date, and they refer back to the previous fiscal year. I want to get on the record that the intent is to raise \$438 million through BLF. In other words, three quarters worth of revenue in Year 1 and four quarters worth of revenue in Year 2.

Assemblywoman Diaz:

If I could have that data as soon as possible I would really appreciate it, and for the members of our Committee. I am sure they are interested as well.

Chris Nielsen:

We would be happy to get that information to you.

Assemblywoman Bustamante Adams:

My question has to do with section 3. I know that in current law there are already exemptions. Is there any conversation about nonprofits and maybe removing them, or taking a better look at including them into the process?

I represent a large concentration of small businesses per square foot in Clark County, which represents the "New Nevada." They are very diverse. Does your training include things for people who have a different dialect, or have English not as their primary language? Is that included and how will you approach that?

Jeremy Aguero:

Nonprofits are exempt and are not considered a business for purposes of this. The problem we ran into was when we tried to narrow that field, it gets to be increasingly problematic in terms of who is in and who is out as part of those definitions. This is nothing more than a simplifying measure in taking the 501(c)s and essentially making them exempt from this particular measure. At some point it may be worthy of additional discussion, but as of what is in here, they are out.

Assemblywoman Bustamante Adams:

Can you please better clarify what is a 501(c)(3) in your eyes based on the definition in section 3?

Jeremy Aguero:

I am looking at it in terms of 501(c)s. That would be anything that is a nonprofit religious, charitable, fraternal, or other organization that qualifies as a tax-exempt organization. As I understand it "other organization" is a catchall that includes everything else that qualifies as a tax-exempt organization pursuant to the IRS code. Again, the concept is that it would be all inclusive for anyone who qualifies as tax exempt for federal tax purposes.

Assemblywoman Bustamante Adams:

My concern is that anyone can claim themselves to be a 501(c).

Deonne Contine:

I had a lot of conversations with your legal staff about this section. I think everyone agrees that in regard to 501(c)(3)s, which are educational, religious, or charitable entities, we would want to give those an exemption, but there is a whole host of 501(c)s. The issue that arises with them is that if you start including 501(c)s, taking into consideration that do they have some federal income tax exempt revenue that we could exclude, or some other revenue that they earn that maybe we would want to tax or we would want under the revenue calculation. When you try to parse out what you would and would not want to include, you are getting into entities like fraternal organizations or associations of employees of industries, such as a Realtors' association, so there are a lot of other entities that you would pull into the minimum of \$400, even if they have very limited revenue.

In this bill we have exempted entities, and we have said there is certain revenue that we do not want you to use in calculations. Even in trying to pull entities out of the exemption and say that for the revenue calculation there is some revenue you do not have to consider, that is going to put everyone into the \$400 minimum. The 501(c) language, as you mentioned, is the current law, so that is going to pull a whole host of entities that are not technically businesses into the revenue calculation.

Assemblywoman Bustamante Adams:

I think there are also businesses that are masking under that level that we are missing, and they are abusing Nevada's generosity. We might not be able to fix it this time, but there are some people who are abusing the system and taking advantage of Nevada. Could you answer my question about the diverse market?

Deonne Contine:

We give presentations now. We provide information to taxpayers. We have many people in southern Nevada who speak different languages who work at the counters. They help provide information and also provide written information to taxpayers for the taxes that we administer now.

I will ensure we are doing things along those same lines and, if there is specific information we need to send out in various languages, we can accommodate that. This is what we do now, and I see no difference in trying to provide that education and information to a variety of businesses.

Assemblywoman Benitez-Thompson:

I have three questions and one clarification. You do not have to put the answers on the record. Written responses back to myself and the Committee members tomorrow would be fine.

I will start with the clarification. In section 33, on transportation, I believe it is just a typographical error, but line 21 (page 22), it says "taxes," but I think you mean taxis. We are looking to include them, is that right?

The first question, for a written response, is in section 8 on the pass-throughs. If you could tell me who in that category we are currently collecting dollars on that under this new structure we would no longer be collecting those dollars. There are a couple of things I do not know how to interpret, but there is a complete chapter we are taking out of there. I would appreciate getting that in writing and spelled out.

The next thing is the timeline and the plan for the transfer. I believe you can pull it off. I think it may take a small miracle, but we can do miracles in Nevada. From July 1 to November 1, I would like to see written out the timeline for staffing up, the actual number of staff you anticipate the Department of Taxation will need for this, the technology transfers with the portal, and how we move things from the Secretary of State's Office over to the Department of Taxation, so you are ready to be assessing and collecting.

The question Assemblywoman Dickman had that I was not figuring out is that I think within the health care book of business it does not seem like there is anyone who actually pays the cost of care. It is Medicare rate, Medicaid rate, or a negotiated rate if we are talking about contracts with private insurance companies. If you could help me understand what percentage of the health care industries, a hospital or whoever, is paying the actual cost of care. I am unsure about what the projections on those numbers would be.

Jeremy Aguero:

I think the first three questions you wanted a written response to so I will not attempt to answer them. With regard to the health care industry, I would not want to leave you with the impression that the health care industry as a whole is not generating revenue.

Assemblywoman Benitez-Thompson:

I do not disagree with that, but from my 2 1/2 terms of sitting on the Assembly Committee on Health and Human Services, what I have heard is that no one is paying the actual cost of care. The Medicaid rate and all that we are taking out, that makes sense, but then there is the negotiated rate, so when I get my bill it shows what are costs and then the negotiated rate you ended up paying is this, and most people are covered by insurance. I was hoping for a thoughtful response, and it can be written.

Jeremy Aguero:

The idea is going to be on what the business's revenue is. You will notice that there are write-off provisions, so to the extent that someone gets a bill for \$10,000, but the insurance company only pays \$1,000, the revenue would only be the \$1,000 that was actually earned, not the \$10,000.

Assemblywoman Benitez-Thompson:

Exactly. What I want to know is what those projected revenues are going to be. It seems to me the amount actually ends up being pretty narrow. I will not know until I see the response; that would help me.

Jeremy Aguero:

I am not exactly sure how to give you the best response that you are looking for, other than to tell you that we are looking at a total number for revenue for that industry. I think the question you are asking is what share of that is being removed from the total? Remember, the way we modeled it was essentially taking a state that is already removing 100 percent of Medicaid, Medicare, and all of those things out, and is taking 50 percent from all the hospitals out. We are using that as a benchmark to essentially apply to our own state. From there, we are then applying a tax rate, based on a margin adjusted tax rate, which arguably reflects everything you are talking about.

I think I understand the question you are asking. I just do not know if I can give you much more than that.

Assemblywoman Benitez-Thompson:

It is not to be offensive in any way. I am just trying to wrap my head around the understanding of it. I am not arguing either way that it is too liberal or too narrow. I understand that one more dollar than nothing is a dollar more, and that is good. I understand it will generate revenue. I am just trying to understand once we allow for all those deductions, what is actually going to be considered revenue for that particular industry.

Assemblyman Hickey:

It was discussed that the MBT, for all the reasons that you described, is really an inferior approach, due to employment fluctuations, et cetera. Therefore, did you give any consideration to eliminating the MBT, and calculating numbers with this new fee structure in order to replace it, and if you did not consider that, why not?

Jeremy Aguero:

I think we ran almost everything. It was a discussion. The idea that we would eliminate the MBT altogether probably felt like a bigger step. As the Chairman mentioned earlier, we are dealing with imperfect revenues, so we are moving in a direction of adding a new element to our business taxation that we believe is, as you put it, superior for all the reasons I have already discussed and you mentioned. Going too far down that road could potentially be more difficult for estimating, budgeting, and all the things that come with it.

Chair Roberson:

I want to thank the Committee members for the excellent questions. We are in recess [at 4:10 p.m.].

[The meeting was reconvened [at 4:24 p.m.]. As a reminder, we are going to have three more hours tomorrow at 4 p.m. with Deonne Contine, Jeremy Aguero, and Chris Nielsen for questions and answers. For the remainder of the hearing we are going to take testimony from testifiers in support of S.B. 252, and from those who are opposed or neutral.

Steve Hill, Executive Director, Office of Economic Development, Office of the Governor:

In 2011, through your leadership and the leadership of the Governor, we changed economic development. When I say we, I mean all of us in this room and across the state. We have had some real success with that effort over the past three to four years. It provides a significant opportunity for Nevada to change, diversify our economy, and it provides a significant opportunity for the citizens of the state, our children, and our students to participate in the twenty-first century, cutting-edge industries that are coming to Nevada. In order to take advantage of that opportunity and in order to provide that opportunity for our children and our students, we need an education system that is working for them, helping them to be ready to meet that challenge. The companies who are both coming to Nevada and looking to

come to Nevada in the future, as well as the Nevada companies that are already here, need an increasingly science, technology, engineering, and mathematics (STEM) educated and ready workforce to be able to meet the needs they have now and to grow in the future.

I have said in hearings throughout the session that an investment now in education is an investment in economic development. Those two programs, functions and needs, must work hand-in-hand. If we educate our students and our children and we do not have the jobs for them in Nevada, they will leave. We want them to stay. We want the best and brightest of Nevada to be in our state. They have to have jobs that are appealing to them and that challenge them in order to do that. That increasingly is happening. But those companies also need those students, those graduates, those who have completed certificates in order to be able to grow. So, you take a step on the economic development side and you take a step on the education and workforce development side. You cannot take two or three steps on one side and not catch up with the other side. Again, an investment in education is an investment in economic development.

I would like to briefly address what I think the two core questions are with respect to the Governor's proposal in S.B. 252, what it means for education, and how that affects economic development. The first is, what is the biggest obstacle to continued economic development in Nevada? I have answered that question here and in public several times. Certainly that obstacle is education and workforce. Just to put a finer point on that, if you ask me what the second closest obstacle is, I have no idea. If we could solve the education and workforce problems that we have in Nevada now, we would take care of the majority of the issues we have with moving the economy forward. I really am confident that we will be able to do that, and that you will be able to do that, but that is the single obstacle we have at this point for economic development.

The other real question as it relates to S.B. 252 is how will this proposal affect economic development in this state? It will not. It will be helpful. If we invest this money in education, we will move economic development forward as well.

What is important to point out is that there are really three types of transactions, or three potential categories of transactions, that you can have in an economy. One is where a product is imported from outside of Nevada into Nevada. A second is when there is a sale from a Nevada company to a Nevada customer. The third is where there is a sale from a Nevada company

to a customer in another state. So you have imports, you have in-state transactions, and you have exports. The proposal in S.B. 252 has a BLF that attaches to what is referred to as a nexus in Nevada—where that transaction sale process takes place in Nevada there is the import of a product or service from out of state into Nevada, or there is a transaction that takes place in Nevada itself. It does not tax the transaction from in Nevada to another state. Frankly, that levels the playing field for all businesses. The transaction that is an export from Nevada will very likely be taxed by the state that is the destination for that sale. If you taxed it in Nevada and in that other state, we would be disadvantaging Nevada businesses. On the other side of that, we currently do not have a business tax that captures the transaction from an out-of-state company into Nevada.

As you heard in previous testimony, I think there are two very important points. One is that we are taxing Nevada businesses when they sell in state, but when they are competing with a company that is from out of state and selling into Nevada, our system is currently taxing the labor that is in Nevada, but not the labor that is outside of Nevada. This would help balance that playing field. In addition to that, as you heard, at least in Texas approximately 30 percent of that tax is captured from out-of-state companies. If we did not structure a tax system that allowed that to happen, we would continue to try and raise the same amount of revenue and we would be having to increase the tax burden on Nevada companies. So this levels the playing field; this is the way it makes it fair for all businesses, businesses that are out of state and businesses that are in Nevada.

In addition, and I have mentioned this in several hearings, economic development is about companies being in Nevada and exporting their product and services out of the state. That brings money back into Nevada. That is the transaction that causes the economy in Nevada to grow. Everybody else in Nevada benefits from that. We are not taxing that transaction in this proposal. That is why I have said that this proposal will not have a negative impact on the pure economic development effort and the improvement of the economy in Nevada. It will, in fact, have a positive impact because our education system will improve; that will help both the workforce and the families of companies that are here. We feel that there is great alignment in S.B. 252 with the economic development effort. We think it will help improve the economy of this state. To put a finer point on that particular alignment, we have abatements for the other taxes we have in Nevada in order to diminish the impact they would have on the economic development effort. For this tax, we would not need an abatement. This tax structure would allow us to not need

that abatement in order to be more competitive or to set ourselves apart. Any structure that is like that, we think is very well aligned with economic development, and we would encourage your positive consideration of S.B. 252.

Senator Ford:

I am curious since you mentioned abatements. I know you said we do not need to abate this tax, but my question is whether there are current abatement agreements that have provisions that say that the abatement would apply prospectively to a then nonexistent tax once it is enacted. I do not even know if it is legal. Can you tell me if there is anything out there like that?

Steve Hill:

No, there is not.

Senator Ford:

No it does not exist, or no it cannot exist? Do you know if it is legal to do that?

Steve Hill:

Frankly, I do not know if it is legal. I would never consider doing something like that, and we have not done it.

Assemblyman Hambrick:

To the people who want to come to this state, set up businesses, and give us economic development, are they interested in K-12, or would it start at the collegiate level and work down? Are these people looking for Nobel Laureates in our educational system, looking at the Ph.D. programs that we have, or are they looking at K-12 for their own children?

Steve Hill:

The answer would encompass the full spectrum at different times for different reasons, but certainly different businesses need different levels of workforce. Usually they need an entire spectrum to some extent, but in addition to that, they need the research and development capabilities. We want to have an innovation-based economy. So certainly Nobel Laureates and those who achieve their doctoral degrees or master's degrees are important, but a broader category is certainly in the high school graduate, community college graduate, and college graduate range. Certificate holders are becoming more and more appreciated and rewarded for their work as well. Those companies also care about the families of their employees, so there is a dual consideration. One is for their workforce, and the other is that they want their children and their students to have those opportunities as well.

Rob C. Hooper, Executive Director, Northern Nevada Development Authority:

This is quite an exciting and historical day for this state. I am here today as a member of the economic development team for the state of Nevada in reference to S.B. 252. Within our organization we have had a lot of conversations over the past week on this proposal. My board met on this bill this morning, and I am delighted to report that they have voted to fully support this bill. I have been authorized to announce our formal position today, that the Northern Nevada Development Authority (NNDA) is in full support of S.B. 252 and we look forward to working in support of its final construct.

The NNDA wishes to express its thanks to Governor Sandoval, staff, and team for taking on what is one of our most pressing issues in Nevada today: education and its direct ties to workforce development. This is key to the well-being of Nevada families and the future of our state. At NNDA we have experienced this need as we have brought over 4,300 jobs and \$1.35 billion in economic impact into the state over the past five years. Workforce was one of the biggest factors for both our wins and our losses; however, without a systematic approach by the state to better fund the education system, we will continue to see a decline in our skilled workforce, a problem that is already challenging our current employers. Without making education a top priority we could see average wages and median family incomes fall. This is the very opposite of what our goal is in economic development.

Some of you are worried about the potential effect this bill might have on companies considering a move to Nevada. As NNDA's main focus is on primary jobs in our attraction, the way this bill is designed, S.B. 252 will really have no impact on these companies. When we bring a company into this state, when we are entertaining them, we spend a lot of time in spreadsheet analysis with them. We look at their total cost of doing business in Nevada. This is really going to become a blip on a radar screen, if anything. What will become a real benefit to them is when they see that we, as a state, are committed to education. That is a big deal. We have lost some pretty good companies, including the very first company I ever did a site visit on when I came on this job. That is why we lost them. We could not prove that we had a skilled workforce here for them. It has been something we have struggled with all along. Having our K-12 propped up, delivering ready students into the workforce and into our higher education system is a very big goal for us.

Also, as companies that wish to sell into our state are required to pay the same license fee as our in-state companies, there will be no loss of competitive position. As a state, we will collect more revenue from companies outside of Nevada. I think this is a very good thing.

I believe that in our work with prospective companies looking at this region, they will not see any impact from this bill at all. I think it falls on economic development to communicate the virtues of this bill, both internally to our current business community and externally to the companies outside the state looking at us. It is important that we let them know how the bill works, because the conversations I have had with a lot of companies, after you talk for about 10 or 15 minutes they understand, and they flip from saying, "I do not like this" to "Yeah, we need this." It is the best option on the table right now.

Here in northern Nevada I believe we are on the ramp-up of what I think is going to become the third major growth boom in Nevada's history. It is being driven by modern manufacturing and technology. Both of these industries depend upon skilled workers who have a STEM education. This is essential. But if you look at this plane going down the runway, the critical tire on the plane is available workforce. If we cannot prove we have it, that tire is going to blow and this whole takeoff could be aborted.

To me this is a very big issue. I think S.B. 252, and the way it is put together, can accomplish this. I know when I first heard about this in economic development, I almost went into the other room and hit my head against the wall. Is this really what we want to do? As I have read the bill and had discussions with Director Hill, and with our business community, I am now thinking this really works. This is a program that can work. I think you are going to see that happen in our business community.

One of our board members is going to go from paying a very small amount to a reasonably higher amount. They are a multistate company. He talked it over with his chief financial officer (CFO), they are a multistate company, and the CFO said, we have to do something and we are willing to pay this. That is what I am finding across the board.

Again, I salute Governor Sandoval for having this focus and we look forward to working with him to realize this goal for the Sierra region and the entire state of Nevada.

Mike Kazmierski, President and Chief Executive Officer, Economic Development Authority of Western Nevada:

At this point in time our board has not taken a formal position in support of or opposition to this particular legislation. However, I can tell you in the recent past we have taken formal positions in support of additional funding for education, in part for many of the reasons that were previously mentioned, the fact that education is so important to our ability to attract quality employers.

We are at a point now where especially in northern Nevada, we have more jobs than in many cases we have a qualified workforce to fill them. We are projecting over 50,000 jobs in the next five years, and even in our best models, the workforce we have will not be able to meet those needs. Many of those jobs are incredibly sophisticated jobs—cyber security, technology, certainly advanced manufacturing across the spectrum. Such companies are getting more and more interested in our region and we have to be able to say we are investing in education if we expect these companies to invest in this state. From an economic development perspective, the primary employer, the jobs that are exported, will have a minimal effect from this legislation because what they make in export is not covered in this tax. So when we talk to companies about coming to this state, and we talk to quite a few, this will not really get their attention because most of what they do will be exported, and therefore they really will not have much of a concern.

Again, as an economic developer, this is incredibly important to address the needs of our workforce in the future; it is the way we can invest in our future. Thank you to you and the Governor for taking this important challenge on. It is not easy, but it is the way to position this state for future economic success.

Glenn Christenson, Chairman Emeritus, Las Vegas Global Economic Alliance:

The board of the Las Vegas Global Economic Alliance (LVGEA), through its Las Vegas education council, and working with other businesses and civic groups, has been actively engaged in approving the P-20 education system in our state. Our focus for the last year and a half has been on enhancing K-12 education.

For as long as I can remember the conversation between business and education communities around K-12 has gone like this: The education community says you need to invest more in education, and the response from the business community has been, "Why would we invest in a broken system?"

What has been sorely missing as a result of this lack of communication is some structure as to actually how to solve the problem in poor performing schools, and recognizing that we have limited resources to address the problem.

Our education council, made up of leaders from both the business and education communities, agree that handing a blank check to our K-12 system will not work. Instead, we looked at the research and determined that targeted spending on specific programs would generate the highest return on invested dollars for improving education. After reviewing the research the education council determined that spending, with related accountability and metrics for defining success for programs such as teacher development, filling the related teacher pipeline, Read by Three, and universal full-day kindergarten, and targeted spending for those populations that cost more to educate—the English language learners, the free and reduced-price lunch recipients, and special education—would best meet our return on investment criteria. Thus far we have vetted these concepts with over 100 businesses and civic leaders in our community and received overwhelming support.

The Governor's proposal for educational reform includes all of these items, which is why our LVGEA Board of Directors last month endorsed the Governor's education agenda. The question is not do we need these reforms; the question is how do we pay for them? There is no free lunch. Our board believes that you cannot be for education reform without recognizing that there is a cost associated with supporting these initiatives. One of the LVGEA's core tenets is to carefully consider research when making key decisions. After considering Susanne Trimbath's research, along with the University of Nevada, Las Vegas (UNLV) Department of Economics report, our board endorsed the BLF concept.

Why is the LVGEA so invested in doing something about education in our state? When the LVGEA evolved from the old Nevada Development Authority, our board determined that economic development is much more than simply trying to get companies to move here. Our board believes that with a strong economic development effort we can better address issues facing our community like education, health care, infrastructure, unemployment, and social services. Right now our economic development effort is being negatively impacted by our education system. Our research shows that 35 percent of the companies that express an interest in moving to southern Nevada do not come due to our education system and lack of workforce, which is again an education issue.

From the LVGEA Board's perspective we are at an important inflection point in our state's history. Finally, there is a structure and a plan about what to do to begin to enhance our education system, including necessary accountability and metrics for defining success. Frankly, the Governor's plan, which includes many ideas we have historically heard from Democrats, is more robust than the one proposed by our education council, and we applaud the broader vision. The research around the BLF indicates it would have the least impact to the growing economic development effort in our state. We recognize there will be continued debate around the proposed education initiatives, as well as the best way to pay for them. The LVGEA Board wants to be constructive in those discussions and looks forward to working with the Legislature and the Governor to bring this to a successful conclusion.

I would be remiss if I did not emphasize the significant effort around improving K-12 education in our community. I have spoken previously about our LVGEA's work, but there are literally dozens of companies and civic groups working on our education system challenges in southern Nevada, many of them here today. In large part we are working together, arguably, better than ever.

There is more to solving our challenge to the K-12 education system than just spending money. There are two parts to the education delivery system. One is what goes on in the classroom, but also, what does it take to manage a large organization like the Clark County School District (CCSD), the second largest organization in the state after MGM Resorts? That is why the LVGEA and organizations like the various chambers of commerce, Teach for America, Nevada Succeeds, UNLV, Nevada State College, and many other groups are actively working together to address problems we have in K-12. Last year Clark County School Superintendent Pat Skorkowsky formed an education advisory council composed of business and civic leaders to provide ideas on how to best address operational issues at the CCSD. The group has issued three reports thus far—on spending, program evaluation, and operational return on investment. Mr. Skorkowsky has shared these reports with all the members of the Legislature and I would invite you to read them to get an understanding of how business and education communities can work together to achieve mutually agreed upon goals.

It probably goes without saying that there are other social issues that are impacting K-12 education that money alone will not solve. The bottom line is we have a big problem in K-12 education. It will take all of us working together to solve it, and I believe that we have a business community that wants to be constructive in this effort. The number and status of individuals here today

lends credence to that comment. We look to the Legislature and the Governor to help provide the structure around how best to address these problems. In 2011 the Legislature passed and the Governor signed Assembly Bill No. 449 of the 76th Session, which provided much needed structure around economic development. We stand ready today to be constructive in doing the same thing around education.

Tom Skancke, President and Chief Executive Officer, Las Vegas Global Economic Alliance:

This is a very exciting day for our state and for our industry. You have heard from my colleagues, who are here in northern Nevada, that education is the number one issue of economic development. It is the same for us in southern Nevada. It is the number one issue that our organization deals with every day. In the 2 1/2 years that I have been in my position I rarely have a conversation about taxes, in all honesty, but always have meetings about why Nevada is 51st in education.

We were here last month to testify in front of this Committee. I was here with Jonas Peterson, who is the president of our organization. He presented to the Committee a slide presentation ([Exhibit C](#)) that showed what we refer to as the "funnel." Last year we had 251 business opportunities to attract to southern Nevada. Five percent of those businesses did not choose Las Vegas because of the brand [page 28 ([Exhibit C](#))]. Most people say people do not come to Las Vegas because it is Las Vegas. That is not true. Eighty percent of the time Las Vegas is one of the top ten destinations by site selector clients to relocate their business. I attended a dinner with four site selectors, and all four of them gave us the same statistic. Also regarding missed opportunities, 20 percent of businesses did not come to southern Nevada last year because we did not have the warehousing space with class A office space.

Of those 251 companies, 35 percent, or 85 businesses, did not come to southern Nevada because of the workforce availability and education. I will repeat that: 35 percent did not come to our community because of workforce availability and education. Twenty percent did not come to our community because our incentive program is not competitive with the rest of the country. While it is decent, it is not competitive with Arizona, Utah, Texas, and other states we compete with on a regular basis. Another 13 percent did not move to Las Vegas for miscellaneous reasons. It may have been health care, which was the number one issue with the miscellaneous group, transit, or maybe just could not convince the spouse that Las Vegas was the destination to move to. So we deal with education every day.

This afternoon you will hear from Susanne Trimbath, who I have done extensive work with over the years. Ms. Trimbath is a former Milken Institute economist who has done extensive work with the U.S. Chamber of Commerce and worked for the San Francisco Federal Reserve Bank. You will hear in her testimony this afternoon that the Governor's proposal and the BLF, of all the proposals that have currently been considered, will have the least impact on our ability to do our job. Because education is our number one issue, it is difficult for us to attract businesses to our community.

I will share with you one story in closing. I have been to the Far East several times in this position. I had an opportunity to finally get a major manufacturing company from Korea to come visit us in Las Vegas. We did a two-hour presentation through a translator. At the end of our presentation this individual pulled out a *Las Vegas Review-Journal* and said, "You are 51st in education. Why should I move my company to southern Nevada?" Unfortunately, I could not answer him. I could not argue with the fact that we are 51st in education. That was between 5,000 and 7,000 jobs; that was our Tesla, and I did not have an answer.

So you want to talk about missed opportunities—that was a big one for us. That is the battle that we have to overcome in our organization every day. I commend our board for taking action, and taking a leadership position in this conversation. I commend all of you here today; you have a tough decision to make over the next couple of months. This is not going to be easy. As the governors said this morning, this is our time to do what is right. From an economic development point of view, the issue that we deal with is education. We stand here today with you in support of the proposal that is on the table and hope we can help you in any way.

Chair Roberson:

I would like to specifically commend you, along with Mr. Christenson and LVGEA, for your leadership on this issue.

Missy Young, Executive Vice President of Colocation, Switch, Las Vegas, Nevada:

I am testifying today on behalf of Switch's chief executive officer and founder, Rob Roy, and on behalf of the Switch community. First and foremost, Switch is a homegrown Nevada company. We were founded here, we have thrived here, and each time we look to expand, we look to expand here. We are not only interested in the business environment Nevada offers, we are also very passionate about the quality of life for our clients and employees.

On both of those fronts we have a stated priority to enhance and improve interactive, innovative technology with education, especially in working with the Nevada education system. I am here today to testify on behalf of S.B. 252, which we believe is a step forward for our state. We know it took determined leadership for the Governor to present this plan and to fight for it, and S.B. 252 contains a sweeping and needed change to our state revenue system. We agree that modifying the BLF is a sound approach for the following reasons:

- It is one of the broadest bases of any tax or fee the state imposes.
- It is relatively easy to administer, and among the easiest with which to comply for businesses.
- It captures both domestic and foreign business filers.
- It will grow in a stable fashion as Nevada's new economy expands and evolves.

While no tax or fee is perfect in its implementation to society as a whole, we believe the approach in S.B. 252 is equitable, transparent, and right for the future funding of education in the state. We also know that the legislators in this room, both Democrat and Republican, have responsibly studied alternative plans, and will continue to look for ways to evolve what the Governor has proposed. Most important to us is that the revenue policy that this Legislature agrees to, and that which earns the Governor's signature, proves to be a broad-based and stable source of future revenues so needed for K-12 education programs.

Switch is proud of our role in helping to make Nevada the most connected state in the country. In support of that effort, we have been working to upgrade the Internet infrastructure at every single public school in Nevada. We are also excited to have brought so many of our Fortune 500 clients to locate within our Nevada data centers. Companies such as eBay, Intel, Amazon, Qualcomm, Shutterfly, and about 1,000 others now have a footprint in our great state because of our partnerships and our role as a leader in the New Nevada economy.

Finding the correct plan to enable and improve the Nevada education system has not been easy but in the end, it is our hope that when the next generation looks back on the work done this session, it will be viewed as the catalyst for Nevada's coming of age, as a beacon of economic diversity and opportunity led by an education system of which any state in the Union would be proud.

Jack McNeill, Senior Vice President, Global Government Affairs, Scientific Games:

We are one of your newest corporate citizens. We have 1,500 employees in northern and southern Nevada. Scientific Games is a corporation that is a leading developer of technology-based products, services, and associated content for worldwide gaming, lottery, and interactive markets. We have more than 700 gaming licenses, 9,000 employees, and do business in over 50 countries. The company's portfolio includes gaming machines, gaming content and systems, table games, product and utilities, instant and draw-based lottery games, server-based lottery gaming systems, sport betting technology, loyalty and rewards programs, and interactive content and services.

Two months ago we were inspired by Governor Sandoval and the legislative leaders to move our global headquarters to Las Vegas. Our presence is a catalyst in making Nevada the worldwide gaming development and manufacturing center of excellence. The main concern that we and our employees had in relocating was the educational resources available to them and their families, and an educated workforce that we can recruit from. We have analyzed S.B. 252 and we commend leadership for looking to modernize Nevada's education system.

While a number of funding mechanisms have been reviewed, we feel that the BLF is the appropriate vehicle to help fund these efforts, and we look forward to hiring homegrown qualified professionals as we expand our global industry leadership.

Assemblywoman Bustamante Adams:

What NAICS codes do you both fall under? Have you done the calculation of what the increase would be in your BLF as we go forward with this bill?

Missy Young:

I am not sure what the code is. I can tell you that currently, if it was implemented today, we would pay about \$1 million. As we continue our expansion in northern Nevada and southern Nevada, we would fall into the highest bracket of about \$3.2 million.

Jack McNeil:

With Scientific Games, it would be about \$2.4 million for us.

Assemblywoman Bustamante Adams:

Do you know what the percentage increase is from what you currently pay?

Jack McNeil:

As we are new to Nevada, I only have the numbers that were given to me. I know the difference from the BLF increase was minimal in comparison. As Mr. Hill and others have talked about, we export most of our goods from Nevada to 50 other countries.

Assemblywoman Bustamante Adams:

So the amount you were referencing would just be business license; it does not have to do with the other taxes?

Jack McNeil:

Right.

Elaine Wynn, President, State Board of Education:

I would like to reiterate that this is a pretty spectacular day, and even though we are sitting in this very imposing atmosphere, sort of oppositional, I feel like I am talking to friends and neighbors, and I hope that you will accept my testimony in that vein.

The testimony from our gubernatorial dream team is difficult to improve upon. I come before you wearing different hats that I hope will lend some additional perspective and creditability to this discussion.

I have been part of the gaming industry for decades, in addition to the work I have done as an education advocate. I have always cared about education, first as a parent, then as an employer, and finally as a citizen. I have most recently become more deeply concerned because of its role in impacting and changing the lives of children in poverty. You may be aware that I am the national chairman of the oldest, most successful dropout prevention program in America, called Communities in Schools (CIS). We operate in 26 states and the District of Columbia. Today I am proud to say that, very serendipitously, CIS Nevada is in your lobby distributing materials about the wonderful work that they are doing in our state. I have picked up an annual report which is available to anyone.

As I have visited many of the states in the program, I have a unique perspective on how we measure up against other states. For too long I have been very embarrassed and, frankly, ashamed at the record of my home state. I am pleased to hear the report this morning from Governor Sandoval that we are beginning to turn in the right direction, but we certainly have a long way to go. Throughout my many years in advocacy, I have vacillated from being pessimistic to optimistic again and again. I have always believed, hopefully like all of you, that giving up is not an option.

Several years ago I cochaired the Governor's Blue Ribbon Commission on Education, along with a distinguished colleague, Chancellor Dan Klaich of the Nevada System of Higher Education. Thanks to the work of that diverse collection of expert panel members, many reform recommendations were adopted in successive sessions of the Legislature. Nothing of greater importance emerged than the reordering of governance in this state, where the leadership of this most singularly important function—education—begins with the Governor, is shaped by a professional, knowledgeable, and realistic state superintendent, working with the State Board of Education, all of our school districts, and of course our Legislature in attempting to reach common goals. We are at a moment when that leadership is being exercised in the most potent, responsible, and courageous way by this Governor and the past governors you heard from today. By identifying and articulating the needs of our students, their families, our businesses, and our citizens, he has proposed the path that we are on now. It is the kind of plan that Mr. Christenson just referred to.

Listening to this year's State of the State Address provided me with one of my proudest moments as a Nevadan. I saw for the very first time "the vision." We know there are no silver bullets capable of solving all of education's challenges, but there are many, to use today's vernacular, applications to be tried and applied.

If I can continue with this analogy, the problem is we have no smartphones to plug into. Our educational infrastructure is not even a landline; it is more like walkie-talkies. Despite the wonderful work being done by thousands of educators in public and private partners that you are hearing from today, our results remain dismal. The teacher problems in Clark County have occupied national news recently. We know that having the best teachers for our kids is the ultimate desire, but when working conditions are difficult, when schools are overcrowded or in desperate need of repair, when social workers and counselors are not available to help our children deal with hunger, homelessness, and abuse before they can learn math or English, teaching becomes unappealing and

unattractive in Nevada. We have got to invest. As you have heard, no solution may be perfect, but the fact that a plan has some negatives attached to it is no justification to do nothing. So, I add and support, in the sense of urgency that is required now. Please debate the pros and cons and come to consensus. Let us get rid of our walkie-talkies and get into the world of having smartphone thinking.

I am going to leave you with this visual: Every time you pick up your smartphone, think of our children. I would conclude that the one hat that I am most proud to wear is the one of the impassioned godmother of all of our children, especially the ones whose voices have been muted and even silenced.

Phil Satre, Chairman of the Board, International Game Technology:

Thank you for allowing me to make a few comments today. I am asking you to support S.B. 252. My comments today are primarily those of someone who has been involved on the taxpayer side. I have been involved in that in a variety of different roles of businesses throughout this state over a period of 35 years, and as a resident for most of the past 40 years. For most of my career in business for those 35 years, the companies I have been associated with have been among the largest taxpayers in this state, primarily because they were corporate gaming taxpayers, but also other types as I will expand upon in a moment.

I currently serve as the nonexecutive chairman of the board of International Game Technology (IGT), a Nevada manufacturer with over 2,500 employees at both ends of the state. We generate a little over \$2 billion in revenues. For the last nine years, I have also served as an independent director of Nordstrom, Inc., the Seattle-based fashion retailer. Nordstrom has stores in southern Nevada, and I am very pleased we are opening our first store next week in northern Nevada, a Nordstrom Rack in Reno. Of course, we pay taxes in this state, and we will pay more taxes in this state as a consequence of the BLF.

I also previously served as the chairman of NV Energy for about nine years. I spent 25 years at Harrah's Entertainment, now Caesars, and for most of that time I was the chairman, president, chief executive officer, or some other title.

I have been involved in those types of companies and I have been here many times before this Legislature, arguing about tax increases that I thought were not balanced, not equitable, and not fair to the industries that I have been involved in. I am very keenly aware of what I think are broad-based taxes that are fair, equitable, and that can be applied fairly.

I have also been involved in the formation of the Guinn Center for Policy Priorities, and have served as its chairman since its formation. The Guinn Center has prepared a policy brief on this subject ([Exhibit D](#)). Two of our key executives—Nancy Brune, our executive director, and Victoria Carreón, our director of education policy—are here and hope to speak to you as well, and share the impact of that paper.

From my perspective, primarily speaking now as someone who has been involved as a taxpayer, I believe that Governor Sandoval's proposal is a very thoughtful, seriously considered, and bold plan for Nevada's future. Both now, and in the future, Nevada businesses, like the ones I have been involved with, and businesses considering relocation to Nevada, as we heard earlier from the testimony of our friends who are involved in recruiting companies to this state, need an education system that gives them a well-educated workforce. They need to know they can expand and meet the workforce demands, move or import their business here, and have the kind of workforce they need to succeed. If we want economic growth and diversification for the future of Nevada, we have to invest in better K-12 education.

For many years in my business career I often encountered resistance to change in the organizations that I was involved in. I would often use the phrase, "Everybody wants something to happen, but nobody wants anything to change." We all want to see better education in this state, but no one wants to pay for it. The companies that are in this state are going to have to pay for improved education. This is the best plan that I have seen for those companies in this state, and those companies that will be here in the future, to make something happen and to make something change.

Assemblywoman Bustamante Adams:

Thank you, Mr. Satre, for your contributions to Nevada. What NAICS code do IGT and Nordstrom fall under, and have you calculated what percentage in increase of the BLF you will have to pay?

Phil Satre:

I have not done the calculation. Nordstrom obviously falls into the category of retailer. Based upon what I have seen, and the revenues that we generate in this state, we will see our taxes increase somewhere between three and five times. For IGT, we have a couple of categories, because we are a manufacturer of slot machines and we sell a number of those slot machines inside this state. We also sell a lot of them outside this state, and we will not have a BLF attached to that. We also participate with many of our gaming customers in this state in operating slot machines. We have revenue sharing with them, so there is a gaming gross revenue attachment to that. We will see somewhere in the neighborhood of \$100,000 to \$1 million. I will give you that ballpark figure because it depends on what you do on this.

I think it is clear that those two companies will have an increased tax weight attached to the changes that are made here, along with many others. You cannot generate \$480 million of increased taxes without touching almost every business in this state. It is impossible.

I would like to make one last point. One of my biggest concerns for making this change, and one of the reasons why I support it so much, is this state has grown with an increase in gross gaming revenue taxes. That is coming to a slow halt. We are not seeing increases in gross gaming revenue. We are seeing increases very often in nongaming revenues, and capital spending in particular on nongaming assets, but the customer has changed. Gaming gross revenues are not growing, so we are going to see our population and the needs of our population grow, while the primary tax source in this state, gross gaming revenue, has stopped growing. It is imperative for this Legislature to deal with that change.

Chair Roberson:

I would like to echo the Assemblywoman's comments. Thank you both for the extraordinary things you have done for our state, and the impact you have had on our state for decades. We appreciate it and thank you for being here.

Ruben Murillo, Jr., President, Nevada State Education Association:

I am a special education teacher representing 24,000 teachers and support professionals. We are in support of S.B. 252. As an organization of educators we are passionate about the students we teach and dedicated to providing the resources necessary for the success of our students. Many times we feel we have been the lone voice in fighting for stable funding necessary to educate our students. To that extent we applaud the Governor's commitment to

establishing a stable source of funding revenue dedicated to educational programs that directly benefit our students. We are hopeful that a consensus can be reached and we can finally dedicate stable funding to our schools.

Joining me today are two of my colleagues, Jovan Agee and John Vellardita, who will share relevant information regarding the Governor's budget.

Jovan Agee, Senior Legislative Advocate, Nevada State Education Association:

I appreciate the opportunity we have to testify in support of S.B. 252. Before I delve into the policy and its economic impact on the state of Nevada, as well as its impact on the educational system, I would like to speak to the historical significance of this policy.

The 2009 appropriation report shows the Legislature approved \$6.689 billion in total DSA operating expenditures for the 2009 biennium. For this biennium, the Governor proposes to spend \$6.769 billion. That is only an \$80 million increase over the 2009 biennium. However, the 26th Special Session reduced the total operating expenditures from \$6.689 billion to \$6.574 billion in February 2010, as the projected revenues were not materializing. Since the school districts never received the \$6.689 billion, a comparison of the Governor's proposed budget with the 26th Special Session may be more appropriate. The difference between the 2009 biennium, as revised by the 26th Special Session of 2010, and the 2015-2017 biennium budget proposed by the Governor, is \$194 million. While the proposed budget is a step in the right direction, the state of Nevada is still not funding programs like education to prerecession levels.

Regarding the business license fee impact on education, the total proposed biennial revenues, including the BLF, is \$569.4 million. The new elementary and secondary education funding is \$354.5 million, or about 67.5 percent of the total new fiscal year (FY) 2016-2017 funding. This funding will go a long way in helping districts in Nevada tackle unprecedented issues like teaching shortages and available classrooms.

Regarding the economic impact of the BLF, we had our chief economist of the Nevada Education Association in Washington, D.C., develop a summary to outline the economic impact of the education-related components of Governor Sandoval's budget proposal. He developed the summary using an economic modeling tool known as the Regional Economic Models, Inc. (REMI), which is used by a majority of state legislative and executive branch budget offices, including the state of Nevada. Using the REMI, he concluded that net Nevada employment under the proposal is shown to increase by 3,191 jobs in

fiscal year 2016, the first year of the proposal, rising to 3,329 jobs in FY 2017 when the measure is fully in effect. Total output from Nevada businesses would be higher by \$122 million in FY 2016 and \$99 million in FY 2017. Total personal income for Nevada residents would be higher by \$86 million in FY 2016 and by \$99 million in FY 2017. The proposed education funding measures will produce a net increase in jobs, output, and personal income in Nevada. The effects of the proposed new educational funding measures more than offset the effects of the taxes by a considerable margin.

The BLF is deductible on the affected businesses' federal income taxes, which lessens the overall financial burden to Nevada businesses. The education spending in the proposal has a relatively high local purchasing intensity and a high labor intensity. This means that a relatively large share of that spending goes to in-state wages and salaries, and a relatively small share to out-of-state suppliers to nonlabor exists. Education career occupations account for 60 percent of the jobs arising from the education funding component of the Governor's proposal. Note, however, that this means that nearly 30 percent of the jobs created as a result of education spending are not in teaching or other education career occupations. Of Nevada's 92 major occupational categories, 33 occupations are expected to have increases of ten or more jobs as a result of the new education spending. Only three occupations are expected to have job losses of ten or more.

In conclusion, we have heard from many of those who have testified here today that Nevada is and has consistently been at the bottom in the country in terms of its educational system. Our members are continually being asked to do more with less. What we are asking is for the Legislature to support S.B. 252, to put the necessary investments in education, to ensure improvement of our educational system.

John Vellardita, Executive Director, Clark County Education Association:

I want to share with you why we have come to the point where we are today, and state the reasons why we think this is a good policy. Before I do that, we have heard a lot about investing in education. I would be remiss not to remind or to inform everyone here, as well as those who are listening, what the ongoing investment in public education is and has been by frontline educators.

There are close to 30,000 teachers in this state, and all of them have degrees. It is the most educated workforce in any industry in the state of Nevada. These are smart people. Many of them have a master's degree. A number of them have doctorates. There is a \$1 billion investment on the part of those teachers

to acquire that education. Every year their out-of-pocket expenses in a classroom, to meet the needs of a challenging student, is approximately \$26 million, for which they are not reimbursed. Then there is the hidden investment that nobody ever talks about, but I know that each and every one of you who has visited a classroom, and spent a couple minutes with an educator, has heard this story line more times than not, and that is the amount of time they put into a classroom. Our contract hours in Clark County are 7 hours and 11 minutes. Assemblywoman Diaz, you know that firsthand. However, our educators put far more time into serving the needs of students and providing a decent education with all the challenges they face with the students they greet every day and end their day with. Forty percent more of their contract hours they put in on a given day. That amounts to 525 more hours every year, which is about 74 days they are not compensated for that teachers put in on the front line trying to teach kids. When we talk about investment, educators have been investing ongoing and will continue to do that.

So, why are we here today? We, as an organization, know that we have to change the way we do business. We cannot simply be an organization that presents our interests without looking at the interests of the overall community and, in this case, the state of Nevada. We have a role to help lead in making our education system the best in the nation. That starts with us having a degree of accountability with ourselves, with the education system, and with our community at large.

When we heard Governor Sandoval come out and essentially say in his State of the State Address, "I am going to invest in education. I do not have a lot of money, but I am going to invest in education, and I am going to put it into programs that I know are needed, and there is going to be some accountability. There will be some measurement to get a return on that investment, and I am going to ask businesses to do that." That is profound.

There is not a standing Republican governor in this country that has asked corporations and businesses to tax themselves to pay for education. That is a profound investment. More than that, that is leadership. We know, even within his own party, there are disagreements on that issue. When a leader emerges like that, at a time when circumstances in these classrooms have been begging for a solution, to me that is an intersection of opportunity and now we have to prepare for it.

The second thing that has really enlightened and given us hope is during the discussion on the margins tax, ballot Question No. 3, we heard from two camps from business. We heard the nay crowd. They are here, they are present, and they are never going to go away. They say I am here to make a buck and I am not going to invest in it. We heard that from businesses, and they bankrolled a campaign. Then we also heard from businesses that said, that is a bad policy and we cannot support it, but we know we have to invest in education, so will you work with us? We asked what does working with you mean? This is what they outlined to us: One, no blank checks. Money has to be spent smartly for needed programs for today's classroom. Two, there has to be accountability around that. Three, we have to be able to measure the return on that investment. Four, we need educators to help us move that message. When they shared that vision with us, we said we can work with you. We did not stop there; we have made it very clear to everybody, anyone who wants to make an investment in education in this state, we do not care what political flag you wear. We are going to work with you, because that is what leadership is. Those are the reasons why we came around to supporting S.B. 252.

Let me give you four other reasons why we think this is smart. One, it is good policy. Call it a tax. Call it a license fee. We think it is good policy. Why? We think it is an investment in the economy, because we think the engine of the economy is a smart workforce and, in fact, to diversify the economy in the state of Nevada, if we do not take steps to improve our educational system, the two industries that are the engines of the economy in this state are going to sunset, and what are we going to be left with? We need to learn the lessons of the recent recession and invest in education. We think it is good policy because it is an investment. We do not think there is any adverse economic effect; in fact, our own studies show that there is a positive effect. We also think that there is no real significant increase to the state. We are not going to create another department. It is relatively easy to implement. Finally, and most important policywise, is asking business leaders to be good corporate citizens. You have invested in Nevada and you have gotten a return; now invest in the community and its children of Nevada by helping us to fund education. We think that is smart policy.

The second reason we are behind this is because there is an opportunity here. We see the leadership sitting in this room right now, because to pass any kind of funding it requires two-thirds. This is not one party rules. This is about people who are of the persuasion that we have to make an investment in education, we are going to cross party lines, we are going to join hands, and we are going to find a compromise. It means talking. It means engaging.

It means finding that compromise. That is in alignment with educators, because educators love to collaborate to find solutions. We think there is an opportunity for this particular measure to pass in this session.

The third reason is our classes are in such dire need of money that we cannot entertain a policy that says let us find a fix two years from now. We did not do anything in 2013, and two classes suffered from the results. We have an opportunity now. This BLF allows for immediate collection so that investment can take place.

Finally, the last reason is this categorical model. We have a problem with the Nevada formula for the DSA. It is outdated and it does not address today's classroom or the challenging students that teachers face. The DSA per pupil funding does not take into account that some of the things that are in the program that the Governor has proposed, and I believe this is modeled off the 2013 Session, the Zoom model that Assemblywoman Diaz helped lead on. We think that is smart because this is program money that is going to affect primarily students who are poor, students of color, and nobody is talking about that. We do not have a problem with that categorical model because it addresses something that this session is not addressing right now, and that is to reform the Nevada Plan. For that fourth reason, we are for it.

I want to say a few things in closing. One, we believe in accountability, and we think that for any money invested in any kind of program, there has to be a way to ensure that the money means something and kids are learning. We are going to be the first ones to join in partnership around the accountability issue. Second, we want to ensure that money is spent in the right way, and for the needed programs that have been outlined by the Governor, so we have no issue. Third, we know to accomplish this we have to have bipartisan support, and we are asking everyone here to do that. We are going to be there on this issue.

Does that mean we do not have other issues? We do have other issues. You all are bringing those issues to us. We have brought a couple of issues to you around professional development and peer assistance and review. We think that is the new direction of our organization. We are trying to invest in the practice to ensure we have the best qualified teachers in the classroom.

We also know there are other issues we have to address, whether they are collective bargaining, the Public Employees' Retirement System, or the teacher shortage that exists in Clark County, which is at incredible proportions, with 600 substitute teachers every day in these classrooms. We know those things have to be addressed, and we have confidence that they will be addressed.

Even though we have these other issues, we are not holding up this discussion around getting this passed because there are other issues we want to address. We think this is so critical to move that we are asking each and every legislator to seriously consider and support this.

In closing, I want to say, as other speakers have said, that we are at a crossroads. Every day that goes by this session that has not invested in education is a day that we never get back, but more importantly, it is a day and a year that harms the education of a child. Public education in the United States is supposed to be the great equalizer. It is the opportunity for all children, no matter where they came from, to be able to get a decent education so the doors of opportunity open up for them. We cannot shortchange them on that promise with another session that does not take action.

Chair Roberson:

Thank you, gentlemen. To Mr. Vellardita, and to everything you said, amen, my friend, amen.

Jesse Haw, President, Nevada Home Builders Association:

The Nevada Home Builders Association, composed of board members from the Southern Nevada Home Builders Association and the Builders Association of Northern Nevada, supports the passage of comprehensive tax reform, including the adequate funding for education for the next generation of Nevadans.

The residential construction industry has experienced some of its worst times in the last decade, fueled by a national recession and a litigation friendly environment here in Nevada. Today the economy has started to improve and sensible reforms have been passed by this body to address the litigation abuses in residential construction. As a result, the home building industry strongly believes that our best days are ahead of us. Similar to remedying construction defects, we urge the Governor and the Legislature to continue to enact sensible reforms in other areas of the government and our economy to ensure that Nevadans work in an efficient and cost-effective manner.

The Nevada Home Builders Association continues to believe Nevada's education system needs help. In his State of the State Address, Governor Sandoval talked about a New Nevada, and setting Nevada's economy up to thrive and grow in the twenty-first century. We agree with the Governor and the legislators who feel the time is right to fix this historic volatility of Nevada's tax system, ensure the taxes are imposed broadly and fairly, and improve the education system in Nevada. We applaud the Governor's introduction of S.B. 252. It is an important step to begin this long overdue debate. The passage of S.B. 252-type school funding and other program reforms will help prevent special interests from seeking to bypass the Legislature with petitions like the recent proposal to enact the margins tax in Nevada. Taxation by initiative and authored by special interests without deliberative consideration in a legislative body is damaging, inflexible, and unwise.

There will undoubtedly be concerns and questions as S.B. 252 is evaluated and discussed. The Nevada Home Builders Association looks forward to being part of those discussions and working to help support passage of S.B. 252 tied to school funding, and other necessary and sensible reforms.

Josh Griffin, representing Nevada Subcontractors Association:

I would like to read a statement from the Nevada Subcontractors Association for the record. No economic sector was harder hit by the Great Recession than Nevada's construction industry. As our national and state economy have recovered, we have begun, as an industry, to reinvest in our communities, our homes, and our businesses. Those of us in the Nevada Subcontractors Association who survived this downturn are now starting to hire new workers, invest in new equipment, and bid on more and more projects.

The Nevada Subcontractors Association will continue to be partners with the state of Nevada. We support Governor Sandoval's probusiness agenda. We support Governor Sandoval's reforms to our education system and the state's new investments in education, particularly STEM education, so more students are able to enjoy the very best of Nevada's K-12 system. With these important investments come additional costs. While no business looks forward to higher taxes, there are principles we support to fund these critical investments. A tax that is small, easy to administer, and spread out as broadly and fairly as possible has been and continues to be the best policy, and we support the Governor's solution here today. If Nevadans are being asked to do more, it certainly makes sense for them to expect more. This budget and these policies do just that.

Assemblywoman Bustamante Adams:

The Department of Taxation gave an example of subcontractors; they are included in this BLF. Can you give me an example of how you would be included, and what your increase would be?

Josh Griffin:

There is a specific rate for construction.

Assemblywoman Bustamante Adams:

I think the category you would fall under is a pass-through, because it would be the general contractor pass-through of revenue to the subcontractor, if I understood what Ms. Contine said.

Josh Griffin:

It is my understanding that the pass-through is as the revenue continues to move up the chain within that industry. The calculations we have done as an industry is that each individual subcontractor does pay a BLF on the revenue for their portion of a particular construction project. There will be a tax increase that the subcontractor would pay on the BLF.

You asked if we have done calculations on how much of an increase we might have. Regrettably, as a comprehensive industry, we have not. What we did as a board of directors was try to have each individual company make an assessment. We were trying to compare with all the other ideas that were heard, and we will continue to do that for the next 60 to 70 days. As tax topics continue to be discussed, we will continue to analyze them.

For some of the members, because there are some smaller businesses, that increase was \$10,000 to \$15,000. We had a member that identified about a \$90,000 increase. That is based on the rate that was published in the bill.

Senator Ford:

I would like to follow up on Assemblywoman Bustamante Adams' question, to ensure I understand. Section 8 discusses pass-through revenue; specifically under subsection 1, paragraph (d), subparagraph (3), pass-through revenue means, "Subcontracting payments under a contract or subcontract entered into by a business to provide services, labor or materials in connection with the actual or proposed design, construction, remodeling, remediation or repair of improvements on real property or the location of the boundaries of real property." I think I understand what that means, but therein lies the confusion as to how this proposed tax would affect both contractors and subcontractors.

Deonne Contine:

This is like the example I gave earlier today. The contract for the paving of the road is \$10 million. Of that \$10 million, the contractor pays \$8 million to subcontractors. For the contractor, the revenue for purposes of calculating the BLF is \$2 million. For the subcontractors it is whatever the amount of the \$8 million they have been paid. If there were eight subcontractors and were each paid \$1 million, they would each calculate their liability on the \$1 million.

Assemblywoman Benitez-Thompson:

Could you talk to me a little bit about independent contractors, and where they fall into place for this?

Deonne Contine:

Specifically, under the pass-through, the idea is to deal with the situation where a business gains revenue, is holding revenue, or has money like the \$10 million contract, and they are going to pay their independent contractors for the construction. I think the pass-through specifically references also if it is a sale or a commission, and how that relates, and that is for the real estate industry, and the types of industry where the broker, in that example, would hold the money from the sale, but the other people would be entitled to the money. If the commission was \$5,000, and they paid their salesmen \$2,000, their revenue for purposes of the BLF would be \$3,000. The revenue given to the other entity would be used to calculate their BLF.

Assemblywoman Benitez-Thompson:

So the independent contractor, whether it is a person with a truck route, or sells independently, they will be responsible for a portion, and then the other portion will be picked up by whatever party is then paying them, is that correct?

Deonne Contine:

In certain examples, as described in the pass-through section. I cannot imagine every situation, but for the pass-through revenue it is for construction contractors and entities that hold money that has to be distributed based on agreements they have with other entities. It is going to be another entity, or another company, who would have liability for the BLF.

Assemblywoman Benitez-Thompson:

I want to make sure we have something on the record for the public, so there is a reference for them.

Bill Welch, President and Chief Executive Officer, Nevada Hospital Association:

The hospital community recognizes the importance of ensuring essential services such as education, but other services as well. We understand that these services need to be adequately funded if Nevada hopes to ensure its ability to sustain and grow a strong economy to meet the needs of all Nevadans. The hospital community also understands that we need to be part of the solution. With that in mind, we have reviewed the various revenue proposals that have been on the table and that are being discussed and considered.

We believe that S.B. 252 provides for a broad-based, balanced approach to generate the revenues necessary to meet the needs of Nevada. With that in mind, the members of the Nevada Hospital Association support S.B. 252, and look forward to working with you on the specific details as this legislation moves forward.

Virginia Valentine, President, Nevada Resort Association:

I want to tell you who is here with us in Las Vegas and in Carson City today. We have Casey Gawronski, who is with Harrah's in Reno; John Maddox with Caesars Entertainment; Karlos LaSane with Caesars Entertainment; Bill Noonan with Boyd Gaming; Kim Sinatra with Wynn Resorts; Ulrico Izaguirre with Wynn Resorts; Denise Miller with MGM; and Mike Sloan from Station Casinos. Together they represent the majority of our 66 resort hotel members.

In 1965 the Nevada Resort Association (NRA) was founded to represent our state's gaming and resort industry. This year we are celebrating the 50th anniversary of the Association. We continue to advocate for the state's largest industry. Our Association monitors emerging issues, gathers information, and we consult with key decision makers on subjects affecting our members and partners statewide and their 268,000 employees. Together our gaming and resort industry and more broadly, tourism, pays \$10.7 billion in annual wages and salaries to Nevadans. That number rises to \$15.9 billion if you include the indirect and induced wages and salaries.

In addition to our industry being the state's largest employer, our members are also Nevada's largest taxpayers, paying all the taxes levied on other businesses, as well as an additional \$1.5 billion in industry-specific taxes. From our beginnings as a small emerging industry to one that is renowned around the world and sets the standard for global competition, our members are very proud of the role we have played in the growth and health of the state of Nevada.

Our members are committed to being part of the right solutions for Nevada as we have been for the past 50 years.

I would now like to introduce Mr. Vassiliadis of R&R Partners to provide our testimony in support of S.B. 252.

William Vassiliadis, representing Nevada Resort Association:

This is a biennial rite of spring for me, being before some form of money committee in the Legislature on behalf of Nevada Resort Association supporting education funding. I am here today to tell you that the Association supports S.B. 252. We support the Governor's education plan. We support the fact that the Governor and his staff worked very hard and very diligently, met with industries, met with the education communities and superintendents, and came up with something we think meets the criteria that for years has been discussed here and argued about, and that is some form of accountability, professional development, and measurement. I think when the Governor was satisfied that those standards had been reached, he took the bold and courageous step to find the funding. The good news is that as I have walked around the halls for the last few hours, a lot of people support the educational funding package. Everyone says it is important to fund education.

Another biennial rite is that that is how the start of every legislative session is. Forty-some legislators send out pieces of mail to their districts saying they support education. Governors send out mail or have television spots supporting education. Lobbyists run around patting each other on the back because we all support education. Then reality hits. The challenge is how do we fund it? We all agree we support it, but how do we actually fund it?

I think it is important as you are looking at funding to also understand what gaming does contribute to the state. We currently fund about 47 percent of the State General Fund. The industry pays \$1.5 billion in industry-specific taxes. Of the \$620 million in room tax collected in Clark County alone, 70 percent goes to your school construction, education, transportation, or local governments. A third of all the sales tax collected by the state is generated by your tourism industry and its employees. Of the MBT, 20 percent is paid by the gaming industry. Only 5 percent of Nevada businesses pay the MBT.

Of course, we continue to be the highest property taxpayer in the state. Six of the top ten employers are resort properties; the other four are government entities. The industry directly employs 268,000 people and pays over \$10 billion in wages and salaries. Additionally, we pay about \$1.1 billion in health care and benefits. The industry also leads to the employment of 152,000 other Nevadans. That is another \$5.2 billion in wages.

Last year, when the NRA opposed Question No. 3, we said then we felt we needed to oppose it because it was poorly constructed and the rate was too high. At the same time, many of our chief executive officers very publicly said, we would work with the Legislature, with the education community, and other businesses, to fund education. Our no on Question No. 3 was not a no on funding education.

I am here today on behalf of the NRA to keep that commitment. We had a meeting with our chief executive officers prior to this legislative session, and the things they talked about most were the funding of education, having a broad and stable tax base, and rolling over school construction. I want to congratulate you all for passing the school construction budget so quickly so we can build our schools.

Education is very important to the NRA, not just because we believe we are a good community partner and we want to see Nevada do better, but it affects us directly. Last session, the Governor's plan was supported by this Legislature—Democrats and Republicans—whether it was Zoom schools or ELL funding. This is very important to many of our employees, but our employees are not only Latinos, they are not only ELL. We also have a challenge that every other business faces. We need white-collar employees, we need accountants, we need managers, and we need data processors. Last year, two Las Vegas Strip companies called me within the same week, to ask me if I had any idea where they could find a good digital manager or a good social channel manager in Las Vegas. It is important to us, as it is to every member of this business community, that we improve K-12 dramatically, as our kids need it, and as our employees deserve it. Many of our employees, even our first-generation employees, aspire for their kids to do better. The only way they are going to do better is with a better K-12 system.

Over the last 50 years the Resort Association has time and time again come before this Legislature to support a broad-based tax. In 2011 we supported a margins tax in this Legislature. In 2003 we supported a gross receipts tax.

It goes on and on. We support almost anything that has been brought before this Legislature to improve education. We take this position despite the fact that the gaming industry will pay 58 percent of all business taxes collected if this tax passes. The second highest industry will pay about 5 percent. We take this position despite the fact our industry has not reached prerecession business activity. The year 2014 brought a loss of \$700 million. Our gross gaming revenue has been down 12 percent since 2007. Average daily room rate has been down 10 percent since 2008. Convention attendance is down 21 percent since 2007. All those numbers are starting to come back, but they are coming back slowly.

Despite that, we support this tax plan. We support the Governor's initiative despite the fact that for the last 25 years, repeatedly, we have been assessed taxes and fees, whether it is for school construction, a room tax for education funding, or \$25 million a year for transportation bonding. Every year, almost every session, you have come to us and we have supported these issues. Despite industry-specific taxes, we believe it is important now that you make the decision to pass a broad-based tax.

Another biennial rite of spring is the crossroads. Every two years in the State of the State Address, in the Assembly Speaker's statement, or the new Senate Majority Leader's statement, we are at a crossroads. For 25 years we have stopped at those crossroads many, many times. We ought to actually cross the road if we are at a crossroad.

Everybody supports improving education, but every year we get into the same thing: it is gaming's plan, and we are not going to support it. I can honestly say to you I have not discussed this plan with the Governor. I can tell you he and his staff have done a phenomenal job crafting a very innovative way to do this.

Every year, we cannot use the word gross anything, Why? It became a bugaboo in 2003. Ladies and gentlemen, to my colleagues in the business community, and to my friends, this is not 2003. We have been through a terrible recession. The fact that this state allowed itself to be dependent on one industry for so long showed catastrophic results in 2008, 2009, 2010, 2011, and 2012—catastrophic results. To continue that kind of policy would be absurd. Today we are here proudly and strongly to support S.B. 252, but more importantly, and most importantly, to support the funding of public education in this state.

Assemblywoman Bustamante Adams:

Thank you for the contributions of gaming to this state. I want to clarify that gaming revenue is already taxed in another area, so that part is exempt, but the nongaming activities would be included in this bill. Is that the way you understand it?

William Vassiliadis:

Yes, that is correct. I think it is important to note that of the part that is not being taxed, we are already paying a gross tax on. That is also the shrinking part of the business. The BLF will capture the growing part of the business. About 15 years ago our nongaming revenue exceeded our gaming revenue in this state. That is going to continue in that direction. If you look at the fabulous properties that have been constructed, restaurants, et cetera, that will continue to grow.

Assemblywoman Bustamante Adams:

Your statement, about the 58 percent, did that include the gaming revenue?

William Vassiliadis:

Of all the business taxes you will collect, if this passes, we will be paying 58 percent of that.

Chair Roberson:

You said 58 percent. Gaming will be paying 58 percent of the BLF?

William Vassiliadis:

Of all the business taxes that are collected, from business, from the state, gaming will pay about 58 percent.

Chair Roberson:

Is that incorporating the BLF into that?

William Vassiliadis:

Yes, that is the entire package.

Chairman Armstrong:

So just for some clarification, can you define business taxes? Does that include sales tax and property taxes as well?

William Vassiliadis:

Property taxes, room taxes, gaming taxes, all the taxes that are paid, the current MBT, et cetera.

Chairman Armstrong:

Can you give me a complete list of those taxes that you are referencing?

William Vassiliadis:

I can provide that for you.

Tracey Woods, Senior Director, Government Relations, Anthem Blue Cross and Blue Shield of Nevada:

We employ about 250 associates here in Nevada, and we coordinate the health care of nearly 500,000 lives, including members on Medicaid, members who purchase their health insurance through the Silver State Health Insurance Exchange, and those who buy it on the commercial market. We are testifying in support of S.B. 252. We appreciate the leadership of the Governor in presenting this plan here today.

Senate Bill 252 contains a much needed change to our state revenue system. We believe that modifying the BLF is a good approach for the following reasons: It has the broadest base of any tax or fee that this state currently imposes. It is relatively easy to administer, and among the easiest of which to comply for businesses such as ours. We believe it will grow in a stable manner as Nevada's new economy expands and evolves.

Barbara Smith Campbell, Principal, The Ferraro Group:

Thank you for allowing me to make comments on S.B. 252. Many of you may know that I chaired the Nevada Tax Commission for many years. I served for five consecutive terms. I was first appointed by Governor Richard Bryan and subsequently reappointed by Governor Bob Miller and Governor Kenny Guinn. I was a member for 20 years and chairman for 10 of those 20 years. During my tenure as chairman I oversaw the implementation of the major tax package that was instituted in 2003. That regulatory process for developing the administrative code was painstaking and difficult. I retired from the Commission to start my consulting business in the area of strategic tax planning for businesses located or planning to locate in the state of Nevada. All in all I have been working in matters dealing with state taxation for nearly 30 years.

I have had the opportunity of reviewing S.B. 252 and first want to thank the Governor and his staff for introducing this bill so early in the legislative process. Historically, many tax bills are introduced late in the session, and as a result the outcomes may have many unintended consequences. This early introduction will give the Legislature and Nevada businesses time to digest the bill for comments, questions, and debate.

I personally struggled with the statutory language in 2003 that was not comprehensive or entirely developed, and it caused problems for us on the Nevada Tax Commission as we developed those regulations, and for the Department of Taxation as it moved downstream. With the early introduction, with many weeks for discussion, I know that S.B. 252 will be deliberated with thought and consideration. As with any draft legislation, I am sure the authors expect it will result in amendments or revisions.

As I read through S.B. 252 and its practical implementation, it appears to be clear-cut in its intent to be broad-based, and the administration should be relatively straightforward and less complicated for Nevada taxpayers. Sections 1 through 22 appear to be the real backbone of the bill. The NAICS tables that are in sections 23 through 49 recognize the different business categories for purposes of determining the quarterly fee. The intent is to fairly apply the fee across every one of the industry groups. The NAICS code has been used for years by the state, and state businesses are familiar with those codes.

The responsibilities for the administration of the BLF would fall within the Department of Taxation. The Department of Taxation's executive director and staff are fully qualified to oversee the enactment of this bill. I have confidence that they can implement S.B. 252 as directed, as it is now written. You also have a number of very experienced and tenured members on the Nevada Tax Commission. Many of them were members under my chairmanship. If regulations are needed to assist in the administration of the BLF, they have the experience to move the regulatory process with clarity and timeliness.

Assemblywoman Bustamante Adams:

Ms. Woods, I know that for health care providers, such as Medicare, Medicaid, and CHIP, that is not counted, correct?

Tracey Woods:

Right.

Assemblywoman Bustamante Adams:

The uncompensated care is not counted either, correct?

Tracey Woods:

Uncompensated care does not impact us. I think that is the hospital. We pay a premium tax on our premium revenue, but we would also pay an increased business license fee.

Assemblywoman Bustamante Adams:

What would that look like for the industry?

Tracey Woods:

We have clients that may actually rent a network or pay claims, but we do not actually get premiums. We would have quite a bit higher BLF based on this, but we believe it is the right thing to do.

Assemblywoman Bustamante Adams:

I think in section 20, for this specific industry, that portion of the revenue would be reduced by 50 percent. Is that how you understand it?

Tracey Woods:

No. For section 20 we receive premiums, and we already pay a premium tax of 3.5 percent of that premium, so that portion of our business is exempt. We do have revenue streams with different business lines that would be impacted by S.B. 252.

Brent Bell, President, Whittlesea Bell Transportation, Las Vegas, Nevada:

We provide taxicab, limousine, sedan, bus, and airport transport services in the state of Nevada. Our company was founded in 1941, and now we employ 2,000 people, about 90 percent in the south and 10 percent in the north. We are here today to support the Governor's tax plan, particularly because we are opposed to MBT or any other form of payroll tax.

Employing over 2,000 people is very rewarding, but it is also very challenging. Some of the current challenges that we deal with are the Affordable Care Act, unemployment taxes, and new Equal Employment Opportunity Commission guidelines. Workers' compensation costs have hit employers hard and discouraged growth. Our industry is growing and we are hiring folks every single day. These are full-time jobs, with health insurance benefits, incentive bonus plans, vacation pay, and 401(k) plans. These jobs benefit the state as

a whole and help grow our economy; therefore, we are in support of the Governor's plan. It is broad-based, fair, and sensible. It will cost our company approximately \$130,000 a year; however, we want to continue investing in Nevada and support future educational initiatives as the Governor has laid out.

Jonathan Schwartz, Director, Yellow Checker Star Transportation, Las Vegas, Nevada:

Yellow Checker Star Transportation (YCS) is the proud employer of almost 2,000 employees who have well-paying, high-benefit jobs in Las Vegas involved in the taxicab industry. We are proud to be the leading innovator in Nevada with regard to its exclusive use of clean-burning alternative fuels for more than 25 years. Our investment in alternative fuels exceeds \$20 million and reduces emissions of carbon monoxide by more than 1,000 tons annually within Las Vegas.

I am here today because my business is dependent upon a well-educated workforce to perform research and development on YCS's state-of-the-art alternative fuel systems. Our economic consultants have closely followed the debate on various tax plans over the last several years. Governor Sandoval's proposed BLF modernizes our tax code and is the most broad-based and fair proposal that my company has reviewed to date. Governor Sandoval's proposal is sensible, fair, and reasonable. Governor Sandoval's plan will bring about the changes in education that Nevada needs. For the foregoing reasons, YCS supports Governor Sandoval's BLF as currently presented.

Jim Eckstaedt, representing Frias Transportation Management, Las Vegas, Nevada:

I represent Frias Transportation, all Frias affiliated companies, and cofounder, Mrs. Phyllis Frias. Charlie and Phyllis Frias started Frias Transportation in the mid-1960s. They started with five taxicabs, and today Frias is one of the larger employers in the state. Charlie and Phyllis Frias have always been supportive of funding education. In fact, they were recognized for their contributions and support of education when Frias Elementary School, located in Southern Highlands, was named in their honor. Mrs. Frias and the company continue to make significant annual contributions to Frias Elementary School, the UNLV scholarship fund, and other education related foundations and charities.

For the Frias companies to continue to grow, a well-educated workforce is critical. The Frias companies are using leading-edge technology in our transportation fleet, finance, treasury, marketing, shop repair, risk management

facilities, and operations. An educated workforce is essential for our employees to be successful. Currently Frias employs 2,424 employees, and we have 140 open job positions. I am here today because we at Frias believe educating our youth of today is an important step in preparing them for the employment opportunities in the future. A good education will help our youth become successful, and will help them contribute positively to society. We believe that funding education is critical to the success of our youth. Having a well-educated workforce also attracts businesses to the state of Nevada.

Payment of the proposed BLF will come from our profits. As currently proposed, the BLF for Frias will exceed \$100,000. We are prepared to accept this concept because funding education today will educate the youth of today, and some of them will be our future employees. While there have been numerous concepts discussed to fund education, and there will be more discussion around the Governor's proposal to fund education, we are supportive of the framework of the Governor's proposed. We appreciate the opportunity to be here today to provide our support of the Governor's proposal revisions to the Nevada BLF.

David Goldwater, representing Desert Cab, Inc., Las Vegas, Nevada:

Our president, George Balaban, was unavoidably detained and was unable to be here. He asked me to convey his sincere regrets. He did, however, ask me to share his thoughts with you ([Exhibit E](#)).

Desert Cab Inc. and On Demand Sedan and Limousine have reviewed S.B. 252, Governor Sandoval's proposed business license fee. Our business has served southern Nevada since 1964. Our 700-plus employees live, work, and raise their families in southern Nevada. We applaud Governor Sandoval's effort to improve educational programming and outcomes for our community. Desert Cab, On Demand Sedan, and our family of employees join the Governor and other business groups in supporting education funding. We look forward to working with the Legislature in finding solutions that work for Nevada.

Assemblywoman Bustamante Adams:

Mr. Eckstaedt, you made a statement that your contribution under this bill would be \$100,000. Is that on a quarterly basis, or is that annually?

Jim Eckstaedt:

It will exceed \$100,000 on an annual basis.

Dan Chia, Director, Policy and Electricity Markets, SolarCity, San Mateo, California:

It is nice to have solar included as part of this illustrious group of peers, in this sector of the economy. Founded in 2006, SolarCity is the largest clean energy services provider in the nation, installing one of every three rooftop solar systems in the 16 states that we service. We employ over 9,500 individuals nationally, and over 1,100 in Nevada. Most of those employees are in southern Nevada, but we recently announced sales and installation in northern Nevada very soon. We have over 190,000 customers nationally and recently committed to bringing solar panel manufacturing back to the states. That is a very exciting proposition that is forthcoming very shortly.

For the first time in over 100 years, customers now have the choice to generate their own clean energy for less. Thanks to the Governor, SolarCity relocated its administrative headquarters to Nevada just shy of two years ago. At that time we had about 200 employees; we have grown 450 percent since that time. We were attracted to the Silver State by its able workforce—although as you heard from testimony today, that is at risk—its abundance of sunshine, and the opportunity to contribute to the creation of a robust clean energy economy propelled by consumer choice and competition.

We could not be happier with the progress thus far. Consumers have responded overwhelmingly to the opportunity to take control of their energy costs, better manage their family budgets, and reinvest their energy savings into the economy and their communities. In less than nine months of last year SolarCity alone signed up over 3,000 customers, which doubled the total number of existing solar customers in this state. Last year the industry hired over 3,000 Nevadans, making Nevada number one in the country in solar jobs per capita.

While our industry's success thus far is gratifying, we recognize that it cannot be sustained without a skilled and educated workforce. The industry requires installers, construction managers, electricians, computer and software specialists, engineers, as well as numerous finance, management, human resources, and other business personnel who require education and training in one form or another beyond high school. We recognize that our success is contingent upon a meaningful and lasting partnership with the communities in which we do business, for we both grow and succeed together. For this reason we applaud the bold plan Governor Sandoval has proposed for education, particularly his emphasis on STEM education, as well as its recognition of the vital role community colleges play in the creation of a skilled workforce.

We also recognize that this investment benefits all of us, and without an investment we will not be able to reap any dividends. For this reason, SolarCity stands in support of the Governor's plan for education in Nevada and for funding it appropriately. After initial review, we also believe the BLF proposal as currently drafted is workable and is a reasonable means to invest in the state's future.

In conclusion, the Governor's tax plan will prepare Nevada to meet the challenges of the new and emerging economy, like the clean energy economy, that will place the state at the forefront of technology-driven markets in the United States. This is a just and worthy goal, and SolarCity stands with the Governor in supporting it.

Assemblywoman Kirkpatrick:

I find it interesting today that everyone loves this idea, which I am glad to hear because it has been five sessions trying to get everyone to love this idea. What we have always heard in the past is that they could not adjust the business model. You heard today that you would be expected to adjust your business model by November 15. How would you do that today, as opposed to last session?

Dan Chia:

I do not understand the question about adjusting our business model.

Assemblywoman Kirkpatrick:

You are going to have to adjust your business model if this takes effect for November 15 to incorporate those new dollars that you would have to pay. How are you able to do that so quickly? We have heard from many businesses in the past that they would not be able to do that so quickly. I want to understand how you intend to do that.

Dan Chia:

Based on our review, I do not think we will have to change our business model or our management. Based on our legal review, we understand this plan to be very workable.

Maureen Schafer, Executive Director, Council for a Better Nevada:

I would like to thank Governor Sandoval and his team for his education revenue plan. We would also like to thank all of you in the Legislature for consideration of his plans, as well as others who will come forward during this session.

The Council for a Better Nevada is a collection of chief executive officers that came into being in 2005. We are business leaders who have had rich experiences for our families and businesses over the years in Nevada. In 2005 we saw Nevada's expansive growth, and saw that the landscape was changing exponentially. It was at that time they knew it was time to engage more than ever in this state and the changes that were going on, whether it was health care, transportation, social services, revenue, policy, education, all the things that impacted quality of life. In fact, in creating our organization, our mission statement became "A better quality of life for all Nevadans."

In our first annual meeting one of our founding board members, Mr. Satre, asked all of us what makes this state great? What makes a community great? We have all been in those wonderful communities. We all know what a really good, strong neighborhood and strong community feels like when we are in it: good, strong roads that can move us around easily, strong health care system, good hospitals, clean air, and good water supplies. We know what that feels like. At the same time, we always know what a fragile community feels like, inclusive of extraordinarily fragile school systems, challenged schools, and things like that.

It was with that type of dialogue over seven hours that I trapped my colleagues in a room. We vetted so many issues across the spectrum, from roads, to health care, to a judicial system issue, to schools—all of which we tackled today—and we landed on the issue of an educated citizenry versus an uneducated citizenry. While you never ameliorate those issues entirely, when you have an educated citizenry in your state you certainly reduce a lot of those burdens significantly. That is where we landed on the cornerstone issue for the Council for a Better Nevada way back in 2005 with K-12. We are going to get after K-12, then and now. We spend the bulk of our time when we meet every month talking about K-12 and what we can do with our time, our acumen, our network, and our resources to focus on our kids, their families, our community, and how we can impact our kids, their families, our community, and what that will do for our economy in the future of Nevada.

In that time we have been able to do a lot of things on that issue, including impacting early child programming, Nevada's current funding formula, and things of that nature. We have moved the ball forward and we are proud of it, in partnership with all of you, I might add.

We are here today to say we support the Governor's funding plan. It is progressive and exciting, and in partnership we support S.B. 252. While there are other funding plans that will come before you, we welcome the debate and discussion. We are here to be part of that, when asked.

What we would like to respectfully advance to all of you is that the passage of no new revenue plan is not an option. The question we all asked ourselves in 2005 was what makes this state great? It is not only those types of infrastructure that make you feel good when you go into a community; we know what it is because we have been in those communities. Some of us live in pockets of those in and around Nevada today, but we have experienced tremendous growth in southern Nevada. It is not just southern Nevada; a strong southern Nevada is a strong Nevada, and we are all one Nevada. It is when you take the first 150 years that we have been here together and you look at those systems and say, "Those systems have carried us this far, but they have now outlived their usefulness. It is time to look at the next 150 years, and be bold enough to change." That is the question we ask now for all of you. What makes the state great for the next 150 years? We ask you to ask that question of yourselves on behalf of all of us going forward.

We believe you will do the right thing. We know you will find a way. We are here in partnership with all of you and we are excited. We think now is the time. We pledge support and partnership with all of you.

**Tom Kaplan, Senior Managing Partner, Wolfgang Puck Fine Dining Group, and
Director, Council for a Better Nevada:**

I am a proud resident of this state for 23 years. I thank you all for allowing me the opportunity to testify before you today. My partner, Mr. Puck, could not be here today as he is actually in the Kingdom of Bahrain operating and opening two restaurants at a new Four Seasons, but he did want me to bring pizzas for you all. [Held up several pizza boxes.]

Today I am testifying on behalf of the Council for a Better Nevada, Wolfgang Puck, and the Wolfgang Puck Fine Dining Group. We stand in support of the Governor's education plan and funding plans. We thank the Governor for his deep passion, laser focus vision, and strong leadership. We equally thank you legislators for your hard work and leadership, which we know will be mandatory in the coming weeks. We encourage and implore you to adopt S.B. 252.

As it has been said many times here today, we know there is no perfect revenue plan, and we know there will be challenges that come both within the state and I am sure outside our borders. Across the United States people are looking at us and challenging the problematic processes we are going to go through. We firmly believe S.B. 252 to be the easiest, perhaps the simplest to implement, the most broad-based plan and most fair to all businesses, including ours.

Mr. Puck and I have had the privilege of doing business in the state of Nevada for 23 years. We have 26 restaurants in six countries, seven states, and the District of Columbia. Most significantly, we have ten restaurants in southern Nevada, in Las Vegas. I would say, given all the development that is going on up here, we are truly looking at Reno for the first time, and plan on doing something in Reno or maybe Carson City.

We were the first independent fine dining group to come to Las Vegas in 1992, when most of our peers said that was a big mistake, but the reality was it was not a mistake; it has been tremendously good for us. For that reason, we not only believe in investing in education, but we believe it is our inherent obligation to ensure that all of our state's children have a strong education. I am the proud father of a three-year-old, so I particularly understand that. We all know our future depends on education; we have heard that today. We know our future in sustained growth and economic diversity depends on education.

I would like to conclude by quoting Herb Brooks, who said before the U.S. hockey team took on the Russians in the 1980 Winter Olympics semifinals, "Great moments are born from great opportunity." I say to you this is such an opportunity and this is such a moment, and Nevada can lead this country in education reform.

Chair Roberson:

Thank you for being here. We are going to take a break until 7 p.m. When we come back we will hear testimony neutral or in opposition to the bill. Once we have heard from those testifiers, we will go back to those in support of the bill. We are in recess [at 6:40 p.m.].

[The meeting was reconvened at 7:03 p.m.] We have a slight change in the schedule. There are a couple of folks who have to leave town, and were planning on testifying in support of the bill. We will hear from them first, then go to opposition.

Rudy Manthei, M.D., Private Citizen, Las Vegas, Nevada:

I am a doctor based in southern Nevada. I join you today to express my support for Governor Sandoval's effort to modernize Nevada's education system and to invest in the success of our children and future generations.

My support for Governor Sandoval is rooted in my experience as a father, as a doctor, as a small business owner in Las Vegas, and as a Nevadan. I am not a tax expert; however, the BLF seems to be a fair and balanced attempt to approach taxation. It will take a genuine investment in the entire business community in order to begin the necessary process of fixing our ailing education system. This plan seems to be well thought out and takes into consideration the fact and realities associated with running a business or a professional service.

Most importantly, I share Governor Sandoval's passion for funding an education system that has struggled for too many years. In order to compete in the twenty-first century and ensure that we are a sought after destination for innovators and great minds of the future, we must offer more than low taxation. We must commit to investing in a workforce for the future.

Thank you for allowing me to offer my full support of Governor Sandoval and his effort to invest in education and repair an antiquated Nevada tax structure.

Chair Roberson:

For the record, Duncan R. Lee, of the Asian Chamber of Commerce, was going to testify but I believe he had to leave.

Otto Mérida, President and Chief Executive Officer, Latin Chamber of Commerce, Las Vegas, Nevada:

I want to thank you for the opportunity to be able to testify. We sent letters in support. I want to present a resolution that was suggested by the Latin Chamber of Commerce. After a lot of struggle and talk that went back and forth, we approved this resolution:

WHEREAS, The Latin Chamber of Commerce, Nevada, promotes the success of its members and Hispanic-owned businesses by facilitating positive business, cultural and educational relationships, as well as economic development and knowledge sharing in an efficient, effective and professional manner.

WHEREAS, The Latin Chamber of Commerce supports the funding of English acquisition programs in primary education as well as education programs that help low-income high school students make a successful transition to postsecondary education.

WHEREAS, The Latin Chamber of Commerce believes that education increases the ability and motivation of residents to take part in civic and community life and that it positively impacts psychological well-being as well as social understanding and inclusiveness.

WHEREAS, The Latin Chamber of Commerce believes a more fully developed education system improves the quality of our workforce and represents the key to Nevada's economic strength and diversification.

WHEREAS, The Latin Chamber of Commerce supports initiatives that improve graduation rates, decrease drop-out rates and close the achievement gap of Hispanic students in Nevada.

WHEREAS, Nevada's economic recovery is well under way, with key economic indicators on the rise; sustained economic recovery and long-term growth will require significant investments in Nevada's PreK-12 educational system.

WHEREAS, The Latin Chamber of Commerce aims to support tax policy that is fair, predictable and simple for our members to implement.

WHEREAS, The Latin Chamber of Commerce membership is driving Nevada's economy forward and its ongoing success is the Chamber's number one priority.

THEREFORE BE IT RESOLVED,

- The Latin Chamber of Commerce, Nevada, supports Governor Brian Sandoval's Business License Fee Proposal that will pave the way for significant required investment in the state's PreK-12 educational system, as outlined in the *Governor's Education Initiatives for a New Nevada*.

- The debate on details of a final plan is far from over, but the Chamber is confident that participation in candid and respectful discussions will lead to a productive outcome for our membership, education and the diverse communities we serve.

This resolution was signed by Chairwoman Maggie Arias Petrel, Vice Chair Daniel J. Tafoya, Secretary-Treasurer Edgar Patino, Assistant Secretary-Treasurer Andres M. Estrada, Jr., and myself.

Kenneth C. Evans, President and Chief Executive Officer, Urban Chamber of Commerce, Las Vegas, Nevada:

The Urban Chamber of Commerce currently lends conceptual support for S.B. 252 with two key caveats. We want to ensure that the funds generated by the Governor's education revenue proposal will indeed be utilized for educational programs and the reforms that have been mentioned. The Urban Chamber seeks assurance that future implementation of the increased BLF proposal will not disproportionately impact small businesses in a detrimental fashion.

Philosophically, it is readily apparent, as everyone has said, that we need to make more of an investment in education in our state, because it has an impact on economic development efforts, which ultimately lead to increased procurement opportunities for our businesses. In addition, we need to ensure we have a quality workforce that our small businesses hire. That is the fundamental reason why we support this.

Last, but not least, we want to see the economy in a position to be diversified in terms of both STEM and non-STEM related industries. Again, I will conclude by saying we come here this evening to lend our conceptual support for this, but we do want to ensure that the funds go where they are intended to be used. In addition to that, we will be continuing to monitor the situation to ensure that in no way, shape, or form is anything done such that this proposal disproportionately impacts small businesses. That is a major concern for us because the majority of our members are small businesses.

Peter Guzman, President and Chief Executive Officer, Valley Center Opportunity Zone, Las Vegas, Nevada:

We come from a full spectrum of the economic and social ladder, but we all have one common love, and that is for this state. I have been a resident of this

community for over 40 years. I am in support of the concept of the Governor's bill that will help fund the most out-of-the-box way of thinking education plan this state has ever seen.

As a businessman, I realize this will come at a cost. More importantly, as a resident of this great state, it is a cost that I know is worth it. As a businessman, I realize this state cannot continue to grow and succeed without an educated workforce. That is a fact. We cannot attract big companies of the future if we do not have people educated for the future. The way we have been doing it has placed us next to last in education for years. It makes total sense that business and education go hand-in-hand.

I know all of you have a tough job to do here. I know that some of you have elections; you will answer to your constituents. But I also know this great community, and I know that when properly articulated to this community, it will stand shoulder-to-shoulder with you. Trust them. Some elections are worth losing when we are standing up for good.

I did an unscientific survey in my capacity as president of Valley Center Opportunity Zone (VCOZ) in the last three months; I expected to get beat up. In that capacity, I represent small, small businesses, which are businesses that are smaller than small businesses, but equally as important to this state. They are the engine. Most of them are minority-owned businesses. I was shocked with the unscientific survey I did, because I expected to get beat up a little bit. I articulated it in a way where they all understood it. They understood that it is their children who have already been left behind, are in the process of getting left behind, or are going to be left behind if we do things status quo. It is unacceptable and we cannot continue to do that.

Lastly, I commend this Governor for being bold and courageous on this issue. I heard a man in the airport this morning saying, it is all politics. This bill does not sound like someone who is running for Senator, and certainly not as a Republican. To me, this seems like a guy who is leading. To me, it comes from a man who is a leader who has seen firsthand in his work of economic development that being 51st in education is unacceptable and will not help us grow in the future.

This Governor, as stated earlier, is a very popular governor, and could have glided through his second term, but he did not. Rather, he decided to lead, and lead head on. I say to you that greater things await. I also think this Governor

knows greater things await if hard decisions are made now. The decisions that are being made now, to me are bold, courageous, and are how leaders lead. I ask each and every one of you to join him and lead with him.

Assemblywoman Bustamante Adams:

Thank you for making the flight here, to be here in person. That means a lot. I know that we have fought long and hard to ensure the small businesses have a voice in our community. You came up here for Diverse Chamber Day, and the inaugural event as well. You made a commitment to come back, and I wanted to say thank you.

This is no longer a concept. We have heard the details. We have outlined them section by section. Will your boards go back and fully endorse it? I know that only some members did. What is your process?

Kenneth Evans:

One of the things that we did, in terms of educating ourselves along the way is, I personally read the bill, looked at the charts, and created an illustration so we could see what the raw dollar amount impact would be to our small businesses, as well as what the effective tax rate would be. For the vast majority of our businesses, right now they would be paying \$200. Originally, it was supposed to go down to \$100. If things flow the way they potentially could, they would be in a position where they would be paying an additional \$200.

While on one hand that is doubling their fees, at the same time it represents a small fee compared to what some of the larger companies would pay. One of the things we have committed to do is go back and educate our members on the mechanics of the bill. We have already begun to talk to some of our small business owners to explain and show them the illustration so they can give us feedback on the impact the bill will have with them. We will continue those types of educational activities.

Again, as I put in my statement, we want to ensure that nothing is done that is disproportionately detrimental to our small businesses. The last thing we want to do is create a mechanism that will cut them off at the pass before they really get started.

Otto Mérida:

In reference to the Latin Chamber of Commerce, we had a vote, and most of the board voted for this. We will be supporting this bill, and we will be watching what is going on. We will be trying to support it also through our

luncheons; for example, we will be working with our membership, letting them know what is going on. We think that is important because we need to be committed to this.

I have been here since 1974. We have talked about this subject for years. Our Hispanic community and students are dropping out of school like flies. They are ending up cleaning dishes and many of them are going to prison. We need to take a look and do whatever we can to resolve this issue, or it will take another 20 years to be able to come back again. I think it is important to go ahead and make a decision to endorse this program, or something close to it, and be able to monitor this program so it will be effective.

Peter Guzman:

I would not say that I am speaking on behalf of the Latin Chamber, but I am a board member. I am a straight shooter. We clearly took a vote. It was not unanimous, but it was not un-unanimous either. We voted, everyone could speak, and the outcome was that we do support this.

Assemblywoman Bustamante Adams:

Mr. Evans, would you be willing to share your calculations? The members in your organization represent some of the constituents in my district. I would like to compare the data.

Kenneth Evans:

I would be more than happy to do that. That is the reason why it was important for us to come up here, so we could have this type of dialogue, share the information and research we are doing, as well as working in concert with your staff, to ensure we come up with something that is going to work for all parties concerned.

Chair Roberson:

We are now going to move to opposition and neutral testimony. By request of Assemblywoman Benitez-Thompson, we are going to have one of her constituents come up and testify.

Melody Chutter, Private Citizen, Sparks, Nevada:

I am a sole proprietor. I do not have a business. The expense of this proposal, along with other taxes and business licenses that I have to pay, will be a burden on me.

There are some sayings worth remembering in regard to the proposed hikes and changes in business permit fees. One, "The power to tax is the power to destroy." Business license fees can crush fledgling start-ups that would have become the large giants of the future. Apple Computer began as a dream in the minds of a handful of young people in a garage, not the products of Sperry, IBM, or Hewlett Packard.

Tiny businesses with visionary ideas need to be left alone to develop and not locked in the world of maybe, someday, by financial hurdles, representing the insatiable appetite of an ever expanding government. Tiny businesses do not get off the ground with a "the more you earn, the less you get to keep" mentality.

Two, "Do not kill the goose that lays the golden egg." The real mission of businesses is making products people want at a price they will pay. Coincidentally, businesses employ people, remove them from welfare rolls, and provide dignity. They generate corporate taxes, payroll taxes, and sales taxes. Many California and New York businesses have been driven away by confiscatory punitive taxes to states who understand businesses are the engine that is making our society run. Detroit was killed by high taxes and hostility toward businesses. Must Nevada relearn these painful lessons itself?

A nominal license fee is one thing. It is quite another to hike a more substantial fee by 100 percent in one fell swoop, talking about benefiting kids, but ignoring the fact that the parents of Nevada kids need jobs, jobs that will pay well because the company that employs them has the payroll dollars in the company budget, rather than in the Governor's tax bill.

Three, "Money is fungible. It flows to where it is welcome and away from where it is punished." Nevada has been hospitable to businesses that other states were hostile to. This can and will work in reverse if Nevada adopts a pile-on approach to business activities, as a parasite kills its host. If welcoming Tesla was such a good policy, why not welcome every company here?

Four, a graduated license fee is wrong on many counts. It is a tax which punishes start-up and expansion, thus encouraging companies to look elsewhere to start and expand. Fee schedules are tempting targets for fiddling, for

adjustments, and for constant strife and contention. Companies need clarity, simplicity, and consistency, not shifting tax rules. Artificial practice interferes with businesses decisions; they rob jobs and misallocate resources. We are all poorer as a result.

Five, there is no morality in denying people the right to earn their own living by placing artificial barriers to entering the economy. Nevada's economy is struggling as it is. In middle-class Spanish Springs, stores, large and small, are empty. Stores which once provided jobs, income, future, and a mission for people to pour their creative energy into are now gone, their resources exhausted, and too large a percentage of those resources diverted to taxes. The U.S. has some of the highest corporate taxes in the world.

With Obamacare, that crippling burden has been boosted by more regulation and red tape. Now you are talking about adding more state license fees, a kind of operating tax, before the first dollar is earned. Do you really expect companies here to be able to compete against companies in China, India, Japan, and Germany? To be really great, a company must compete internationally. Because investors look at after-tax return competitively, involving the total tax burden. The penalty for failure is often not just a little less profit; it is often zero profit, zero employees, zero contribution to tax base.

Six, throwing money at schools is not the solution; it is the problem. Like all of us, schools have to learn to do more with less, not because we are heartless or want kids to fail, but because we want them to succeed. By that I mean that both kids and schools have to learn to set priorities, to set limits, to innovate, to downsize or restructure, and to make hard choices. We cannot fund a twenty-first century school system rooted in a nineteenth century model of learning updated with a large bureaucracy to carefully document its failure. A money grab is not just counterproductive and shortsighted; it teaches absolutely horrible lessons. It teaches that businesses are less than welcome in Nevada. It teaches the school system to keep grabbing for more. It teaches our young students that there are not real limits to resources. Each of these paths are a path to failure.

In closing, I want to say that we need to somehow think outside the box. Why not have some of the kids learn from home from a computer in the age of computers; they could use a telecom or a camera. Maybe half the kids could be learning from home and the other half in the class. The teachers could give more to the kids instead of babysitting, or having to worry about things that go on, because there are fewer kids in the class. You save on transportation, using

fewer buses to transport kids, and having to expand the schools. Also, some of the teaching and testing can be done online. That can save on paperwork. There are so many avenues to be looked at instead of the "same old, same old, tax and spend, tax and spend." It is time to start thinking outside the box.

Assemblywoman Bustamante Adams:

You said you are a business owner, correct?

Melody Chutter:

Yes, a sole proprietor.

Assemblywoman Bustamante Adams:

What type of business is it?

Melody Chutter:

I am a cosmetologist. I am not making full-time money. I am trying very hard, but I have the state tax, the city tax, as well as my license and insurance, and paying rent. Some of the booth rents are \$700 to \$800 a month. I will not be able to make it if this continues. I am not a big business corporation. I am just one person trying to make it. Having a disability in communication is twice as hard in trying to communicate over somebody who can hear and do everything I cannot do. I have to compensate.

Assemblywoman Bustamante Adams:

Based on the bill calculation, I am assuming that your current license fee would be \$200. Have you done the calculation of how much it is going to increase based on your revenue?

Melody Chutter:

I was told it would increase from \$200 to \$400, and that is not including the other things I have to pay.

Linda Sanders, Private Citizen, North Las Vegas, Nevada:

I am not excited today, but I am grateful for an opportunity to state my concerns. I am in my 36th year of owning my own small business—a dog boarding, training, and grooming kennel in North Las Vegas. I have always paid a City of North Las Vegas business tax, and then a few years ago the state decided they wanted in on my success, so they began charging me \$100 a year for a business license. A few years later they doubled it, and now they want to double that.

Throughout my 35 years of business my bottom line has risen and fallen. When years were good and I had as many as six employees, I saved money so in the hard times I have been able to keep my business open. The last seven years of economic depression have been really tough for me but because I did save, I am still open, with only two employees, and I keep them working because they need jobs. My stockpile is getting smaller each year, sometimes each month. I do not quit because I hope the economy improves. Who knows when? Have you noticed all of the empty small businesses in North Las Vegas and the Las Vegas Strip malls? Am I considered a success because I am still in business? My reward is to double my business license tax, which had already been doubled. I do not appreciate it, and I implore you to stop taxing hard-working small businesses who are just hanging in there. Mr. Hooper said earlier that this works; well, not for me, and I am not willing to pay more taxes.

Knight Allen, Private Citizen, Las Vegas, Nevada:

I am here today because I am a little confused. Every time I turn around the message is that we are a divided society. It is not just the division; it is a polarized society. We are so far apart among the factions among us that we make the Grand Canyon look like a tin cup on a putting green. When you look at so many areas of society, you really do have to agree we have some problems, but not in taxation. In taxation we seem to be in a situation where everybody agrees. It does not matter where you land on the political spectrum. You can be over on the left, where people say the government is everything, or you can go all the way across to the line where people are saying business is everything. In all of the shadings, all of the shadows, all of the different colorings in between, everybody is in agreement, which is that businesses pay taxes.

In Governor Sandoval's State of the State Address, when he first brought forth this particular bill, he stated, "I know I am asking a lot from the business community." So obviously he believes that businesses pay taxes.

Ladies and gentlemen, businesses do not pay taxes. They never have and they never will. From 1776 right up to the twenty-first century: "[T]he profits of merchants are a subject not taxable... the final payment of all such taxes must fall, with a considerable overcharge, upon the consumers." That was Adam Smith, *The Wealth of Nations*. In 2002 and 2003 the Blue Ribbon Panel on the Governor's Task Force on Tax Policy: "The gross receipts tax is hidden in the cost of goods and services sold." The Governor's Task Force on Tax Policy, October 9, 2002: "If you know what is coming in terms of the tax, you will be able to adjust the price of pop tarts or dog food in a way that will be most

palatable for your clients or most profitable for you." That was Guy Hobbs, Chairman, Governor's Task Force on Tax Policy, in the *Las Vegas Sun*, November 24, 2002.

This last quote is in memoriam: "There is no tax that does not ultimately get passed on to the consumer." That was Kenneth C. Guinn, Nevada Governor, in the *Las Vegas Review-Journal*, January 16, 2003.

Businesses do not pay taxes and that, ladies and gentlemen, is the reason why there are no working stiff on the Forbes list of the richest Americans. All of these folks are capitalists. They have their wealth safely ensconced inside the corporate structure, and there it sits, growing and growing, compounding and compounding tax free, year after year, decade after decade. Only the market pays taxes. Only the people pay taxes because the people are the market.

Senate Bill 252 violates the core principle of taxation in a free society, which is, do not tax the necessities of life. Senate Bill 252 is a tax on food, a tax on rent, a tax on utilities, and a tax on medical care. It is all right there in the bill. Each one of the NAICS; it is right there. It is a tax that is going to strike at the people of Nevada over and over again, in all those areas where they must function just to survive. Senate Bill 252 really does need to be rejected. I do not care how many hours we spent here today, everybody is operating on this insane notion, and this insane notion has got to go out the window.

I would like to close by doing something that I am kind of obligated to do. In his comments, Governor List pointed out that if you are not going to support this increase in revenue for education, then you have to have an alternative. There has to be something else out there. You cannot just be no taxes, no taxes. What I am trying to communicate to you folks is that this classical liberal principle of not taxing the necessities of life, and the economic reality that businesses do not pay taxes, is not a no tax, no tax system. If you want to raise the level of taxation in this state, and the votes are there for it, fine. It is important to do it the right way. The right way is to understand that there are good taxes and there are bad taxes. Any tax rooted in the free economic choices of a free people is an okay tax. You can put it on the table and fight about it until you know what freezes over. If one side wins or the other side wins, it does not matter; it will still be a good tax. Any tax not rooted in the free economic choices of a free people is a bad tax. I do not care what its goal and objective is. I do not care what the greater good is, the general welfare, the children; it is a bad tax.

In Nevada, believe it or not, our tax structure, which is up for attack all the time, is basically rooted in the free choices of a free people. The gaming tax is a perfect example of a tax rooted in a free choice. The sales tax is constantly under attack. People are constantly having this nonsense thrown in their faces that the sales tax is regressive or repressive. Our sales tax does not strike at the necessities. It does not tax food or medicine; it stays away from most of the necessities of life, and it is an okay tax. Assemblywoman Kirkpatrick's proposal on the entertainment tax is rooted in the free economic choices of a free people, and it should have been on Governor Sandoval's desk a long time ago.

The MBT is a bad tax. It is a direct tax on labor. I am happy to see that not just now, but in the past session of the Legislature, across the aisle, Democrats and Republicans have been saying to themselves and to each other, this thing is not a good tax, and we want to try to get rid of it if we can.

Senate Bill 252 is a bad tax. It is as bad as it can get. I am hoping that it gets defeated. Get it off the table and start with the core principle that you do not tax the necessities of life. You look at the good taxes, you look at expanding the good taxes, and you create a society where in 2064 people can look back and say, wow, they really did something that makes us special as compared to the other states. I keep hearing that Nevada has to grow up. Grow up and become what? California, New York, New Jersey, Pennsylvania, Ohio? No, we do not want to grow up. The principle is there.

Ladies and gentlemen, you are all bright and intelligent people. I respect your intelligence. I respect the effort that you put in here. I have been kicking around these rooms for a long time. You have the intellectual capacity to dump S.B. 252 and restructure Nevada's tax base to the free economic choices of a free people. That intellectual capacity, the door to that genius that rests within you individually and collectively, that door is locked from the inside. I cannot open it, only you can open it; otherwise this thing we did here today is going to work its way through, and that is going to be a shame. You have the ability and the opportunity. This is your chance to really do something that generations in the future will have something to appreciate you for.

Alisa Bistrek, Private Citizen, North Las Vegas, Nevada:

I would like to talk about business first. I would like to point out that when business is booming, the overflow of that is people spend more money, they have less regulations and mandates they are paying for, and that money goes back into the economy.

My supposition is that you do not create true revenue or grow an economy by raising taxes. It is not a leader to take my money. Raising taxes is what you do when you have an agenda, or you have no other solution that is coming readily.

To refresh the point, when the United States of America was founded, it was the first nation where every individual had the right to prosper from his own labor, to prosper from his own goods and services, and to be able to own property. I am a native Nevadan, and I remember the days when Nevada was booming and we had a growing economy. We had lively construction, we did not have the taxes, and I was also here when Governor Kenny Guinn ran on a no tax platform his first term. Once he was elected, in his second term he hit the taxes. That raised the business taxes, licenses fees, et cetera. Really, from that point forward, this type of stuff has taken Nevada down to not being one of the more top states for businesses to move to.

Most of the people we know this last voting session went conservative. Most of the people I know are hoping and praying that their representatives will represent them in order to grow the economy and to make it a better place for us to live. That does not include raising taxes.

In the beginning of this it felt like a hard sell. It is like having a wolf come over to your house for dinner, eating all the pork chops on the table, and then looking at your children and saying it is okay for you to feel hungry because you are supposed to be excited because this is for your future.

I want to say that this dollar that I have is worth a dollar. A dollar will pay for what a dollar will pay for, nothing more. We have a household of five people. There were times we have owned businesses, and there are times when we have not. Between the cost of gas, the taxes we now pay, whether it is through Obamacare, our personal income taxes, or whatever it is, out of those five people, I have young adults who cannot afford to move out and live away from home because the cost of living is too high. Even though they have done everything they can to be trained well, and to get good jobs, they cannot afford to leave home, live on their own, and be able to make it. That is an unfortunate situation. It really was not like that when I was young.

When you look at global economies, at the different countries, and at the ratings of those countries, for the free enterprise principles, and you look at the mandates, regulations, and taxes, you can see the different countries that are rated better for businesses. Those are not the countries that have more taxes. Part of the reason why we have so many businesses that have taken

their factories to other countries is because of the regulations that we now have here in the United States. The United States used to be a much higher rating on the freedom index than it is now. You can see that within the other states.

As far as the education goes, I would like to point out some of the bigger expenses, Common Core and the data mining. We do not want data mining, and we did not want Common Core. That is something that was opted in for us.

Chair Roberson:

Going forward, everyone needs to understand the distinction between testifying in opposition to S.B. 252 versus public comment, which we will have at the end of the hearing, where you can talk about a more broad array of issues. I would ask that during this part of the hearing you contain your comments to the bill we have before us, which is S.B. 252.

Alisa Bistrek:

I apologize. I think there are other options we can look at in order to improve our education. I do not feel that there is accountability for the funds that are there now, and are used properly. We all want a better Nevada and we all want a better education for our children. I think that because of how my notes were set out in my mind, it would be better for me to wrap up and answer questions.

Carole Vilardo, President, Nevada Taxpayers Association:

I am testifying neutral. I am going to discuss the bill. I am also not going to make any general comments because I want to point out a couple of things in the bill I believe are problematic, and I think you may want to consider changing. If my voice holds out I will make some general comments at the end.

The first thing is in section 4. I question why the fiscal year for the state was used instead of the year used by the business. I have since had calls from business owners saying that it is problematic for them not having the fiscal year based on the year they file with the IRS. I can think of a number of reasons for that. I do not see where it should be a problem to have that amended because effectively, a quarter is a quarter. Businesses are concerned. I was able to have an extensive conversation with a business owner who expressed concern with audits and having the business records correspond with information that is reported based on the business' fiscal year, rather than the state's fiscal year. The state's fiscal year is not a norm for businesses.

The majority of businesses will be a January 1 to December 31. There are a number of exceptions. Some may not even start in a quarter; they can start in an odd month, but they do not start, for the most part, July 1. I would say it is more important that you accommodate business in this particular instance.

The second section is 19. I realize it is very easy to say "primarily," and again the question that came up in my mind is, primarily what? Is it revenue or is it capital expenditure? Obviously, from testimony by Director Contine, it is primarily the revenue. So say that. What is the big secret about how you are identifying primarily? Then you do not have the issue of a business making an assumption that turns out to be wrong when they are audited. That is another suggestion.

We have the issue of gross revenue. This is presenting a fair amount of confusion, even though it is supposed to be simple. I have had calls from two multinational companies, and an email from one of our regional members, wanting to know exactly what gross revenue is. Is it supposed to be the pure activity of the business, from the sale of their service or product, or is gross revenue going to include such things as interest received. Is it going to be, I sell a very expensive piece of machinery that is obsolete because I am replacing it, and that gives me revenue, so does that become part of this revenue from my business? What are we talking about in revenue? If, as I believe I heard, revenue is supposed to be what is generated from the sales, the product, or the service that you provide, then I would think there would not be a problem saying that. If it is more expansive than that, then I think that should be said.

I realize that regulations can be adopted to do this, but maybe I have gotten spoiled about whether I like a tax or I do not. Usually the calculation is pretty specific in Nevada, whether it is a cigarette tax, the mill tax per unit of cigarette based on X amount, alcoholic beverage by volume, sales based on the gross price of the item, the MBT, and it goes on and on. This is not specific. I think the calculation needs to be specific. I appreciate very much that for a year there would be no interest in penalties if a business does something wrong. What happens after that year if they made an assumption and the assumption is wrong? Then there are penalties and interest, which can be assessed back four years. I think you need to clarify that.

Senator Ford:

I have a question about the interplay between sections 5 and 6, which define gross revenue and Nevada gross revenue, with section 50, which says a business's method of accounting for gross revenue for the calendar year, for

the purposes of determining the amount of the state business license fee, must be the same as the business's method of accounting for federal income tax purposes. I am wondering if you can explain what you think the interplay is there, or maybe someone else can explain it if you cannot.

Carole Vilardo:

I do not know that I can explain it, but frequently when we have dealt with bills that deal with income tax or the gross receipts tax, et cetera, we have had a specific frame of reference to a federal income tax form, very much as you do with the forms you are going to use for a natural person. You do not have that here. If you want to talk to a couple of accountants, they will tell you, depending on which line you use, you have a few references on what amounts to gross revenue, depending on the definition. That is why I am suggesting it would be cleaner to have that definition in place. There may be another explanation from those who wrote the bill and worked on the bill. If there is, I am not aware of it.

You have a similar issue with Nevada gross revenue. It is being clearer if you mean strictly the benefits and your remuneration from the product or service, such as providing services as a physician, providing services as a harpist, or providing services as an attorney. What is it? Is what you get paid Nevada gross revenue for working in Nevada and performing in Nevada, or if you should receive any additional benefits, such as interest because you have a set-aside account, such as you sell a harp and buy another one? What are we talking about? Can we be a bit more specific to that? I think that would help, and it is something I think we have tried to do previously in our other tax legislation.

I have sent a survey to my board. I have not received back sufficient responses yet. My board requires that 60 percent of the board respond and 55 percent agree on the position. I sent out a reminder today, asking them to please respond so I know. That does not stop me from pointing out problems with the bill as I see them and as they have been represented to me by some of my members.

I know this may sound funny—I actually wrote it—but in section 30 on air transportation, with all the discussion about unmanned aerial vehicles, I do not think they are included in that definition. Were they to be left out? That becomes one of the other interesting things, which is their ability at some point to address things that we did not know could occur but suddenly occur. We have all learned that lesson the hard way.

This is the last issue I have right now, relative to the regulations that are referenced in the legislation. When the MBT was moved to the Secretary of State's Office to expand it so you would capture all of the Title VII companies, and Governor Sandoval in his first term put a moratorium on any new regulations and asked every agency to look at their regulations as to what could be repealed, the Department of Taxation repealed its regulations dealing with the business license tax because they were no longer dealing with it. One of the regulations that was repealed was a due process. If you look at section 51, if a business fails to pay the BLF and any interest and penalties due, the Department may revoke the state business license and the Secretary of State must revoke the business charter or authority to do business under this state. That is pretty severe. If it is warranted, so be it, but could we have a due process provision? Regarding the Secretary of State's Office, one of the things I looked at is that there is absolutely no formalized due process provision in a regulation that says, if you are aggrieved by this decision, you have, within 30 days, or whatever you want to do, but make it a formal process, not informal. If somebody contacts me, I can do it. The only other regulation that was done by the Secretary of State's Office, which went to the MBT, was in fact regulation dealing with the resident agents and the home-based business issue. So, you have no regulations really at the Secretary of State's Office; you do not have anything done. You have given them the necessary regulatory authority, but I would ask the Secretary of State's Office, in particular, to add the due process provision.

I would like to make a couple of general comments. You have heard reference to this before. I rather believe that irrespective of the positions you hear in support, opposed, or neutral, right now there will be something done this legislative session. I do not know in what format. Hopefully, this bill has come early enough to be vetted, and any other bill that comes to you will also be vetted well, so we do not have the problems that Barbara Smith Campbell identified with Senate Bill No. 8 of the 20th Special Session, when we had to have 32 regulatory hearings and the Tax Commission wrote law because the bill that was passed was so flawed you could not administer a number of provisions. What the Tax Commission wrote as law in those regulations was adopted during the 2005 Session in statute. I am pleased to see that was done, but I ask you, at the same time you are considering these bills, to look at the other bills that impact business. I was scanning the list of the legislative report. There is a bill for paid sick leave. There is nothing wrong with that, and it would be nice to be able to do it, but please look at it in context of everything

else you might have about that. You have businesses that are now paying a per employee charge, depending on circumstances, for Obamacare. One of the problems we have had when we deal with taxes is that everybody wants the revenue for them and their reason. We do not look globally at what we have actually done to impact the business.

Paul J. Enos, Chief Executive Officer, Nevada Trucking Association:

We are here tonight to oppose S.B. 252. Because we are opposing this particular vehicle does not mean we are in opposition to a tax plan or the needed revenue for education. We, in fact, are not and are open to working with the Governor, members of the Legislature, and the rest of the business community to come up with a solution to pay what we need to in order to enhance and improve our education system; however, we do have some issues with this particular vehicle, S.B. 252, and that is why we are in opposition tonight.

We have an issue with a revenue-based tax, especially one that is based on gross revenue. I represent an industry that has very tiny profit margins. We are very competitive and we have very low margins. In fact, in 2012 the average profit margin for the trucking industry was 1.65 percent. We are a high volume business. Things like increases in fuel prices can really take that profitability and absolutely eliminate it. We saw a lot of that happen prior to the recession in the spring of 2008, where we did see a number of trucking companies go under. Then it was a double whammy when we had the rest of the economy tank because we touch every single sector of the economy. What happens to the rest of the economy has an absolute impact on the trucking industry that in this state moves 94 percent of all of our freight.

I would like to speak to some specifics in the bill, some issues that Ms. Vilardo raised, as to what revenue is in section 6. We have that same question. We are very capital intensive in terms of our equipment. It costs a lot to buy a new environmentally compliant truck—about \$150,000 just to buy that tractor. We are constantly replacing our fleet, and what we do is take those trucks that are no longer environmentally compliant and we sell them at auction, usually for pennies on the dollar. We want to know if that would be counted as revenue as well. I think Ms. Vilardo raised a great question, and that does have an impact on our industry.

I appreciate the thought that Mr. Aguero and the folks in the Governor's Office put in this bill, and I want to speak to the exemption for interstate transportation. It is really tough to tax the trucking industry on

interstate transportation. How do you do it? Do you do it on where the package was delivered or where it originated? Do you do an apportionment on miles? There are a lot of different schemes and concepts. In Texas and Washington State, in fact, they exempt interstate transportation. We do the same in this bill; in section 21, subsection 1, paragraph (e), we exempt interstate transportation. So that means our businesses that are multinational, that do have a large presence in the state of Nevada but whose business is primarily interstate transportation, are going to bear less of a burden than our intrastate trucking companies, those companies that do not leave our border. We do think that is an issue. We have seen that issue in states like Texas and Washington, where you have those folks that are moving gravel, or moving things for the energy sector, or up in Washington for the logging industry, where they are bearing the lion's share of the burden for the industry on that particular tax.

Senator Ford:

Can you tell me if section 21 speaks to the interstate issue? It looks to me that section 21 attempts to define gross revenue derived in this state by its situs and things of that sort. Can you look at that and let me know if it relates to what you are talking about?

Paul Enos:

Section 21, subsection 1, paragraph (e) states, "Gross receipts from the sale of transportation services are situated to this State if both the origin and destination point of the transportation are located in this State." There is not a tremendous amount of movement, especially when you look at it globally, that occurs within the state of Nevada, where you have both the origin and destination. You have it in the mining industry, where you are moving ore from a mine to a processing facility at another site. You have it where you have manufacturers that are located here, and are moving to a warehouse. We do not make a lot here. We do not grow a lot here. We end up exporting and importing a lot into this state. That is why there is a greater burden on those intrastate carriers because in section 21, subsection 1, paragraph (e), we do exempt interstate transportation.

Senator Ford:

Is it your contention that the only portion of section 21 that would apply to your clients in transportation would be subsection 1, paragraph (e)? What other provisions of that would potentially address some of the concerns that you have raised?

Paul Enos:

We believe that this provision exempts the lion's share of movements in the trucking industry. Therefore, those movements, and only those movements, that occur in Nevada, where the origin and the destination are in Nevada, are going to be subjected to this tax.

Chair Roberson:

All things being equal, would you not like it to be that way?

Paul Enos:

Absolutely. We are not upset that the provision is in there. In fact, I think for us, if this tax were to go through, that is a good provision.

Chair Roberson:

It seems like we are talking a lot about an issue that you really should not be objecting to.

Paul Enos:

What I am trying to say is that intrastate companies—those companies that only operate in the state of Nevada—which are the small, locally based companies, are going to be the ones that are bearing the lion's share of the burden of the BLF for our industry.

Senator Ford:

I see; you are drawing the distinction between our purely intrastate small business, who would bear the brunt of this bill, as opposed to Old Dominion which travels from Texas to California, for example.

Paul Enos:

Yes, any interstate trucking company.

Chair Roberson:

Again, what is the alternative within this bill to include interstate transportation?

Paul Enos:

We do not see a fair alternative in this bill, and that is why we are open to looking at some other plans.

Chair Roberson:

You and I have spoken about this on many occasions during this session. It is my understanding that your industry would actually pay less under this than if we relied on an elevated MBT or elevated payroll to come up with the same revenue. Is that correct?

Paul Enos:

For a lot of my members' companies that is absolutely correct.

Chair Roberson:

Under S.B. 252, if your industry is going to pay less than they would with a higher MBT rate, what alternative would you suggest to S.B. 252?

Paul Enos:

We do appreciate the issues that people have with the MBT, and it not being broad. We think if we can look at broadening that out, even though we would pay more under an MBT, we feel, from our industry...

Chair Roberson:

When you say broad, do you mean taking out the current exemptions? That will not raise the kind of money that is necessary to fund this budget. You just told me that raising the top rate will cost you more money than S.B. 252. Give me something else as an alternative, because clearly taking out the exemptions on the payroll tax is not going to cut the mustard.

Paul Enos:

I think if we take the exemptions out of the payroll tax and we look at an increase, that is something my members and my board would be supportive of. We are more than willing to work with the Legislature, the Governor's Office, and the rest of the business community on something that is going to work for everybody.

Chair Roberson:

I guess I am not understanding. You are suggesting that you would prefer an elevated MBT?

Paul Enos:

As opposed to the BLF, that is correct.

Chair Roberson:

Despite the fact you are telling me that raising the MBT would cost your industry more than S.B. 252 would.

Paul Enos:

We feel it would spread the burden fairly, so we would not just be having the lion's share of the burden for our industry on those small intrastate businesses. We think our businesses that do interstate transportation, that do have a presence here, they would bear that burden, maybe not to the exact extent, but to a much truer extent.

Chair Roberson:

So if it is fairness within your industry you are concerned about, why not just include interstate transportation?

Paul Enos:

I think there are a tremendous number of issues trying to include interstate transportation in this bill. That is why, when you look at Texas and Washington, they exempt it. One of the biggest issues they have with both the margins tax in Texas and the business and operations tax in Washington is that it does place that burden on your intrastate carriers. They do exempt interstate trucking. I think that is a very difficult thing. We are talking about some Commerce Clause issues, and how you do that. There is a tremendous number of issues when you try to tax interstate trucking. We feel that if you have a tax method where you can tax what the true economic activity is in that state, what the presence is in that state, we have a lot of trucking companies here who move a lot, just not in Nevada. They move it into California, Arizona, et cetera.

Chair Roberson:

Even if, as you say, under S.B. 252 there is a disproportionate burden within your industry on companies that primarily do intrastate transportation, based on what we have talked about, would they not still be paying less than they would be if we raised the payroll tax?

Paul Enos:

Most of those companies would still be paying less for their BLF. We had a long discussion on this in terms of policy. I talked to my colleagues in states like Texas, Washington, and Ohio. We talked about their tax, which seems to reflect somewhat, in pieces, what we are looking at in S.B. 252. They said, even though you are going to pay more today, the tax you have now is going to

get more complicated. Those rates are going to be lower today than they will be ever. They are going to go up, and it is going to get more complicated. In fact, my colleagues in Texas and Washington said that they have a scrum every legislative session where they are fighting between different business sectors. Who is going to get an exemption? Who is going to get a lower rate? They said it is a dark road. If you can have a tax which is broad-based, has a single rate, and is fair, that is a much better way to go for now and for the future, even if you pay more.

It is not just looking at the bottom line. We are trying to take a look at the policy, and what is the policy that is going to work best, not just for our industry, but for all of those other industries and sectors that we touch. That is where the board of the Nevada Trucking Association is at right now. It is not about the bottom dollar; it is about creating good tax policy. I appreciate being able to have these discussions, and I appreciate the discussion you have had because I think we have had more discussions on tax policy than we have ever had. We had a lot of them in 2003. I remember falling asleep during a hearing, sometimes at midnight, going over all the different iterations of tax policy. We talked about a services tax, a gross receipts tax, and we ended up with a modified business tax. I know this is not an MBT hearing, and I know that there are a tremendous number of issues with the MBT that I think can be fixed and can be addressed.

To some of the specific points in S.B. 252, I think there are some issues in this bill as well. We have some issues with different rates between the sectors. Some companies are vertically integrated; I have members who are in trucking, warehousing, and light manufacturing with what they call pick and pull. The rate on trucking is comparatively high when you look at all the different rates in the bill. We are 0.221 percent on average. Warehousing is 0.139 percent. My members who have both trucking and warehousing, who get to pick their NAICS codes, are looking at this bill and saying either create another entity and separate our business out, or I choose the NAICS code with the lowest percent. We have that category jumping. That is something that has been an issue in other states. I appreciate that we tried to address that. It is going to be your first determination, and you are going to pick what that rate is. For our industry, and especially for those folks who do have those vertically integrated businesses, and those multiple lines, it is not going to be hard for them to pick because they would pick that cheaper rate.

When we look at section 8, with the pass-through revenue, there is a lot of pass-through revenue in the trucking industry. We have owner-operators. We have subhauers, where we do not have enough trucks to take care of a particular client because it is a construction project, or the mine decided to up production, so we are trying to get more trucks. Instead of purchasing more equipment, we will call another trucking company and ask them to help. That would be pass-through revenue, which I do not think is considered in this bill, which would increase the gross receipts and, therefore, increase our tax obligation.

In section 50, it talks about what kind of accounting method the business is going to have. My business, the Nevada Trucking Association, and our for-profit business, we run on a cash basis because it is easy. We actually book what we take in. Most of my members run on an accrual, which means you book that revenue when you bill it, before you receive it. Having to make that payment on a quarterly basis—before we get that revenue in; sometimes payments are 60 or 90 days ahead—causes some cash flow issues. It may not even be revenue that we receive. I understand we have some provisions in here to write off bad debt, but that definitely is an issue for us.

I appreciate the ability to come here, and talk about some of these concerns, to have a continued dialogue with all of you, and with the rest of the business folks, on a method of taxation that works. If it is going to be this bill, we do have some issues that we would like to have addressed.

Chairman Armstrong:

For clarification, when this was originally passed in other states, you said the other states' reaction was that every legislative session there is a scrum. Have you looked at how the rates were impacted after the first session that it was enacted in other states to see how it impacted the trucking industry? We are currently evaluating our future under this proposal. The question was, would you pay more with the MBT versus the BLF? If the rates do increase after the first time it is enacted, that might eliminate the argument that next session you would be paying less with the MBT. Can you tell me about the behavior of that tax in those states after it was enacted?

Paul Enos:

I can only speak to Texas and this is only anecdotal. I do not have bill numbers. This is from my counterpart there, who said after the first session they went ahead and got an exemption for interstate trucking, so it mostly hit the

gravel guys. Beyond that, I know they got that exemption, but I do not know what happened to the rates. I will be happy to get that information for you from both Texas and Washington.

Chairman Armstrong:

Thank you. If we are basing this model off of previous states and their experiences, we should see what the reaction was after that initial adoption.

Assemblywoman Neal:

When you are getting that information for Chairman Armstrong, could you also get this answered: When we deal with interstate, clearly you have to meet an economic nexus threshold. What happens when the entity meets it one year, and in the following year they do not? How do they treat that trucking company or entity that is traveling through? They captured them one year, then they did not capture them the following year, so that means the revenue did not come in.

Paul Enos:

There are some different ways to handle that. Every interstate trucking company has to be a member of both the International Registration Plan and the International Fuel Tax Agreement. That shows how many miles they are traveling in each state. It does not contemplate what their revenue is, but that would tell you whether they have a nexus here or not. They may have a nexus in traveling, but not necessarily that economic nexus.

We think that there are some issues with the definition of nexus in the bill because it is fairly nebulous. If a company does not pay any wages in Nevada, they would be subjected to the minimum \$100 tax per quarter. An interstate carrier that does not have any obligations would be filing that \$100 every quarter, I believe, whether or not they have any taxable gross receipts in this state. I think we could use both the International Registration Plan and the International Fuel Tax Agreement returns to determine if they do have that nexus here.

Assemblywoman Neal:

Typically when a budget goes out, we have paid or projected what we will pay over a biennium, so that money has either been captured or spent. If you have a large number of entities that fall into that threshold, where maybe they were paying \$500 and now it is \$100 because the threshold changes, you will run into a shortfall that you did not anticipate. That is why I am curious about other states that may be using a NAICS setup.

Chair Roberson:

I just received notice that Ms. Trimbath has to leave soon. We are going to hear her next.

Samuel P. McMullen, representing Las Vegas Global Economic Alliance:

The Las Vegas Global Economic Alliance hired Ms. Trimbath as a resource for these very debates and deliberations. She is an internationally credentialed and respected economist who has a history with the Milken Family Foundation for education reform and education funding and also with the U.S. Chamber of Commerce. Out of Creighton University, I would like to introduce Ms. Trimbath.

Susanne Trimbath, Chief Executive Officer and Chief Economist, STP Advisory Services, LLC, Bellevue, Nebraska:

I was tasked by the Las Vegas Global Economic Alliance (LVGEA) to look at six proposals over the last ten months. What I have prepared for you today is a brief summary of those results as they relate specifically to the BLF proposal. My tasks for LVGEA were very narrowly defined. In particular I was to analyze the potential impact on changes from these tax and fee changes on economic development in Nevada. To that end I will begin by explaining how I measured economic development before talking about some specific criticisms that you have heard today, and maybe a few that you have not heard, that are generally leveled at revenue-based collections that the proposed BLF sought to avoid. I also have a few comments about small businesses and the impact this will have on them. [Referred to written testimony ([Exhibit F](#)).]

There should be no suspense about my conclusions. The preference of all the proposals I looked at is for the BLF, mainly because it will have a minimal impact on economic development. It shifts some weight from payroll to revenue, which can have a positive impact on jobs, and improving education in Nevada, of course, will have a positive long-run impact on new business investments in the state. Importantly, however, in order to minimize any negative impact on economic development in the final legislation, it is important that there is assurance that the new revenue will be spent to improve education, and also that the legislation achieves an ease of compliance for small businesses.

The main justification for increasing Nevada revenue right now is to be able to improve the state's education system. Each of the proposals I analyzed over the last ten months was criticized on at least one common ground, that is they did not guarantee that the money would be spent to improve education.

Any wording for a set-aside that could address this overarching question would go a long way toward giving new businesses the confidence that improved education is in Nevada's future.

A good education system benefits economic development in easily identifiable ways. The link between education, income, and employment is fairly straightforward. Job growth goes up with education, and unemployment rates go down. Spending on education can offset the impact of increased business costs through improvements in human capital resources in the state. In this direct way, businesses will reap benefits from government spending that not only maintains a marketplace for the goods and services, but also provides an educated labor force.

I measure economic development with three metrics: gross state product, which is the output; new business investment, in things like machinery and equipment, that tells us when new businesses are being started or expanding in Nevada; and I also look at jobs [page 2 ([Exhibit F](#))] .

Business costs will increase, from increased costs, and those costs are generally passed on to consumers in the form of higher prices. Higher prices have a tendency to reduce demand for goods and services. In the case of the BLF, I estimated a potential decrease in output of about \$15 million which, in fact, is a negligible amount in a state with output of over \$130 billion.

Changes in business investment also result from increased fees because they raise the cost of capital. Economists generally agree that higher state and local taxes reduce business investment at a rate of about 30 cents on the dollar. That is, for a \$100 increase in taxes and fees, you could expect to see a \$30 decrease in business investment. Total taxes paid by businesses in Nevada are around \$6 billion. The simple way to understand the mathematics of this is that increasing business taxes by around \$200 million would have the impact of reducing the growth of new business investments by about 1 percent. Compared to recent growth in the state, that is not a decline in new business investment, but it is a reduction in the growth rate.

The job growth is the third number to look at. There is a relatively small effect on jobs from taxes. The larger impact comes from general economic conditions. Even if I separate small businesses from large businesses, job growth in Nevada did not fall with the implementation of the MBT in 2003, but it did react significantly to the 2008 recession. The smaller firms actually have a higher job

growth rate than large firms. That is why we call small businesses the engine of growth in the United States. For both large and small firms, job growth in Nevada was ahead of the U.S. after the 2001 recession and stayed that way until the recession of 2008.

There was an analysis of state tax changes and response to the 2001 recession that was done by the Center on Budget and Policy Priorities in Washington. They came to similar conclusions. The states were grouped according to total tax increases in the three years following the 2001 recession. There was no difference in the growth of personal income, employment, or median wages attributable to the changes in taxes. In fact, other studies have shown that shifting the business tax burden away from payroll and onto revenue can have a small but positive impact on jobs [page 3 ([Exhibit F](#))].

Finally, economic development is not all about the numbers. Things that make Nevada unique are its source of advantage by comparison over other states. For some industries there are few alternatives to locating in Nevada. Leisure and hospitality with the casinos and mining are notable examples. These industries are established to the point where firms locating in Nevada gain advantages. Those advantages come in the availability of workers with a particular set of skills and experience, the opportunity to interact with firms in the same industry, and also a proximity to suppliers who understand the business needs. Those factors lower investment costs and can help offset some of the potential negative effect of higher costs. A notable example of this effect is Delaware's corporate law. Businesses are more likely to incorporate in Delaware because of the corporate government rules than they are because of the tax changes.

There are three common criticisms of revenue-based taxes that also apply to fees. Since the amount of the proposed obligation is calculated from business revenue, it is important to address these. Some of these you have heard already today. Corporate revenue tends to move with the economy. It lowers the state's collections during recession, perhaps just at the time when the need for services is rising. Although revenue-based collections can vary with changes in the economy, the higher up you are on the income statement, the less volatile the revenue will be [page 4 ([Exhibit F](#))].

Another criticism is relying on the Internal Revenue Code (IRC). That can reduce the state's revenue without any action on your part. After the 2001 recession, and changes that were made at the federal level, many states began decoupling from the IRC for that reason. The justifications for using the IRC

include conserving legislative, administrative, and judicial resources. It is easier to do it that way. It also reduces compliance costs for taxpayer; then they only have one set of forms and definitions to work with. The primary disadvantages are ceding tax autonomy to the federal government and exposure to revenue volatility that stems from changes in federal taxes unrelated to your state taxes. I noted that the draft BLF legislation relies on several IRC definitions.

Assemblywoman Neal mentioned nexus. States rely on the economic nexus to establish the basis for collecting fees from out-of-state businesses. A nexus is an economic presence, such as having affiliates in a state or making efforts to generate sales in Nevada. That is in contrast to physical presence, which is the form of nexus necessary for sales tax. Combined reporting requirements can capture income generated by in-state operating segments of out-of-state firms. At least five states lost challenges on this point exactly in the last 12 months, including challenges in the states' superior courts. The Supreme Court of the United States has not reviewed any of those cases, as far as I know, so it could remain for the state of Nevada to pursue collections in the courts on that matter. Successful legal defenses have been mounted in states where the revenue collection was defined as a fee instead of a tax. For example, someone talked today about Washington's business and occupation tax. Other courts have held that that was actually a privilege fee, specifically related to the ability of businesses to exploit local markets in Washington. Courts in New Jersey found that the Delaware franchise tax is not, in fact, a tax. It is actually a fee, a charge for the privilege of existing under Delaware's corporate laws. Just because you call it a fee or a tax does not mean every court in the nation will say it is a fee or a tax. California's gross receipts fee on LLCs was actually challenged successfully and considered to be a tax and audit fee because the money went into the state's general fund. It was not segregated for specific purposes. These, and other decisions, can be made in courts outside of the state that will have an impact on your Nevada multistate companies.

According to Kathleen K. Wright, author of a 2011 *Tax Lawyer* article on *The Unintended Consequences of Gross Receipts Taxes* [Volume 64, Number 4, 2011], there are three primary points on this distinction. First, the fee is fairly related to services provided; second, it is computed using a broad measure of market access related to the enjoyment of the privilege, in other words, revenue generated; and finally the money is segregated in a special fund for a specific purpose.

One final point of criticism for these gross-receipts, margin-based state taxes or fees, anything that is calculated based on revenue is pyramiding. I know Mr. Aguero mentioned earlier that he thought he had not accomplished one of the objectives they had, which was to avoid pyramiding. Some analysts, in fact, are strictly opposed to any revenue-based collection because of this point. The theory of pyramiding is that taxes will be paid repeatedly on each good and service as it is incorporated into a more complex final product. That theory holds exactly in small, closed economies without trade, where the producers of the inputs and the final goods are all located in the same jurisdiction. In our interstate, global economy that is far from reality theory. Pyramiding also assumes an ideal world where producers always make efficient production decisions and there are no exceptions or exemptions to sales taxes. Sales taxes are usually offered as an alternative to a revenue-based fee or tax by opponents. The reality can be seen, though, in the long report from the Nevada Department of Taxation on expenditures, which listed nearly \$900 million worth of exceptions to the sales and use tax in 2013 [page 5 ([Exhibit F](#))].

Our calculations on industry clusters showed that the BLF rates can reduce the potential for pyramiding even further. I used the statistical study that was recently published by the Multistate Tax Commission, which provided us with evidence that the magnitude of the pyramiding effect is, in fact, much smaller than the theory would suggest. Using data from that study, I determined that the Nevada industries with the highest share of intermediate inputs have some of the lowest fee rates in the proposed business license fee (BLF).

Health care and social assistance, for example, use an average of almost 30 percent of their final product composed of intermediate goods. In manufacturing, on the other hand, 61 percent of their final product is a result of intermediate goods. The BLF rate for health care is 0.2 and the BLF rate for manufacturing is at 0.09, about half. The industries with the highest potential for pyramiding actually have achieved the lowest BLF rates in the proposal.

Businesses typically make payments to states based on some combination of revenue, payroll, and assets. The proposed BLF would effectively move weight away from payroll and onto income by about 4 percent. Economic research shows that reducing the payroll weight can increase manufacturing employment with larger effects in the long run. A 4 percent shift in the weight could translate to a 0.24 percent, about one-quarter of 1 percent, improvement in employment, especially in manufacturing, and primarily in durable goods. Reducing the weight on payroll could also effectively reduce taxes for firms that only do business in this state [page 6 ([Exhibit F](#))].

Generally speaking, larger firms have the most to gain from not increasing the payroll tax. Smaller firms actually have the most to lose from a shift to revenue. The MBT currently provides for an exemption for small businesses with payrolls below \$85,000 a quarter. I used data from the Small Business Administration that estimated there were about 60,000 service firms that are currently paying the BLF but not the MBT because of that exemption. For them, the proposed BLF could still represent a relatively minor increase in relation to the overall state and local business tax burden because sales taxes and property taxes are a much bigger share of business costs in Nevada than either the MBT or the proposed BLF.

Of particular concern for small businesses will be the cost of compliance. If it is possible to present a calculating spreadsheet for the BLF, something similar to what is now available for the MBT, this could go a long way to making it easier.

In closing, there are three economic theories that justify raising corporate costs for doing business in this state. First, it is a convenient way to collect taxes from shareholders for undisbursed corporate profits. Second, it can improve corporate governance by imposing a cost on income that is not distributed as dividends. Third, it ensures that businesses pay for the benefits provided by the state. A good policy will take a rational approach to applying these theories.

I noted five bills pending in the Senate and five in the Assembly as bill draft requests for tax legislation in December 2014 [page 6 ([Exhibit F](#))]. Our key economic development concern is the uncertainty generated by repeated studies suggesting more and more revisions to business fees and taxes in combination with the wide variety of proposed legislation. The fact that this debate is taken up perennially makes for undue regulatory uncertainty. It impacts the ability of businesses to make efficient and effective strategic plans for operating and investing in Nevada.

[Susanne Trimbath also submitted a report on "Nevada's 2015 Proposal for Business License Fees" ([Exhibit G](#)) and a presentation that was not shown ([Exhibit H](#)) as exhibits for the meeting.]

Assemblyman Trowbridge:

We are being offered a tax plan that is based on gross revenue. We can squabble about gross revenue. What I would like to know, and the most important issue, is these business categories. I wonder if you have any

familiarity with that concept, and the concept of placing them into all of the different industries, so to speak; does it have any relationship to anticipated profits?

Susanne Trimboth:

What I looked at was the proposal, in particular, and it was very recognizable exactly what had happened there, that they had taken the experience of another state that had started with gross revenues, made some subtractions, and then had tax rates on that. As we know, that state went through several iterations, including some that were the result of litigation. In the end, the rates that were applied were the realized rates instead of the statutory rates. The realized rates are what really take into consideration this concept you have about if one industry has a higher margin than another, if one industry has more profit than another. We know that different industries react in different ways. This is the key reason that every state in the Union wants to diversify its economy, because different industries react differently to different parts of the economy, to different aspects of regulatory activity. The biggest complaint against the gross revenue and margin taxes is that it is flat across the top and that everybody pays the same rate. Not all businesses generate income in the same way.

What I see in this list of industries with a variety of BLF rates, because of the problem of pyramiding, is to look at the differences in the way they use intermediate goods as input. From that I can see that the potential has been diminished. That is one of the things that really attracted me to this particular proposal, over and above some of the others I looked at.

Assemblyman Trowbridge:

What state did we model this after?

Susanne Trimboth:

According to the proposal, this was modeled after the revenue collections in Texas.

Assemblyman Trowbridge:

You stated that different industries have different rates of return, different profit margins based on different local issues.

Susanne Trimboth:

Among other reasons, yes.

Assemblyman Nelson:

You alluded to a few ways that the plan could possibly be improved. Without putting you in a difficult position, do you have any concrete suggestions on how it could be made better than it apparently is?

Susanne Trimbath:

I tried to emphasize two things in particular that I think could be improved. Number one is wording for a set-aside, somehow assuring that the money will be spent to improve education. It is stated in the proposal, but I did not see it in the draft legislation. As Mr. Skancke stated, a lot of companies hesitate to move here because of concerns with the education system, for their employees' sake in particular, if not just for the sake of an educated labor force. If a business considering investing here saw in that legislation that this money will do thus and such for education, I think it would give more confidence to that business.

The other is the caution about ease of compliance for small businesses. That may not be legislative; that perhaps is implementation.

Chairman Armstrong:

I would like to touch on a couple of points you made, to make sure I heard them correctly. The first is for small businesses. I heard you say larger firms have less impact under the BLF proposal, and it affects small businesses more. That is because we have the current exclusion in the MBT. Is that correct?

Susanne Trimbath:

Yes, I think you understood it correctly. The way I said it was opposite, but you brought it forward, and that it is exactly true. Large businesses have more to lose from increasing the MBT so, therefore, they have less to lose from putting it on the revenue. Small businesses could be more impacted. They have more to lose by having a revenue-based fee. According to industry, regarding what can happen here, it all has to do with what that maximum revenue is before you trigger more than \$400, and that is a small business issue.

Chairman Armstrong:

Additionally, you said if we propose something like the BLF, it would shift the revenue burden from payroll about 4 percent, which would lead to a 0.24 percent increase in manufacturing jobs. We have seen proposals from the Tax Foundation that showed Nevada's economy has shifted from a manufacturing- to service-based economy. It seems that the MBT is more

payroll-based, which is more service-based. Is that 0.24 percent in manufacturing based on our current environment or our future environment? What time stamp are we using for that?

Susanne Trimbath:

The relationship of 4 percent to 0.24 percent is from broad-based economic studies; it is not specific to Nevada.

Ray Bacon, representing Nevada Manufacturers Association:

Our issues are very much like what Mr. Enos expressed. What we are going to wind up with in Nevada is the manufacturing sector has a propensity in this state to be toward durable goods. Some of those goods are not consumed at all in the state of Nevada. We are going to wind up with some companies that may have a gross revenue in the neighborhood of \$7 million or \$8 million that will be paying nothing on the tax, and the guy down the street in a small machine shop who has a lot of local customers end up paying more. That disproportionate thing is going to be an issue. I would like to tell you I have a perfect answer for that. I do not.

The tax that we have chosen at this stage of the game is very much based upon the Texas tax for the manufacturing sector. In Texas, there are 890,000 manufacturing jobs, about 6.8 percent of their economy. In our state, there are 42,000 manufacturing jobs and it is 3 percent of the economy. That is substantially different. Probably the bigger issue is that because of the oil, gas, and chemical sector, Texas is a huge consumer of what they produce. They are going to wind up with the steel operations, and all the pieces that go into making refineries, the plastic plants, and chemical plants. A lot of that is produced in the state of Texas because it is expensive to move it across the state line. It is big stuff and difficult to move. I do not know what that is going to do. What I suspect is that two years from now we will readdress that rate if we put this in place. I suspect it is wrong, but I do not know how wrong it is at this stage of the game. I think that our economy is different enough that taking the Texas model is going to be problematic at best.

Two or three people have touched on this. The BLF is complex for a multistate operation and a multisector operation. It is going to be a difficult tax to comply with for companies that truly want to be responsible. What happened when we did the IRS change in 1986 is that companies were allowed to say, this is the way we read this tax and this is the way we believe it will be applied to our business. They could send a request to the IRS asking for a determination letter as to whether we are reading this the right way. At this stage of the

game, that process does not exist here. To the best of my knowledge, we have never done that type of process here. We are delving into new areas. I believe that the Department of Taxation is not looking at the need for auditors until we get to the audit stage. What I am going to suggest to you is that they may need some of those people now to get people through this stage.

Let me talk about some of the strange situations we are going to see in the manufacturing sector. A company has multiple divisions. One of those divisions is in Nevada and is producing a product, some of which is sold here, and some is not. Some of their operations are in totally different sectors. If they shift product from that other division, these guys will not even know about it. Do they have to include those in their taxes? I do not have an answer. I do not think any of us has an answer right now. I can give you a specific. A company makes salad dressing in this state. Their other operations make bleach. For all practical purposes, the bleach guys do not even know the salad dressing people exist. Do they have to consolidate their taxes under the reporting scheme here, or how are we going to handle this?

I do not have a good answer, but those are the questions that are going to come up. The companies are going to need some technical expertise to say, here is my issue, how do I get there? The compliance cost goes up substantially if the salad dressing guy has to find out what the bleach guy is doing. Those are just some of the issues we have to face. I think they are solvable. I do not think they are easy. I do not know how we do that in legislation, but I think that since we have the time, those issues need to be addressed.

Very much like Mr. Enos's people, and because so much of our stuff is out-of-state sales, the increase in the MBT would increase taxes on our folks, probably more than the BLF is going to. From a compliance standpoint it is substantially easier, especially for the multistate operations. This is going to be very difficult. As most of you are aware, there has been a lot of consolidation in the manufacturing sector, so we will pick on the Koch brothers. They own companies in 15 different sectors. If they wind up with one plant in the state of Nevada, which they have one, does that apply to all of their different sectors? I do not know the answer, but we need to figure that out.

The manufacturing sector in this state was hit pretty hard; I think most of you are aware of that. A lot people are not. We started off with 50,000 jobs, we lost about 11,000 jobs, and we are back up to 42,000 jobs. Even the Tesla plant alone, if that were the only thing that came here, would not get us

back up to where we were prior to the recession. We used to make a lot of building materials; that sector is gone. Those companies have gone and many of them will not likely come back.

I have already mentioned the multistate operations and compliance costs. I think everybody in this room knows that we have been deeply involved in the education reform issues for 22 years. Those have to be tied together. Let us talk about one in particular. The career and technical education (CTE) schools in southern and northern Nevada are both doing an outstanding job. Graduation rates are in the 95th to 99th percentile, which in this state is unheard of. You get into those programs right now with a lottery. The demand is eight to one the capacity in some of these schools in southern Nevada. When you are going through and doing the education reforms, we know what works; do not leave those out. Force those issues to come to the party. A CTE school does not have to be in a big campus. They could be working in a converted industrial building that is sitting there empty. It is probably cheaper and probably faster. Those are things we can do.

We have not polled our members on this, but I do not believe our members would be opposed to the concept of the MBT having multiple rates. If you take a look at those of us who have been around a long time and have used the education system to receive our higher education, the thought process of those higher-paid people having a higher rate might be that you could basically have a rate that goes for your entire payroll, and then segregate out the higher-paid people for a different rate, which would bring in some additional revenue that you are looking for.

The secondary thing, for those nonresident corporations, which is a huge part of the increase that you are talking about in this operation, most of this is focused on paying for education. I do not find the nexus between the nonresident corporations and our education system. When you have the MBT, there is clearly a nexus. That is one of those things to ponder. Do I have a good answer on that? No, I do not.

The other thing you are going to wind up with in this state, which is going to be a challenge for the Department of Taxation, is a lot of our companies do not make anything that is generally sold here. They are going to be sporadic reporters. They will not have anything for two or three quarters that is shipped into the state of Nevada, and then suddenly they will have one job that comes up. That will make their tax reports look goofy.

Matthew Taylor, President, Nevada Registered Agent Association, Inc.:

For those of you who are not aware, the commercial registered agent industry currently represents approximately 209,000 corporations and LLCs that are active in the state of Nevada. I am here today to discuss our concern regarding S.B. 252, specifically the fee increases for those nonpayroll businesses that may be located elsewhere and registered here in the state, as well as to share the results of an economic study prepared by David Swanson and Robert Schmidt ([Exhibit I](#)) that we had commissioned to study the effects of S.B. 252 as it relates to commercial recordings in Nevada.

As a bit of history, the state of Nevada, the Nevada Legislature, and the commercial registered agent industry have worked together for the last 25 years, if not more, to help recruit and develop a positive legal and financial environment, to bring those businesses from outside of the state and have them incorporate their businesses here in Nevada. For the most part, until recently, we have been wildly successful in that goal. Currently, Nevada has approximately 200,000 of its 307,000 LLCs and corporations on file that are owned by and controlled by businesses that do not operate here in the state and do not have payroll in the state. Those businesses come from outside the state; they have little if any operations, and no payroll. As a result, they also place very little burden on our state. They do not drive on our streets, they do not have children in our schools, and they do not avail themselves of some of the state resources. As such, this is very inexpensive money for the state.

The benefit for those 200,000 businesses generates roughly \$130 million per biennium, with little or no cost to the state. In addition to the state revenues they bring in, they also spend millions and millions of dollars on legal, accounting, professional, and other services and goods purchased with vendors here in the state. All of that stands to end with the passage of S.B. 252.

Today, Nevada is already losing a significant market share as a result of increased competition from other states, specifically Delaware and Wyoming. We have also dealt with increased fees in past business license increases, as well as increased regulation and reporting requirements that have happened with this state. When those combined economic factors are taken as a whole, we have seen a 25 percent reduction in the last decade of all new filings and corporations that happen on an annual basis here in the state.

If this BLF and annual gross receipts component are passed, the state of Nevada stands to lose 124,000 businesses, or roughly 35 percent of our total businesses here in the state, by the end of fiscal year 2017. This represents

a shortage of \$107 million over what this increase is supposed to raise. In addition, we will face an approximate reduction of new filings of 44 percent in 2016 and a 63 percent reduction in new filings in 2017. By losing those filings, Nevada loses our chance of replacing those businesses we stand to lose. Nevada's future for competing with these filing revenues gets even worse going forward. By losing our image and tarnishing our ability to market Nevada as a tax-free environment, and as a positive location to try and bring in those businesses, we give up a large competitive advantage to states like Wyoming and Delaware.

I am not here to try to convince anyone that the education system does not need reform. I have heard a lot of proposals that have come up in other committees looking at other options. We have reviewed the MBT. We can look at that. We are also happy to discuss components of the live entertainment tax and other components that do not place an additional financial burden on these out-of-state businesses. We are already pricing ourselves out of the market, and the market will not bear another increase like this.

Assemblywoman Kirkpatrick:

I am glad to see you back at the table. You and I were at the same table in 2009. How many businesses did leave in 2009? I tracked them for a while and there were about 25 that tried to go to Wyoming. How many has it truly impacted, outside of the recession? I have a concern that we have to make sure businesses can continue to grow, and we have to be mindful of that. If there is only Wyoming and Delaware, where else are we becoming less competitive?

Matthew Taylor:

That is a complicated answer. They go to a number of places. One, they stay home. They do not look for an export or to form in another jurisdiction. It may just become easier or cheaper for them to stay home and incorporate in their home state. We are also facing increased pressures from states like Wyoming, which specifically has grown in the last decade roughly 388 percent, whereas our new filings have dropped approximately 25 percent on an annual basis. We have lost 20,000 new filings per year in the last decade, from our high in 2006. We have never recovered from the recession and then we increased the fees and reporting requirements. That was over what was supposed to be a temporary \$100 increase, to go now with a \$200 increase above and beyond that. There are issues like quarterly returns, having to deal with not just the Secretary of State's Office but also now the Department of Taxation, dealing with scrutiny, trying to come up with NAICS codes, and a level of

reporting that has not existed in the state of Nevada for those businesses. I think the 124,000 number, while alarming, is actually fairly conservative, because it only considers the price issue, not so much considering the administrative burden that goes into trying to comply with this for these out-of-state businesses. Again, Wyoming has been one of the ones that has benefited the most. They have modeled a lot of their laws directly to try to compete with us. The other answer is a lot of them just stay home. That is why we have seen such a drop in our numbers.

Senator Ford:

I did not hear the answer to Assemblywoman Kirkpatrick's first question. How many businesses did we lose since going from \$100 to \$200?

Matthew Taylor:

You can blame a number of factors, which is why I bring up the numbers in Wyoming as a comparison. We have lost 20,000 new filings per year versus where we were in 2006. The recession did happen, but while other sectors have recovered, and our competition as far as Wyoming and other states have recovered, Nevada has not. We stayed flat at that 20,000 loss of entities filed every year.

Senator Ford:

There is no exit survey or something to ascertain if it is because if went from \$100 to \$200, right? You just really do not know what effect increasing the rate by \$100 had on them leaving, do you?

Matthew Taylor:

We did not conduct an exit interview back in 2009 when those businesses were leaving. Everything we have is empirical data; however, preparing for this testimony since the State of the State Address and looking at this model, we have done surveys of companies, asking how likely are they to leave, how likely are the marketing dollars to continue to promote Nevada, what happens as far as how attorneys and accountants looking and forecasting that their business will drop with this type of a projection. Those were the factors that came into looking at what type of a loss we are anticipating by this \$200 increase.

Senator Ford:

When I first moved out to Nevada, they called it the Delaware of the West when it came to incorporations and things of that sort. One of the biggest differences was the court system. Outside of cheap incorporation fees, are there other things that companies who incorporate here for the mere purpose of

incorporating look for? Delaware is a prime example, where the court system is a very developed transfer system. We are developing out here a little better. Are there certain intangibles that would kick in, even if you double or quadruple, frankly, where they look at other factors and potentially remain here?

Matthew Taylor:

There is a lot that goes into Nevada as far as why it is. I have spent 17 years of my career promoting and educating entrepreneurs about why Nevada is a location they want to bring their business to. In that time I have personally helped bring over 12,000 businesses into the state of Nevada. That said, a lot of the benefits that we enjoy, charging order protection for LLCs, with single member LLCs being the sole remedy, and charging order protection for closely held corporations are really kind of the two remaining unique factors. Any other factors, such as indemnification for officers and directors, charging orders against multiple members LLCs, partnerships, all of the laws have been mirrored, if not improved upon, by states like Wyoming because they are looking at increasing revenues for their state and getting a share of that business. While we prided ourselves on being the Delaware of the West, Wyoming is staging itself to be, and successfully so, the next Nevada.

Bryan Wachter, Senior Vice President, Retail Association of Nevada:

I want to emphasize that the members of the Retail Association of Nevada (RAN) did not send me here to just say no. Before we explore why RAN is opposed to S.B. 252, I want to recognize a few things that RAN does support.

The Retail Association of Nevada supports increasing tax revenue to meet the needs of our New Nevada. We support increasing investment of public schools. We support Governor Sandoval and the bold choices he made during his State of the State Address. Governor Sandoval has proven he is a capable leader, and he deserves to be followed. We agree with his ultimate destination on where he wants to get, and we are excited to see what outcomes will happen from his proposed education plan. We support anyone from Governor Sandoval to members of the Legislature who have signaled their willingness to listen and consider alternative proposals, and we are going to take everyone at their word that they are willing to do that.

The RAN is proud to be a large portion of the Silver State economy. We are one of the largest employment sectors in the state. An interesting fact is there are twice as many jobs supported by retail in Nevada as there are slot machines in Las Vegas. We are here to stay. You will not hear that we are going to leave the state based on any sort of tax plan that does come out of the Legislature.

You will not hear members of the retail industry claim they are going to leave if you pass a tax that relies on gross receipts. We are committed to staying, growing, and investing in the New Nevada.

The principles that the members of RAN use to judge taxes are the same as Governor Sandoval's taxes. Our conclusions are different. While broad-based, the latest installment of a tax based on gross receipts is not easy to understand or to comply with, and it does not allow business owners to make decisions themselves. Instead, it relies on the government to determine what the best business practices are for individual businesses. As an example of the complexity of S.B. 252, the retail industry is not one size fits all. A quick glance at the NAICS code reveals that at least 13 different retail and subretail NAICS codes exist. Once a retailer guesses which code is best, they must appropriate their Nevada revenue from their multistate revenue. The rates have been predetermined, but it remains unclear what went into those initial calculations.

Although we also opposed the margin tax on the ballot last November, it too was based on gross receipts. It at least allowed the company to determine its own gross revenue through choosing different deductions. We understand that these figures have taken into account the margins and the complexities of each individual industry. Our tax departments have at least asked, how did they arrive at those numbers? That is something that could be made available.

We do not judge the complexity of S.B. 252 on the number of pages, but rather because it is unclear how a business determines its NAICS codes, and how it constitutes what its primary business is. We have heard this from multiple speakers. Senate Bill 252 has the potential to cause very large companies that export their products to other states but utilize Nevada services, to see their liability be significantly less than a large company that sells products in Nevada. If you create something, or your business is here, but you end up exporting that final product, your tax liability is much less than the large company that sells its final product in Nevada. Nevada businesses whose receipts are in Nevada will pay a premium to support companies whose receipts are derived from out-of-state buyers. Senate Bill 252 will make products more expensive, maybe not incredibly more expensive, but S.B. 252 applies a tax to every level of economic activity, of course referring to pyramiding. If a tax that applies on every level is implemented, a product is taxed from the manufacturing of its shipping, storing, wholesaling, and finally selling to the ultimate consumer.

Nevada's current tax structure needs to be fixed. Through the last decade we have broken it ourselves, for the most part, by creating exemptions, loopholes, and modernizing our taxes to meet a globally connected economy. We have to note that this tax will be in addition to all other taxes paid. It is a double tax to those who already pay the MBT. Ms. Trimbath talked about a shifting nature, away from payroll and to revenue. A lot of the larger businesses that are paying the MBT will not see a shift; they will see an addition to. We will pay on our payroll and we will also pay on our gross revenue.

The MBT could be broad-based. It is not a hurdle to hiring. We have seen the MBT fluctuate but remain solvent due to a rate increase, but there is no evidence that raising the MBT resulted in job loss. You have heard testimony today that the MBT fell because the economy fell. The Legislature took steps to mediate that, but even with the larger increase on the MBT, Governor Sandoval has presided over a state that has seen huge job increases month-to-month. We are excited. We congratulate him on that leadership, but you have seen an increase in jobs even with the higher MBT, even with what you passed in 2009, 2011, and in 2013.

This body and the executive have narrowed the MBT through increasing exemptions. We went from a smaller exemption. Last session we went to \$85,000. We need to be able to fix that. We also need to be able to provide a minimum tax that could be due based on a couple of different factors, and I think this bill does that somewhat. We look at a tax that is predictable. If you want a kindergartner to enter school right now, and you want to be able to promise that kindergartner that when he gets to the 12th grade he is going to have those same resources. The MBT is much more predictable over that 12-year period than a tax based on revenue. You are going to have it fluctuate much more with the economy than you would with the tax that is less volatile.

It is important to note that a company that is labor intensive has a greater potential to use government services than a business that is not labor intensive. The state sales tax also does not take into account how Nevadans shop and consume. Seventy percent of Nevada's economy is service-based. It has been for a while, and Nevada does not levy taxes on most of the 70 percent of the economy. It also does not take into account consumption and remote sales, the taxes owed by consumers on a voluntary basis, instead of the retailer collecting and remitting. Nevada loses untold millions of dollars because of the collection problem. Legal remedies have long existed and have increasingly been upheld by courts all over the country. Nevada has not gone down that road, so our revenue has suffered.

There have always been unintended consequences to new taxes and they are unpredictable. Nevada's current tax system is not unpredictable, in fact, the Economic Forum projects the MBT to within about 2 percent every time they have had to do so. Changing our current system to make it more broad-based could bring in revenue far more easily and more quickly than any new tax. You are just changing the rate. People do not have to learn what is going on. It is confusing to our members that S.B. 252 can be implemented as quickly as advertised. While we have a BLF now, it is not calculated or regulated anywhere near what S.B. 252 would have to be. It is confusing that taking on this process would be free to the Department of Taxation.

We support your goals, Mr. Chairman, when it comes to education reform and increased spending. We support the Governor and we support a Legislature that wants a long-term solution. You are taking the time out of your legislative calendar to review how we fund Nevada, and we should expand that conversation beyond just a way to pay for increased spending and a one budget item.

We are concerned because this tax is being suggested in order to pay for an increase in education spending, which is noble. The state has a lot of different concerns. What happens two years from now when the state says, we fixed education and now it is time to move on to the next project? Do we get a new tax at that point? Do these rates increase? How do we go about expanding and increasing state spending on other projects that are not in this? Our concerns are long-term. We stand ready; we have been at the table every session for a decade with suggestions and a willingness to look at new taxes. We have been here and done this, and will be here and do this as long as you have the conversation.

Janine Hansen, State President, Nevada Eagle Forum:

As we heard earlier, as stated quite eloquently by Knight Allen, businesses do not pay taxes, people do. In light of that, we have had many corporative executives and others representing big businesses today, but almost nobody representing average individual families. Between 50 and 60 percent of the average family income goes to federal, state, and local taxes. Most of that is in hidden taxes. That 50 to 60 percent is more than their housing, food, health care, education, or recreation. Much of those taxes are in hidden taxes, and

I will give you an example. My brother had a business, Scott Roofing, and he would tell people when he gave them an estimate for a roof it is \$5,000 and \$2,500 of that will pay for taxes, fees, licenses, and compliance with regulations. Although the individual does not know that when they get the \$5,000 bill for their roof, that is the reality of what businessmen are dealing with every day. It is the individual consumer, the family, the people who are paying the taxes, not the big corporations.

No amount of excessive taxation in the state of Nevada will ever improve education because we have not changed what we are doing with education. We must adopt world-class standards, like they have in California and Mississippi. We have to implement a systematic intensive phonics and foundational mathematics, which we have failed to do.

I have been at this Legislature longer than any of you. I first started in 1971. Since 1991, I have been here full-time. Years ago Senator Raggio, after a huge education tax issue, was carrying on. He hugged me and said, "Janine, I hope we finally solved this." Obviously we have not, because here we are, year after year with the same problem.

One of the issues we have talked about is money for early childhood education. The largest study ever showed that early childhood education is really a failure in improving educational success. This was by the U.S. Department of Health and Human Services, and came out in 2010. Head Start proved to be a tragic waste of money—45 years and \$66 billion.

Jim Clinton, who was the chief executive officer of Gallup, wrote an editorial on February 3, 2015. He calls the unemployment rate reported by the U.S. government of 5.6 percent "the big lie." He reports, according to a survey, that only 44 percent of Americans are working 30 hours a week or more. This particular bill will impact my own daughter, who has a small business in midtown Reno. She does not have any employees. She has been open since 2011, with a little costume boutique shop. She is barely surviving from week to week and month to month. Last year I had to pay her telephone bill and her electric bill in order for her to stay open. These taxes do impact those who are in the fragile end of trying to keep open a small business, as we heard earlier from the first person who testified against this bill. This is very critical in trying to improve our economy because small businesses are where we can have the most jobs for our future.

I will finish with the report on Head Start, that not a single one of the 114 tests administered to first graders showed any improvement in academics, emotional or social development, health care status, parenting practice, or a reliable and significant effect. There are many things that can improve our education, which we all want to do. Some of those we need to start with are going back to world-class standards, instead of progressive dumb-down programs like Common Core.

Chair Roberson:

We are going to take a five-minute recess so everyone can stretch their legs. We are in recess [at 9:33 p.m.].

[The meeting was reconvened at 9:38 p.m.] Once we hear from Mr. Frediani, Mr. Joecks, and Mr. Graves, we are going to go back to testimony in support.

Wayne Frediani, Executive Director, Nevada Franchised Auto Dealers Association:

The Nevada Franchised Auto Dealers Association has been a long-time, ardent supporter of education, including higher education, throughout the state. We have no issue with the education reform. We support it. We support the Governor's need to do what he is trying to do, and to enhance education. We do have a problem with the funding mechanism.

As an industry we are opposed to S.B. 252 as it is drafted. Our industry, like many other businesses in this state, went through a severe drop in 2009 and 2010. Our sales dropped 54 percent. We follow housing in a lot of respects. If housing drops, automobile sales normally drop as well. With that drop we lost 16 dealerships and about 3,000 employees.

We, as an industry, are the second largest producer of sales tax remitted to the state, I believe, next to gaming. That is normally because the two most expensive things people buy are a home and an automobile. Our remittance in sales tax from 2008 dropped from \$450 million to \$224 million over the next two years.

As an industry that drives Nevada's economy, and we do, we are starting to come back. Over the last two years we have rebounded with about a 25 percent increase in overall total sales statewide. We remitted last year approximately \$330 million in sales tax. Between sales tax, property taxes, and local taxes, as an industry we probably contribute on average about \$550 million per year.

I am here to tell you that we support education. We support economic development. In fact, in September 2014, working with Governor Sandoval, our industry relinquished the right that we have had for 52 years by supporting the Tesla project, which basically said that as an electric motor vehicle manufacturer they could sell direct to consumers. We have had franchise laws that have prohibited that, and continue to prohibit it. Today in Texas, Arizona, Connecticut, and Pennsylvania their legislatures are in battles with Tesla for the same provision we relinquished, which was the right to sell directly.

In terms of economic development, that was a reason why we were able to relinquish that right. It was not a big hit to our market share, and still is not, because, quite frankly, Tesla does not have a sustainable business model right now, with a \$120,000 car, and needs the battery factory to make that go.

My concern, too, is the economic development. I have to disagree with some of the people who spoke earlier, that it will have an impact if this tax is enacted, but I am surely no expert on economic development.

I think that we would be receptive as an industry to alternatives. We are willing to work with this Committee, the Governor's Office, and this Legislature to try to come up with an alternative. Modified business tax would be one thing that we could support.

We have, in this industry, high average wages. Our average employee in a car dealership makes about \$53,000, so in terms of payroll, our payrolls are big. There is no question about it. In terms of a tax policy, we are not so much concerned with the rate as we are the policy, and we feel this mechanism is not the right way to go, but maybe a combination is. I am hopeful that this Legislature and this Committee will allow the vetting of all these different options between now and the end of this session.

Victor Joecks, Executive Vice President, Nevada Policy Research Institute:

We oppose S.B. 252. Earlier today we heard Governor Sandoval model this gross receipts BLF after Texas's margin tax. In contrast to the sunny picture that was painted earlier, the margin tax has hurt small businesses in Texas.

According to a survey conducted by the National Federation of Independent Business (NFIB) in Texas, 20 percent of small businesses reported they had to lay off employees, one-third said they held off on hiring, and 3 percent closed

entirely a year after the margin tax was imposed. Those things happened because of the margin tax. Earlier this month, Texas actually held a hearing on a bill that would repeal its margin tax entirely.

Governor Sandoval stated he wanted a broad-based tax, but just two years ago he bragged in his Executive Budget that by increasing the amount of wages exempt from the MBT, three out of four businesses would not pay the MBT. It is amazing how one year it is a point to brag about and the next year it is a crisis that needs to be fixed.

The gross receipts BLF also contains many tax cliffs, where a dollar in additional revenues produces a tax bill greater than that dollar, and in some cases up to \$140,000. I think that is a structural issue.

There is one area of agreement the Nevada Policy Research Institute has with almost everyone who spoke here today. We all want a better education system, and this is why we will continue to point out that decades of spending increases have not increased student achievement.

According to the federal government, in the last 50 years Nevada has nearly tripled our inflation-adjusted per-pupil spending. There has been a reference today to this myth that Nevada businesses have just said no to education funding increases when, in fact, they have been saying yes for years.

According to the Legislative Counsel Bureau, in the last 30 years Nevada has nearly doubled inflation-adjusted per-pupil spending. In 1983 Nevada spent \$4,800 per pupil, adjusted for inflation. In 2011 we spent \$8,700 per pupil, adjusted for inflation.

I would like to share what previous governors have said when they delivered their State of the State Address. In 1987 Governor Richard Bryan said, "Since 1984 Nevada has increased the money dedicated to our public schools by nearly 50 percent, more than any other state." Governor Bob Miller stated, "As long as I am Governor education will remain the state's top priority. Therefore over 61 percent of all new revenues in my budget will go to education. I propose increasing education funding by \$96 million." From Governor Kenny Guinn's State of the State Address in 2003, we hear, "My education agenda focuses on the basics: textbooks, teacher training, and reading. My General Fund budget includes an increase in \$98 million for K-12, and an additional \$75 million in one-shot funding. This represents a 13 percent increase over the last biennium, and the largest allocation for education in our

state's history. I will mandate a system of checks and balances to ensure this funding produces results for our students." But a decade later we must ask, where are those results?

One case study is particularly telling, and it involves Governor Bob Miller. When he was here he talked about how he wanted to increase education spending, and he did that very successfully during his tenure as Governor. Education spending was \$1,500 per pupil in 1989, adjusted for inflation. In 1999 education spending was \$7,500 per pupil. Much of that spending went to Governor Miller's class-size reduction program. In fact, Nevada has spent billions over the last couple of decades on class-size reductions. Right as students who entered school in the 1990s started graduating, and should have benefited from class-size reduction, Nevada's graduation rate fell to 40 percent, the lowest in the country.

A couple of weeks ago, in testimony for one of the finance committees, Superintendent Erquiaga stated that the Department of Education can find no correlation between class size and star rankings. Conservative scholars have pointed out for years that class-size reduction is ineffective, and recently the left leaning Brookings Institute also noted that class-size reduction funding is money spent ineffectively.

Governor Sandoval has talked about accountability for the new education funding. He and the Legislature are serious about accountability. We urge you to start with the class-size reduction funding, where we already know there is a major inefficiency.

Assemblywoman Bustamante Adams:

You mentioned small businesses in Texas going out of business. How does Texas define small business? Is it a cap on a certain revenue?

Victor Joecks:

It was a survey conducted by the NFIB, Texas Chapter. I can talk with their executive director and find out how they define small business, but it was done among their members.

Terry Graves, Western Metals Recycling, and Nevada Cogeneration Association:

While there has been great enthusiasm and support expressed here today for S.B. 252, I would like to open one small window outside this hearing room.

I suspect for a lot of business folks and citizens who have been hanging on by their fingernails for the last seven or eight years, this is not being greeted with the same enthusiasm we observed in this hearing room today.

I would like to add to the record that the scrap metal processing industry has been a harbinger of the economy. When the economy is doing great, scrap metals are created by new construction, renovation of old facilities, scrap produced by manufacturing operations and all other types of industry, and people replacing their appliances. All of these things are indicators of a robust economy. I can tell you today, however, that the scrap metal industry is flat. One of my scrap metal clients has laid off one-third of his 40-some employees in just the last few months. The price of scrap steel is less than the cost of transporting it.

My point is, while I think there are certain signs of upward economic trends, as has been offered today, the economy is still not so vigorous that we can be unmindful of the impact of a tax increase on businesses, and indeed on individual citizens, as has been pointed out where much of the burden of this tax increase will ultimately end up.

My cogeneration client is an example of another issue. They live on a fixed contract. They have no ability to pass on extra cost. I do not know that my client, in this case, lives or dies by this tax proposal, but I think a lot of businesses that are in fixed contracts, in this economy, would find it problematic.

In defense of the MBT, and some defense has been given to it today but mostly barbs have been thrown at it, I refer to you, Chairman Roberson, a question you posed in one of your previous hearings. It went something like, you have two companies with the same revenue. One of those companies has 100 employees and the other has 10. How do you fairly tax these two entities? One thing about the MBT I would offer as a comment, the company with 100 employees will probably put 200 to 300 children into the school system and by the same ratio, a company with 10 employees is going to put 10 to 20 children in the school system. I just offer that as food for thought.

With that, I agree with the Governor's comment that there is no perfect tax plan, and take him at his word that he will entertain other proposals. Like others sharing concern about this tax proposal, we are open and want to engage in further discussion of the issues, and seek revenue enhancement for education.

Paul J. Moradkhan, Vice President, Government Affairs, Las Vegas Metro Chamber of Commerce:

As the largest and most broad-based business organization in the state, the Las Vegas Metro Chamber of Commerce fully supports reforming Nevada's out-of-date tax structure. Our state needs dependable resources to fund education, invest in infrastructure, and provide the services upon which we all depend. With so much at stake, we have an interest in making sure any kind of tax reform is done in a way that will not harm job creation. It needs to be fair to all types of businesses, simple to understand, easy to comply with, transparent, and most of all, will provide long-term stability to our state.

The Metro Chamber applauds Governor Sandoval for his leadership and his courage in pressing for both education reform and putting forward a plan to pay for it. We supported the Governor's request for new funding early on, and said so immediately following the State of the State Address in this very building. We continue to support Governor Sandoval in these goals, and thank him for his invitation to analyze and discuss this bill. Businesses around the state deserve to know what the impact of this proposal will be on their business and employees.

We also would like to thank Senator Roberson and Assemblyman Armstrong for putting aside the time for discussion and analysis. This is how major business decisions get made, by careful deliberation and reflection.

We would also like to thank the legislative leadership for their efforts to put the tax reform front and center. We are doing this on day 45, not day 115. Doing so is giving us the time to have the meaningful discussions about what good tax policy is, and how we can find the right solutions, which will not hurt economic growth and job creation.

There is general agreement from the business community to support revenue enhancements, to help improve K-12 education and other areas. The spirit of cooperation and commitment toward getting these done should not be squandered or derailed. The Metro Chamber believes not only is our tax structure critically important, but we need to take action this legislative session, and we have made a commitment to be part of that conversation. We need to reform tax structure in a way that it is fair and broad-based, and will promote job growth and provide revenue stability for the state for years to come.

It is important to note that businesses are being asked to pay a significant tax increase and as a result, the Metro Chamber is taking sufficient time to study this bill and other tax proposals as they are emerging. We want to fully understand how this tax plan operates and works, and other plans, and the impact they will have on the range of Nevada businesses. We need to be sure that the tax proposal will not only bring additional revenue we need this biennium, but will also give Nevada the stable tax structure to fund these ongoing needs in the future. Unintended consequences happen when decisions are rushed.

This bill and its provisions will substantially change how businesses are levied and taxed. It may be the best position for Nevada, but only through full examination and careful analysis will we be certain.

The Metro Chamber is an association driven by public policy, transparency, and data. We deeply care about this conversation. We have been part of Nevada's fabric for over 100 years, and we have a strong history in shaping this great state of ours. We do not take our role or responsibility lightly. We want what is best for our community, for our state, for job creation, and for the next generation of Nevadans.

Senator Hardy:

Are you for the tax?

Paul Moradkhan:

The Metro Chamber is analyzing this bill and is neutral at this time, until our analysis is complete.

Dana Bennett, President, Nevada Mining Association:

In the past 100 years the Nevada Mining Association has grown from a group of 35 mine operators in southern and western Nevada, to over 400 members located in every county in the state, representing the broad spectrum of this industry. Our members produce 20 different minerals that are essential for the devices we rely on every day and that are strategically important for national defense. As a source of raw materials, a healthy mining industry is essential for a successful manufacturing industry in the state and across the country.

The Nevada Mining Association applauds Governor Sandoval's proposal for education reform in Nevada. As Nevada's first and most enduring STEM industry, we are keenly aware of the need for an excellent education system in the state. Thousands of our kids attend Nevada schools, and we intend to continue hiring graduates from Nevada schools.

From its beginnings on the Comstock, Nevada mining has been an industry that develops cutting-edge technology that is then adapted by many other businesses and industries. We have been, and continue to be, a high-tech industry that demands a highly skilled workforce. It is imperative for the future of our industry that this state's education system is superb in every way, from preschool to Ph.D. We are confident that the Legislature is considering comprehensive education reforms that will achieve these goals. After years of cuts to important programs we know it is time to get Nevada back on track. It is certainly another illustration in a long line of illustrations that Nevada's revenue structure has been too narrow for too long.

In 2002 the Nevada Mining Association adopted a formal position statement on taxes that we stand behind today, as much as we did when it was first written. It is published on our website. Our position statement recognizes that the state's existing tax system, which relies too heavily on single source revenues, is inadequate for the task ahead. We believe that Nevada's tax system requires a broad-based revenue solution that includes all sectors of Nevada's economy.

Since 2003 we have consistently supported legislative proposals for broad-based taxes. Most recently we supported the Horsford-Oceguera proposal in 2011. So, therefore, we also applaud Governor Sandoval for proposing another broad-based source of revenue. We are confident that it will raise the funds necessary to develop the education system Nevada needs for its success, now and in the future.

The proposed BLF, as provided in S.B. 252, includes many of the elements we believe are important for the success of a new revenue stream. It takes into consideration that Nevada's industries are not all the same, and that some industries, such as ours, already pay significant amounts of industry-specific taxes.

As we heard this afternoon, the proposal will also not adversely impact economic diversification efforts, which are so important to our state. The Nevada Mining Association commends Governor Sandoval for facing two of Nevada's thorniest problems head on, and offering pragmatic solutions. We are pleased to be here today to endorse his vision for Nevada, and to join the Nevada business community in support of S.B. 252.

Assemblywoman Bustamante Adams:

Thank you for your testimony. I appreciate the contributions from mining. My question is, the gross revenue is already subject to the net proceeds of minerals (NPOM) tax, so that is not covered in this bill; however, the mining industry does have other revenues that would be covered under this bill. Have you done a calculation of the total amount of revenue that would be impacted by this bill?

Dana Bennett:

There are revenue streams that will be captured by this bill. We believe that asset sales and other sorts of things would be included. Since that is not included in the calculation for NPOM, it would be captured by this bill. In addition, you will notice in section 24 there are mine operators who would also be affected by the bill because they are contract operators and they do not pay NPOM, so we think that their impact will be significant as well. We also have members who have multiple business licenses. They might be subject to the utilities tax rate, they might be subject to the manufacturing tax rate, or they might be subject to one of the other tax rates.

It is a complex calculation. We are working on it. We believe that it will be significant, and that it is an addition to our already significant tax burden in this state.

Ryan Sheltra, General Manager, Bonanza Casino, Reno, Nevada:

We are a small, family-owned business—a business my father started 43 years ago. We have been in Reno a long time. I am a native Nevadan. We currently have 157 employees.

It feels as if we pay nearly every tax that you create, including the MBT, which I think by the numbers does not feel very broad-based, but I am not here to complain about it. I am here to do something that you folks probably do not expect. I am here 100 percent to speak in support of the BLF and S.B. 252.

I have been involved in the gaming industry my entire life. I have worked at both ends of the state, Reno and Las Vegas, and Lake Tahoe as well. I believe I bring a unique perspective to you, not only as a gamer but a gamer with many close ties to our education system. My mother was a teacher, my sister was a teacher, and my wife even taught briefly at the University of Nevada, Reno. I have two small children in the Nevada public school system, and I am a product of the Nevada public school system. I started a Partners in Education program with North Valleys High School 15 years ago. I modeled it very similarly to what Harrah's had done with Hug High School. The Bonanza Casino does the same with North Valleys High School, and we are very proud of that.

I see firsthand the problems of our overcrowded classrooms, dilapidated facilities, and underfunded gifted and talented programs. We all recognize the problem. How are we going to pay for it?

I see enough of the age-old attitude of tax anybody but me and I will support it. I am here today to say I accept what the increased BLF means to us, and it will cost my business. We accept this increase even though we are already part of the highest taxed industry in the state. This fee is broad-based and this fee is fair. As a longtime Nevada business, we believe this is not about taxing the other guy; this is about every one of us stepping up to the plate and doing what is needed for our youth and their opportunities in the Nevada education system.

Assemblywoman Bustamante Adams:

Earlier the larger casinos talked that the shift in the percentage of gaming revenue versus nongaming revenue that has taken place. Is that the same thing for your level of business and if it is, what would be the percentage that would be subject to the tax in this bill?

Ryan Sheltra:

To answer your first question, we have not seen the shift. I would love to be like Las Vegas and have turned our food and beverage operations into a profit center. We are still like Las Vegas of the 1960s where we use our food and beverage as a loss leader to bring people in the door. I lose my tail in food and beverage. I have millions of dollars in nongaming revenue that I cannot take to the bottom line in the net profit. They get caught up in this tax. I am going to be taxed, and I support the tax. I am going to pay this fee on money that I lose money on, if that makes sense. I do not have a margin there.

I would be more than happy to give you the percentage off-line. It is proprietary information for us, being a single entity and not a public company.

I do not make money there. The tax is substantial. We have looked to calculate it and we are going to feel it. I see the schools weekly, and enough is enough. Everybody has to step up to the plate and do their part, and I am here today to say I accept it, and I cannot believe I am saying this: "Tax me."

Assemblywoman Benitez-Thompson:

I imagine regarding your relationship with North Valleys High School, that a lot of the elementary schools that feed into the North Valleys High School that were built in the 1950s are very old and rundown, especially the ones that feed in from Panther Valley and Golden Valley.

Being in your establishment, I have seen hints of things that let me know that we might be different parties, so I really appreciate the fact that you have come today and the testimony you have given. That is meaningful.

Matthew Griffin, representing Satellite Broadcasting and Communications Association:

DISH Network and DIRECTV appreciate doing business in the state of Nevada. Combined we are proud to provide television services to over 360,000 families in Nevada and to employ over 350 Nevadans. The satellite television (TV) industry also partners with over 50 small businesses and business owners who sell satellite TV service in the state. Our industry has a big stake in Nevada's future and the success of our customers, our employees, and our companies.

DIRECTV and DISH Network applaud Governor Sandoval's effort to ensure that Nevada remains a great place to live, work, and do business by making needed investments in the infrastructure and education of the state. DIRECTV and DISH Network stand in full support of Governor Sandoval's proposition contained in S.B. 252.

Assemblywoman Kirkpatrick:

Where do you fall in the NAICS codes?

Matthew Griffin:

I believe we fall under telecommunications.

Assemblyman Kirner:

In your industry are you paying franchise taxes here?

Matthew Griffin:

No.

Chair Roberson:

I am going to read through these names for the last time, in case any of these individuals are here in Carson City or in Las Vegas and would like to testify: Brad Spires, Kathia Pereira, Amy Ortiz, and Barbara Deinet. Let the record reflect these individuals were here and prepared to testify in support of S.B. 252.

Michael Harris, Board Member, Nevadans for the Common Good:

I am on the board of Nevadans for the Common Good, which is a broad-based interfaith coalition of 37 houses of worship and nonprofits. We are here to testify in support of S.B. 252.

On February 12 we met as a body, and on February 26 we discussed the Governor's proposal. The near universal consensus was that this was a fair and rational approach to raising revenue. In addition, if part of the equation is raising revenue, and on the other hand is failing our children, communities, or our economy, this is the easiest math problem in the world.

We have our questions and concerns, but we are sure with the legislative process the language will be refined and our concerns will be addressed.

Assemblywoman Kirkpatrick:

Would your organization fall under a 501(c)?

Michael Harris:

Yes, we would, though we have some individuals associated with our member institutions, which encompass about 40,000 citizens in Las Vegas. Even the business owners who thought they would be negatively impacted felt they were willing to pay the BLF if it could be dedicated to education.

Assemblyman Nelson:

How would your organization feel if 501(c)(3) companies were not exempted from the tax?

Michael Harris:

Our position would not change.

Chair Roberson:

I want to thank all of you for putting in almost 9 1/2 hours. I want to thank you for the effort you put in today, and all great citizens, including the great

corporate citizens of this state, who came and testified today, whether it was for, against, or neutral. We appreciate you being here and caring enough to testify.

Tomorrow we will have up to a three-hour Senate Committee of the Whole meeting starting at 4 p.m. To move this back to the Senate I would request a motion for no recommendation. Only the Senate members of this Committee can vote.

SENATOR KIECKHEFER MOVED TO REREFER SENATE BILL 252 WITHOUT RECOMMENDATION TO THE SENATE COMMITTEE OF THE WHOLE.

SENATOR HARDY SECONDED THE MOTION.

This motion will allow us to move S.B. 252 back to the Senate, and to the Senate Committee of the Whole tomorrow. Is there any discussion on the motion? [There was none.]

THE MOTION PASSED UNANIMOUSLY.

[Additional exhibits included a letter of support from the Latino Leadership Council ([Exhibit J](#)), a letter of support from Ruben Murillo Jr. of the Nevada State Education Association ([Exhibit K](#)), 2015 Nevada Gaming Fact Book from the Nevada Resort Association ([Exhibit L](#)), testimony in support from Denise Tanata Ashby of the Children's Advocacy Alliance ([Exhibit M](#)), a resolution in support from Honoring Our Public Education ([Exhibit N](#)), and a letter of support by Richard Crawford of Green Valley Grocery, Las Vegas ([Exhibit O](#)).]

Assembly Committee on Taxation
Senate Committee on Revenue and Economic Development
March 18, 2015
Page 151

I will now close the hearing on S.B. 252 and open the hearing for public comment in Las Vegas and Carson City. [There was none.] We are adjourned [at 10:21 p.m.].

RESPECTFULLY SUBMITTED:

Gina Hall
Transcribing Secretary

APPROVED BY:

Assemblyman Derek Armstrong, Chairman

DATE: _____

EXHIBITS

Committee Name: Committee on Taxation

Date: March 18, 2015

Time of Meeting: 1:09 p.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
S.B. 252	C	Tom Skancke, Las Vegas Global Economic Alliance	State of Economic Development PowerPoint, February 3, 2015
S.B. 252	D	Phil Satre, IGT	Guinn Center for Policy Priorities Policy Brief
S.B. 252	E	David Goldwater, Desert Cab	Letter of Support from George Balaban
S.B. 252	F	Susanne Trim bath, STP Advisory Services, LLC	Executive Summary
S.B. 252	G	Susanne Trim bath, STP Advisory Services, LLC	Nevada's 2015 Proposal for Business License Fees
S.B. 252	H	Susanne Trim bath, STP Advisory Services, LLC	Special Briefing for Nevada Legislature PowerPoint Presentation
S.B. 252	I	Matthew Taylor, Nevada Registered Agent Association	Study on Proposed Nevada Business License Fee Increase and Gross Receipts Margin Tax
S.B. 252	J	Latino Leadership Council	Letter in Support
S.B. 252	K	Ruben Murillo, Jr., Nevada State Education Association	Letter of Support
S.B. 252	L	Nevada Resort Association	2015 Nevada Gaming Fact Book
S.B. 252	M	Denise Tanata Ashby, Children's Advocacy Alliance	Testimony in Support
S.B. 252	N	Honoring Our Public Education	Resolution in Support
S.B. 252	O	Richard Crawford, Green Valley Grocery, Las Vegas	Letter in Support