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

Seventy-Eighth Session
May 28, 2015

The Committee on Ways and Means was called to order by Chair Paul Anderson at 8:20 a.m. on Thursday, May 28, 2015, in Room 3137 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. Copies of the minutes, including the Agenda (Exhibit A), the Attendance Roster (Exhibit B), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at 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).

COMMITTEE MEMBERS PRESENT:

Assemblyman Paul Anderson, Chair
Assemblyman John Hambrick, Vice Chair
Assemblyman Derek Armstrong
Assemblywoman Teresa Benitez-Thompson
Assemblywoman Irene Bustamante Adams
Assemblywoman Maggie Carlton
Assemblywoman Jill Dickman
Assemblyman Chris Edwards
Assemblyman Pat Hickey
Assemblywoman Marilyn K. Kirkpatrick
Assemblyman Randy Kirner
Assemblyman James Oscarson
Assemblyman Michael C. Sprinkle
Assemblywoman Heidi Swank
Assemblywoman Robin L. Titus

GUEST LEGISLATORS PRESENT:

Senator Patricia Farley, Senate District No. 8

STAFF MEMBERS PRESENT:

Cindy Jones, Assembly Fiscal Analyst
Stephanie Day, Principal Deputy Fiscal Analyst
Joi Davis, Senior Program Analyst
Jaimarie Dagdagan, Program Analyst
Carol Thomsen, Committee Secretary
Cynthia Wyett, Committee Assistant

After call of the roll, Chair Anderson opened public comment, and there was no public comment to come before the Committee. The Chair opened the hearing on Senate Bill 276 (2nd Reprint).

Senate Bill 276 (2nd Reprint): Revises provisions governing medical marijuana establishments. (BDR 40-996)

Senator Patricia Farley, Senate District No. 8, stated she would present Senate Bill (S.B.) 276 (2nd Reprint) from prepared testimony (Exhibit C), and explained that her cosponsor on the bill, Senator Tick Segerblom, was unable to be present.

Senator Farley said the bill would address some concerns that had emerged since the 2013 Legislature legalized medical marijuana establishments. As with any new program, there were hiccups along the road, and S.B. 276 (R2) merely aimed to smooth the path as the process moved forward. Also, said Senator Farley, the bill would give Clark and Washoe Counties the flexibility to deal with lawsuits that had been filed over the dispensary selection process. It was up to the counties to handle such lawsuits, and there was no guarantee of the outcomes, but Senator Farley believed the bill would provide the tools for the counties to negotiate resolutions so the medical marijuana industry could move forward.

Senator Farley realized that there were persons who were in opposition to S.B. 276 (R2), and it was important to state for the record that the initial cap was an arbitrary number and it was not legislative intent or goal to create a monopoly. It had been two years since the Legislature passed Senate Bill No. 374 of the 77th Session (2013), and there were few dispensaries open. It was hoped that with the passage of S.B. 276 (R2), the roadblocks would finally be lifted and the industry could move forward.

According to Senator Farley, existing law limited the number of medical marijuana registration certificates (certificates) that could be issued by the Division of Public and Behavioral Health, Department of Health and Human Services, based on the population of each county. Forty certificates could be issued in Clark County; 10 certificates could be issued in Washoe County; 2 certificates could be issued in any county with a population of 55,000 to 100,000, which included Carson City; and 1 certificate could be issued in other counties. In addition, said Senator Farley, not more than one certificate could be issued for every 10 licensed pharmacies in any county, except under certain circumstances. Existing law also limited the Division to accepting applications for certificates for a maximum of 10 days in any calendar year.

Senator Farley stated that sections 1 and 5 of S.B. 276 (R2) addressed the reallocation of medical marijuana establishment registration certificates for medical dispensaries. Section 1 provided that if there were no qualified applicants within a county, the Division of Public and Behavioral Health must reallocate the certificates that were otherwise provided to that county. Section 5 required the Division to reallocate such certificates on or before July 1, 2015, and set forth the number of certificates that could be allocated to the counties, including the unincorporated areas of certain counties based on population. In addition, the Division must issue the total number of certificates allocated by December 31, 2015, unless it determined an applicant was not qualified.

Sentor Farley stated section 2 of the bill allowed a medical marijuana establishment to transfer ownership to another party, as long as the party acquiring ownership submitted evidence to the Division that it controlled at least $250,000 in liquid assets, as required of all registered medical marijuana establishments under existing law. The party would be required to submit contact information and a complete set of fingerprints with authorization that those fingerprints be forwarded by the Division to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation (FBI). Finally, said Senator Farley, the party acquiring ownership as part of the transfer must provide satisfactory proof to the Division that such a transfer would not alter the proper allocation of certificates authorized for the county.

Section 3 of the bill, said Senator Farley, allowed a medical marijuana establishment to move to a new location as long as it remained under the jurisdiction of the same local government as the original location. The local government must approve the new location in a properly noticed public hearing.

Senator Farley indicated that section 4 voided any regulation adopted by the Division that conflicted with the provision in section 3, and required the Division to amend or repeal existing regulations that were inconsistent with the provision as soon as possible.

In closing, Senator Farley noted that the program was extremely important, and like all new programs, it required some finessing. To ensure that Nevada's medical marijuana establishments operated smoothly, she urged the Committee to support S.B. 276 (R2). She noted that there was only one dispensary open at the present time, and the industry had created numerous jobs with the growth of marijuana warehousing and with construction jobs and suppliers coming into the state. There had been a small economic boom even though there was only one dispensary open at the present time. Senator Farley believed the medical marijuana program would help the economy of the state, and ensuring that the program ran smoothly was very important.

Assemblyman Sprinkle stated that section 1, subsection 2(b), contained the language pertaining to the reallocation of certificates, and he asked whether there would be an increase in the number of certificates for Washoe and Clark Counties. Upon reallocation of those certificates, he asked whether the new applicants had to adhere to the same qualifications.

Senator Farley stated that the new applicant would go through the same process and had to prove to the state that they had the liquidity and met the criminal and other background requirements. The process had not changed, and once the applicant completed the requirements and was certified by the Division of Public and Behavioral Health, the applicant would then approach the county to secure a location.

Assemblyman Hickey referred to the 11 unused certificates that had been rejected by the rural counties, and he asked whether a market analysis had been done that suggested there was, in fact, a need for dispensaries in rural counties. As previously pointed out, there was only one marijuana dispensary operating at the present time. Assemblyman Hickey said it appeared that there were not enough dispensaries, but asked how that could be measured when only one dispensary was currently operational.

Senator Farley said the original cap of 66 certificates was an arbitrary number that was modeled after the Arizona system. Colorado was another state that had used that same model, which started with a cap, but then the state moved to an integrated system, which finally became an actual free-market system.

Senator Farley hoped the Legislature would move to that economic principal as well, and anyone who qualified and had the means would be allowed to enter the business. The reality was that both Arizona and Colorado no longer had certificate caps. In Denver, there were 105 dispensaries, which was greater than the number of Starbucks locations, and the state still allowed qualified persons to open dispensaries.

Assemblyman Hickey appreciated that qualified persons should be allowed to enter the market, but the state had to be mindful about properly regulating the dispensaries. His concern was the process whereby persons had received state approval and licensure; he noted with the unused certificates, those persons who had failed to receive certificates could again apply. Assemblyman Hickey did not think the rules should be changed midstream to accommodate additional medical marijuana establishments.

Senator Farley stated there were persons who had followed the rules, completed the background checks, and had sufficient funding, but had not been awarded a certificate for a medical marijuana establishment. That aspect had not changed, and S.B. 276 (R2) was not written for a specific entity or person. The bill was not intended to allow unqualified persons to receive a certificate.

Also, said Senator Farley, black markets had occurred in Arizona and Colorado because the supply had not met the demand. Those states had capped the number of dispensaries, which made the industry vertically integrated, and that created the black market. Senator Farley said that by opening a sufficient number of dispensaries to meet the demand, it was hoped that would reduce the concern of people growing and selling marijuana on the black market.

Assemblyman Hickey commented that there was an existing black market for marijuana sales. He was concerned about the signage along the highways in Las Vegas advertising the marijuana industry.

Senator Farley said that also concerned her, and she hoped by regulating the industry and allowing applicants with sufficient funds to invest in the medical marijuana business, unlicensed businesses would no longer be problematic.

Assemblyman Kirner noted that section 3, subsection 2, of S.B. 276 (R2) would allow a medical marijuana establishment to move to a new location under the jurisdiction of the same local government as its original location. He noted that out of the five medical marijuana establishment locations in Washoe County, four were within his Assembly district. Three of those establishments were next door to each other, and one was located next to a high school, which was problematic for him and his constituents. Assemblyman Kirner believed there

were at least six or seven representatives from Washoe County who had no dispensaries in their districts.

With the ability to move to a new location, said Assemblyman Kirner, dispensaries could go through the same process to select locations, and it did not appear that the public had any input into the selection of the locations.

Senator Farley said the bill had been amended by the Senate to include language that required the local government to approve a new location only during a public hearing for which written notice had been given at least seven working days before the hearing.

Assemblyman Kirner said if new locations were going to be added by local governments, the public should be involved in the process prior to the selection of those locations. He noted that he had concerns about the current locations that had been selected.

John T. Moran III, Partner, Moran Brandon Bendavid Moran, Las Vegas, Nevada, stated there was a public hearing process already in place: the process under section 3, subsection 2, of the bill was already taking place, and the public had an opportunity to participate when the locations were approved. Mr. Moran said establishing a future location, or moving the location of a dispensary within the same jurisdiction, would require the same special-use permit process as previous special-use permittees went through. That process involved a planning commission stage and public notification, followed by final action by the Board of County Commission, which would be another noticed public hearing. Mr. Moran stated the bill would allow local governments to have jurisdiction regarding location suitability so that constituents could voice their concerns.

Assemblyman Kirner said his concern in Washoe County was that the county selected the sites, the applicant applied for a certificate from the state, and all the state was concerned about was that the dispensary fit into one of the preapproved locations. There did not seem to be any concern that all locations were concentrated in one corner of the county.

Mr. Moran recognized that concern, and stated that was why the bill would adjust the statutes, which would give the Division of Public and Behavioral Health the opportunity and tools to work with local governments in making land-use decisions and also in determining whether individuals were qualified to be issued a certificate to operate a dispensary.

Assemblyman Kirner said there was a dispensary location on Mount Rose Highway within view of the high school, and the citizens wanted that location moved. He asked what power the citizens had, other than writing letters or petitioning the local government, to cause that location to be moved; he wondered whether those citizens had to "rise up" to get the attention of the local government.

Mr. Moran said citizens could rise up and petition local government to relocate the dispensary. The local government had already gone through a special-use permit process, and moving the dispensary to another location would require prior approval of the local governmental jurisdiction. The location had to be compliant, compatible, and consistent with the adjacent properties within that jurisdiction.

Assemblywoman Swank stated that her district included the Las Vegas Strip, and her neighborhood was just off Oakey and Las Vegas Boulevard, where there was a high concentration of marijuana businesses. Her constituents were concerned regarding the lack of separation between the businesses.

Assemblywoman Swank said section 1, subsection 2(b), of the bill indicated that licenses not used in a county would be reallocated to other counties. She wondered whether that was a one-shot application, and if a county did not use a license originally, whether that county could reclaim the license once it had been reallocated. There was a set number of licenses, and she wondered about the process for a county that did not use a license originally and then determined that it did want to use a license.

Mr. Moran explained that the provisional certificates were slated for reallocation by the Division of Public and Behavioral Health. The 2013 Legislature essentially bargained for 66 dispensaries, and S.B. 276 (R2) would attempt to reach that cap. That number was an arbitrary number and did not take into consideration that there was reciprocity in Nevada. That reciprocity could add another 40 million individuals visiting Nevada medical marijuana establishments from other jurisdictions to seek out medical marijuana, providing they had the proper authorization.

Mr. Moran said reciprocity was a very important aspect for the dispensaries, and that was the reason the bill was attempting to help the process move forward and fill the 66 provisional certificates for dispensaries throughout the state.

The decision whether to claim a provisional certificate was made by each local governmental jurisdiction. When an applicant was dealing with location

suitability in Clark County, said Mr. Moran, the applicant would be dealing with the Clark County Board of Commissioners, the City of Las Vegas, and the City of Henderson.

Mr. Moran stated there was a specific process in place to ensure that there was public participation in land-use decisions, which was similar to the Legislature's public comment item on agendas during committee hearings. The meetings to determine suitable locations for medical marijuana establishments were open, and public comment was part of the agenda. The local jurisdictions were then required to make a decision regarding whether the location was consistent and compatible with adjacent land use. Mr. Moran said those decisions had always been determined by local jurisdictions and should prevent congregation of dispensaries in one specific area. If not, constituents should call their legislators and other officials to complain about the number of such businesses accumulating in one area.

Mr. Moran said he agreed with distance separation of dispensaries, similar to the distance restrictions for taverns and bars and small 15-slot-machine casinos that sold liquor. However, that was something determined by local jurisdictions unless the Legislature added an amendment to S.B. 276 (R2) that included some type of distance restriction. Because no such restriction was included in statute, the state was relying on local governmental jurisdictions to make decisions, based on land use ordinances that were consistent and compatible with other adjacent businesses and properties.

Senator Farley stated that the bill allowed local jurisdictions to make a request based on need for additional licensing, and the bill would not prevent counties from approaching the Division of Public and Behavioral Health in the future to ask for additional licenses.

Assemblywoman Swank asked about the process for counties to reclaim a certificate that had previously been refused.

Mr. Moran said that unless the Legislature decided to exceed the 66-certificate cap, once the licenses were reallocated, they would no longer be available. Another important point for consideration was that the Division had gone through a very arduous process that involved review of multiple boxes of information for each applicant. The initial process involved a framework that the Division created in which different divisions considered different types of information to determine personal and financial suitability of the applicants who were anticipating going into the medical marijuana business in Nevada.

Mr. Moran said the process to fill four or five slots was so all-encompassing that the Division would not have the resources or the wherewithal to consider allocating five new licenses during the application processing time frame, which took as long as five or six months.

Assemblyman Sprinkle said it was his recollection of the discussion in 2013 that it made far more sense for the local governments to locate the establishments because they understood the zoning areas within their counties. He did not believe authority was removed from local governments in S.B. 276 (R2), or that the bill recommended that the state participate in the selection of locations. Assemblyman Sprinkle stated that citizens who were concerned about the location of medical marijuana establishments had to contact their local governmental jurisdictions to address those concerns.

Mr. Moran said Assemblyman Sprinkle was correct: the local jurisdictions had the authority to approve the location of dispensaries. The certificate process was an endeavor between the Division of Public and Behavioral Health and local governmental jurisdictions. The bill would not change the process and would simply allow the Division and local governmental jurisdictions to work together to reallocate the certificates. The language of the bill would not qualify a person who had otherwise been found unqualified to operate a dispensary.

Assemblyman Sprinkle stated that the original regulations were put into place by the 2013 Legislature regarding the state's responsibility and involvement in the process, which was the vetting of applicants. After vetting the applicant, the process was carried forward at the local level, which was what the bill attempted to define.

Mr. Moran said there were three dispensaries in Incline Village that would like to move out of that jurisdiction, and unless the process to relocate the dispensaries was in place, those businesses would have to remain in Incline Village. The way those businesses could relocate was through a public hearing process at the local level, because those persons had already been qualified by the state, and the bill would allow those businesses to move to another location that was compatible and consistent with the existing land-use guidelines within that specific municipality or county.

Assemblyman Sprinkle believed very strongly that the original structure that was put into place in 2013 should remain in place, and the bill did not appear to contain language that would change that structure.

Senator Farley stated that was correct. The only intent of the bill was to reallocate the licenses to counties where they would be used and remedy some of the major legal issues, particularly allowing dispensaries to relocate. The bill would retain the same original structure.

Assemblywoman Carlton said the intent was that applicants would seek approval and licensure from the state to operate a dispensary. The approved dispensary would then be required to find a location for the business and seek approval from local governments. However, it appeared that when the original legislation passed, applicants were looking for locations and receiving approval from local governments prior to seeking licensure from the state. There did not seem to be any language in the bill that would correct that situation.

Assemblywoman Carlton believed that the major confusion would continue in the future regarding the source of the ultimate approval because that was not sufficiently clarified in the bill. She questioned the reallocation language in the bill, which might reallocate the license from a rural county without giving the county time to act, because the effective date for sections 2, 3, and 4 of the bill was upon passage and approval.

Assemblywoman Carlton said there might be a person in a rural county who would like to apply for a certificate, which would require a long process prior to issuance. That meant persons who resided in rural counties and needed medical marijuana would have to drive to a county where a dispensary was located to access the medical marijuana. She was concerned about the lack of response time for the counties to secure a certificate.

Senator Farley stated the current licenses for rural counties had expired, and if a person wanted to open a dispensary in a rural county at the present time, there were no licenses available. She stated she had spoken to many rural county representatives and there had been no requests for a certificate; therefore, the decision was made to reallocate all expired licenses to counties with larger populations that had requested additional licenses.

Senator Farley noted that everyone was initially surprised at the process and the method used by the counties and state in handling the licensing. She hoped everyone involved had learned a lesson about the process and how it should work going forward because of the initial confusion. She believed that applicants should first be qualified by the state and then apply to the counties for special-use permits. The first version of the law was very clear about the process, and she did not know whether additional language should be added to S.B. 276 (R2) to provide further clarification.

Mr. Moran said it appeared Assemblywoman Carlton was concerned about the rural counties not being issued provisional certificates or registration certificates at some point in time.

Assemblywoman Carlton said her main concern was that the counties initially approved dispensary locations prior to the applicant having received approval from the state. The original process required approval of an applicant by the state prior to that applicant seeking approval of a business location from the county. She did not think that process was addressed or clarified by S.B. 276 (R2). Land use was the purview of the county, and the state should not be involved, but licensure was the purview of the state.

Mr. Moran stated the medical marijuana industry was new, and there were going to be some "growing pains" in the industry, which were occurring at the present time. Assemblywoman Carlton was correct that the Division played the role for the state, and the local governmental jurisdictions had their separate role. The local jurisdictions had discretion in determining whether a location was suitable for a dispensary, and the Division of Public and Behavioral Health had the discretion to determine whether the applicant was qualified under *Nevada Revised Statutes* (NRS) 453A.322 and NRS 453A.328. There were specific criteria in statute that were considered by the Division, similar to the county adopting the ordinances prior to the Division's opening a ten-day window to accept applications during the 2014 process.

Mr. Moran said the counties took advantage of the rules and regulations that were available and opened the special-use permit process early to determine land-use decisions. The City of Las Vegas followed suit, and its process was similar to that of unincorporated Clark County. Every jurisdiction had a different land-use entitlement process, said Mr. Moran, which required different types of information. Some jurisdictions considered distance separation and zoning requirements and made preliminary determinations of location suitability, and then the Division completed its process to determine whether the applicant was qualified. Those individuals who received provisional certificates could then go through the public hearing process for the special-use permits at the county level.

Mr. Moran said S.B. 276 (R2) would allow the Division and the local jurisdictions to make the decisions together, which was the original intent. The licensure of medical marijuana establishments was no different from any other privileged industry in the state, whether it was for gaming licenses, liquor licenses, or licensure through such entities as the State Board of Cosmetology.

Assemblywoman Carlton said she did not see language in S.B. 276 (R2) that addressed the problem, and she wanted to know whether the process would be corrected. She was very discouraged by the licensure process after the 2013 Legislature, even though the counties were simply trying to protect their citizens; however, the state also had a responsibility, and there was no language in the current bill that addressed the problem. Even though the original legislation was clear about the process, it was apparently not clear to the counties, and she believed that should be addressed. The dispensaries were valuable to the economic growth of each county, and the process had to be clarified.

Senator Farley said she had been in contact with Senator Tick Segerblom, cosponsor of the bill, who would address Assemblywoman Carlton's concerns regarding the process in the near future.

Assemblywoman Titus agreed with Assemblywoman Carlton. When the original legislation was passed, the rural counties were quite concerned about medical marijuana establishments operating in their jurisdictions. Therefore, the rural counties did not accept any of the licenses. There was a cap on the number of licenses that would now be spread between the two larger counties that chose to open dispensaries, and the licenses would be taken away from rural areas. Assemblywoman Titus noted that there was a long process involved if the counties decided to accept a certificate for a dispensary. She believed that the bill was premature, and it would remove the unused certificates from the rural counties and reallocate them to the larger counties. She was also unsure whether the bill addressed any of the problems that had been identified.

Senator Farley said nothing was being taken away from the rural counties, because the licenses were no long applicable; those counties could no longer apply for a license, nor could the licenses be reactivated. She indicated that the counties were contacted to ascertain whether there was any interest in applying for a license, and there was none. The bill would change the law to allow reallocation of the licenses based on population to the larger counties where there was interest in opening additional dispensaries. Senator Farley emphasized that the rural counties had not responded to the inquiry regarding the licenses, and none had asked that a license be reserved. Senator Farley said there was a provision in NRS that allowed the counties to request additional licenses.

Assemblywoman Titus said her concern was that only one establishment had opened, and she believed it would be best to see what occurred with the licenses that had been previously issued; her concern was the reallocation of the unused licenses.

Senator Farley said that originally there was a set number of dispensaries that were to be licensed for operation, but because of several issues with the launch of the industry in 2013, some licenses were not issued. She reiterated that S.B. 276 (R2) would not increase the cap or change the process, other than to address some legal issues that would allow the dispensaries to open.

Assemblywoman Kirkpatrick said when the original legislation was passed, it was to work somewhat the way group homes were managed. The interested parties would apply to the state for licensure to run a group home and upon approval, the parties would then contact the local government to determine a suitable location that complied with zoning and other requirements. Once that was approved, the group home could be opened. Unfortunately, when the legislation was passed regarding medical marijuana establishments, applicants first contacted the counties for a suitable location rather than the state for licensure, which was backwards. Now, there was a quandary about how to fix the process.

Assemblywoman Kirkpatrick asked whether there was language in the bill that ensured no repeat of the same quandary. She opined that local government should be very clear about the process, and that the applicants first had to approach the state for approval and qualification prior to working with the counties to determine a location. Perhaps the record was not clear about the legislative intent, and language should be included in the bill that the expectation of the Legislature was that applicants had to first comply with state licensure; perhaps that would clarify the process.

Assemblywoman Kirkpatrick believed that when licenses were reallocated, the state should ensure that there was a mechanism in place to allow applicants to receive only one license. Someone could not speculate on locations and sell those locations to another applicant. She wanted to make sure that the legislative record was clear regarding the expectation.

Senator Farley said it was her understanding that an applicant had to become licensed by the state and then contact the local jurisdiction to find a location that met the requirements. She said that was included in the original legislation, and she was not sure what the impetus was to avert that process in 2014, but that remained the intent in S.B. 276 (R2). Senator Farley said she had contacted Senator Tick Segerblom, and he wanted to assure the Committee that the process would not be diverted again.

Senator Farley pointed out that an applicant was only allowed to own up to 10 percent of the market, and that was very clear in the original legislation and in S.B. 276 (R2). The ability for a dispensary to relocate would allow

businesses to move to another location if there were several dispensaries in the same area. She indicated that she and Senator Segerblom would review the question about the process and would ensure that it was addressed in the legislation.

Mr. Moran said the legislation would allow (1) dispensaries to relocate and reserve jurisdiction on location suitability to local governments; (2) the ability to transfer all or any portion of the establishment's ownership to another party, with the Division transferring the registration certificate issued to the establishment to the party acquiring ownership, which was an important piece of the legislation; and (3) the ability to reallocate the certificates.

Mr. Moran said he wanted his testimony to be very clear that the bill made no reference to new qualifications required by the Division of Public and Behavioral Health. The reallocation of certificates would be to prequalified persons who were part of the pool of applicants considered by the Division. Also, there was a process that would dovetail between the Division and local governmental entities, so both would properly follow the process set forth by existing legislation and code. The purpose of the bill was to ensure that local governmental entities continued to handle local decisions, and the Division continued to ensure that applicants had complied with the provisions and were approved to operate a medical marijuana establishment. There were no changes to the process in the bill, and Mr. Moran said he was somewhat confused, because legislators apparently believed that the bill would change the process.

Assemblywoman Kirkpatrick said the original legislation was barely two years old, and it typically took approximately 18 months to get through the entire process and receive approval. The counties could come back in the future to request a certificate for a dispensary from the Legislature. Assemblywoman Kirkpatrick said she had argued with the counties originally because they were considering locations prior to the applicant being approved by the state, and she wanted to ensure that the process was clear on the record.

Assemblyman Kirner said he wanted to be clear that it was his desire that after a decision had been made regarding the location of dispensaries, if there was more than one dispensary in a location, such as the three located in Incline Village, that the local government would have the authority to request that the other dispensaries move to another location. He noted that section 3, subsection 2, of the bill indicated that an establishment could move to a new location under the jurisdiction of the same local government as its original location. However, it did not appear that the local government had the authority to ask an establishment to move. Assemblyman Kirner asked whether

section 2 of the bill gave local governments the authority to require an establishment to relocate.

Mr. Moran said that the local government could not take away a land-use entitlement unless it expired. Those locations had obtained special-use permits to conduct business at that location from the local jurisdiction and had also been qualified by the state to operate a medical marijuana establishment. If the establishment wanted to move, it would be incumbent upon the owner to file an application within the jurisdiction under the new language in section 3, subsection 2, of S.B. 276 (R2), which would allow the public hearing process to occur.

Mr. Moran indicated that if a dispensary wanted to move within the original jurisdiction, the owner would be required to petition the local governmental jurisdiction, as required via local ordinance and code. The Division of Public and Behavioral Health would also become involved to ensure that the new location was deemed appropriate for establishing a dispensary.

Assemblyman Kirner said it appeared that the answer was that local governments could not ask an already approved medical marijuana establishment to relocate because the location was no longer a special-use permit area.

Mr. Moran said the local government could not ask the establishment to relocate.

Chair Anderson commented that the process was similar to any other business license. He indicated that he paid his state business license, but the local government approved the location.

Assemblyman Kirner there were requirements that specified that certain types of businesses could not be located near schools.

Chair Anderson asked whether there was testimony to come before the Committee in support of S.B. 276 (R2).

Alex Ortiz, representing Clark County, stated that Clark County had worked closely with the two sponsors of the bill to address some of the issues that occurred during the original application process. Clark County supported the bill and had originally submitted a fiscal note of approximately $112,000 per year to hire a business license agent. Mr. Ortiz said Clark County would remove that fiscal note because it had the ability to provide the support needed for the process.

Lisa Gianoli, representing Washoe County, stated the County supported S.B. 276 (R2). She concurred with Assemblyman Kirner that there was a concentration of dispensaries in one location in Washoe County, and individuals would like to have those establishments move to another location. The County hoped to address the relocation of those establishments through a public hearing process, as well as approve another location where there were no establishments. Ms. Gianoli said Washoe County worked with the sponsors of the bill to include the language that allowed entities to relocate.

Adam Mayberry, representing the City of Sparks, stated that the city supported S.B. 276 (R2) and had worked with both sponsors.

Assemblywoman Kirkpatrick said she assumed that after the legislation passed in 2013, local governments would establish ordinances and distance requirements to ensure that the medical marijuana dispensaries were spread out within the counties, and that there was proper access for the public. She asked whether there was a process in place in Clark and Washoe Counties to accommodate the dispensaries.

Ms. Gianoli stated that the process in Washoe County was slightly different from that in Clark County. Washoe County identified parcels and advised the state of the locations, but no ordinances were put into place for that process. She noted that the county was concerned about the concentration of dispensary locations and believed that should be addressed. Ms. Gianoli said if the individuals who were granted certificates wanted to change locations, the county would attempt to relocate the businesses within a widespread area, dependent upon zoning requirements. The bill would allow the individuals to relocate.

Assemblywoman Kirkpatrick wondered whether Washoe County would adopt ordinances or standards during a public hearing where citizens could voice their opinions and which would allow the businesses to relocate.

Ms. Gianoli said that was the intention, and based upon previous discussions with the Washoe County Board of Commissioners, there would be a very open process that included public hearings, and citizens would have input regarding the location of the dispensaries.

Mr. Ortiz said that Clark County had a public participation process in place in 2013 after the legislation passed. The County worked with applicants and vetted their applications in a public forum with the Clark County Board of Commissioners. Mr. Ortiz believed that at that time, the public had an opportunity to express their concerns; he pointed out that the public could

speak to and/or contact commissioners at any point in time to express their concerns. The process included the required separation of businesses and land use permits, which had been in place for other businesses for many years. Clark County had learned much during the interim, as had the state, and the bill was an effort to address some of the concerns and help local governments and the state establish a better process.

Assemblyman Hickey said his concern was with the addition of the rural licenses being reallocated to Clark and Washoe Counties, and he asked whether Washoe County had determined whether additional facilities would be problematic.

Ms. Gianoli replied that unincorporated Washoe County would receive one additional location; the County had discussed areas where there were no dispensaries that would make good sense for a facility. The one additional location would probably help the County.

Assemblywoman Carlton said she would like information regarding how Clark County had selected the first round of medical marijuana establishment locations and how that process might change with additional facilities. She wanted to ensure that the state and local governments did not continue to mismanage the process and would get it right this time. She asked for information about the proposed changes for Clark County.

Mr. Ortiz stated he would be happy to discuss the matter and would contact Assemblywoman Carlton as soon as possible.

Chair Anderson asked whether there was further testimony in support of S.B. 276 (R2).

Scott Gilles, representing the City of Reno, stated that the City of Reno supported the bill as written and appreciated the additional dispensary within the city limits, as well as the language that would add flexibility in relocating dispensaries.

Will Adler, Executive Director, Nevada Medical Marijuana Association, stated that the Association fully supported S.B. 276 (R2). The access to more dispensaries would help, and the bill would spread the clustered groups of dispensaries in Washoe County. The ability to relocate would also help with dispensary clusters in the Lake Tahoe area.

Mr. Adler said the clusters occurred because all applications had to be assessed individually and could not be reviewed as a group. He pointed out that applicants were either approved or disapproved for a license depending upon their scores. The applicants with the highest scores received approval of their dispensary applications, and those locations were all in the Lake Tahoe area. There was also an approved location on Mount Rose Highway. Mr. Adler said the county did not deliberately approve locations that were clustered in one area, but once approved, the locations could not be changed. The county vetted the locations prior to the application process so that locations would be governed by proper procedures and practices.

Mr. Adler said applicant approval was based strictly on scores, and perhaps the new round of applications could be assessed differently by the counties and could be weighed against each other to determine location and public access, rather than simply approving applicants based on their scores.

Mr. Adler said the bill would provide the dispensaries with the ability to relocate and would lessen the cluster of businesses in one location. Dispensaries could relocate within Washoe County where there was more need and where there were no other dispensaries. Obviously, said Mr. Adler, a cluster of dispensaries in the same location could not all survive, and the bill would give flexibility to the counties to select new locations and properly distribute the locations by population geographically.

Assemblywoman Swank commented on the distribution of businesses by local governments, and indicated that there were more bail bond businesses in her neighborhood than other areas of Las Vegas. She said it would be interesting to see how the City of Las Vegas distributed the medical marijuana establishments.

Susan Morrison, private citizen, Washoe County, Nevada, stated that she lived in unincorporated Washoe County in Assemblyman Kirner's district. Ms. Morrison said she was one of a number of concerned citizens about the placement of a marijuana dispensary on the scenic Mount Rose Highway. She stated she supported S.B. 276 (R2), inasmuch as it would allow the medical marijuana dispensary to relocate from its current location to another location within the original jurisdiction. The Legislature passed S.B. No. 374 of the 77th Session (2013), which only allowed a dispensary to move within a five-mile radius of its original location. Equally important, said Ms. Morrison, was the language in S.B. 276 (R2) that required a public hearing prior to relocation of dispensaries. She opined that public notification and the opportunity for citizen participation were absolutely vital to the maintenance of the representative form of government established by the founding fathers.

Ms. Morrison stated that previous testimony indicated there were special use hearings and public notification prior to the currently approved locations, but her community was totally unaware of any public hearings or notifications. The only way the community learned about the location of the dispensary was through an offhand comment made by a businessperson to a member of the community about the "pot shop" location. Ms. Morrison said the neighborhood soon discovered that a dispensary location had been approved along the Mount Rose Highway within view of a high school, and on a very dangerous stretch of the highway.

The current lack of community notification in the placement of marijuana dispensaries was detrimental to citizens' lives and the well-being of the community. Ms. Morrison said her community had grown through grassroots effort and had involved itself in community matters with the Washoe County Board of Commissioners. When contacted, the commissioners pointed to the map of three approved locations that they said were approved by the state. The statement by the commissioners to the community was that the law had to be changed at the state level before the dispensaries could relocate.

Ms. Morrison said some of the frustration was determining who could help with the situation—the state or Washoe County. It had been a learning process for the community, but the bottom line was that there had to be a process developed that determined the responsibilities of the county and the state.

Ms. Morrison said the language in S.B. 276 (R2) that she supported was the requirement for public hearings prior to the relocation of a marijuana dispensary and the ability to move the dispensaries outside the five-mile radius of their current location within Washoe County. It was her understanding that some dispensaries would relocate, given that opportunity.

The issues surrounding the placement of marijuana dispensaries had risen to a high level of visibility in a short period of time in Ms. Morrison's community, and the efforts to protect the community, the families, and the schools from inappropriately placed dispensaries would continue and expand. Therefore, said Ms. Morrison, inasmuch as S.B. 276 (R2) allowed for relocation of dispensaries within the original jurisdiction and required a public hearing, she supported the bill.

Rex J. Massey, private citizen, Washoe County, Nevada, stated that he was personally opposed to marijuana sales and distribution in Nevada, specifically in his neighborhood. Mr. Massey said he would cautiously support S.B. 276 (R2) and knew full well that there were unintended consequences from public policy. He stated he shared some of Assemblyman Kirner's concerns. The process by

both state and local governments had resulted in a proposed medical marijuana dispensary being located adjacent to a public school, near an elementary school, and on a very dangerous highway. The dispensary location was surrounded by a residential area, and Mr. Massey felt Mount Rose Highway was an inappropriate location for that type of facility.

Ms. Massey said the most disturbing issue surrounding the location and the process was that everyone he had talked to—citizens, voters, and neighbors—knew nothing about the process and how the location was approved. He noted that most public notices were posted on a piece of paper and the public usually did not attend the meetings. Most of his neighbors were upset about the location of the dispensary, and even though previous testimony indicated that the location was approved through a public process where citizens had the opportunity to voice their opinions, Mr. Massey said that had not occurred.

Continuing his testimony, Mr. Massey said he took a day off work to appear at this hearing and express his views regarding S.B. 276 (R2). He believed that public policy regarding dispensary locations had created an unintended consequence, and he could not support a dispensary location on Mount Rose Highway.

Mr. Massey hoped that S.B. 276 (R2) would begin to address some of the concerns voiced by citizens regarding dispensary locations. Unfortunately, when a facility was located in a neighborhood where it was not embraced or supported, it would not be successful. That was the case regarding the Mount Rose Highway location where the neighborhood would not offer support for the dispensary. That was the result of the government process currently in place. He would support S.B. 276 (R2) to the extent that it provided opportunities for real public input by those neighbors in areas directly affected. He would also support mandates for greater separation from facilities such as schools, if that were included in the bill.

Mr. Massey believed that the bill should provide some flexibility for the license holders to move from areas where there were problems, such as the location on the Mount Rose Highway. Perhaps the bill would go so far as to authorize the release of confidential impact assessment reports, which currently could not be reviewed by the public.

Mr. Massey said he could not believe the final outcome of the process, which was not good, and he, his family, and his neighbors deserved better. It appeared Nevada was heading in the same direction as Colorado, which was emerging more and more each day as a social disaster. Mr. Massey commented

that Colorado Governor John Hickenlooper had stated that the tax revenue derived from marijuana sales was insignificant to the State of Colorado. He also indicated that there were rising instances of children being brought to emergency rooms suffering from marijuana intoxication, and there were rising levels of arrests for drivers suffering from marijuana intoxication. Mr. Massey hoped that Nevadans would be smarter in the matter of marijuana dispensaries.

Pam Campanaro, private citizen, Washoe County, Nevada, stated she was a resident of unincorporated Washoe County in Assemblyman Kirner's district. For 17 years, Ms. Campanaro had lived in a subdivision called Rolling Hills, which was located in south Reno off the Mount Rose Highway. She considered herself to be an active member of the community in which she and her family resided. Ms. Campanaro said she was the president and cofounder of the Rolling Hills neighborhood watch program, which was endorsed by the Washoe County Sheriff's Department, and was an active member in her neighborhood church. She was also a leader for the Girl Scouts of America and volunteered for the Nevada Humane Society.

Ms. Campanaro said she and her husband were business owners in Washoe County, and she was a board member of the parent teacher association at Galena High School, where her daughter currently attended school. Galena High School was less than one-half mile from her home.

According to Ms. Campanaro, other than voting in all public elections, she was not a politically driven person; however, when she became aware that several medical marijuana dispensaries were proposed within her community, she wanted her voice to be heard, which was the reason she was at the meeting today. Ms. Campanaro said she had reached out to many people in her community, and she shared the same opinions as those in her community, including Galena High School Principal Tom Brown.

Ms. Campanaro said she and her community supported S.B. 276 (R2), which allowed dispensaries to relocate within the boundaries of the original jurisdiction; however, public notification was imperative. Previous testimony indicated that there had been public hearings regarding the location of dispensaries, but no one she had spoken to was aware of those hearings. One reason she urged amending the public notification language was because of the current situation when licenses had been awarded to medical marijuana establishments that would be located on the Mount Rose Highway. Unfortunately, that stretch of highway had been the scene of several horrific vehicle accidents.

Ms. Campanaro stated that the Department of Transportation (NDOT) had held several meetings with Galena High School in an attempt to rectify the situation. The Mount Rose Highway near Galena High School was a very busy area with 80 percent of 1,200 students and parents traveling the highway up to four times a day, to and from the high school. Student athletes also trained for the track team where the dispensaries would be located. The dispensaries would sell products known to contain marijuana and labeled as "edibles." Ms. Campanaro said "edibles" included candy, sodas, fruit juices, baked goods, cookies, brownies, cupcakes, and cereals.

Ms. Campanaro stated she supported S.B. 276 (R2); however, the language should include public notification, which had not been brought to light in the past.

Brian Rasmussen, private citizen, Washoe County, Nevada, stated he was also a resident of unincorporated Washoe County in Assemblyman Kirner's district. He offered cautious support of S.B. 276 (R2) and noted that most issues had already been discussed, and his concern was also about public notification. Mr. Rasmussen said there had not been public involvement in 2013 when Washoe County submitted a list of preapproved sites to the state. He said when he and his neighbors tried to make their voices heard at the county level, they were told by the county that its hands were tied, and changes would have to be made in statute by the Legislature. They had also made their concerns known at the Division of Public and Behavioral Health, and the Division also indicated that its hands were tied because the county had provided the list of sites, and the Division could not change the locations.

Mr. Rasmussen commented that everyone's hands could not be tied, and greater public input was needed specific to relocating dispensaries. He said there would be an effort going forward to make additional changes, and he and his neighbors were concerned about the timing of the bill and the shortness of time left in the 2015 Session. Mr. Rasmussen indicated that Senate Bill (S.B.) 447 (R3) included the same language that allowed dispensaries to relocate, but there was no language that required a public hearing. That bill had passed both houses of the Legislature and was once again before the Senate for final approval. Mr. Rasmussen opined that S.B. 447 (R3) could be quickly approved and forwarded to the Governor for final approval.

Mr. Rasmussen said if S.B. 276 (R2) was not passed, the dispensaries could relocate without a public hearing. There were no special-use permits required in Washoe County for the dispensaries.

There being no further testimony in support of S.B. 276 (R2), the Chair asked whether there was testimony to come before the Committee from those who were opposed to or neutral on the bill.

Joseph Crowley, Director and Spokesman, Sierra Wellness Connection, Reno, Nevada, said he appreciated the hard work of the 2013 Legislature to establish the rules and regulations for the licensure of medical marijuana establishments through the Division of Public and Behavioral Health. The Division had done an excellent job in establishing the process.

Mr. Crowley indicated that Sierra Wellness Connection was in favor of the requirements to operate a dispensary and felt the business had vastly improved by having strong policies in place and because of those firms that had invested time, effort, and money to become recognized as license holders. Sierra Wellness Connection went through the very lengthy process, and the Division had been cooperative and insistent regarding its policies and procedures, for which it should be commended, along with the Legislature for establishing dispensaries.

Mr. Crowley said he had heard from others in the business throughout the country that they regarded the Nevada process as a model for the rest of the country. There were at least 12 other states reviewing possible medical marijuana establishments. He indicated that state control was essential, and the Sierra Wellness Connection had gone through that process, which was strict and difficult, but also fair. Mr. Crowley said Sierra Wellness Connection had dispensaries and cultivation facilities in both Reno and Carson City.

Chair Anderson asked whether Mr. Crowley was opposed to the language of S.B. 276 (R2).

Mr. Crowley said he was aware that the rural counties had not used the certificates, and he believed they deserved a second opportunity to establish dispensaries. He stated he was speaking in opposition to section 5, and in strong support of transferability in section 2, subsection 2. Mr. Crowley said the medical issue was the most important part of the dispensaries. The dispensaries were in the business of providing medical marijuana to recipients, and perhaps there was money to be made, but that was unknown at the present time. There was no data available at the present time for Nevada dispensaries, and the only projections were based on sales in Colorado.

Mr. Crowley said data developed in the early months of the business, which was slated to open in August 2015, should indicate that the need was clear and the demand was great. The Division of Public and Behavioral Health had an

opportunity to fix the problem in August of each year through an assessment of demand. At that time, perhaps persons who wanted to open additional dispensaries in Clark and Washoe Counties would be recognized and could go through the process. The process should begin with the Division of Public and Behavioral Health, as it had in the past.

Mr. Crowley said it seemed that licensure was for the state to decide, rather than the Legislature. If the Legislature was the deciding entity in the location of marijuana dispensaries, it would likely set a precedent. Mr. Crowley suggested that the transferability be sustained in S.B. 276 (R2), but he was opposed to the language of the bill that expanded the number of dispensaries in Clark and Washoe Counties.

Assemblywoman Kirkpatrick stated that section 5 of the bill was currently in statute and was already in place. The Legislature had determined the number of licenses that would be issued for the entire state. It appeared that Mr. Crowley approved of transferring the licenses to another owner, and she wondered whether Mr. Crowley was opposed to section 3, subsection 2, which would allow marijuana establishments to relocate. The bill would not change the scope of businesses throughout the state, and the cap would remain at 66.

Steve Polikalas, representing Commerce Park Medical, LLC, stated that although 66 dispensaries statewide had been approved by the 2013 Legislature, distribution was based on population caps of the counties and cities. To reallocate certificates to counties where a cap was already in place was an unfair and impractical way to address the issue related to a need that had not yet arisen. That would result in a dilution of the markets that were originally approved in Washoe and Clark Counties. Business and investment opportunities and decisions had been made that were antimonopolistic based on the original legislation. For instance, not more than 10 percent of the market share could be owned by one applicant, and increasing the number of dispensaries in Washoe County would deprive current license holders of the ability to request more than one application.

Assemblywoman Kirkpatrick said there were hundreds of applications in Clark County for licenses to operate dispensaries, and only a set number were selected. She asked how dispensaries were different from any other business. Clark County did not limit the number of grocery stores because the market drove the number, and at times the market was not good for businesses and investors. She noted that some applicants who were approved might not be successful in opening a medical marijuana establishment. She wondered why the dispensaries were different from any other model used by local government. If there were additional licenses available throughout the state, those should be

used because what the market might dictate regarding dispensaries was unknown.

Mr. Polikalas said unlike many other businesses, the dispensaries were a medical business, and marijuana remained a federally prohibited, Schedule I controlled substance. The U.S. Department of Justice memorandum of August 29, 2013, from James M. Cole, Deputy Attorney General, issued guidelines by which it would not prosecute certain activities involving medical marijuana and, subsequently, recreational marijuana use, if there was a firm rubric and state-regulated system regarding those activities in place. On an industry-wide level, as it related to the privileged licensees who were permitted by the state on a provisional level by virtue of the scoring system, the industry needed to be protected from unintended consequences of undermining the credibility of the licensees, and the industry as a whole, by changing the method used to license dispensaries.

Mr. Polikalas said he would like to disabuse the Committee of some of the notions that were addressed previously in support of S.B. 276 (R2) because, as previously stated, S.B. 447 (R3) would address the mobility within the original jurisdiction issue, so that issue should be off the table. Section 5, subsection 4, of S.B. 276 (R2) would not only allow additional dispensaries, but would also take the authority away from the state. That section stated, "A local governmental jurisdiction may: (a) Issue a business license or deem a medical marijuana establishment in compliance with all local governmental ordinances or rules, regardless of any ranking of the establishment established by the Division."

Assemblywoman Kirkpatrick believed that section 5 of the bill was existing language; however, Mr. Polikalas disagreed and stated the language was from an earlier bill, but was not existing law. Local governments could license any dispensary from any category of rankings from the state. The concern was that if the number of dispensaries was expanded, the local government could pick any applicant.

Assemblywoman Kirkpatrick said the current law allowed local governments to license a medical marijuana establishment from the applicants who had been approved by the state. The problem appeared to be that each county was using a different process, but the applicants had to be approved by the state.

Mr. Polikalas said those different processes, coupled with the expansion, would now allow a local government to select a dispensary no matter what the applicant's score had been under the state rubric. Whereas, the state ranking

capped the permitted provisional licensees at a set level for each county, which was how the state maintained control over the qualification of the applicants.

Assemblywoman Kirkpatrick said there had always been a list of approved applicants on the Division's website, and the local governments used different processes to determine locations. She believed Washoe County selected the top-rated applicants from the list; most businesses would select applicants who scored at the top of the list rather than the bottom.

Mr. Polikalas reiterated his previous point, saying that the changes in the bill would make licensure available for all applicants, regardless of their score. In fact, Mayor Geno Martini, City of Sparks, commented in a letter that the City of Sparks did not have the resources or expertise to select applicants for medical marijuana establishments. Mr. Polikalas said the language of the bill would take the decision regarding qualified applicants away from the state and place the decision in the hands of local government. The question was not how to reallocate the eight unused dispensary applications, but how to solve the litigation problem.

Assemblywoman Kirkpatrick did not believe that some language in the bill was the same as that in the original bill. She understood the federal rules and believed that Nevada had an appropriate process, even though there was some confusion in the beginning.

Mr. Polikalas said the bill would fix the problem of mobility, which would solve the cluster problem. The 2013 Legislature attempted to use best practices, and the 2015 Legislature could learn from the mistakes that had been made and avoid California-type problems. The investment and hard work that applicants put forth to receive the certificates and be approved by both the state and local governments was prospective and not adjudicated by the Legislature. The industry found it difficult to move forward from its nascent stage because of attempts to change the rules midstream. Mr. Polikalas said that was not good for the industry as a whole as applicants tried to get their businesses up and running.

Mr. Polikalas noted that medical marijuana dispensaries continued to be a highly debated industry with the federal government. The newly appointed Attorney General might or might not agree with the position of the previous Attorney General about the industry, and Mr. Polikalas believed Nevada should be very careful about changing the rules.

In closing, Senator Farley said the original intent was to issue 66 licenses, and that cap would not be increased by the bill. The bill would allow for reallocation

of unused or inactive licenses from counties that had not used them to counties that would activate those licenses. There was no intent to create a legislative monopoly. Legislators had selected a model that was conservative in 2013 and had the opportunity to review the activity in the marketplace over the past two years. The bill would change the rules to allow Nevada to become a leader in the industry rather than a state that was an example of what was wrong in the industry.

Senator Farley said S.B. 276 (R2) incorporated the best practices from other states. She pointed out that supply needed to meet the demand, and the best nondiscriminate indicator was population, and that was how the bill proposed to reallocate the unused licenses. There were those who opposed the bill because it would allow additional competition in the industry in the larger counties, and she applauded those applicants who had followed the rules, met the deadlines, and were qualified and approved. However, said Senator Farley, the reality was that the medical marijuana industry was dynamic and moving forward.

Senator Farley clarified that the bill would only reactivate unused licenses for counties that wished to use them, allow businesses to relocate, allow owners to transfer ownership, and ensure that applicants met the state requirements.

Chair Anderson asked whether there was further testimony in opposition to or neutral regarding S.B. 276 (R2). There being no further testimony, the Chair closed the hearing and opened the hearing on Senate Bill 491 (1st Reprint).

Senate Bill 491 (1st Reprint): Provides for the award of a grant to a nonprofit organization for use in Fiscal Year 2015-2016 and Fiscal Year 2016-2017 for the recruitment of persons to establish and operate high quality charter schools to serve families with the greatest needs. (BDR S-1189)

Dale A.R. Erquiaga, Superintendent of Public Instruction, Department of Education, stated that Senate Bill (S.B.) 491 (1st Reprint) carried out part of The Executive Budget. The bill included $5 million in each year of the upcoming biennium held as a dollar-for-dollar match from a nonprofit organization to support the solicitation and development of high-quality charter schools in Nevada and to leverage many of the initiatives in the educational reform and investment package. Mr. Erquiaga said the bill contained the effecting language that would require the Purchasing Division, Department of Administration, to manage the request for proposal (RFP) and select the nonprofit organization that would then be required to match the state dollars. The nonprofit would be a support organization that operated outside government to match state support to develop personnel and operations for a high quality charter school.

Chair Anderson asked whether there was further testimony to come before the Committee in support of S.B. 491 (R1).

Lauren Hulse, Executive Director, Charter School Association of Nevada, stated that the Association supported S.B. 491 (R1) because it would greatly increase the charter sector in Nevada.

Chair Anderson asked whether there was further testimony to come before the Committee in opposition to or neutral on S.B. 491 (R1), and there being no further testimony, the Chair closed the hearing.

The Chair declared the Committee in recess at 10:08 a.m., and reconvened the meeting at 10:13 a.m. The first work session bill was Assembly Bill 475.

Assembly Bill 475: Revises provisions governing the financial administration of the Real Estate Division of the Department of Business and Industry. (BDR 54-1171)

Cindy Jones, Assembly Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau, stated that Assembly Bill (A.B.) 475 revised provisions governing financial administration of the Real Estate Division, Department of Business and Industry. The bill revised the licensing renewal period from two years to one year for initial licensure and from four years to two years for renewals.

Ms. Jones said that proposed Amendment No. 973, Exhibit D, would continue the Real Estate Division budget as both State General Fund supported and also fee-supported. Originally, there was additional fee revenue in the budget that was subsequently amended out. The bill was approved by the Committee as amend and do pass on May 23, 2015; however, subsequent to the bill being amended, Fiscal Analysis Division staff noted residual language from the original proposal that needed to be corrected.

Ms. Jones said the amended language would allow the Real Estate Division to retain certain fees in its budget in alignment with the budget approved by the Assembly Committee on Ways and Means and the Senate Committee on Finance. Therefore, Fiscal Analysis Division staff recommended the Committee action of May 23, 2015, be rescinded and the bill again be processed as amend and do pass with proposed Amendment No. 973 (Exhibit D).

Jaimarie Dagdagan, Program Analyst, Fiscal Analysis Division, Legislative Counsel Bureau, explained that the additional amendments to A.B. 475 included elimination of the "Text of Repealed Section" on page 9 of the exhibit.

The elimination of the repealed language would allow the agency to deposit fines and penalties related to registration of an appraisal management company to the State General Fund. Fiscal Analysis Division staff also found residual language in section 4 and section 15 from the original proposal that the Division become fee-funded, which no longer applied.

Ms. Jones advised that the action required by the Committee would be to rescind the action of May 23, 2015, to amend and do pass A.B. 475 and to make a second motion to amend and do pass the bill with proposed Amendment No. 973 (Exhibit D).

> ASSEMBLYWOMAN KIRKPATRICK MOVED TO RESCIND THE ACTION OF MAY 23, 2015, TO AMEND AND DO PASS ASSEMBLY BILL 475 AS AMENDED.
>
> ASSEMBLYWOMAN CARLTON SECONDED THE MOTION.
>
> THE MOTION PASSED. (Assemblymen Edwards, Hickey, and Kirner were not present for the vote.

Chair Anderson called for a motion to amend and do pass A.B. 475 with proposed Amendment No. 973.

> ASSEMBLYWOMAN KIRKPATRICK MOVED TO AMEND AND DO PASS ASSEMBLY BILL 475 AS AMENDED WITH PROPOSED AMENDMENT NO. 973.
>
> ASSEMBLYWOMAN BENITEZ-THOMPSON SECONDED THE MOTION.
>
> THE MOTION PASSED. (Assemblywomen Dickman and Titus voted no. Assemblymen Edwards and Kirner were not present for the vote.)

Assembly Bill 476: Revises provisions relating to unarmed combat. (BDR 41-1172)

Cindy Jones, Assembly Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau, stated that Assembly Bill (A.B.) 476 was processed by the Committee on May 23, 2015, as amend and do pass. Prior to the amendment of the bill, the Office of the Attorney General (AG) identified additional language for inclusion in the bill.

Assemblywoman Kirkpatrick requested that the Committee hold the bill for additional discussion regarding the live entertainment fees; she wanted to ensure that sufficient funding was available for the Real Estate Division.

Chair Anderson agreed to reschedule A.B. 476.

Assembly Bill 478: Revises certain fees collected by the Real Estate Division of the Department of Business and Industry and imposes certain new fees to be collected by the Division. (BDR 10-1173)

Cindy Jones, Assembly Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau, stated that there was a proposed amendment (Exhibit E) to Assembly Bill (A.B.) 478, and Ms. Dagdagan would present the amendment to the Committee. The bill was heard by the Committee on April 2, 2015; however, Fiscal Analysis Division staff had identified additional changes that were required in the proposed amendment regarding the alignment of *Nevada Revised Statutes* with the ability of the agency to collect and receive fees.

Jaimarie Dagdagan, Program Analyst, Fiscal Analysis Division, Legislative Counsel Bureau, explained that A.B. 478 was a budget bill. The proposed amendment before the Committee (Exhibit E) aligned the new fees and fee increases related to the sale of subdivided land and time-shares. The fees were included in the budget for the Real Estate Division, Department of Business and Industry, which was closed by the Assembly Committee on Ways and Means and the Senate Committee on Finance on May 15, 2015.

Ms. Dagdagan stated that at the budget hearing on March 18, 2015, the American Resort Development Association and the Southern Nevada Homebuilders Association testified in support of the fee increases. Fiscal Analysis Division staff was currently working with the Legal Division, Legislative Counsel Bureau, to include language that would identify the fees that would be credited to the Division's budget account from the fees that would be retained in the State General Fund.

Ms. Jones said the bill would affect the budget, and because of time constraints, Fiscal Analysis Division staff requested that the Committee pass A.B. 478 with the conceptual amendment that would adjust the language in the mock-up to ensure that the fees were deposited correctly to the budget account for the Real Estate Division and in the State General Fund.

ASSEMBLYWOMAN KIRKPATRICK MOVED TO AMEND AND DO PASS ASSEMBLY BILL 478 AS AMENDED.

ASSEMBLYMAN ARMSTRONG SECONDED THE MOTION.

Assemblywoman Carlton asked whether the amendment would determine which fee revenue would be deposited in the Division's budget and the State General Fund, but would not change the actual fees in the bill.

Ms. Dagdagan said the original language of the bill would deposit the fees in the budget for the Division, and the proposed amendment would determine the fee revenues that would be placed in the Division's budget and in the State General Fund.

Assemblywoman Carlton asked whether the amendment basically changed the distribution of the fee revenue.

Assemblywoman Kirkpatrick said that the subcommittees had discussed the Division retaining the fee revenue and becoming self-funded.

Joi Davis, Senior Program Analyst, Fiscal Analysis Division, Legislative Counsel Bureau, indicated there had been discussion regarding the Division becoming self-funded, and the proposed amendment would increase fees in some instances and add new fees, which would align with the budget closing for the Division. Ms. Davis said Fiscal Analysis Division staff was working with the Legal Division to clarify which fees would actually be retained in the budget account to support the Division and which fees would continue to be deposited in the State General Fund. Fiscal Analysis Division staff felt the original proposed amendment provided by the Department of Business and Industry did not clarify the distribution of the fee revenue. The proposed amendment (Exhibit E) identified the new fees and the increased fee amounts, and the Legal Division would determine the proper allocation.

> THE MOTION PASSED. (Assemblywomen Dickman and Titus voted no. Assemblyman Edwards was not present for the vote.)

Assembly Bill 480 (1st Reprint): Revises provisions relating to mortgage lending. (BDR 54-1174)

Chair Anderson noted that there was proposed Amendment No. 7689 (Exhibit F) to Assembly Bill 480 (1st Reprint), and a second proposed amendment (Exhibit G) requested by the Nevada Mortgage Lenders Association and the Nevada Bankers Association. He asked representatives to come forward and discuss the proposed amendments and the requested changes.

Senator Patricia Farley, Senate District No. 8, explained that proposed Amendment No. 7689 to A.B. 480 (R1) would be explained by Mr. Horne. She commented that it was a good bill that would help Nevada.

William C. Horne, Attorney at Law, Law Office of William C. Horne, LLC, Las Vegas, Nevada, stated that proposed Amendment No. 7689 to A.B. 480 (R1) would allow for the creation of thrift companies in Nevada in Chapter 677 of *Nevada Revised Statutes*. The impetus behind the proposed amendment (Exhibit F) was that financial institutions in Nevada had declined to accept deposits from medical marijuana establishments. The problem that had been experienced in Colorado was that the multiple dispensaries throughout that state were stockpiling cash, which created a public safety concern.

Mr. Horne said he and Mendy Elliott, Senior Partner, Capitol Partners, LLC, Reno, Nevada, had worked together in an effort to alleviate the problem and had determined that allowing thrift companies in Nevada would be an appropriate solution. The amendment would not only allow thrift companies to accept deposits from medical marijuana establishments, but it would also provide another financial institution to serve small businesses throughout the state that did not have access to other banking facilities. Mr. Horne believed that would help the state's economy. Thrift companies were historically known to provide loans and also be depositories for small businesses. He hoped that the amendment (Exhibit F) to A.B. 480 (R1) would be the first step in allowing thrift companies to operate in Nevada, thereby allowing the medical marijuana dispensaries to continue to move forward, while also creating an industry that would provide support to small businesses.

Mr. Horne referred to page 1 of proposed Amendment No. 7689—section 101.3, subsection 1, paragraph (a), subparagraph (3)—that allowed thrift companies to operate with a contract for the insurance of deposits issued by a private insurer and approved by the Commissioner of Mortgage Lending and the Commissioner of Insurance. Section 101.7, subsection 2, on the second page of the amendment required the Commissioner of Mortgage Lending to adopt regulations prescribing the requirements that must be complied with before a private contract for deposit insurance was approved. The amendment also deleted some provisions currently in statute that precluded thrift companies that were not licensed before October 1, 1997, from operating in Nevada with private deposit insurance. He noted that there were no thrift companies currently operating in Nevada.

Per Mr. Horne, the bill would become effective upon passage and approval. Proposed Amendment No. 7689 (Exhibit F) to A.B. 480 (R1) did not affect any other provisions of the bill and would not jeopardize the industry. He had worked with George E. Burns, Commissioner, Division of Financial Institutions, Department of Business and Industry, in preparation of the proposed amendment, which had also been reviewed by Bruce Breslow, Director, Department of Business and Industry.

Assemblyman Kirner mentioned that he had discussed the amendment with Mr. Horne and concurred with the proposed amendment.

Assemblyman Sprinkle asked about the regulatory body over the thrift companies. He believed there could be an opportunity for thrift companies to "launder money."

Mr. Horne replied that the Division of Financial Institutions, Department of Business and Industry, would provide oversight of the thrift companies under the *Nevada Revised Statutes* (NRS).

Mendy Elliott stated that the regulatory process would not change within the NRS. The regulations for thrift companies were in place, and proposed Amendment No. 7689 would provide the opportunity for thrift companies to secure private insurance. The Commissioner of the Division of Financial Institutions would continue to regulate the industry, and those who applied to operate a thrift company would go through a strict, regimented, regulatory process, as well as Federal Bureau of Investigation (FBI) background checks. The intent of the law was to provide good public policy.

Ms. Elliott said the bill and proposed amendment would create new entities that would not only provide access to capital for small businesses, but would also provide an alternative repository for medical marijuana establishments.

Assemblyman Hickey asked about a potential congressional authorization for banks to accept deposits from medical marijuana establishments.

Mr. Horne said congressional action would not necessarily be needed, but some type of administrative action by the federal government would be necessary for banks to accept such deposits.

Chair Anderson asked whether there was further testimony to come before the Committee in support of A.B. 480 (R1).

Bruce Breslow, Director, Department of Business and Industry, stated that George E. Burns, Commissioner, Division of Financial Institutions, Department of Business and Industry, could not be at the hearing today, but Mr. Breslow wanted to inform the Committee that he and his staff had vetted proposed Amendment No. 7689 (Exhibit F). The amendment and the bill would provide the same opportunities for thrift companies as those provided to credit unions to secure private insurance; he reiterated that the Department supported the bill and the proposed amendment.

Chair Anderson asked whether there would be a fiscal effect on the Division. Mr. Breslow replied that there would be no fiscal effect.

Assemblywoman Kirkpatrick noted that she had prepared an additional proposed amendment (Exhibit G) to A.B. 480 (R1), because testimony from the Nevada Mortgage Bankers Association and the Nevada Mortgage Lenders Association indicated that additional language was needed in section 86.5 of A.B. 480 (R1). Assemblywoman Kirkpatrick said she thought she was preparing an amendment to eliminate the necessity of going through the regulatory process. She asked whether her proposed amendment (Exhibit G) was still necessary.

Terry Reynolds, Deputy Director, Programs, Department of Business and Industry, stated that he and Jim Westrin, Commissioner, Division of Mortgage Lending, Department of Business and Industry, had discussed the matter with the Legal Division, Legislative Counsel Bureau, and it had been determined that adding the word "or" to section 86.5 was not necessary.

Assemblywoman Kirkpatrick believed the testimony was that the Division would be unable to maintain federal compliance without adding language to A.B. 480 (R1), and she was attempting to avoid the necessity of the Division approaching the Legislative Commission to request a regulatory change. She wondered whether the Division would be comfortable over the next two years with not adding the language.

Mr. Reynolds said the regulation would allow the Division to adopt the mandates of the Consumer Financial Protection Bureau under the Secure and Fair Enforcement (S.A.F.E.) for Mortgage Licensing Act, and those federal guidelines could not be changed. The Division's process would have to mirror the federal protections under the S.A.F.E. Act, which would be incorporated into its regulations. Mr. Reynolds stated it was the opinion of the Legal Division, Legislative Counsel Bureau, that the regulation process would not conflict with A.B. 480 (R1) or proposed amendment No. 7689 (Exhibit F).

Assemblywoman Kirkpatrick said it appeared that section 86.5 of the bill could be addressed through regulations. Mr. Reynolds stated that was correct.

Mr. Reynolds explained that the Division of Mortgage Lending and the Department decided to adopt regulations because there were other concerns in the bill regarding meeting the requirements for the various segments of the industry with escrow accounts, such as wholesale mortgagers, and the licensing process for mortgage servicers. Those concerns would all be addressed through regulations to comply with the S.A.F.E. Act. Mr. Reynolds noted that much of

the text would be deleted from A.B. 480 (R1) and language would be adopted through regulations. The Legislative Commission would review the proposed regulations prior to approval.

Assemblywoman Kirkpatrick said that from her perspective, adopting regulations was expensive, and the bill was supposed to be clear regarding legislative intent, but she did not know what the legislative intent was regarding section 86.5. She opined that some things could not be pushed off and adopted via regulations, because the Legislature would then lose the authority to provide oversight of the mandates of the bill.

Mr. Reynolds said the Nevada Mortgage Bankers Association and the Nevada Mortgage Lenders Association requested the provision so that the Division of Mortgage Lending would adopt regulations that would be consistent with the S.A.F.E. Act. Any person who had applied in another state and had met those regulations could apply in Nevada without again going through the same process, which would simplify the applicant's process for receiving and maintaining licensure in the Nevada's regulatory system. Mr. Reynolds said the regulations would also make Nevada part of the national registry.

Chair Anderson asked whether adoption of the amendment proposed by Assemblywoman Kirkpatrick (Exhibit G) would restrict the abilities of the Division of Mortgage Lending to adopt regulations. Mr. Reynolds said it would not.

Assemblywoman Carlton asked whether the Department of Business and Industry's proposed Amendment (Exhibit F) and the second proposed amendment (Exhibit G) would provide the same protections. Mr. Reynolds replied that was correct.

Mr. Breslow said the proposed Amendment (Exhibit G) was fine, but the Department would still need to adopt regulations pertaining to other issues.

Assemblywoman Kirkpatrick said that was not the testimony that was presented to the Committee from the Nevada Mortgage Bankers Association and the Nevada Mortgage Lenders Association. She believed the Department should simply tell the Committee that other regulations would be necessary rather than the requested amendment. Assemblywoman Kirkpatrick felt she had wasted her time in trying to help the agencies with the requested amendment to A.B. 480 (R1) (Exhibit G), and had she known in the beginning that other regulations were necessary, she would not have prepared the amendment.

Assemblywoman Kirkpatrick stated that she would withdraw her proposed amendment (Exhibit G). However, going forward, the Department should simply explain the situation to legislators to avoid confusion.

Chair Anderson asked whether there was further discussion or testimony to come before the Committee regarding A.B. 480 (R1), which included proposed Amendment No. 7689.

Assemblywoman Titus wanted to go on record in support of proposed Amendment No. 7689; however, she would not support A.B. 480 (R1).

Assemblywoman Dickman also stated she would not support A.B. 480 (R1).

Assemblywoman Bustamante Adams reserved her right to change her vote on the Assembly floor.

There being no further discussion or testimony to come before the Committee regarding A.B. 480 (R1), Chair Anderson called for a motion.

> ASSEMBLYWOMAN KIRKPATRICK MOVED TO AMEND AND DO PASS ASSEMBLY BILL 480 (1ST REPRINT) AS AMENDED WITH PROPOSED AMENDMENT NO. 7689.
>
> ASSEMBLYWOMAN CARLTON SECONDED THE MOTION.
>
> THE MOTION PASSED. (Assemblywomen Dickman and Titus voted no. Assemblyman Edwards was not present for the vote.)

Assembly Bill 481 (1st Reprint): Provides additional authority for the enforcement of the laws prohibiting deceptive trade practices. (BDR 52-1168)

Cindy Jones, Assembly Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau, stated that Assembly Bill (A.B.) 481 (1st Reprint) provided additional authority for the enforcement of laws prohibiting deceptive trade practices.

Ms. Jones said the bill was heard by the Committee on May 23, 2015, and it would extend the Consumer Affairs Unit, Department of Business and Industry, until June 30, 2017, and allow the administrative law judge to impose administrative sanctions for deceptive trade practices. Ms. Jones indicated the bill was originally referred to the Assembly Committee on Ways and Means and

from there it was rereferred to the Assembly Committee on Commerce and Labor, where it was amended and referred back to the Assembly Committee on Ways and Means. Ms. Jones said the bill supported the budget approved by the Assembly Committee on Ways and Means and the Senate Committee on Finance.

ASSEMBLYMAN KIRNER MOVED TO DO PASS ASSEMBLY BILL 481 (1ST REPRINT) AS AMENDED.

ASSEMBLYWOMAN KIRKPATRICK SECONDED THE MOTION.

THE MOTION PASSED. (Assemblyman Edwards was not present for the vote.)

Senate Bill 491 (1st Reprint): Provides for the award of a grant to a nonprofit organization for use in Fiscal Year 2015-2016 and Fiscal Year 2016-2017 for the recruitment of persons to establish and operate high quality charter schools to serve families with the greatest needs. (BDR S-1189)

Cindy Jones, Assembly Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau, stated that Senate Bill (S.B.) 491 (1st Reprint) was heard today by the Committee and provided an award of a grant to nonprofit organizations for use in fiscal year (FY) 2016 and FY 2017 for the recruitment of persons to establish and operate high-quality charter schools. The amount was up to $5 million per fiscal year, which was included in the budget and also approved by the Committee. Ms. Jones indicated there were no additional fiscal concerns to address, and Fiscal Analysis Division staff recommended processing the bill to support the budget.

Assemblywoman Carlton stated that she originally voted in opposition to the bill and would do so again today.

Assemblywoman Kirkpatrick appreciated the lower amount per fiscal year, and because she had supported the amount in budget closings, she would do so again today.

Assemblyman Sprinkle said he would also support the bill because it was part of the budget.

ASSEMBLYWOMAN DICKMAN MOVED TO DO PASS SENATE BILL 491 (1ST REPRINT).

ASSEMBLYMAN ARMSTRONG SECONDED THE MOTION.

THE MOTION PASSED. (Assemblywomen Bustamante Adams and Carlton voted no. Assemblyman Edwards was not present for the vote.)

Chair Anderson opened public comment, and there being no public comment to come before the Committee, the Chair adjourned the meeting at 10:52 a.m.

RESPECTFULLY SUBMITTED:

_____
Carol Thomsen
Committee Secretary

APPROVED BY:

_____
Assemblyman Paul Anderson, Chair

DATE: _____

EXHIBITS

Committee Name: Assembly Committee on Ways and Means

Date: May 28, 2015 **Time of Meeting: 8:20 a.m.**

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
S.B. 276 (R2)	C	Senator Patricia Farley	Presentation and remarks
A.B. 475	D	Cindy Jones, Assembly Fiscal Analyst, Fiscal Analysis Division, LCB	Proposed Amendment No. 973
A.B. 478	E	Cindy Jones, Assembly Fiscal Analyst, Fiscal Analysis Division, LCB	Proposed Amendment No 478
A.B. 480 (R1)	F	Senators Farley and Segerblom	Proposed Amendment No. 7689
A.B. 480 (R1)	G	Assemblywoman Kirkpatrick	Proposed amendment