

**MINUTES OF THE  
SENATE COMMITTEE ON FINANCE**

**Eightieth Session  
May 29, 2019**

The Senate Committee on Finance was called to order by Chair Joyce Woodhouse at 8:30 a.m. on Wednesday, May 29, 2019, in Room 2134 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to Room 4412 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

**COMMITTEE MEMBERS PRESENT:**

Senator Joyce Woodhouse, Chair  
Senator David R. Parks, Vice Chair  
Senator Moises Denis  
Senator Yvanna D. Cancela  
Senator Chris Brooks  
Senator James A. Settelmeyer  
Senator Ben Kieckhefer  
Senator Pete Goicoechea

**GUEST LEGISLATORS PRESENT:**

Senator Nicole J. Cannizzaro, Senatorial District No. 6  
Senator Marilyn Dondero Loop, Senatorial District No. 8  
Senator Melanie Scheible, Senatorial District No. 9  
Assemblywoman Michelle Gorelow, Assembly District No. 35

**STAFF MEMBERS PRESENT:**

Mark Krmpotic, Senate Fiscal Analyst  
Alex Haartz, Principal Deputy Fiscal Analyst  
Russell Guindon, Principal Deputy Fiscal Analyst  
Cathy Crocket, Program Analyst  
Stephanie Day, Program Analyst  
John Kucera, Program Analyst  
Brody Leiser, Senior Program Analyst  
Colby Nichols, Program Analyst

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Jaimarie Ortega, Program Analyst  
Kristina Shea, Program Analyst  
Tom Weber, Committee Secretary  
Steven Jamieson, Committee Secretary

**OTHERS PRESENT:**

Zach Conine, Nevada State Treasurer  
Connor Cain, Nevada Bankers Association  
Richard Karpel, Executive Director, Nevada Press Association  
Holly Welborn, Policy Director, American Civil Liberties Union of Nevada  
Daniel Honchariw, Senior Policy Analyst, Nevada Policy Research Institute  
Tonja Brown  
Dylan Shaver, City of Reno  
Warren Hardy, Nevada League of Cities and Municipalities  
David Cherry, City of Henderson  
Brian O'Callaghan, Las Vegas Metropolitan Police Department  
Vinson Guthreau, Deputy Director, Nevada Association of Counties  
John Fudenberg, Clark County  
Kelly Crompton, City of Las Vegas  
Brian McAnallen, City of North Las Vegas  
Brad Keating, Clark County School District  
Jamie Rodriguez, Washoe County  
Chris Nielsen, Public Employees' Retirement System of Nevada  
Mary-Sarah Kinner, Washoe County Sheriff's Office  
John Jones, Nevada District Attorneys Association  
Kathy Clewett, City of Sparks  
Julia Peek, Deputy Director, Programs, Department of Health and Human Services  
Melanie Young, Executive Director, Department of Taxation  
Shellie Hughes, Chief Deputy Director, Department of Taxation  
Michael Hackett, Nevada Tobacco Prevention Coalition; Nevada Public Health Association; Nevada Primary Care Association; Nevada Academy of Physician Assistants  
Joelle Gutman, Washoe County Health District  
Benjamin Schmauss, Nevada Government Relations Director, American Heart Association  
Tom McCoy, Nevada Director of Government Relations, American Cancer Society Cancer Action Network

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Sarah Adler, Board President, Healthy Communities Coalition of Nevada  
Jared Busker, Children's Advocacy Alliance  
Marlene Lockard, Service Employees International Union Local 1107  
Carter Bundy, American Federation of State, County and Municipal Employees International  
Jesse Wadhams, Nevada Hospital Association  
Lisa Sherych, Interim Administrator, Division of Public and Behavioral Health, Department of Health and Human Services  
Michael Brown, Director, Department of Business and Industry  
Shannon Chambers, Labor Commissioner, Office of Labor Commissioner, Department of Business and Industry  
Chuck Callaway, Las Vegas Metropolitan Police Department  
LesLee Shell, Clark County  
Todd Ingalsbee, Professional Firefighters of Nevada  
Bruce Snyder, Commissioner, Local Government Employee-Management Relations Board, Department of Business and Industry  
Steve Kreisberg, Director, Collective Bargaining and Research, American Federation of State, County and Municipal Employees International  
Nicholas Montgomery, Nevada Highway Patrol Association  
Catherine Byrne, Nevada State Controller  
Cedric Williams, President, Sierra Range Chapter, American Federation of State, County and Municipal Employees Local 4041  
Rick McCann, Nevada Association of Public Safety Officers; Nevada Law Enforcement Coalition  
Tom Dunn, District Vice President, Professional Firefighters of Nevada  
Rusty McAllister, Executive Secretary-Treasurer, Nevada, American Federation of Labor and Congress of International Organizations  
Stephen Augspurger, Executive Director, Clark County Association of School Administrators and Professional-Technical Employees  
Chris Daly, Nevada State Education Association  
Scott Edwards, President, Las Vegas Peace Officers Association; Nevada Law Enforcement Coalition  
Jim Sullivan, Culinary Union  
Kent Ervin, Ph.D., Nevada Faculty Alliance  
Harry Schiffman, President, American Federation of State, County and Municipal Employees Local 4041  
Paul Moradkhan, Vice President of Government Affairs, Las Vegas Metro Chamber of Commerce  
Bryan Wachter, Senior Vice President, Retail Association of Nevada

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Michael Pelham, Director, Government and Community Affairs, Nevada  
Taxpayers Association  
Nick Vander Poel, Reno Sparks Chamber of Commerce  
Autumn Tampa  
Eric Jeng, Director of Civic Engagement, Asian Community Development  
Council  
Terri Shuman  
Natha Anderson, Nevada State Education Association  
Alexander Marks, Nevada State Education Association  
Mike Cathcart, City of Henderson  
Shani Coleman, City of Las Vegas  
Michael Ramirez, Las Vegas Police Protective Association  
Amanda Morgan, Legal Director, Educate Nevada  
Annette Magnus-Marquart, Battle Born Progress  
Paul J. Enos, CEO, Nevada Trucking Association  
Andy MacKay, Executive Director, Nevada Franchised Auto Dealers Association  
Peggy Lear Bowen

CHAIR WOODHOUSE:

We will open the hearing on Senate Bill (S.B.) 82.

**SENATE BILL 82 (1st Reprint)**: Revises provisions relating to education.  
(BDR 31-479)

ZACH CONINE (Nevada State Treasurer):

Senate Bill 82 revises the administration of the Nevada college savings programs including the Nevada College Kick Start Program and the Nevada Higher Education Prepaid Tuition Program. The proposed changes will allow the Treasurer's Office to more effectively administer the programs and increase educational opportunities for all Nevadans by increasing the usage and usefulness of those programs.

I have submitted a visual presentation ([Exhibit C](#)) which will illustrate the points I discuss during my presentation of S.B. 82.

The Treasurer's Office is responsible for administering several programs designed to help Nevadans save for college and prepare for postsecondary careers. The programs include the Nevada Higher Education Prepaid Tuition Program, Nevada College Savings Plans and the Nevada College Kick Start

Program. The Nevada College Savings Plans are federally exempt as authorized by section 529 of the Internal Revenue Code. These programs are governed by *Nevada Revised Statutes* (NRS) 353B and overseen by the Board of Trustees of the College Savings Plans of Nevada or College Savings Board.

The programs are funded by fee revenue paid to the College Savings Endowment account, budget account (B/A) 101-1094, by our 529 college savings partners. These programs are not funded with General Fund money. These revenues cover all costs associated with administering and marketing the programs, funding College Kick Start scholarships and covering costs for administering the Governor Guinn Millennium Scholarship. Additional summary information on the programs and their funding structure can be found on pages 2 and 3, [Exhibit C](#).

#### ELECTED OFFICIALS

##### Treasurer - Endowment Account — Budget Page ELECTED-234 (Volume I) Budget Account 101-1094

In 2017, Assembly Bill (A.B.) No. 475 of the 79th Session made various changes to these programs including removing the State Treasurer as a voting member of the College Savings Board, adjusting the process by which the Chair of the Board would be selected and capping marketing expenses to 3 percent of the total revenues deposited in the Endowment Account the previous year.

Senate Bill 82 proposes several improvements to Nevada's college savings programs and their administration. The bill reinstates the Treasurer as a voting member on the College Savings Board. The bill also allows the Board to choose an appropriate accounting method for the Nevada College Kick Start program and increases and defines marketing expenses. The primary fiscal issue of the bill deals with these marketing expenses.

Section 4 increases the marketing cap for the programs from 3 percent to 10 percent of the monies received from partner fees in the Endowment Account in the first year of the immediately preceding biennium. This would raise our marketing budget in fiscal year (FY) 2020 from \$153,443 to \$511,475. To put this in context, in FY 2014, total marketing spend was \$664,576. Following the application of the 3 percent marketing cap in A.B. No. 475 of the 79th Session, total marketing spend in FY 2018 was \$177,396, a decrease of 73 percent

from FY 2014. This drastic decrease has undermined the Office's ability to effectively promote these programs which are proven to help families save for and access college and other career training programs.

We are proposing an amendment to S.B. 82 ([Exhibit D](#)) to define marketing activities which would be applied to the cap so that our Office and the Legislature have similar expectations in the future. The proposed definition of, "marketing" is based on industry standards. This definition, page 7, [Exhibit C](#), includes direct marketing expenses such as market research and paid advertisements. It also includes the percentage of personnel time that is spent on direct marketing related activities such as designing a collateral piece.

Under the proposed change from 3 percent to 10 percent and the broad inclusion of activities and personnel costs that will be counted as marketing and against the cap, S.B. 82 will add a net of \$189,000 per year to spend on marketing activities. While modest, we believe this increase is critically needed in order to reach Nevada's 500,000 public school students and their families and promote these valuable college savings programs.

The Treasurer's Office will track and measure the impacts of marketing dollars spent in terms of increased program usage and usefulness. For usage, we will look at new enrollments and at existing account behaviors. These existing account behaviors include frequency of deposits, use of auto deposits, amount of total contributions and number of accounts per household. For usefulness, we will aim to maximize match fund opportunities, enroll participants at a younger age and integrate other college savings and scholarships such as the Silver State Opportunity Grant. We are going to make a priority of reaching and engaging historically underserved communities, including minorities and low-income households.

Nevada currently has the third lowest annual student loan debt in the Country because of our College Savings programs. Marketing these programs, making sure that the communities who need them have access to them is essential to our continued success.

SENATOR KIECKHEFER:

The Endowment Account contains funds solely from the fees from our partner financial institutions. There is no corpus of parents who have invested money in that account. Is that correct?

TREASURER CONINE:

That is correct. The monies in the Endowment Account are revenues generated from our 529 college savings partners.

SENATOR BROOKS:

When was the 3 percent marketing cap put in place?

TREASURER CONINE:

The cap was put in place in the 2017 Legislative Session.

SENATOR BROOKS:

Do you know of any other factors that led to this decline since 2014? I do. You said "third-lowest per-capita, third-lowest college debt in the Country." Is that a per-capita number?

TREASURER CONINE:

That is of people who have incurred college debt; Nevada has the third-lowest amount of college debt per person.

CONNOR CAIN (Nevada Bankers Association):

We support S.B. 82. We believe that added funding and flexibility for marketing will help these college savings programs. We think this bill is a great investment.

MARK KRMPOTIC (Senate Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau):

Section 4, subsection 5, paragraph (d) increases the percentage of money in the Endowment Account that can be transferred for the purposes stated in S.B. 82. That aspect of the bill was noted in the closing for the Office of the Treasurer, College Savings Trust, B/A 101-1092, as necessary in order to be able to add a navigator position to this budget. That budget decision was noted to be contingent upon passage of S.B. 82 and the provision of section 4, subsection 5, paragraph (d).

CHAIR WOODHOUSE:

We will close the hearing on S.B. 82 and open the hearing on S.B. 287.

**SENATE BILL 287**: Revises provisions governing public records. (BDR 19-648)

SENATOR DAVID R. PARKS (Senatorial District No. 7):

I am here to discuss the fiscal impact placed on S.B. 287 by various State agencies and local governments. Even though State law requires that all public records and books except those specifically exempted as confidential by law must be open for inspection and copying, many governmental entities find that it is not in their best interest to provide all these documents.

Senate Bill 287 was brought to me by a group called Right to Know Nevada. This group includes media outlets, government watchdogs, civil liberty groups and individuals who understand the value of keeping government open and transparent to the people it serves. Primary proponents working on this measure include the American Civil Liberties Union of Nevada, the Nevada Public Research Institute and the Nevada Press Association.

We received many fiscal notes for S.B. 287. I do not know to what extent these are valid numbers. Many large amounts have been submitted. Most agencies have public information officers (PIOs). These PIOs are typically the individuals who should be responding to the interests of the public. If an agency or office has a PIO, there seems to be every reason that the agency should be able to accommodate requests for public records.

A working group has been formed in order to make some amendments to the bill as introduced. We anticipate these potential amendments will be ready soon.

SENATOR KIECKHEFER:

I have been working with Senators Parks and Scheible to create some amendments that bring people together and address some of the fiscal impacts which are identified by the fiscal notes. One particular issue identified by most of the fiscal notes included fixed deadlines which would necessitate the hiring of additional staff, including multiple senior attorneys. The need for these additional staff members drove up the cost of most of the fiscal notes. We are working to finalize the details of that amendment and hope to be able to present that amendment shortly.



RICHARD KARPEL (Executive Director, Nevada Press Association):

We support S.B. 287. The bill will establish penalties for willful violations of the statutes, the first consequences for violation of the Nevada Public Records Act. The bill will limit the ability of agencies to use excessive fees as a tool to discourage public records requests. Senate Bill 287 will require agencies to work with requestors to find the information they are seeking.

HOLLY WELBORN (Policy Director, American Civil Liberties Union of Nevada):

We are open to the work which Senator Kieckhefer has put into S.B. 287 to help reduce fees and address some of the concerns expressed by the governmental entities. These concerns include clarifying whether electronic records are required and placing the liability on the entity instead of on the individual who processes those records. Another concern includes clarification of whether an electronic records database would need to be created at a huge fiscal cost to the entity and to make sure that only applies where practicable.

DANIEL HONCHARIW (Senior Policy Analyst, Nevada Policy Research Institute):

I agree with everything said by Mr. Karpel and Ms. Welborn. The Nevada Policy Research Institute supports S.B. 287.

TONJA BROWN:

I support S.B. 287. Many organizations on Facebook and other social media platforms look into areas of public interest. One of these organizations is Reno Cop Watch. There have been times when these organizations have requested and been refused access to public information from the Reno Police Department, other law enforcement agencies, the Reno City Council and the Washoe County Board of Commissioners. The organizations have been denied the ability to place information on the public record. The Commissioners and the Council come up with one excuse after another to not put information on the record, yet other counties throughout the State comply with the open meeting law and public records.

DYLAN SHAVER (City of Reno):

We appreciate the intent of S.B. 287, but I am confused as to what we are testifying to in this hearing. We have seen the original bill which ended up before this Committee because of dramatic technical flaws and enforceability issues as well as the costs associated with those. We are told that an amendment is forthcoming, but the amendment has been drafted without our input, and we have yet to see its contents.

I would love to be here with a detailed analysis of an amendment, but we do not have that option. I can only speak to S.B. 287 as presented. Sections of the bill expose our staff members to massive personal fines. Sections of the bill seem to require us to take easier requests prior to taking harder requests. The bill states that we must return public records requests as soon as is practicable which would have the net effect of changing the order in which we serve the customers who come to our City. This creates customer service concerns for us.

We must remain in opposition to S.B. 287 as presented.

WARREN HARDY (Nevada League of Cities and Municipalities):

I echo Mr. Shaver's comments. We have no objection to open government. We have significant numbers of staff as well as direction from our leadership and the members of the city councils and boards of county commissioners to make sure the information is available to the public.

Part of our opposition revolves around a policy of which the Committee needs to be aware. We believe that individual citizens have a right to know what their government is doing. We do not believe that the same citizens always have a right to know what their neighbors are doing. As local governments, we take a significant obligation upon ourselves to make sure we are protecting the individual privacy of our citizens where those privacies are appropriate. We have concerns beyond those expressed about the fiscal notes, concerns that this bill will set up the potential for legal actions that will make the fiscal notes pale by comparison.

As currently written, S.B. 287 gives us a choice to either be sued by the requestor or by somebody whose information we have inappropriately disclosed to the public. The bill also creates an incentive for individuals to file a request and overload governments with requests in the hope that penalties will be assessed for lack of compliance. The fiscal notes before the Committee could pale in comparison to the fiscal costs that could be incurred as legal actions are taken against the cities.

We look forward to the opportunity to have some input and work on any potential amendments, but we must be opposed to the bill as written.

DAVID CHERRY (City of Henderson):

The current law is working. The City of Henderson processes enormous numbers of public records requests at very little cost to the public. We did more than 13,000 public records requests in 2017 and more than 15,000 in 2018. At the rate we are seeing requests coming in, we estimate that we could exceed 16,000 requests in 2019. We have a policy in which the first ten hours are free for anyone who comes to us for assistance.

This bill would dramatically alter what the current law requires of us and the way in which we are able to process those requests. As Mr. Hardy discussed, S.B. 287 creates a bounty system in which an individual and an entity would both be liable for up to \$250,000 per record request as a penalty should they fail to meet the obligation—it is unclear what that obligation would be. An individual could seek a payday by creating voluminous numbers of records requests in hopes that a public entity is unable to comply. The bill puts that penalty and onus on the individual processing the requests as well as on the entity. It is a double penalty.

The bill also creates a penalty of \$100 per day, even if the record is part of a court case that is on appeal. The individual penalty and the \$100 per day can be racked up for any individual record that is being litigated. In certain situations, we have to go to court because we are trying to protect the privacy of members of the public and make sure we are doing our job to not release information that could be harmful if it was made public. Individuals have a right to privacy.

As written, S.B. 287 could have an enormous fiscal impact.

BRIAN O'CALLAGHAN (Las Vegas Metropolitan Police Department):

We are opposed to S.B. 287 as written. You have seen our fiscal note. We look forward to seeing the amendment.

VINSON GUTHREAU (Deputy Director, Nevada Association of Counties):

I echo the previously expressed opposition to S.B. 287. While citizens have a right to transparency, local governments have an obligation to protect the privacy of citizens as well. We are trying to balance these rights and obligations. The fiscal impact this bill will have on local governments has already been stated. We request and would appreciate that we be allowed to provide input on any amendments that are brought forward.

JOHN FUDENBERG (Clark County):

We oppose S.B. 287 for many of the reasons already stated. Clark County believes in transparency and understands the importance of making sure the public has access to our information and documents. We fulfill tens of thousands of public records requests every year. We agree with Mr. Cherry's testimony that the current system works. We have not had a chance to look at the possible amendment. We look forward to the opportunity to be involved in that amendment.

KELLY CROMPTON (City of Las Vegas):

We echo the comments which have been stated in opposition to S.B. 287. We look forward to seeing an amendment and hope to be able to place some input on that amendment on the record.

BRIAN MCANALLEN (City of North Las Vegas):

We echo the comments of Mr. Hardy and Mr. Cherry. The current process is working. We comply with requests that come in. Some take a little longer than expected, but that is related to city attorney issues and protecting the privacy of some individuals over others. Concerns with S.B. 287 have been expressed, but it is challenging to be able to address those issues with an amendment we have not seen. There will be a fiscal impact, but the cost of that impact remains to be determined.

BRAD KEATING (Clark County School District):

I echo the comments made previously. We are opposed to S.B. 287. We look forward to seeing an amendment, so we can change our fiscal note. We have 3,000 body camera files that would potentially need to be reviewed and redacted at the school district level. We have a number of privacy concerns with videos of what occurs on our school buses. We are concerned with the possible contradiction of being on the side of the person requesting the video or making sure we take care of the privacy concerns of the other students who appear in the videos.

JAMIE RODRIGUEZ (Washoe County):

I echo the previous statements regarding our opposition to and our concern for the fiscal impact of S.B. 287 as written. We would also like to be part of the conversation for any amendment that may come forward.

The bill includes the complete removal of any ability to charge for the cost of public records. At the county level, some public records requests are made on a regular annual basis. For example, title companies will make a public records request for all transfers of properties which have occurred in the last year. Filling that request requires a sizable amount of time for staff. We have had no concerns from title companies for paying for that staff time. This bill would eliminate the ability to charge for those services and put the burden wholly on the County. Large, potentially unfunded requests like those are very concerning for our budget and our ability to absorb those costs.

CHRIS NIELSEN (Public Employees' Retirement System of Nevada):

Earlier this year, our retirement board voted in opposition to S.B. 287 as written. We look forward to the amendment. We do not have a dedicated staff, so, as outlined in our fiscal note, the current bill would require us to seek additional resources.

MARY-SARAH KINNER (Washoe County Sheriff's Office):

I echo the comments made by our colleagues. We also look forward to offering input on any proposed amendment to S.B. 287.

JOHN JONES (Nevada District Attorneys Association):

We also oppose S.B. 287.

KATHY CLEWETT (City of Sparks):

We also echo what has been said in opposition to S.B. 287. When we get requests, especially video camera information that people want from defense attorneys, it takes two staff members in the City Attorney's office an entire day to process five videos. This would be very onerous for us. It costs a lot of time and staff money. We look forward to being part of the amendment.

SENATOR PARKS:

We will work on the amendment and try to include as many groups in the process as possible.

CHAIR WOODHOUSE:

We will close the hearing on S.B. 287. We will open the hearing on S.B. 263.

**SENATE BILL 263 (1st Reprint)**: Revises provisions relating to the regulation and taxation of certain vapor products, alternative nicotine products and tobacco products. (BDR 32-700)

SENATOR JULIA RATTI (Senatorial District No. 13):

Senate Bill 263 is a comprehensive public health bill aimed at tackling the crisis or epidemic of the use of e-cigarettes and vaping devices.

The 2018 National Youth Tobacco Study produced some alarming results. High school use of these products has increased in 1 year by 78 percent. Middle school use has increased by 48 percent in the same year. The Study found that 3.6 million students now use these products, and 27.7 percent of the students use them regularly. This is not just mild experimentation. This is regular use. Of the people now addicted to nicotine, 90 percent started as kids. Once a young person gets addicted, it is very difficult to break the addiction.

The industry likes to describe e-cigarettes and vaping as a harm-reduction product. The Food and Drug Administration (FDA) approves smoking cessation products, products that are specifically designed and research tested to reduce smoking. This bill specifically excludes any product which has gone through the FDA process and which has achieved the smoking cessation approval. Any product that might be taxed and regulated under S.B. 263 would be excluded if it achieved that FDA certification.

The products we are talking about have been demonstrated to cause harm. The products may be less harmful than smoking tobacco or other tobacco products (OTP), but they are still harmful. We do not have any long-term data on these products. They are relatively new products; we do not know what 30 or more years of use will do.

Among kids, 40 percent of those who are using e-cigarettes or vaping devices have never smoked. Kids are not using these as a less-harmful product or a cessation device. It is the first nicotine product for these children.

Senate Bill 263 includes four strategies to address underage use of e-cigarettes and other vaping devices.

The first strategy is regulation, reclassification and taxation. E-cigarettes, vaping and other nicotine products should be regulated and reclassified as OTP. The

industry claims that these are not tobacco products, but the vast majority of nicotine is derived from tobacco. A few products use a synthetic form of nicotine, but it is highly cost prohibitive, and the vast majority of these products are derived from tobacco. This entire category of nicotine products has escaped adequate regulation. It is appropriate that they be classified and regulated like similar products where the State's concern is the long-term effects on the health of the consumers and the costs to society.

The second strategy is enforcement. We do not currently have the authority to target enforcement efforts specifically at vaping and e-cigarettes. We need that authority. Where vaping and e-cigarettes have been part of our cigarette and OTP enforcement efforts, the buy rate is too high. The Attorney General hires young people to go into stores and attempt to purchase tobacco products. If we have a buy rate that exceeds 20 percent, we start to put at-risk federal dollars for prevention and enforcement. Our buy rate has been hovering at 20 percent, and the trend is that the rate is growing. In some instances, the rate is as high as 30 percent. If we do not demonstrate the State's commitment to enforcement and the reduction of underage use, we risk losing our federal funding.

In speaking to the Attorney General's Office, the problem does not appear to be a lack of resources. The Office believes it has the resources necessary to continue enforcement. However, the Office lacks the enforcement tools it needs. Right now, if the Office does an exercise where it has a young person go into a store, the clerk who sells a product to a minor is cited for the infraction. As the law is currently written, it is a criminal citation. The business is not cited at all.

Senate Bill 263 proposes to remove the criminal citations, leave a civil citation on the clerk and add a citation for the business. The clerk's first infraction incurs a \$100 fine, the second infraction is a \$250 fine, the third infraction is a \$500 fine. By that time, I would hope the person is no longer employed selling age-restricted items to minors. The business may have multiple clerks, and we want to make sure the stores have the opportunity to have training and do an intervention, so the first two infractions are warnings. The third infraction is a \$500 penalty. The fourth infraction is a \$1,250 penalty. The fifth and any subsequent infractions are \$2,500. These charges are for infractions occurring within a 24 month period. If within two years the business starts to clean up its record and is doing well, the process can start over.

The third strategy is prevention. This is where the money comes in for this Committee. We do not have any resources coming from the Department of Health and Human Services (DHHS) which are aimed at curbing the underage use of e-cigarettes and vaping. We propose a multi-pronged prevention strategy to include mass media and social media campaigns, youth program interventions, education and information for retailers and other research-based strategies. These prevention strategies will be followed by surveillance and evaluation to ensure we are making a difference. Representatives from the DHHS have put together a full budget of how they would use the appropriation to address the underage use of the products.

The fourth strategy has to do with the Clean Indoor Air Act. A team from the Desert Research Institute (DRI) has been studying the effects of vaping and e-cigarettes. The DRI team has demonstrated that the products are harmful and that there is a risk of second-hand smoke when using the products. For the same reasons we passed the Clean Indoor Air Act for smoking, it is not appropriate for us to continue to allow employees and members of the public to be in unsafe indoor air environments. This bill extends the Clean Indoor Air Act as it currently exists to vaping and e-cigarette products.

We have made amazing gains in public health of rolling back smoking. It was a multi-pronged, very successful public health campaign that took decades to roll out. It took a combination of taxation, prevention, the Clean Indoor Air Act and other similar efforts. In the last ten years, e-cigarettes and vaping have begun to renormalize the use of nicotine. We need all of the strategies I mentioned to work as a package and start to push back on the tide of nicotine use. We need to remind our communities that nicotine is an addictive and harmful substance and that it is not something we should be encouraging anyone to use. We need to address the issue of underage use while the brain is still in development, during the time in life when most people become addicted.

CHAIR WOODHOUSE:

You indicated that some federal funding could be jeopardized. Could you tell us which stream that would be?

SENATOR RATTI:

I would defer the answer to that question to the DHHS.



SENATOR SETTELMAYER:

I appreciate many aspects of S.B. 263. However, I am concerned with the offenses. Would the offense be counted on each individual case or sale, or would one entire night count as a potential offense? I see a scenario in which the clerk of a small corner store gets in a fight with the boss or is leaving for another reason, and the clerk decides to sell to anyone that night because the clerk just does not care. I have seen this occur with liquor. Sometimes an employee is just done. The employee is quitting and leaving, so he or she sells to whoever the employee wants. It has always come back upon the clerk who illegally sold the products, not the store, because the clerk has violated the law, not the business owner. The business owner was not really aware of what was going on. Is there anything within the bill to help prevent that? How does such a scenario play out under this bill?

SENATOR RATTI:

The situation described by Senator Settelmeyer is the reason folks have been reluctant to make businesses have some skin in the game. We sat down and talked with the retailers. That is why the tiered citations for a business was amended to now include two warnings before getting to a \$500 fine. These citations are only given by the Attorney General's Office. Alcohol is different because it is regulated at the local level, and each jurisdiction can use its own law enforcement officers to provide enforcement. In contrast, all tobacco citations are done by the Office with underage stings. I have a hard time picturing a scenario in which two young people will be sent to the same clerk in the same night. That is not how these enforcement programs are implemented. We have a high comfort level that the way this enforcement is done with the two warnings that any business would get two levels of notification and plenty of opportunity to address an issue. With these amendments, the retailers are now in support.

SENATOR SETTELMAYER:

I will talk with the retailers.

I once brought forward a bill about childhood use of cigarettes and was beaten up for it. I still wonder if the best way to keep nicotine out of the hands of children is to make it a possessionary issue. We do not do that in this State. We only do it county by county because that was all I was able to get through the Legislature. I still question what good it does when Nevada law lets a four year

old have a cigarette in their hand without assigning guilt to anyone. Do you have any thoughts on trying to tackle that issue?

SENATOR RATTI:

The strategies for S.B. 263 are based on national research on what is most effective for reducing underage usage. The strategy you mentioned does not show up in any of that research, I do not know how effective such a strategy would be. This is the first time anyone has mentioned that current law to me. I am happy to go back and take a look at it. At this point, the four strategies we are moving forward are the four which have been looked at in other states, by Tobacco Free Kids and by some of the other groups that work on this issue regularly. These were the strategies that were most ripe to move forward in Nevada.

JULIA PEEK (Deputy Director, Programs, Department of Health and Human Services):

In regard to the question about what funding is at risk, the funding at risk is the Substance Abuse and Mental Health Services Administration grant, our substance use block grant. It has been indicated that up to 40 percent could be compromised or returned if we do not get the buy rate down. That would equate to millions of dollars lost.

A fiscal note for the DHHS' Division of Public and Behavioral Health related to the Account for Public Health Improvement has been amended out. We have submitted two exhibits for the Committee. The first is the Tobacco Prevention Funding infographic ([Exhibit E](#)). The second ([Exhibit F](#)) is a more formal budget proposal.

The Centers for Disease Control and Prevention (CDC) states that strong tobacco programs are one of the best returns on investment for public health dollars. Research has shown that every \$1 put into a strong tobacco program brings in a return on investment of \$55. We have not had funds directly related to e-cigarette use, so this is a great opportunity.

We have provided a summary which is seen as an infographic, [Exhibit E](#). The infographic walks through the categories that a strong tobacco prevention program, specifically an e-cigarette tobacco program, would have. A summary of each piece of the program is included next to each corresponding dollar amount.

We want to focus on surveillance and evaluation. We want to be able to come to the Legislature in 2021 and explain our successes. We need staffing to be able to do that. We want to get better data and more data. The ability to do so is included in our proposal.

We want to work on marketing, specifically counter-marketing. We are focusing on primary prevention, trying to get the information out to youth so they never use. We have also included secondary-prevention strategies such as seeing if a person has tried a tobacco product and creating counter-messaging and other resources for such persons. Tertiary prevention strategies and treatment are another option.

As was mentioned earlier, if an e-cigarette were considered a cessation device by the FDA, it would be covered through Medicaid. That is not the case now. Part of our messaging can include explaining which real tobacco cessation devices that are covered by insurance plans. We need to give people that information.

During the Interim, we looked at other states that are doing well in this area. One thing other states do is create targeted marketing strategies based on social groups. After discussions with these other states, we propose to do something similar in Nevada.

We have also built in State and local interventions, primarily working with local health departments and substance use coalitions. In combination with the Attorney General's Office, we have created education strategies for retailers and clerks. We also have planned for administrative oversight to make sure we are managing the subgrants appropriately and pivoting if certain interventions do not work. We want to ensure we have fidelity in all the funding.

[Exhibit F](#) is a more traditional budget organized in spreadsheet form by line item.

SENATOR KIECKHEFER:

Of the \$2.5 million, \$2.15 million appears to be granted out to the health districts and the Nevada Cancer Coalition. Of the pie chart, [Exhibit E](#), which pieces of that will be granted out? Who will do what?

MS. PEEK:

You will see the money distributed in a few places in [Exhibit E](#). In the surveillance and evaluation header, the University of Nevada, Reno does our Youth Risk Behavior Surveillance Survey. That work is done by contract, so we would just amend the contract and get the money out quickly. In the mass-reach and health communication interventions header, we have a master service agreement in place, so we can choose from a number of different entities with whom we can do the mass marketing. We could possibly contract with the same company which helps other states look at how social groups influence usage.

The community interventions piece will be implemented by the three local health departments, the Nevada Cancer Coalition and the Nevada Statewide Coalition Partnership as seen in [Exhibit F](#). The Statewide Coalition Partnership supports our community-based coalitions.

SENATOR KIECKHEFER:

In [Exhibit E](#), the mass-reach health communication inventions portion calls for \$1.1 million. Are those State expenditures that you are going to manage, or is that part of the grants to other agencies? You are giving \$1.1 million to the Nevada Cancer Coalition. The Southern Nevada Health District will get \$530,000, and Carson City will get \$130,000. I do not know how the numbers add up if you grant out \$2.1 million and are going to be managing the \$1.1 million in mass outreach.

MS. PEEK:

We will be managing all of it through subgrants or contracts. Several entities are particularly effective in certain areas. The Statewide Coalition is good at community-based efforts and outreach. We have used the Immunization Coalition in a similar capacity with success. As seen in the spreadsheet, [Exhibit F](#), KPS3 Inc. is one of the vendors we often use to do some of the development of our media campaigns. We can push things out through our coalitions. We would use the Nevada Tobacco Prevention Coalition for the mass media.

SENATOR RATTI:

A fiscal note was placed on [S.B. 263](#) by the Department of Taxation (DOT). The DOT has since submitted some information regarding an update to the fiscal note based on the amended version of the bill ([Exhibit G](#), [Exhibit H](#), [Exhibit I](#)).

The tax as it is currently composed is estimated to generate about \$8 million per year, but some money will need to go to the DOT to administer that tax.

MELANIE YOUNG (Executive Director, Department of Taxation):

The fiscal note is projected to be \$513,000 in the first year and \$445,000 in the second. This request includes 4 positions to start in 2020 and 2 positions to start in 2021. These are base positions that we use in processing tax returns. We request tax examiners, a compliance audit investigator, a revenue officer and an auditor.

SENATOR CANCELA:

I am trying to understand how the taxes are collected from electronic retailers. Selling vape products over the Internet is a big part of the market. How would we collect the taxes on those folks? What does that process look like for an individual in the DOT?

SHELLIE HUGHES (Chief Deputy Director, Department of Taxation):

Under NRS 370, a wholesaler is required to be licensed with the DOT. Any Internet sale to a retailer or a consumer in Nevada would require payment of the tax at the time of the sale.

SENATOR CANCELA:

It is helpful to know that because online sales are such a big part of the market. The fact that we are prepared for this portion of implementing S.B. 263 is important.

SENATOR GOICOECHEA:

I am trying to figure out what this tax will look like. I am in favor of the 18-year-old threshold. What does one of these devices cost? How much would the tax be on that?

Ms. HUGHES:

Whatever the price of the device, the excise tax is 30 percent.

SENATOR GOICOECHEA:

No matter what it is, the customer will pay 33.3 percent of the price in tax.

Ms. HUGHES:

It would be 30 percent on the wholesale price. It is not a tax on the retail price.

SENATOR GOICOECHEA:

What happens on the retail side? Would there also be a tax?

Ms. HUGHES:

There would be a sales tax.

MICHAEL HACKETT (Nevada Tobacco Prevention Coalition; Nevada Public Health Association; Nevada Primary Care Association; Nevada Academy of Physician Assistants):

We support S.B. 263. As Senator Ratti said, this bill will put alternative nicotine products and vapor products into our current definition of OTP. This bill will also prohibit Internet sales of these products to minors and require Internet retailers to have appropriate age-verification systems in place in order to do business in that regard.

To the question raised by Senator Settlemeyer regarding the inconsistencies of our State law, it is troubling that it is against the law for retailers to sell these products, but it is not against the law for minors to possess these products. There is still disagreement as to how best address this possession issue.

Even though this is a tax bill, it incorporates several best practices for the tobacco control community. First among those best practices is taxation. It has been proven that taxation is the best practice in combating the use of tobacco and vapor products, particularly among minors. Funding for tobacco control programs in Nevada is below CDC recommended guidelines. We spend less than 1/30th of what the CDC recommends. The appropriation requested in this bill will go a long way toward our prevention efforts.

Other best practices incorporated into S.B. 263 include bringing these products under the Clean Indoor Air laws and providing for more enforcement. We have long recognized the challenges with enforcing violations of selling to minors. Research has shown that youth access to these products is not restricted just to Internet sales. Young people are able to access these products through brick-and-mortar establishments. We appreciate the emphasis on addressing the enforcement issue and putting some degree of accountability onto the license holder.

Senator Ratti mentioned the use of these products as a harm-reduction product or cessation device. It is illegal to make any of those claims unless a product

has been recognized by the FDA for such a purpose. It is important to understand that much of the information related to those claims are strictly anecdotal.

According to a study released in 2018 by the American Lung Association, people whose first introduction to tobacco is through e-cigarettes and other vapor products are four times more likely to either revert entirely to the use of traditional tobacco products or to the use of traditional tobacco products along with the vapor products they are currently using.

JOELLE GUTMAN (Washoe County Health District):

We support S.B. 263. Senator Ratti is a former member of the Washoe County District Board of Health. Senate Bill 263 is a legislative priority for our District Board of Health. It is an important step forward in tobacco prevention efforts and proper regulation of this new industry. The bill provides a proven policy approach to reducing the use of e-cigarette products and nicotine addiction, particularly for youth. The bill provides protections from second-hand exposure for everyone.

BENJAMIN SCHMAUSS (Nevada Government Relations Director, American Heart Association):

I echo the previous comments. Both the Northern Nevada and Southern Nevada Boards of the American Heart Association have designated S.B. 263 a policy priority. We are greatly concerned with the epidemic rise of the use of these products. Kids in elementary school are using these products. In the hearing on S.B. 263 in the Senate Committee on Revenue and Economic Development my 12-year-old daughter shared experiences with these products which she has seen in her school.

We can address this issue and start to make a difference for a generation of kids. In 1997, 38 percent of kids were using cigarettes. That was down to 7 percent last year. However, with youth vaping we are back up to 18 percent or 28 percent. We can do something about this issue now.

TOM MCCOY (Nevada Director of Government Relations, American Cancer Society Cancer Action Network):

We have heard and are concerned about this new generation potentially going down the tobacco road. It will cost the State a lot of money if another generation gets hooked on tobacco. According to the Campaign for Tobacco

Free Kids, Nevada now spends more than \$1 billion in health care costs, much of that in Medicaid. One in every three cancer deaths in Nevada result from smoking.

SARAH ADLER (Board President, Healthy Communities Coalition of Nevada):  
Community coalitions are located throughout our State and are very active in rural Nevada. Community coalitions are able to do a lot of work in tobacco prevention and education for youth, retailers and communities. This work receives substantial funding from the federal government, but it requires a State match. Senate Bill 263 and the revenue it will produce are good for the young people of our State.

JARED BUSKER (Children's Advocacy Alliance):  
We are concerned with the increased use of vapor products by children. We support S.B. 263.

SENATOR RATTI:

I am proud of the broad coalition which has worked on S.B. 263. I am proud of the ideas the coalition members have brought forward. There is a lot in this bill that can make a big difference. I am sensitive to the needs of the businesses which sell these products. It is not our intention to put anyone out of business.

This is a wholesale tax; the only responsibility on the retailer is that the retailer purchases from a licensed wholesaler. The wholesaler pays the tax. The original version of the bill included a provision to tax any existing inventory. This was included in order to prevent a rush to buy a bunch of product before the tax was imposed. The existing inventory tax would have been a burden on current small businesses. We eliminated that provision. It is not our intent to go after anyone specifically. As long as a retailer purchases from a licensed wholesaler who is paying the 30 percent tax, the retailer is in the clear. If it is a direct, online sale to a consumer, the wholesale tax is paid at that taxable event.

Yes, this bill will raise the price of e-cigarettes and vaping products. That is our intent because it is a prevention strategy. People will make economic decisions and usage will decrease because of the price increase. This tax structure is already in place. We are not creating a new tax. This is reclassifying existing products which contain tobacco and nicotine and putting them into our existing OTP framework. We choose to place these products within the OTP framework because that system is already established. That system is efficient;



professionals in the DOT already know how to work within it. The DOT just needs to add a few staff members to take care of this particular industry.

SENATOR PARKS:

Besides nicotine, e-cigarettes can contain many other harmful ingredients. These ingredients include ultra-fine particles that can be inhaled deep into the lungs, flavorings that are now linked to serious lung disease, volatile organic compounds and heavy metals such as nickel, tin and lead. That certainly seems like justification for supporting this bill.

SENATOR RATTI:

The DRI has contributed to some of that work. A summary of the research was presented in the Senate Committee on Revenue and Economic Development on May 27, 2019.

SENATOR WOODHOUSE:

I will close the hearing on S.B. 263. I will now ask our Fiscal staff to present one of the five budget bills which will be processed this Session.

MR. KRMPOTIC:

At the end of every Session, the Fiscal staff presents drafts of the major money bills. The first one to be discussed is the Capital Improvement Project bill. This bill will be introduced in the Assembly, but our staff is here to discuss it before the bill is introduced.

KRISTINA SHEA (Program Analyst, Fiscal Analysis Division, Legislative Counsel Bureau):

We will be presenting the 2019 Capital Improvement Program (CIP) Bill Draft Request (BDR) S-1282.

**BILL DRAFT REQUEST S-1282**: Authorizes and provides funding for certain projects of capital improvement. (Later introduced as [Assembly Bill 541](#).)

The Senate Committee on Finance and the Assembly Committee on Ways and Means closed the 2019 CIP on May 21, 2019. The provisions of BDR S-1282 implement the 2019 CIP. A number of projects have multiple funding sources, and as such will be listed in multiple sections of the bill.

Section 1 of BDR S-1282 appropriates \$60.8 million of General Fund monies to support a portion of the funding in the 2019 CIP for the projects which are identified under this section.

Section 2 limits the authority for expenditures through June 30, 2023, and establishes a reversion of any remaining funds for the projects identified in section 1. Similar language is included in sections 4, 7, 9 and 24 to address the reversions for the various sources of funds to support the 2019 CIP. Similar language is included throughout the BDR following each section that appropriates or authorizes funding.

Section 3 appropriates \$8.8 million of Highway Fund monies to support a portion of the funding in the 2019 CIP for 11 Department of Motor Vehicles (DMV) and Department of Public Safety facility projects as identified in this section.

Section 5 restricts the transfer of funds from the Highway Fund for projects identified in section 3 until contract payments are required.

Section 6 authorizes \$186 million in general obligation bonds for projects which are identified under this section. This section also reallocates \$3.5 million of bonds previously issued under prior CIP legislation and authorized for projects identified under this section. This will allow for bond proceeds already issued to be spent before the proceeds of any new bonds issued pursuant to this section.

Section 8 authorizes \$5.3 million in general obligation bonds for CIP Project No. 19-C01, Completion of South Reno Department of Motor Vehicles Service Office. Section 8 also establishes the required annual debt service payments on the bonds for this project from the Highway Fund and the Pollution Control Account. Based on estimated square footage allocations, the Highway Fund will be responsible for 88 percent and the Pollution Control Account will be responsible for 12 percent of the annual debt service required by this section.

Project No. 19-C01 — Completion of South Reno DMV

Section 10 specifies that the State Board of Finance will issue general obligation bonds for the 2019 CIP when it is deemed appropriate. Section 10, subsection 2 allows the State Controller to advance General Fund money if

bonds have not yet been sold to finance the projects approved in the 2019 CIP. Section 10, subsection 3 allows the State Controller to advance Highway Fund money if bonds have not yet been sold to finance CIP Project No. 19-C01. If General Fund or Highway Fund monies are advanced, the amounts must be immediately repaid to the General Fund or the Highway Fund upon the issuance of the bonds.

Section 11 provides for authority of \$38.5 million from funding sources other than the General Fund or the State Highway Fund for projects identified in this section.

Subsection 2 requires the State Public Works Division (SPWD) of the Department of Administration to not execute a contract for construction of a project approved in the 2019 CIP that includes authorized non-state receipts until the SPWD has determined that the non-state funding authorized has been awarded and/or is available for expenditure.

Section 12 requires that the SPWD only use qualified personnel to execute the 2019 CIP.

Section 13 requires state and local government entities cooperate with the SPWD in carrying out the provisions of the CIP.

Section 14 approves \$3 million for a cultural affairs historic preservation bond program.

Sections 15 and 16 approve \$8 million for the Tahoe Environmental Protection bond program. Section 15 authorizes \$4 million of the remaining authority as approved by S.B. No. 438 of the 76th Legislative Session. Section 16 authorizes \$4 million of the authority as proposed to be established under A.B. 220 which was signed on May 27, 2019.

**ASSEMBLY BILL 220**: Requires the issuance of bonds for environmental improvement projects in the Lake Tahoe Basin. (BDR S-435)

Section 17 approves \$3 million for the Water Infrastructure Bonds program.

Section 18 provides additional explanation that it is intended that the bonds issued under sections 15, 16, and 17 are exempt from the constitutional debt limit.

Section 19 approves ad valorem taxes for the Question 1 (Q1) bond program and for general obligation debt service. For the State's general obligation debt, \$.1575 on every \$100 of assessed valuation will be used to support existing general obligation debt of the State for prior bond issuances and for the bonds that are sold for the CIP. For the Q1 program, \$.125 for every \$100 of assessed valuation will be used to support the bonds that are sold for the Q1 program. The overall rate of \$.17 per \$100 of assessed valuation remains the same as approved for the current biennium.

Section 20 requires that the State Treasurer will estimate sufficient funding and determine whether that amount exists in the Consolidated Bond Interest and Redemption Fund to pay the principal and interest on past CIP issuances as well as current issuances. If there is not enough money in the Consolidated Bond Interest and Redemption Account, the Treasurer can request the State Controller to reserve money in the General Fund to pay those debts.

Section 21 authorizes the State Board of Finance to pay expenses related to the issuance of general obligation bonds.

Section 22 authorizes money to pay for bonds in the Consolidated Bond Interest and Redemption Account. This amount would be \$160.4 million in FY 2020 and \$159.1 million in FY 2021.

Section 23 authorizes the SPWD and the Nevada System of Higher Education (NSHE) with the approval of the Interim Finance Committee (IFC) to transfer money from one project within the same agency to another.

Section 24 approves \$3.4 million of slot tax revenue from the Special Capital Construction Fund for allocation to the NSHE Deferred Maintenance CIP Project No. 19-M08.

Project No. 19-M08 — Deferred Maintenance (HECC/SHECC)

Sections 25 through 27 revise the reversion language from prior CIP legislation to allow for the reallocation of bonds issued under prior authorization approved by past legislatures for use for projects identified in section 6.

Sections 28 through 30 extend the reversion dates for 8 project extensions from the 2015 CIP. Section 29 also revises the reversion language from the 2015 CIP legislation to allow for the reallocation of bonds for use for projects identified in section 6.

Section 31 authorizes the use of any unspent and unneeded bond proceeds issued for the funding of construction of the new DMV facility in South Reno, Project No. 17-C04, to be used for the completion of the new DMV facility in Reno in CIP Project No. 19-C01 prior to the expenditure of any proceeds authorized in Section 8 of this act.

Project No. 17-C04 — DMV Facility in South Reno

Section 32 makes this act effective upon passage and approval.

SENATOR KIECKHEFER:

On page 8, section 6 of BDR S-1282 refers to *Statutes of Nevada* 2015, 2013 and 2009. Can you talk about those referenced Statutes?

Ms. SHEA:

Section 6 contains the reallocated bonds or cash that is available for reallocation. The section references the legislation in 2015, 2013, and 2009 which originally allocated the bonds.

MR. KRMPOTIC:

Would the Staff please indicate the amount of those reallocated proceeds?

Ms. SHEA:

The reallocated proceeds from prior bonds is \$3,469,121. Of that, \$41,610 is from the 2009 bond, and \$457,912 is from general obligation bonds in 2013. Bond issuance from 2015 accounts for \$2,969,599 of the reallocated proceeds.

SENATOR KIECKHEFER:

Are those the same amendments that are made starting in section 25 of the bill?

BRODY LEISER (Senior Program Analyst, Fiscal Analysis Division, Legislative Counsel Bureau):

The language in sections 25 through 27 amends the *Statutes of Nevada* that tied reversion language to those funds. The language in BDR S-1282 allows for the reallocated bonds to be applied to the projects in section 6.

SENATOR KIECKHEFER:

They are not paying for the items identified in sections 25, 26 and 27; the unallocated funding from those projects is being used for this CIP. Is that correct?

MR. LEISER:

That is correct.

CHAIR WOODHOUSE:

We will have an opportunity to dig into this more deeply after BDR S-1282 is presented in the Assembly.

We will open the hearing on A.B. 348.

**ASSEMBLY BILL 348 (1st Reprint)**: Makes various changes to prevent and track workplace violence at certain medical facilities. (BDR 53-843)

ASSEMBLYWOMAN MICHELLE GORELOW (Assembly District No. 35):

I have submitted Proposed Amendment No. 6079 to A.B. 348 ([Exhibit J](#)). Assembly Bill 348, also known as the workplace violence bill, requires certain medical facilities to establish a committee on workplace safety to assist in the development and implementation of a workplace safety plan. Through amendments and discussion with stakeholders, the fiscal note that was previously attached to the bill is no longer in effect.

MARLENE LOCKARD (Service Employees International Union Local 1107):

Assembly Bill 348 requires hospitals to establish a workplace safety plan and provide training to employees who provide care. The bill requires all employees who work within a facility be trained in workplace violence prevention methods. The bill also requires hospitals to work in collaboration with staffing committees to identify areas that could present a potential hazard for workplace safety and to take measures and implement practices to prevent potential workplace violence. The bill further requires that several specific measures be developed by

regulation within the Division of Industrial Relations (DIR) of the Department of Business and Industry (DBI). Other policies are to be developed in concert with the DHHS.

SENATOR KIECKHEFER:

The DIR had placed a fiscal note on the bill. What has been changed to remove the fiscal note?

Ms. LOCKARD:

The previous iteration of the bill had some requirements for DIR to do certain trainings. The hospitals do the training, not DIR. Also, DIR will adopt regulations that clarify the requirements that the hospital has to meet. The reporting that was initially required has been changed with the proposed amendment. There are fewer new reports. We have adopted standard U.S. Occupational Safety and Health Administration (OSHA) requirements in the updated version of the bill.

SENATOR KIECKHEFER:

Under A.B. 348, is DIR not going to be the place where people go to make reports?

Ms. LOCKARD:

Yes, they will follow established OSHA standards to file a workplace violence injuries report.

SENATOR KIECKHEFER:

Is there anything in the bill which requires upgrades to State hospitals or other such facilities?

Ms. LOCKARD:

No. There are no mandatory upgrades within the bill.

SENATOR DENIS:

The amendment puts in place a safety committee. Is that something that the facilities currently do, or is that practice inconsistent? Is this bill needed to bring some consistency?

Ms. LOCKARD:

A staffing committee requirement is currently in place. This amendment will use the established staffing committee but also bring in staff members not directly

responsible for patient care, such as heating, ventilation and air conditioning technicians. This will be a new safety committee, but in effect it is the established staffing committee with the addition of pertinent employees into the workplace violence and safety committee as needed.

CARTER BUNDY (American Federation of State, County and Municipal Employees International):

For the reasons already stated, the American Federation of State, County and Municipal Employees (AFSCME) supports A.B. 348. Workplace safety is a priority for us and for all workers.

JESSE WADHAMS (Nevada Hospital Association):

After much discussion and collaboration, we are neutral on A.B. 348.

LISA SHERYCH (Interim Administrator, Division of Public and Behavioral Health, Department of Health and Human Services):

I confirm that the proposed amendment to A.B. 348 will remove our fiscal note.

CHAIR WOODHOUSE:

I will close the hearing on A.B. 348. I will go next to S.B. 133 which this Committee approved a few nights ago. The appropriation for this bill is already in the budget. We should rescind our previous action on S.B. 133 since it is no longer needed.

**SENATE BILL 133**: Makes an appropriation for educational leadership training programs. (BDR S-107)

MR. KRMPOTIC:

Senate Bill 133 provided an appropriation for the implementation and operation of educational leadership training programs and other matters properly related thereto. It was a four-page bill. There were appropriations from the General Fund of \$1 million in each year of the biennium. The action taken by the Committee was to "amend and do pass" the bill and remove the General Fund appropriations.

It was noted during the work session that the budget passed by the Senate Committee on Finance and the Assembly Committee on Ways and Means included appropriations of \$500,000 in each year of the biennium. The bill was, for the most part, an appropriation bill. Once the appropriations were removed,



the legal staff has advised that there is not much left of the bill and that any required language would be incorporated into the education funding bill. That is in conjunction with the appropriations which were approved in the education funding bill. Therefore, it would be appropriate for the Committee to rescind its action. When the education funding bill is presented, the corresponding language will be included.

SENATOR DENIS MOVED TO RESCIND THE PREVIOUS ACTION TAKEN ON S.B. 133.

SENATOR BROOKS SECONDED THE MOTION.

THE MOTION CARRIED. (SENATORS CANCELA AND PARKS WERE ABSENT FOR THE VOTE.)

\* \* \* \* \*

CHAIR WOODHOUSE:

I will now open the work session on S.B. 80.

**SENATE BILL 80 (1st Reprint)**: Revises provisions relating to providing a safe and respectful learning environment. (BDR 34-502)

MR. KRMPOTIC:

This bill was heard on May 28, 2019.

JAIMARIE ORTEGA (Program Analyst, Fiscal Analysis Division, Legislative Counsel Bureau):

Senate Bill 80 was presented by a representative from the Clark County School District (CCSD). As amended, S.B. 80 requires the Director of the Office for a Safe and Respectful Learning Environment in the Department of Education (NDE) to establish the Handle with Care program and provide training to school officials and other persons who will be involved with the program.

As amended, S.B. 80 requires officers and employees of law enforcement agencies to report to the program certain information about a child who may attend a public school and who has been exposed to certain events. Information about such a child must be forwarded to certain school personnel and requires trained personnel to take appropriate action in accordance with their training.

As amended, the bill also changes the name of the Safe-to-Tell program to the SafeVoice program, a program which enables any person to anonymously report in certain circumstances dangerous, violent or unlawful activity related to public schools.

Regarding the fiscal impact, NDE submitted a fiscal note increasing General Fund appropriations by \$25,000 in FY 2020 for system modifications. However, during the bill hearing NDE testified that the amendment to S.B. 80 eliminates the fiscal note and that no additional software system would be needed.

During the bill hearing, CCSD provided a proposed amendment ([Exhibit K](#)) which replaces the requirement for the submission of a report with the submission of a notification.

SENATOR DENIS MOVED TO AMEND AND DO PASS AS AMENDED  
S.B. 80.

SENATOR KIECKHEFER SECONDED THE MOTION.

THE MOTION CARRIED. (SENATORS CANCELA AND PARKS WERE  
ABSENT FOR THE VOTE.)

\* \* \* \* \*

CHAIR WOODHOUSE:

I will open the work session on S.B. 90.

**SENATE BILL 90 (1st Reprint)**: Making various changes relating to the health of  
children. (BDR 40-448)

MR. KRMPOTIC:

This bill was also heard on May 28, 2019.

JOHN KUCERA (Program Analyst, Fiscal Analysis Division, Legislative Counsel  
Bureau):

Senate Bill 90 includes provisions relative to the testing and reporting of lead  
blood levels within children. The bill creates the Diapering Resources Account  
and requires funds in the account be expended to provide diapers and related

supplies to recipients of public assistance and other low-income families in the State. The measure appropriates General Fund monies of \$500,000 in each year of the 2019-2021 biennium to the Diapering Resources Account. The bill allocates \$50,000 in each year of the 2019-2021 biennium for training and technical assistance grants. The bill also allocates \$200,000 in each year of the biennium to the Nevada Silver State Stars Quality Rating and Improvement System for grants to providers of child care for facility improvements.

Senate Bill 90 was introduced by representatives of the Children's Advocacy Alliance. A conceptual amendment was submitted by the Children's Advocacy Alliance during the previous hearing. The conceptual amendment deletes section 30, which removes the \$1 million for the Diapering Resources Account. The proposed amendment would delete section 31, removing \$100,000 for training and technical assistance grants. The proposed amendment reduces the appropriation in section 32 to \$100,000 in each year of the 2019-2021 biennium to provide assistance to child care providers for the implementation of new regulations relating to physical activity and nutrition standards as required by A.B. No. 152 of the 78th Session.

After consideration of the conceptual amendment submitted by the Children's Advocacy Alliance, the remaining fiscal impact would be \$100,000 in each year of the 2019-2021 biennium. During the hearing, and in consultation with the DHHS, Senator Spearman noted that grant funds may be utilized to address the remaining fiscal impact of the bill. Fiscal staff received confirmation from the DHHS that the DHHS Division of Welfare and Supportive Services (DWSS) has available child care block grant funding and that no appropriations are required in S.B. 90.

SENATOR GOICOECHEA:

Is the fiscal impact \$100,000 per year, or is there no fiscal impact?

MR. KUCERA:

According to the most recent confirmation from the DHHS, the fiscal impact of this bill would be \$0 with the proposed amendment.

MR. KRMPOTIC:

In further response to Senator Goicoechea's question, the proposed amendment would reduce the appropriations in S.B. 90 to \$100,000 in each year of the biennium.

MR. KUCERA:

In further consultation with the DHHS, the DWSS noted that there is available block grant funding within the Division that could be used to support the \$100,000 in section 32. This would support physical activity nutrition standards required by A.B. No. 152 of the 78th Session. The DHHS specified that no appropriations would be requested in S.B. 90.

CHAIR WOODHOUSE:

The last I heard from the DHHS was that block grants are available, but if the DHHS uses the grants, then the grants are not available for other work that has to be done. I do not see anyone in the audience from the DHHS who could resolve these conflicting reports. My understanding was that \$100,000 was needed in each year of the biennium, just as Mr. Krmpotic said.

I will close the work session on S.B. 90 and open the work session on S.B. 209.

**SENATE BILL 209 (1st Reprint):** Revises provisions relating to hemp.  
(BDR 49-584)

COLBY NICHOLS (Program Analyst, Fiscal Analysis Division, Legislative Counsel Bureau):

Senate Bill 209 bill revises State law to refer to cannabis plants with a tetrahydrocannabinol (THC) concentration of no more than 0.3 percent as "hemp", instead of "industrial hemp." This change is consistent with federal laws. The bill requires the State Department of Agriculture (DOA) to adopt regulations requiring that any products or commodities made using hemp grown for human or animal consumption be tested and labeled in accordance with regulations adopted by the DOA for hemp grown for any other purpose.

The bill requires the DOA in consultation with the DHHS to adopt regulations requiring the testing of commodities or products made using hemp or certain other products containing cannabidiol which are intended for animal or human consumption. These regulations must establish that such products may not be labeled in a false or misleading manner.

Senate Bill 209 establishes that a grower, handler or producer whose crop, commodity or product fails a test prescribed according to this bill may submit the same crop, commodity or product for retesting.

Senator Harris introduced S.B. 209 and presented a proposed amendment. The proposed amendment would change the definition of the threshold of the maximum allowable concentration of THC from 0.3 percent to one that does not exceed the maximum THC concentration as established by the federal law for hemp.

The proposed amendment clarifies the responsibilities of the DOA and the DHHS for the adoption of regulations relating to the testing of hemp and related commodities and products. Per the proposed amendment, the DHHS is authorized to adopt regulations relating to the testing of hemp products and commodities which are intended for human consumption. These are processed products. The DOA is authorized to adopt regulations relating to the testing of all other hemp commodities and products. These are unprocessed products. The proposed amendment would add an effective date of July 1, 2020, to the bill.

Testimony by the bill sponsor indicated that S.B. 209 with the proposed amendment would not have any fiscal impact to either the DOA or the DHHS.

SENATOR DENIS MOVED TO AMEND AND DO PASS AS AMENDED  
S.B. 209.

SENATOR SETTELMAYER SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR PARKS WAS ABSENT FOR THE VOTE.)

\* \* \* \* \*

CHAIR WOODHOUSE:  
I will open the work session on S.B. 493.

**SENATE BILL 493 (1st Reprint)**: Revises provisions relating to misclassification of employees. (BDR 53-1087)

MR. NICHOLS:  
Senate Bill 493 requires the Office of the Labor Commissioner and the Division of Industrial Relations (DIR) of the Department of Business and Industry (DBI), the Department of Employment, Training and Rehabilitation (DETR), the Department of Taxation (DOT), and the Office of the Attorney General to share

amongst their respective offices information related to suspected employee misclassification to the extent that confidentiality required by law is maintained.

Senate Bill 493 also establishes the Task Force on Employee Misclassification. The bill establishes that five members are ex officio members from specified State entities. The remaining five members are appointees selected as representatives for certain employer and labor interests as well as a representative of the general public.

Per the bill, the Task Force shall evaluate the policies and practices of specified State agencies relating to misclassification in the areas of labor law, workers' compensation, unemployment insurance, rehabilitation, taxation and law enforcement. The Task Force will evaluate existing fines, penalties or other disciplinary action State agencies can take relating to misclassification. The Task Force will also develop recommendations for policies, practices or proposed legislation to reduce the occurrence of employee misclassification.

Senate Bill 493 requires the Task Force to submit a written report to the Legislative Commission on or before July 1, 2020, and on or before July 1 of each subsequent year. The report must contain a summary of the Task Force's work and recommendations for legislation addressing employee misclassification. The bill authorizes the Labor Commissioner to impose various administrative penalties against an employer who misclassifies a person as an independent contractor and authorizes a person to file a complaint with certain agencies to seek such a penalty.

As introduced, Senate Bill 493 received four fiscal notes showing no fiscal impact from the Office of the Attorney General, DETR, the Office of the Labor Commissioner and the DIR.

However, the first reprint of S.B. 493 received unsolicited fiscal notes from the Office of the Labor Commissioner and the DIR indicating the bill, as amended, would have a fiscal impact. The revised fiscal note from the Office of the Labor Commissioner indicated the first revision version of the bill would require the Office to provide personnel, facilities, equipment and supplies for the Task Force. The revised fiscal note also indicated the Office would be responsible for enforcing newly created provisions regarding independent contractors. The Office indicated the first reprint version of S.B. 493 would require two new compliance audit investigator positions. The Agency indicated

the new personnel, supplies, technology costs and forms required by the amended version of the bill would incur costs of \$147,040 in FY 2020 and \$145,662 in FY 2021.

The DIR revised fiscal note indicated the first reprint version of S.B. 493 would require the DIR to investigate complaints of worker misclassification and issue determinations on such complaints. The Agency indicated one new compliance audit investigator and one new senior attorney would be needed to address the increased workload.

Proposed Amendment No. 6037 ([Exhibit L](#)) was discussed during the May 28, 2019, budget hearing. The fiscal impact to the Office of the Labor Commissioner would remain if the proposed amendment, [Exhibit L](#), was adopted. This fiscal impact to the DIR would be removed if the proposed amendment, [Exhibit L](#), was adopted.

The proposed amendment, [Exhibit L](#), clarifies the definition of “employee misclassification.” Per [Exhibit L](#), “employee misclassification” means the practice by an employer of improperly classifying employees as independent contractors to avoid legal obligations under state labor, employment and tax laws. This includes laws related to minimum wage, overtime, unemployment insurance, workers’ compensation, payroll taxes and disability insurance.

Proposed Amendment No. 6037, [Exhibit L](#), changes the composition of the proposed Task Force. The change removes the ex officio members and allows the Governor to appoint all members of the Task Force. Per [Exhibit L](#), the Task Force would be composed of appointees including 1 person who represents an employer in the State that employs more than 500 employees; 1 person who represents an employer in the State that employs less than 500 employees; 1 person who is an independent contractor; 2 people who represent organized labor; 1 person who represents a trade or business association; and 1 person who represents a governmental agency that administers laws governing employee misclassification. In addition, the Governor would be able to appoint up to two additional members as deemed appropriate.

The proposed amendment, [Exhibit L](#), authorizes the Administrator of the DIR, the Director of DETR and the Executive Director of the DOT to assess administrative penalties against an employer who misclassifies an employee

similar to the authority given to the Labor Commissioner in the first reprint version of the bill.

Proposed Amendment No. 6037, [Exhibit L](#), establishes that a person is conclusively presumed to be an independent contractor if the person is licensed pursuant to NRS 624 or directly compensated by a person who is licensed pursuant to NRS 624.

Sections 1 to 13 of [Exhibit L](#) become effective on July 1, 2019. Sections 14 to 16 of [Exhibit L](#) become effective upon passage and approval of the bill and the amendment.

SENATOR SETTELMAYER:

What would the total fiscal effect be if we adopt Proposed Amendment No. 6037, [Exhibit L](#) ?

MR. NICHOLS:

If the proposed amendment, [Exhibit L](#), was adopted, the sole fiscal note would be from the Office of the Labor Commissioner for \$147,040 in FY 2020 and \$145,662 in FY 2021.

SENATOR GOICOECHEA:

According to the testimony from the previous hearing, agricultural day workers, independent truckers and people in similar positions are exempt from S.B. 493. Is that correct? They are not truly contractors but in most cases are still issued an IRS 1099 form for their work.

ALEX HAARTZ (Principal Deputy Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau):

That was the testimony provided on May 28, 2019.

SENATOR KIECKHEFER:

Does the Office of the Labor Commissioner need General Fund appropriations of about \$300,000 over the biennium, or is this funded through a different cost allocation method?

MR. NICHOLS:

The Office is entirely funded through General Fund appropriations, so those costs would be funded through General Fund appropriations.



MR. KRMPOTIC:

Proposed Amendment No. 6037, [Exhibit L](#), reduced the fiscal note, but did not eliminate it entirely. I would like Mr. Nichols to state what those reduced amounts are. The Committee may consider one of two alternatives if it wishes to move forward with S.B. 493. The Committee could consider adding the appropriations to the bill or pass the amendment without the appropriations, recognizing that the Labor Commissioner may need to request allocations from the IFC to fund the cost of the Legislation

MR. NICHOLS:

The amounts given earlier are the reduced amounts from the fiscal note. That is \$147,040 in FY 2020 and \$145,662 in FY 2021. Proposed Amendment No. 6037, [Exhibit L](#), would remove the revised fiscal note submitted by the DIR.

CHAIR WOODHOUSE:

What was the amount before it was reduced?

MR. NICHOLS:

The fiscal note from the DIR was for \$186,110 in FY 2020 and \$234,993 in FY 2021. The fiscal note from the Office of the Labor Commissioner was roughly \$167,000 in FY 2020 and a similar amount in FY 2021.

MR. KRMPOTIC:

The revised fiscal note was about \$170,000 in the first year of the biennium and \$177,000 in the second year of the biennium.

CHAIR WOODHOUSE:

Mr. Krmpotic has indicated we have two options if we want to pass S.B. 493. We could add an appropriation to cover the cost that was put forth by the Labor Commissioner, or the Labor Commissioner could approach the IFC for contingency funds after the Session is over. I will ask the bill sponsor, Senator Dondero Loop, for her input.

SENATOR MARILYN DONDERO LOOP (Senatorial District No. 8):

I have submitted Proposed Amendment No. 6062 to S.B. 493 ([Exhibit M](#)). This is not the same as Proposed Amendment No. 6037, [Exhibit L](#), which was presented on May 28, 2019.

Proposed Amendment No. 6062, [Exhibit M](#), deletes sections 14 through 23 of Proposed Amendment No. 6037, [Exhibit L](#). Sections 1 through 13.5 of Proposed Amendment No. 6062, [Exhibit M](#), virtually remain the same as Proposed Amendment No. 6037, [Exhibit L](#). The bill will still require the Office of the Labor Commissioner, the DIR, DETR, DOT and the Attorney General to share amongst their respective offices certain information relating to suspected employee misclassification. The bill will still establish the Task Force on Employee Misclassification.

Section 10.3 of Proposed Amendment No. 6062, [Exhibit M](#), authorizes the Labor Commissioner to impose an administrative penalty against an employer who misclassifies a person as an independent contractor or who otherwise fails to properly classify an employee. However, the new amendment, [Exhibit M](#), removes previously proposed provisions to authorize DIR, DETR and the DOT to impose such administrative penalties. The proposed amendment, [Exhibit M](#), seeks to change section 10.3, subsection 2, paragraph (b) to clarify the willful actions committed by an employer which may result in an administrative penalty imposed by the Labor Commissioner.

Section 10.4 of the proposed amendment, [Exhibit M](#), still authorizes a person who has been misclassified as an independent contractor to file a complaint with the Labor Commissioner against his or her employer in order to seek an administrative penalty. The new amendment, [Exhibit M](#), removes the sections that would have authorized a person to file a similar complaint with DIR, DETR and the DOT. This is one reason the fiscal impact was substantially reduced.

SENATOR SETTELMAYER:

I have had many individuals talk to me about [S.B. 493](#). I was comfortable with the bill until the revised fiscal note made me question my position. Does the new amendment, the deletion of section 14 to 23, change the fiscal note? What effect does [Exhibit M](#) have on the discussion we just had about the \$292,000 asked for by the Office of the Labor Commissioner? Is that number still valid?

MICHAEL BROWN (Director, Department of Business and Industry):

Two revised fiscal notes were issued, one for the Labor Commissioner and one for the DIR. With the removal of those sections, the role of the DIR is also removed, so the fiscal note goes away. The DIR has existing authority to do what those sections were tasked to do.

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SENATOR SETTELMAYER:

Does that take away the fiscal note for the Office of the Labor Commissioner?

MR. BROWN:

No. The fiscal note for the Office of the Labor Commissioner still remains in place.

SHANNON CHAMBERS (Labor Commissioner, Office of Labor Commissioner, Department of Business and Industry):

To Senator Goicoechea's previous comment, S.B. 493 does not exempt anyone. It creates a presumption for an independent contractor under NRS 624.

SENATOR GOICOECHEA:

An independent contractor is someone who does not have a contractor's license. An independent trucker, a person with a tractor or a saddle horse, or another person who is working for me as a day worker is an independent contractor because we provide them with a 1099. Does that fit your description of an independent contractor?

MS. CHAMBERS:

If we received a complaint we would do an investigation, an analysis of the situation. From what you just said about those specific circumstances, yes; the Labor Commissioner would define people in those roles as independent contractors.

CHAIR WOODHOUSE:

We will continue to work on S.B. 493. I will close the work session on S.B. 493 and open the work session on S.B. 198.

**SENATE BILL 198 (1st Reprint)**: Revises provisions governing eligibility for Medicaid. (BDR 38-744)

CATHY CROCKET (Program Analyst, Fiscal Analysis Division, Legislative Counsel Bureau):

Senate Bill 198 revises provisions governing eligibility for Medicaid to allow children to stay on Medicaid for 12 consecutive months. A conceptual amendment ([Exhibit N](#)) was presented at the hearing on May 28, 2019. The conceptual amendment deletes provisions revising Medicaid eligibility.

The conceptual amendment, [Exhibit N](#), requires the DWSS in the DHHS to update its information system to allow certain data to be gathered in order to assess why children are dis-enrolled from Medicaid within 12 months of eligibility. Possible reasons for disenrollment could include excess income, the death of the child, a request to terminate coverage, leaving the household or the State and noncooperation.

The amendment, [Exhibit N](#), requires the Division to submit a report to the Legislative Committee on Health Care and to the Legislative Counsel Bureau (LCB) by October 1, 2020. The report must cover the aforementioned analysis and the estimated cost of amending the Medicaid State Plan to allow for 12 months of continuous eligibility.

The DWSS testified that the revised fiscal impact would be a total of \$426,000 for information system changes. Federal funding can cover 90 percent of the cost or \$383,400. A General Fund appropriation of \$42,600 would be needed to cover the rest. The DHHS Division of Health Care Financing and Policy (DHCFP) testified that the amendment would eliminate its fiscal note.

Staff suggests that certain cost elements would make it more appropriate for the DHCFP to prepare the report to the Legislative Committee and LCB, rather than the DWSS. Staff also suggests adding a section to appropriate General Fund monies of \$42,600 and authorize non-General Fund revenues of \$383,400. The bill would be effective upon passage and approval with authority to balance these funds forward and revert unused funds effective June 30, 2021.

CHAIR WOODHOUSE:

The General Fund impact on this bill would be \$42,600 because of the 90 percent/10 percent split. Is that correct?

Ms. CROCKET:

Yes.

SENATOR DENIS MOVED TO AMEND AND DO PASS AS AMENDED  
S.B. 198.

SENATOR PARKS SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR CANCELA WAS ABSENT FOR THE VOTE.)

\* \* \* \* \*

CHAIR WOODHOUSE:

I will open the work session on S.B. 425.

**SENATE BILL 425**: Requires the Director of the Department of Health and Human Services to amend the State Plan for Medicaid to provide certain additional home and community-based services. (BDR 38-919)

MS. CROCKET:

To the extent authorized by federal law, Senate Bill 425 requires the Director of the DHHS to include tenancy support services in the State Medicaid plan. If passed, the bill becomes effective July 1, 2019.

An enhancement to the Medicaid budget approved by the Legislature was authorized to support tenancy support services at a cost of \$9.8 million, including \$1.9 million in General Fund appropriations. The bill was introduced by representatives of the DHCFF of the DHHS.

Staff notes that housing services are funded in the budget effective January 1, 2020, but the bill contains an effective date of July 1, 2019. There is also a time period associated with getting federal approval for implementing new services. Therefore, the Committee may wish to consider amending the bill to be effective January 1, 2020, rather than July 1, 2019.

SENATOR KIECKHEFER MOVED TO AMEND AND DO PASS AS AMENDED S.B. 425.

SENATOR DENIS SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR CANCELA WAS ABSENT FOR THE VOTE.)

\* \* \* \* \*

CHAIR WOODHOUSE:

I will open the work session on S.B. 111.

**SENATE BILL 111 (1st Reprint)**: Revises provisions governing collective bargaining by local government employers. (BDR 31-651)

MR. HAARTZ:

Current law provides that 25 percent of a local government's total budget expenditures less capital outlay is not subject to collective bargaining negotiation. The 25 percent must also not be considered by a fact finder or arbitrator in determining a local government employer's ability to pay compensation and monetary benefits. The bill provides instead that a budgeted ending fund balance of not more than 16.67 percent is subject to collective bargaining.

The bill also provides that any money appropriated by the State to carry out increases in salary and benefits is subject to negotiation. This money must be considered by a fact finder or arbitrator in determining a school district's ability to pay compensation or monetary benefits.

An unsolicited fiscal note was submitted by the CCSD. Churchill, Washoe and White Pine Counties indicated possible, but not quantified, fiscal impacts.

If passed, S.B. 111 becomes effective on July 1, 2019.

SENATOR SETTELMAYER:

Is teacher pay included in the appropriated money mentioned in section 1.2, subsection 4?

MR. KEATING:

Yes. The fiscal note we submitted is the money required to meet the obligation in section 1.2, subsection 4. The fiscal note of \$36 million accounts for all district employees with a 2 percent rollup.

SENATOR SETTELMAYER:

Can districts afford that and still be able to grant the teachers the pay raise that has been discussed?

MR. KEATING:

The answer would change depending on who you talk to. From our District's perspective, we do not have the money for S.B. 111 as it is currently written. The current funding formula is not transparent. The dollars that come in are not the same dollars that we get. We do not have a line item anywhere to explain the purpose of what we are receiving.

We have offered various amendments to the bill sponsors, but the amendments have been rejected. Due to the regulations in A.B. No. 469 of the 79th Session and the reorganization of the CCSD, 85 percent of our funds have to be pushed to schools. In order to meet this fiscal note, we would have to pull money out of school budgets in order to pay these additional salaries.

SENATOR PARKS MOVED TO DO PASS S.B. 111.

SENATOR DENIS SECONDED THE MOTION.

SENATOR KIECKHEFER:

I oppose this bill for a few reasons. One issue I have was alluded to by Mr. Keating. We appropriate this 2 percent for the rollup costs and put it into the Distributive School Account, B/A 101-2610. However, we know that not every school district gets a commensurate share of the 2 percent through the current funding formula. If we knew the districts actually got that amount and it was distributed through, the districts would be able to afford the changes in the bill. However, that is not how things work right now, so it does not make sense to pass the bill.

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THE MOTION CARRIED. (SENATORS GOICOECHEA, KIECKHEFER AND SETTELMAYER VOTED NO. SENATOR CANCELA WAS ABSENT FOR THE VOTE.)

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CHAIR WOODHOUSE:

I will open the work session on S.B. 153.

**SENATE BILL 153 (1st Reprint)**: Revises provisions relating to collective bargaining. (BDR 23-405)

MR. HAARTZ:

Senate Bill 153 makes various changes to existing law pertaining to collective bargaining. Starting on page 2, line 22 of the bill, the Legislative Counsel's Digest of the bill explains,

Existing law prohibits a local government employer, with limited exceptions, from increasing any compensation or monetary benefits paid to or on behalf of employees in affected bargaining unit upon the end of the term stated in a collective bargaining agreement and until the successor agreement becomes effective. ... This bill removes this prohibition.

The bill also revises the list of school district employee positions which are excluded from engaging in collective bargaining with their employer. The bill revises the negotiation process and the existing timeframe before issues can be submitted to an arbitrator.

Several local governments identified fiscal impacts ranging from \$125,000 per year to \$36 million per year. These governments include Clark County and the Clark County School District, Churchill County and the Churchill County School District, the Douglas County School District and the Washoe County School District.

SENATOR DENIS MOVED TO DO PASS S.B. 153.

SENATOR PARKS SECONDED THE MOTION.



THE MOTION CARRIED. (SENATORS GOICOECHEA, KIECKHEFER AND SETTELMAYER VOTED NO. SENATOR CANCELA WAS ABSENT FOR THE VOTE.)

\* \* \* \* \*

CHAIR WOODHOUSE:

I will open the work session on S.B. 215.

**SENATE BILL 215 (1st Reprint)**: Revises provisions relating to occupational diseases. (BDR 53-317)

STEPHANIE DAY (Program Analyst, Fiscal Analysis Division, Legislative Counsel Bureau):

Senate Bill 215 revises provisions governing compensation for certain employees who develop cancer as an occupational disease. Section 1, subsection 1, paragraph (a), subparagraph (1) adds "an investigator of fires or arson; or an instructor or officer for the provision of training concerning fire or hazardous materials" to the list of persons eligible for occupational disease compensation. Section 1, subsection 2, paragraph (a) adds Category I and II peace officers to the list of persons eligible for occupational disease compensation. Section 1, subsection 3 amends the list of types of cancers covered and known carcinogens which are reasonably associated with disabling cancer.

The bill provides various periods for purposes in which an employee may claim and is compensable for such cancer as an occupational disease. The amendatory provisions of this bill apply only to claims filed on or after July 1, 2019.

The fiscal note submitted by the Risk Management Division of the Department of Administration indicates a fiscal impact of \$71,761 in FY 2020 and \$143,522 in FY 2021 based on the average cost per cancer-related workers compensation claims since 2001 which is based on an additional 2 claims per fiscal year.

The fiscal note submitted by the NSHE indicates a fiscal impact of \$100,000 in FY 2019 and FY 2020, and \$200,000 in FY 2021. Fiscal notes were received from 5 entities including a fiscal note from the Las Vegas Metropolitan Police

Department of \$9.9 million per year. A fiscal note of \$7.5 million was received from Clark County.

Proposed Amendment No. 6057 ([Exhibit O](#)) removes Category I and II peace officers from section 1, subsection 2 and provides that disabling cancer is rebuttably presumed to be occupationally related under certain circumstances.

SENATOR KIECKHEFER:

What effect does removing the peace officers and changing the presumption from conclusive to rebuttable have on the fiscal notes?

Ms. DAY:

We just received the mock-up this evening, so we do not know yet. Individuals from the various entities may be able to address that question.

CHUCK CALLAWAY (Las Vegas Metropolitan Police Department):

We submitted our fiscal note based on projections of what we believed our costs would be. We support these benefits for officers, but the proposed amendment would eliminate our fiscal note.

LESLEE SHELL (Clark County):

The proposed amendment, [Exhibit O](#), will not significantly impact our fiscal note. Our concern continues to be the lifetime extension of the benefit which is where the majority of our fiscal note originates.

SENATOR KIECKHEFER:

Is that provision found in section 1, subsection 7, [Exhibit O](#)?

Ms. SHELL:

Yes. The current postretirement benefit is for a period of up to 60 months. The extension of that benefit is for the period of total time worked which is generally between 20 and 30 years.

SENATOR KIECKHEFER:

Your fiscal note is not affected by the exclusion of the peace officers because it is a separate entity. Is that correct?

Ms. SHELL:

A small adjustment to our fiscal note would be required, but the majority of law enforcement is covered with the Las Vegas Metropolitan Police Department. We do have juvenile probation officers, bailiffs and others who are classified as Category I and II peace officers.

SENATOR SETTELMAYER:

I am trying to find the change relating to the concept of postemployment. Current law is that a claim must be filed within 60 days after retirement. A version of the bill extended that to a lifetime claim. Is that provision included in the amendment? The deletion on page 6, line 28 of the proposed amendment, [Exhibit O](#), seems to turn this to a lifetime claim.

SENATOR KIECKHEFER:

To Senator Settelmeyer's comment, the version of section 1, subsection 7 deleted in [Exhibit O](#) talks about volunteers. The new section 1, subsection 7, paragraph (b), [Exhibit O](#), grants the lifetime presumption to someone who has served more than 20 years.

Ms. SHELL:

I interpret that section in the same way.

SENATOR MELANIE SCHEIBLE (Senatorial District No. 9):

Senate Bill 215 is intended to follow the "Heart and Lung" bill in its comparison of people who are covered for their lifetime versus those who are covered based on the number of years of service. If the person was a volunteer for 5 years, or if the person served professionally for more than 20 years, the person receives full lifetime benefits.

TODD INGALSBEE (Professional Firefighters of Nevada):

Senator Scheible is correct. We crafted this language to mirror the "Heart and Lung" language. The coverage in this bill is based on the number of years of service after five years. Any service after 20 years qualifies a person for lifetime coverage.

We had 18 claims in 2017. The average cost per claim was \$32,000, or \$630,000 total. That is the highest number we have seen since we have had this coverage. The data on this coverage goes back to 2014.

SENATOR KIECKHEFER:

Do those numbers include all claims Statewide or just claims made at the State level?

MR. INGALSBEE:

These are the number at the State level. The total number of workers compensation claims in 2017 was 595. The total monetary amount for those claims including cancer, heart and lung claims was \$1.9 million; 18 claims were cancer related.

SENATOR SCHEIBLE:

I would like to present a conceptual amendment. The word "rebuttable" as it relates to the "rebuttable presumption" is used throughout the bill. We are seeking to remove it in certain sections for clarity.

MR. INGALSBEE:

We would like to remove the word "rebuttably" from line 20 of the Legislative Counsel's Digest in [Exhibit O](#). We also propose to remove the word "rebuttably" from page 5, line 16 and line 26, [Exhibit O](#), and page 6, line 7, [Exhibit O](#). We feel the issue is adequately addressed in section 1, subsection 9, [Exhibit O](#).

SENATOR KIECKHEFER:

There is either a rebuttable presumption or a conclusive presumption. I do not understand the problem of having clarity in the statute which you propose to remove in subsection 7 and subsection 5.

MR. INGALSBEE:

Subsection 9 talks about the rebuttable portion. By deleting the other uses of "rebuttable", we are trying to keep the bill language in line with language that has already been approved.

SENATOR PARKS MOVED TO AMEND AND DO PASS AS AMENDED  
S.B. 215.

SENATOR DENIS SECONDED THE MOTION.

SENATOR KIECKHEFER:

I will support the motion at this time. I will reserve my right to look into the fiscal notes more thoroughly before I vote on the Senate Floor.

SENATOR SETTELMAYER:

I will also support the motion now. Due to these last minute amendments, I will have to see how it all works together before we vote on the Senate Floor.

THE MOTION CARRIED. (SENATOR GOICOECHEA VOTED NO.  
SENATOR CANCELA WAS ABSENT FOR THE VOTE.)

\* \* \* \* \*

CHAIR WOODHOUSE:

I will open the work session on S.B. 263.

MR. KRMPOTIC:

Senate Bill 263 was heard previously in this Committee hearing. The bill requires certain alternative nicotine and vapor products including electronic cigarettes, hookahs, vape pens, and similar products and devices, to be regulated and taxed in the same manner as other tobacco products. Because the bill establishes alternative nicotine and vapor products as other tobacco products (OTP), wholesale and retail dealers of these products are required to obtain a license from the Department of Taxation (DOT). Wholesale dealers are required to collect and pay a tax of 30 percent of the wholesale price of these products.

The bill establishes the definition of "smoking" within the Nevada Clean Indoor Air Act and expressly applies the Act to the use of an electronic smoking device.

Senate Bill 263 removes the criminal penalties for certain violations and instead authorizes the DOT to impose a civil penalty for a person who sells, distributes or offers to sell certain tobacco products and OTP to a person under the age of 18. The bill revises the amount of civil penalties that may be imposed, establishes procedures for the issuance of a notice of infraction to the person who violates the prohibition on sales to minors and authorizes the person to request a hearing before the DOT. The bill creates the authority for the imposition of penalties on a licensee whose employee or agent violates this probation.

The bill requires a person who sells or distributes certain tobacco products and OTP through a computer, telephonic or other electronic network to ensure that the packaging in which the items are shipped is labeled "cigarettes or tobacco

products." The bill requires these sellers and distributors use certain age verification procedures.

The bill makes an appropriation of \$2.5 million in FY 2020 and \$2.5 million in FY 2021 to the DHHS for programs to control and prevent the use of tobacco.

The DOT issued a revised fiscal note for S.B. 263 which includes amounts of approximately \$500,000 in each year of the biennium. Fiscal staff would suggest the inclusion of the appropriations to the DOT for the implementation costs of the bill. The cost of implementation would include the cost of several new positions and other expenses including programing costs for the DOT system.

SENATOR PARKS MOVED TO AMEND AND DO PASS AS AMENDED  
S.B. 263.

SENATOR DENIS SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR SETTELMAYER VOTED NO.  
SENATOR CANCELA WAS ABSENT FOR THE VOTE.)

\* \* \* \* \*

CHAIR WOODHOUSE:

I will open the hearing on S.B. 135.

**SENATE BILL 135 (1st Reprint)**: Provides for collective bargaining by state employees. (BDR 23-650)

MR. BROWN:

I am here on behalf of Governor Steve Sisolak to present Proposed Amendment No. 6030 to S.B. 135 ([Exhibit P](#)). The bill with its proposed amendment will achieve the Governor's vision for empowering State workers to bargain collectively in Nevada. As the Governor said at the recent signing of legislation on the prevailing wage, Nevada is a union State, a place where workers can access the middle class and have an opportunity to provide for their families.

Since 1969, local government employees have enjoyed the right to bargain collectively. The oversight of local government collective bargaining rests with

the Local Government Employee-Management Relations Board (EMRB) within the Department of Business and Industry. The EMRB is an independent board that has administered 231 union contracts covering 85,000 employees in 183 local governments.

Proposed Amendment No. 6030, [Exhibit P](#), will align the extension of collective bargaining to cover 22,000 classified State employees with the same system used for local government employees. The extension is predicted to result in 11 new contracts.

Sections 24, 26 and 27 of the proposed amendment, [Exhibit P](#), align [S.B. 135](#) with existing practices in local government. In lieu of bargaining for the vague terms of "wages, hours and terms and conditions of employment," the language in [Exhibit P](#) establishes a list of mandatory subjects of collective bargaining. This list has been used for local government collective bargaining since 1973. Section 26, [Exhibit P](#), revises the list of prohibited or unfair labor practices to align with the list established for local government employers and employee organizations. Section 27, [Exhibit P](#), removes procedural details about the filing of complaints and responses and instead applies the system already in place for the EMRB.

Proposed Amendment No. 6030, [Exhibit P](#), does not allow for bargaining over health insurance, as by law that function is handled by the Public Employees' Benefits Program (PEBP).

Section 24, [Exhibit P](#), includes a management rights clause similar to that held by local governments in NRS 288.150, sections 3 through 5.

Section 29, [Exhibit P](#), clarifies the description of the bargaining unit for supervisors. Supervisors will be included in a single horizontal bargaining unit.

Proposed Amendment No. 6030, [Exhibit P](#), adds a requirement to post tentative collective bargaining agreements and hold a public hearing through the State Board of Examiners.

Section 52, [Exhibit P](#), makes technical corrections in certain job classifications to align them with the anticipated bargaining units. This will provide needed certainty for labor organizations, avoid costly hearings and provide for efficient certifications or elections.

Sections 25.5 and 26, [Exhibit P](#), provide that, notwithstanding the provisions of the collective bargaining agreement, the Governor may include in the proposed Executive Budget any amount deemed appropriate for salaries and wages. A possible adjustment by the Governor must not be construed as a failure to bargain in good faith.

Section 49.5, [Exhibit P](#), allows the Governor to submit budget bills related to the funding of the collective bargaining agreement after the February deadline outlined in NRS 218D.175. This provision is necessary because proposed collective bargaining agreements may not be finalized prior to the February deadline, especially if the parties reach impasse and need to go to arbitration.

SENATOR KIECKHEFER:

In Proposed Amendment No. 6030, [Exhibit P](#), we still maintain 11 separate collective bargaining units. When would you envision those contracts taking effect as they are negotiated?

BRUCE SNYDER (Commissioner, Local Government Employee-Management Relations Board, Department of Business and Industry):

Senate Bill 135 states the first contracts would take effect July 1, 2021. Every contract is to be two years in length. The next contracts would start on June 30 of subsequent odd-numbered years.

SENATOR KIECKHEFER:

The contracts would start at the beginning of the next biennium. Is there enough time between now and then for everyone to organize, choose which union they want to join, negotiate contracts, have them executed and be ready to start by November 2020? The Governor will need to start preparing the budget and decide how to include things such as staffing ratios or salaries that may be negotiated even though he is not obligated to actually pay the increases.

MR. BROWN:

We can meet those deadlines because we are taking many of the lessons learned from local government experience.

SENATOR KIECKHEFER:

You said that the contracts would be executed, but the salary levels are actually not mandatory. Can you elaborate on that point?



MR. BROWN:  
The Governor will retain ultimate authority.

MR. SNYDER:  
With the addition of [Exhibit P](#), [S.B. 135](#) would allow for negotiations over salaries. If the parties reach impasse, an arbitrator would decide the provisions of the new contract. However, a provision in section 25.5, [Exhibit P](#), allows the Governor to put whatever salaries and wages he wishes into the Executive Budget.

SENATOR KIECKHEFER:  
Does the provision in section 25.5, [Exhibit P](#), include Public Employees' Retirement System (PERS) contribution rates and percentages? Mr. Brown stated PEBP will retain its existing structure as an independent board that sets health care benefits. Are any other benefits affected similarly?

MR. SNYDER:  
Because of PEBP, anything having to do with insurance would not be subject to bargaining. Retirement would be determined by whatever PERS offers.

SENATOR KIECKHEFER:  
Would the Governor be able to affect parts of the retirement contract which have been negotiated? For example, in the current system, the employee contributes 50 percent of the total amount that needs to be contributed every year to maintain PERS. If the bargaining contract directed the State to pick up 75 percent, could the Governor change the 75 percent?

MR. SNYDER:  
That situation would be captured under "salaries, wage rates, and other director forms of monetary compensation." To the extent that the PERS contributions end up being income, they would be subject to reduction by the Governor.

SENATOR KIECKHEFER:  
Has current law been interpreted to always consider pension contributions as a direct form of monetary compensation, even though payout may be 30 years down the road?

MR. SNYDER:  
Yes.

SENATOR KIECKHEFER:

What about other negotiated items such as mandatory staffing ratios at a hospital?

MR. SNYDER:

The management rights clause prohibits certain things from collective bargaining such as hiring decisions, staffing levels, performance standards and quality of care. Staffing levels have always been prohibited from collective bargaining at the local government level. The determination of staffing levels is a management right. Proposed Amendment No. 6030, [Exhibit P](#), would apply to the State the same management rights currently enjoyed by local government employers.

SENATOR KIECKHEFER:

Are staffing ratios prohibited from collective bargaining?

MR. SNYDER:

Yes. An employer does not have to bargain over things that are management rights, such as staffing issues. However, nothing prohibits the employer from waving that right. Local governments are currently allowed this provision, and it is extended to State employers through the amendment, [Exhibit P](#).

SENATOR KIECKHEFER:

Bargaining on these issues is not technically prohibited, but it is also not mandatory?

MR. SNYDER:

That is correct.

MR. BUNDY:

The AFSCME supports S.B. 135 and Proposed Amendment No. 6030, [Exhibit P](#).

STEVE KREISBERG (Director, Collective Bargaining and Research, American Federation of State, County and Municipal Employees International):

We support Proposed Amendment No. 6030. We are concerned with some aspects of how the amendment affects the scope of bargaining, but we have been assured by the Governor's Office that State employees will have a seat at the table to talk about the issues most important to them.

NICHOLAS MONTGOMERY (Nevada Highway Patrol Association):

I have been a member of the Department of Public Safety (DPS) for 11 years. I have seen a lot over those 11 years, but one thing has remained the same. Every two years we keep hearing that help is coming. Over those 11 years I have endured furloughs, pay cuts and frozen merit increases. I see my brothers and sisters in DPS leave simply because they cannot make ends meet, and they felt they had no choice but to take higher paying law enforcement jobs in other jurisdictions. We are currently at a point where our inability to attract or retain our people has left our State's law enforcement in a crisis.

Every two years we keep hearing, "hold on, help is coming." Every two years we get our hopes up that this will be the Legislative Session where that help finally arrives. The ability to collectively bargain is the help we have been waiting for. Even if collective bargaining passes, it will still likely be two years before we see any relief. We need help now. Please do not make us wait another two years. If this does not pass this time, I fear not only that we would have to wait again, but we will never get the help we are hoping for. If not now, when? If not you, who?

Ms. LOCKARD:

Service Employees International Union Local 1107 supports this measure.

CATHERINE BYRNE (State Controller):

I support S.B. 135 and its amendments.

CEDRIC WILLIAMS (President, Sierra Range Chapter, American Federation of State, County and Municipal Employees Local 4041):

We support S.B. 135 and the amendment, [Exhibit P](#).

I was brought up in the heart of Watts, south-central Los Angeles. They had to fight to get out of there. I moved to Nevada to have a better life. Everyone said, "Get that State of Nevada job." I did just that. With that State of Nevada job I was told I could have everything I want—the home, the car and send myself to college. I started with this Union and realized I was out there fighting for the rights of State of Nevada employees. In the homes I was going into and talking to my brothers and sisters, I found out that they were struggling to put food on the table. Struggling to make ends meet, struggling to pay rent, one paycheck away from losing their homes, apartments or condos. Let us have collective bargaining. We have a right to bargain at the table for a decent wage, a living

wage, a comfortable wage. You have heard it stated before that the budget has been balanced on the backs of State of Nevada employees. That has got to stop!

CHAIR WOODHOUSE:

I ask all of the people from AFSCME to please raise their hands. I see many people in Carson City and in Las Vegas raising their hands.

RICK MCCANN (Nevada Association of Public Safety Officers; Nevada Law Enforcement Coalition):

The EMRB works. We are going to mimic much of what the EMRB does. I echo the previous comments in support of S.B. 135.

TOM DUNN (District Vice President, Professional Firefighters of Nevada):

We support S.B. 135 and the amendment, [Exhibit P](#). Collective bargaining is a collaborative process between employers and employees. Collective bargaining works for local government employees; there is no reason why collective bargaining will not work for State employees.

RUSTY MCALLISTER (Executive Secretary-Treasurer, Nevada, American Federation of Labor and Congress of International Organizations):

The AFSCME is an affiliate member of the Nevada State Council of the American Federation of Labor and Congress of International Organizations. We support S.B. 135. Many issues will be addressed over the course of the next year. We will need to figure out what units will be in the State. We will need to address various processes that are not wages nor benefits. There are issues with safety, discipline and other issues that are discussed in the collective bargaining process besides wages and benefits. Senate Bill 135 is a good step for getting these employees a seat at the table and giving them a voice.

STEPHEN AUGSPURGER (Executive Director, Clark County Association of School Administrators and Professional-Technical Employees):

I echo the previous testimony in support of S.B. 135.

CHRIS DALY (Nevada State Education Association):

We stand in solidarity with State workers. We support S.B. 135.

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SCOTT EDWARDS (President, Las Vegas Peace Officers Association; Nevada Law Enforcement Coalition):  
We support S.B. 135.

JIM SULLIVAN (Culinary Union):  
We believe that all workers including State employees should have the right to collectively bargain. We support S.B. 135.

KENT ERVIN, Ph.D. (Nevada Faculty Alliance):  
We support S.B. 135 for collective bargaining rights for our 2,700 classified staff colleagues in the NSHE. Opponents of S.B. 135 protest what they say are the high costs of collective bargaining. An article by Josh Bivens and Monique Morrissey of the Economic Policy Institute responds to those who criticize S.B. 135 on basis of high costs. The article states:

The best empirical research linking public sector collective bargaining and state and local government spending finds mixed results, with the causal effect of collective bargaining rights in pushing up state spending either weak or non-existent. Given this evidence, the empirical claims made by opponents of S.B. 135 about the magnitude of state spending increases that would occur should it pass are frankly absurd.

Dividing the numbers put out by the opponents of S.B. 135 by the number of State classified employees would yield an increase in compensation of \$70,000 per year. That is absurd. We are not asking for such a large increase.

HARRY SCHIFFMAN (President, American Federation of State, County and Municipal Employees Local 4041):  
We support S.B. 135. A voice on the job will allow State workers to improve State services.

MR. HONCHARIW:  
The Nevada Policy Research Institute (NPRI) opposes S.B. 135.

PAUL MORADKHAN (Vice President of Government Affairs, Las Vegas Metro Chamber of Commerce):  
We still need time to fully review the amendment, [Exhibit P](#), but the Chamber is concerned with the adoption and implementation of collective bargaining for

State employees. The Chamber's concerns for this fiscal decision are from the taxpayers' perspective and the importance of fully understanding the cost that implementation of State collective bargaining would have on the State's fiscal budget. The Chamber commissioned a report from RGC Economics to analyze the issue and have a better understanding of the potential long-term fiscal impacts which S.B. 135 could have on the State budget ([Exhibit Q](#)). The Chamber opposes S.B. 135.

BRYAN WACHTER (Senior Vice President, Retail Association of Nevada):

We are concerned about how the State will be able to afford S.B. 135 in the future. We would have fewer concerns if a dedicated funding mechanism was identified. However, in the absence of an identified funding mechanism, this bill sets Nevada up for a considerable amount of resources which will have to be dedicated to this project in the next two to four years. It is already recognized that a considerable amount of resources will be needed for education in the next Legislative Session. We are worried about the escalating effect of collective bargaining on future budget years.

MICHAEL PELHAM (Director, Government and Community Affairs, Nevada Taxpayers Association):

I echo the comments of Mr. Moradkhan and Mr. Wachter. We oppose S.B. 135.

NICK VANDER POEL (Reno Sparks Chamber of Commerce):

I echo the previous comments in opposition to S.B. 135.

CHAIR WOODHOUSE:

I will close the hearing on S.B. 135. I will open the hearing on S.B. 551.

**SENATE BILL 551**: Revises provisions relating to state financial administration.  
(BDR 32-1286)

SENATOR NICOLE J. CANNIZZARO (Senatorial District No. 6):

I am here to present S.B. 551, The Safe and Supportive Schools Act along with a mock-up of Proposed Amendment No. 6051 ([Exhibit R](#)) and some conceptual amendments ([Exhibit S](#)). I will read a prepared statement ([Exhibit T](#)) to present the bill.

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SENATOR KIECKHEFER:

I have voted for a lot of what is in this bill. Is the "More Cops" provision in this bill identical to what we passed in A.B. 443 earlier this Session?

**ASSEMBLY BILL 443 (2nd Reprint)**: Revises provisions relating to taxes on retail sales. (BDR S-1128)

SENATOR CANNIZZARO:

Yes.

SENATOR KIECKHEFER:

How many additional slots would the pre-kindergarten (Pre-K) investment fund?

SENATOR CANNIZZARO:

A \$2 million appropriation would fund 500 seats for Pre-K.

SENATOR WOODHOUSE:

We typically allocate \$8,000 per seat.

SENATOR KIECKHEFER:

We funded some seats with district contributions in the upcoming biennium. This allocation is to allow the State to pick up the cost of the additional seats.

We are moving away from school-based programs and allowing money to follow the student. Would you envision new Zoom and Victory schools being raised and maintained at the same time we are shifting to allow the money to follow the student?

SENATOR CANNIZZARO:

The Legislature is addressing the question of Zoom and Victory schools as we consider a new education funding formula. The new funding formula will not take effect in this biennium. Zoom and Victory schools programs work for the students who need the most from us in order to be successful. It is not inconsistent with the funding formula to say that we should dedicate more money to those schools.

As this money changes with the distribution model in the new funding formula bill, we can evaluate the changes and make adjustments. The money would still follow the students who need it most.

SENATOR DENIS:

We have been using the Zoom and Victory schools for several years. Results come immediately upon opening these schools. When the programs were first implemented, 800 kids went from below grade level to at or above grade level in less than 2 years. The funding in S.B. 551 will provide an opportunity to help more kids while we are waiting for the new funding formula to go into effect. There is time to have some great results in that period.

SENATOR KIECKHEFER:

That is how I saw this happening, but I question whether we should be creating new Zoom and Victory schools while we are also trying to get money to follow the kids. The ideas conflict to some extent.

I applaud putting money back for the school safety provisions. I objected to the removal of that funding by the Senate Committee on Finance and the Assembly Committee on Ways and Means.

The Economic Forum considered existing law when projecting revenue. What would the provisions of S.B. 551 mean for State revenue?

RUSSELL GUINDON (Principal Deputy Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau):

Based on the Economic Forum's May 1, 2019, forecast and the assumption of the lower rates occurring, we calculate that if we maintain the current rates, the State will generate approximately \$48.2 million in FY 2020 and approximately \$50 million in FY 2021, a total of approximately \$98.2 million over the biennium.

SENATOR KIECKHEFER:

If we pass S.B. 551, will we have \$98.2 million more in General Fund revenue than we would have if we did not pass S.B. 551?

MR. GUINDON:

That is correct. If S.B. 551 is passed, the Fiscal staff will add this as a legislative action adjustment to the Economic Forum's May 1 forecast.



SENATOR SETTELMAYER:

I appreciate the provisions which look to add educational funds. The modified business tax (MBT) portions of A.B. 443 are basically replicated in this bill. Is there any difference between S.B. 551, A.B. 443 and A.B. 538?

**ASSEMBLY BILL 538**: Revises provisions governing certain taxes. (BDR 32-1199)

SENATOR CANNIZZARO:

The provisions should be the same.

SENATOR SETTELMAYER:

Prior to S.B. 551, has a non-severability clause ever been included in legislation?

SENATOR CANNIZZARO:

I cannot speak to whether there has ever been a non-severability clause within any piece of legislation that has ever been passed. However, we have vetted this provision with our legal counsel.

AUTUMN TAMPA:

I have worked in the CCSD for 21 years. I support everything Senator Cannizzaro said. We need more money in order to teach the students effectively. We need more money for safety. We need more money for buildings which are structurally sound. We need enough space so the students are not overcrowded. We need adequate materials such as desks, tables, chairs and paper. We need properly working air conditioning and heating units. We need updated books and technology. We need adequate staffing to serve all of our children, including Pre-K, special needs, English language learners and gifted and talented students.

I am a Zoom school tutor. Children blossom in the Zoom schools program. They learn to love reading and writing. They overcome shyness and insecurities. Students find their voices and their self-worth. Students start to love learning. Any additional funding for Zoom schools would be welcome.

ERIC JENG (Director of Civic Engagement, Asian Community Development Council):

The top issues for the Asian-American and Pacific Islander Community are health care and public education. The Community is comprised of people from

20 countries who speak 40 different languages. The Community wants better schools. The Community wants to make sure the funding for our schools is secure for a long time. This funding and the programs it will support are critical for all of our communities.

TERRI SHUMAN:

I agree with everything Senator Cannizzaro said. Section 10 of S.B. 551 helps with school safety. People send their children to school and wonder if it could be the day when their child does not come home. It would be good to hire more police officers and have them available at our schools.

Section 29 of the bill is about social workers. It would be good to have more social workers available to go into more schools. I have been employed in a Zoom school for over five years. I cannot begin to describe the progress and effect that the program has on students. I am impressed with how quickly the learning gets into our children. Zoom schools are great; it would only be beneficial to create more Zoom schools.

MR. DALY:

The Nevada State Education Association (NSEA) supports the Safe and Supportive Schools Act. The NSEA supports maintaining business tax rates to fund critical needs in public education, including school safety, early childhood programs, Read by Grade 3 literacy support and services for English learners and at-risk students.

The needs of our schools and students has been well established. Senate Bill 551 addresses chronic underfunding of public education without raising taxes; it would allocate an additional \$95.5 million to public education. I will read additional remarks from the NSEA statement in support of S.B. 551 ([Exhibit U](#)).

NATHA ANDERSON (Nevada State Education Association):

I appreciate the increased funds for early childhood education. I am a high school English teacher, but the unfortunately titled "soft skills" such as cooperation and sharing are not taught in high school—those skills are taught in early childhood classrooms. We are currently unable to expand the same opportunities to every area of our State. The additional money provided in S.B. 551 will allow us to get children into school earlier and find the ways that we can help them the most. Evidence shows that students who are invested in

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school early do a much better job at being able to graduate on time and excel after high school.

ALEXANDER MARKS (Nevada State Education Association):

I will read additional remarks from the NSEA statement in support of S.B. 551, [Exhibit U](#).

MR. CALLAWAY:

The Las Vegas Metropolitan Police Department supports the bill and the amendment, [Exhibit R](#). Lifting the tax sunset is critical for our agency and for public safety.

SENATOR KIECKHEFER:

Would A.B. 443 also extend the sunset and accomplish your goal?

MR. CALLAWAY:

That is correct.

SENATOR KIECKHEFER:

If this legislation does not pass this Session, could you come back and get the sunset lifted next Session?

MR. CALLAWAY:

Yes, we could. However, with the sunset starting to close in during the next budget cycle, we are going to have to start moving positions from the More Cops fund into the General Fund. It is critical that we get ahead of this and not wait until the last minute while struggling to pay for those officers. We need to do this as soon as possible.

SENATOR KIECKHEFER:

That is why I supported A.B. 443.

MR. AUGSPURGER:

On behalf of all principals and school-based administrators, we support S.B. 551. This bill will direct additional funding to education.

MIKE CATHCART (City of Henderson):

We support S.B. 551 and the proposed amendment, [Exhibit R](#). We particularly support sections 23, 24, 25 and 28 which lift the sunset on the More Cops

money. A large piece of our public safety effort in Henderson—\$18.6 million annually or 98 officers—is funded with the More Cops money.

SHANI COLEMAN (City of Las Vegas):

We support S.B. 551 with the proposed amendment, [Exhibit R](#). The City of Las Vegas is a partner in funding the Las Vegas Metropolitan Police Department. Public safety is important to the Las Vegas City Council. We want to fix in place any funding necessary to make the Police Department whole and allow it to grow as the City grows.

MR. EDWARDS:

We support S.B. 551.

MICHAEL RAMIREZ (Las Vegas Police Protective Association):

We support S.B. 551.

MR. MCCANN:

The Nevada Association of Public Safety Officers and the Nevada Law Enforcement Coalition support S.B. 551 and echo the comments that have been made.

AMANDA MORGAN (Legal Director, Educate Nevada Now):

We support S.B. 551 and the amendment, [Exhibit R](#). Our public schools desperately need stable sources of revenue with which to support our students. Maintaining this business tax is one way to keep our promise to students, showing them that we take their safety and success seriously.

Senate Bill 551 shows we are putting the hard work of the School Safety Task Force in motion because the safety and wellbeing of our students matters. The bill shows that we understand that certain students such as English language learners, at-risk students and those struggling with achievement need additional resources to succeed, and that their success is worth it. Senate Bill 551 shows that we not only understand but are taking action on something that we know supports students—quality Pre-K. We need to begin prioritizing stable and reliable sources to fund our education system. Senate Bill 551 is one way to do that.

MR. SULLIVAN:

With 60,000 members and their families, the Culinary Union is the largest organization with children in Nevada's public schools. The Safe and Supportive Schools Act will fully fund the Governor's recommendations for school safety enhancements, increase funding for Zoom and Victory students and create a new line of funding to expand Pre-K programs.

MR. BUSKER:

The Children's Advocacy Alliance supports S.B. 551, especially the sections related to the expansion of the State Pre-K program, Zoom schools and Victory schools. We have seen success in those programs and want to continue and expand them.

ANNETTE MAGNUS-MARQUART (Battle Born Progress):

We support S.B. 551. This bill continues a critical revenue stream which has been in place since 2003. This is nothing new. This is a revenue stream that has enjoyed bipartisan support to extend this sunset in 2011, 2013 and 2015. In 2015, under Republican control, the Legislature passed landmark funding through the Commerce Tax, the biggest tax increase in State history. Sunsets on the MBT were extended until 2019 in a bipartisan way. The Legislature has a long history of moving in a bipartisan fashion to help fund critical services like schools, mental health services and public safety, and to protect jobs and wages for Nevada families. Senate Bill 551 is a more permanent solution to the funding crisis in our State.

MR. HONCHARIW:

The NPRI opposes S.B. 551 on both policy and procedural grounds. I will read our statement in opposition to S.B. 551 ([Exhibit V](#)).

MR. WACHTER:

The Retail Association of Nevada opposes S.B. 551. The majority of people who pay the MBT are not corporations. Of the 8,600 retailers in Nevada, 7,200 have fewer than 20 employees. Everyone in Nevada pays this tax.

Comments have been made regarding the LCB opinion on the two-thirds majority vote required for new taxes. This is the crux of our opposition to this bill. As indicated previously, this concept has passed in a bipartisan fashion multiple times. We were in favor of those pieces of legislation; those pieces of legislation followed the Constitutional procedures and required a two-thirds

consensus. This body has a decision to make. The decision should be to follow the correct procedure and apply a two-thirds vote.

I might even go as far as saying we should be raising the MBT in order to fund the priorities outlined in this bill. As a parent, I know the struggles we are having in Clark County and am disappointed that the MBT is not increased. There is not a reason the Legislature could not engage in that discussion, but it must do so according to the two-thirds rule.

MR. PELHAM:

In Article IV of the *Nevada Constitution*, section 18, subsections 2 and 3 require a two-thirds majority to pass a bill that "generates, creates or increases public revenue." Senate Bill 551 increases public revenue.

We oppose S.B. 551 because it should have a two-thirds majority vote requirement. The decision to forego the two-thirds rule will resonate through the remainder of this Session and into future Sessions. Bills that would have been marked with a two-thirds majority requirement—bills which would result in an increase in revenue or the expiration of a tax to be extended—will now be decided by a simple majority.

PAUL J. ENOS (CEO, Nevada Trucking Association):

We oppose S.B. 551, not the extension of the MBT at its current rate. Many members of the Association did not have any expectation that the rate was going to decrease. While that may sound cynical, it is a lot better than having this body violate a procedure that the citizens put into the *Nevada Constitution*.

I have worked with the Legislature since 1997. I have been on both sides of the two-thirds rule, trying to kill something with two-thirds and trying to pass something with two-thirds with varying degrees of success. We can fund this State at the level determined by the Legislature without violating the two-thirds provision.

I understand that the LCB opinion states that the Legislature can remove a sunset without a two-thirds vote. That decision will likely be litigated. I do not want to see that happen. My dad used to tell me, "Just because you can do something does not mean that you should do something." We are in just such a situation.

I know we want to get funding. I know there is an additional \$98.2 million on the table. Nevertheless, we should follow the procedure established in the *Constitution* and keep faith with the people who put it there.

ANDY MACKAY (Executive Director, Nevada Franchised Auto Dealers Association):

Every new car and heavy-duty truck dealer in the State supports and believes in education. We also believe that the two-thirds provision needs to be attached to S.B. 551. As Ms. Magnus indicated, the two-thirds vote in a bipartisan fashion has been par for the course. Going away from what is delineated in the *Constitution* causes significant concern.

MR. VANDER POEL:

Ann Silver, CEO of the Reno Sparks Chamber, issued the following statement.

On behalf of the Reno Sparks Chamber and its 1,700 business members, I am confirming our opposition to S.B. 551 and the unintended consequences of this legislation. We all agree that our schools need a better funding mechanism, but they also need to be better managed. Our members know that they cannot throw money at a problem and hope it will disappear. Our State government should understand the same premise. Imposing one of the few tax incentives our employers have in Nevada is a disservice to each and every business in our State. We have consistently raised taxes on our businesses to give to schools, yet the result is continued practice of taxing businesses or deleting a current incentive to provide for our schools. Perhaps it is time to stop taking the hard-earned incomes of our business owners to fund the mistakes of our governments and create bold solutions like transparency, accountability and effective management. Our members cannot continue to absorb unprecedented, mandated costs, particularly when promises were made to the business community that those costs would be decreased. If S.B. 551 passes, we foresee litigation regarding section 38, as it essentially overrides the checks and balances system essential to transparent and accountable government. The unintended consequences of this section could result in costly litigation for years to come.

PEGGY LEAR BOWEN:

I want to thank you for your courage and for stepping up. I want to thank you for holding this meeting tonight so all voices could be heard. I want to thank you for asking the hard questions and listening. I want to thank you for everything you have gone through and everything you do to represent those who do not have a voice—the children.

SENATOR CANNIZZARO:

There are ways that we can continue to fund this State by piecing together continuous cuts and one-time maneuvers in order to ensure that we are putting money into education, but when there is a permanent funding stream that we should be responsible for, it is irresponsible not to take that. With bipartisan calls for more funding for education, it makes sense to direct that money to education. One thing that was said earlier was that it was the wrong decision in terms of school safety. We all have to face decisions.

When we are talking about decisions that have to be made in this body, in this Committee, for the good of the people that we represent, sometimes those decisions include not being able to fund things where we wanted to fund them. That is a disservice to our constituents. But there is another decision that we can make with S.B. 551. That decision is that we can look for tax breaks, and we can continue to fund this State with cutting certain programs and trying to piece money together, or we can take a permanent funding source and put it to education. That is what this State deserves.

Decisions have to be made. It was not the wrong decision to not put as much money as we know is necessary in school safety, but we have to be prudent about it and we have to be fiscally responsible. This is a way that allows us to make that decision. There is a way that we can make a different decision.

With respect to the other conversations that have been had, Constitutional questions do not exist if they are moot.

SENATOR CANCELA:

We have had a lot of time on this dais. This is probably one of the only bills that has come before this Committee where the opposition is not in disagreement with the core of the bill. We even heard testimony that a number of businesses expected this tax to continue. I see folks nodding their heads, and I appreciate that. So the solution, if the real issue with the bill is the two-thirds question, the



solution is to have a two-thirds vote. If we are in agreement that we need to fund education and school safety, we agree that business do not feel that this is an onerous tax, I am not sure why there is any disagreement on why this is not a unanimous bill moving forward and why we cannot, as a body, embrace this as a practical and common sense solution. This seems like an easy solution to a non-problem.

SENATOR KIECKHEFER:

I do not disagree in a lot of ways. I appreciate the Senate Democrats' Twitter feed pointing out my long history of support for education funding throughout my legislative career. I am prepared to continue that. The issue over the two-thirds requirement on this bill is, according to advice I have received from LCB, that if this passes with a two-thirds majority without a two-thirds stamp on it—and heeding the advice of counsel that it does not require two-thirds—then we have set the precedent, going forward, that the Legislature acknowledges that a two-thirds was not necessary. That carries weight in the courts; it carries weight going forward, and we have opined on what the *Constitution* says. That matters long term. I have suggested from the beginning of the Session that if it is about \$100 million, we can find \$100 million. There are various ways to do that. I stand open and ready to continue having those conversations, but all I have heard back is that it has to be the MBT. If we can change that conversation, we can wrap this up pretty quick.

SENATOR CANNIZZARO:

I want to acknowledge the point made by Senator Kieckhefer. To both your and Senator Cancela's point, we are not in disagreement about what this is about. We are in disagreement about an illusory Constitutional question. A Constitutional question only exists to the extent that it is an actual question. It does not exist to the extent that it is merely speculative. If we are going to start drawing hard lines in the sand about where those lines exist and do not exist, every member of this Committee, including myself, voted for the repeal of a tax for more cops, and there was no question about that; there was no Constitutional question there. I do not think there is. I do not think you answer it if it is a two-thirds vote.

CHAIR WOODHOUSE:

You have done much to find some additional funding for our students and schools across the State.

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I will close the hearing on S.B. 551 and open the meeting to public comment.

Ms. BOWEN:

I want to thank you for remembering it is cheaper to educate than incarcerate. All children, no matter their zip code, deserve an equal, equitable and comparable education. Thank you for saying Nevada supports the concept that human beings matter, that children matter. Thank you for empowering children to chase any dream or passion they might have. You accomplish that with all you have done tonight.

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CHAIR WOODHOUSE:  
The meeting is adjourned at 12:25 a.m. on May 30, 2019.

RESPECTFULLY SUBMITTED:

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Steven Jamieson,  
Committee Secretary

APPROVED BY:

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Senator Joyce Woodhouse, Chair

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

<b>EXHIBIT SUMMARY</b>				
<b>Bill</b>	<b>Exhibit / # of pages</b>		<b>Witness / Entity</b>	<b>Description</b>
	A	2		Agenda
	B	20		Attendance Roster
S.B. 82	C	9	Treasurer Zach Conine	Visual Presentation
S.B. 82	D	1	Treasurer Zach Conine	Proposed Amendment
S.B. 263	E	1	Julia Peek / Department of Health and Human Services	Tobacco Prevention Funding Infographic
S.B. 263	F	4	Julia Peek / Department of Health and Human Services	Budget Proposal
S.B. 263	G	2	Senator Julia Ratti	Department of Taxation Budget Summary
S.B. 263	H	1	Senator Julia Ratti	Department of Taxation Position Detail
S.B. 263	I	1	Senator Julia Ratti	Department of Taxation Workload Statistics
A.B. 348	J	18	Assemblywoman Michelle Gorelow	Proposed Amendment 6079
S.B. 80	K	2	Jaimarie Ortega	Amendment Proposed by the Clark County School District
S.B. 493	L	21	Colby Nichols	Proposed Amendment 6037
S.B. 493	M	17	Senator Marilyn Dondero Loop	Proposed Amendment 6062
S.B. 198	N	4	Cathy Crocket / Fiscal Analysis Division	Conceptual Amendment to S.B. 198
S.B. 215	O	7	Stephanie Day / Fiscal Analysis Division	Proposed Amendment 6057
S.B. 135	P	26	Michael Brown / Department of Business and Industry	Proposed Amendment 6030
S.B. 135	Q	30	Paul Moradkhan / Las Vegas Metro Chamber of Commerce	Collective Bargaining Analysis: Nevada State Employees

S.B. 551	R	30	Senator Nicole Cannizzaro	Proposed Amendment 6051
S.B. 551	S	1	Senator Nicole Cannizzaro	Conceptual Amendment
S.B. 551	T	6	Senator Nicole Cannizzaro	Written Statement
S.B. 551	U	2	Chris Daly / Nevada State Education Association	Statement in support of S.B. 551
S.B. 551	V	1	Daniel Honchariw / Nevada Policy Research Institute	Statement in opposition to S.B. 551