

THE THIRTY-SIXTH DAY

CARSON CITY (Monday), March 9, 2009

Senate called to order at 11:16 a.m.

President pro Tempore Schneider presiding.

Roll called.

All present.

Prayer by the Chaplain, Pastor David Stramel.

Compassionate God, who stands with the weak, the powerless, the poor, the abandoned, the sick, the aged and the very young, today, hear our prayer.

Help us to create a world where we follow justice with mercy, where we pursue kindness, love and compassion toward Your creation; men, women and children.

We pray that each person in the world may have what they need: enough food, clean water, clean air, adequate health care, access to affordable education, freedom from fear from criminal activities and to practice their faith openly without prejudice.

Help us Compassionate Creator, God, to forgive those who have taken advantage of us, who have hurt our honor or reputation for their gain. Give us courage to pursue the best legislation for the people we represent.

In the Name of the Father, Son and Holy Spirit, we pray.

AMEN.

Pledge of Allegiance to the Flag.

Senator Horsford moved that further reading of the Journal be dispensed with, and the President pro Tempore and Secretary be authorized to make the necessary corrections and additions.

Motion carried.

MESSAGES FROM THE ASSEMBLY

ASSEMBLY CHAMBER, Carson City, March 5, 2009

To the Honorable the Senate:

I have the honor to inform your honorable body that the Assembly on this day adopted Senate Concurrent Resolution No. 14.

DIANE M. KEETCH

Assistant Chief Clerk of the Assembly

INTRODUCTION, FIRST READING AND REFERENCE

By Senators Raggio, Nolan, Townsend, Washington, Cegavske, Amodei, Care, Coffin, Copening, Horsford, Lee, McGinness, Parks, Rhoads and Wiener:

Senate Bill No. 177—AN ACT relating to taxation; requiring the Department of Taxation to create and make publicly available on an Internet website a searchable database of the rates of all taxes levied by this State or a local government; and providing other matters properly relating thereto.

Senator Raggio moved that the bill be referred to the Committee on Taxation.

Motion carried.

By Senators Raggio, Nolan, Townsend, Washington, Coffin, Amodei, Copening, Lee and Parks:

Senate Bill No. 178—AN ACT relating to criminal procedure; requiring that a biological specimen be obtained from a person arrested for certain offenses; providing a penalty; and providing other matters properly relating thereto.

Senator Raggio moved that the bill be referred to the Committee on Judiciary.

Motion carried.

By Senator Hardy:

Senate Bill No. 179—AN ACT relating to motor vehicles; expanding the definition of a low-speed vehicle to include certain utility terrain vehicles; providing a penalty; and providing other matters properly relating thereto.

Senator Hardy moved that the bill be referred to the Committee on Energy, Infrastructure and Transportation.

Motion carried.

By Senator Hardy:

Senate Bill No. 180—AN ACT relating to dentistry; requiring licensing and periodic inspections of dental X-ray machines; requiring the Board of Dental Examiners of Nevada to promulgate regulations relating to dental X-ray machines; and providing other matters properly relating thereto.

Senator Hardy moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

By Senator Washington:

Senate Bill No. 181—AN ACT relating to governmental administration; revising the date of the primary election; eliminating early voting in the primary and general elections; requiring the production of government-issued photo identification by a voter when voting in person; requiring the Department of Motor Vehicles to provide a photo identification card to any eligible person without a fee; revising various fees charged by the Department; and providing other matters properly relating thereto.

Senator Washington moved that the bill be referred to the Committee on Legislative Operations and Elections.

Motion carried.

By Senator Schneider:

Senate Bill No. 182—AN ACT relating to common-interest communities; clarifying various provisions of existing law relating to certain definitions of terms, provisions of governing documents that violate statutory provisions, elections and the authority of an association to levy certain assessments under certain circumstances; revising certain provisions governing the authority of an association to impose fines and construction penalties under

certain circumstances; making various other changes to the provisions governing common-interest communities; providing penalties; and providing other matters properly relating thereto.

Senator Care moved that the bill be referred to the Committee on Judiciary.

Motion carried.

By Senator Schneider:

Senate Bill No. 183—AN ACT relating to common-interest communities; revising provisions relating to systems for obtaining solar or wind energy; revising the provisions governing the regulation of certain streets in common-interest communities revising provisions concerning voting rights exercised by delegates or representatives; prohibiting an association in a common-interest community from imposing an assessment against the owners of certain tax-exempt property; clarifying various provisions governing common-interest communities; making various other changes to the provisions governing common-interest communities; and providing other matters properly relating thereto.

Senator Care moved that the bill be referred to the Committee on Judiciary.

Motion carried.

By Senator Schneider:

Senate Bill No. 184—AN ACT relating to real estate; establishing provisions relating to broker's price opinions; and providing other matters properly relating thereto.

Senator Care moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

By Senators Copenig, Parks, Wiener, Breeden, Coffin, Hardy, Lee, Mathews, Woodhouse; Assemblymen Bobzien, Aizley, Hogan, Mastroluca and Munford:

Senate Bill No. 185—AN ACT relating to education; requiring the State Board of Education to adopt regulations setting forth the standards for environmentally sensitive cleaning and maintenance products for use in the public schools; requiring school districts to ensure that only environmentally sensitive cleaning and maintenance products are used in the public schools; prescribing the process for a waiver under certain circumstances; and providing other matters properly relating thereto.

Senator Copenig moved that the bill be referred to the Committee on Health and Education.

Motion carried.

By Senators Copenig, Parks, Amodei, Coffin, Hardy, Lee, Rhoads, Woodhouse; Assemblymen Pierce, Segerblom, Goedhart, Manendo and Mastroluca:

Senate Bill No. 186—AN ACT relating to solid waste management; providing for the issuance of permits for the operation of motor vehicle tire recycling centers; authorizing the imposition of fees for such permits; prohibiting the disposal of motor vehicle tires other than at a motor vehicle tire recycling center except under certain circumstances; providing penalties; and providing other matters properly relating thereto.

Senator Copenig moved that the bill be referred to the Committee on Health and Education.

Motion carried.

By the Committee on Finance:

Senate Bill No. 187—AN ACT making an appropriation to Ridge House, Inc., for reintegration services and counseling for persons released from facilities of the Department of Corrections; and providing other matters properly relating thereto.

Senator Mathews moved that the bill be referred to the Committee on Finance.

Motion carried.

By Senator Schneider:

Senate Bill No. 188—AN ACT relating to energy; establishing the Solar Hot Water Heating Systems Demonstration Program; requiring the Public Utilities Commission of Nevada to adopt certain regulations governing the Demonstration Program; requiring a public utility that supplies natural gas to file with the Commission an annual plan for carrying out the Demonstration Program; requiring the Task Force for Renewable Energy and Energy Conservation to nominate participants for the Demonstration Program; requiring the Commission to review applications and select participants for the Demonstration Program; providing for rebates and the issuance of portfolio energy credits to certain participants in the Demonstration Program; and providing other matters properly relating thereto.

Senator Care moved that the bill be referred to the Committee on Energy, Infrastructure and Transportation.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 34.

Bill read third time.

Remarks by Senators Coffin, Care and Carlton.

Senator Coffin requested that the following remarks be entered in the Journal.

SENATOR COFFIN:

I would like an explanation of the bill. I would like to determine whether problems that were outlined and brought to my attention by court reporters in Clark County were addressed or ameliorated in the committee hearing?

SENATOR CARE:

We heard testimony on the bill in committee. We scheduled a work session where we took additional testimony. The Nevada Supreme Court requested the bill. It seeks to allow Justice Courts to do the same as the District Courts already do, by statute. In the case of a preliminary hearing, where the death penalty is not being sought, those proceedings could be recorded by sound recording equipment or by a certified court reporter.

Responding to Senator Coffin's question, there was testimony from the court reporters. They were concerned about a number of issues. One of the issues of concern was certification and whether only a court reporter could certify such recording. Certain commitments were made during the work session between the Judicial Branch and the court reporters to work together to come up with an informal study to make sure that all the concerns raised by the reporters would be addressed. It is fair to say there are still concerns about this bill. I am of the opinion we should go ahead and vote on it today. The most recent issues that have arisen do not go to the merits of the bill but rise in tangential ways about the issue of sound recordings. No, they are not satisfied their concerns were addressed by the committee.

SENATOR COFFIN:

I am still concerned about the bill. We can address an issue but not necessarily do anything about it, like I might address a golf ball, swing at it and miss. I think the committee has overlooked the serious nature of some preliminary hearings at the Justice Court level. They are life and death in a sense because they are the last stop before the long and arduous criminal trial process. I think they are important enough that a real, live person should be there to record and to take the transcript for immediate read backs or interpretations, live and in court. It causes me concern that we would do away with that long established process. For that reason, I think I would have to vote against the bill.

SENATOR CARE:

The criminal-defense bar did not testify at the hearing but did appear at the work session. My concern was where the criminal-defense bar stood on this. It seemed to me that a criminal defendant has the most at stake here. It turned out they were okay with the bill.

It is either a good idea or a bad idea to record these proceedings. As it turns out, the Supreme Court or Judicial Branch, recognizing the sensitivity to the issues raised by the court reporters, said they were not going to include those death-penalty cases. Again, you cannot make everybody happy, but there was no way to do that in this case.

SENATOR CARLTON:

I remember this bill being heard in front of the Committee on Commerce and Labor last Session. It is dealing with the scope of practice of court reporters. One of the key issues for me was what redundancies would be set up if there is a problem and whether it is on site or a remote recording. In essence, we are having a machine doing a person's job. I want to make sure some redundancies are set up in case something does not work right. I know it is hard for me to get the VCR and the DVD to work sometimes. I want to make sure a qualified person is running that machinery.

SENATOR CARE:

The system we are talking about is Jefferson Audio Visual System (JAVS). Testimony provided by a Justice Court judge indicated there is a backup to JAVS. I do not want to delay the proceedings, and I do not want to put it on the Secretary's desk.

Senator Care moved that Senate Bill No. 34 be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

Senate Bill No. 38.

Bill read third time.

Roll call on Senate Bill No. 38:

YEAS—21.

NAYS—None.

Senate Bill No. 38 having received a constitutional majority, Mr. President pro Tempore declared it passed.

Bill ordered transmitted to the Assembly.

Senate Bill No. 39.

Bill read third time.

Roll call on Senate Bill No. 39:

YEAS—21.

NAYS—None.

Senate Bill No. 39 having received a constitutional majority, Mr. President pro Tempore declared it passed.

Bill ordered transmitted to the Assembly.

Senate Bill No. 109.

Bill read third time.

Roll call on Senate Bill No. 109:

YEAS—21.

NAYS—None.

Senate Bill No. 109 having received a constitutional majority, Mr. President pro Tempore declared it passed.

Bill ordered transmitted to the Assembly.

Senate Bill No. 139.

Bill read third time.

Roll call on Senate Bill No. 139:

YEAS—21.

NAYS—None.

Senate Bill No. 139 having received a constitutional majority, Mr. President pro Tempore declared it passed.

Bill ordered transmitted to the Assembly.

Senate Bill No. 142.

Bill read third time.

Remarks by Senators Carlton and Care.

Senator Carlton requested that the following remarks be entered in the Journal.

SENATOR CARLTON:

Thank you, Mr. President pro Tempore. What we are defining as a "criminal gang"?

SENATOR CARE:

Thank you, Mr. President pro Tempore. In section 2, subsection 3(c), of the bill, there is a definition for "criminal gang." It has the meaning ascribed to it in NRS 193.168. I do not have it with me, but this bill does not change the current statutory definition of a "criminal gang."

Roll call on Senate Bill No. 142:

YEAS—21.

NAYS—None.

Senate Bill No. 142 having received a constitutional majority, Mr. President pro Tempore declared it passed.

Bill ordered transmitted to the Assembly.

Senate Joint Resolution No. 4.

Resolution read third time.

Remarks by Senator Woodhouse.

Senator Woodhouse requested that her remarks be entered in the Journal.

Senate Joint Resolution No. 4 urges the United States Congress to address financing issues associated with the projected increase in the number of participants in the federal Medicare Program and the potential depletion of the Medicare Trust Fund. Further, Congress is asked to fully fund Medicare and to protect the future of the Program.

This resolution points out the importance of Medicare to the 43 million people currently receiving health-care coverage under the Program. The resolution also notes that an additional 78 million "Baby Boomers" will begin to draw benefits under the Program in the next few years, further straining the Program's financial resources. This measure was submitted on behalf of the Nevada Silver Haired Legislative Forum.

Roll call on Senate Joint Resolution No. 4:

YEAS—21.

NAYS—None.

Senate Joint Resolution No. 4 having received a constitutional majority, Mr. President pro Tempore declared it passed.

Resolution ordered transmitted to the Assembly.

Assembly Bill No. 78.

Bill read third time.

Roll call on Assembly Bill No. 78:

YEAS—21.

NAYS—None.

Assembly Bill No. 78 having received a constitutional majority, Mr. President pro Tempore declared it passed.

Bill ordered transmitted to the Assembly.

Senator Lee moved that the Senate recess subject to the call of the Chair.

Motion carried.

Senate in recess at 11:46 a.m.

SENATE IN SESSION

At 11:51 a.m.

President pro Tempore Schneider presiding.

Quorum present.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Horsford moved that the Senate resolve itself into a Committee of the Whole for the purpose of considering Initiative Petition No. 1, with Senator Care as Chair and Senator Horsford as Vice Chair of the Committee of the Whole.

Motion carried

President pro Tempore Schneider announced that the Senate will convene in Room 1214 as the Committee of the Whole for the purpose of considering Initiative Petition No. 1.

Mr. President pro Tempore announced that if there were no objections, the Senate would recess subject to the call of the Chair.

Senate in recess at 11:59 a.m.

IN COMMITTEE OF THE WHOLE

At 12:09 p.m.

Senator Care presiding.

Initiative Petition No. 1 considered.

The Committee of the Whole was addressed by Senator Care; Brenda J. Erdoes, Legislative Counsel; Senator Washington; Senator Horsford; Russell Guindon, Senior Deputy Fiscal Analyst; Senator Cegavske; Senator Schneider; Senator Lee; Senator Nolan; Senator Hardy; Senator Amodei; Gary Ghiggeri, Senate Fiscal Analyst; Senator Townsend; Kim Sinatra, Wynn Resorts; Senator Coffin; Lynn Warne, Nevada State Education Association; Partner of the Committee for the Advancement of Education in Nevada; Steve Johnson, Teacher of the Year, Churchill County School District; Barbara Surrittee-Barker, Nevada State Education Association; Teacher, Washoe County; Senator McGinness; Senator Rhoads; Senator Raggio; Senator Carlton; Jim Penrose, Attorney, Nevada State Employee Association; Donna Hoffman-Anspach, Nevadans for Quality Education; David Schumann, Independent American Party, Nevada Committee for Full Statehood; Lynn Chapman, Nevada Eagle Forum;

SENATOR CARE:

Good afternoon, you have before you, in addition to the copy of Initiative Petition No. 1, a binder to help you with the testimony you will hear today. I would like to begin with Brenda Erdoes, Legislative Counsel, and Russell Guindon, Senior Deputy Fiscal Analyst, who will walk us through the petition and will explain why we are hearing Initiative Petition No. 1 now. They will explain the legal issues it might raise. Mr. Guindon will discuss the projections.

BRENDA J. ERDOES (Legislative Counsel):

Mr. Chair, an initiative-petition procedure is set forth in Article 19, subsection 3, section 2 of the *Nevada Constitution*. It explains this process. It says, "Such a petition shall take precedence over all other measures except appropriation bills." It also says, "Such a petition shall be enacted or rejected by the Legislature without change or amendment within 40 days." The combination of those two provisions direct that if you enact this petition within 40 days without amendments, which would be by March 14, though we suggest it be done by March 13, the tax would become effective upon passage and approval for purpose of the ordinance being enacted or adopted by the local governments involved. Those governments would be the Clark County and Washoe County Boards of County Commissioners. The tax could be collected as early as July 1, 2009.

First, if the Legislature enacts the petition without change, within the 40 days, then the first two years of the tax proceeds would be able to be used for shortfall and revenue. You could budget those proceeds for the next budget cycle. After that, all the proceeds would be dedicated to K-12 education. The Legislature would be able to amend this provision in future sessions.

Second, if you do not enact this Initiative Petition No. 1 in its present form within the 40 days allowed, then, the Constitution says that Initiative Petition No. 1 goes to the ballot in the 2010 General Election, and if it is approved by the voters, collection would begin in July 1, 2011, and would be used for K-12 education exclusively. In addition, the Legislature would not be able to amend these provisions for three years after they become effective.

Third, if you enact something different, such as a different amount of room tax or it is earmarked differently or not earmarked, any change that you might make to it would most likely result in a position on the ballot as a competing measure with Initiative Petition No. 1. Initiative Petition No. 1 would be on the ballot in 2010 as would the competing measure, and if both passed, whichever one got the most votes would become effective. In that scenario, you would not be able to enact a room tax that was a competing measure. The earliest it could go into effect would be in November, 2010. That would be when they canvas the votes in late November. The earliest it would be effective would be January 1, 2011, because an ordinance would have to be in place.

SENATOR CARE:

Thank you. That is under Article 19, section 2, subsection 3, processing. Any questions from the Committee as to the processing as covered by Mrs. Erdoes?

I have some questions about the legal ramifications of all of this and other legal issues.

Could you explain to the Committee, assuming this is passed and signed by the Governor, who is actually taxed? Are timeshares involved, weekly rentals or recreational vehicle lots taxed?

MRS. ERDOES:

If this is enacted, as it stands, in Washoe County and in Clark County, the rates would be increased for the room tax and the collections would be on the same people they are on currently. It does include timeshares. We have provided coping for you of three things. One is the NRS 244.33565 provision that talks about to which it applies. The second is the Clark County code, and the third is the Washoe County code. There is a definition of transient lodging establishment that is in the Clark County code. It covers everything I could think of including timeshares. Anything that is rented for over 31 days at a time is not taxed under the room tax, anything less than 31 days would be taxed as a transient lodging.

SENATOR CARE:

We had a discussion last year on the applicability of sales-and-use tax to complimentary meals. That went to the State Supreme Court and was the subject of the 25th Special Session on December 8, 2008. Are complimentary rooms subject to a room tax?

MRS. ERDOES:

We believe they are not because there is no revenue coming in from the actual patron who is staying in the room.

SENATOR CARE:

Because of recent discussions, not by members of this Committee, but in the press, about the potential for either prepackaged Chapter 11 proceedings or some sort of protection by certain gaming companies under Chapter 11, would a bankruptcy court have the authority to grant relief to a casino in Chapter 11 so they did not have to pay the room tax to the State?

MRS. ERDOES:

I do not believe the bankruptcy court would have that choice to waive the State's taxes in this case. There are different scenarios under which this would all work, depending upon the manner in which the bankruptcy was set up. From everything we could find, we did not believe that would be the case at this point.

SENATOR WASHINGTON:

There is not a definition for "gross receipts" in NRS. Could you explain to me if it is the same definition as that in the Clark County section of the handout, and does the gross receipts actually work in this bill?

MRS. ERDOES:

The amount that is actually paid for the room is the "gross receipts." There is nothing subtracted for it. It is the amount that customer actually pays for the room. They are different in Washoe County and Clark County. I am not certain if it results in a different amount being collected. They are just stated differently. "Gross receipts" means the total that the person pays though the tax is not placed on the tax too. If the room is \$100, then, there is a 14-percent room tax; the "gross receipts" is the \$100.

SENATOR WASHINGTON:

Therefore, it is actually the \$100 not the additional taxes that may be added to the room charge.

MRS. ERDOES:

That is right.

SENATOR WASHINGTON:

There is a different definition for Washoe County. Is there a definition for the State?

MRS. ERDOES:

No, because there is no State room tax.

SENATOR HORSFORD:

My question is about the packaged room sales that are done between companies and groups such as Travelocity that do the prepackaged room deals. Are those subject to the room tax, and how is that currently collected if it is a transaction that is done outside of the State?

RUSSELL GUINDON (Senior Deputy Fiscal Analyst):

As Mrs. Erdoes stated, the tax attaches to the price of the room. If Travelocity or any other company of the same type sells a room, it is the price of the room when sold where the tax is added. Any other taxes are taken out and then are attached to the price of the room so the taxes are not compounded. It is the price for which the room is actually sold or leased to the client that is the price to which the tax attaches to. It does not matter whether it is a book rate for someone who walks in the door and signs up or it is the rate that is sold over the internet or through some other travel-agent booking package.

MRS. ERDOES:

The other part of your question was if Travelocity collects the room tax for us and pays it to us. I will have to find out that answer for you.

SENATOR HORSFORD:

Thank you.

SENATOR CEGAVSKE:

Is there a difference between the language of the ballot measure and the language of Initiative Petition No. 1?

MRS. ERDOES:

I am sorry I do not have the language of the advisory question with me. I think they were virtually identical. The advisory question was just that, an advisory question. It is not legally tied into the Initiative Petition No. 1 in any way. I believe they were coordinated.

SENATOR CEGAVSKE:

Could you find that out before we finish here, today?

MRS. ERDOES:

Yes.

SENATOR CEGAVSKE:

I asked the Fiscal Division, and I would like to ask you; are there any unintended consequences that you foresee or have looked at for this measure? I know this is a loaded question.

MRS. ERDOES:

I would have to think about it.

SENATOR CARE:

That is one of those things, Senator, I have been through before. In August, following the end of Session, I would pick up a newspaper and read an article and asked myself, "Did we really do that?"

SENATOR CEGAVSKE:

That is why I am asking this ahead of time. I think we will vet this as we discuss it, but I wanted to know, since I had asked the Fiscal Division this question, if the Legal Division found anything that came to mind for them.

SENATOR SCHNEIDER:

I believe timeshares are out of the transient-occupancy tax when they are being exchanged. On weeks they are not exchanged, when no one has taken up the exchange, they are put in the rental pool, and they are rented; then, I believe they pay the transient occupancy. Otherwise, it is owner-to-owner exchanges, and I believe there is no tax on them. Is that correct?

MRS. ERDOES:

I believe it is, and that is in the ordinances you have in the booklet. It says if an owner is using it including the exchanges, the tax does not apply because you own it. It is when it is in the pool and you rent it out like a hotel room, that the taxes are applied.

SENATOR LEE:

I understand this money collected goes to the State Supplemental School Support Fund, which is great, but I have a question about the restriction to the population of 300,000 or more. Why was Elko and South Lake Tahoe left out from contributing to the fund?

MRS. ERDOES:

I do not know what the thought was for restricting it to 300,000. The representatives of those who brought this petition forward would have to answer that question.

SENATOR LEE:

I would like to know why South Lake Tahoe, Elko and some of the larger areas with tourism are not collecting this for the benefit of the students of the State.

SENATOR HORSFORD:

I would like to ask someone from Clark County about the enforcement provision with the high-rise condominiums now being rented within the 30-day period. What is the enforcement

mechanism with the county to ensure that room tax is being collected? There have been several news reports and announcements where, because they are not being sold as owner occupied or investment units, the developers and/or owners are now renting them. If they fit within this 30-day provision of NRS, what is the enforcement to ensure the tax is being paid?

SENATOR NOLAN:

Mrs. Erdoes, can the Legislature amend the statutes regarding the provisions of Initiative Petition No. 1? Could you outline this for us both if the bill were to pass the Legislature and if we do not pass it? I am thinking about what Senator Cegavske was trying to address. If there are unintended consequences that come up later, what are our options concerning amending the statutes?

MRS. ERDOES:

I think you are asking if the Legislature were to pass this within the 40 days without any changes and it becomes law upon passage and approval, is it subject to amendment by the Legislature. There is some issue about adoption of the whole initiative petition without change. At some point, we need to be worried about that.

In a future session, these provisions could be amended to take care of any unintended consequences, because the tax would only become effective upon passage and approval, with adoption of the ordinances by the counties, and not collected until after this Session is over. It would be after July 1, 2009, that you would determine what these unintended consequences are.

If the Legislature does not enact this without change, within the 40 days, the initiative petition goes to the ballot in 2010 at the General Election, and it becomes effective on July 1, 2011. If there were unintended consequences during that period, there would be no ability on the part of the Legislature to make any changes to it for three years after the date it became effective.

SENATOR CEGAVSKE:

I would like to discuss, again, the unintended consequences. The voters voted for the money under the guise that it be used for more money in the classrooms, for pay raises. What happens if the amount of money collected for pay raises falls short? Who will pick up the difference? Is it the State's responsibility because the room tax does not generate enough money? Does it become the burden of the State?

MRS. ERDOES:

The way I read this is that the money that comes from the proceeds of the tax increased by the Initiative Petition is supplemental to and not meant to supplant any money that the State has put in thus far.

SENATOR CEGAVSKE:

But, if it gets committed?

MRS. ERDOES:

You are asking if the proceeds were committed and salary raises were given, then the revenues decreased? Then, the State is at a choice point as to whether to fund them or not. If they did not fund them and there was no money from other sources, I believe the salaries would have to go back down. That would all be within that play. It is difficult because there is the State funding for K-12 education, but then, there is also the local piece to that. It could be made up by either of those or both or not at all.

SENATOR CEGAVSKE:

Not being a part of those who made these decisions, I would like to know why it would be put to the State and not to the county. Previously, room tax went to each of the counties from the cities. Is that correct?

MR. GUINDON:

There is a rate of 0.36 of 1 percent that comes back to the Nevada Commission on Tourism. There is a 0.60 percent that goes to the county recreation boards. There is an amount that goes to the Clark County Capital Construction Fund. There are various county and city rates that go into

their general fund use. They are dedicated for transportation or other special projects that have been authorized in statute, and some are actually in place through voter approval.

SENATOR CEGAUSKE:

I do not know that the voters understood this money would leave their jurisdiction. Clark County, which has the largest number of rooms, will be subsidizing the entire State. I do not know if the voters understood that issue. Their money will not stay in Clark County.

SENATOR HARDY:

I am concerned about the impact that the prohibition against supplanting money might have. Would that mean that if we had to do a reduction in a future session from what we had done the previous year out of the General Fund, that an argument could be made that that action is supplanting. Are we tying our hands going forward to never being able to do less in the next Fiscal Year than what we have done in previous Fiscal Years? Let us assume the population growth of students not only slows but also goes the other way and we find ourselves, 10 years from now, not needing as much money out of the state budget for K-12. Could we be accused of supplanting?

MRS. ERDOES:

I am not certain I am the appropriate person to answer, but the best I can say is that legal actions can be an option.

SENATOR HARDY:

That is what I am asking, if we would be susceptible to a legal argument that we have supplanted the funds at any point where we reduce the current appropriation or commitment to education.

MRS. ERDOES:

I do believe that you can make an argument at any time when you have a requirement like this. We have seen requirements like this in other parts of the law. It is something that would have to, if you were going to pay attention to, make certain you documented that you went down because of population or for some other reason. Otherwise, I think it would be an issue that would be litigated as to whether it was supplanting or not.

SENATOR HARDY:

Is there good case law or precedent in court? I know I am putting you on the spot, but this just occurred to me. Is there case law relative to that about what we would do to cover our reduction so that we would be all right legally? Or, is this untested?

MRS. ERDOES:

It is somewhat untested in this State. I do not recall any cases in this State.

SENATOR HARDY:

It is a hard question, and I apologize. I understand this needs some research. I wanted to bring this to our attention.

MRS. ERDOES:

Nationally, I think it is an issue that has been litigated in different states and they have taken different stands on it.

SENATOR HARDY:

Therefore, it would be a matter of us doing some additional legal research and saying if we adopt it in this way, it will not be viewed by the courts as supplanting. Thank you.

SENATOR AMODEI:

Mr. Guindon, what percentage of these estimates is projected to be collected in Clark County versus Washoe?

MR. GUINDON:

I can address that when I go through the estimates, if that is all right.

SENATOR AMODEI:

Mrs. Erdoes, do you have any feel for how this plays out if it is on the books with the Fund Education First provisions as it applies to the budget process that we go through on a biennial basis? With this in there and being earmarked for education, how is that going to work in terms of the budget committees' work in funding education first?

MRS. ERDOES:

It is clear that if this were passed, this earmark would have to be tracked by the Fiscal Analysis Division. They would have to pay a great deal of attention in the budgets as they build them to ensure that this money went for the purposes for which it was stated in that supplanting part. It is something that would have to be tracked. As the process went through, it would have to be identified and put into play.

SENATOR AMODEI:

How would the staff go about determining whether supplanting happened or not?

MRS. ERDOES:

I can only give a simplistic answer. From looking at what you have spent in the past and the spending level based on inflation and population. If we were to make a legal argument for defending it, that is what we would be looking at. Did it go down significantly in terms of the funding that the State put in, and if so, was there another reason for that other than bringing this money in to replace it?

SENATOR AMODEI:

Has there been any thought given to instances where state revenues actually fall in a given biennium? Has there been any thought to potential legal ramifications of an attempt to balance a budget in the context of supplanting when you are dealing with smaller budget numbers than you have previously received the revenues to support. Was there any thought given to that by staff in terms of how that would work in the future?

GARY GHIGGERI (Senate Fiscal Analyst):

There has been no thought to that. It would have to be isolated in the budget process to ensure that those funds would be set up in a separate account. It would be allocated based on the enrollment in the school districts. It would have to be monitored closely as Mrs. Erdoes indicated.

SENATOR CARE:

Ninety-eight percent of the revenues are projected to come from Clark County. Has Senator Amodei raised an equal protection argument? Virtually all of the money is coming from a single county. Though the statute is statewide, it affects Clark and Washoe Counties.

MRS. ERDOES:

We have researched the issue, and it appears to us that there is adequate case law to make a good defense. It would be a rational-basis test for being able to impose the tax primarily in Clark County to use the revenue statewide. It appears to us the State could develop a rational basis for the choice it has made. That would be upheld based on cases from other states.

SENATOR WASHINGTON:

This question may be relative to option three you spoke about earlier that there would be competing measures on the ballot. Has there ever been a sunset clause placed on an initiative petition or an amendment to the Constitution?

MS. ERDOES:

I think there has been one sunset clause on a constitutional provision. As to an initiative petition, I am not aware of one, but there could be.

SENATOR WASHINGTON:

If we took the existing language of this initiative petition and offered a sunset clause to it, would there be two competing measures on the ballot or how would that actually work?

MRS. ERDOES:

There is no case law to bear this out, but my reading of the Constitution would be that if you added a sunset clause, it would make the measure that you enacted become a competing measure because it would conflict with the measure proposed by Initiative Petition No. 1.

SENATOR WASHINGTON:

The reason I ask is because of the question Senator Amodei asked in regard to supplanting, or in the case of the budget having a deficit, giving future Legislatures the opportunity to review the measure on the Constitution and whether or not to continue the amendment or to repeal it and to do something different.

SENATOR CARE:

There has been a question requesting information from Clark County from the Majority Leader. Senator Cegavske and Senator Lee have questions they are still waiting to be answered. Please get back to them at some point and, also, have someone from Clark County address the Majority Leader's concern.

I would like Mr. Guindon to walk us through the measure section by section.

MR. GUINDON:

Thank you, Mr. Chair. I will summarize the major provisions of the bill. Then, I will answer questions, if that is all right.

Initiative Petition No. 1 requires the Board of County Commissioners in any county whose population is greater than 300,000 to enact an ordinance that is going to impose up to an additional 3-percent room tax in that county, but the total rate may not exceed 13 percent. Given the 300,000-population threshold, the two counties that would be required to impose this, up to an additional 3-percent room tax, are Clark County and Washoe County.

July 31 is the reference period determining the current room rate for calculating the additional room tax. As of July 31, 2008, if the current room tax in the area is less than 10 percent, then, the full 3-percent additional tax can be imposed up to the 13-percent maximum. If the rate as of July 31, 2008, is greater than 10 percent but less than 13 percent, then, you can impose somewhere between 10 percent and 13 percent. Thus, it could be anywhere from 1 percent up to the maximum of the 3-percent rate. However, if the sum of the existing combined tax rate as of July 31 in a local government area is 13 percent or more, then, no additional room tax may be imposed under the provisions of Initiative Petition No. 1.

As was pointed out, if Initiative Petition No. 1 is enacted by the Legislature and approved by the Governor, then, the proceeds of the additional room tax generated from imposition of that tax would be credited to the State General Fund from July 1, 2009, through June 30, 2011. Beginning on July 1, 2011, the proceeds from the additional room tax would be transferred by the county treasurer to the State Treasurer for credit to the new special revenue fund called the State Supplemental School Support Fund created for the operation of school districts and charter schools in the State and has already been discussed. The proceeds in the State Supplemental School Support Fund are to be distributed proportionately among all school districts and charter schools in the State based on their enrollment to improve the achievement of students and to retain qualified teachers and nonadministrative employees and is not intended to supplant or replace any other money appropriated, approved or authorized to fund the operation of public schools for kindergarten to grade 12.

The definition in Initiative Petition No. 1 of an administrative employee, because the money cannot be used to benefit the salaries of those, is a person who holds a license as an administrator from the Superintendent of Public Instruction.

These are the general provisions of the bill.

SENATOR HORSFORD:

In section 4, it talks about the provisions under Article 19, section 2. Can you explain the provisions "approved by the Legislature and approved by the Governor." What does that mean to you? What form does approval take, particularly, as it pertains to the Governor?

MRS. ERDOES:

I believe approval would occur if the measure were enacted by the Legislature. If it passes both Houses of the Legislature and is sent to the Governor, for the enrollment process, it would be transmitted to the Governor for his approval.

That approval could take place in two different manners according to the Constitution. There is a provision in Article 19 that says that an initiative petition would have to be processed by the Legislature in the same manner that a bill would be processed. From that, we believe it would be submitted to him for signature in the same jacket and he could sign it. If he chooses not to sign it, then, we believe the constitutional provisions would apply which lets him not send any notice back to the Legislature within five days, if you are still in Session, and that would be approval as well. There would be no affirmative approval, but he would not have sent word back to the Legislature that he had chosen to disapprove or veto it. If he signs it, that is the easiest to understand approval, but also, he could let it go in five days without objecting to it.

SENATOR HORSFORD:

In section 3, subsection 2, regarding the rate as of July 31, 2008, what are the rates now in Clark County and Washoe County. How much is paid in each county?

MR. GUINDON:

I will speak specifically to the rates in Clark County and Washoe County. As of July 31, in the Washoe County unincorporated area and in the Reno nondowntown area, the current combined rate is 12 percent. You can only impose an additional 1 percent to get to the maximum 13-percent rate under the provisions of Initiative Petition No. 1. In the Sparks and Reno downtown area, the current combined rate is 13.5 percent, thus, no additional room tax can be imposed in those two areas of Washoe County under the provisions of Initiative Petition No. 1.

In Clark County, the full 3 percent can be imposed everywhere in the county except for certain establishments in the City of Las Vegas. In the City of Las Vegas, facilities with 75 rooms or more currently have a total combined rate of 11 percent, thus, only 2-percent additional room tax can be imposed on those entities. Otherwise, the additional 3 percent can be imposed in Clark County.

SENATOR HORSFORD:

Are there any current lodging taxes which may expire which would then allow the increase to take place?

MRS. ERDOES:

I do not believe there are any that are scheduled to sunset. I am not certain it would change it because of the way this petition is worded. It appears to say, "What is in place as of July 31, 2008." I would read that as if taxes go up later it, would not affect this and if they go down later, it would not affect this. It is addressing that rate on that day.

SENATOR CEGAVSKE:

Staff has told us that there are different rates depending on what our percentage is right now. Could you tell us what are the lowest and the highest rates of what Clark County is giving the State with an overall picture of what Clark County is already paying?

MR. GUINDON:

In Clark County, in what is defined as the "resort category," the current rate is 9 percent. There is a category for all others that are within 35 miles of that resort area, and they pay 9 percent. All others outside of the 35 miles are at 7 percent. Boulder City is at 9 percent. If it is over 100 rooms, it is 7 percent. If it is under 100 rooms, in the Henderson resort area, it is 10 percent; otherwise it can be 9 or 10 percent for other entities. In the City of Las Vegas, if there are less than 75 rooms, it can be 9 or 10 percent depending on whether you are in the Fremont Street area where there is an additional 1-percent rate for the Fremont Street Project. In the "75 or more rooms" category, it can be 9 or 11 percent depending on whether you are in the Fremont project. That is why we can only pick up 2 percent on those entities that are already at 11 percent. Mesquite is at 9 percent. North Las Vegas in the resort category is at 9 percent as well as the nonresort category.

SENATOR CEGAUSKE:

Then, this would preclude Clark County from the 3 percent, if it goes up to that, from having any additional revenue by that means? Correct?

MR. GUINDON:

Do you mean that they would be prohibited from imposing additional room taxes?

SENATOR CEGAUSKE:

Correct.

MR. GUINDON:

I do not believe, if they would impose any limits, that there could be any additional room taxes. I am not certain there is any additional authorization that is statutory that would allow them to impose an additional rate.

SENATOR CEGAUSKE:

That is what I would like to know.

SENATOR HARDY:

Are there examples of other areas where we have imposed a mandated requirement by a Board of County Commissioners to impose a tax. I know we enable them to do it, but are there other examples of this?

MRS. ERDOES:

I believe that the existing room tax that goes to the State is imposed by the local government, but the proceeds are required to go to the State. In the 1-percent tourism tax, for example, the one that comes to the State, the language says that the Board of County Commissioners shall impose that tax.

SENATOR HARDY:

"Shall impose"—it does not just mandate the distribution, it imposes the levying of the tax.

MRS. ERDOES:

It is discretionary, usually, when the tax is going to be used by the local government. That is the trend, but in some cases, it is mandatory where the money is going to come back to the State.

SENATOR HARDY:

So, there is some precedent. Is that the only one that comes to mind?

MR. GUINDON:

I believe that in that same section of the NRS, that imposes taxes for the State, 1 percent of the 3 percent goes to the Commission on Tourism and the additional 0.60 percent from all the counties, except for Clark County, goes to support the local tourism boards. It is in the section where the 1.60 percent that goes to the Capital Construction Fund for the school district states, "shall impose the ordinance."

SENATOR HARDY:

Has that ever been challenged? Is there any court precedent for us imposing on other duly elected officials by taking away their discretion, their conscience and their right to vote? Is there a challenge for that?

MRS. ERDOES:

I will look to see if there is. Nothing comes to mind.

MR. GUINDON:

There are three sets of revenue estimates regarding the estimate that would be expected in Fiscal Year (FY) 2010 and FY 2011 based on the provisions that are in Initiative Petition No. 1 and the incremental rates that could be imposed based on the prior information that I provided.

The first estimate of \$142 million in FY 2010 and \$150 million in FY 2011 is the budget estimate that was included in the Governor's Executive Budget with regard to the advisory

question that was approved at the General Election. My information with regard to the rate structures in the provisions of the bill were identical. There could have been other language that "with regard to" might have been slightly different, but with regard to how the rates work and how they could be imposed, between the advisory question on the ballot and this statutory initiative, they are identical.

The second set of estimates of \$111.2 million in FY 2010 and \$122 million in FY 2001 is the estimate that was prepared by the Fiscal Analysis Division at the end of February when Initiative Petition No. 1 was being prepared for the Assembly to consider.

The third set of estimates of \$107.8 million in FY 2010 and \$123.7 million in FY 2011 were prepared by Applied Analysis, Jeremy Aguero's firm. He was kind enough to prepare those and provide them to the Fiscal Analysis Division and allowed me to include them for consideration by the members of the Legislature. Those estimates were prepared by him in late February. I have had discussions with him because I think we are all gravely aware that the economy is always a moving target. It is moving a lot faster now, and it is moving faster in the wrong direction.

The estimates that your staff and others will be preparing as we go through this Session will be revised from time to time. Our estimates could be too high. There was an article in the paper this weekend about how some additional resorts might be suspending some parts of their projects. All that information is taken into consideration when staff calculates estimates. Given the current uncertainty, we could redo estimates every week. They may or may not change, but at this time, it is prudent to leave the estimates we presented to the Assembly as is and wait for a few months for additional information before we revise those.

Concerning the estimates, the Fiscal Analysis Division believes that if this were implemented, this would generate approximately \$111.2 million in FY 2010 and \$122 million in FY 2011. This is compared to the Applied Analysis estimate of approximately \$107.8 million in FY 2010 and \$123.7 million in FY 2011. Both of those sets of estimates are closer than the estimates that were included in the Governor Executive Budget for provisions of Initiative Petition No. 1.

This would only be imposed in Clark County and Washoe County. In Washoe County, you can only access an additional 1 percent in the unincorporated area in the Reno nondowntown area. We are estimating in FY 2010 that you would only receive about \$1.3 million in Washoe County. The \$109.9 million would come from Clark County, and remember, we can impose almost a full 3 percent there. The only place we cannot do so is in the City of Las Vegas. Thus, of the estimated \$111.2 million, approximately 98.8 percent would come from Clark County. Washoe County provides 1.2 percent. In my estimate, there is a little recovery in 2011 where approximately 98.9 percent would be coming from Clark County in FY 2011 based on Fiscal Analysis Division's estimate. That leaves only 1.1 percent that would come from Washoe County.

SENATOR CARE:

I have some questions as to how you arrived at these figures.

SENATOR TOWNSEND:

Do you have access to the original estimates done by the proponents and what they used in terms of the following matrix: the amount of rooms that were going to be available in FY 2009-2011, the projected occupancy rate, the projected room rates?

MR. GUINDON:

No, I have never seen those. I cannot say that they are not available. Your Fiscal Staff has not seen those nor had access to those estimates.

SENATOR TOWNSEND:

These are not using any of their numbers. Are the Fiscal Analysis Division's numbers based on a revised version of the Budget Office?

MR. GUINDON:

No, the Fiscal Analysis Division section is my independent analysis of an estimate. This may address some other questions that are out there. The information that the Fiscal Staff has available to it with regard to analyzing this issue is the 0.36 of 1 percent that is reported monthly,

collected from each of the counties to support the Nevada Commission on Tourism. It first is reported to the Department of Taxation; then, the Department of Taxation deposits that in the Nevada Commission on Tourism's fund. The Nevada Commission on Tourism puts out a monthly report of what the 0.36-of-1-percent room-tax collections were. I see that report by county, and within those counties that have cities that impose their own rate, I see that report.

In the market, I see the Las Vegas Convention and Visitor Authority's (LVCVA) information on the number of visitors, the occupancy rates, the average daily room rates, etc., for the Las Vegas market, the Mesquite market and the Laughlin market. We get some information from the Reno-Sparks Convention and Visitors Authority for Washoe County. This is the information your staff has. We do not have any information on the specific properties or the specific properties within a market. I took the information and analyzed what I thought the 3 percent would generate. I calibrated it back because I know I cannot get the full 3-percent rates in some of these markets. Jeremy Agüero used the same information and methodology but differed by his independent approach. There are two different ways of approaching the same question. We came reasonably close. I cannot comment as to how the sponsors went about it or how the Budget Office came to their numbers.

SENATOR TOWNSEND:

Inside of these numbers, there are a few areas that are important to this discussion. First of all, when you are doing your estimates, there are multiple opportunities to be taxed. Have they been broken out in percentages? Let us discuss the traditional gaming-property room versus a new high-rise that is being rented for purposes of overnight stays versus the long-term stay facility that are subject to the transient tax.

MR. GUINDON:

The unfortunate answer for your Fiscal Staff is "no," we do not have that information available to us. When we do our estimates, we try to account for that when we look at the average daily room rates, the history and what is happening. We look at the 10-Q quarterly reports and 10-K annual reports from some of the properties to see what their average occupancy rates have been. We talk to people, but no, I do not have, in my hands, any actual data that I can put in a spreadsheet that would give me the kind of disaggregation you are talking about.

SENATOR TOWNSEND:

Inside of the traditional gaming component, which is likely to be the largest part of that, do you have it broken out in some way or can you get information in regard to those who are the free-and-independent traveler versus the group sales versus convention sales? Do you have any of those numbers broken out at least by percentage?

MR. GUINDON:

I do not. All I have reported to me that I get to see on the revenue side is the 0.36 of 1 percent collections. The LVCVA does do a visitor profile study which gives a little bit of information on what the people's budgets are and whether they are convention or not. I have not figured out how I would actually apply that to the 0.36 of 1 percent in any reasonable way to break that out.

SENATOR TOWNSEND:

Mrs. Erdoes, if there are rooms, already under contract, in large blocks, for either convention or group sales, and this tax is applied and that contract specifies the cost per night, then, the 3 percent is put back into whatever that rate was as opposed to on top of the contracted rate. Is that the way you would interpret it?

MRS. ERDOES:

My interpretation is that it would be on top of it, primarily, because I do not believe there is an impairment of contract problem, and we have other provisions for other taxes such as the sales-and-use tax, which specifically makes an exception where an amount has been contracted for. The sales-and-use tax, for example, has a provision that says if a contractor has bid a job basing the bid on a certain rate and the rate goes up after that, then, the additional rate does not apply. There is not such a provision that I have seen in the two ordinances. Without something like that, I believe that the tax would be applicable on top. Depending on the contract with the

vendor of the rooms, it may be that the renter of rooms, the hotel, would end up paying the tax on those, depending on rights they have signed away in the contract.

SENATOR TOWNSEND:

You have not seen a specific contract relative to any of these issues?

SENATOR CARE:

Is the information we want to see specific to certain properties statutorily confidential as it is with the gaming data. We all see the breakdowns every month when we talk about downtown and Washoe County and Las Vegas. We will not see that information about particular properties?

MRS. ERDOES:

I believe that might be proprietary information that we would not be able to obtain.

MR. GUINDON:

I addressed Senator Horsford's earlier question concerning Travelocity and who collects the tax. Having had a chance to think about it, I think the answer to the question is that the tax is collected by the property you are staying at. When you use Travelocity and the other web sites of the same type, you are booking the rate. Most of the web sites have footnotes saying the rate does not include applicable taxes. That gives the customer the piece of paper when they arrive at the hotel that says they booked a certain rate of, for instance, \$89 a night. The taxes are imposed on top of that when they check out. All the taxes are collected at the property the person is staying at, then remitted to the county.

SENATOR CARE:

Thank you both, and we will begin to take testimony from those signed in on behalf of the petition.

KIM SINATRA (Wynn Resorts):

I am here to speak on behalf of Initiative Petition No. 1. I am no fan of governing by initiative, particularly, with respect to items that are as complex and as interdependent as tax and fiscal policy. We are forced to consider a tax measure at a time of unprecedented economic difficulty. Therefore, for that, I apologize, but I will tell you that this initiative process was born out of many years of frustration and desperation. The teachers were desperate to obtain funding that was necessary for education.

During the past decades of unprecedented growth that we have had in Nevada, we did not do well by our students. Whether you want to argue if we funded per-pupil spending at 37th, 47th or 49th in the Nation, we still had student achievement in the bottom 10 percent and we were the unqualified winner in the dropout rate. We did not do a very good job on those things.

I do not think education is only about money. This is before you as a monetary issue, but I think what we need to do about education in our State is broader. We need to look at how we have set up the infrastructure that delivers this service. We need to do it in an efficient way designed to deliver the highest quality education we possibly can. Investment in our children is investment in our future. Every dollar we spend, now, on education will come back to us many times as we will reduce spending on criminal justice, public safety and welfare programs in the future. This is something that is important.

The teachers were frustrated, and we as business people in Nevada were frustrated too. We have people who are unprepared to enter the workforce when they come to us. We were frustrated about the process, as it has gone on in the past. There is a lot of arguing among business people about who is going to pay. It is gaming, generally, being the one who gets pushed out in front of the curtain. We are a little frustrated about that too.

It is ironic that you find us before you, today, asking for you to impose a tax on a portion of our business. We had hope that we could start a new dialog about education. We had hope that we could encourage and inspire other business people to come forward to say that this is something they care about. Even if it costs a little bit, it is something that is important for us and for our State.

I work for two people most of you know well, Steve and Elaine Wynn. They have spent their entire adult lives making Nevada a little bit more beautiful, employing many of our citizens and working tirelessly on philanthropic matters, particularly, education. We decided that while this might not have been the perfect platform, it was time that someone raised a hand to say that we needed to care about education. In government, a little about caring is a little about money. We were lucky enough to have both Harrah's and Stations join us in this effort.

Since May, 2008, the past ten months have felt like a lifetime to us. In May, 2008, things were not looking so bad in the gaming industry. We all felt healthy, and most of the Wall Street analysts thought that it was going to go on forever. Today, we find ourselves in a place where things are very different.

While we at Wynn have been lucky enough not to have had to lay off people, everyone in our industry has had to lay off many people. At Wynn, we have taken significant salary cuts from the top to the bottom. We have stopped funding our 401K match, and we have cut hours for our hourly workers. Those things were difficult for us to do. Those actions were sad for all of our management, and they have inflicted a lot of hardship on many people in Nevada.

Despite this, I still showed up, today, for one important reason. We as a company and we as Nevadans made a commitment. We made a commitment to ourselves. We made a commitment to our teachers, and we made a commitment to our children. We will not waiver from that commitment.

I ask you, today, as you think about this issue, to join all of us—the 130,000 Nevadans who signed our petition, the 498,000 of the voters in Washoe County and Clark County who voted for our ballot advisory question, the people of Wynn, Stations and Harrah's, and the teachers—in supporting Initiative Petition No. 1. If we can get this off your plate, then, we can send it to the Governor to ask him to sign it, and we can get you back to your real job. Your real job is to determine the priorities for our State, to define those goals and objectives for us, to figure out if we have enough money to pay for them and, if we do not, to figure out a way that is stable and fair and not industry specific to pay for them. Thank you.

SENATOR CARE:

Thank you. You have addressed most of the questions I was intending to ask. Is there any concern that, if this passes and the Governor signs it, there will be a reaction by the analysts on Wall Street? We are all cognizant of the downward march during the recent months of the price of common stocks in all of the publicly-traded gaming companies.

MS. SINATRA,:

That is a tough question. I have not had the opportunity to look at what is happening in the market today, but when it closed on Friday, both MGM and Las Vegas Sands were trading under \$2 a share. Wynn was trading at \$16 a share from a high of \$170. Wall Street analysts care about many different things. From your perspective, I think they care about political and economic stability within a state. We do not think that room taxes will make our stock go down. Room tax does not have the same effect as gaming tax. Some other states have made dramatic increases in gaming taxes. They got into a place where they needed to fill the state coffers, and they piled on the gaming tax. That makes a state toxic from a gaming perspective. Those were states in which gaming was not the lion's share of the economic activity. You have to be careful when you think about taxation. When both gaming and other companies are looking at states in which to locate, one important consideration is education and another is quality of life. Balancing all of those elements is part of the tough job you all have.

SENATOR WASHINGTON:

I heard that rooms at Primm were selling for \$6 a night. Some hotels are even giving rooms away. Given the current economic climate and state of the economy with reductions in some room rates, would the resort or your industry support it or if this initiative was back on the ballot, would the voters support it?

MS. SINATRA:

With respect as to whether the voters would support it, generally, we found that taxing other people is a popular thing. My guess would be that it would not have so much trouble if put on the ballot in 2010 in the same way. We can assume it would garner support.

With respect to our industry, we are long-term thinkers. While this feels painful right now, we have confidence that our industry will recover, our State will recover and we will not be in this desperate time for a long time. I cannot look to 2010, but for the same policy reasons that we thought that room tax was something that would not overwhelmingly and adversely affect our business, I will probably feel the same way in 2010.

SENATOR CEGAVSKE:

We all want education to be improved. On page 4, section 4, of Initiative Petition No. 1, it says that the money is supposed to be used to improve the achievement of students. I agree, that is a great goal. During the past 20 years, that has been my goal, but unfortunately, I have not seen that money is the answer.

In your communications with everyone about education, what improvements were guaranteed by this process of bringing in more money? I know Mrs. Wynn is involved with school dropouts, and that is a huge issue for her as it is for all of us. We all want to see a decrease in the dropout rate. What were some of the agreements or discussions of what would be improved in education?

MS. SINATRA:

We have had a wide range of discussions. We came to the discussion talking about performance pay and rewarding achievement in the classroom. Because of the one-subject rule and other issues attendant to the initiative process, we ended up being incredibly vague. The gaming partners have never varied from the idea that, yes, teachers need to be paid well enough to attract and retain the best ones. Research will show you that the single most important metric in a classroom is the quality of the teacher. You can have all of the smart school boards and all sorts of fancy equipment, but the most important thing in the room is the quality of the teacher. We pay below the national average. The housing prices in Nevada, before this big adjustment, made it difficult for teachers to relocate to Nevada. The quality of our life makes it, sometimes, a place where people do not want to stay. Look at all of those different factors. Retaining teachers is a little bit about money. As far as how do you increase student achievement separate and apart from direct salaries, we believe that some kind of performance pay is part of evaluating programs that have worked in other jurisdictions. The ones that have proven to work should be given a try.

SENATOR CEGAVSKE:

There was not anything specific that was agreed upon or discussed when agreeing to support this?

MS. SINATRA:

There was nothing specific that was agreed upon. I think that the legislative process and the allocation of these budget dollars, should they come in and fund this account, is going to be something by which we can enact some real change.

SENATOR WASHINGTON:

We had a boom with the population growing. There was a need for schools and a need for teachers. We were recruiting and offering incentives to bolster our educational system, especially K-12.

Our economy has been driven by your industry. People moved here to fill the service jobs, and then, they brought in their families requiring schools for their children, health care, transportation and more. Given the current state of our economy, some properties are not finishing projects. Some rooms will not come on line. There is a decline in the State's population with people moving out because they cannot get employment. Enrollment in our educational system, especially in the K-12 schools, has flat lined or dropped in some areas. Would the industry be open to the idea of making the increased tax rate a ratio where it would be rolled back based upon student enrollment. If enrollment rises and if the maximum is available at the 3 percent rate, we take the 3 percent. If the student population declines, would you be willing to

roll back the tax rate based on the student enrollment. Instead of paying it at 3 percent, it could be 2.5 percent or 2 percent.

MS. SINATRA:

I do not speak for the entire gaming industry. As many of you have heard, especially on this matter, there is a difference of opinion in our industry. I am here as an individual and as a representative of a company. I think we have a broader mandate on some points. I do want to qualify any of my comments by that.

I would like to get out of the business of micromanaging tax policy as a private citizen. Some of the decreases in the increased rate of population will be reflected in the funding formula for the Distributive School Account (DSA). With respect to this separate little pot of money that is set aside, there are many things to consider funding. Some people like empowerment schools. Some people like other programs. I leave those decisions to people, like Senator Cegavske, who has worked on this for the past 20 years, to decide how we get the biggest "bang for our buck," to spend our money in a productive way. If we get to the lucky place where we have more money in the State coffers than we can think about, then, it will be this body, the Assembly and the Governor to figure out if taxation can be adjusted at that point.

SENATOR COFFIN:

I supported this idea about 1.5 years ago. There was a public discussion about this. Casinos were being pushed against the wall by the teachers' union to get a gross gaming tax, which would have been death to casinos for those of us who understand how taxation works. It seems like there was a good compromise to bring it forward to the Legislature. I would have voted for it.

However, when you come to me with an initiative petition, there is a serious ramification involved. It is a distortion of the legislative process.

The initiative petition process has been reserved for the public for those serious subjects where the Legislature refuses to act. The tragedy here is that Initiative Petition No. 1, because it has to be considered before anything else, does not give us a chance to act.

I do not know whether in the boardrooms, the caucus rooms or the other places you discussed this issue, if you understood the far-reaching ramifications of what an issue like this does to the Legislature. It takes away from the Legislature the ability to legislate. It is just the beginning of checkbook legislation. It is easy to get people to vote to tax someone else. It does not take much money. We will see a lot more of it now since this has happened. I know this was not your idea, but in previous years, Wynn has done well at the Legislature. It has gotten what it wanted. I do not know if you will get what you want now. I do not know if you want what you are proposing.

I am teetering on whether to vote for this or not regardless of the fiscal ramifications. This is harmful to the legislative process.

MS. SINATRA:

I understand the Senator's point of view.

SENATOR NOLAN:

We have received many e-mails from people who want to buy into this, and a lot of it has been in opposition to the legislation before us. A lot of it has to do with the fear that somehow this increased tax is going to drive off additional revenue. I do not know if there is any one organization behind it. There seems to be a lot of random input. I am not reading them as some type of organized effort for us to vote against this. If the petition passes, how will Nevada compare to other cities competing for convention business?

MS. SINATRA:

Before we started with this, we looked at the comparative room taxes in jurisdictions that relied mostly on convention business. I had them checked again on Friday. I have a few comparative numbers. They are as follows: New Orleans tax rate is 13 percent; Atlantic City is 14 percent; San Francisco is 14 percent; Los Angeles is a little above 14 percent plus a stated rate; New York City is 14.25 percent plus \$3.15 as a flat fee; Atlanta, Georgia, is 15 percent; Chicago, Illinois, is at 15.4 percent.

SENATOR NOLAN:

This leaves us where?

MS. SINATRA:

It leaves us toward the bottom.

SENATOR NOLAN:

Thank you.

SENATOR TOWNSEND:

First, since the rhetoric started in Washington, D.C., regarding travel and your city's name was mentioned, how many cancellations have occurred because of that and have you been able to fill the cancellations?

Second, if this tax is implemented and you have a contract, are those contracts all individual with groups, or is it a standard contract in which, if things change, a group is required to pick up the change or you as a company must absorb that into the rate?

MS. SINATRA:

First, the comment made by President Obama about Las Vegas was unfortunate. As Mr. Wynn characterized it on our last earnings call, it was an unfortunate slip of the tongue. It has had severe ramifications. Not only that, but some of the hearings and some of the rhetoric that has been going on in Washington about corporate America and traveling and the value of meetings has been incredibly difficult for our industry. Yes, we have experienced attrition and cancellations to a much greater degree than we previously had in 2009. We are hoping that some proactive work by the travel industry, in general, will be helpful at underscoring for people how much of the economy is driven by travel. There are real benefits that conventions and other business meetings have in employment and taxation. Not only is gaming affected, but also lodging, in general, airlines, food and beverage, retail and entertainment are affected. It is a pervasive issue. People are working hard on the issue. I do not believe it will be rectified immediately. I think that we need to differentiate between financial institutions and the Troubled Assets Relief Program money versus valid reasons for conducting business together.

Las Vegas is a terrific destination for the convention business. That is what we are focused on doing. We do not have a lot of people in town trying to do a lot of other things other than attend to business, stay in our hotels, take advantage of our business. We have a great airport that has wonderful access. There is nonstop access from many cities. From an economic standpoint, it is still an incredibly attractive destination both from great airline rates to great hotel rates. Those are a little greater than they used to be right now. We will go through a period of dislocation. I have confidence that over the medium term, America will return a bit more to normal.

In your second question, you asked me about contracts. I will make an assumption, but I have a high degree I am correct. I believe we quote rates not with taxes. Any taxes or other charges would be on top of those when we generally contract for convention business. When someone comes in, whatever the room tax is, it is put on the end.

SENATOR TOWNSEND:

You may be unique because of your property, but I know others contract at a net price and that is why I asked the question. You are a specialized property.

MS. SINATRA:

We are. I think that is why people have a different point of view with respect to this tax.

SENATOR TOWNSEND:

This question needs some historical perspective. Two of the members of this body sponsored legislation in 2003 in which a room tax was a component to resolve our legislative budget differences. Was your company involved in the 2003 Session? At that time, that bill was not received by the industry with open arms. What is the difference between that time and this time?

MS. SINATRA:

There are a couple of things. With respect to Wynn in particular, we were between operating a business. Mirage had been sold in 2000, and we were busy constructing Wynn Las Vegas, which opened in April 2005. We were not particularly active in the 2003 session.

Many members of the gaming industry who you hear from do not like room tax very much. I agree with the philosophical underpinning that industry-specific taxes are generally not good. There has been a feeling among members of the gaming industry, who have been around a lot longer than I have, who feel they have fared disproportionately poorly at the Legislature as it comes to taxation and taxation policy. It does not surprise me at all that they did not like a room tax very much in 2003.

As Nevadans and as business people, there is a broad-based, equitable way to meet the goals and objectives we set for ourselves. I do not think that gaming has trouble participating, but they will scream about industry-specific taxes.

SENATOR TOWNSEND:

I would like to follow up on a previous statement. I am looking at the reports on your company and all the publicly traded companies and from analysts that do work for those who that are privately held. They are not as terrific as they used to be. I believe you made a statement, earlier, that you do not believe a room tax will have an affect in the way Wall Street perceives our publicly traded companies or as, maybe, the private equity people would perceive this. Do you still believe that this tax would not affect the way Wall Street sees us?

MS. SINATRA:

I do not think it has a material effect.

SENATOR AMODEI:

I do not see any of your peers here, and that speaks favorably of your organization. I appreciate you being here, today.

I would like to know how we get from the screaming about industry-specific taxes to "we are here in support of Initiative Petition No. 1."

MS. SINATRA:

That is a long and winding story. As Senator Coffin alluded to, the industry faced significant proposed increase in the gross gaming tax. I know it was not through the legislative process. One of the things we know is that getting to the ballot box when you are the State's largest industry is sometimes a bit of a challenge. While reasonable minds may differ in respect to the effect the 3 percent increase in the room tax would have, there is no one who doubts that the gross gaming tax would have been a killer. While there are many companies who are holding on by their fingernails right now, an increase anywhere close to that magnitude in gross gaming tax would have shut down capital investment quicker than you can imagine. It would have affected employment in a much more dramatic way. Clearly, the context in which this arose was not a blank slate.

SENATOR AMODEI:

The lesser of two evils?

MS. SINATRA:

I hate to characterize it that simply, but the other was a nonstarter.

SENATOR AMODEI:

Were you part of the discussion group in formulating this? In your testimony, you indicated that you were involved since May. Is it fair to ask you questions on how we got this product, or is that best left as a question for someone else? What was your involvement in formulating or advocating for the formulation of this petition?

MS. SINATRA:

I think you should ask the teachers their version of events when they testify later today.

We were, along with Harrah's and Stations, involved in constructing that initiative. We will take credit for the student achievement part of it and for the part of it that allows us to segregate these funds so that we can make a net positive to education as opposed to moving money around.

SENATOR AMODEI:

Do you recall, based on that involvement, any discussion about the policy that set this decision as an earmark?

Education is the primary component of the State budget with K-12 being the largest primary component of the existing General Fund. This is a new revenue source for the State. Regarding this revenue source, was there any discussion of the policy implications of saying, 35 percent will not do, we must have 100 percent.

You mentioned balancing other needs of the State. That is what a Legislature does. Was there any discussion of taking away the ability to balance the budget for this revenue source for other areas of the state budget that are also important? Do you recall any discussion along those lines of the group you were involved with?

MS. SINATRA:

One of the things to think about is, while \$100 million seems like a lot of money, it will not solve many problems in our State. The problems are big, and they take a lot of money. I do not think we thought we were raising enough money to satisfy the needs of education. That was our priority at the time. We thought that if additional funds were going to be raised, we would like them to be directed.

SENATOR AMODEI:

So, is the answer "no" for the other sections?

MS. SINATRA:

You may ask the question again. I apologize.

SENATOR AMODEI:

I will move on. Was there any discussion that you were involved with regarding room tax in the future, in the event the State changes that to 14 or 15 percent during a future Legislature?

MS. SINATRA:

No.

SENATOR AMODEI:

I will finish; that would not be earmarked, and that this would be the cap for an earmark within the existing room-tax structure?

MS. SINATRA:

Do you believe that this piece of legislation directs all future room tax to education?

SENATOR AMODEI:

I will answer your question if you will answer mine first.

MS. SINATRA:

I guess my answer is irrelevant if it does not.

SENATOR HORSFORD:

You have talked about your commitment to your company, to teachers and to students, and the reason why, ultimately, your company decided to work on this proposal.

What expectation do you have of the teachers concerning the ongoing discussions on reform and educational accountability? Because of the timing of when we have to address this initiative, based on our Legal Counsel's explanation, many of those discussions have not yet taken place. Whether this measure is passed or not, what is your expectation of how the ongoing discussions that ultimately lead to student achievement, since this is a part of the resource question with the other part being accountability and reform, what we are actually doing in the classroom with the resources? Can you elaborate on this?

MS. SINATRA:

Our expectation is that they are at the table having this discussion with all of the different interest groups who care about education and those who know a lot more about it than I do. We believe that the unfortunate part of this is that it is taken out of context. I believe that if we had the perfect set of circumstances, we would be considering additional revenue at the same time that we talk about what we actually want to fund. I expect we are all at the table as we talk about reform, both structural reform and accountability in the classroom.

Senator Care moved to recess the Committee of the Whole until the call of the Chair at 1:46 p.m.

At 3:15 p.m.

Senator Care presiding.

SENATOR CARE:

We will continue discussing Initiative Petition No. 1 and will now hear from the teachers.

LYNN WARNE (Nevada State Education Association; Partner of the Committee for the Advancement of Education in Nevada):

This afternoon, it is important that we recognize those who have helped us get to this hearing today. I would like to thank you, Senator Horsford, for your help, your advice and your support. It has been invaluable. It is important that we recognize the important support of the gaming companies that have supported this effort to assist education funding. Their support, despite the dire economic conditions in their industry and our communities, needs to be applauded.

The voters of Nevada have spoken. They have done so with a firm and decisive voice. Initiative Petition No. 1 is before you because over 130,000 people have demanded you do so by signing this petition. They have sent a message that enough is enough and that it is time to begin the process of making K-12 education a priority. In addition to our two biggest counties, voters have overwhelmingly agreed by casting their affirmative votes on advisory questions, with over 66 percent in Clark County and 57 percent in Washoe County. The groundswell of public opinion is so compelling that the Governor has now chosen to include the proceeds of this measure in his budget. This initiative petition will eventually provide a desperately needed dedicated source of revenue for our K-12 education system. I do not need to tell you about the problems we face with over-crowded classrooms, the teachers who cannot pay their mortgages or rents, the number of classes taught by substitutes because we are unable to recruit qualified, permanent teachers.

The needs are great, and the consequences of ignoring them are catastrophic. With this initiative petition, we take the first step to becoming a state that demonstrably is concerned about improving education and has the courage and fortitude to do something about it. The road before us is not easy nor is it well travelled. Together, we can make the journey that will ensure a better future for our children. We can reverse this destructive downward spiral of underfunding and neglect. The journey back to respectable and well-functioning public schools is a long one. Today, this body can take the first step in that historic passage. Thank you for your consideration.

STEVE JOHNSON (Teacher of the Year, Churchill County School District):

Mr. Chair, members of the Committee, it is an honor for me to be here, today, to discuss with you some of the implications of K-12 funding and the proposed room-tax initiative. I would like to begin by talking about how some of the budget reductions have affected students in Churchill County.

Recently, our school board was forced to eliminate art and music classes at some of our elementary schools. Future decreases in funding will necessitate they eliminate all of the music and art classes in our elementary schools. There is serious consideration for eliminating computer classes for elementary students. At Churchill County High School, the French and Japanese language courses will not be offered next year. Some of our vocational arts will no longer be available. Access to band and choir will be limited. In the science department, funding reductions over the past five years coupled with inflation have reduced our purchasing power for

chemicals and reagents and laboratory equipment by nearly 35 percent. It is becoming more difficult for us to provide the quality education that our students deserve. As time passes, it will become impossible for us to provide the laboratory experiences that will make our students competitive in this 21st Century global economy.

President Obama recently committed billions of dollars of federal research money to alternative-energy funding. Our State is ideally situated to benefit from that funding. We have large resources of geothermal power available. We have over 300 days a year of bright, sunny days for solar-power generation. We have ample wind resources.

Senate Majority Leader Reed has indicated his intention to make Nevada preeminent in the testing and development and implementation of alternative energy. There will be a fantastic opportunity for our graduates. They will require the proper training in science, mathematics and computer technology. It is important that we provide that to them if our students are to have access to these quality, high-paying jobs. Otherwise, students from other states will fill these jobs. It is important for us to remember the value of a well-rounded education in sustaining the strength of our democracy. Our students need exposure to music, art and literature as well as science, math and computer technology. For the future of our State and in the best interest of our students, I urge you to pass Initiative Petition No. 1 today. Thank you.

BARBARA SURRITTEE-BARKER (Nevada State Education Association; Teacher, Washoe County):

I am a veteran teacher with 19 years in the classroom. I am nationally board certified and passionate about what I do. When Lynn Warne called me last week and asked me to come here, today, to speak with you, I agreed. She told me to handle the discussion like this was my classroom. I have a graphic organizer for you today. I have divided the organizer into different categories. These are some of the skills I have learned from my professional development offered in the Washoe County School District.

Even though I have been teaching for 19 years, I still think it is important to attend the conferences and to make certain that what I am bringing to the classroom is the current best and researched-based practices so that my students, who I spend 172 days with a year, get the best quality education according to current research.

I have an overhead projector at Dilworth Middle School where I teach. There are at least two overhead projectors in each classroom. One the teacher is using, the other is set aside. The light bulbs need replacing all the time. We do not have current technology at our school. The LCD and the ELMOs are not available to us. We do not have laptops as you have. My students have not touched a computer. I teach language arts. This is the 21st Century, and the students do not have access to computers to type papers, to learn where the keyboard is or where to save documents. For me, it is atrocious for the students of Nevada not to have these tools for education. We have nights where we open our building and have them bring in laptops so that they can become familiar with them. In my classroom, we use overhead projectors. When I am reading a great piece of literature, I would love to be able to show the video tape from, for instance, *Uncle Tom's Cabin*. There is a scene where one of the slaves gets his fingers cut off because he was reading a book. I cannot share that experience with my students because I do not have a VCR hooked up to my television. I am missing a cord. My custodian keeps a note pad list in his office of all of the chores he has to do around Dilworth. At the top, from the beginning of the year, is my name next to the notation that I need a VCR and a DVD player.

We do not have telephones in our classroom. It is important that parents, teachers and students be connected. It is imperative to me that I contact my parents weekly. I make an effort to communicate with them regularly. I use my personal cell phone to call these parents from my classroom. This is a resource I use to keep in communication with the parents. One parent was so impressed I had called her that she not only blessed my family for the rest of the year but also wrote me a beautiful note saying she does not get enough telephone calls and how grateful she was that I called her about her son.

Spanish Springs High School, under the direction of Ross Gregory, introduced some current research on the best reading practices and how to encourage students to read in the classroom. Based on best practices, they have implemented a 30-minute per day reading period for children. My son is a non-reader. He does not like to read books. He had not found an author who really

turned him on to reading. Because he was forced to read, I started giving him books. I am happy to say that about a month ago, he purchased his own set of Louis L'amour books to read in the classroom. Based on professional development, that a principal instituted in a building, my son is now reading. I went to Mr. Gregory and asked what it was he used so that I could get it in my school. I was working at Shaw Middle School, and we adopted a similar reading program. At Dilworth, we are on our way.

I brought a lesson plan from my classroom created by using the best practices I have learned from programs that the District has offered. I am a member of the professional cadre in the Washoe County School District where we offer training for new teachers. I teach in the Mentor Teacher Program and the Jump-Start Program educating other teachers in the field. These programs help to retain the new teachers and support them in the classroom. This year is the first year in nine years where I will not be teaching the Mentor Teacher Program because of the cuts to the budget. I have received several e-mails from teachers who have heard about the programs, and I have to tell them they are cut. Many of my colleagues have been looking at maps of other states to check out other districts where there is funding for their needs. Nevada is not high in teachers' salaries. Therefore, they are looking elsewhere.

I have brought in artifacts from a friend's art class. The mask represents a child who is affiliated with a gang from Sparks Middle School. This was one way she was able to express herself and be a student in an art class and be successful. Unfortunately, in this art classroom, there is not an environment you would want your child to attend. Every Monday morning, the teacher has to turn the water on and let it run because the water is, somehow, connected to the sewer pipes and the smell is so strong that she has to let it run for 20 minutes so that the smell has dissipated by the time the students arrive. This mask also represents a kiln that she was unable to use for two years because there was no funding for her to get it fixed. The artwork she produces in her classroom is based on funding that she collects by going out into the community and asking for help. She has no budget for her art curriculum. If you want to see a master teacher's classroom with best practices and students engaged, Sparks Middle School's Julie Steiner is the classroom to visit.

I am a language-arts teacher, and the dictionaries in my classroom are falling apart. They are missing spines, are torn and tattered, and are out of date. Some are as old as the building, which was built in 1962. We are in dire need of current materials. If I am implementing best practices and pursuing that, our students should be treated the same way.

Gloria Geil, at Veterans Elementary School in Washoe County, does classes on Ruby Payne. She engages students in at-risk schools where students live in poverty. One of the ways that you engage them is to talk about their future stories. What is their future story? All of us sitting in this room have a future story, a business card. My business card is that I am a master teacher. I have been teaching for 19 years. My students need something to develop their future story. My students are still looking at overheads. When students from other schools in the District come into our classrooms, they ask where our ELMO is. We do not have one. These students need to know that their future story is as big as we offer them. I brought their business cards with me today. They have drawn a picture of themselves, and they have written down their future story.

I ask you that as you go through this Session consider my 142 students. Their future is in your hands today. If you want to retain great teachers who do their jobs and stay current, if you want to offer our students the best, then you need to make some decisions, today, about the petition before you.

SENATOR CARE:

Thank you. As a parent who put a student through the public schools in Clark County, I can tell you what it is like to write a check to schools. I have done it on more than one occasion. I understand the need for finances.

Initially, you had a petition to increase the gross-gaming revenue. Is that true?

MS. WARNE:

Yes, we did.

SENATOR CARE:

Did you gather enough signatures to put that on the ballot?

MS. WARNE:

Let me give you the history behind that. After the last Legislative Session, we left unsatisfied, as we have so many times in the past. We were looking forward to another low ranking in per-pupil expenditure. Last summer, we began exploring what we might do to increase revenues for the K-12 education system in this State. After polling and after discussions, we decided to put out the proposal to increase the gaming tax on the largest casino operations in the State. We put that option on the table at the beginning of October, 2007. Our Board of Directors voted to move that forward. We had conversations with representatives from the gaming community, but there were no other alternatives coming forward. Without any other alternatives, we moved forward with the only option that was on the table. We asked that if this is not an option, then, what is?

We decided to move forward with the gaming-tax increase. We gathered signatures. Just before we were to file the qualifying signatures, we had conversations with Wynn, Harrah's and Stations as to what we might be able to do without crippling the industry, an industry we have no intention of crippling. It is an industry that provides so many jobs to the parents of our students. They provide many resources to our schools. How could we address the needs of our schools, our students, our educators in this State without crippling the industry? We were able to reach the room-tax-increase compromise. We know it does not fill the entire need that we have in education. Currently, we are looking at over \$500 million to just get ourselves back to the 2007 funding levels. We believed it was the right move, at the right time, in the right direction, to start making education funding a priority in this State.

SENATOR CARE:

When did you realize that an increase in the gross-gaming revenue tax might cripple the industry? Did you know that at the time you were circulating the petition, or is that something you determined after you had gathered the signatures?

MS. WARNE:

We talked to our gaming partners about it. When we first put it out in October, 2009, we said this is what we see as an option. What do you see? Is this an option, or is it an idea we can move forward with? We were tired of seeing our schools languish at the bottom of the national per-pupil expenditure list. With no other alternatives coming forward, we moved forward with our initiative. We did not believe it would cripple the industry, but our gaming partners said it would harm them, and we did not want to do that.

SENATOR CARE:

What was the difference in the revenue that would have been raised if the voters had approved your initial petition?

MS. WARNE:

I think the number that we were using was about \$380 million. This is proposing to raise \$200 million.

SENATOR CARE:

Is this over a two-year period?

MS. WARNE:

Yes.

SENATOR HORSFORD:

Why was the gaming industry singled out? Why was there not a broad-based approach recognizing that there are many companies who do not contribute very much?

MS. WARNE:

I agree, but because of the restrictions with the petition, with the initiative-petition process and single-subject rule, we could not move forward with a broad-based revenue proposal. In addition, our polling suggested that the strongest support we would see from the public would be for a gaming-tax increase. We have always said that we would support a broad-based revenue

package not only for education but also the other services that the State provides its citizens, which are all, given our opinion, underfunded.

SENATOR HORSFORD:

As it relates to the language around improving student achievement, can you discuss how you see the funds being used?

If this initiative were implemented as written, what could the public expect to see delivered by the Legislature?

MS. WARNE:

As educators, none of us is satisfied with our graduation rate. My two colleagues have discussed the different needs they have and the needs will vary by county. We did not make the initiative prescriptive with a laundry list of certain programs, items or resources and things that might be purchased to improve student achievement. What is needed in Clark County may not be what is needed in Washoe County or Churchill County. We believe it is best left up to the experts, the educators and the administrators in those districts, to determine through best practice, through test scores and through other measurements as to what pieces need to be put into place, whether it is teacher training, student programs or resources to move student achievement in a positive direction. Ms. Sinatra said in her testimony, the best indicator of a student's success is to have a qualified educator in the classroom. To be able to attract qualified educators, we need to be able to pay them professional salaries. There are 300 vacancies in Clark County right now. Our starting teachers' salary in this State ranks 38th nationally. This is well below the national average. That is why these are the two key elements we feel are important to a student's success. That is what this initiative is about. We want to see our youngsters move toward a more positive future.

SENATOR HORSFORD:

This petition is specific to Clark County. According to this, 98 percent of the revenue source will be derived from Clark County. Why was the rate established? Was there consideration about the other 15 counties? If this were to pass, 98 percent of the revenue collected will be distributed throughout the entire State. Most of the revenue comes from Clark County anyway, but this is disproportionate to the current revenue structure. How did we get to this point? Why are there only two counties affected, and why is the rate proposed at this rate, and were there other options or considerations as to why the other 15 counties were excluded?

MS. WARNE:

In our discussions with our gaming partners in coming up with not only the rate but also which counties we focused on, we were focused on the size and we were focused on which counties had the most rooms in them. Clark County has the most. The revenues raised through this measure would be distributed to the different districts throughout the State on a per-pupil enrollment basis. Nearly 66 percent of the students are in Clark County. The majority of the money will come back to Clark County. By our estimates, 70 percent of the revenue will go back to Clark County schools based on that student enrollment. With 98 percent being raised in Clark County, you will realize 70 percent of the money back. Churchill County does not have the room base to be able to generate that kind of funding. That is why we focused on Washoe County and Clark County. The 3-percent rate was shared with us by our gaming partners. They looked at what they felt would not harm future occupancy. They did not think that rate would deter conventions and visitors from coming to Las Vegas. They felt this rate would keep them competitive and still raise the funding for our schools and students. Ms. Sinatra shared the rates with you from other areas.

SENATOR CARE:

When you say "gaming partners," I assume that is a reference to Wynn, Harrah's and Stations?

MS. WARNE:

Correct.

SENATOR CARE:

But, not the others?

MS. WARNE:

Correct.

SENATOR CARE:

But, you had conversations with others?

MS. WARNE:

We started to have those conversations, but those conversations stalled. We never received a return telephone call or a follow-up meeting. We moved on.

SENATOR CARE:

These are largely the unrestricted licensees. You did not talk to Motel 6 or Best Western?

MS. WARNE:

Correct.

SENATOR CARE:

Time shares?

When you were circulating the petition for the 3-percent increase on the gross-gaming revenue tax did anyone on your staff or did anyone run any kind of numbers? What was the policy analysis that went into determining the 3-percent figure for the increase in the gaming-revenue tax before you switched over to the room tax?

MS. WARNE:

We did a comparative analysis of the different rates not only of the international destinations but also around the Country.

SENATOR CARE:

You said you made a conscious decision of not 2 percent or 4 percent, but 3 percent. You had reasons to believe that 3 percent would be the figure to use.

MS. WARNE:

Correct. We needed to see an increase for education. We needed to start moving funding in the correct direction for K-12; yet, we did not want to harm the industry that we feel is so important to this State for so many different reasons. We felt 3 percent was the figure that was needed.

SENATOR CARE:

Would it be fair to say that you relied upon the 3-percent figure for the increase in the room tax as this recommendation came from the gaming partners?

MS. WARNE:

That was not the figure I suggested to them. They came to us with the proposal.

SENATOR CARE:

But, it was 3 percent.

MS. WARNE:

Correct.

SENATOR CEGAVSKE:

Both in your testimony and what we see in Initiative Petition No. 1, it says, "that the revenues will be used to improve student achievement, increase the salaries of teachers," that is broad. Are you going to be able to do any reporting or requiring of documents for the use of the funds? Once you start putting the money into the State Supplemental School Fund, is there going to be some accountability measure? Have you discussed that?

MS. WARNE:

There is language in the initiative petition to bring back a report to the Legislature as to how the monies were expended.

SENATOR CEGAUSKE:

Has anyone discussed with the legal department as to whether there could be a lawsuit filed because of the distribution between Clark County and the other counties?

MS. WARNE:

No, we did not discuss that. We have discussed it since. We do not believe it is a significant challenge. You have within your prevue to do as you wish if you would like to see it spread around the other counties. You could increase the room tax in Washoe County and Clark County as well, if you would prefer.

SENATOR CEGAUSKE:

Knowing this could have an impact on jobs in the hotels and it could have a large impact on tips that the employees who work at these hotels receive, with the economy the way it is right now, did you consider the offset when you discussed this? If you pay more for your room, you are less likely to spend money in other areas? That is a concern.

MS. WARNE:

No. What we looked at was the support we received on the ballot advisory question as well as the signatures from voters and parents around the State. It pointed to support of this measure and funding.

SENATOR CEGAUSKE:

But, that was before the economy fell as fast has it has. It is still falling.

I would like to ask a question about the negotiated contract. Because of the language in Initiative Petition No. 1, is there going to be any reopening clause in the agreements if the revenue from the room tax declines in the future? Will we be faced with having to raise other taxes to meet those negotiated salaries?

MS. WARNE:

That will be left up to the negotiations in each of the districts with the different employee groups.

SENATOR CEGAUSKE:

My next question would be directed to Mrs. Erdoes, but she is not here right now. I would like an answer to this question at some time. In NRS 268.7845, it says, "That a city located in a county whose population is 100,000 or more but less than 400,000 shall not impose a new tax on the rental of transient lodging or increase the rate of existing tax of the rental of the transient lodging after March 25, 1991."

I would also like clarification on, "that the Legislature hereby declares that the limitation imposed by subsection 2 will not be repealed or amended except to allow imposition of an increase in a tax for the promotion of tourism or for the construction and operation of tourism facilities by a convention and visitors authority."

If we could have Legal respond to those issues I would appreciate it.

SENATOR CARE:

Did you talk to the Las Vegas Convention and Visitors Authority?

MS. WARNE:

No, we talked to representatives of the Nevada Resorts Association.

SENATOR CARE:

Did the Nevada State Education Association (NSEA) enter into any loose or informal agreement with the gaming partners whereby in the future, if this measure were to pass, you would assist in any efforts for the creation of a broad-based business tax that did not include gaming or would assist in opposing any proposed increase to the gross-gaming revenue tax?

MS. WARNE:

No, we did not enter into any kind of agreement as such, but we have always been strong proponents of a broad-based revenue package that would address the needs of this State, K-12 education included.

SENATOR MCGINNESS:

I would like to say something nice about Mr. Johnson. He was Teacher of the Year, and one of my children lived through his 7 a.m. AP Chemistry class. I cannot say enough about his skills.

Ms. Barker, are all Washoe County schools like yours? Do they have overhead projectors?

MS. SURRITTEE-BARKER:

This is my first year at Dilworth Middle School. It is an at-risk school. I left Shaw Middle School, which is a high socio-economic school where we had Avery computer generated things where we could display it on computer, on the computer at our desk and on the television. I talked with my colleagues last week and told them I was coming here, today. They found some money in their budget for someone to give them a bid to install ELMOs in their classrooms. They had enough money for 17 ELMOs. It is not fair across the board. There are inequities.

SENATOR MCGINNESS:

Have you talked to some of your school board members?

MS. SURRITTEE-BARKER:

Yes. I am friends with one. We are doing everything we can. I am out of my classroom with a substitute taking my place. This takes time away from my career. Yes, I do communicate with administrators. I communicate with my board members. I am a member of the NSEA. They hear my complaints. Ultimately, we are not the ones who get to make the decisions about what happens in our classroom. It trickles down from what happens here. Here I am.

SENATOR MCGINNESS:

As a former school board member, I know once the money leaves this building it goes to the school board. They make decisions from there. Keep rabble rousing.

MS. SURRITTEE-BARKER:

Thank you.

SENATOR MCGINNESS:

Ms. Warne, what percentage of the gaming revenue or the portion to be taxed are Wynn Resorts, Harrah's and Stations? Have you looked at that number?

MS. WARNE:

No, I have not. I would have to ask Ms. Sinatra. She might be able to answer that question.

SENATOR MCGINNESS:

You said you have not been satisfied. I was here in 2003 when we passed \$832 million in new taxes. Did you at least have a smile on your face?

MS. WARNE:

The 2003 Session was my first session as a representative of the NSEA. Yes, I walked out of here with a smile and with hopes high.

With the State still sitting at 40th, I am not satisfied and I am frustrated, as I am certain you must be, also. We hope this is a way to start moving in the right direction.

SENATOR RHOADS:

If this bill passes, when will the money be redistributed to the counties? Will it be this spring? This fall?

MS. WARNE:

I would have to refer that question to staff. I cannot give you an answer.

MR. GHIGGERI:

The money that is collected for the next two fiscal years will go to the State General Fund. After that, it will go to the special fund to be distributed to the counties. That would begin in FY 2012.

SENATOR RHOADS:

No school district will see any benefit until 2012?

MR. GHIGGERI:

Other than the indirect benefit, they will receive via the General Fund appropriations to support the General Fund because this money will go into the General Fund.

SENATOR TOWNSEND:

In Initiative Petition No. 1, section 6, subsection 4, it is specific as to the money received by the school districts. It says, "... must be used to improve achievement of students and for the payment of salaries to attract or retain qualified teachers and other employees." Then, it says in the same subsection, "nothing contained in this section shall be deemed to impair, restrict the right of employees of the district or charter school to engage in collective bargaining as provided by chapter 288."

As a result, is it possible, under that statement, that all of the money that is received in that district could go to one of those things, depending on negotiations?

MS. WARNE:

Theoretically, it could.

SENATOR TOWNSEND:

All right, thank you.

SENATOR WASHINGTON:

Ms. Barker, I heard your concerns about some of the equipment and materials you need to teach. Last session, Washoe County came before us with the issue of the lack of revenue concerning maintenance, construction and operation of existing schools trying to keep them up to code. Senator Townsend, Senator Mathews and I served on the committee, which heard testimony about those issues. There was a petition that was put on the ballot to add taxes to address that issue. The voters voted down the measure. The District needed to educate the people of Washoe County as to the needs of the schools. There was a question as to how the money was being allocated and distributed to the schools. There was question as to whether the money was really going to the maintenance and operations of existing schools. Several years ago, there was a bond that rolled over. It was supported overwhelmingly.

You said you lack the equipment, supplies and resources necessary to teach class. I noticed that this summer the parking lot of the school was torn out. It was bulldozed and repaved. It occurred to me, that if you do not have lamps, books, CDs and other necessary equipment to teach with, why did the trustees not give you the money for your supplies and equipment instead of tearing out a parking lot and repaving it. That had nothing to do with the Legislature and allocating funds.

MS. SURRITTEE-BARKER:

Many people were asking the same question. There are three parts to what you have asked.

When the vote was taken about the taxes, I was working at Shaw Middle School. The people of that community did not think it was necessary to pass more funding because their children were attending Shaw Middle School where we had state-of-the-art equipment. The people of the Dilworth community were too busy working to be concerned about what was happening to the building. When you look at the voting scale, they were not voting for the passage of what was good for their children in that building.

I moved from Shaw Middle School to Dilworth that summer. The classroom I moved into had not been painted for 20 years. There were etchings on the walls. The cinderblock had been painted over several times. My husband, my three children and I spent the summer with paint that was donated by Sherwin-Williams painting my classroom. My husband, who is in the

construction field, was asking the same question. Why are we in here painting this classroom when they are out there working on the driveway? The answer is that the funding for that had come from the last bond passed several years ago. They were just getting around to dealing with it at Dilworth.

My principal has been on the telephone and on EBay trying to find some cameras to use for our math program. We are trying to bring the best technology we can to the school, but it is at our expense.

I bought my own printer for the computer I use in my classroom. I buy my own ink. The majority of my salary goes back into my classroom unless I can get items donated.

Two weeks ago, we held a dance at our school to raise money to buy books. Senator Mathews, I have seen you at Dilworth. If others of you come to Dilworth, you will see how archaic our library is. We do not have the new mentor textbooks that are available. The books we use are falling apart.

The building is old and needs painting. It does not look anything like Shaw Middle School. Maybe it is the allocation of funds and the way the school board is funding the money. I am not certain how it all trickles down. There was a bond last year that failed. Dilworth was number one to get funds from that. I think of the time President Obama visited a school that was shaking, and I feel like I am in that same building. We need resources.

SENATOR WASHINGTON:

I have been in that building several times. Perception becomes reality. When you cry the necessity and the lack of, then the voter sees a pavement that does not need to be replaced being replaced, the voter wonders where is the real need? Who is making the real decisions? Where are the priorities? The voters ask these questions when they have to vote with their pocketbook. They say, "Well, if you can afford to tear up a driveway and repave it, then is there a need in the school?" I am a voter, too.

Ms. Warne, is this going to be the norm in the future? If teachers or the union or other prospective public employees do not get what they think they ought to receive, are they going to go the initiative-petition route, going around the Legislature to force them to vote on policies that they may not agree with? This process handcuffs the Legislature. Is this the future?

MS. WARNE:

I certainly hope not. Many people say this is the teachers'-union petition. No, this is not the teachers'-union petition. This is the petition of 130,000 Nevadans, parents and voters in this State, who said enough is enough. It is time we start funding K-12 education adequately in this State. This is the first step they wanted to take toward that.

SENATOR WASHINGTON:

I am not going to argue whether it is yours or not. When I see salaries and programs that are so broad, without any accountability, it leads me to believe that there has to be a driving force behind it. Whether you want to claim it is yours or not, that is immaterial to me. It does lend itself to administrative salaries, teachers' salaries, superintendents' salaries and some assortment of programs that help in student achievement, but someone has to drive this petition. The industry did not drive it by themselves. That is my view.

MS. WARNE:

This money is for nonadministrative educational personnel. Administrators will not realize the benefit of this in terms of salary increases that they might be able to bargain at the local level. This is for educators.

Research has said that the best indicator of a student's success is a highly qualified educator in that class.

MS. SURRITTEE-BARKER:

Whenever there is a controversy in my classroom or an issue we are discussing, my principal always brings it home to me by saying, "What is best for the kids?"

What is best for the students of Nevada? Ms. Warne might be here, the NSEA might be here, but what is best for the students of Nevada? Is 49th; is 47th; is that what is best?

SENATOR WASHINGTON:

Out of all of the Legislators who I have served with, I have not heard, at any time, one Legislator say that they are disinterested in trying to take care of our children in Nevada. We all have an interest. We all want to do what is best for our children. However, I think, to legislate by petition disengages, and it is disingenuous to the legislative process. That is why we were elected. If you have an idea, an issue, an opinion, a policy you want to try to pass, then, we go through the process allowing different opinions, consultants, experts to come together to develop a policy that will be beneficial to all the children in the State of Nevada including those who are doing the teaching, including the administrators and including everyone who is working in the education field. To tell us that we are not concerned about our children is disingenuous. We are concerned.

SENATOR LEE:

I am troubled that we have not included all of the counties. We have a tax package here. I believe everyone should be equal and business should all pay the same. I am troubled with this.

In this bill, Washoe County pays 1 percent and Clark County pays 3 percent additional room tax. That shows me you tried to create a bill that would get the rural counties on board without costing them any money; yet, they would receive the money, and therefore, they are in competition with the counties that are paying money for those quality teachers. It bothers me that we were left out; yet we have to compete with them for the same quality teachers.

We could do a trailer bill on this bill that says we want to include the other 15 counties. Would you enthusiastically support a bill that would include the other 15 counties?

MS. WARNE:

Any additional revenue we can get into the K-12 education budget in this State, we would support.

SENATOR LEE:

Therefore, I will take that you are speaking for your entire organization and that you would be behind that effort.

MS. WARNE:

Without seeing the details of that bill that you would be drafting, I cannot give you an unconditional "yes, we would support it." We would welcome the conversation with you to see what kind of proposal you would like to put out there.

SENATOR LEE:

The proposal would be to equal the different values. Washoe County has only a 1-percent rate, and Clark County has a 3-percent rate. There would be parity throughout the State. The lodgers in your county would pay the same as Clark County's lodgers. This would say we are in this to give to our students and to not expect Clark County to shoulder the load.

I would like to see something that shows me parity.

SENATOR TOWNSEND:

The process that is in front of us today is obvious to everyone. If in the next few days, we do not pass this, then, it is on the ballot and no revenue is generated. Our counsel has advised us if there were anything remotely close to this, it would be defined as a competing measure. We would still not collect any revenue, and it would be on the ballot.

Thirty years ago, a similar situation occurred where an initiative came to this body crafted well, but in the debates, we found some holes in the initiative. During that debate time, thanks to the leadership of a few Senators and Assembly people who are no longer here, we wrote a separate initiative that turned out to be substantially better. They both went on the ballot. Those that supported the initial one had to shift their loyalties and support the second one because it was better for the public. If this body does not pass this and we find a better bill by the end of Session for education, is that something you would consider?

MS. WARNE:

That is hard to say because what is before you is a measure that would need to be passed by this Friday. To say what would happen by the end of Session, I do not know. The revenue that could be raised, possibly right now for these first two years of the biennium that would go into the General Fund, would not be made available to you to use in addressing the needs of the State.

I do not think I can answer that, now, without details.

SENATOR TOWNSEND:

The reason I asked that is that I was the one who had to do that. I have a little experience with this process and know it well.

SENATOR RAGGIO:

Senator Lee suggested we change this to broaden it to other counties. In referring to Article 19, section 2, of the Constitution, at the bottom of the page, the language says, "If the Legislature rejects such proposed statute or amendment, the Governor may recommend to the Legislature and the Legislature may propose a different measure on the same subject, in which event, after such different measure has been approved by the Governor, the question of approval or disapproval of each measure shall be submitted by the Secretary of State to a vote of the voters at the next succeeding general election."

We need to make clear that if this measure is not passed by the Legislature by Friday, March 13, in the same form that if we later want to add something, have other counties contribute, is it our understanding that would then, under this provision, be a competing measure that would go on the ballot?

It would seem to follow, then, that if we attempted to enact something less or different, whether we change the 3 percent or we change the counties or source of the revenue, that the question would be whether we could even collect the revenue that was otherwise proposed on a ballot that is not the same but similar.

We need to know this before people start talking about whether we can change things in this petition.

MRS. ERDOES:

If you do not pass this within the 40 days, by Friday, then, there will be no tax imposed on July 1, 2009. The issue of the additional counties comes in under a scenario that may possibly work. That scenario would include passing it within the 40 days and then coming back with a second measure that imposes the same things on the other counties. Whether that will be upheld or not, I cannot give you a guarantee. My theory would be that you could try it, and we could put a severability clause in to say that if the court found it to be a competing measure, then, it does not change what you were doing with passing the initiative petition. However, there is a provision following the one that you read that talks about passing something that does not conflict and that is okay. If the court were to find this second measure did not conflict, then, it would not cause that competing measure. That scenario only works if you have passed this measure within the 40 days and without any change.

SENATOR RAGGIO:

In the language that follows what you are referencing, that specifies that the petition would be an amendment to a statute, this is not exactly an amendment to a statute. It refers to the chapter. Is that an issue?

MS. ERDOES:

It would have to be carefully drafted. There are a number of mandatory and optional taxes already in the statute that if you needed to do that you could attach it to, if that were the case.

SENATOR RAGGIO:

I thought we should make that part of the record because I do not know what the ultimate result would be. One of the accomplishments of any legislative session is that it usually invites litigation. I would think this might be ripe unless we make it clear what we are talking about.

SENATOR CARLTON:

Under the provisions of the petition, on who gets the pay raises, "retain teachers and other employees, except administrative employees," I am trying to figure out who the other employees are and who the administrative employees are.

MS. WARNE:

In the history of legislative language, there has been a narrow interpretation of "teacher." It has been looked as the classroom teacher, but there are many educators who go into a student's education. There is the music teacher or the debate teacher. There are teachers who are not necessarily a classroom teacher, for instance, a remedial reading teacher. We also have the paraprofessionals, the teachers' aides. They assist in education. Nonadministrative education personnel are those people who are not a site administrator such as a principal or central office administration such as the "Ed Shed" or the "Green House" in Washoe County.

SENATOR CARLTON:

This would not include the school nurses.

MS. WARNE:

Yes, it would.

SENATOR CARLTON:

I wanted to make certain because there was some concern about that. You had mentioned earlier that this was not the teachers' petition, but that this was 130,000 citizens who signed on, but yet, a petition was circulated and those petition gatherers were paid. Who paid them?

MS. WARNE:

The joint partnership, the Committee for the Advancement in Education in Nevada paid them. It was made up of NSEA as well as Stations, Harrah's and Wynn Casinos.

SENATOR NOLAN:

How many employees will this affect?

MS. WARNE:

I do not have that number with me, but I can get that information for you.

SENATOR NOLAN:

I have three children who have been in the public education system. One still is. I am aware of the need to keep qualified teachers. In Clark County, I have one son who lives constantly through substitute teachers, and his grades reflect that. He does well in the classes with a regular teacher, but when he goes through two or three substitutes in a year, he does poorly in those classes. There is a correlation there.

Senator Townsend asked a question about subsection 4 of section 6. It states, "must be used to improve the achievement of students and for the payment of salaries to attract and retain qualified teachers". Sitting on either side of you, Ms. Warne, you have two very qualified teachers. Both of them have laid out what their desires would be for some additional revenue. In one case, we have music and the arts being addressed. I agree with that because they are a fundamental process of childhood development. On the other side, you have a qualified teacher who just wants some technology in her classroom. Neither one of them mentioned salary. I am not demeaning the fact that they are worthy of a better salary, but how would the way that this bill is written guarantee that balance? I remember, in the late 1980s, we lost all of the middle school sports in Clark County because of having to fund negotiated salaries from collective bargaining. I would hate to see the things that these two teachers are here pleading for go the way of middle school sports in Clark County. How do we guarantee that?

MS. WARNE:

It would be left up to the districts and to conversations between employee groups in that district, whether they are classroom teachers or the coordinators of the science and math programs in a particular district.

I was asked earlier, could all of this money go to salaries? Theoretically, it could. You just heard two dedicated educators not mention salary once. They referenced resources necessary and to see student achievement move in a positive direction. This is what our educators want to see.

MR. JOHNSON:

Recently, in Churchill County, our association agreed to not take the money that the Governor had proposed for teacher salaries to fund some of these other needs. There is always a willingness on the part of teachers to make certain that the materials and supplies that we need are present for our students. That is something that is very important to all of us as professional educators.

SENATOR NOLAN:

I would like to ask our staff to work with them to come up with a quick number on how many people this would affect. I have only heard the number of 130,000 who signed the petition.

SENATOR CEGAVSKE:

I thank you both for being here, and I understand how highly qualified you are. That is what we need.

One of the things this body did is we fenced off technology and textbooks. The things you are talking about that you need are not part of this initiative petition. It clearly states in the petition what it is for. I do not see anything that says resources or books. We have a funding mechanism that we set in place with a lot of money. In fact, there was surplus money because the districts were not using it. Your issue seems to be with the site-based management. This body gave permission to the districts and to the schools to be able to do those things. They have the ability to take the money they have and use it for the things you are talking about.

I do not know why you have old textbooks. That is amazing to me because the money is there, and it has been there for the school districts. Senator Raggio was the biggest champion of this. I am perplexed at all the things you are talking about that you are not receiving. The issues you have are with the administration within your area. We need to have that on the record because we are talking about two different issues here, and you have brought that issue up.

Is the organization that represents the administrators supporting this?

MS. WARNE:

Yes.

SENATOR CEGAVSKE:

I do not see anything in here that talks about NRS 268.7845. Do we have to propose amendments to these provisions in NRS 268.7845? It states, "Except as otherwise provided NRS 268.7845, the city located in a county whose population is 100,000 or more but less than 400,000, shall not impose a new tax on the rental of transient lodging or increase the rate of an existing tax on the rental of the transient lodging after March 25, 1991." Another states, "A legislative body declares that the limitation imposed by this subsection 2 will not be repealed or amended except to allow the imposition of an increase in such a tax for the promotion of tourism or for the construction or operation of tourism facilities by a convention and visitors authority."

Mrs. Erdoes, could you address that?

MS. ERDOES:

Because this tax is imposed by the county—only that county provision—there is a corollary, a parallel provision for the county, which says the same thing. That is in this petition. It is amended. Because the city is not imposing a tax, then the city provision you read to us does not need to be amended. This is section 5, the same section that matches the one that you read from NRS 268 which is for cities. This is the one for counties. It is amended in here to make an exception to all of these provisions. You are accepting them and making them a definite exception to this provision not to increase them.

SENATOR HARDY:

I am still having difficulty with the supply language. "Supplant" is usually used to guarantee that we enhance something. We do not use this tax increase to take away from money we might

otherwise spend in a given area. I heard a lot of talk in support of this. One of the primary arguments for supporting it is that we need to do that or we are going to leave a very big hole in the budget. That is supplanting. Are we creating a maintenance-of-effort situation? I do not think there are large enhancements in the Governor's budget for education. If we are using this to fill the hole in the Governor's budget, are we not, by definition, supplanting funds? If we are not, we are certainly creating a "maintenance of effort." We are going to have to get our K-12 budget up to a certain level before we are no longer supplanting funds. Am I missing something?

MS. WARNE:

I do not understand your question. I may not have the expertise to answer that.

SENATOR CARE:

Let us have Mr. Penrose step forward to answer these questions.

JIM PENROSE (Attorney, Nevada State Employee Association):

I am an attorney in Carson City and the principle drafter of the initiative. The language referred to in the initiative petition is a statement of legislative intent. It says, "The money that is appropriated is intended to supplement and not replace any other money appropriated, approved or authorized for expenditure to fund the operation of the public schools for kindergarten through grade 12."

If we encounter a situation where revenues decline, across the board, and the Legislature finds itself in the position of having to reduce funding for the support of education, the argument will be made, if it is litigated, is that, ultimately, the question of the amount of money appropriated for the support of education under the Constitution, Article 11, section 6, the "Education First" language, is it a legislative prerogative to provide for education?

That is the argument I would anticipate the Legislature to make. If there is any conflict between what the Constitution says and the latitude that the Constitution gives the Legislature, that language would prevail over anything that is read in the initiative that is in conflict with that. Ultimately, this is a statement of intent. It is a recital. Where we would have an issue, from an associational standpoint, is if revenues were increasing statewide, this new tax came on line and then, suddenly, we saw a corresponding drop in funding that was not explainable except as an effort to take money out the back door that was being brought in through the front door with the initiative petition. Then, we would have an issue. Is there maintenance-of-effort requirement? I do not believe there is.

SENATOR HARDY:

I think it is important to get that on the record. In the traditional sense of the words "supplement," "not supplant," we contemplate that is enhancement. That is clearly not the case here. I think any discussion of using this money to "fill the hole" is directly contrary to what we generally mean by "supplant" and "supplement." I want it to be clear for the record. I know it is confusing when I use the term "maintenance and effort." It is a phrase being discussed because of the Federal Stimulus Package, but I do not want us to create "a maintenance of effort." It is your anticipation that we get funding up to a certain level and then this enhances that. I think it is important that we create a record that says, "Yes, this money can be used to fill the hole in the budget to make up for cuts we have made in the past."

MR. PENROSE:

Let me clarify one point because I think we are talking about different things. The conversation about filling the hole in the budget has reference to the provisions in the initiative petition that allocates this additional money to the State General Fund for the next biennium. In that sense, it will clearly be filling a hole. The language that we have been discussing will not become effective until that initial biennium has passed. Having said all that, there is no question that the whole purpose to this initiative is to provide more funding for education. If NSEA and its gaming partners had thought that the net result of this entire process would be, that regardless of what the economy does, that this would simply replace existing sources of funding for the schools, then, there would have been no point in doing the initiative.

SENATOR HARDY:

I do not think anyone could have anticipated that is what would happen, but I think, at some level, that is what is happening. We need to be clear that there is not some mandate to bring funding up to a certain level and then this money goes in. It is going to "supplant" unless I am missing something. I understand the next biennium argument, but we may be looking at exactly the same scenario. It is important to get the intent clearly on the record.

SENATOR CARE:

Let us talk about the constitutional provision, Funding Education First, and the Legislature's prerogative. In *Guinn v. Legislature*, in the first opinion, the Supreme Court used the word "sufficiently fund." Correct?

MR. PENROSE:

That is my recollection.

SENATOR CARE:

The question I have had for some time is about the term "sufficiently fund." If you agree that the level we funded education, K-12, in 2007 was sufficient, it had to be or it was not constitutional, then, when we cut back the funding in the 24th Special Session for textbooks; was that even a constitutional act because now we are dropping funding below the level of sufficiency and sufficiency can go up or down depending on what we think about it?

My question is, if this becomes law and it is 2011, we are not going to supplant, we are just going to determine we have a lower level of sufficiency because we can do that?

MR. PENROSE:

One of the changes that occurred after *Guinn v. Legislature* was the adoption of the "Fund Education First" constitutional amendment. My recollection of the substance of that amendment was among the changes it made was that it changed the language of Article 11, Section 6. The language as it reads today requires the Legislature to fund the operation of the schools at the amount it deems to be sufficient. "It" means the Legislature. I would try to argue against that language if we had to litigate the issue, but that language seems to be very broad and confers a great deal of discretion on the Legislature to work within available resources and to fund the schools at the level it deems to be sufficient. The courts, under that language, would have a difficult time trying to second-guess the Legislature's determination.

SENATOR HARDY:

The amount resets with the budgetary cycle, is that correct?

SENATOR CARE:

I was talking about the sufficiency level.

SENATOR HARDY:

Which is what the Legislature deems to be sufficient because we are required to do that. For purposes of the initiative petition, that amount resets. We would not be supplanting in a new budgetary cycle because that is what we determine.

SENATOR AMODEI:

Do you recall if your organization had a position on the room tax in 2003?

MS. WARNE:

We took no position. I had checked on that, to be certain. We were just looking for additional revenue in the State, particularly, for my area, K-12 education.

SENATOR AMODEI:

The series of budgets that followed were Governor Guinn's budgets. Mr. Chair, could we get the information on how the DSA has grown from 2003 to present? I assume that is a readily available number.

Ms. Warne, I would like to ask you if the Guinn budgets post 2003 were good or bad. Some testimony has indicated we have continued to deteriorate, that we are falling farther behind and

that the State has not been good in funding education. Based on your testimony, today, were those budgets that followed 2003 not sufficient for education?

MS. WARNE:

They moved us in the right direction. We still have not hit the national-average mark. I think it is something we would like to see, but we have not gotten off the bottom. Yes, we moved in the right direction, but did we get to where we needed to be? Certainly not. Unfortunately, in the past legislative sessions, due to growth and the amount of funding that has gone into the K-12 education budget, we have not been able to keep up. We are back to the bottom of the heap, and we are facing many recommended cuts to the education budget from the Governor's Office. Those cuts would be disastrous on top of the cuts we have experienced in K-12 education over the 2008 Special Sessions. We have retreated on some of the programs we tried to implement—empowerment schools to performance pay, to mentoring—have gone backwards.

SENATOR AMODEI:

Is your proposal focused exclusively on education? Was there ever any discussion with your partners of sharing the revenue with other areas of the State that are suffering dire consequences of the budget cuts?

MS. WARNE:

Yes, that is why the tax will go into the General Fund during the first two years of the biennium to help mitigate drastic cuts that those budgets are experiencing, not only K-12. The first two years are not, specifically, earmarked for just education.

SENATOR AMODEI:

Why, after 24 months, did you decide not to continue to share that revenue source? If I understood your answer, you said the reason it is not going into education for two years is that we want to share the wealth. What was your thought process not to continue sharing after two years? I am okay with the priority discussion, but this is exclusivity when it goes into effect. With the supplanting discussion, it is exclusivity with an asterisk. What is the thought process?

MS. WARNE:

It goes to K-12.

SENATOR AMODEI:

Any thought about the other areas that are critical for State services?

MS. WARNE:

We would leave it up to your wisdom to find additional broad-based revenue sources to help fund those services.

SENATOR AMODEI:

Thank you. Did you gather any polling data to compare and contrast the priority that education faces with people in the State of Nevada with state programs that are funded in the human-service area or in public-safety area?

MS. WARNE:

Consistently, education ranked within the top three.

SENATOR AMODEI:

What were the other two?

MS. WARNE:

I would have to look at the polling, but health and human services, transportation were certainly important.

SENATOR AMODEI:

But, no long-term solution for those, in this particular measure, was considered?

MS. WARNE:

Again, as I have said before in previous testimony, today, we would support any broad-based revenue package that would come forward to help further fund K-12 education. With all of the cuts we have experienced, our room-tax measure does not even get us back to 2007 funding levels. We have a piece we are working on now that we will unveil later. We would be open to any broad-based package you would like to bring forward to address all services. Certainly, those affect our students in the classroom.

SENATOR AMODEI:

What is your view of the economy in the State of Nevada and its prospects for improving? Is it two years? Four years? Have you given any thought to that?

MS. WARNE:

I am a fourth grade teacher of 20 years. I am not an economist. I am a parent of a student who is struggling through special education in high school, and I can only hope that the economy will continue to improve, and that we will see funds flow into the State through this room tax as well as through other revenue sources I hope you will consider. I hope our economy will rebound. We are all hopeful we will see the economy in this State rebound.

SENATOR AMODEI:

Have you talked to any economists?

MS. WARNE:

No.

SENATOR CARE:

There have been a few references made to the Seventy-second Legislative Session held in 2003. I would like to go back to 2001. That was when the Legislature authorized, through resolution, the commission of a study put together by the Governor's Task Force. There were seven members on the Task Force including Ken Lang. It produced a seven-volume work. If you read the summary in the first volume, it lists all of the taxes they looked at as possible revenue sources. Lodging tax was on that list. There was another list that says these are the taxes on which the Task Force would focus. The lodging tax is not on that list. That seven-member Task Force made the decision not to go any further with the room tax.

S.B. 382 of the Seventy-second Session did have a room-tax increase. It was going to raise the State's portion of the room tax from 1 percent to 3 percent in one year, then up to 4 percent the second year, but there would not have been a cap in any county.

I have projections from the Fiscal Division that had the Legislature done that in the years 2004-2007, in Clark County, it would have provided an additional \$390 million to the State. That was the same Session, 2003, when Assemblyman Mortenson had a bill for a \$3-per-night surcharge. It would not matter if the tax was for a Motel 6 or the Bellagio. His projections, from 2003-2005, stated that \$365 million would be generated. I realize you were not instrumental in that Session. The events of 9-11 affected the economy, but it was improving after 2001, which is much different from today because we are not certain where the economy is headed. The numbers seem to get worse every day. We hope it stops.

Explain to me, if you can, why it was that in 2003, it was not a good idea to do this, but now, given the economy, it is an "okay" idea. Not "great" because conditions have changed, but why is it still an acceptable idea.

MS. WARNE:

I do not know if I am in a position to answer that because I was not a part of those discussions. What I can tell you is that the NSEA did not oppose yours or Senator Amodei's proposal you had in 2003. We never testified against it.

As to why it was not a good idea then and a good idea now, I cannot say since I was not a part of those discussions. I know that as an organization, we did not think it was a bad idea and we did not take a position of opposition nor testify against it.

SENATOR COFFIN:

We could relive 2003, and I can relive 1983, 1991, 2003 and, now, this. When you do not support something and you do not oppose it, you leave people hung out to dry who were, with their best efforts, trying to help you. We do know the difference between being neutral and being supportive. The Care-Amodei amendment was earnestly derived, and they thought they should have received some support, and they did not get it. They should have. It might have made a difference.

Do you understand the box that this initiative petition has put us in?

MS. WARNE:

Senator, you will need to explain to me that box.

SENATOR COFFIN:

It is a dilemma because it is legislation by initiative, and we cannot move, and we cannot help it. We cannot even improve on it. Did you know that when you were crafting it?

MS. WARNE:

Yes. We knew if it was to get here to the Legislature, that you would have 40 days in which to consider it. If you did not, then, it would go on the ballot.

SENATOR COFFIN:

Did you know that we could not improve upon it? We could not do anything without cutting our own throats?

MR. PENROSE:

We had reviewed the initiative provisions of the Constitution. We were aware of all of the options that the Legislature would have. I guess the answer to your question is that we did know that the Legislature would not be able to propose an alternative proposal without submitting both measures to the voters. That option is still open to the Legislature today.

SENATOR COFFIN:

Did you know that we could not advance any initiative of our own at the peril of not getting any tax revenue in this biennium?

MR. PENROSE:

I knew that any proposal would have to go to the voters for approval to the extent it conflicted with this one. Obviously, that is not a sweeping restriction on the Legislature's power to raise revenue in this area.

SENATOR COFFIN:

Thank you.

SENATOR CARE:

Ms. Warne, you talked about when you were discussing the room-tax increase with your gaming partners. I do not want to mischaracterize your testimony. I do not recall if you said you reached out to or did not hear from the Nevada Resorts Association. Do you recall that testimony? What did you say?

MS. WARNE:

When we first floated the idea of doing a gaming-tax increase in the beginning of October, 2007, we reached out to representatives of the Nevada Resorts Association. We met with them on only one occasion. There was never any subsequent follow-up from those representatives. At that point, we chose to move forward with that petition which we began circulating, and we were ready to file those signatures in May. That is when Wynn, Stations and Harrah's reached out to us.

SENATOR CARE:

But, you never spoke with the LVCVA? Did they ever reach out to you at any time?

MS. WARNE:
No.

SENATOR CARE:
I have read various accounts in the newspaper. If we pass this, is the Governor going to sign it or not sign it?

MS. WARNE:
I can only go by what he has stated in the media and in conversations that he has had with other representatives that he said if it was the will of the people, he intended to sign it. What he is thinking at this moment, as to whether or not he would sign it once it reaches his desk or if he will let it sit for the five days, I do not know.

SENATOR CARE:
Fair enough. Thank you.

SENATOR NOLAN:
This is a question for Legal Staff. Mrs. Erdoes, if a ballot initiative were to pass that was in direct conflict with existing statute, in a way, and that statute was not able to be amended, what happens then? Does it become a conflict, and how do we deal with that?

MRS. ERDOES:
I believe case law would say that the existing section would be treated as being amended by implication and that it would be conformed as far as I know.

SENATOR MCGINNESS:
Ms. Warne, did the LVCVA actively oppose your measure?

MS. WARNE:
Not that I am aware of.

DONNA HOFFMAN-ANSPACH (Nevadans for Quality Education):
We support Initiative Petition No. 1 in hopes that it will bring much needed revenue to our public schools. From year to year, our students and teachers are faced with more challenges and less resources. We already rank near the bottom of per-pupil funding in the United States. The K-12 system recently endured over \$180 million in cuts. It is now preparing for further reductions required by the Governor's budget.

I am in our schools frequently. This is what I see: an eighth-grade science teacher who has forgone conducting experimental labs because they are unsafe due to overcrowding, a tenth-grade math class being taught algebra from a long-term substitute that is still in college himself, a high school Spanish class that has a new teacher who is excited to be there because she is going to learn Spanish with them, an elementary school with no toilet paper.

The list of tough issues facing education continues to grow. The stakes are simply becoming higher and higher. To not give these questions your serious consideration would be unfortunate. The initiative petition will provide some revenue for the classroom and teachers; however, we know it is no panacea for Nevada and for what our students require for a quality educational experience. In addition to this bill, much work must be done by this Legislature to create a stable funding mechanism that will adequately fund the needs of this State, especially, education. Thank you for your hard work and your consideration.

SENATOR CARE:
No one else has signed in to speak in favor of the measure. Let us take testimony from the two people who have signed in as opposed to the measure.

DAVID SCHUMANN (Independent American Party, Nevada Committee for Full Statehood):
First, there is a better way to fund this. I have handed out a packet showing how to fund this rather than to raise taxes at a time of recession moving into a depression. This is what the economists are looking forward to for the next six or eight years.

Someone said that we are a full, big state. No, we are not. We are an occupied territory. The federal government says that it owns 86 percent of the land in Nevada. That is crazy. We can get rid of that tomorrow. Just send the Legislature, the Governor and our Congressional Senators to the Interior Department and the U.S. Agriculture Department and tell them to get out of our State. Real states own all of their land within their boundaries except that which the federal government has come under Article 1, Section 8, Clause 17, to you, the Legislature, to say they would like to buy a few thousand acres of your land. Then, you haggle about the price, and they buy it from you. The first thing you do is get back your own land. That should not take more than a week. It is clear that they have no legal basis here.

The second way to fund this is you have a voucher program, which will be better for the children and will cut your expense by 50 percent for every kid that does this. You say to parents, "Here, we are giving you a voucher for 50 percent of what we currently spend per pupil in these government schools." When the parent takes that voucher, 50 percent of what you use to pay for that student to go school is now still in the General Fund because he takes the money and goes to a nongovernment school. We know from experience that there is no tie between dollars and quality of education except in the reverse. Washington, D.C., spends the most money per student in the Nation, and they have the lowest scores, the lowest achievement. Except, they do have something called the Opportunity Scholarship. To prove they are not genetically inferior, the same kind of kids go to the opportunity scholarship schools and they are doing excellently. That is a fact. If that is not proof that there is no connection between money and quality of education, that is crazy. They spend more money per kid in Washington, D.C., far more than you do and far more than any other jurisdiction in the Country, and they get the worst. Putting more money into government schools is not going to do it.

The Organization for Economic Cooperation and Development did an economic survey in 1994 and said American education is substandard. I have lived and worked in Singapore. They spend half of what we do. Singapore is not a cheap town. Their children can read, write, speak and comprehend English far better than children in America. They are ethnic Chinese. Not only that, they are famous for being rated above us in math and science, but English is not measured. I have lived there and worked there, and they know English better than our students do.

The Department of Education furnished this statement called Human Resources that says the people who got the lowest scores on their SAT are the ones who became teachers.

The last page in the packet says where we are in the world. In math, we are 28th. In science, we are 17th. These are the facts about the high-quality education that we are getting in these government schools. We can do better for the kids if you open up voucher schools, and let these little kids be free of the National Education Association, the Nevada State Education Association. They are not going to get another chance at this. None of us get a second go-round. At six, seven, eight, nine and ten years of age is when you absorb knowledge the best. Everyone in this room is too old to really absorb the beginning steps of language, math and science. The time to do that is when you are a little kid, when you have the brain for it. You do not have to go out and tax the people or tax the industry so that fewer people will stay in those rooms. This idea that, when you raise the room price, people will not stay at a less expensive room, is just crazy. Of course, they will. Maybe, they will just decide to go somewhere else. You cannot go on raising taxes every time you need some money. You need to spend more intelligently. It is there. This is not a hard thing to do.

You should be getting that 86 percent. Sell a few tens of thousands of acres of land, and you will cover this whole debt down in the Las Vegas area, and few more thousand acres up here and you will have \$60 million to sell for housing. This is from the Nevada Policy Research Institute. The author, Charles Barr, lives in Las Vegas, is acquainted with the situation, the housing situation, and the cost for land in which to place those houses. Be open minded about this and do not automatically throw money at the teachers' union. Check out Washington, D.C., where this has been done, because they spend far more per student than you do here or ever will. They are the worst in the Country.

LYNN CHAPMAN (Nevada Eagle Forum):

Today, I am here with Nevada Eagle Forum. I am wearing black because I am in mourning for the beautiful golden goose that is almost dead, gaming.

We are killing gaming off. Last year, Las Vegas lost about \$80 million in convention business. That is what has caused the budget crisis. That is a tremendous downturn in the gaming business. That is what affects our revenue.

I was listening to the teachers' union talk about the buildings and how they need to be updated, and I was thinking that I went to a high school that was built between 1925 and 1927, and it is still being used today. It graduates students every year. It is still in use and is still in good condition. I live a mile away from Dilworth. Some of these schools around here were built in the 1950s, 1960s and the 1970s, and yet, they say they are falling apart. What is going on? I did not think that the building industry around here was that bad.

I was concerned hearing about books. I know there are books to be had. There are good books out there. As a home schooler, I always had to buy my own books. Washoe County would always invite the home schoolers to come and take the books they were going to throw away. We would go down there, and there would be stacks and stacks of books for all different grade levels, all different subject matters, and we were to take them because they were tossing them in the garbage. These were books that were never opened. They were brand-spanking-new books. I suggest that Washoe County teachers go down to the Washoe County warehouse because there are brand new books in there. I have a real problem with hearing that teachers have to use old books and that students have to use old books when I know that there are brand new books there.

I belong to the American Legion Auxiliary. The state convention is coming up. It is going to be in Carson City. I am going to drive home each day instead of staying the night because it costs too much. If the prices of the rooms go up because of the room tax, it will really affect a lot of businesses and people. I cannot afford it any more. I am president of the American Legion Auxiliary in Sparks again, this year, so I need to be there.

The Indian casinos are going strong. They are not hurting. They are building hotels, and people are going to be able to stay in them. We are going to be hurting ourselves if we keep raising our room taxes. We need to keep the room prices lower, and then, more people will come.

SENATOR CARE:

On the evening of April, 8, 2003, before the Senate Committee on Taxation, Mr. Ralenkotter from the LVCVA testified on the tax bill that Senator Amodei and I had. I asked a number of questions of Ms. Warne about the LVCVA and its communications with the NSEA, or the lack of communications. Among the testimony that evening was, "This research indicates that because of current market conditions and increased competition, now is not the time to increase room taxes or any other type of fee that is attached to room rates. The room tax is a tax paid directly by the visitor. To remain competitive, we cannot afford to increase these costs to our customers." He then submitted a number of letters to include a letter from the National Association of Broadcasters implying that if we raise the room rate and tax in any amount, that people would quit coming to Las Vegas. I disputed that, but that was the testimony at the time.

I think it is inexcusable and indefensible that the LVCVA made no appearance today or at the Assembly. Take a position on an issue. If you opposed it six years ago, come up here and say that you still oppose it, that you are for it or that you are neutral. I do not care, but it makes me wonder if the LVCVA is even going to be a player in this Legislative Session.

SENATOR RAGGIO:

This is not a disclosure under Rule No. 23, but I am a member of the Board of Directors of ARCHON Corporation, which does have lodging. It is a publicly traded corporation, and I am a member of its board. Also, I am a father of a fourth grade teacher.

I asked the same question, initially, as to why the 3-percent amount. When this first became a public issue, I was told that it would raise the tax to about 13 percent. This is already the amount that is in place in Washoe County. The industry felt this amount is the limit, and 13 percent will not bring with it any real consequences. This amount is not out of line with the percentage of room tax that is being charged in other states or in similar jurisdictions. This is the information I was given. I do not know the source of it or where I heard it.

As some others have pointed out, we have a Hobson's choice. Senator Hardy alluded to this already. We are faced with a serious budget crisis. We have been presented with a budget from

the Governor. There are strong comments about it throughout this Legislature and throughout the public sector. It is called an austere budget, and it nowhere meets the essential needs of the State. The Hobson's choice develops because in that budget is this element of assessing a room tax. I believe the amount is already in there to produce revenue at a level of \$292 million over the biennium. The latest information we have been given today reduces that to \$230 million. If we do not enact this, so that it is effective for budget consideration during this Session and not later on a ballot, we will have a \$292-million hole we have to fill. With the new estimate, the hole is even deeper by another \$62 million. That means we will have to make further cuts in what is already a difficult process. There are other aspects of the budget where the Executive Branch has already taken out the proposal for a one-year marker prepayment from the gaming industry. That marker amount equaled \$31 million. That leaves another hole in the budget. Even if we pass this room tax, we will still have a \$93-million hole.

The Hobson's choice goes further, because the question is, "how do we deal with that?" Do you make further cuts? Not everyone sits in these budget hearings, and they do not hear the impact these cuts will make in essential service areas, primarily in the health and human services, public safety and education areas.

This bill only addresses K-12. We have serious concerns about higher-education funding, as well. If we do not make the cuts to deal with these holes, then, the other choice is for further revenue enhancements. You can argue that the room tax is paid by tourists and not by our residents. Before everyone on a talk show jumps all over me, I am not suggesting other revenue enhancements. That would be the last alternative.

What is the option, particularly, now, where we have this impact on our economy? Tourism has always been our basic economy in this State. This tax is a levy upon that industry, even though the majority in that industry supports it. There are still some who are opposed to it. That should be noted.

I am not suggesting that I have the answer. What are our alternatives? I asked the legal questions as to what the alternatives were. What could we consider if we do not enact this within the 40-day period? Are we precluding ourselves from this method of meeting a budget need, if that is part of the process? What other more difficult issues are we going to have to deal with?

I have listened to the younger voices, and I am searching for the answers along with the rest of you. Those are considerations we need to make.

Senator Care moved to recess the Committee of the Whole until the call of the Chair at 5:18 p.m.

At 6:37 p.m.

Senator Care presiding.

On the motion of Senator Wiener and second by Senator Coffin, the Committee did rise and return to the Senate Chamber.

Motion carried unanimously.

SENATE IN SESSION

At 6:41 p.m.

President pro Tempore Schneider presiding.

Quorum present.

UNFINISHED BUSINESS

SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the President pro Tempore and Secretary signed Senate Concurrent Resolution No. 13; Assembly Bill No. 103; Assembly Concurrent Resolutions Nos. 12, 13.

REMARKS FROM THE FLOOR

Senator Woodhouse requested that her remarks be entered in the Journal.

Thank you, Mr. President pro Tempore. I am very honored today to have a guest at my desk who is a member of the Nevada Silver Haired Legislative Forum. I would like to introduce you to Joann Bongiorno. Joann has been a realtor for thirty years and is now retired. In her career, spanning many years, she has worked with the Department of Defense. She was one of the first events coordinator for Boyd Gaming. A very special honor has recently been bestowed on her. She has been included in the Women in History Wall of Fame at University of Nevada, Las Vegas.

GUESTS EXTENDED PRIVILEGE OF SENATE FLOOR

On request of Senator Cegavske, the privilege of the floor of the Senate Chamber for this day was extended to Lucy Peres and the following students, parents and siblings from the Nevada Homeschool Network: Steve Ceresola, Dario Ceresola, Alixi Ceresola, Daunte Ceresola, Terry Schendel, Madeline Bush, Jessica Sykes, Sydney Sykes, Tatum Sykes, Renee Breen, Devon Breen, Alex Breen, Noah Breen, Ethan Breen, Anita Ortiz, Elizabeth Ortiz, Karen McRae, Olyvia Grace McRae, Isabelle Hope McRae, Dawn Johansen, Jeremiah Johansen, John Johansen, Debbie Blakely, Zachary Blakely, Coleman Blakely, Gavin Blakely, Amelia Blakely, Jessica Fuhrmann, Trinidy Fuhrmann, Tiera Fuhrmann, Mark Voderbruggen, Larena Fry, Dillon Voderbruggen, Brandi Jo Voderbruggen, Heather Haddox, Eli Haddox, Anzo Haddox, Abi Haddox, Zoe Haddox, Anna Goodwin, Sierra Goodwin, Ashley Goodwin, Raven Burdoin, Jake Burdoin, Catherine Cota, Dominique Cota, Sarah Cota, Dawn Lee, Amber Lee, David Lee, Erika Hansen, Kjeleena Hansen, Isaiah Hansen, Carolin Hansa, Eric Beavers, Emerson Eli Hansa-Beavers, Vicki Stilz, Jennifer Stilz, Sheri Campbell, Paige Campbell, Megan Campbell, Jennifer Purciel, Ryan Purciel, Rylee Purciel, Pam Lehan, Caitlin Lehan, Lydia Lehan, Aimee McDonald, Kyle McDonald, Kaitlyn McDonald, Kallie McDonald, Kendall McDonald, Ruth Faigan, Sierra Faigan, Haley Faigan, Krista Cornell, Nate Cornell, Laurie Perez, Christian Perez, Lisa Swift, Scott Swift, Grant Swift, Weston Swift, Kelley Radow, Adam Radow, Gabriel Radow, Missy Pique, Dakota Pique, Caleb Pique, Jennifer MacMillan, James MacMillan, Sarah Sykes, Adam Lee, Kathy Esau, Roslyn Esau, Isabel Esau, Rolanda Chambers, Hunter Chambers, Charissee Isbell Chambers, Uma Lord, Venus Lord, Kyle Hollingshead, Jack Hollingshead, Tim Suessmith and Samantha Suessmith.

On request of Senator Horsford, the privilege of the floor of the Senate Chamber for this day was extended to Donicá Beckett.

On request of Senator Parks, the privilege of the floor of the Senate Chamber for this day was extended to Laura Deitsch.

On request of Senator Townsend, the privilege of the floor of the Senate Chamber for this day was extended to Lillian Francovich.

On request of Senator Woodhouse, the privilege of the floor of the Senate Chamber for this day was extended to Joann Bongiorno.

Senator Horsford moved that the Senate adjourn until Tuesday, March 10, 2009, at 11 a.m. and that it do so in memory of Robert Richards.

Motion carried.

Senate adjourned at 6:42 p.m.

Approved:

MICHAEL A. SCHNEIDER
President pro Tempore of the Senate

Attest: CLAIRE J. CLIFT
Secretary of the Senate